

MANDATORY SENTENCING — MENTAL HEALTH

167. Hon ED DERMER to the parliamentary secretary representing the Attorney General:

Some notice has been given of the question.

- (1) Are any amendments being drafted to mandatory sentencing laws in relation to patients suffering a mental health disorder?
- (2) If no to (1), why not?
- (3) How many people suffering with mental health issues have been charged and sentenced under the mandatory sentencing laws?
- (4) What were the prison terms for these people?
- (5) What treatment are these people receiving for their mental health issues while in the prison system?

Hon MICHAEL MISCHIN replied:

I thank the honourable member for some notice of this question.

- (1) In Western Australia there are several offences for which a mandatory sentence is applicable, including, in the Criminal Code, mandatory imprisonment for serious assaults committed in prescribed circumstances, and mandatory imprisonment for repeat offenders convicted of burglaries in places ordinarily used for human habitation. There are no amendments presently being drafted to any of these mandatory sentencing laws.

[Emergency evacuation alarm sounded.]

The PRESIDENT: Order! We have to wait for further instructions. In the meantime, we will proceed.

Hon MICHAEL MISCHIN: I will continue —

- (2)–(4) The government is satisfied with the manner in which these laws are operating. When a mental disorder is sufficient to vitiate a person's criminal responsibility, that occurs. Further proceedings relating to mentally impaired persons are covered by separate legislation—the Criminal Law (Mentally Impaired Accused) Act 1996. Under that act, the court is empowered or, in some instances, required to make particular orders in respect of the mentally impaired person rather than sentencing that person. Hence, when a person is charged with an offence and is sufficiently mentally impaired to be not guilty by reason of unsoundness of mind or is not mentally fit to stand trial, they are not sentenced under mandatory sentencing laws. As this is the case, parts (3) and (4) of the member's question are not applicable and cannot be answered.
- (5) This question would need to be referred to the Minister for Corrective Services.