

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

AMENDMENTS AND SCHEDULES

Supplementary Notice Paper No. 171
Issue No. 2

TUESDAY, 22 MARCH 2016

DANGEROUS SEXUAL OFFENDERS LEGISLATION AMENDMENT BILL 2015 [171-1]

When in committee on the *Dangerous Sexual Offenders Legislation Amendment Bill 2015*:

Clause 17

Hon Adele Farina: To move –

1/17 Page 15, after line 19 — To insert —

- (4) A court may only make an order under subsection (1)(b) if the court is satisfied that the offender will comply with the conditions stated in the order.
- (5) The offender has the onus of satisfying the court as described in subsection (4) and the court has to be satisfied —
 - (a) by acceptable and cogent evidence; and
 - (b) to a high degree of probability.
- (6) In deciding whether to make an order under subsection (1)(b), the court must disregard the fact that the person will be subject to electronic monitoring if an order under subsection (1)(b) is made.

New Clause 18A**Hon Adele Farina:** To move –

2/NC18A Page 17, after line 3 — To insert —

18A. Section 21 amended

Delete section 21 and replace with:

21. Warrant because of contravention

- (1) A member of the police force or community corrections officer who reasonably suspects that a person who is subject to a supervision order is likely to contravene, is contravening, or has contravened, a condition of the order may apply to a magistrate for the issue of a warrant under subsection (3).
- (2) A person who makes an application under subsection (1) must advise the DPP as soon as practicable that the application has been made.
- (3) If the magistrate is satisfied that there are reasonable grounds for the suspicion described in subsection (1), the magistrate has to issue, in the form approved under section 46, a warrant directed to all members of the police force for the person who is subject to the supervision order to be arrested and brought before the Supreme Court for it to consider the suspected or anticipated contravention.
- (4) The warrant may state the suspected or anticipated contravention in general terms.
- (5) A magistrate cannot issue a warrant under subsection (3) for the arrest of a person unless the application for the warrant is supported by evidence on oath.
- (6) A person arrested pursuant to a warrant issued under subsection (3) for a suspected contravention shall not be released on bail, and shall be remanded in custody until the suspected contravention has been the subject of a determination by the Supreme Court.

Clause 20**Hon Adele Farina:** To move –

3/20 Page 17, line 21 to page 18, line 16 — To delete the lines and insert —

20. Section 23 amended

Delete clause 23 and replace with:

23. Court shall order detention

- (1) If the court is satisfied, on the balance of probabilities, that the person who is subject to the supervision order is contravening, or has contravened, a condition of the supervision order, the court shall make a continuing detention order in relation to the person.

- (2) Subject to (1), if the court is satisfied, on the balance of probabilities, that the person who is subject to the supervision order is likely to contravene a condition of the supervision order, the court may —
- (a) make an order amending the conditions of the supervision order, or extending the period for which the offender is to be subject to the conditions of the supervision order, or both; or
 - (b) if the court is also satisfied that there is an unacceptable risk that, if an order under this paragraph were not made, the person would commit a serious sexual offence, make a continuing detention order in relation to the person; or
 - (c) make no order.
- (3) In considering whether it is satisfied as required in subsection (2)(b), the court must disregard the possibility that the person might temporarily be prevented from committing a serious sexual offence by imprisonment, by remand in custody or by the imposition of bail conditions.
- (4) In deciding whether to make an order under subsection (2) the paramount consideration is to be the need to ensure adequate protection of the community.

Clause 29

Hon Adele Farina: To move —

4/29 Page 22, after line 2 — To insert —

- (2A) A court may only make a supervision order under subsection (1)(b)(ii) if the court is satisfied that the offender will comply with the conditions stated in the order.
- (2B) The offender has the onus of satisfying the court as described in subsection (2).
- (2) In considering whether to make a supervision order under subsection (1)(b)(ii), the court must disregard the fact that the person will be subject to electronic monitoring if a supervision order under subsection (1)(b)(ii) is made.

