



NSW Legislative Council Hansard

Crimes (Sentencing Procedure) Amendment Bill

Extract from NSW Legislative Council Hansard and Papers Tuesday 23 May 2006.

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [8.07 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

I am pleased to introduce the *Crimes (Sentencing Amendment) Bill 2006* on behalf of the Government.

The object of this 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).

During 2005 there were a number of occasions where transport workers, and specifically bus drivers, were assaulted. The Transport Workers Union raised the matter with the Government and called for heavier penalties for those who assault transport workers.

Also, in December 2005, the Cronulla riots were precipitated by assaults upon surf lifesavers at Cronulla beach.

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:

(a) 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", however, 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.

Item [1] of the Bill therefore amends s21A (2) (a) so that it reads: and the offence arose because of the victim's occupation or voluntary work"

This clarifies that those 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, making them 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

(l) 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] of the Bill amends section 21A (2) (l) to add "bus driver or other public transport worker" to the examples given of vulnerable occupations.

Bus drivers working for private companies who are providing a service on a public bus route, for example Westbus, will also be covered by this amendment.

Bus drivers and other public transport workers provide such a vital service to the public, but are sometimes exposed to the very worst circumstances. Angry, frustrated and sometimes drunk individuals have in the past

assaulted drivers who are merely doing their job. This amended will explicitly recognise the aggravating factor that applies to workers in these frontline occupations.

Item [3] makes consequential amendments to the Table in Part 4, Division 1A of the Act, to mirror the amended wording of s21A.

The transitional provisions of this Bill provide that the amendments apply to the determination of a sentence for an offence whenever committed, unless:

- (a) the court has convicted the person being sentenced of the offence, or
- (b) a court has accepted a plea of guilty and the plea has not been withdrawn, before the commencement of that Act.

These are small but important amendments. Volunteer community workers such as lifesavers should receive as much protection as a community worker who is paid for their contribution, and transport workers, who should not have to put up with being assault just for doing their job deserve the additional protection of the law as well.

I commend the Bill to the House.