



**STATUTES AMENDMENT (RECIDIVIST YOUNG OFFENDERS AND YOUTH PAROLE BOARD) BILL
10th September 2009**

Mrs PENFOLD (Flinders) (15:58): The most glaring omission from this bill, in my view, is the recognition that offenders are human beings and should be treated as such. I believe that it is an abdication from its responsibilities by this government that young offenders are given harsher punitive orders and sometimes marked for life as criminals, with no hope of fitting into society and with no hope of ever being acceptable as a citizen.

The government should put more money and resources into the Department for Families and Communities so that reports of child abuse and family breakdown can be investigated and dealt with promptly, and also much more funding should be allocated to successful crime prevention programs. The funding for several of these on Eyre Peninsula was withdrawn by this Attorney-General and has never been replaced.

The staff of the Department for Families and Communities is now so stretched that only the worst cases of abuse or other problems can be seen. It is far better to put a fence at the top of a cliff than an ambulance at the bottom. The fence that protects and serves the community in child abuse and family breakdown cases is the Department for Families and Communities.

I have been told of children being expelled from primary school (fortunately, not in my electorate), one of whom (a girl) was a prostitute and the other (a boy) a drug dealer. These children did not get into these activities without adult involvement. Of course, unless the associated problems are resolved, children will go on to worse behaviour.

It is well documented that abused children often go on to be abusers as adults and that many of them are so traumatised mentally that it affects their judgment and behaviour for the rest of their life. Effectively treating these children while they are children removes them from the criminal scene as they get older and gives them the chance of a future. Many juveniles in custody have some form of serious abuse in their past, including violence and neglect, and diversionary programs are a more appropriate and successful response to what is at the root of the problem than locking them up.

Better mental health services are also an essential component of effective treatment, but this government seems happier to put millions of dollars into a film hub than mental health facilities. An article in the September 2009 issue of *The Adelaide Review* states that the cost of keeping a young person in custody in South Australia for 12 months runs into tens of thousands of dollars, although South Australia's costs are said to be less than that in New South Wales, which is quoted at in excess of \$150,000 to keep a juvenile in custody for 12 months.

Mission Australia runs programs around the country that have had enormous success in keeping young people out of trouble and preventing crime—sometimes 50 times cheaper than having a young person locked up. These outcomes were received for the small sum of about \$2,500—the average cost of support by the Mission's Pasifika program for three to six months. The Pasifika program is aimed at young offenders from South Pacific Island backgrounds in Sydney. In the six months after their referral to the program, offence rates among participants were cut by more than half while serious offences such as assault were reduced by close to two-thirds. Sixty-five of participants have not re-offended within 12 months of program completion.

These diversionary programs help divert a person from entering or re-entering the juvenile justice system and prove that alternatives to incarceration are cheaper and more effective than having children locked up. They are about addressing the root causes of a young person's problems, as well as showing them that they can have a future outside of stealing cars or breaking and entering. They receive help with education, personal and social skills, finding work, health and wellbeing, reducing alcohol and other drug consumption and financial literacy.

If any child deserves specialist treatment, it is those children who are so deeply entangled in the youth justice system that they have been unable to comply with previous judicial orders or unable to resist committing further offences. If rehabilitation is to be assertively pursued, as recommended by the To Break the Cycle report, children who have repeatedly offended should not be labelled as recidivists and remain for a longer period in an environment that does not facilitate their rehabilitation.

Those who deal with child offenders should believe that every child is able to be rehabilitated. To act with any other belief is to get across to some children that they are worthless and can never change. We are seldom aware that what we think comes across to those we meet more strongly than what we say.

The Children and Law Committee of the Law Society of South Australia states that, in March 2008, a review program in the youth training centres found that 67 per cent of residents re-offend within six months and nearly 100 per cent within four years. Research by Mission Australia shows that about 90 per cent of youth clients released from custody re-offend within two years. These rates of re-offending are not the result of young people being released from custody prematurely but are a reflection on the lack of rehabilitation that they receive while in custody.

Adults who are trying to break a drug habit must also change their social life and contacts to avoid the temptation to backslide through returning to the same community that they are attempting to escape. This aspect of child offending must be a strong part of their overall rehabilitation program because without it re-offending is an almost foregone conclusion.

The Children and the Law Committee states that the bill will not have any material impact on rates of recidivism as evidence shows that longer sentences for young offenders do not correlate to a reduction in offending. Why should it when no alternatives have been put to offenders and they have received little or no training in how to deal with problems and how to alter their actions, behaviours and thinking?

This, of course, comes directly to the detention centres where these child offenders are incarcerated. The government has money to spend on signs and advertising that say how wonderful it is, on overseas jaunts and ministerial staff, but the government does not have funding for mental health and appropriate residential facilities for young offenders, which illustrates the wrong priorities of the government's spending. As the Children and the Law Committee states:

The environments in which longer detention orders are to be served have been found to be lacking in the provision of therapeutic interventions targeted at the reasons for offending.

Remaining in an institution found to be lacking in appropriate therapeutic support is not in the best interests of the child. A child who is hungry will steal. In the 1770s such children were transported to Australia as convicts. Surely 200 years later we can consider ourselves more enlightened and humanitarian than to condemn such a child without attempting to rectify reasons why he is not being fed properly.

It is noted that this bill presumes to deal with that proportion of young people who are repeat and serious offenders. Incarceration and transportation as the accepted and only means of dealing with offenders did not reduce crime in the 1770s nor will it today.

When condemnation and punishment are put forward as the only means of dealing with repeat and serious offenders, they have neither encouragement nor inclination to change. The Children and the Law Committee states that creating a subclass of offenders declared as recidivists and making it more difficult for them to qualify for their conditional release will do nothing to encourage or motivate in them a change in attitude or behaviour or ability to desist from offending upon eventual release.

Members of the Children and the Law Committee regularly act for children charged with an offence of assault whereby the child verbally or physically assaults residential care staff. No violence in the workplace is to be tolerated; however, there is no indication of possible actions or behaviours by staff which prompted the child's response. We have heard heartrending stories of children assaulted by adults when placed in care. It requires a special person to cope with these children who, for the most part, are a product of their environment.

Adequate staff in training centres, so that staff do not become overstressed, and more staff in Families SA are more positive ways to deal with young offenders and to bring about lasting change. Funding in these areas will have an impact on lessening crime and preventing children from committing crime in the first place. Detention intensifies the need for greater levels of expensive post-release support, so the community pays for the system's failure well into the future.

Certainly, putting the same amount of money into juvenile justice as the government is spending on a film hub would have a more lasting effect in reducing crime and rehabilitating offenders, thus taking them out of the criminal system for their lifetime.

As Mission Australia has demonstrated, detention is not the most appropriate means for tackling juvenile crime and stopping reoffending. The younger the person is when they first enter the juvenile justice system, the more likely is their return as they get older. Another symbol of the system's failure is the overrepresentation of minority groups. For instance, only 5 per cent of 10 to 17 year old Australians are indigenous but 40 per cent of all young people under supervision are from an indigenous background.

Locking up young people for long periods of time, as proposed in this legislation, is a breach of their human rights. Article 40 of the United Nations Convention on the Rights of the Child, to which Australia is a signatory, states:

States parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

Article 3 provides that the best interests of the child should be of primary consideration in all actions, thoughts and law. Rule 19(1) of the United Nation's Standard Minimum Rules for the Administration of Juvenile Justice echoes the United Nations Convention on the Rights of the Child and states:

The placement of a juvenile in any institution shall always be a disposition of last resort and for the minimum necessary period.

Declaring a child to be a recidivist and a danger to the public does not promote a child's sense of dignity and worth nor does it make the community a safer place.

I urge the government to put more money into those services that deal with children and families, such as Families SA, and into proven, successful programs, such as that conducted by Mission Australia, and keep children out of the justice system in the first place, rehabilitating them before they become adult crime statistics. This will be cheaper and more effective than the government's proposed draconian approach that ignores common humanitarian principles.