

Scrutiny of Acts and Regulations Committee
Parliament House
Spring Street
East Melbourne VIC 3002
2009

21st January 2010

Sent by email: andrew.homer@parliament.vic.gov.au

Dear Committee Members,

Severe Substance Dependence Treatment Bill 2009

Youthlaw is writing to express our concerns regarding the introduction of the *Severe Substance Dependence Treatment Bill 2009* (the Bill).

Youthlaw is Victoria's state-wide community legal centre for young people. Youthlaw works to achieve systemic responses to the legal issues facing young people, through casework, policy development, advocacy and preventative education programs, within a human rights and social justice framework.

As you will be aware, the Bill has been introduced into the Victorian Parliament to “provide for the detention and treatment of persons with severe substance dependence, where this is necessary as a matter of urgency to save the person’s life or prevent serious damage to the person’s health”.

Youthlaw is concerned the Bill is likely to disproportionately disadvantage at risk, vulnerable young people (over 18 years) with substance dependence issues and possibly mental health issues. Some specific concerns include:

1. Involuntary detention and treatment of an individual who has committed no offence is a significant interference with fundamental human rights in the *Charter of Human Rights and Responsibilities Act 2006 (Charter)*, in particular right to liberty and security of the person (section 21) and the right not to be subjected to medical treatment without consent (s10 c) and fair hearing (s24) and equality (section 8). For example given current community perceptions that young people are responsible for “alcohol fuelled” violence, civil detention has the potential to be used for purposes other than drug treatment i.e. ridding the streets substance affected young people.
2. There is a lack of evidence base supporting involuntary detention and compulsory treatment of non-offenders as a reasonable, necessary and effective treatment, especially for young people. Rather research and health professionals maintain that in general it is the client's own internal motivation that counts in terms of whether they stick with treatment, regardless of how much external coercion there is.¹ In other words, the drug using person has to want to get treatment.
3. There are less restrictive means of achieving the purpose of the Bill including engaging persons in health promotion and educative strategies and in voluntary treatment. Unfortunately many young people with substance abuse issues currently experience significant difficulty and waiting lists in accessing voluntary treatment and rehabilitation programs. It is vital that those who wish to access treatment are able to do so.

¹ T Cameron Wild, John A Cunningham and Richard Ryan, ‘Social Pressure, Coercion, and Client Engagement at Treatment Entry: A Self-Determination Theory Perspective’ (2006) 31 *Addictive Behaviors* 1858, 1860-61.

It is conceivable in this current environment under the Bill that a young person who is open to accessing voluntary treatment services are forced to receive involuntary treatment as that is the only way to access treatment. That is an unacceptable scenario.

Youthlaw recommends the following recommendations:

Recommendation 1

Civil detention and compulsory treatment proposed in the Bill does not demonstrably justify the limitations to human rights and should therefore be found to be incompatible with the Charter.

Recommendation 2

Additional resources are committed to increasing the accessibility of evidence-based and voluntary drug and alcohol treatment responses that are demonstrably effective in reducing harms and maximising positive treatment engagement and outcomes, and are conducted within a human rights sensitive framework.

Recommendation 3

In the alternative if the Bill is passed, policy be developed that guarantees all persons subject to a detention and treatment order can access voluntary treatment services once the order has expired.

Please contact Tiffany Overall on 9611 2422 if you have any queries.

Yours sincerely



Ariel Couchman
Director
Youthlaw