Juvenile Justice (Sentencing Principles) Amendment Bill 2008

Clause and Explanatory Notes

Introduction

The amendments to the sentencing principles of the Juvenile Justice Act 1992 are in response to the need to strengthen juvenile justice sentencing with a focus on deterrence and sentences that are reflective of the violent crimes being committed by young people.

The reference to detention as a last resort has undermined the sentencing principles of deterrence and community standards that the justice system is expected to deliver.

The amendment seeks to remove this impediment to sentencing courts when dealing with juvenile offenders and inserts a new provision that ensures that courts can consider detention as a sentencing option for juvenile offenders if appropriate for the crime that has been committed.

Recent Juvenile Sentencing figures indicate[1] -

- In 2007/08, 26 juveniles were convicted of rape and 17 escaped jail time;
- In 2006/07, 14 juveniles were convicted of rape and 11 didn't go to jail; and
- In 2005/06, 23 juveniles were convicted of rape and 18 escaped jail.

In addition, not one of the 35 juveniles convicted of producing or supplying dangerous drugs went to jail in 2007/08 and 114 of 147 convicted violent robbers also escaped jail in 2007/08.

Short Title of the Bill

The short title of the Bill is the *Juvenile Justice (Sentencing Principles) Amendment Bill 2008*

Objective of the Bill

The objective of the Bill is to amendment the Juvenile Justice Act 1992 to remove reference to detention as a last resort.

Reasons for the Bill

To restore balance and faith in justice systems sentencing of juvenile offenders, in particular serious violent juvenile offenders.

[1] Response to QON 1148 of 2008.

Achievement of the Bill

The Bill amends the Juvenile Justice Act 1992.

Fundamental legislative principals

The drafting of this bill has given consideration to fundamental legislative principles, which in its current form is the most appropriate way of achieving the bills objective. It is accepted that imprisonment takes away a person's liberty, but this must be weighed against the need for broader community safety and effective rehabilitation of young offenders.

Clause 1- The short title of the Bill as it may be referred to, *Juvenile Justice (Sentencing Principles) Amendment Act 2008*

Clause 2- This clause indicates the Act takes affect from the date of proclamation.

Clause 3- The Clause outlines that it is the Juvenile Justice Act 1992 that is amended.

Clause 4- This clause deletes the 'note' provision of Section 13(1)(a) which takes out the reference to schedule 1 principle of detention of a child as a last resort.

Clause 5- This clause removes the reference to detention as a last resort and outlines that child offenders should be detained either by arrest or sentence where appropriate and for a time that is justified in the circumstances. Courts are not bound to consider detention as a last resort if in all the circumstances it is the most appropriate sentence.

Clause 6- This clause amends the Charter of the juvenile justice principles by removing the reference to juvenile offenders being detained as a last resort and inserts detention as a sentence, where appropriate and for a time that is justified in the circumstances.