

March 2009

## Another silver bullet to end offending by young people?

How many times have politicians made bold statements about getting tough on young people who commit crimes? The Children, Young Persons and their Families (Youth Court Jurisdiction & Orders Bill) is the latest in a long line of government initiatives that seeks to address this issue (remember the Labour Government's 6th point on their 1999 pledge card about youth offending, or even the Mazengarb report of 1954?)

This highly politicised environment (frequently created with the help of politicians) presents considerable challenges for crafting good quality laws.

I don't want to be seen as a 'soft' liberal. Crime is not good. It can induce crippling fear in some people and severely restrict their quality of life. We do need to craft laws and policy that have the greatest chance of reducing the levels of offending by young people.

As the focus of this legislation is on young people who commit crimes it should be grounded on a sound understanding of young people's development. To simplify a whole raft of research on child and youth development as it relates to crime, a common trait of young people who tend to be labelled as 'recidivist young offenders' relates to their ability to form positive 'attachments' with people who genuinely care about them. This can be attachment in numerous ways. It includes a healthy attachment to a mother (or constant caring adult in their early years), and extends out to wider family, friends, cultural group and attachment to school and to work.

For a whole range of reasons a number of young people do not form these positive attachments (yes, we know the list of contributing factors: violence, drugs, poverty, etc.). This 'detached' experience of the child and young person shapes their brain development, their relationships, their behaviours, their emotional intelligence (e.g. ability to empathise) and eventually their propensity to commit crime.

From this very simplified summary of the causes of the problem, it seems reasonable to deduct that any new law or policy in this area—to be effective—needs to help young people form attachments to adults that care about them. Will this new legislation help achieve this?

My answer is: 'it depends'. It depends largely on the ability of those adults who work with the young people and their families to encourage positive caring (and, yes, challenging) attachments to form (or re-form). And these important people need organisations that have a culture and model of practice to encourage and support this way of working.

Unfortunately, these aspects will not be debated in the Select Committee or in the House. Instead, our politicians and communities blindly believe that new programmes or longer programmes or new laws will do the trick. These do not on the relational and emotional intelligence required to spark the restorative process in the young person. And, yes, in adolescence the human development process provides us with another unique opportunity to 'heal' past damage and to allow young people labelled as problem 'young offenders' to be constructive and positive members of our communities.

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*PS: The answers are in the Youth Development Strategy Aotearoa. You can view this on the Ministry of Youth Development's website at: [www.myd.govt.nz](http://www.myd.govt.nz) by selecting Youth Development Strategy Aotearoa. Submissions to Parliament's Social Services committee close 17 April 2009 (see back page).*

# Parliament

## Announced

### Nine-day fortnights

The major details of the Government's Job Support Scheme have been released. The Scheme was first proposed at the Job Summit last month.

Under the Scheme, the Government will pay employers \$12.50/hour for up to five hours per fortnight, for each worker the employer negotiates a voluntary agreement with to work a nine-day fortnight. While workers are in the scheme they cannot be made redundant.

Key features of the scheme include

- Job Support will be available from 27 March 2009 to 31 December 2010, but each company can only benefit from the scheme for a six month period.
- Voluntary agreements to reduce workers hours will be negotiated between employers, workers and unions.
- The Government's contribution will be paid to employers, to pass on to workers participating in the scheme. Employers can make additional payments if they wish.

Initially, the scheme will only be available to businesses employing more than 100 people—currently approximately 1600 companies fit into this category, employing over 580,000 people between them. A similar scheme for smaller businesses is still being considered.

Reaction to the Job Support Scheme has been mixed. It has been welcomed by business groups and the CTU, who believe the Scheme will provide a basis for workers and employers to negotiate agreements that could prevent permanent job losses. The EPMU and Unite unions, while supportive of the idea, are disappointed at the size of the government subsidy, believing it to be too low for workers who are already earning less through lost overtime and shift allowances, and that initial plans to provide free training for workers on the tenth day have been abandoned.

At the time of writing, several large companies are negotiating nine-day fortnight agreements with their workers.

### Review of Foreshore and Seabed Act

A panel has been appointed to review the Foreshore and Seabed Act. Establishing the review was part of National's confidence and supply agreement with the Maori Party after the last election. Look for this to be a political hot potato. The review panel are all specialists in Maori affairs and all considered likely to be sympathetic to repealing or at least amending the Act and while clearly this is the view of the Maori Party, such a finding would be a very hard sell for Key. The review panel will hold hearings around the country in April and May and will report to the Government by the end of June.

### PlunketLine funding

One of its First 100 Days commitments, the Government has given extended service funding to PlunketLine, a toll-free telephone advice service, to allow it to run 24 hours a day, 7 days a week. The funding will run until 31 March 2010, by which time the review of WellChild parent information programmes will be complete, and new contracting arrangements will be ready to put in place.

### Review of NZAID

Barely announced, Foreign Affairs Minister Murray McCully has ordered two reviews of NZAID, which are likely to see NZAID re-absorbed into the Ministry of Foreign Affairs (MFAT). The review of the structure of New Zealand's aid programme is being done by the State Services Commission, and the review of the mandate for aid will be done by MFAT and NZAID.

NZAID was established in 2001 as a semi-autonomous body within MFAT, with the central goal of eliminating poverty. A 2005 OECD Peer Report found that NZAID was the best focused overseas aid programme in the world and rejected merging NZAID into MFAT.

The Minister has stated that he wants NZAID to focus its programmes towards economic growth, including infrastructure development, sectors such as fisheries and tourism, and private sector development. The Minister has also made it quite clear he wants to see NZAID back as part of MFAT.

At the time of writing, there are no plans for broader public consultation, a move that has been heavily criticised by aid agencies and opposition parties.

### Increased funding for large electorates

Ten electorate MPs, each with an electorate covering a geographical area of more than 20,000 km<sup>2</sup>, are to receive an additional \$40,000 funding per year for extra staffing. Although not in itself a bad idea, as these large electorates are difficult to service, the timing of the announcement against a backdrop of calls for economic restraint could have been better. That of the ten electorates, four are held by National MPs and four by Maori Party MPs (with whom the government has a confidence agreement) probably didn't help either.

## Submissions requested

### Sentencing and Parole Reform Bill

This Bill fulfils a National Party election promise to strengthen parole laws. It takes away from certain repeat offenders the right to be considered for parole. Those who commit a violent offence with a sentence of five or more years will not be eligible for parole if they commit another violent offence.

The Bill also contains ACT's "three strikes and you're out" policy—a major feature of their election campaign. "Strike offences" include the most serious violent and sexual offences, including murder, rape and sexual offences against children. On a "third strike" (third conviction), the offender would receive mandatory life imprisonment with a minimum non-parole period of 25 years. In an initial report to the House, the Attorney-General said this policy may breach the Bill of Rights.

As part of their post-election support agreement with ACT, the Government has agreed to support the three strikes policy through its first reading, but at this stage, not beyond. The Bill was opposed at its first reading by Labour, the Greens and the Maori Party. *Submissions to the Law and Order committee close 24 April.*

### Sentencing (Offender Levy) Amendment Bill

A Government Bill, this introduces a \$50.00 levy to be imposed on all offenders at sentencing. The levy is in addition to all other penalties and fines and will be used to assist with expenses faced by victims of serious crime. Similar laws exist in both the UK and Canada. *Submissions to the Justice and Electoral committee close 6 April.*

# Legislation Update

Legislation	Stage and Progress	Impact
Children, Young Persons & Their Families Amendment Bill (No.6)	Labour Government. Bill Reported back from select committee. Reinstated.	Increases the age of young people covered by the Bill to 17 years.
Children, Young Persons & Their Families (Youth Court Jurisdiction & Orders) Amendment Bill	Government Bill. Submissions to Social Services Committee close 17 April. (see page 4).	Proposes several measures aimed at reducing violent and repeat offending by children and young people.
Corrections Amendment Bill (No.2)	Government Bill. Reinstated. Passed (see page 4).	Creates new search, detection, drug-testing and offence provisions to help control prohibited items in prisons.
Criminal Investigations (Bodily Samples) Amendment Bill	Government Bill.	Gives Police wide powers to collect DNA samples from people before they are charged or convicted of a criminal offence.
Domestic Violence (Enhancing Safety) Bill	Government Bill. Submissions closed 27 February.	Introduces “on the spot” orders issued by Police to protect victims of domestic violence.
Education Amendment Bill (No.3)	Labour Government Bill. Reinstated.	Police vetting for school volunteers, removes early leaving provisions, introduces School Plus.
Electoral Amendment Bill	Government Bill. Passed. (see page 4).	Interim Bill repealing parts of the Electoral Finance Act, leaving donation rules in place.
Employment Relations Amendment Bill (No.3)	Labour Government Bill. Introduced 9 September. Reinstated.	Allows employers and employees to determine whether an employee should be classified as an employee or a casual worker.
Gambling Amendment Bill (No.2)	Labour Government Bill. Reported back from select committee. Reinstated.	Contains technical amendments to allow original Act (2003) to operate as intended.
Gangs and Organised Crime Bill	Government Bill. Submissions close 27 March.	Increased penalties for participation in organised criminal groups.
Immigration Bill	Labour Government Bill. Reported back from select committee. Reinstated.	Rewrites and consolidates immigration legislation, introduces new visas.
Judicial Matters Bill	Labour Government Bill. Submissions closed 6 October. Reinstated.	Establishes Office of Judicial Conduct Commissioner to receive complaints about conduct of Judges.
Land Transport Amendment Bill (No.4)	Labour Government Bill. Report was due 6 October. Reinstated.	Increases powers of police to deal with drug-impaired drivers.
Legal Services Amendment Bill	Labour Government Bill. Introduced September 2008. Reinstated	Simplifies legal aid process for victims of crime at Parole Board hearings and coronial inquests.
Maori Trustee and Maori Development Amendment Bill	Reported back. Bill divided into two. Reinstated.	Amends Maori Trustee Act to make the Maori Trustee Office a stand-alone organisation.
Organised Crime (Penalties and Sentencing) Bill	Labour Government Bill. Reported back from select committee. Reinstated.	Increases the maximum penalty for participation in an organised criminal group.
Public Health Bill	Labour Government Bill. Reported back from select committee. Reinstated.	Revises public health legislation including border protection and quarantine provisions.
Residential Tenancies Amendment Bill (No.2)	Labour Government Bill. Introduced 29 May. Reinstated.	Reflects significant changes in the rental market since the 1986 Act.
Sale and Supply of Liquor and Liquor Enforcement Bill	Has been Labour Government Bill. Reinstated. Submissions to Justice and Electoral Committee close on 23 April (see page 4).	Gives communities greater say in liquor licensing decisions, makes it an offence for adults to supply alcohol to minors without parental consent.
Sale of Liquor (Objections to Applications) Amendment Bill	Member’s Bill (George Hawkins). Submissions closed. Reinstated.	Restricts the number of liquor outlets and make wider provisions for objections to licenses.
Sentencing (Offender Levy) Amendment Bill	Government Bill (see page 2).	Imposes a \$50 levy on offenders at a time of sentencing.
Sentencing and Parole Reform Bill	Government Bill. Submissions to Law & Order Committee close 24 April (see page 2).	Introduces tougher parole laws. Bill also introduces “three strikes” policy for serious offences.
Taxation (International Taxation, Life Insurance and Remedial Matters) Bill	Labour Government Bill. Reinstated Submissions closed 15 January 2009.	Introduces business tax reforms and payroll giving system for charitable donations.
Waka Umanga (Maori Corporations) Bill	Labour Government Bill. Reported back from select committee. Reinstated.	Provides for the establishment of new legal entities by tribal groups or Maori associations.

## Children, Young Persons and Their Families (Youth Court Jurisdiction and Orders) Amendment Bill

Also a Government Bill, this is aimed at reducing violent and repeat offending by children and young people (see cover story). The Bill proposes to extend the jurisdiction of the Youth Court to make 12 and 13 year olds liable for prosecution for serious offences, other than murder or manslaughter. It also strengthens and extends the orders the Youth Court can make when sentencing. For example: ordering longer sentences to youth justice facilities, and ordering parents of young offenders to attend parenting education programmes. Most controversially perhaps, the Bill also introduces the much discussed “boot camps”—military-style activity programmes for the most serious young offenders. *Submissions to the Social Services committee close 17 April.*

## Sale and Supply of Liquor and Liquor Enforcement Bill

Originally a Labour Government Bill introduced in August last year, this has been picked up by National and had its first reading in the House last week. The Bill allows local councils to restrict the number of liquor outlets in their area, restricts stores selling groceries to selling only beer, wine, cider and mead, and makes it unlikely that stores selling groceries will be able to obtain a liquor licence unless they have a floor area of at least 150 m<sup>2</sup> (this aimed at reducing the proliferation of small suburban liquor outlets). The Bill also lowers the blood alcohol content for drivers under 20 without a full driver's license to zero. *Submissions to the Justice and Electoral committee close 23 April.*

## Passed

### Electoral Amendment Bill

A Government Bill, part of National's First 100 days plan, this repeals the Electoral Finance Act 2007. The new law is divided into two stages—the first stage is this new Act repealing most of the Electoral Finance Act, but leaving in place the rules relating to donations to parties and candidates. The second stage involves a consultation process with all political parties and the public on electoral finance law, with reforms in place before the 2011 election.

### Corrections Amendment Bill

Originally a Labour Government Bill, this new law creates new search, detection, drug-taking and offence provisions to help control prohibited items in prisons (e.g. illegal drugs and cell phones). The new law enables mail to be screened and introduces zero tolerance to prison staff passing prohibited items to prisoners. It also improves prisoners' access to drug and alcohol rehabilitation programmes.

## News

### Race Relations Report 2008

At the launch of the Race Relations Report 2008, Commissioner Joris de Bres said that the deepening economic recession was currently the most challenging issue for race relations. He said that the progress for Maori and Pacific peoples threatens to be halted or even reversed, particularly in the areas of employment and standard of living. The full text of his report can be read at [www.hrc.co.nz](http://www.hrc.co.nz)

## Update: Funding for Community Law Centres

With drops in real estate sales and interest rates, Community Law Centres—funded from the interest on solicitors' trust accounts—were facing funding cuts of up to 44% later this year. The Government has announced an interim one year plan to ensure Centres will have the same level of funding for 2009/10 as 2008/09, and has committed to find an enduring funding framework to ensure Centres can continue to provide services.

## Update: 90 Day trial period for new workers

Unions are planning a “name and shame” campaign against companies that exploit workers under the new 90-day probation law (see *Law Scene*, February 2009). The Employment Relations Amendment Act 2008 allows businesses employing less than 20 people the right to use a 90-day trial period for new employees. The Act came into force 1 March 2009.

The CTU will offer free legal advice to any person threatened with dismissal under the new law, will visit employers sacking workers at the end of a trial period and will publicly “name and shame” those employers.

## Update: Sending money to the Pacific

Last year the Labour Government approved new regulations under the Financial Transactions Reporting Act that reduced the cost of sending money between New Zealand and the Pacific (see *Law Scene* October 2008). This week a new website will be launched also aimed at reducing costs of sending money home. The website [www.sendmoneypacific.org](http://www.sendmoneypacific.org) is a joint project funded by NZAID and AusAID, and allows people sending money home from either Australia or New Zealand to compare the costs of transfer methods and exchange rates, the true cost of a transaction and what documentation is required by both the sender and the recipient.

## Update: section 59 Crimes Act

ACT MP John Boscawen has drafted a Members' Bill that would amend the so-called anti-smacking law and allow parents to use a “light smack” to correct their children. Members' Bills (previously called Private Member's Bills) go into a ballot and one or two Bills are drawn every second Wednesday that Parliament is sitting, if there is room for them on the Order Paper. Most Members' Bills, if drawn from the ballot don't survive, but famous examples of Members' Bills that have eventually passed into law include the Homosexual Law Reform Act (that decriminalised sexual offences between men) and, ore recently, the Prostitution Law Reform Act.

## New Zealand Federation of Voluntary Welfare Organisations

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