

BAIL (DISCRETION) AMENDMENT BILL

24 October 2007

The Hon. D.G.E. HOOD: I move:

That this bill be now read a second time.

Family First is concerned about safety in our community, as I am sure all honourable members are, and we are committed to doing whatever we can to protect families from crime. I have made it a practice to keep close tabs on our courts system over the past several months. Members might also be aware that Family First checks every reported criminal judgment from the South Australian district and supreme courts each and every day; in fact, we have hired a lawyer for that specific task. We also send in frequent FOI requests, and I venture to suggest that the Courts Administration Authority is probably quite sick of Family First by now.

I was alarmed to receive some data back from the Courts Administration Authority about a week ago indicating that there are now some 30,498 court-issued warrants currently active in South Australia. The number is staggering, and that means that, potentially, there is an active warrant for one in every 50 South Australians, on average. I say 'potentially' because, no doubt, there are many offenders with multiple warrants against their name. The number does not necessarily mean that there were 30,000 breaches of bail, because it would also indicate first instance or so-called 'FINS' warrants, which are ordered when SAPOL has been unable to locate an offender. The number would also include warrants for arrest in cases where there has been a failure to pay traffic or court fines.

Some of the warrants are potentially old; in fact, pursuant to section 187AA of the Summary Procedure Act, some warrants can be cancelled only by the Governor after some 15 years. However, a great number of the 30,000 warrants I have mentioned are taken up by people who have failed to attend court in breach of their bail obligations. Data released to me indicates that last year there were some 3,912 convictions for breach of bail and 2,642 estreatments of bail in 2006. Estreatments occur when the bail sum is

forfeited to the court due to a breach. Note also that this is the conviction rate; the number of breaches actually charged is much higher.

In the year 2000-01 there were some 2,394 breaches of bail; in 2001-02 there were 2,960; in 2002-03 there were 4,010; in 2003-04 there were 4,612; and in 2004-05 there were 5,729. Alarming, *The Advertiser* has reported that last year the number charged has jumped yet again to an incredible 8,202 incidents.

This data shows a continuing trend in the community of disrespect for the authority of our police and the judicial system in general. Clearly, something is terribly wrong, and it is not isolated to the number of bail breaches we are now seeing. Indeed, this is not isolated to our state: it is a trend we see across our nation.

Family First exists because large numbers of South Australians believe that our society is at risk. In the early 1990s our society was threatened with an economic meltdown, and South Australia particularly was dealt a very painful recession. In the early years of this decade we became increasingly threatened by environmental meltdown, and we have begun taking measures to combat global warming, including the Premier's 2050 greenhouse emissions target, which was debated in this place recently.

The next looming threat is to our families and to our society as a whole. How will we function as a society in some years' time if the statistics such as our skyrocketing breach of bail figures continue at their present rates and no-one bothers to turn up to court any more? How will we function as a society when no-one pays their debts any more?

The Advertiser recently reported that there are now an astonishing 480,309 separate outstanding debts owed by South Australians to our Fines Payment Unit. That is just under half a million outstanding unpaid fines in South Australia as we currently speak.

That same problem also extends to the private sector. Indeed, in recent conversations with professionals from the legal field, I was told that in their view some 20 years ago they would perform a service and then send a bill to the client. That does not happen any more in the general sense. Unless

they receive money up front for services, they simply do not get paid, on average or in general. Bad and doubtful debt statistics are dramatically on the rise. Indeed, *The Sydney Morning Herald* reported last Thursday an increase of 32 per cent in the past year alone as Australians increasingly borrow beyond their means and no longer feel any obligation to honour those debts.

Since the 1960s Australia's divorce rate has doubled, and in 2006 it stood at 51,375. Our marriage rate reduced by a third over that period and the birth rate halved. Some 41.6 per cent of employed males now work over 40 hours a week. Abortion rates, drug dependence, gambling addiction and suicide have all increased substantially.

Rates of abuse recorded by Families SA have dramatically risen over the past two decades. In 2001-02 some 137,938 children were reported abused or neglected in Australia. I will repeat that number: 137,938 children were reported as abused or neglected in Australia, an increase of 19.5 per cent over the previous year. In the past 10 years the number of people in prison has increased by some 45 per cent. More than 100,000 Australian women are the victims of domestic violence every single year. Each year about 2,500 Australians will take their own life, which is an increase of some 24 per cent since 1988.

Family First believes that our society is in danger of breakdown, because governments everywhere have lost sight of family values. It is quite valid to focus on the economy, and Family First also agrees with the increasing focus on the environment, but if we lose touch with the common values that bind us together as a society we are fighting a losing battle and facing a terrible calamity.

According to a recent survey, some 68.9 per cent of Australians believe that the fundamental values of our society are under serious threat. Family First's core focus is to fight for those values, and Family First is unashamedly socially conservative for that reason. South Australia's dramatic rise in breach of bail offending is part of the larger picture, and Family First is clearly and vitally interested in ensuring that our bail laws are respected and observed. Any reasonable person must say that action needs to be taken

against this dramatic rise in the number of people ignoring and breaching their bail obligations. Indeed, the acting victims of crime commissioner, Michael O'Connell, is on the record demanding changes to the law to reverse the presumption in favour of bail for offenders who have allegedly breached their bail. To use the acting commissioner's words, as reported in *The Advertiser* of 18 November last year:

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.

Family First wholeheartedly agrees with that statement and its sentiment. We believe that the bill that I present today is quite simple and clear and that it will help to reverse this currently declining situation. Indeed, current section 10(1)(f) allows a bail authority to consider whether an applicant has previously contravened a bail agreement in deciding whether to again grant bail. The amendment will clarify section 10(1)(f) to make it plain that not only previous breaches but also current charges or allegations of breach of bail must be taken into account by the bail authority in deciding whether to give a defendant a further opportunity.

Although Family First understands that some magistrates will informally take current breach of bail allegations into account in deciding the application, this amendment will provide legislative authority for taking that factor into account. We are advised by parliamentary counsel that this move will place a heavier onus on magistrates and other bail authorities to treat ongoing breach of bail allegations much more seriously than is currently the case.

Current allegations for breach of bail remain unproven, and this may explain the current focus on prior proven offending. In this regard, Family First supports the recent statement by the Premier, where he said:

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.

Family First wholeheartedly agrees with the Premier's statement. We do not want any more situations like those that occurred in June, where a 17-year old offender, who had some 12 previous breaches of bail and three breaches of bail conditions, was again released on bail. After being granted bail yet again, he was involved in a 140 km/h police chase, where he crashed into another car and killed an innocent 18-year old girl, who simply happened to be driving past. The police minister—and I acknowledge his concern regarding that case—said on the record, 'If you have persistent offenders then the only way the public can be protected is to lock them up.' Again, Family First wholeheartedly agrees.

When we look at Operation Mandrake offenders, I understand that the 49 main offenders targeted have, between them, racked up nearly 1,000 offences and some 130 charges of breach of bail. For how long can that go on? Clearly, something needs to be done. A clear message needs to be sent to the community that our laws and safeguards for the community must be respected. Clearly, they are not being respected at the moment.

I acknowledge that Premier Rann has also recently indicated a desire to re-examine our bail laws and introduce measures in the future. Family First looks forward to working with the government and looks forward to the passage of that legislation. This bill, quite simply, reverses the presumption in favour of bail when bail conditions have been breached. It will make it much more difficult for offenders to reoffend whilst on bail. I commend the bill to the council.