



HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Wednesday, 23 June 1999

CRIMINAL JUSTICE AMENDMENT (NO. 6)

Proposed Amendments

Hon PHIL GOFF, in Committee, to move:

New clauses 1A, 1B, and 1C: To insert, after clause 1, the following clauses:

1A. Violent offenders to be imprisoned except in special circumstances—Section 5 (4) of the principal Act is amended by inserting, after the word “to”, the words “**section 5AA and to**”.

1B. Attack in the home an additional serious aggravating factor affecting imprisonment of violent offenders—The principal Act is amended by inserting, after section 5, the following section:

“5AA. The court must, when sentencing an offender to whom section 5 (1) (a) and (b) applies,—

“(a) Impose a full-time custodial sentence; and

“(b) In determining the length of the sentence of imprisonment to be imposed, regard it as being an additional serious aggravating factor—

if the offence was committed in the victim’s home or on the property on which the home is situated.”

1C. General limitation on imprisonment—Section 7 (3) of the principal Act is amended by inserting, after the expression “section 5”, the words “and to **section 5AA**”.

EXPLANATORY NOTE

The purpose of this Supplementary Order Paper is to make serious violent crimes committed against victims in their own homes an aggravating factor which must be taken into account by the sentencing judge. In cases where the sanctity of homes has been violated, and their occupants attacked and terrorised, it is appropriate to give further directions to the courts in regard to this type of offending.

The amendments take account of suggestions of the Law Commission. They strengthen provisions of the Criminal Justice Act 1985 that set out presumptions that violent offenders are to be imprisoned unless there are special circumstances.

Clause 1A amends section 5 (4) of the Act so that that section, which sets out the presumptions, is to be read subject to new section 5AA.

Clause 1B inserts new section 5AA into the Act. The effect of this new section is that the sentencing court must impose a full-time custodial sentence, and regard it as being an additional serious aggravating factor in determining the length of the sentence of imprisonment, if the offender committed a serious violent offence in the victim's home or on the property on which the home is situated.

Clause 1c amends section 7 of the Act (which makes imprisonment a penalty of last resort for the courts) so as to make that section subject not only to section 5 but also to the new section 5AA.