

## **BAIL ACT — REVIEW**

### *Statement*

**HON CHARLES SMITH (East Metropolitan)** [6.28 pm]: I am moved this evening to say a few words after seeing a news article a few days ago about a rather nasty assault in Cottesloe. This assault was committed by a well-known repeat offender who had been granted bail again after similar offences. Our court system is full of these “bail fails”, and it is high time that the Bail Act 1982 was reassessed by this government. In our system we believe that a person is innocent until proven guilty. In certain cases, the accused is held on remand until a determination is made. Bail is often given to people, and I think the number of offenders granted bail, and why, needs to be scrutinised. Bail is normally refused when a person is either a flight risk, at risk of destroying evidence, at risk of reoffending or at risk of intimidating victims, witnesses or other parties. An accused essentially has two goes at bail—firstly, at the police level and secondly at the court level. These are often referred to as police bail and court bail.

Under the Bail Act, the arresting officer must consider bail as soon as practicable. If the police refuse bail, an accused must be brought before a court as soon as practicable to make a final determination on whether bail should be granted. It is my opinion, and indeed that of many members of the public, that bail is granted too readily. There are a number of examples of when the public has been outraged by the granting of bail. The young man who I just referred to, while out on bail for a serious assault, attacked a tourist, breaking her jaw and cheekbone. She was his first victim on that day, which police described as a “day of violence”. The first victim was a tourist who spoke no English. If this man had not been granted bail, she would not have been harmed and would not be returning to her country with stories about how unsafe Western Australia is. For those who are concerned about tourism in Perth, this is why Perth struggles with tourism.

Before that example, there was the news story about the four men accused of torturing kangaroos and setting a chicken on fire. These guys were granted bail despite video evidence and their links to bikie gangs. I encourage members who have the stomach to watch that video and think about whether those people should have been granted bail. Earlier in the year, a self-defence instructor who had been accused of raping and sexually assaulting some of his students was granted bail, despite allegedly having been imprisoned twice on similar charges. These are just three of many examples that have been met with public outcry, and with good reason.

A recent report released by the formerly named Department of the Attorney General records breaches of bail conditions. In 2010–11, there were 437 cases of breach of bail. In 2014–15, this number steadily increased to 509 cases. The report notes a 9.9 per cent increase in breaches over one year, and a 16.5 per cent increase over five years. In 2007, the release of a serial armed robber who went on a violent rampage while on bail caused Parliament to reconsider bail. It is about time we do that again. Since 2007, there have been a number of examples. In 2008, a 24-year-old sports coach who had committed 20 sex offences against 12-year-old girls admitted guilt to other offences while on bail. In 2013, while on bail, a Perth drug boss was found with 18 grams of methylamphetamine, a set of electronic scales, \$5 000 cash in a black bag, \$1 545 cash in his wallet and \$70 050 cash in his hotel room. In 2017, while on bail, a man sexually assaulted his stepdaughter and committed further offences against her.

It is time we started to examine and scrutinise cases of bail being granted, particularly in cases of reoffending. Ideally, I believe we should move towards having a very clear prescriptive way of looking at bail. Sexual offenders, drug dealers and repeat offenders should not be given the benefit of the doubt in bail applications and should instead show why they should be granted bail—the onus should be on them. Bail, when granted freely, puts dangerous people back on the streets. It is time this government looked at the liberal granting of bail by our courts.