

Offenders (Serious Sexual Offences) Minimum Imprisonment and Rehabilitation Bill 2006

Explanatory Notes

GENERAL OUTLINE

Short Title

The short title of the Bill is the *Offenders (Serious Sexual Offences) Minimum Imprisonment and Rehabilitation Bill 2006*

Objectives

The policy objective of the Bill is to impose minimum periods of imprisonment on persons convicted of serious sexual offences and to ensure that they successfully complete rehabilitation programs prior to their release from imprisonment

Reasons for the Bill

The Bill is necessary due to the Beattie government not ensuring serious sexual offenders are imprisoned for their crime and are not successfully rehabilitated prior to their release back into the community thus raising the real prospect of their re-offending and thus hurting even more innocent citizens.

Estimated administrative costs to government

It is expected any increases in expenses of maintaining persons in prison and providing rehabilitation courses will be more than offset by the savings in having to try and imprison such offenders when they re-offend and provide compensation and support to the victims of their re-offending.

Consistency with Fundamental Legislative Principles

The Bill has been prepared taking into account fundamental legislative principles.

Consultation

The Bill has been prepared by the Office of the Queensland Parliamentary Counsel

NOTES ON PROVISIONS

Short Title

Clause 1 provides that the short title shall be the *Offenders (Serious Sexual Offences) Minimum Imprisonment and Rehabilitation Bill 2006*

Definitions

Clause 2 provides that particular words are defined in the dictionary in Schedule 2

Imprisonment for serious sexual offence

Clause 3 provides that subject to clause 4 a court convicting a person of a serious sexual offence must make a declaration that the person is a person to whom the Act applies and that the person must be sentenced to a period of imprisonment in custody which takes into account the periods where it can reasonably be anticipated that the person will successfully complete a rehabilitation program.. The clause further provides that the act does not apply to persons sentenced to indefinite sentences.

Exception to minimum imprisonment for your offender

Clause 4 provides that the act does not apply to an offender who attempts to or has unlawful carnal knowledge of a child under 16 where the offender was under 19 and the victim was 14 or 15 and there would have been no offence committed if the victim had been 16.

General matters to be taken into account when deciding period of imprisonment

Clause 5 sets out the matters that must be taken into when sentencing a person to imprisonment under the act

Other matters to be taken into account when the victim was a child

Clause 6 sets out the matters to be taken into account when sentencing a person to imprisonment when the victim was a child.

Rehabilitation program to be successfully completed before release

Clause 7 provides that a person imprisoned under the act must successfully complete a rehabilitation program prior to their release from imprisonment. Successful completion may be determined in accordance with a regulation.

Chief Executive to decide relevant rehabilitation program

Clause 8 empowers the chief executive to determine the relevant rehabilitation program or programs that each prisoner under the act must complete

Notice to prisoners about relevant rehabilitation program

Clause 9 requires the chief executive to notify each prisoner under the act in writing within 28 days after being imprisoned of the rehabilitation program they must successfully complete, such decision to be made after advice from relevant medical, psychiatric and psychological sources.

Notice not to be amended in a substantial way

Clause 10 provides that only minor or technical amendments can be made to the notice of rehabilitation program once given save that if a program is no longer available a replacement program may be prescribed by regulation and written notice given to the prisoner.

Application if prisoner does not complete relevant rehabilitation program

Clause 11 empowers the Director of Public Prosecutions 28 days before the expiry of a prisoner's period of imprisonment where a rehabilitation program has not been successfully completed to apply to the Supreme Court for an order that the prisoner has not successfully completed the rehabilitation program.

Declaratory Order

Clause 12 empowers the Supreme Court to make a declaratory order that a prisoner has failed without reasonable excuse to successfully complete a rehabilitation program. The onus of proving that a prisoner has failed without reasonable excuse to successfully complete the rehabilitation program lies of the Director of Public Prosecutions.

Effect of Declaratory Order

Clause 13 provides that the effect of a declaratory order is that a prisoner is to be detained in custody until successful completion of a rehabilitation program or is otherwise eligible for parole or release.

Periodic reviews

Clause 14 provides declaratory orders must be reviewed at least every year on the application of the DPP and after notice to the prisoner

Review Hearing

Clause 15 provides that if on review the court is satisfied that a prisoner has failed to successfully complete a rehabilitation program then a further declaratory order must be made, the onus of proving failure to successfully complete remaining on the DPP.

Satisfying condition of release

Clause 16 provides that a declaratory order ceases to apply to a prisoner once a rehabilitation program has been successfully completed.

Supreme Court may give directions

Clause 17 empowers the Supreme Court to give directions about proceedings

Service on a prisoner

Clause 18 provides for service of documents on prisoners

Service or filing by a prisoner

Clause 19 provides for service or filing of documents by a prisoner

Appearance at hearings

Clause 20 gives a prisoner an entitlement to appear at a hearing.

Declaratory order taken to be a warrant

Clause 21 provides that a declaratory order is taken to be a warrant for the purposes of the *Corrective Services Act 2000*

Relationship with other acts

Clause 22 provides the *Bail Act 1980* does not apply to persons detained under the act and that the act does not limit the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

Removal of provision from Schedule 1

Clause 23 provides that a subsequent omission of an offence from schedule 1 does not affect an application under the act whilst the offence was listed in schedule 1

Regulation making power

Clause 24 is a head of power to make regulations

Consequential Amendments

Clause 25 and 26 insert a consequential amendment in the *Dangerous Prisoners (Sexual Offenders) Act 2003*

Schedule 1

Schedule 1 provides a list of serious sexual offences for the purpose of the act

Schedule 2

Schedule 2 provides a dictionary of meanings.
