

House of Representatives

Supplementary Order Paper

Wednesday, 28 November 2018

Psychoactive Substances (Increasing Penalty for Supply and Distribution) Amendment Bill

Proposed amendment

Dr Duncan Webb, in Committee, to move the following amendment:

Clause 4

Replace *clause 4* (page 1, lines 10 and 11) with:

4 Section 70 amended (Offences relating to psychoactive substance that is not approved product)

In section 70(3), replace paragraph (a) with:

- (a) in the case of an individual,—
 - (i) to a term of imprisonment not exceeding 8 years; and
 - (ii) when considering whether the sentence under **sub-paragraph (i)** should be custodial, the court must consider any non-custodial rehabilitation plan of the offender, including—
 - (A) the offender’s need for any specialist services to address any matters that may have contributed to the offending;
 - (B) the availability of rehabilitation services;
 - (C) the agreement of the offender’s family, whānau, or family group to support the rehabilitation plan;
 - (D) any remedial action taken or proposed to be taken by the offender in relation to the circumstances of the offending;

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- (E) whether or not the rehabilitation plan is genuine and capable of fulfilment:
- (F) whether the outcomes for the offender will be better by pursuing the rehabilitation plan or by a custodial sentence:
- (G) whether the health, safety, and wellbeing of the wider community is best served by the offender pursuing the rehabilitation plan or serving a custodial sentence:

Explanatory note

This Supplementary Order Paper replaces *clause 4* of the Psychoactive Substances (Increasing Penalty for Supply and Distribution) Amendment Bill, which amends section 70 of the Psychoactive Substances Act 2013.

This provides that the court must consider any non-custodial rehabilitation plan proposed by the offender, including family or whānau support and the wider community interest. The objective of this amendment is to promote sentences that improve outcomes for offenders and the community. Where this involves a realistic plan that is not custodial, the court should give this the most serious attention.

The deaths and harm caused by synthetic drugs are extremely disturbing to the public, and our legislation must reflect this level of concern. In sentencing, the court should give weight to a rehabilitation plan that is realistic and workable, particularly if proposed by the offender. Such a plan would be much more likely to result in a positive outcome for the community and the offender.