



# Federation of Community Legal Centres

VICTORIA

Tough, tougher, toughest.....

## Changes to Sentencing in Victoria

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# Getting Parole

- May be changes to the way the Adult Parole Board works because of a report recommending changes (Sentencing Advisory Council: Review of the Adult Parole System Report, March 2012).
- Also there is a review of the Parole Board by a former High Court Judge happening now.
- ‘Serious offenders’ monitored more closely when on parole and have to do anti-violence programs before prison release.

# Changes to law for parole breaches

- Parole automatically cancelled for ‘sex offenders’ and ‘serious violent offenders’ convicted of a sex or violent offence while on parole.
- ‘Sex offenders’ and ‘serious violent offenders’ charged with a sex or violent offence while on parole must have their cases considered by the Board, with a presumption that parole will be cancelled.
- ‘Sex offenders’ and ‘serious violent offenders’ who are convicted of other offences (where the penalty can include jail) while they are on parole must be re-assessed by the Parole Board, with a presumption that parole will be cancelled.

# Changes to law for other parole breaches

- All other parolees (not 'sex offenders' and 'serious violent offenders' ) who are convicted of new offences (where the penalty can include jail) while they are on parole must be re-assessed by the Board, with a presumption that parole will be cancelled.
- All other parolees charged with new offences (where the penalty can include jail) while on parole must be re-assessed by the Board.
- All of these changes started on 20 May 2013.

# New Offence –breaching parole

- New Bill about to be debated in Parliament (we haven't seen the new bill yet).
- Anyone who commits further offences while on parole or breaches terms of parole will new penalties: fine (\$4,200) and/or 3 months prison.
- Media report that it will be up to police to determine if there's a reasonable excuse for the breach or if a person should be charged. (e.g. given: missing an appointment because parolee's car broke down).
- Start date for new law? Unknown- but could be later this year.

# End to home detention

- **Before:** Judge could make a sentencing order for a prison sentence less than a year to be served though home detention; Adult Parole Board power to grant home detention for last 6 months of some prison sentences.
- **Now:** (from 16 Jan 2012) Sentencing Act has changed and home detention is no longer an sentencing option for a judge or the parole board.

# Community based sentences

- **Before:** old orders: combined custody and treatment order, home detention, intensive correction order and community-based order.
- **Now:** CCOs (Community Correction Orders): new orders that start for new charges from **16 January 2012**.
- These orders do not affect the old orders made before 16 January although a judge can put a person on a CCO if a person is found guilty of breaching one of the old orders.
- Can be **short term in prison** or out in the community with 6 or more reporting conditions.
- A sentencing judge now may decide to put someone on a CCO for any offence that is punishable by more than 5 penalty units.

# End of suspended sentences

- 2010 policy: to end suspended sentences for *all* offences by 2014;
- So far: only applies to some offences:** for '*significant offences*' committed on or after 1 May 2011 for sentences heard in the County and Supreme Courts and '*serious offences*'.

# Minimum sentence standards

- ‘Baseline sentences’ are going to apply for serious offences and some other offences such as arson, recklessly causing serious injury, aggravated burglary and major drug trafficking.
- This is the new way a judge will have to work out the minimum sentence (the prison/non-parole part of the sentence) by starting with the number of years of prison that Parliament thinks is the ‘average sentence’ (called ‘midpoint’) for a particular offence.
- If the judge thinks the offence is ‘worse’ than the average, the judge can increase the sentence above this midpoint.
- If the judge thinks the offence isn’t as ‘bad’, the judge can give a sentence below this midpoint.

# Minimum sentence for 'gross violence'

- For adults:minimum four year prison sentence (no parole before this time).

- 'Gross violence' charge if :

- plan in advance to engage in an attack intending to cause 'serious injury';

- engage in a violent attack as part of a gang of three or more persons;

- plan in advance to carry and use a weapon in an attack and then deliberately or recklessly uses the weapon to inflict serious injury; or

- continue to violently attack a person after the person is incapacitated.

# Bail

- New penalties for people who commit indictable (serious) offences when they are already on bail: up to 3 months prison for *each* offence. [Offence ‘committing an indictable offence while on bail’]
- Bail curfew can be for up to 12 hours. [e.g.-you must be at home from 7 pm to 7 am].
- Breach of some bail conditions: penalty of up to three months in jail or a fine of up to \$4,200. [e.g. fine for not reporting to police on time].
- Bail applications will usually have to go back to the same Magistrate.
- Start date for new law? - sometime before 1 January 2014.

# About Smart Justice

- Spending on prisons diverts funding from programs that address the causes of crime.
- Harsher sentencing is already driving prison numbers up. This will increase further under the government's harsher sentencing policies.
- We advocate for a greater focus on crime prevention + cost-effective crime prevention strategies by addressing the causes of crime.

The logo for Smart Justice features the words "Smart" and "Justice" in a large, bold, grey sans-serif font, stacked vertically. The text is set against a background of horizontal grey lines that form a large arrow pointing to the right. Below the text is a solid orange horizontal bar.

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*"Smart action for a safer community"*

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