

DANGEROUS SEXUAL OFFENDERS LEGISLATION AMENDMENT BILL 2017

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon **Stephen Dawson (Minister for Environment)** on behalf of Hon Sue Ellery (Leader of the House), read a first time.

Second Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.24 pm]: I move —

That the bill be now read a second time.

This Dangerous Sexual Offenders Legislation Amendment Bill 2017 fulfils a major commitment of the McGowan Labor government's law reform initiatives to strengthen the protections afforded to Western Australians in the Dangerous Sexual Offenders Act 2006, known as the DSO act. To achieve this commitment, the bill amends both the DSO act and the Bail Act 1982 (WA). The DSO act provides the framework within which dangerous sexual offenders are managed in custody and in the community, and sets out the process for applying for, granting and rescinding continuing detention and community supervision orders and responding to breaches.

The DSO act has the clear objectives of protecting the community and victims from dangerous sexual offenders through detention or supervision, and of providing for continuing control, care and treatment of such offenders. Three central amendments are proposed by this bill. The first amendment is that the court is required to be satisfied on the balance of probabilities that the offender will substantially comply with all of section 18(1) standard conditions imposed on them under a community supervision order. Very importantly, the dangerous sexual offender will bear the onus of proving that they will comply with these conditions. If the court is not so satisfied, the offender must receive a detention order.

Convicted dangerous sexual offenders may have pleaded not guilty and never have admitted to, accepted responsibility for, or undergone treatment to address their offending behaviours. An offender can serve their entire term of imprisonment without achieving any rehabilitation or working to recognise, address or mitigate the risks they pose to the community or their victims. Consequently, it is important that offenders bear the burden of satisfying the court that they will comply with the section 18(1) conditions placed on them when they are under supervision in the community. Given that dangerous sexual offenders have already been found to pose a serious danger to the community, it is appropriate that legislation clearly indicate that, if the court is not satisfied that they will comply with the standard conditions relating to their supervision in the community, they should remain in custody.

The second principal amendment is to introduce a presumption against bail for dangerous sexual offenders who are charged under section 40A of the DSO act with breaching a supervision order. When a dangerous sexual offender is brought before the court on such an allegation, they will be detained in custody until the matter is determined, unless the court decides that there are exceptional reasons why they should be granted bail.

The third important amendment is to provide for an interim supervision order. This is introduced through proposed new section 27A. New section 27A will provide for the making of an interim supervision order in circumstances when an application under section 8(1), (4A), 19 or 22 of the DSO act is pending, the person to whom the pending proceedings relate is not in custody and the court is satisfied that to ensure adequate protection of the community, it is desirable to make an interim supervision order. This will also cover the situation that occurred in *State of Western Australia v Narkle* [No 5] [2017] WASC 46—that is, where a further application against a person under a DSO supervision order is not yet disposed of and the current supervision order is due to expire. The amendment will preclude the possibility that, in these circumstances, an offender would be automatically and unconditionally released upon the expiration of their supervision order.

The bill also seeks to make other necessary amendments to the DSO act. These include clarifying the definition of “commit a serious sexual offence” which takes into account the risk posed to the community by the offender's possible future behaviour and providing that when a person is suspected of actual or likely contravention of a supervision order, that person is brought to court by a warrant of arrest and not a summons. The latter of these amendments further protect the community by ensuring there is no delay in bringing such matters before the court. This bill implements a major law and order reform commitment of the McGowan Labor government to protect Western Australians from dangerous sexual offenders.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill; it does not ratify or give effect to an inter-governmental or multilateral agreement to which the government of the state is party, nor does this bill by reason of its subject matter introduce a uniform scheme or uniform laws throughout the commonwealth.

On behalf of the government of Western Australia and all victims of sexual offences and their families as well as the people of Western Australia, I have much pleasure in commending the bill to the house, and table the explanatory memorandum.

[See paper 607.]

Debate adjourned, pursuant to standing orders.