

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 determining the length of a sentence under **sub-paragraph (i)** and whether the sentence should be custodial, the court must have particular regard to—
 - (A) the offender’s need for health and mental health services; and
 - (B) the availability of and ability to access required health and mental health services for the offender.

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.

**Proposed amendments to
Psychoactive Substances (Increasing Penalty for Supply
and Distribution) Amendment Bill**

SOP No 170

This addresses the issue of sentencing guidance for judges by recognising that in many cases a high penalty will not serve any useful purpose in terms of deterrence, rehabilitation, or reintegration. In many cases, the offender will be in need of mental health services that are hard to effectively access in custody, and in those cases a non-custodial sentence or home detention may be better. Accordingly, under this amendment, the court will be able to reserve very high sentences for those exceedingly rare cases where it may serve some useful purpose.

The deaths and harm caused by synthetic drugs are extremely disturbing to the public, and our legislation must reflect this level of concern.