

CRIMINAL LAW (SENTENCING) (VICTIMS OF CRIME) AMENDMENT BILL
22 November 2007

Adjourned debate on second reading.
(Continued from 24 October 2007. Page 1303.)

Mr PEDERICK (Hammond) (16:11): I also rise today to make a few comments in regard to the Criminal Law (Sentencing) (Victims of Crime) Amendment Bill.

As well as the need to protect the community, sentencing has the combined effect of acting as a general deterrent to would-be criminals and serving as part of the healing process for victims. The safety of the community is the paramount concern and we rely on the knowledge and judgment of the legal professionals of the Full Court in establishing sentencing guidelines with an appropriate range of penalties.

Penalties should relate to the seriousness of the offence and take into account the offender's past record and general behaviour when out in the community. Excessive punishments may result from emotional responses. The onus is ultimately on the sentencing judge to balance victim impact statements with penalty guidelines and general sentencing standards while being mindful of community expectations.

Some of the government's reactions to sentencing decisions seem to be less about balance and effect and more about appearances and pandering to public outcry. To argue that the sentence acts as a general deterrent is to accept that citizens are influenced or affected by these decisions.

At the same time, acceding to public outcry could be akin to giving in to the screaming child at the supermarket checkout. It encourages the community, or that part of it with a particular interest in the case, to believe they only have to raise a hue and cry and the government will do anything to please them.

The Hon. M.J. Atkinson: I will be pleased to read this out on radio.

Mr PEDERICK: Absolutely. Unfortunately, the government does have a tendency to play to the audience rather than stick to the script. Imagine the chaos if football umpires yielded to the protests from the crowd at a perceived wrong or unjust decision.

Often in the discussions prior to sentencing, the defence will suggest all sorts of reasons and extenuating circumstances explaining why someone is not responsible for their own actions and should be shown leniency.

The victim's impact statement also can pluck at the heartstrings of all involved. It is not unreasonable to think that both pleas might be overstated, thereby drawing heavily on the uniquely human capacity to make value judgments based on reason.

Declaring a prisoner to be a dangerous offender is a power to be yielded with great care, given this government's propensity to respond to public outcry—which is another power to be exercised carefully - otherwise it might encourage vindictiveness rather than forgiveness among the general community.

Reimbursements of victims' costs incurred in presenting a victim impact statement is a fair request. Avoiding this by having them done through closed circuit TV can reduce the impact and value of that process. It can reduce its effectiveness on the offender, as well as dilute the therapeutic value to the victim. They look for contrition in the face of their tormentor to help them find forgiveness. The value of a face-to-face encounter should not be diminished just to save money.

I also acknowledge that some victims will want to use closed-circuit television or audiovisual aids because the last thing they want to do is face the perpetrator of a crime against them and put themselves through more anguish.

Similarly, the requirement for the offender to be present at the reading of victim impact statements seems to me a vital part of the process. It is not easy to switch off and ignore the real effects of your actions if you do not hear them described and see the anguish it causes victims.

Further, the requirement to have a response from offenders will also bring the anti-social consequences of their misdemeanours into sharp focus in their mind.

By allowing victim impact statements from neighbours and the general community, as well as direct victims, it will acknowledge that there are many who suffer loss of amenity and peace in their community. That suffering is not always obvious, but it is always there.

I commend the bill to the house.