

CRIMES (HIGH RISK OFFENDERS) AMENDMENT BILL 2014

Bill introduced on motion by Mr Brad Hazzard, read a first time and printed.

Second Reading

Mr BRAD HAZZARD (Wakehurst—Attorney General, and Minister for Justice) [4.39 p.m.]: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Crimes (High Risk Offenders) Amendment Bill 2014. The purpose of this bill is to amend the Crimes (High Risk Offenders) Act 2006 to enhance community safety through improved supervision and monitoring of high-risk sex and violent offenders. The Crimes (High Risk Offenders) Act 2006 aims to protect the community from that small group of serious offenders who resist rehabilitation during their term of custody. The Government is committed to ensuring that the community is protected from the high risk of reoffending posed by such individuals. This bill implements a number of proposals that will strengthen the review and management of high-risk offenders. It supports the Government's targeted approach to managing the risk posed by high-risk offenders and gives agencies the tools to respond quickly to any change in circumstances that make risk imminent.

A key feature of this bill is the establishment of a High Risk Offenders Assessment Committee comprising members from justice, law enforcement and relevant human service agencies. The committee will be responsible for the ongoing review, assessment and management of high-risk offenders. In addition, the amendments proposed will require those agencies to cooperate and share relevant information with the committee and each other to better support and manage offenders. The bill also provides for the Supreme Court to make an emergency detention order on an ex parte basis where a supervised high-risk offender cannot be adequately supervised in the community because of altered circumstances and consequently poses an imminent risk of committing a serious offence.

The introduction of such orders is an additional and necessary tool to help manage offenders who are being supervised in the community. It will cover situations where a supervised offender's circumstances change suddenly but where there has not necessarily been a breach of the supervision order. If there is a breach then action may instead be taken on that and this bill will increase the penalty for a breach from a maximum of two years imprisonment to five years imprisonment. This new emergency detention order will ensure that the offender can be kept safely in custody while the problem created by the change of circumstances is sorted out. In some cases, that may mean finding the offender a new place to live and they will be released as soon as accommodation is secured. In other cases, it may be that the situation cannot be addressed but the order will give the State time to turn to existing powers under the Act. Safeguards are incorporated into the new emergency detention order provisions that recognise the extraordinary nature of such orders and ensure that they are used appropriately as a last-resort measure.

I now turn to the main details of the bill. Schedule 1 items [3] and [4] amend section 10C of the Crimes (High Risk Offenders) Act 2006 to clarify that an interim supervision order will be suspended when a high-risk offender is in lawful custody. Any time spent in lawful custody—for example, where the offender is sentenced for a fresh matter—will not count towards the three-month limit for

interim supervision orders. This amendment brings the operation of interim supervision orders in line with extended supervision orders. Schedule 1 item [5] supplements the existing list of conditions that may be imposed under section 11 of the Crimes (High Risk Offenders) Act 2006 on a high-risk offender subject to a supervision order. The conditions set out in new section 11 are not exhaustive but they provide guidance to the court as to the types of conditions that may be appropriate in particular circumstances. The additional conditions in this bill relate to internet access and use, and the employment and financial affairs of an offender.

A condition may also be imposed requiring an offender to report to police and advise them of the supervision order and his or her residential address. Further, as the operation of the Child Protection (Offenders Registration) Act 2000 is suspended when an offender is subject to a supervision order, any obligations that could be imposed on an offender under that Act may be imposed as a condition of a supervision order. Schedule 1 item [6] increases the maximum penalty for failing to comply with a requirement of a supervision order from 100 penalty units and/or two years imprisonment to 500 penalty units and/or five years imprisonment. The breach will be an indictable offence that can be dealt with summarily unless the prosecution elects to deal with the offence on indictment in the District Court. Schedule 1 items [7] and [8] are consequential amendments, reflecting that people subject to applications for continuing detention orders may be detained under emergency detention orders.

New section 18CA provides that the State may apply to the Supreme Court for an emergency detention order when short-term detention of a supervised high-risk offender is urgently required. The application may be heard in the absence of the offender. An emergency detention order may be necessary where a high-risk offender being supervised in the community can no longer be provided with adequate supervision because of a change in their circumstances. Where the court determines that the altered circumstances mean the offender cannot be provided with adequate supervision and poses an imminent risk of committing a serious offence it may make an emergency detention order under new section 18CB.

There are a number of important safeguards of an offender's rights. First, orders can only be sought by the Attorney General. Secondly, applications must be accompanied by an affidavit of the Commissioner of Corrective Services or an assistant commissioner. New section 18CC sets out the matters to be addressed in the affidavit supporting the application. Thirdly, new section 18CD provides that the term of an emergency detention order is not to be longer than reasonably necessary to enable action to be taken to provide the offender with adequate supervision.

In any event, an emergency detention order cannot exceed 120 hours from the time it is made. The court may specify that the order end at an earlier time. This means the offender can be released back into the community early if the changed circumstances have been addressed. These time limits ensure that the offender's loss of liberty will be for the shortest period possible before they are either released back into the community on the original supervision order or given an opportunity to appear before the court to be heard in response to either an application for an interim detention order or breach proceedings. The State may also choose to bring an application for variation of the original supervision order.

Schedule 1 item [10] provides that on making an emergency detention order any extended supervision order or interim supervision order is suspended and ceases to have effect until the

emergency detention order expires. Schedule 1 items [11], [12], [13] and [14] extend the existing procedural provisions in the Act to emergency detention orders. These relate to the variation or revocation of an order, the issuing of a warrant committing an offender subject to an order to a correctional facility, and the right of appeal against the making of an order. New part 4A of the bill sets up the statutory framework for the establishment of a High Risk Offenders Assessment Committee to be chaired by the Commissioner of Corrective Services and to include members from relevant government agencies. The relevant agencies are listed in new section 24AA.

Other government agencies, relevant organisations and independent experts may also be appointed to the committee to assist with the management of risk and supervision in the community of high-risk offenders. Subcommittees can be formed as provided for in new section 24AD to exercise specific functions of the committee. The committee is to furnish reports and information to the Minister for Justice as to the general exercise of its functions and any specific matter if required, as set out in new section 24AE. New section 24AC sets out the functions of the committee, which include to review and assess high-risk offenders and to make recommendations in relation to appropriate action by the State.

Importantly, the committee will facilitate interagency cooperation, coordination and information sharing to support ongoing oversight of the management of supervised high-risk offenders. It will also develop best-practice standards and guidelines for the exercise by relevant agencies of their high-risk offender functions and identify any gaps in resourcing, service provision and training. These new provisions recognise the critical role that a range of agencies have in managing the risk posed by this small cohort of offenders and the need for these partnerships to continue for the period that high-risk offenders are under State supervision. New section 24AF provides that relevant agencies must cooperate in relation to their risk assessment and management functions. This duty extends to the disclosure of relevant information, provision of reasonable assistance and support, and generally in relation to the exercise of the functions of the committee.

Cooperation can include developing multiagency management plans and joint programs to assist and support high-risk offenders under supervision. These provisions draw on elements of the Multi Agency Public Protection Arrangements [MAPPA] that have been operating successfully in the United Kingdom since 2000. To facilitate the sharing and exchanging of relevant information, two or more agencies can enter into agreements known as cooperative protocols, as provided for in new section 24AG. Item [17] contains saving and transitional provisions related to the commencement of the bill. The bill will commence on proclamation. Ensuring community safety is of paramount concern to this Government. This bill reflects that the State is best placed to ensure that high-risk offenders are appropriately assessed and managed both in custody and in the community. I commend the bill to the House.

Debate adjourned on motion by Mr Paul Lynch and set down as an order of the day for a future day.