

8 November 2010



Legislative Council Standing Committee on Law and Justice

**Inquiry into judge alone trials under s.132 of
the *Criminal Procedure Act 1986***

REPORT TABLED

The Chair of the Standing Committee on Law and Justice, the Hon Christine Robertson MLC, today tabled the Committee's report on its Inquiry into judge alone trials under section 132 of the *Criminal Procedure Act 1986*. The Inquiry terms of reference set out the proposed model for amending section 132, which the Committee has considered with the assistance of stakeholders.

Currently, the Office of the Director of Public Prosecutions determines applications from an accused for a trial to proceed before a judge sitting alone rather than a jury. Under the proposed model, section 132 would be amended to allow either party in criminal proceedings to apply to the court for trial by judge alone, without a requirement that the prosecution consents, with the decision to be made by the court based on the interests of justice.

Ms Robertson said, 'After reviewing the submissions and listening to the compelling evidence given at our public hearings, the Committee has endorsed the model proposed by the Attorney General'.

'Under the model, the prosecution as well as the accused could apply for a judge alone trial and, if the accused applies and the prosecution objects, then the matter will be determined by the court'.

'We have, however, identified three areas where the model can be improved, relating to: the need for an accused to provide informed consent to an application; raising the threshold in the jury tampering exception; and ensuring that the 'interests of justice' test includes an inclusive, not exhaustive, list of factors for the courts to consider'.

'Subject to our recommended changes, the model will provide a transparent and equitable method of applying for and determining applications for judge alone trials'.

'The only circumstance where an accused could be compelled to have a judge alone trial without their consent would be where there is a real risk of jury tampering and all other means reasonably available to the court cannot address that risk'.

'While the Committee has supported the proposed model, this should not be taken as support for judge alone trials as a replacement for jury trials. The Committee believes that both modes of trial have an essential role to play in our criminal justice system'.

Ms Robertson can be contacted for comment on 0428 674 310 or (02) 9230 2971

Further information: The Committee's recommendations are attached. The report is on the Committee's website: www.parliament.nsw.gov.au/lawandjustice. Hard copies are available by phoning (02)9230 2412.