



NSW Legislative Assembly Hansard Crimes (Sentencing Procedure) Amendment Bill

Extract from NSW Legislative Assembly Hansard and Papers Thursday 6 April 2006.

Second Reading

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [11.05 a.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

I am pleased to introduce the Crimes (Sentencing Procedure) Amendment Bill on behalf of the Government. The object of the bill is to amend the Crimes (Sentencing Procedure) Act 1999 with respect to sentencing for crimes committed against public transport workers or community workers, such as surf lifesavers. Public transport workers provide a vital service to the public and are sometimes exposed to circumstances where their personal welfare is at risk. They are at risk for no reason other than that they are doing their job, a job that involves an important public service. Angry, frustrated and sometimes drunk individuals have in the past assaulted drivers who are merely doing their job.

During 2005 there were a number of occasions when transport workers, specifically bus drivers, were assaulted. The transport union raised the matter with the Government and called for heavier penalties for those who assaulted transport workers. Similarly, surf lifesavers give up their summer weekends to patrol our beaches. They perform a life-saving public service at no cost to beachgoers. It is simply beyond the pale that these unpaid, selfless individuals should be exposed to any threats to their person. The bill therefore recognises the particular roles these workers play in our society and the amendment explicitly recognises the aggravating factor that applies to workers in these frontline occupations.

Section 21A (2) of the Crimes (Sentencing Procedure) Act provides for aggravating factors which are to be taken into account by the sentencing judge. Section 21A (2) (a) provides the following as an aggravating circumstance at sentence: the victim was a police officer, emergency services worker, correctional officer, judicial officer, health worker, teacher, community worker or other public official, exercising public or community functions and the offence arose because of the victim's occupation. Surf lifesavers fall under the definition of "community worker", but the use of the word "occupation" may imply that the victim is remunerated for his or her duties. In many cases, lifesavers do voluntary, unpaid work and may have a Monday to Friday occupation unrelated to voluntary lifesaving.

Schedule 1 [1] of the bill therefore amends section 21A (2) (a) so that it reads "and the offence arose because of the victim's occupation or voluntary work". This clarifies that community workers, who may be exercising public functions that are so beneficial to our society on a voluntary basis, will be protected by this provision. The common law has long recognised the circumstance of aggravation where an offence is committed against people in certain occupations that are, for whatever reason, more highly exposed to criminal activity.

For example, service station attendants and convenience store operators work at night and are often alone and therefore more vulnerable to robbery. This principle of law has been codified in section 21A (2) (l), which provides the following as an aggravating circumstance at sentence: the victim was vulnerable, for example, because the victim was very young or very old or had a disability, or because of the victim's occupation, such as a taxi driver, bank teller or service station attendant.

Item [2] amends section 21A (2) (1) to add all front-line public transport workers to the examples given of vulnerable occupations. Item [3] makes consequential amendments to the table in part 4 of division 1A of the Act to mirror the amended wording of section 21A. The transitional provisions of the bill provide that the amendments apply to the determination of a sentence for an offence, wherever committed, unless the court has convicted the person being sentenced of the offence, or a court has accepted a plea of guilty and the plea has not been withdrawn before the commencement of the Act. These are small but important amendments. Volunteer community workers such as lifesavers should receive as much protection as community workers who are paid for their contribution; and transport workers, who should not have to put up with being assaulted for doing their job, deserve the additional protection of the law as well. I commend the bill to the House.