

Legislative Council

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**CRIMINAL LAW (SENTENCING) (SENTENCING CONSIDERATIONS)
AMENDMENT BILL**

The Hon. A. BRESSINGTON (16:48):

I also rise to speak to the Criminal Law (Sentencing) (Sentencing Considerations) Amendment Bill. I, like the Hons Kelly Vincent, Stephen Wade and Mark Parnell, have serious concerns about this piece of legislation. I concur with all of the examples that they have used and also thank again the Hon. Stephen Wade for organising the briefing with the Law Society and barrister David Stokes.

One thing about having a briefing with a practitioner on the ground, who would have to manage these changes and incorporate these changes into practising law effectively for people who have been accused, is an eye-opening experience. We can sit in here, especially those of us without legal background or legal experience, and sometimes come to the conclusion that it is pretty much cut and dried when, in actual fact, the examples that Mr Stokes gave the other day show that there are many variants to be taken into consideration during that pre-trial period.

I believe from his comments, and also those of Ralph Bonig, that we are not improving the law here. As they said, the law works in this area perfectly well as it stands. We have a backlog in our justice system, but that is more about a resourcing issue than it is about whether or not people get discounts on their sentences for an early guilty plea.

I understand from that briefing that the court system has put in two pilots, if you like—although they do not like it to be referred to as a pilot, but I cannot think of another word for it—that are trying to work out within the court system itself better ways to deal with the backlog.

Apparently, in those two instances, they are getting results in being able to move through their case load a lot more efficiently. I think it would probably do this place and the Attorney-General well to speak to the magistrates and judges who are involved in that and see what it is that they are trying to do to deal with the issue that this bill seeks to address.

Again, I state in this place, as I have many times, that simply changing laws, especially in our justice system, to meet financial bottom lines, if you like, is hardly a good reason to fix something that ain't broken. I am inclined to not support this bill at all but I will wait and see what amendments the Hon. Stephen Wade comes up with. I do know that Mr Stokes said, 'Don't do it. Just leave it alone. Leave it be.'

I will seek other legal advice because I know there are always two sides to the legal story as well, but I am not of the belief that if there is a piece of bad legislation in front of us that we can amend it to make it good legislation. We can amend reasonable legislation and make it better, but if it is bad legislation then it is bad legislation.

So, I will wait and see with interest the amendments that the Hon. Stephen Wade puts forward and make my decision then. I, like the Hon. Mark Parnell, will not be opposing the second reading of this bill but I will be watching the debate very carefully before I make any decisions on those amendments.