

Proposed new laws to protect good samaritans

During the October 2004 parliamentary sittings, the Attorney-General announced that the government would “shortly put forward an Amendment Bill to protect ‘good samaritans’ and emergency workers from assaults while trying to provide assistance”.

In the same sittings of parliament, the Government defeated an amendment bill with a similar aim which was first put forward by the Member for Macdonnell, John Elferink, in 2002.

“While the Opposition should be acknowledged for attempting to provide similar legislation, unfortunately it fails to capture the full range of conduct that could interfere with assistance,” Dr Toyne said.

Mr Elferink criticised the Government for delaying the amendment and suggested that amendments could

have been made to the current proposal instead of the Government introducing its own Bill.

Under the proposed new laws, people who attack ‘good samaritans’ or emergency workers while they are providing assistance to someone will face up to seven years in jail.

The Criminal Code Amendment Bill will create an offence of unlawfully assaulting or obstructing a person who is providing assistance to another.

A person who assaults, obstructs, hinders or prevents a person who is providing rescue, resuscitation, medical treatment, first aid or succour of any kind is liable to five years jail.

If their actions endanger the life or causes actual harm to the person being helped the offender is liable to imprisonment for seven years.

Dr Toyne said the amendments will

protect people giving assistance and deter potential attackers.

“This is all about providing a protective hand to those who give a helping hand,” he said.

“Assaults in the context of an emergency have the potential to endanger not just the person responding to the situation but also to the victim and other persons.

“All states and territories protect police from such attacks - but the same backing is only offered piecemeal for other professions, if at all.

“I’ve stepped in to provide the same protection for everyone, whether you are an ambulance officer or a member of the community giving first-aid to someone on the street.”

The proposed changes are expected to be introduced during the November/December sittings. ①

Review into federal sentencing laws

Federal prisoners are receiving different treatment despite similar sentences - depending on which state or territory they happen to be in, according to the Australian Law Reform Commission (ALRC).

ALRC President Professor David Weisbrot said there are about 800 federal prisoners in state and territory jails, and the federal *Crimes Act* was supposed to ensure they are treated equally, no matter where they are doing their time.

“There are concerns that’s not what is happening in practice. Federal crimes are prosecuted in state and territory courts - then offenders have their sentences administered by state and territory correctional authorities, who are bound by their own rules and regulations,” Professor Weisbrot said.

“An example of this is the recent controversy surrounding stockbroker Rene Rivkin, who was convicted of a federal offence and sentenced by a NSW court to

weekend detention for two years - with state officials making decisions about his medical condition and how and whether he actually would serve out his sentence.

“Differences in law and approach to sentencing options - such as non-parole periods, probation orders, remissions, community service orders and diversion programs - mean that federal offenders in, say Queensland or the Northern Territory, may serve a sentence in a very different way to a person convicted of the same crime in Victoria or Tasmania.

“We must decide, as a matter of policy, whether that situation should continue, or whether we should try to promote greater parity in federal sentencing.”

Professor Weisbrot said the federal Attorney-General has asked the ALRC to review Part 1B of the *Crimes Act 1914* (Cth), which governs the sentencing, imprisonment and administration of

federal offenders. Terms of reference have been released.

Professor Weisbrot said the relevant sections of the *Crimes Act* were structured in an unnecessarily complex way and judges and magistrates have complained that they are uncertain about how to apply the law.

The ALRC will consider the best way to provide all Australian courts with a suitable range of sentencing alternatives for imposing punishment on federal offenders. The ALRC also will need to consider current debates about the merits of short sentences of imprisonment and the application of guideline judgments.

Professor Weisbrot said the ALRC has commenced a period of research and community consultation, and expects to release a paper for public comment in the first half of 2005.

The review is scheduled to be completed in early 2006. ①