

Families and Friends for Drug Law Reform

committed to preventing tragedy that arises from illicit drug use

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16 August, 2004

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Tougher drug laws - more kids to have criminal records

The Government's **Criminal Code (Serious Drugs Offences) Amendment Bill 2004** although aimed at drug traffickers and serious drug offences, widens the net and imposes draconian penalties on young people experimenting in or addicted to drugs.

Families and Friends for Drug Law Reform calls for the Bill to be withdrawn for reconsideration.

"The Bill is not just confined to serious drug offences," said Brian McConnell, President of Families and Friends for Drug Law Reform, "Events that in plain language would not be regarded as 'serious crimes' will be labeled as such with severe penalties"

"For example a teenager at a dance party who resells to a friend a single ecstasy tablet that he has bought for a night out together is a 'serious drug offender' and could be penalised \$100,000 or 10 years or both."

"Or a flat dweller growing one cannabis plant under lights in his bathroom for his own use could be penalised \$20,000 or 2 years jail or both."

"Parents should be very concerned about the implications of this Bill. As parents and grandparents we want our kids and grandkids to survive their experimenting years without the burden of a criminal record because of their risk taking."

The report that gave rise to the Bill acknowledged that tougher laws cause greater harm. Harms such as: arrest and punishment, risks to health or life, delayed medical intervention, neglecting expenditure on necessities for high priced illegal drugs, increased property crime, etc

"Despite acknowledging those risks the report concluded that such tougher laws would be a greater deterrent and worth the risks," said Brian McConnell. "Those conclusions were not evidence based but simply wishful thinking."

"The ACT Government should not just unthinkingly implement that report. It must apply the principles it has signed up to - harm minimisation, a whole of government approach, the Canberra Social plan. It must also be guided by the recently tabled ACT Drug Strategy and it must consult the Assembly's own relevant reports."

The Bill should be withdrawn until all these things have been done."

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Some examples of the harshness of the Bill

The sale of any amount of drugs is defined as “trafficking” and would include:

- someone who “for a favour”, sells some of his home grown cannabis to the friend of a friend. Penalty \$30,000, 3 years or both.
- a teenager at a dance party who resells to a friend one of two ecstasy tablets that he has bought for a night out is a “serious drug offender”. Penalty \$100,000, 10 years or both.
- users who, rather than ripping off family, prostitute themselves or steal, deal to finance their incessant but moderate addiction to heroin requiring the \$100 a day for a couple of 200mg deals. Penalty \$100,000, 10 years or both.
- a person who grows naturally more than two cannabis plants, some of which may be seedlings with no commercial value, can attract a penalty of \$20,000 or 2 years jail or both.
- a person who grows artificially one or more cannabis plants can attract a penalty of \$20,000 or 2 years jail or both.

The Bill transforms minor players in the drug trade and users into serious criminals.

- A couple of cannabis plants grown by a user would not normally amount to a serious drug offence but when harvested could well expose the user to such a charge. The report of the Model Criminal Code Officer Committee (MCCOC) which this Bill is implementing notes that “an average cannabis plant 1.6m tall with a 1m girth will yield an average of 250g of dry useable cannabis”. It adds that: “There is an obvious and clear discrepancy between the potential liability of the cultivator before and after harvesting. The small number of plants, once harvested, will almost always exceed the traffickable quantity and may exceed the commercial quantity of 2.5 kilograms.”
- Under clause 629 the prosecution can aggregate quantities of drugs sold over any length of time by an habitual user, the only limitation being that “each occasion was not longer than 7 days apart from another of the occasions”. The penalty is \$250,000, 25 years in gaol or both. This possibility is presented as a virtue. It is included to cover “undercover police operations directed against dealers at the lower end of the illicit market. The report adds that: “The aggregation provision will allow police to target particular individuals for intensive buy and bust investigations. In plain language it leaves the door open for police to engage in entrapment of young people by provoking a long string of offences.