

SENTENCE ADMINISTRATION AMENDMENT BILL 2017

Receipt and First Reading

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

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [3.23 pm]: I move —

That the bill be now read a second time.

This bill implements a major election commitment. As honourable members may be aware, the history of this legislation starts with Margaret Dodd. Her daughter, Hayley, has not been found. Margaret Dodd started a public petition for no body, no parole laws and it gained the support of approximately 40 000 people.

The murder of Craig Puddy also comes to mind—the offender was convicted and received a life sentence with a minimum non-parole period of 18 years. Mr Puddy’s father, Laurie, said that the verdict was a first step but that it would not bring the family closure as he still does not know the whereabouts of his son’s body. It is clear that it is a matter of great importance, and a step towards closure, for a family to be able to bury their loved one.

No body, no parole legislation has been introduced in Victoria, the Northern Territory and South Australia and is being considered in Queensland and New South Wales. Importantly, the government’s law reform initiatives policy includes an election commitment to introduce no body, no parole reform. This bill seeks to do this through amendments to the Sentence Administration Act 2003, a Western Australian act. Although commonly called no body, no parole provisions—I will continue to use that term—the provisions that are sought to be introduced by the bill will apply to all relevant early release determinations, not only to parole, in order to ensure a consistent and comprehensive application of the government’s policy. This bill applies to prisoners who are in custody for murder or a murder-related offence. A murder-related offence refers to counselling or procuring the commission of murder; inciting another person to commit murder; becoming an accessory after the fact of murder; or conspiring with another person to commit a murder, insofar as these offences relate to the death of a person.

For the assistance of honourable members, in summary, the bill provides that in every case in which the Prisoners Review Board considers whether a relevant prisoner should be granted an early release order, the board must not make a release order or release recommendation unless satisfied that the prisoner has cooperated with a member of the Western Australian police force about either of the following two matters—first, identification of the location of the remains of the victim; and, second, identification of the last known location of the victim’s remains. The aim of the proposed provisions is to enhance the likelihood of locating the body of the victim of a murder.

All honourable members will, I trust, agree that this is a very important, worthy and long overdue objective to achieve. Again, for the information of members, it should be noted that the no body, no parole provisions will not apply when the location of the remains of the victim are already known to a member of the WA police force. However, in this context, it is important to note that the usual considerations that the board takes into account when deciding, for example, whether to recommend to the executive government that a prisoner be granted parole, will continue to apply to such prisoners. Importantly, these new no body, no parole provisions will apply to all relevant prisoners as defined in the bill regardless of the date when they committed the offence.

The bill ensures that prisoners convicted of relevant historical offences under now repealed laws are also within the new provisions. The government has considered the implications of the no body, no parole provisions on an accused’s right to silence. Consequently, the bill makes it clear that a prisoner can be found to have satisfactorily cooperated when the cooperation occurs after conviction, sentencing, and all appeals have been finalised.

The bill refers specifically to cooperation with a member of the WA police force, which at all times remains the authority responsible for investigation of murder. It is, of course, possible that a prisoner could attempt to indirectly cooperate through a third person. However, the onus remains on the prisoner to ensure that any relevant information is brought to the attention of a member of the police force. The proposed provisions require the Western Australian Commissioner of Police to provide a report that must inform the board’s deliberations. Courts may, and often do, consider remorse, cooperation and the identification of the location of the body when sentencing an offender to a term of imprisonment. However, as honourable members will be aware, the sentencing of persons convicted of murder or a murder-related offence is separate from the early release of a prisoner prior to the expiry of the sentence imposed by a court. Under the relevant legislation, decisions about parole, for example, reside with the executive government, not the courts.

This bill will, I trust, go some way to restoring the faith of the families of the murdered victims. To their families I again extend the government's sincerest condolences and hope that these new no body, no parole laws will bring about the disclosure of their loved one's remains.

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

I commend the bill to the house and table the explanatory memorandum.

[See paper 318.]

Debate adjourned, pursuant to standing orders.