

Criminal Code (Serious Assaults on Police and Particular Other Persons) Amendment Bill 2010

Clause and Explanatory Notes

Introduction

In 2007 there were 429 offenders convicted of serious assaults against police officers. This Bill seeks to introduce a minimum sentencing range for serious assaults on police and public officers, including Ambulance Officers, where the assault involves actual bodily harm, biting, spitting or throwing bodily fluid or faeces. Between December 2008 and June 2009 Police Officers made 155 WorkCover claims for assaults against them and in almost half those cases (72) the officer was exposed to blood or bodily fluid.

Further to this 38 assaults on ambulance officers were recorded in 2007/08, soaring to 107 in 2008/09. With a further 21 assaults reported in the first six weeks of 2009/10, the trend is worsening.

Short title of the Bill

The short title of the Bill is the *Criminal Code (Serious Assaults on Police and Particular Other Persons) Amendment Bill 2010*

Objective of the Bill

The objective of the Bill is to amend the Criminal Code for particular purposes.

Reasons for the Bill

To implement a minimum sentencing standard for certain types of serious assaults on police and public officers, including Ambulance Officers and act as a deterrent to offenders, whilst protecting Queensland Police Officers

Achievement of the Bill

The Bill implements a 3 month minimum imprisonment standard for serious assaults against police or public officers who are Ambulance Officers, Fire and Rescue Officers or Rural Fire Officers, where the assault involves biting, spitting, or throwing bodily fluid or faeces at an officer.

Fundamental legislative principals

It may be argued that the introduction of a minimum sentence level somehow impinges on the discretion of the judiciary; however minimum sentences have been introduced and are being used

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across many Australian jurisdictions including Queensland. By imposing a minimum sentence does not in any way impinge on the judiciary's ability to work within the established minimum and maximum penalties as defined by the legislature.

Clause 1- The short title of the Bill as it may be referred to, *Criminal Code (Serious Assaults on Police and Particular Other Persons) Amendment Act 2010*

Clause 2- The Act amended is the Criminal Code

Clause 3- Sub-clause 1 inserts a new part 2B that indicates the new 2(C) applies when certain types of serious assaults that if proven carry a minimum sentence of 3 months imprisonment when committed against a prescribed person under s340(1)(b) or under s340 (2AA). If the Assault amounts to actual bodily harm or bites, spits on or throws a bodily fluid or faeces sub-clause (2C) applies.

The new provision also inserts a new (2C) that outlines the minimum sentence range for the sentencing a person. This sub-clause makes it clear that the minimum 3 months imprisonment can not be suspended in whole or in part.

The new provision also inserts a new (2D) states that 2AC does not apply when the court is satisfied that exceptional circumstances exist, where the person convicted is a child under the 'Youth Justice Act 1992'.

The new provision also inserts a new (2E) makes it clear that the provisions contained in (2C) and (2D) over ride any other provisions contained in any other Act that may contradict these sections.

Sub-clause 2 of clause 3 inserts 340(3) the definition of who is a prescribed person is a police officer or a public officer a public officer who is a member, officer or employee of the Queensland Ambulance Service or the Queensland Fire and Rescue Service or a member of a rural fire brigade. IN this section *rural fire brigade* means a rural fire brigade registered under the *Fire and Rescue Service Act 1990*, section 79.