Parliamentary Committees

Criminal Law Amendment Bill (No. 2) 2012

Report No. 27
Legal Affairs and Community Safety Committee
April 2013

Legal Affairs and Community Safety Committee

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Acknowledgements

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Contents

Abbreviations

Attorney-General	The Honourable Jarrod Bleijie MP, Attorney-General and Minister for Justice
Bill	Criminal Law Amendment Bill (No. 2) 2012
Committee	Legal Affairs and Community Safety Committee
Department	Department of Justice and Attorney-General
GRO	Graffiti Removal Order
NSW	New South Wales
PACT	Protect All Children Today Inc.
QLS	Queensland Law Society
VIS	Victim Impact Statement

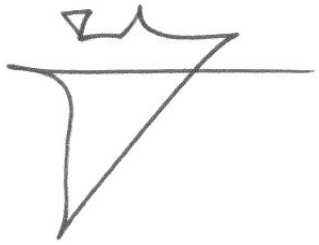
Chair's foreword

This Report presents a summary of the Legal Affairs and Community Safety Committee's (Committee) examination of the Criminal Law Amendment Bill (No. 2) 2012 (Bill).

The Committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles – that is, to consider whether the Bill had sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

On behalf of the Committee, I thank those individuals and organisations who lodged written submissions on this Bill. I also thank the Committee's Secretariat, and the Department of Justice and Attorney-General.

I commend this Report to the House.



Mr Ian Berry MP

Chair

April 2013

Recommendations

The Committee recommends the Criminal Law Amendment Bill (No. 2) 2012 be passed.

1. Introduction

1.1 Role of the Committee

The Legal Affairs and Community Safety Committee (the Committee) is a portfolio committee of the Legislative Assembly which commenced on 18 May 2012 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.[1]

The Committee's primary areas of responsibility include:

- Department of Justice and Attorney-General;
- Queensland Police Service; and
- Department of Community Safety.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation;
- the application of fundamental legislative principles; and
- for subordinate legislation – its lawfulness.

1.2 The Referral

The Criminal Law Amendment Bill (No. 2) 2012 (the Bill) was introduced into the Legislative Assembly and referred to the Committee on 29 November 2012.

In accordance with the Standing Orders, the Committee of the Legislative Assembly required the Committee to report to the Legislative Assembly by 8 April 2013.

1.3 Inquiry process

On 3 December 2012, the Committee wrote to the Department of Justice and Attorney-General (the Department) seeking advice on the Bill, and invited stakeholders and subscribers to lodge written submissions.

The Committee received written advice from the Department on 10 December 2012 and received 7 submissions from stakeholders (see **Appendix A**). The Committee determined not to hold a public hearing on the Bill.

1.4 Policy objectives of the Criminal Law Amendment Bill (No. 2) 2012

The Bill amends a number of Acts within the justice portfolio to implement a range reforms by the Government in the criminal justice area.

The *Bail Act 1980* will be amended to provide for:

- the Magistrates Court to impose as a condition of bail that the defendant participate in a rehabilitation, treatment or other intervention program, and that such program is not to be prescribed; and
- a breach of a condition of bail to participate in such a program to be an offence with a maximum penalty of 40 penalty units or two years imprisonment.

[1] *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

The *Corrective Services Act 2006* will be amended to require all drug traffickers sentenced to immediate full-time imprisonment to serve a minimum non-parole period of 80 per cent of the sentence imposed.

The *Drug Court Act 2000* will be amended to provide for the cessation of the Drug Court by 30 June 2013 as part of the Government's efficiency and savings measures outlined in the 2012 Budget.

The *Drugs Misuse Act 1986* will be amended to increase the maximum penalty for aggravated supply in the instance where an adult supplies a dangerous drug to a child under 16 years.

The *Criminal Code*, *Penalties and Sentences Act 1992*, *Summary Offences Act 2005* and the *Youth Justice Act 1992* will be amended to implement the Government's policy on tackling graffiti crime with:

- the maximum penalty for the offence of wilful damage (Graffiti) being increased from five to seven years imprisonment;
- the insertion of a new graffiti forfeiture provision regarding property used to record, store or transmit images of graffiti, applying to prescribed adult graffiti offenders;
- the insertion of a new mandatory community based order called a Graffiti Removal Order, to apply to any child aged 12 to 16 years convicted of a graffiti offence;
- the insertion of new diversionary mechanisms, which will allow children aged 12 years and over to be made subject to graffiti removal service without court intervention; and
- the insertion of a new graffiti forfeiture provision regarding property used to record, store or transmit images of graffiti.

Finally, the *Victims of Crime Assistance Act 2009* will be amended to ensure that a victim who so wishes, is permitted to read aloud their victim impact statement before the sentencing court.

1.5 Consultation on the Bill

Consultation on the Bill has been conducted broadly by the Department during the Bill's development. As the Bill deals with a range of issues, two distinct approaches were taken.

With respect to the amendments relating to victim impact statements, drug reforms and graffiti crime, consultation occurred with senior members of the judiciary; the Director of Public Prosecutions; the Queensland Law Society; the Bar Association of Queensland; Legal Aid Queensland; PACT; and the Commission for Children and Young People and Child Guardian. In relation to the cessation of the Drug Court, consultation is stated to have occurred with the Chief Magistrate; Queensland Law Society; Bar Association of Queensland; Legal Aid Queensland; and the Aboriginal and Torres Strait Islander Legal Service were consulted.[2]

Committee comment

The Committee acknowledges that the Government has consulted widely with stakeholders in the developmental phase of the Bill. The Committee recognises that organisations such as the Queensland Law Society and the Bar Association of Queensland are important stakeholders in the development of all legislation, and in particular legislation being developed in the legal affairs portfolio.

[2] Criminal Law Amendment Bill (No. 2) 2012, *Explanatory Notes*, page 5.

1.6 Should the Bill be passed?

Standing Order 132(1) requires the Committee to determine whether to recommend that the Bill be passed. After examination of the Bill, including the policy objectives which it will achieve and consideration of the information provided by the Department and submitters, the Committee considers that the Bill should be passed.

Recommendation 1

The Committee recommends the Criminal Law Amendment Bill (No. 2) 2012 be passed.

2. Examination of the Criminal Law Amendment Bill (No. 2) 2012

2.1 Amendments to the *Bail Act 1980*

Clause 4 of the Bill amends section 11(9) of the *Bail Act 1980* in order to provide magistrates with greater flexibility to refer a defendant to suitable rehabilitative, treatment or other intervention program without the current red tape involved to prescribe the program.

Clause 5 of the Bill creates the offence of noncompliance with a condition of bail, providing for the penalty of two years imprisonment or 40 penalty units.[3] Explaining the introduction of a penalty, the Department advised the Committee:

> *The proposed reform is intended to send a clear message to defendants that all conditions of a bail undertaking, including educational, therapeutic or rehabilitative conditions, must be complied with.*[4]

Legal Aid Queensland submitted, in relation to clause 4, that to improve consistency and provide flexibility for magistrates to refer defendants to programs, consideration should be given to changing the wording of the proposed new section 11(9).[5]

The proposed new section 11(9) reads:

> *(9) Without limiting a court's power to impose a condition on bail under another provision of this section, a Magistrates Court may impose on the bail a condition that the defendant participate in a rehabilitation, treatment or other intervention program or course, after having regard to—*
>
> *(a) the nature of the offence; and*
>
> *(b) the circumstances of the defendant, including any benefit the defendant may derive by participating in the program or course; and*
>
> *(c) the public interest.*

Legal Aid Queensland submitted that new subsections (a) to (c) should be deleted and replaced with:

> *but shall not make the conditions for a grant of bail more onerous for the person than those that in the opinion of the court are necessary having regard to the nature of the offence, the circumstances of the defendant and the public interest.*

It appears the fundamental difference in the suggested rewording is the inclusion of the reference to the onerous nature of any proposed bail conditions. Legal Aid Queensland suggested: '*Without such an amendment it is possible that offenders may be required to attend intensive programs of a long duration that are more onerous than is warranted by the above factors.'*[6]

The Department responded to the suggestion from Legal Aid Queensland, outlining:

> *As per the existing requirements under section 11(1) and 11(2), the new section 11(9) requires the Magistrates Court to consider the nature of the offence and also the public interest before imposing a condition for a defendant to attend a rehabilitation, treatment or intervention program.*

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3 Criminal Law Amendment Bill (No. 2) 2012, *Explanatory Notes*, page 3.

4 Letter from the Department of Justice and Attorney General, 10 December 2012, page 9.

5 Submission No. 4, Legal Aid Queensland, page 1.

6 Submission No. 4, Legal Aid Queensland, page 1.

> *However, unlike the existing requirement…there is no requirement under the new section 11(9) to not make the conditions for a grant of bail more onerous for the defendant than necessary.*
>
> *The reason for this omission is that…it would be onerous on a defendant to attend any program where the goal is to change behaviour.*
>
> *Instead, the new section 11(9) requires the Magistrates Court to consider the defendant's entire situation and whether the program will be of benefit for the individual defendant….This is the appropriate factor to take into account for the imposition of bail condition to attend a therapeutic program.*[7]

In relation to Clause 5 of the Bill, which in effect creates the offence of noncompliance with a condition of bail, the QLS considered that the amendment could result in disproportionately severe outcomes.[8] The QLS submitted:

> *We agree that treatment and rehabilitation of those convicted of offences is an important goal. However, we consider that failing to participate in a bail program (which can occur for a number of reasons) could result in the unnecessary criminalisation of people who have not yet been found guilty of the offence/s in question. This amendment may also increase the number of people on remand in custody, as well as significantly impact vulnerable groups such as those with drug or mental health issues, who may be more often referred to participate in programs.*[9]

Similarly, Legal Aid Queensland submitted:

> *…consideration should be given to not making a breach of a bail condition to participate in a program an offence. With the removal of the requirement that programs be prescribed by regulation, there may be a wide range of ad-hoc programs which magistrates may require defendants to participate in. There is a risk that some program operators may require participants to do something unreasonable or inappropriate or impose some requirement with which participants cannot comply – or simply that program operators may not specify clearly what constitutes participation… So there is risk of uncertainty and inconsistency around what constitutes offending behaviour.*
>
> *The next issue is enforcement, as presumably program operators will be required to inform police about non-participation. This may undermine the therapeutic relationship between program operators and their clients.*[10]

The Department stated in its response to these submissions:

> *Section 29* [of the Bail Act] *is to be amended so that an adult defendant commits an offence when failing to comply with a condition of bail relating to participation in a rehabilitation program… if non-compliance is proven, a person will be liable to an offence and penalty.*
>
> *The new section 11(9) gives the Magistrates Court the flexibility to partner with service providers to develop suitable rehabilitation programs to be used as bail based programs.* [11]
>
> *The Department of Justice and Attorney-General acknowledges that since participation in a rehabilitation program is a bail condition, service providers will need to inform police if there is non-compliance with the condition of bail.*

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7 Letter from the Department of Justice and Attorney-General, 19 February 2013, pages 3-4.

8 Submission No. 3, Queensland Law Society, page 1.

9 Submission No. 3, Queensland Law Society, page 1.

10 Submission No. 4, Legal Aid Queensland, page 2.

11 Letter from the Department of Justice and Attorney-General, 19 February 2013, page 4.

> *Both the Magistrates Court and the service provider will advise the defendant of this reporting obligation.*[12]

Committee comment

Enabling magistrates to refer defendants to rehabilitative, treatment and intervention programs with greater ease is a simple yet highly effective improvement to the administration and delivery of justice within Queensland. The Committee is satisfied the wording of new section 11(9) of the *Bail Act 1980* is appropriate and does not require amendment.

In relation to the proposed penalties of two years imprisonment or 40 penalty units ($4,400) for failure to comply with a condition of bail, the Committee notes that the proposed penalties are maximum penalties and that the substantive operation of section 29 of the *Bail Act 1980* is not being amended by the Bill. Where an offender has a genuine excuse for non-compliance, the court may still deal with the subsequent charge as it deems fit as the court's discretion to impose penalties and other conditions is not being amended.

It must also be recognised that the granting of bail is not a right and that a condition of bail imposed is an order of the court and must be complied with. Hand in hand with the Government's tough stance on crime, the Committee considers that the attendance at a therapeutic program or similar, at the direction of the court, must not be seen as optional. The proposed amendments will go a long way to ensuring that all conditions of bail are complied with.

2.2 Tougher sentencing of drug traffickers

The Bill increases the sentences for drug traffickers who target children and requires convicted drug traffickers to serve 80 per cent of their sentence before eligibility for parole.

Increased sentences for drug traffickers that target children

The Explanatory Notes to the Bill state:

> *The offence of trafficking in dangerous drugs is the most serious form of drug related offending. It has the potential to cause considerable individual suffering and significant broader social harm. Strong deterrent sanctions are justified.*[13]
>
> *The Bill amends section 6 of the Drug Misuse Act to insert new maximum penalties for adults who supply dangerous drugs to children under 16 years.*
>
> *The Bill inserts a new category into the offence of aggravated supply, namely where the adult supplies a dangerous drug to a child under the age of 16 years. In such circumstances, the maximum penalty increases to life imprisonment where the drug supplied was a Schedule 1 drug (such as, heroin or amphetamines); and to 25 years imprisonment for a Schedule 2 drug (such as, cannabis).*[14]

In relation to these changes, the Commission for Children and Young People and Child Guardian stated in its submission that it welcomes measures to strengthen penalties for drug traffickers and adults who supply dangerous drugs to children:

> *...recognising the significant and often long term harm caused to children by the supply of an expanding variety of dangerous drugs.*[15]

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12 Letter from the Department of Justice and Attorney-General, 19 February 2013, page 5.

13 Criminal Law Amendment Bill (No. 2) 2012, *Explanatory Notes*, page 2.

14 Letter from the Department of Justice and Attorney General, 10 December 2012, page 2.

15 Submission No. 1, Commission for Children and Young People and Child Guardian, page 1.

PACT provided:

> *whilst PACT is generally supportive of legislation that better protects children and young people, it is concerned as to the likelihood of fewer guilty pleas and the impact that this may have, including more children and young people being required to give evidence as victims or witness. Increased penalties for drug related matters may further disadvantage vulnerable populations; such as mentally ill, intellectual disability, young people or victims of crime.*[16]

The Queensland Law Society suggested:

> *…there is an absence of empirical evidence to demonstrate why these amendments are required. In the Society's view, further research should be undertaken on the sentences which are currently being handed down and the factual basis for these sentences. This will:*
>
> - *highlight the range of conduct that is liable to attract sanction; and*
> - *provide detailed empirical evidence as to whether or not the increase of these sentences is warranted.*[17]

In response to the range of submissions on this aspect of the Bill, the Department stated:

> *The Bill delivers on the Government's pre-election commitment to toughen the sentencing laws for those who traffic to children; a commitment that was reiterated in the Six Month Action Plan for July-December 2012.*
>
> *The* Drugs Misuse Act 1986 *already recognises that an adult who supplies a dangerous drug to a minor (that is, a person under 18 years) should be subject to higher penalties than if they supplied the drug to another adult; known as the offence of 'aggravated supply'. The Bill therefore bolsters the position against adults who supply dangerous drugs to young children.*
>
> *The Bill recognises the very young age of the child; and their particular vulnerability to adults who expose them to the dangers of drugs and who seek to introduce them to the addictive and illegal drug culture.*
>
> *Further, the proposed reform is consistent with the approach in Queensland to specifically protect children under 16 from criminal activity through the creation of specific offences.*[18]

Increase in sentence

The Committee notes that the only other Australian jurisdiction which provides for the specific offence of supply of prohibited drugs to a child under the age of 16 years is New South Wales.[19] Penalties range from a fine of 50 penalty units to life imprisonment (where the court is satisfied that the offence involves not less than a large commercial quantity of a drug other than cannabis leaf).[20]

The New South Wales offence can be differentiated from the amendments contemplated by clause 38 of the Bill in that the maximum penalty of life imprisonment only applies where a large commercial quantity of a prohibited drug is supplied, whereas clause 38 merely requires that the act of aggravated supply to a minor under 16 years take place.

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16 Submission No. 2, PACT, page 1.

17 Submission No. 3, Queensland Law Society, page 3.

18 Letter from the Department of Justice and Attorney-General, 19 February 2013, pages 12-13.

19 Section 25 of the *Drugs Misuse and Trafficking Act 1985* (NSW).

20 Section 33(3)(a)of the *Drugs Misuse and Trafficking Act 1985* (NSW).

In relation to the proposed amendments, The Attorney-General indicated:

> *Children, because of their youth, are particularly vulnerable to adults who seek to expose them to the dangers of drug. The Drugs Misuse Act already recognises that an adult who supplies a dangerous drug to a person under 18 years should be subject to higher maximum penalties than if they had supplied the drug to an adult. The bill bolsters the position… These reforms are consistent with the approach in Queensland to specifically protect children under 16 from criminal activity through the creation of offences and higher maximum penalties.*[21]

Committee comment

The Committee considers the Government's commitment to be tough on crime is of the utmost importance. As such the Committee considers a strong deterrent message needs to be sent to those persons contemplating drug trafficking and supports the changes to strengthen penalties as outlined in the Bill.

Mandatory non-parole period

In his introductory speech for the Bill, the Attorney-General stated:

> *… the bill adopts a tough new approach to the sentencing of drug traffickers. The reforms ensure that all convicted drug traffickers sentenced to immediate full-time imprisonment serve a minimum of 80 per cent of their sentence before being eligible to apply for parole release. Drug trafficking has the potential to cause considerable individual suffering but also significant broader social detriment and harm.*[22]

Clause 7 of the Bill inserts a new s182A into the *Corrective Services Act 2006* to introduce a standard percentage scheme, defining the standard non parole period as a set proportion of 80% of the sentence imposed. Currently in Queensland, a similar standard percentage scheme operates solely in relation to offenders convicted of serious violent offences, pursuant to Part 9A of the *Penalties and Sentences Act 1992*.

New South Wales is the only other Australian jurisdiction which has an existing standard non-parole period scheme applying to drug offences. Pursuant to the *Crimes (Sentencing Procedure) 1999* (NSW), standard non-parole periods of between 10 to 15 years are prescribed for certain serious offences of cultivation, supply, possession and manufacture of commercial quantities of prohibited drugs.[23] When applying the scheme, a court is required to set the head sentence by reference to the non-parole period, and the balance "*must not exceed one-third of the non-parole period unless there are 'special circumstances'*".[24]

The NSW scheme commenced on 1 February 2003 and was evaluated by the Judicial Commission of NSW in 2010.[25] Whilst there were various results, the evaluation found that one of the primary benefits of the scheme has been greater uniformity of and consistency in sentencing outcomes.[26]

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21 *Hansard,* 29 November 2012, page 2968.

22 *Hansard,* 29 November 2012, page 2968.

23 *Crimes (Sentencing Procedure) Act 1999* (NSW) pt 4, div 1A, Table – Standard Non-Parole Periods.

24 *Crimes (Sentencing Procedure) Act 1999* (NSW) s 44(2).

25 Judicial Commission of NSW, *The Impact of the Standard Non-Parole Period Sentencing Scheme on Sentencing Patterns in New South Wales* (2010).

26 Judicial Commission of NSW, *The Impact of the Standard Non-Parole Period Sentencing Scheme on Sentencing Patterns in New South Wales* (2010), page 60–1.

The Supreme Court of Queensland suggested that delays should be avoided for a number of reasons including *"the impact of delays on victims of crime, and the prospect that persons charged with crimes but ultimately acquitted will have to wait longer for a trial, because of limited resources".*[27] The Court also commented that a scheme would be likely to generate an increased number of appeals.

Other views expressed included:

- *[T]he proposed non-parole periods effectively deprive an offender of adequate time to reintegrate which will in turn result in increased levels of recidivism.*[28]
- *a SNPP can violate the principle of proportionality*[29]
- *within specific offences there are considerable gradations of severity and all offences are not equal.*[30]

In its submission to the Committee the QLS stated:

> *The Society does not support the introduction of the proposed mandatory minimum non-parole period. The Society's long-held position is that sentencing should have at its core a system of judicial discretion exercised within the bounds of precedent….We would object to the application of a mandatory minimum non-parole period constituting a de facto mandatory sentencing regime.*
>
> *…*
>
> *The Explanatory Notes to the Bill state the following with regard to introducing the mandatory minimum non-parole period:*
> *"In turn, the new scheme should enhance public confidence in the criminal justice system by promoting consistency and transparency in sentencing."*
> *For years the Society has been concerned that important legislative reforms in this state have been based on a political desire to meet "public opinion" in circumstances where that term has been understood by reference to the media's construction of the concept. In the Society's view, the only appropriate means of truly assessing public opinion is by way of qualitative research done to a professional standard*
>
> *…*
>
> *The Society does not favour any attempt to recast sentences in an effort to meet with community expectations, unless one can be satisfied that those community expectations have been determined on an accurate and justifiable basis.* [31]

The Department provided:

> *People who traffick in dangerous drugs destroy the fabric of society. The extremity of such offending can be far-reaching and devastating.*

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27 Supreme Court of Queensland, Submission No. 56 to the Sentencing Advisory Council's Consultation Paper on Minimum Standard Non-Parole Periods.

28 Confidential submission No. 36 to the Sentencing Advisory Council's Consultation Paper on Minimum Standard Non-Parole Periods.

29 Bond University – Centre for Law, Governance and Public Policy, Submission No. 45 to the Sentencing Advisory Council's Consultation Paper on Minimum Standard Non-Parole Periods.

30 Queensland Law Society, Submission No. 38 and Prison Fellowship Qld, Submission No. 49 to the Sentencing Advisory Council's Consultation Paper on Minimum Standard Non-Parole Periods.

31 Submission No. 3, Queensland Law Society, page 2.

> *The Bill implements the Government's pre-election commitment to ensure drug traffickers serve at least 80 percent of their sentence before parole eligibility. This commitment was reiterated in the Government's Six Month Action Plan for July-December 2012.*
>
> *It is acknowledged that the creation of the new 80 percent minimum non-parole period regime for drug traffickers brings with it some removal of judicial discretion. However, its impact, including that upon judicial discretion, must be balanced against the need for community protection and the need to denounce those who traffick in dangerous drugs.*[32]

The Bar Association of Queensland vehemently urged that serious consideration be given to the removal of the scheme, on the following grounds:

> *The logic underpinning the "80%" rule applicable to sentences of 10 years or more is debatable, but understandable. If the scale of trafficking warrants such a sentence, then it is obviously a serious offence indeed, and ought to attract punishment that is, even in this context, severe.*
>
> *However, the insistence upon this single structure of sentence for lower levels of offending will have undesirable consequences, and any suggestion that the "80% rule" should be extended must be viewed with caution.*
>
> *This is because the offence of trafficking in dangerous drugs can be committed in an extraordinarily wide range of circumstances…*

The Bar Association went on to say:

> *Appropriate and effective sentencing measures ensure that such individuals, upon release, are subject to a lengthy period of supervision – on parole or probation. This is the most effective way to guarantee that upon release (when they are most vulnerable) they do not relapse into drug related activity. There are obvious dangers…if this period under supervision is abbreviated to just 20% of the "head term" imposed.*
>
> *There is also a real need, in the interests of law enforcement, and especially in the cases of drug offences, to retain a large measure of flexibility in sentencing practices. This is because the courts can play a critical role in the apprehension and prosecution of the most serious offenders by giving an appropriate "discount" to the "lower level" offenders who might be willing to testify against others who are higher in the chain of distribution. That will, realistically, be impossible to achieve if it is mandatory to apply the "80% rule".*
>
> *Cases such as these present a quintessential example of the need for a sentencing judge to make a discretionary judgment on a case-by-case basis. To insist that, at every one of the many levels of drug trafficking, an offender must serve 80% of the sentence imposed would be a crude and ineffective innovation. It is likely to be counterproductive in the effort to rehabilitate young offenders, and will limit the ability of the courts to provide incentives to those who are in a position to undermine the efficacy of the more serious trafficking operations.*[33]

In response, the Department noted:

> *… the Bill delivers on the Government's pre-election commitment to target drug traffickers by ensuring that such offenders serve at least 80% of their sentence before parole eligibility. This commitment was reiterated in the Government's Six Month Action Plan for July-December*

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32 Letter from the Department of Justice and Attorney-General, 19 February 2013, pages 5-6.

33 Submission No. 7, Bar Association of Queensland, pages 2-3.

> *2012. The amendments recognise the far-reaching and devastating consequences of drug use.*
>
> *While the amendment narrows judicial discretion, the new regime is confined to those offenders sentenced to an immediate period of full-time imprisonment for the offence of trafficking in a dangerous drug. The Bill does not alter the sentencing judge's discretion to impose a range of other sentencing orders where the circumstances are appropriate, such as a partially suspended sentence.*[34]

Committee comment

On balance, and after closely examining the relevant issues and viewpoints, the Committee considers that the amendments reflect the Government's commitment to deliver safer communities by taking a hard-line approach to drug traffickers with tougher sentencing laws. Mandatory minimum non-parole periods are true to the policy objective of the Bill, and therefore, receive the Committee's endorsement.

It is vital that the serious harm caused by these offences is reflected in the sentences imposed by the courts, and that there is reasonable consistency in those sentences. The Committee considers this will be achieved with the mandatory non-parole period in new s182A of the *Corrective Services Act 2006.*

2.3 Amendment and cessation of the Drug Court

The Bill includes amendments to end Queensland's Drug Court by 30 June 2013; including consequential transitional arrangements for offenders already subject to orders, such as an intensive drug rehabilitation order under the *Drug Court Act 2000*. These amendments follow the announcement of the State Budget 2012-2013 on 11 September 2012 that funding will cease for the Drug Court; in effect terminating this program.[35]

Effect of the cessation of the Drug Court

The Drug Court program commenced in June 2000 and is legislatively governed by the *Drug Court Act 2000.* Courts operate in Beenleigh, Southport, Ipswich, Cairns and Townsville.

In its submission on the Bill, the QLS stated:

> *The Society supports the Drug Court as an effective rehabilitative mechanism to address underlying causes for offending behaviour. We are therefore disappointed to see the abolishment of this court and urge the government to retain this significant aspect of the criminal justice system.*[36]

In response, the Department stated:

> *The Department of Justice and Attorney-General notes the submission. However, on 11 September 2012 the Government announced, as part of the State Budget 2012-2013, that funding will cease for the Drug Court.*[37]

Legal Aid Queensland made the following comments:

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34 Letter from the Department of Justice and Attorney-General, 26 February 2013, page 1.

35 Criminal Law Amendment Bill (No. 2) 2012, *Explanatory Notes*, page 3.

36 Submission No. 3, Queensland Law Society, page 2

37 Letter from the Department of Justice and Attorney-General, 19 February 2013, page 8.

It is submitted that provision needs to be made for the situation where it is not possible to finalise a drug court sentencing matter by 30 June 2013, for example, because of some unforeseen event such as the illness of the defendant.

The proposed new section 40A(5)(a), which applies the Bail Act 1980 *to an offender arrested under section 40 of the* Drug Court Act 2000*, appears to conflict with section 40(3) which provides that the Bail Act does not apply. It is submitted that either section 40(3) should be repealed, or, preferably, that a warrant under section 40(5)(a) should remain the mechanism to bring an offender before the Drug Court.*[38]

The Department provided:

The Department of Justice and Attorney-General notes the concerns of Legal Aid Queensland about the need to provide for contingencies. However, this issue is addressed in the drafting of the Bill and when regard is had to the current operation of the Drug Court.

It is anticipated that the Drug Court would be vigilant through its case management of offenders, which includes frequent court reviews of this confirmed cohort of offenders, in identifying those where it may not be possible to finalise the Drug Court sentencing matter by 30 June 2013; and where required, will ensure the necessary warrants are issued.

The Drug Court Act 2000 *already enables a Drug Court Magistrate to issue a warrant upon the termination of an offender's rehabilitation program; and sets out the grounds for doing so. The Bill bolsters those grounds for termination to reflect that the Drug Court must end before 30 June 2013 (see clause 30). The Department of Justice and Attorney-General considers that this further enhances the ability of the Drug Court to case manage its offenders and to ensure that they be dealt with by that date (either by final sentence; being committed for sentence to the District Court; or a warrant issued).*

Further, for those offenders where a warrant has issued (and therefore they cannot be dealt with under the Drug Court Act by 30 June 2013), the Bill makes provision for how these offenders are to be dealt with upon apprehension, which may occur after the expiration of the Drug Court (see clause 64).

…

As a further safeguard against unforseen events, on 16 November 2012 amendments were made to the Drug Court Regulation 2006 to reduce the maximum number of active intensive drug rehabilitation orders, which in effect meant no new offenders could participate in the Drug Court program, or be placed on an intensive drug rehabilitation order. Again, this was aimed at facilitating the Drug Court in its case management of offenders and to reinforce that the Drug Court would end on 30 June 2013.[39]

Committee Comment

The Committee notes and supports that as part of the Government's efficiency and savings measures outlined in the 2012-13 Budget, the funding previously allocated to the Drug Court has necessarily been diverted to other programs.

38 Submission No. 4, Legal Aid Queensland, page 2.

39 Letter from the Department of Justice and Attorney-General, 19 February 2013, pages 9-10.

At the Committee's Estimates Hearing, the Attorney-General stated to the Committee:

> *The government had to make tough decisions. We had to reprioritise the services offered in all of our courts. One service that I have ceased funding is the Drug Court.*[40]

The Committee endorses the Government's vision in the law and justice portfolio and sees the cessation of the Drug Court as necessary to achieve the Government's desired outcomes.

In ceasing funding to the Drug Court, the Attorney-General has advised that a *'gradual approach to the termination of the Drug Court has been adopted to allow offenders, currently subject to an intensive drug rehabilitation order under the Drug Court Act, time to sufficiently complete their order so that a fair, final sentence can be imposed upon them.'*[41] Further, that '*we will have programs in place in our courts. We will want to try to divert people as much as we can from living a life of crime and drugs.'*[42]

2.4 Increased penalties for graffiti offenders, forfeiture provisions and graffiti removal orders

The Bill will make amendments to the *Criminal Code,* the *Penalties and Sentences Act 1992,* the *Police Powers and Responsibilities Act 2000,* the *Summary Offences Act 2005* and the *Youth Justice Act 1992* in order to increase sentences for graffiti offenders; provide for the forfeiture of recording devices used in connection with graffiti offences; and provide for a mandatory graffiti removal order regime.

> *Graffiti crime in Queensland costs the community significant resources annually for it to be cleaned up and demonstrates a complete disregard for property. The increased maximum penalty and the establishment of the new mandatory graffiti removal order regime reinforces graffiti as an act of vandalism and recognises that its removal is an important means by which an offender can give back to their community as part of their sentence order. The reforms go to the heart of the graffiti gang culture and ensure that graffiti offenders remove graffiti, or undertake related work that contributes to graffiti removal or the clean-up of public places.*[43]

The issue of how to legislatively address the problem of graffiti is a vexing and complex one. It has been suggested by commentators that an effective response '*must be both receptive to community attitudes whilst at the same time remaining conscious of and responsive to the particular circumstances, preoccupations and outlook of youths who produce graffiti. Approaching graffiti in this way goes some way toward reconciling the social welfare needs of young people with the criminal justice requirements of the law*.'[44]

Increased sentences for graffiti offenders

Clause 15 of the Bill amends section 469 of the *Criminal Code* to increase the maximum penalty for graffiti offences from 5 to 7 years imprisonment. The increased maximum penalty for graffiti offences are higher than other states in Australia where the maximum penalties range from six months to five years and/or a monetary fine.[45] However, it has been stated by the Department that the intention behind the amendment is to eliminate the distinction between *basic* and *obscene or*

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40 *Hansard,* Estimates Committee Hearing, Legal Affairs and Community Safety Committee, 11 October 2012, page 35.

41 *Hansard,* 29 November 2012, page 2968.

42 *Hansard,* Estimates Committee Hearing, Legal Affairs and Community Safety Committee, 11 October 2012, page 35.

43 Criminal Law Amendment Bill (No. 2) 2012, *Explanatory Notes*, Page 2.

44 King and Setter, *Young People, Graffiti and the Community* Paper presented at the "Graffiti and Disorder" conference convened by the Australian Institute of Criminology, Brisbane, 18 August 2003.

45 *Graffiti Control Act 2008* (NSW); *Crimes Act 1900* (NSW); *Graffiti Prevention Act 2007* (Vic); *Graffiti Control Act 2001* (SA); *Police Offences Act 1935* (Tas); *Criminal Code* (WA).

indecent graffiti by providing one maximum penalty for *any* graffiti offence.[46] The amendments will serve to elevate the seriousness of graffiti as a criminal damage offence.

Submissions received by the Committee varied in relation to this issue however as shown below, support for increased sentencing was not apparent.

In considering the need for increased sentences for graffiti, PACT submitted:

> *PACT does not believe that harsher sentences will address the issue of graffiti. Instead, PACT considers that there should be a greater focus on crime prevention, restorative justice and early intervention to prevent crimes of this nature. Harsher sentences across a range of offences are likely to lead to fewer people pleading guilty, which will place a greater burden on the current Criminal Justice System, members of the judiciary and the financial cost to the State in housing increased prisoner numbers.*[47]

Legal Aid Queensland commented:

> *…the distinction between graffiti offences involving obscene or indecent representations and those that do not, by way of a higher penalty, should be retained, and that the maximum penalty of 7 years imprisonment for obscene or indecent graffiti is sufficient. The higher penalty for obscene or indecent graffiti would be consistent with community standards, which would be to regard such graffiti as more offensive.*[48]

The Youth Advocacy Centre Inc. strongly opposed the amendments, submitting:

> *It is inconceivable that any court would punish anyone by imprisonment for seven years for an offence which does not present any serious risk to life or significant threat to any person. The courts are bound to follow sentencing principles to ensure that the "punishment fits the crime", including its context and the situation of the offender and victim. This therefore questions the appropriateness of such a punishment being included in the Criminal Code.*
>
> *Drawing a distinction between "graffiti" which may be threatening to individuals or groups in the community or might be categorised as obscene should be considered differently because there may be a potential for some harm to result, but irritating as tagging, or even murals, may be, such activity is hardly commensurate with even a common assault which has a maximum penalty of three years imprisonment. The offence of "assault occasioning bodily harm" has a maximum penalty of seven years – the same as proposed in this situation. It sends an odd message to the community – that putting (some) paint on a wall is considered as serious as actually inflicting injury on another person. YAC notes that the provisions in relation to graffiti fail to draw a distinction between what might be more appropriately considered as "wilful damage" or "public nuisance".*[49]

The Department's response to submissions stated:

> *The Bill delivers on the Government's pre-election commitment to strengthen the maximum penalty for all graffiti crime from five to seven years imprisonment.*
>
> *Graffiti crime demonstrates a complete disregard for property by the offender and costs the community significant resources annually for it to be cleaned up. The amendments reinforce that graffiti is an act of vandalism and that such conduct is against the law.*[50]

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46 Letter from the Department of Justice and Attorney General, 10 December 2012, page 3.

47 Submission No. 2, PACT, page 1.

48 Submission No. 4, Legal Aid Queensland, page 2.

49 Submission No. 5, Youth Advocacy Centre, page 2.

50 Letter from the Department of Justice and Attorney General, 19 February 2013, page 6.

In relation to the harsher sentences for graffiti crime, the Department confirmed that under the *Youth Justice Act 1992,* the applicable maximum penalty for a child convicted of an offence that is not a 'serious offence' would only be half the maximum penalty applicable to an adult offender convicted of the same offence. As the offence of wilful damage by graffiti under the *Criminal Code* is not a 'serious offence' for the purposes of the Youth Justice Act, the maximum penalty for a child would be limited at 3 ½ years imprisonment.[51]

In addressing the submission from the Youth Advocacy Centre, the Department confirmed that wilful damage by graffiti was already conduct criminalised under Queensland's *Criminal Code* and that the Bill did not alter that fact. The amendments were aimed at strengthening existing offences. [52]

In response to the assertion that the level of the increased sentence would send the odd message to the community that putting some paint on a wall was as serious as inflicting injury on another person, the Department confirmed that the increase will signal to the sentencing courts, Parliament's intention that the penalties for conduct that previously amounted to the basic offence of graffiti are to increase and referenced the recent High Court decision in *Muldrock v The Queen* [2011] HCA 39.

Committee Comment

The amendments to the penalty provisions for graffiti offences should not be considered in isolation, but as part of a suite of amendments to crack down on graffiti crime in Queensland. The elimination of the distinction between basic graffiti offences and offences that involve obscene or indecent representations is welcomed by the Committee. It is noted the effect of the amendment is to adjust the maximum penalty only and that the Courts will retain an ability to consider individual case which comes before it, on its own merits, and issue an appropriate sentence.

The *Criminal Code* contains numerous offences dealing with a wide range of matters. It is fraught with difficulty to simply compare the penalty for graffiti with that of an assault. There are a range of offences throughout the *Criminal Code* that apply a maximum penalty of 7 years imprisonment including falsification of registers, injuring animals, stuffing ballot boxes and bribery.[53] The seriousness of an offence committed may vary significantly within the same category, and even more so between offences.

Under the *Criminal Code*, the graffiti offence is a category of wilful damage and the Committee considers it must be addressed appropriately. The Committee echoes the words of the Department in that these amendments reinforce that graffiti is an act of vandalism. The message which is being sent to the community by the amendments in this Bill is that graffiti will not be tolerated and the Committee endorses the amendments.

Forfeiture provisions

Under the proposed section 469AA of the *Criminal Code* implemented by clause 16 of the Bill, any device used to record, transmit or store an image relating to a graffiti offence and owned by an *adult* convicted of a graffiti offence is surrendered to the state. According to the proposed legislation, this could include mobile phones, laptops, cameras and electronic storage devices.

All states in Australia, with varying approaches, provide for the specific offences of creating graffiti and the possession or sale of graffiti related items for an unlawful purpose. However, the legislation in other jurisdictions tends to restrict punishments to fines, imprisonment and confiscation of graffiti related implements.

51 Letter from the Department of Justice and Attorney General, 19 February 2013, page 2.

52 Letter from the Department of Justice and Attorney General, 19 February 2013, page 7.

53 *Criminal Code*: sections 499, 468(2), 110, 98C.

In confiscating these items, offenders will be somewhat restricted to upload and share their graffiti on the internet, which appears to be a driving factor in the commission of graffiti related crime. Internet sites such as www.graffiti.org (an online gallery of graffiti images) are testament to the fact that graffiti is shared within a community over the internet. As images are prevented from being uploaded, the community will diminish. The forfeiture provisions appear to be an innovative way in reducing graffiti related crime in today's electronic society.

In relation to clause 16 of the Bill, the Queensland Law Society expressed the following concern:

> *…whilst it is not an offence to record, store or transmit the image, a person may lose their property without fair compensation. We consider that this will be a severe punishment financially for some people.*[54]

In a similar vein, Legal Aid Queensland observed:

> *…if there is to be provision for the forfeiture of a thing used to record, store or transmit an image of graffiti, there should also be provision to deal with the ownership of property by a third party, for example, a mobile phone service provider.*[55]

In response to these concerns, the Department provided:

> *The proposed new graffiti forfeiture provision recognises that graffiti offenders often document their offending and disseminate the images to their peers. The concern is that this culture and in turn helps to cultivate the graffiti-gang mentality. Such conduct actively undermines the efforts to eliminate graffiti crime and the rapid graffiti removal policies.*
>
> *While it is acknowledged that ordinarily the acquisition of property should only be done with fair compensation, the proposed graffiti forfeiture provision is justified to stop the dissemination of images depicting the commission of an offence; and to combat the graffiti gang culture.*
>
> *The graffiti forfeiture provision is conviction based and applies only to adult graffiti offenders. While it may not be an offence to record, store or transmit graffiti images, the Bill ensures a proper nexus between the commission of the graffiti offence and the forfeiture of property (owned or possessed by the convicted person) used to record, store or transmit an image of the commission of that graffiti offence.*
>
> *The sentencing court retains complete discretion as to whether or not to make a graffiti forfeiture order against the convicted person and in doing so can take into account all of the relevant circumstances of the case, including for example, issues of fairness, third party interests, and the financial impact.*[56]

Committee Comment

The Committee views the new forfeiture provisions as an ideal way to address the considerable increase in graffiti crime and regards it as a valuable option in the array of penalties that may be imposed by the court. Sufficient safeguards have been included in the provision in that it is conviction based and applies to adult offenders only. The Committee considers that this provision fits well with the Government's tough approach to reducing graffiti crime.

This matter is also addressed Part 3 of this Report – dealing with fundamental legislative principles.

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54 Submission No. 3, Queensland Law Society, page 3

55 Submission No. 4, Legal Aid Queensland, page 2.

56 Letter from the Department of Justice and Attorney General, 19 February 2013, pages 7-8.

Graffiti removal orders

The Bill attempts to introduce a new mandatory graffiti removal regime, whereby a person convicted of a graffiti related offence will be required to undertake a graffiti removal service.[57] Both adults, and children aged 12 to 16 will be subject to graffiti removal orders (GRO).[58] If found guilty of a 'prescribed graffiti offence',[59] Adults will be liable for a GRO to the maximum of 40 hours, while children's liability will range from 5 to 20 hours, depending on their age.[60] The GRO will specify the duration in which the offender must undertake their 'unpaid graffiti removal service', which has a broad definition in the legislation and includes the clean-up of public places.[61]

In its submission, PACT supported the introduction of mandatory removal orders, particularly in the absence of court involvement. [62]

By contrast, the Queensland Law Society stated:

> *The Society is opposed to mandatory sentencing regimes… If this order is to be adopted, the Society suggests it should reflect existing requirements for community based orders. For probation orders (s96), community service orders (s106), and intensive correction orders (s117), the* Penalties and Sentences Act 1992 *states the court may only make or amend such an order if the offender agrees to the order being made and agrees to comply with the order as made or amended. We are concerned that a community based order should not be mandatory given the conditions imposed on the offender. Any number of circumstances outside the offenders control may make performing an order very difficult. For example, this would greatly impact a person who does not normally reside in Queensland. Alternatively, it may be very difficult for an offender who lives in regional or rural Queensland, especially a young person, who is required to travel significant distances to perform the order. The nature of this order should require further personal circumstances of the offender to be a consideration in sentencing.*
>
> *We also highlight that there will be significant costs of supervision and coordination of the graffiti removal work. We consider a costs/benefit analysis should be conducted to evaluate the consequences of a mandatory scheme.*[63]

In response, the Department advised:

> *In terms of a graffiti offender who lives in regional or rural Queensland, given the broad definition of 'graffiti removal service', the imposition of a graffiti removal order is not expected to present any greater challenge for the offender or for the Department of Community Safety than currently exists regarding a community service order.*
>
> *In terms of a graffiti offender who ordinarily resides outside of Queensland, consistent with the current approach to community service orders, it will not be possible to transfer the graffiti removal order across jurisdictions. However, the Bill makes it clear that the offender has 12 months within which to complete the order (or another time allowed by the court) and*
>
> *it is anticipated that this would be a factor taken into account by the court in setting the total hours of graffiti removal service to be performed.*[64]

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57 Criminal Law Amendment Bill (No. 2) 2012, *Explanatory Notes*, page 16.

58 Criminal Law Amendment Bill (No. 2) 2012, part 8 and 13.

59 *Criminal Code,* s 469, Wilful Damage – Item 9, Graffiti.

60 Letter from the Department of Justice and Attorney General, 19 February 2013, page 4.

61 Criminal Law Amendment Bill (No. 2) 2012, clause 42.

62 Submission No. 2, PACT, page 2.

63 Submission No. 3, Queensland Law Society, page 4.

Drafting issues

Specifically in relation to the drafting of clause 47, Legal Aid Queensland stated:

> *It is submitted that the words "or any other circumstances that the court considers reasonable" should be inserted in the proposed new section 110A(2) after the word "disability", to allow for other circumstances that may cause the a graffiti removal order to be inappropriate.*
>
> *It is submitted that the word "permanent" should be inserted before the word "residence" in the proposed new section 110C(1)(e) to prevent the provision having an unduly harsh effect on homeless persons.*[65]

In its response, the Department explained that it did not consider such an amendment necessary:

> *In terms of section 11OC(1), the mandatory requirements of a graffiti removal order mirror the requirements of a community service order under existing section 103 of the Penalties and Sentences Act 1992. Further, proposed section 11OC(1)(e) adopts the same language as used in relation to all of the existing community based orders under the Penalties and Sentences Act (see: section 94(1)(e)- probation order; section 103(1)(e) - community service order; section 114(1)(g) - intensive correction order).*
>
> *To insert a reference to 'permanent residence' in relation to the graffiti removal order regime will create inconsistency under the Penalties and Sentences Act; and is also likely to lead to confusion and ambiguity as to what is meant by the term.*[66]

Concerns regarding minors

Regarding the amendment of the *Youth Justice Act 1992* to insert Graffiti Removal Orders to apply to any child aged 12 to 16 years, Legal Aid Queensland stated that, to counter potentially detrimental impacts on youth:

> *It is submitted that the words "or any other circumstances that the court considers reasonable" should be inserted in the proposed new section 194A(1) after the word "capacity" to allow for other circumstances that may cause the provision to have an unduly harsh effect on certain offenders.*
>
> *It is submitted that the word "permanent" should be inserted before the word "residence" in the proposed new section 194B(1)(d) to prevent the provision having an unduly harsh effect on homeless youth.*
>
> *It is submitted that in the interests of the safety, and rehabilitation, of child offenders, that child offenders should not perform graffiti removal service with adult offenders, and that the words "if practicable" should be removed from the proposed new section 194C(c).*[67]

Moreover, the Bill amends the *Police Powers and Responsibilities Act 2000* to provide police officers with the discretion to offer children the option of attending a graffiti removal program, who admit to a graffiti offence at any time before the child appears before court.[68]

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64 Letter from the Department of Justice and Attorney General, 19 February 2013, page 14.

65 Submission No.4, Legal Aid Queensland, page 3.

66 Letter from the Department of Justice and Attorney General, 19 February 2013, page 15.

67 Submission No.4, Legal Aid Queensland, page 3.

68 Criminal Law Amendment Bill (No. 2) 2012, clause 67(2).

In this regard, Youth Advocacy Centre Inc. observed:

> *This option for police officers appears analogous to Youth Justice Act 1992 (YJ Act) s16 which provides for the administration of a caution to a child. Both a police caution and police referral to a graffiti removal program are "a way of diverting a child who commits an offence from the courts' criminal justice system". Research has shown that increased interaction between children and young people and the criminal justice system leads to higher rates of criminality in adult life. It is this research which supports the diversion of young people away from the criminal justice system.*
>
> *The Act should clarify that should a young person aged between 10 and 11 have been deemed suitable for a graffiti removal program pursuant to s11 of the YJ Act that person should be diverted in accordance with the other options under s11.*
>
> *The proper exercise of the discretion of diversion is a fundamental requirement of the effective administration of the principles of the Youth Justice Act. Section 21 of the YJA provides an opportunity for judicial review of the discretion to caution. The YJA also allows judicial discretion to divert young people to drug diversion after proceedings have been commenced. Prior to the December 2012 amendments to the YJ Act, courts were able to refer young people to youth justice conferencing even if the police had not exercised the discretion. YAC has observed since the December amendments that matters that would have been referred to youth justice conferencing have been referred to court. It is vital to maintain transparency and fairness in the discretion able to be exercised by police pursuant to s11 that the option to review that discretion is available to the sentencing court.*[69]

In response, the Department provided:

> *Excluding 10 and 11 year olds from the graffiti removal regime is consistent with current provisions under the Youth Justice Act 1992 (YJ Act) relating to community service orders. Under the YJ Act children under 13 years of age cannot be made subject to a community service order.*
>
> *The reason for excluding such young children from both the graffiti removal regime and community service regime is the increased and inherent risks with 10 and 11 year olds being*
>
> *involved in these activities. Their development needs and immaturity affect their ability (and the desirability) to be included in activities that may involve chemicals and other speciality graffiti cleaning equipment as well as their potential exposure to older and/ or more prolific offenders.*
>
> *The legislation will not affect the existing discretion of police, when dealing with 10 and 11 year olds who have committed a graffiti offence, to issue a formal caution or refer the child to a youth justice conference. These options will continue to ensure that 10 and 11 year olds are diverted from the court.*[70]

The proposed provisions in the Bill relating to community based orders for the removal of graffiti are similar to the orders prescribed in New South Wales (NSW), although in NSW offenders are required to carry out graffiti removal work to the amount of a prescribed fine, if they are unable to pay the fine.[71] In addition, where a young offender commits an offence and that person appears before the Children's Court, the Court is able to make an order requiring that they perform community service, including removal of graffiti.

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69 Submission No. 5, Youth Advocacy Centre, pages 2-3.

70 Letter from the Department of Justice and Attorney General, 19 February 2013, page 16.

71 *Graffiti Control Act 2008* (NSW) ss9B, 9C.

Victoria also implements a similar scheme, although it does not consist of direct graffiti removal orders as an alternative punishment for graffiti offences. It instead implements a more general community clean up scheme for offenders.[72]

Committee Comment

The Committee supports the introduction of the new mandatory graffiti removal regime and in addition to the other initiatives outlined above, regards it as a constructive way to tackle the ongoing increase in graffiti crime.

The positive removal of the graffiti as part of the punishment is welcomed. The Committee notes that the recently re-elected Western Australian Government is intending to enact similar legislation via a mandatory 'Clean-Up Order' to require offenders to clean up their graffiti.[73]

In terms of the application of Graffiti Removal Orders to children aged 12 to 16 years, the Committee is satisfied with the proposals that are in place and notes the Department has confirmed that the legislation will not affect the existing discretion of police, when dealing with participating children who have committed a graffiti offence, to direct them to appropriate diversionary options.

2.5 Victim Impact Statements

The Bill proposes to amend the *Victims of Crime Assistance Act 2009* to allow for victims of crime to read aloud a victim impact statement (VIS) in court if they so wish.

A victim impact statement is a mechanism by which the victim can actively participate in the sentencing process. A victim impact statement sets out the details of the harm caused to a victim by an offence and may include supporting documents such as photographs and medical reports.[74]

At present, the *Victims of Crime Assistance Act 2000* provides for the way in which a VIS can be admitted into court. It is currently not mandatory for the court to allow a victim to read aloud their VIS and the rules of evidence and practices and procedures of the court can often make the entering of a VIS inadmissible.[75]

As stated above, the Bill makes it clear that the victim will have the choice as to whether or not they read aloud their VIS to the court. This will bring Queensland in line with states such as NSW, Victoria and South Australia, where a victim may read their VIS to the court and that statement may be taken into consideration in sentencing at the court's discretion.[76]

> *The Bill makes it clear that the reading aloud of the victim impact statement is for the therapeutic benefit of the person who has prepared it; and accordingly it is not necessary for a person reading aloud the victim impact statement before the court to do so under oath or affirmation (thus maintaining the current policy approach to victim impact statements under section 15 of the Victims of Crime Assistance Act).*[77]

The Bill also provides a limited discretion for the court to refuse a request that the VIS be read aloud. The court may exercise this discretion in instances where the content of the VIS is inadmissible or unnecessarily onerous.[78] Furthermore, the bill provides that where a VIS is read aloud, appropriate provisions should be made available to support the victim, including delivery with screens or by

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72 See: www.justice.vic.gov.au

73 See: www.wa.liberal.org.au

74 Letter from the Department of Justice and Attorney General, 10 December 2012, page 6.

75 Letter from the Department of Justice and Attorney General, 10 December 2012, page 6.

76 *Victims Rights Act 1996* (NSW), s 23C (3); *Victims Charter Act 2006* (Vic) s 13; *Sentencing Act* (Vic) s 8Q; *Criminal Law (Sentencing) Act 1988* (SA) s 7A.

77 Letter from the Department of Justice and Attorney General, 10 December 2012, page 6.

78 Letter from the Department of Justice and Attorney General, 10 December 2012, page 6.

closed-circuit television, presence of a support person or permitting the court to be closed for the reading.[79]

PACT is supportive of the proposed amendments, but suggests that the following aspects (amongst others) need to be considered:

> *"All children, and some young people, are reliant upon adults to assist them to prepare the Victim Impact Statements and there is a real potential for the information provided to be misinterpreted or distorted depending on the views of the assisting adult. Therefore, the VIS should be properly considered in this light.*
>
> *Children are often unable to articulate the effect of the crime.*
>
> *The potential for victims of crime to take the opportunity to voice grievances not previously captured in their written VIS may lead to negative impacts on the outcomes of the case."*[80]

Legal Aid Queensland, whilst not opposed to the amendments, suggested that section 15 of the *Penalties and Sentences Act 1992* already makes sufficient provision to allow for the reading aloud of victim impact statements during sentencing, and that the case of *Singh [2006] QCA 71 'illustrates the courts acceptance of the utility and function of the victim impact statement*.'[81]

The Committee notes section 15 of the *Penalties and Sentences Act 1992* provides the sentencing court with a general power to receive any information it considers appropriate to enable it to impose a sentence. There is no specific reference to victim impact statements. In the case of *Singh [2006] QCA 71,* Fryberg J cautioned:

> *Sentencing judges should be very careful before acting on assertions of fact made in victim impact statements. The purpose of those statements is primarily therapeutic. For that reason victims should be permitted, and even encouraged, to read their statements to the court. However, if they contain material damaging to the accused which is neither self-evidently correct nor known by the accused to be correct (and this includes lay diagnoses of medical and psychiatric conditions) they should not be acted on. The prosecution should call the appropriate supporting evidence. It is unfair to present the accused with the dilemma of challenging a statement of dubious probative value, thereby risking a finding that genuine remorse is lacking, or accepting that statement to his or her detriment.*

In response to Legal Aid Queensland's submission, the Department stated:

> *The proposed amendments aim to complement the current operation of the Victims of Crime Assistance Act 2009; however, unlike the current position, the Bill is cast in mandatory terms, which means that the sentencing court must allow a victim, who so wishes, to read aloud their victim impact statement before the court, unless it would be inappropriate for them to so.*
>
> *The Bill recognises that a victim impact statement is an important mechanism by which the victim can participate in the sentencing process and that the reading aloud of that statement is for the therapeutic benefit of the person who prepared it. It will remain a matter for the victim as to whether they wish to have their victim impact statement read aloud to the sentencing court.*[82]

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79 Letter from the Department of Justice and Attorney General, 10 December 2012, page 6.

80 Submission No. 2, PACT, page 2.

81 Submission No.4, Legal Aid Queensland, page 3.

82 Letter from the Department of Justice and Attorney General, 19 February 2013, page 17.

Available research supports the concept of choice for victims, and suggests that for a proportion, particularly victims of homicide or intra-familial sexual crimes, it can be very beneficial for them to make a statement in court.[83] However, it should be noted that only a small number of victims actually take up the option to do so. In 2009, the Victorian Victims Support Agency surveyed the judiciary and 93% reported that victims never, or almost never, express a desire to deliver their VIS orally. The research also indicates that victims who elect to are mainly family members of deceased victims.[84]

Nonetheless, it is important to remember that families of victims of crime "overwhelmingly [appreciate] the opportunity to make a VIS and those who chose to deliver it themselves [value] the opportunity to do so."[85] Findings from a VIS survey in Canada of victim service agencies indicate that "…victims rarely express a desire to read their statements in court; the victim reading his or her statement is apparently more common in very serious cases involving violence against the person. Whilst few victims choose to read their statements, victim service providers commented that many of these victims believe that this is the only way for them to be heard."[86] In this way, reading out a statement may make a critical difference to a victim's morale and provide closure.

In the New Zealand case of *R v Bullen,* Stuart J pointed out:

> *victims' concerns, when denied expression in the court, do not just fade away. The voices shut down in court are intensified in homes, in community gathering and in the media.*[87]

Committee Comment

The needs and experience of each victim differ. Whilst the research indicates that it is rare for a victim to wish to present their Victim Impact Statement orally in court, it is nevertheless important that the opportunity be given.

It is considered appropriate that the amendments to the *Victims of Crime Assistance Act 2009* to allow for victims of crime to read aloud a Victim Impact Statement in court if they so wish be implemented, with a residual discretion for the court to refuse a request that the statement be read aloud in limited circumstances.

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83 *A Victim's Voice: Victim Impact Statements in Victoria,* State Government of Victoria, October 2009, page 75.

84 *A Victim's Voice: Victim Impact Statements in Victoria,* State Government of Victoria, October 2009, page 75.

85 Sweeting et al, *Evaluation of the victims' advocate scheme pilots, Ministry of Justice Research Series 17/08* (2008) Ministry of Justice http://www.justice.gov.uk/publications/docs/research-victims-advocatesection pdf as at 14 January 13.

86 Policy Centre for Victim Issues, *Multi-Site Survey of Victims of Crime and Criminal Justice Professionals Across Canada* (2005) Department of Justice Canada, page 27.

87 (2001) 48 CR 110 at 119.

3. Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that 'fundamental legislative principles' are the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of Parliament.

The Committee has examined the application of the fundamental legislative principles to the Bill. The Committee brings the following to the attention of the House:

3.1 Right and liberties of individuals

Section 4(2)(a) of the *Legislative Standards Act 1992* requires that legislation has sufficient regard to the rights and liberties of individuals. A number of proposed amendments contained in the Bill will impact on the rights and liberties of individuals.

Amendments to the *Bail Act 1980*

The omission of section 29(2)(c) of the *Bail Act 1980* means it will be an offence to breach a condition of bail to participate in a rehabilitation, treatment or other intervention program or course, and such breach will carry the same penalty as other breaches of bail conditions (i.e. a maximum of 40 penalty units or two years imprisonment).

The Explanatory Notes accept, in respect of this amendment:

> *The extension of the offence provision to rehabilitation programs negatively impacts on the rights and liberties of adult defendants who voluntarily agree to go on a bail based program as they will be subject to an offence if they breach the condition. This negative impact is justified as it is important that adult defendants be given a clear message that they must comply with all conditions of bail.*[88]

The Committee is satisfied with the justification provided.

Amendments to the *Corrective Services Act 2006*

Under proposed section 182A(2) a prisoner serving a term for drug trafficking will have, as their earliest possible parole eligibility date (subject to section 185), the day after the day they have served 80% of their term of imprisonment. These amendments will impact on the rights and liberties of those prisoners who meet the section 182A criteria because they will have to serve longer periods of actual incarceration before being eligible to apply for parole and this clause could therefore be considered to penalise the prisoner to a greater extent than was the case under the previous legislation.

The Explanatory Notes confirm that the scheme operates prospectively (as is preferred) and will therefore only capture offenders who commit a relevant offence after the amendments commence operation.[89]

The Committee is satisfied no issues of inconsistency with fundamental legislative principle arise.

[88] Criminal Law Amendment Bill (No. 2) 2012, *Explanatory Notes*, page 4.

[89] Criminal Law Amendment Bill (No. 2) 2012, *Explanatory Notes*, page 4.

Increases in penalties

Clause 15 amends section 469 of the C*riminal Code* – punishment in special cases- item 9(1) – 'graffiti offences' from 5 years to 7 years for all graffiti offences.

Clause 38 amends section 6(1) of the *Drugs Misuse Act 1986* to increase the maximum penalty for various offences of supplying dangerous drugs with differing levels of aggravation. The most significant increase occurs where a Schedule 1 dangerous drug is supplied to a minor under 16 years and the penalty is increased from (max.) 25 years to life imprisonment. These increases mean offenders will face longer periods of imprisonment, obviously to the detriment of their rights and liberties.

Committee Comment

In furtherance of fundamental legislative principles, provisions designed to give effect to policy should be reasonable, appropriate and proportional. The Committee is satisfied, whilst necessarily impacting upon some rights and liberties as outlined above, in view of the policy objective of the Bill together with the Government's tough on crime commitment; the proposals contained in the Bill are justified.

3.2 Natural justice

The Committee notes that Clauses 47, 64 and 83 of the Bill potentially impinge upon judicial discretion and impact adversely upon the rights and liberties of individuals. Mandatory sentencing laws arguably detract from natural justice protections because they directly affect the court's sentencing decision.

Clause 47 inserts new Part 5A section 110A-110I into the *Penalties and Sentences Act 1992*. New section 110A makes it mandatory for the court to make a graffiti removal order for an offender convicted of a graffiti offence, whether or not it records a conviction, unless the court is satisfied that, because of any physical, intellectual or psychiatric disability of the offender, the offender is not capable of complying with the order.

The Explanatory Notes confirm that '*the graffiti removal order regime operates prospectively and ensures the court retains a limited discretion not to impose the order if reasonably satisfied that the offender is incapable of performing the order due to a physical or mental impairment.'*

Clause 83 inserts new section 176A into the *Youth Justice Act 1992*. That section applies where a child that had attained at least 12 years of age at the time of committing a graffiti offence, and is found guilty of the offence by the court, the court *must* make a graffiti removal order for the child, with varying periods of graffiti removal service (of 5, 10 or 20 hours) ordered depending on the age of the child.

Committee Comment

The Committee has considered the implications of the proposed changes and is satisfied, on balance, the amendments are warranted to give effect to the Bill, despite the potential of the proposed amendments to impact upon principles of natural justice.

3.3 Compulsory acquisition of property

Under section 4(3)(i) *Legislative Standards Act 1992,* the issue arises whether the bill provides for the compulsory acquisition of property only with fair compensation.

Clause 16 inserts new section 469AA into the *Criminal Code* to provide for the forfeiture of a thing used to record, store or transmit an image of graffiti where an adult offender is convicted of a graffiti offence against section 469 item 9, and the court is satisfied a thing owned or possessed by the person was used to record, store or transmit an image of, or related to, the commission of the

offence (a thing may be for example a mobile phone, camera or computer). In sentencing the person the court may order the thing be forfeited to the State (section 469AA(2)) and it becomes the State's property upon forfeiture (section 469AA(6)).

Legislation should ordinarily provide for compulsory acquisition of property only with fair compensation. In this instance, no provision is made for compensation to be provided for the forfeited property. The provision is also silent as to the extinguishment of rights of any bona fide third party with a proprietary or equitable interest in the item (e.g. a hire purchase company, mobile phone company, or other bona fide third party purchaser of the item).

Clause 74 inserts new section 47A into the *Summary Offences Act 2005* under which an adult convicted of possessing a graffiti instrument against section 17 may have a thing owned/possessed by the person that was used to record, store or transmit an image of, or related to, the graffiti (e.g. a camera, mobile phone or computer) forfeited to the State by order of the Court.

The justification for the forfeiture provisions offered by the Explanatory Notes is:

> *The new graffiti forfeiture provision which applies to adult offenders is justified to stop the dissemination of images of graffiti between offenders. The sharing of acts of graffiti is an important part of the graffiti culture and drives the graffiti-gang mentality.*[90]

Committee comment

The Committee supports the introduction of a new mandatory graffiti removal regime and views the forfeiture provisions as an ideal way to address the considerable increase in graffiti crime. Whilst mindful of the impact Clauses 16 and 74 may have on individuals' rights, the Committee regards these as outweighed by the benefits which will arise under this tough new approach.

3.4 Clear and precise drafting

Clause 52 amends section 125(2) of the *Penalties and Sentences Act 1992*. Subsection 125(2) applies where a Magistrates Court convicts an offender of an offence against section 123(1) (contravention of a requirement of a community based order, without reasonable excuse) and permits the court to admonish and discharge the offender or make one of a number of orders.

The amendment to section 125(2) will insert a new paragraph (ba) to add to the list of orders that can be made, in addition to, or instead of dealing with a breach of a community based order under section 123(1).

New section 125(2)(ba) will allow the Court to make an order to increase the number of hours the offender is required to perform a graffiti removal service. It is not entirely clear whether the (maximum) 40 hours 'cap' to the amount of graffiti removal hours that can be ordered under other sections in the Bill is applicable in respect of an order made under section 125(2)(ba) to increase the number of hours.

In this regard there is potential for the provision's interpretation to be open to dispute.

3.5 Explanatory notes

Part 4 of the *Legislative Standards Act 1992* relates to explanatory notes. It requires that an explanatory note be circulated when a bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

[90] Criminal Law Amendment Bill (No. 2) 2012, *Explanatory Notes*, page 4.

Explanatory notes were tabled with the introduction of the bill. The notes are fairly detailed and contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the bill's aims and origins.

Appendices

Appendix A – List of Submissions

Sub #	Submitter
001	Commission for Children and Young People and Child Guardian
002	Protect All Children Today Inc (PACT)
003	Queensland Law Society
004	Legal Aid Queensland
005	Youth Advocacy Centre Inc
006	Mr Peter Daff
007	Bar Association of Queensland

BILL BYRNE MP

SHADOW MINISTER FOR POLICE, EMERGENCY AND CORRECTIVE SERVICES, PUBLIC WORKS AND NATIONAL PARKS

MEMBER FOR ROCKHAMPTON

LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE

CRIMINAL LAW AMENDMENT BILL (NO. 2) 2012

5 April 2013

Statement of Reservation

I wish to submit the following Statement of Reservation to Report 27 of the Legal Affairs and Community Safety Committee on the Criminal Law Amendment Bill (No.2) 2012.

Mandatory Minimum Non-Parole Period

The Bill introduces a standard percentage scheme for certain drug offences, defining the standard non parole period as a set proportion of 80% of the sentence imposed.

The issue of mandatory non-parole periods has previously been canvassed in Queensland. In October 2010, the then Queensland Government announced an intention to introduce a standard non-parole period scheme in relation to violent or sexual crimes. The former Sentencing Advisory Council released a Consultation Paper and submissions were received on the merits of a scheme. In opposing the introduction of a scheme, the Chief Justice of Queensland commented:

> *The proposed Standard Non Parole Period scheme will add to the complexity of sentencing in Queensland without any demonstrated, corresponding benefits. It will add to the responsibilities and workload of prosecutors and defence counsel in preparing for sentences. Additional time will be required for the hearing of sentences.*
>
> *[T]he Council's research indicates that there is already 'a good degree of sentence length consistency for offenders sentenced by the higher courts to an immediate term of imprisonment for serious violent offences or sexual offences', calling into question the need for such a scheme to address inconsistency in sentencing.*

The introduction of a scheme was also strongly opposed by Legal Aid Queensland on the following basis:

- *Queensland already has the most severe sentencing regime in Australia which includes a Standard Non-Parole Period scheme and a number of statutory and other legal mechanisms to guide courts in determining appropriate sentences.*
- *It will increase costs to the criminal justice system as it is likely to:*
  - *result in more trials because of the likelihood of more severe penalties and specific reductions for an early plea;*
  - *increase the complexity of an already complex statutory sentencing regime; and*

- *increase the number of appeals because of the increased complexity of the sentencing process and the potential for error by the courts.*

- *There is no evidence that the Standard Non-Parole Period scheme in NSW had any effect on crime rates or community safety generally.*
- *The level of offending in Queensland has declined over the past 10 years making such a scheme unnecessary.*
- *It will result in arbitrary and unjust sentencing outcomes.*

There were also concerns that a standard non-parole period scheme would contribute to court delays.

New South Wales is the only other Australian jurisdiction which has an existing standard non-parole period scheme applying to drug offences.

There have been concerns expressed on many occasions since the Newman Government assumed office in 2012 about the mandatory nature of sentences imposed in a number of Bills considered by this House.

In a submission by the Chief Justice of Queensland on behalf of the Supreme Court in relation to the Criminal Law Amendment Bill 2012 and the Criminal Law (Two Strike Child Sex Offenders) Amendment Bill 2012, the Chief Justice said:

> *Mandatory sentences and mandatory non-parole periods have been the subject of debate and submissions on other occasions and in other contexts. Recently in a submission to the Sentencing Advisory Council I expressed reservations about the enactment of mandatory non-parole periods for certain offences. While recognizing the entitlement of the legislature to enact mandatory sentences and minimum non-parole periods, the courts and others have emphasised the importance of preserving the judicial discretion to ensure the punishment is just in all of the circumstances of the particular case.*
>
> *I will not repeat what has been said on this important topic on other occasions. Sometimes the objectives of legislation of the kind currently under consideration can be achieved by laws which include a residual discretion to depart from what would otherwise be a mandatory sentence or mandatory non parole period, with such a discretion to be exercised in carefully-defined and truly exceptional circumstances.*

The Chief Justice's views reflect those expressed by the Queensland Law Society and the Bar Association of Queensland. The QLS, in its submission on this Bill, stated:

> *The Society's long-held position is that sentencing should have at its core a system of judicial discretion exercised within the bounds of precedent. This is the most appropriate means by which justice can be attained on a case by case basis.*
>
> *We consider that the practical reality of the implementation of a mandatory minimum nonparole period is that, in some cases at least, there will be a mandatory component of sentencing applied. We would object to the*

application of a mandatory minimum non-parole period constituting a de facto mandatory sentencing regime.

The BAQ made a similar submission:

> *Cases such as these present a quintessential example of the need for a sentencing judge to make a discretionary judgement on a case-by-case basis. To insist that, at every one of the many levels of drug trafficking, an offender must serve 80% of the sentence imposed would be a crude and ineffective innovation. It is likely to be counterproductive in the effort to rehabilitate young offenders, and will limit the ability of the courts to provide incentives to those who are in a position to undermine the efficacy of the more serious trafficking operations.*

The Opposition strongly concurs with these views. The real challenge of any mandatory non-parole scheme is its application to a range of diverse cases of varying seriousness. Although this can partly be overcome by standard percentage schemes, it remains a difficulty with any form of standard non-parole percentage scheme.

The Opposition therefore recommends that a discretion be retained in the sentencing Judge or Magistrate, in the words of the Chief Justice, '*to depart from what would otherwise be a mandatory sentence or mandatory non-parole period, with such a discretion to be exercised in carefully defined and truly exceptional circumstances'*

Amendment and cessation of the Drug Court

Concerns have been raised in various sectors of the community regarding the proposed discontinuance of the Drug Court. The Queensland Law Society immediate past President, Dr John de Groot expressed disappointment, stating in a media release at the time:

> *Looking at the results of the Drug Court…based on figures in the Magistrates Court of Queensland's 2010/11 annual report, in the Court's 11 year history, the community has been saved the cost of resources equivalent to 588 years of actual imprisonment time. In dollar terms, based on a conservative estimate of the cost of imprisonment of $200 per day per person, the money saved for taxpayers and the government…is in excess of $41 million.*
>
> *Diversionary courts…play an important role in rehabilitating offenders, reducing the rate of crime and creating considerable long-term cost savings for the community.*

More recently, in its submission on this Bill, the Queensland Law Society reiterated these views:

> *The Society supports the Drug Court as an effective rehabilitative mechanism to address underlying causes for offending behaviour. We are therefore disappointed to see the abolishment of this court and urge the government to retain this significant aspect of the criminal justice system.*

In a media release, University of Queensland researcher Dr Genevieve Dingle from the School of Psychology called for the government to reconsider its decision to abolish the Drug Court:

> *The rehabilitation services are doing a fantastic job, however these budget cuts will drastically affect the way that residential rehabilitation services can operate. Local and international reports show that Drug Courts work: and save*

tax payers money because it costs more to keep these clients in prison than it does to rehabilitate them.

Dr Dingle's comments build upon the findings of a 2009 Queensland Alcohol and Drug Research and Education Centre report, which measured the impact upon individuals undergoing diversion and indicated that participants had shown significant reductions in their drug consumption patterns, risk behaviours, domestic conflict and psychological distress. The report's author, Professor Najman, estimated that the cost of one year's imprisonment is between $50,000 and $100,000 whereas it is considerably cheaper to achieve similar outcomes through the Drug Court.

The issue is whether the outcomes achieved by the court justify the funding it requires to operate. The Magistrates Court of Queensland Annual Report 2011-2012 indicated that:

> *Since its commencement, the Drug Court has assessed 1,658 clients, and recently celebrated its 400th graduate from the program. During the 2011-12 financial year, 212 referrals were made to the Drug Court, from which 134 Intensive Drug Rehabilitation Orders (IDROs) were made in the five Queensland Magistrates Courts that offer the program. The remaining 78 were assessed as ineligible candidates and were either returned to the mainstream courts or sentenced by the Drug Court Magistrate sitting as a Magistrates Court. There were 20 participants who successfully graduated from the program, and a further 119 participants who were removed and re-sentenced before graduation, either at their own request of by order of the court for repeated failure to comply with the conditions of their order.*

I note the comments made by the Attorney-General at Estimates and referred to by the Committee in the Report. If the Government is intent on abolishing the Drug Court, contrary to the views of so many informed stakeholders, the key issue is to ensure that there is a smooth transition in dealing with matters that were before the Drug Court to any new program that is developed.

I therefore seek the Attorney-General's assurance that a fully informed program will be developed prior to the cessation of the Drug Court to accommodate participants who are currently subject to Intensive Drug Rehabilitation Orders, and that appropriate guidance will be provided to those participants during the transition phase, and to update the Legislative Assembly in relation to these matters.

Conclusion

The cessation of a court diversionary program such as the Drug Court, which has proved itself in respect of the rehabilitation of offenders and addressing underlying causes of offending, without any real alternative that has the capacity to achieve the same outcomes, is an act of maladministration by the Newman Government.

It is the responsibility of the Attorney-General and Minister for Justice to ensure that adequate programs are in place to transition people under current orders to ensure the optimal benefit is achieved.

Mandatory Sentencing has consistently been opposed by the Opposition. Without the retention of a discretion in the interests of justice and in exceptional circumstances, such a scheme has the capacity to create real hardship.

There are a number of other issues raised by stakeholders in relation to the Bill. The Opposition reserves its right to raise concerns in relation to those matters when the Bill is being considered by the Legislative Assembly.

Yours sincerely

Bill Byrne MP
Member for Rockhampton