



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**THE SENATE**

**PROOF**

**BILLS**

**Social Services Legislation Amendment Bill 2015**

**Second Reading**

**SPEECH**

**Monday, 10 August 2015**

BY AUTHORITY OF THE SENATE

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## SPEECH

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<b>Questioner</b>	<b>Responder</b>
<b>Speaker</b> Lambie, Sen Jacqui	<b>Question No.</b>

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**Senator LAMBIE** (Tasmania) (12:38): I rise to briefly contribute on the Social Services Legislation Amendment Bill 2015. In Australia we have legislation which allows people in psychiatric confinement to receive income support payments after they have been charged with a serious offence. These Australians with severe mental health illnesses receive this payment because they have not been convicted of any crime and, as Australian citizens, like all of us they have the right to a presumption of innocence until proven guilty and therefore the same access to income support payments that other Australians with mental health illnesses have. As the Parliamentary Library study on this legislation states:

This can happen when they are found unfit to stand trial because of mental impairment or are found not guilty because of mental impairment. People in this group are referred to as forensic patients.

Essentially this government legislation before the parliament today allows the government to cut the disability support pension to psychiatric or forensic patients who have been accused of serious and sometimes horrendous crimes. It is very easy to take a populist position and vote for legislation which takes a hard line against people who are alleged to have committed terrible crimes and who have serious mental illnesses. The harder position is to oppose this legislation on the basis that it undermines basic civil rights and the chance of a quicker recovery for people who are very sick with mental illness.

I am going to take the hard road on this issue and vote against this government legislation. In this debate, I think the government has forgotten that the people affected by this legislation have already been assessed by the courts and found to be mentally very ill. It seems that the government is trying to undermine the courts' rulings and punish these people. There is a bigger principle than just saving government funding and punishing bad people. It is about the government respecting our courts, due process and natural justice. As a politician, I know it is very difficult to be on the side of a debate which calls for a protection of natural justice for people accused of brutal and horrible crimes. But we must always remember that these people are in a special category: our courts and best medical experts say the accused criminals have severe mental health injuries and sicknesses and therefore are not in control of their own actions.

Unfortunately, with our ice epidemic these sorts of crimes committed by people who are mentally damaged will only become more common. I expect that to escalate very quickly—like it already has over the past few years—as the harmful effects of highly addictive, very dangerous, cheap, easily accessed drugs are felt on our sons, our daughters and our grandchildren. This mental health crisis will continue and grow unless both federal and state governments take very strong measures to prevent mental health injuries in our young people.

One of the provisions that the JLN wants all political parties to consider is national legislation which makes detox for children who are drug addicted mandatory. My research to date in preparing a private member's bill shows that mandatory detox is available in every state of Australia, with New South Wales enforcing it only for as long as the withdrawal period and Tasmania having the capability to enforce it for six months if a medical professional recommends it. However, this is only used as a last resort, and it should be used as a first resort. Mental health legislation provides for people to be treated under an involuntary order but distinguishes addiction from mental illnesses.

There is no specific legislation for compulsory treatment for minors. The JLN will fix that glaring problem. Usually the law says the parent or guardian can make decisions on their behalf, but Australian legislation and common-law principles are increasingly recognising the developing competency of adolescents to make decisions with regard to their own medical treatment. Sweden has had a program in place since 1982 where forced drug treatment was provided for six months to users who were a threat to themselves and others, with the hope that, following the six months, the person would be in the right frame of mind to continue their treatment voluntarily.

Australian parents deserve the right, if their children are addicted to lethal and harmful drugs like ice, to involuntarily detox them. Australian parents deserve the right to speak to their children, not the drug, when they are trying to put them back on the straight and narrow. I have to say that down there in Tasmania we have a massive ice problem. I am a senator of Australia and I have a 21-year-old son that has a problem with ice, and yet even with my title I have no control over my son. I cannot involuntarily detox my own son. I am not talking to my son anymore; I am now talking to a drug. And I can tell you I am not the only parent out there; there are thousands of us.

So, in addressing this Social Services Legislation Amendment Bill 2015, I would ask senators to think more broadly about the issue of mental health and how injuries and harm are caused in individuals. I ask you to do that because the way that ice is affecting these kids is phenomenal and it is a very, very bad result. These kids will have three or four choices in their lives. They will either end up on a slab, end up in a mental institution or end up killing somebody else because of their actions because they do not have control of the drug. This is where this society is heading, and we are sitting here and we are not doing anything about it. When we realise that this ice is a major problem in our society, it will be all too late.

Media reports indicate that the Social Services Legislation Amendment Bill will reap \$29.5 million in savings for the federal government over four years. This, of course, means that if this bill is passed, that \$29.5 million cost will be shifted back onto the states. The federal government has already taken \$80 billion in health and education funding from our state governments—and I sure as hell know that Tasmania cannot afford that—and the federal government continues to place a greater health burden onto the states. Tasmania's health system is in a terrible crisis. They are some of the reasons I refuse to support this government bill.