

BAIL (DISCRETION) AMENDMENT BILL

7 May 2008

The Hon. D.G.E. HOOD: I will briefly sum up, put the bill into committee and adjourn it from there. I thank the Liberals for their support. I can generally rely on them and thank them very much. I echo the comments of the Hon. Mr Wade. The bill has been on the *Notice Paper* for some time. I do not put these bills to the council lightly. It is a genuine attempt to make what I see as an improvement in the law. I look forward to the government's response on clause 1 on the next Wednesday of sitting.

This is a simple change to the Bail Act. Essentially it will raise the bar slightly in order for applicants to get bail. To put it in layman's terms, at the moment there is a presumption in favour of bail in the Bail Act. This amendment will allow that to continue, but if somebody has breached bail while on bail that would have to be considered by the judge in determining whether or not to grant bail again, and at the moment that is not the case.

Section 10(1)(f) is being changed. The current Bail Act provides 'that any previous occasions on which the applicant may have contravened or failed to comply with the term or condition of a bail agreement', and I propose to delete that and amend it so that it states 'the fact that the applicant may have contravened or failed to comply with the term or condition of a bail agreement, whether on this occasion or on some previous occasion'. So, if they have breached the bail they are on currently, that needs to be taken into account by the judge before deciding to grant bail again, in simple terms.

We see in the community, as the Hon. Mr Wade outlined very well from referring back to data I provided, that the incidence of breaches of bail is increasing substantially. Back in 2000-01 there were 2,394 breaches of bail; in 2001-02 there were 2,960; in 2002-03, 4,010; in 2003-04, 4,612; and, 2004-05, 5,729. There is a clear linear increase in the number of breaches of bail, but we are not seeing the courts respond in order to make it more difficult or to grant bail less often.

This amendment will change that and be another factor the judge will have to consider and, as a result, if somebody breaches their bail whilst already on bail that will need to be considered when the judge makes a decision to grant bail or not in that instance: simple as that. It is a serious problem and something that has been going on for some time. I will quote a couple of people who seem to be in support—maybe not specifically but generally—of this amendment. I wish to quote the Acting Police Commissioner's words, as reported in *The Advertiser* recently. He said:

If an offender has breached conditions intended to protect victims, then the assumption they should receive bail should no longer exist. The offender should have to prove why they deserve bail again.

Someone fairly influential—if not in this place, certainly, in the other place—the Premier himself, said recently:

While alleged offenders who have not yet been convicted are presumed innocent when given bail, frankly, at times it wears a little thin to see them hauled back before the courts for breaches of bail conditions only to be bailed again. In my book, these serial bail offenders blow their rights away by their own actions.

Those are the words of the Premier. This amendment to the Bail Act will go some way to fulfilling the point that he is making here and make it harder for people who breach bail to get bail again. I thank opposition members for their support. I have had indications of support from other members, and I thank them as well. I look forward to the government's contribution on clause 1.