



NATIONAL COUNCIL OF WOMEN OF NEW ZEALAND

TE KAUNIHERA WAHINE O AOTEAROA

29 June 2012

S12.20

Submission to the Law and Order Committee on the Bail Amendment Bill.

The National Council of Women of New Zealand (**NCWNZ**) is an umbrella organisation representing 47 nationally organised societies and national members. It has 22 branches throughout the country attended by representatives of those societies and some 150 other societies as well as individual members. NCWNZ's function is to represent and promote the interests of New Zealand women through research, information, discussion and action.

This submission has been prepared by the NCWNZ Justice and Law Reform Standing Committee and the Parliamentary Watch Committee after consultation with the membership of NCWNZ.

Introduction

NCWNZ has been party to numerous submissions, consultations, conferences and reports where the issue of women's access to justice both as defendants and as victims has been advocated.

NCWNZ also has specific policies dating from 1923 in regard to the protection of children especially in relation to sexual and/or criminal offences against the child.

NCWNZ generally is supportive of the possible reforms. The proposed reforms are viewed as necessary for the protection of the community and to ensure consistency in administering the electronic monitoring processes.

Clause 6

Section 8 amended (Consideration of just cause for continued detention)

After section 8(4) insert section 4A

Respondents were almost equally divided on this amendment. Those who did not support the amendment commented that there needs to be a reward for co-operation by a defendant and the co-operation could be vital for prosecuting another more serious offender.

Clause 7

New section 9A inserted (Restriction on bail if defendant charged with murder)

After section 9, insert section 9A

The majority of respondents supported the amendment. A minority were concerned about the erosion of the fundamental premise of innocent until proved guilty. There was a comment that there is a fine balance between protecting public safety and acknowledging a person's right to be presumed innocent until proven guilty and not to be arbitrarily detained.

Clause 9

Section 15 amended (Granting of bail to defendant under 20 years of age)

Replace section 15(1)

The majority of respondents supported the new section. Those who did support the new section were concerned about the exposure of the younger defendant to more hardened and older defendants, the negative effect of being removed from the family and the impact on a younger defendant's cognitive development. There was a comment that the best option is for younger defendants to be kept within the community. It was believed that in cases other than where there was a high risk of the defendant seriously harming another, that this would be a more desirable and less punitive measure than simply incarceration.

Clause 11

New section 17A inserted (Restriction on bail if defendant charged with serious Class A drug offence)

As with the response to the proposed amendment in Clause 7, the majority of respondents supported the amendment. A minority commented that being innocent until proven guilty is enshrined in our legal system and we should be wary of overturning the presumption.

Clause 17

New sections 30A to 30R and cross-heading inserted

A large majority of members supported and welcomed the codification of the existing EM regime and the aim to ensure consistency.

There were comments that it would be desirable for there to be a public education programme about EM and what is accepted practice about constraints/conditions relating to work and such like.

Some respondents commented that there needs to be great care taken in regard to the placement of offenders in the community, especially for example, a previous rapist being placed in close proximity to his earlier victim.

There must be the regard for potential public safety risk and negative impact on victims and/or their friends and family that may result if defendants charged with murder or other serious violent or sexual offences are released on bail.

Conclusion

NCWNZ generally supports the possible reforms in regards to the efficient protection of the general public. NCWNZ believes access by women and children to justice is critically important. An efficient and functional justice system is important for obtaining justice by women and their children and for the general wellbeing of the community. Many of the respondents regard the possible reforms as being in the right direction to achieve this. However there is acknowledgement that there is a difficult balance between safeguarding the community and taking into account the right of an alleged offender to be presumed innocent until proven guilty and not to be arbitrarily detained.

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