



# Legislative Council

## Bail Amendment (Confiscation Of Passports) Bill Hansard - Extract

21/03/2002

### Second Reading

**The Hon. JAMES SAMIOS** [2.33 p.m.]: I move:

That this bill be now read a second time.

I am pleased to move the second reading of the Bail Amendment (Confiscation of Passports) Bill on behalf of my colleague in another place the shadow Minister for Police, Andrew Tink. This bill was originally introduced in another place in August 2000 after the honourable member for Wakehurst raised serious concerns about a truck driver who absconded overseas after being charged with negligent driving occasioning the death of a child in Sydney. As the case has been before a court this week, I will not comment further on it.

However, I am more than happy to speak about the general principles of the bill, the object of which is to amend the Bail Act 1978 to require bail granted to persons accused of offences occasioning death to be subject, except in special circumstances, to conditions requiring the giving up of passports held by them. The offences covered by the legislation include murder, manslaughter, dangerous driving occasioning death, aggravated dangerous driving occasioning death, dangerous navigation occasioning death, aggravated dangerous navigation causing death, and negligent driving occasioning death. The bill will also affect any person charged with aiding and abetting, conspiracy and accessory after the fact with regard to these offences.

The bill proposes to put the onus on any person who appears before a court and is charged with any criminal act occasioning death, including a negligent criminal act, to show why his or her passport should not be confiscated in the event that bail is granted. The judiciary and police will be given the option of requiring the accused to surrender to an authorised officer or court any passport held by the accused as a condition of bail, whether the passport is Australian or is issued by any other country. As the honourable member for Epping said in another place, this legislation is not about removing people's liberty or refusing to grant someone bail, it simply seeks to address the fundamental issue of granting bail on the condition that a person's passport is confiscated.

Passports are people's tickets out of a jurisdiction—in this case New South Wales. Any person in this country who commits a crime occasioning death should have to come before a court and make a case why he or she should retain his or her ticket out of the country. All Australian citizens and foreign nationals require a passport to leave this country legally, and in all cases people should have to demonstrate to the court why they should be granted bail. Of course, not all passports will be confiscated: the provision is not mandatory. However, this legislation puts the onus on the accused to demonstrate that he or she is not a flight risk.

Many matters, such as a person's reputation in Australia or overseas, a person's assets, ties and criminal record both in this country and overseas, must be balanced. It is for the accused person to demonstrate to the court why he or she should be allowed to retain his or her passport, which brings forward the confiscation of a passport as one of the central issues that the court must consider during bail application deliberations.

I was pleased to hear last week that the Government had, after 18 months delay, finally agreed to support this important legislation and allowed its passage through another place. It has belatedly come to the party and agreed that the Coalition was right to introduce this legislation. I thank the honourable member for Wakehurst for his concern and for his extremely constructive proposal for this legislative change. I also thank the honourable member for Epping for initially introducing the bill into Parliament for consideration. I commend the bill to the House.