



HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Thursday, 2 September 1999

BAIL BILL

Proposed Amendments

Hon PHIL GOFF, in Committee, to move the following amendment:

Clause 10AA: To insert, after clause 10 and before clause 10A, the following clause:

10AA. Additional restriction on bail for certain repeat offenders—(1) This section applies to a defendant of or over the age of 17 years who—

- (a) Is charged with an offence under the Crimes Act 1961 that carries a maximum sentence of three or more years of imprisonment; and
- (b) Already has at least 10 previous convictions for offences that carry maximum sentences of three or more years of imprisonment; and
- (c) Has on at least one previous occasion breached bail conditions or offended while on bail.

(2) No defendant to whom this section applies may be granted bail or allowed to go at large except by order of a High Court Judge or a District Court Judge.

(3) No defendant to whom this section applies may be granted bail or allowed to go at large unless the defendant satisfies the Judge that bail or remand at large should be granted.

(4) In particular (but without limiting any other matters in respect of which the defendant must satisfy the Judge under **subsection (3)**), the defendant must satisfy the Judge on the balance of probabilities that the defendant will not, while on bail or at large, commit—

- (a) Any offence involving violence against, or danger to the safety of, any other person; or
- (b) Burglary or any other serious property offence.

(5) For the purposes of **subsection (4)**, “serious property offence” means an offence against Part X of the Crimes Act 1961 punishable by imprisonment for a term of more than 7 years.

(6) In deciding whether or not to grant bail to a defendant to whom this section applies or allow the defendant to go at large,

the need to protect the safety of the public and, where appropriate, the need to protect the safety of the victim or victims of the alleged offending, are primary considerations.

EXPLANATORY NOTE

The Bail Bill as reported provides for a reversal of the onus of persuasion at bail hearings in certain circumstances (clause 10). The reversal is limited to the situation where a defendant is charged with a serious offence that was allegedly committed while on bail for a previous serious offence. The bill as introduced and reported does not address the problem of bail being granted to hardcore repeat offenders with multiple convictions and a history of offending while on bail. Ministry of Justice figures strongly support the notion that this group of defendants pose a high risk of further offending if they are released on bail again.

This Supplementary Order Paper would address this issue, by extending the reversal of the onus of persuasion to another category of defendant: namely, those defendants charged with an offence carrying a maximum penalty of three or more years imprisonment, who already have 10 or more previous convictions for offences that carry maximum penalties of three or more years imprisonment, and who have also previously offended while on bail or otherwise breached bail conditions.

Where a defendant has strongly indicated through his or her own past actions that he or she regards bail as a licence to continue to offend, and since the statistics support the conclusion that these defendants are a high-risk group, it is reasonable that they should be required to persuade the court that they deserve to be granted bail again. By imposing this requirement, this Supplementary Order Paper would strike a better balance between the rights of the defendant and the rights of the community to be protected from offending committed while on bail than currently exists in law.