

Tuesday, 22 July 2008

TRUTH IN SENTENCING SECURED

The Attorney-General Michael Atkinson and Correctional Services Minister Carmel Zollo will today move to close a possible gap in Truth in Sentencing laws, introduced by the Liberal Government in 1994.

Convicted murderer Shane Andrews has claimed before the Full Bench of the Supreme Court that he has a right to 'automatic parole' because he was sentenced before Truth in Sentencing laws took effect in 1994. The court has reserved its decision.

"These laws were always intended to apply to all prisoners, regardless of when they were sentenced. These laws have been applied to all prisoners since their inception," Mr Atkinson said.

Andrews was convicted in 1991 of the shooting murder of Brian Lyden outside the Aberfoyle Park Primary School. He was sentenced to life in jail with a non-parole period of 23 years.

At that time, under the *Correctional Services Act 1982* Andrews and other prisoners were entitled to instant release upon the expiry of their non-parole period, which was discounted further through a remissions system in jail.

In 1994, the Act was amended by the *Statutes Amendment (Truth in Sentencing) Act*. The law was changed so that now prisoners must apply for release to the Parole Board. Many factors are considered before an inmate with a life sentence can be recommended for release to the Governor. The paramount consideration is public safety.

The Parole Board has ruled three times that Andrews is not fit to be let out, chiefly because he has expressed no contrition and has little insight into the effect of the murder he committed.

"As Attorney-General, I have been advised that Andrews' court action is unlikely to succeed. Nevertheless, our amendments will ensure prisoners who pose a risk to public safety won't be let loose," Mr Atkinson said.

"Now is an opportune time for us to clarify the law and remove any doubt about the intention of Parliament when it first passed the Truth in Sentencing laws," Mrs Zollo said.

"The Rann Government will not risk the release of this unrepentant murderer or any other prisoners who believe they have a similar case to Andrews," she said.

The *Correctional Services (Application of Truth in Sentencing) Amendment Bill 2008* will take effect immediately after it's passed.

“I call on all members to support the Bill. To fail to do so could unforgivably risk the safety of innocent people,” Mr Atkinson said.

“Seeing as the Truth in Sentencing laws were enacted by the former Liberal Government, I expect the support of the Liberal Opposition to put these laws beyond doubt,” he said.

Shortly after the Truth in Sentencing Act first took effect, armed robber Edward Ray Summers advanced a very similar argument to that Andrews is now pressing (*Summers v Nelson 1994*). Supreme Court Justice Bruce Lander rejected his argument and validated the legislation affirming that it applies to all prisoners regardless of the date they were sentenced.