

Youth crime bill pushes deterrence

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TONDA MACCHARLES
OTTAWA BUREAU

OTTAWA—Tougher sentences for young offenders can be expected under legislation introduced yesterday that makes judges take deterrence into consideration.

The bill introduced by the Conservative government would also allow the jailing of teenagers charged with serious offences right from the start until their trials are over.

The legislation is part of a law-and-order agenda being pushed this week by the government.

Today, the government is expected to introduce a bill to bring in mandatory minimum jail terms for certain serious drug crimes – and later this week measures to tackle identity theft are expected.

Political and legal experts criticized yesterday's two youth crime measures as unrealistic, possibly unconstitutional and "pandering" to populist sentiment without being based on facts.

Justice Minister Rob Nicholson introduced the measures in the Commons to amend the Youth Criminal Justice Act, the successor legislation to the old Young Offenders Act. That law was overhauled in 2003 to put a higher priority on youth rehabilitation.

The Conservatives say it is too soft, and vow more changes are coming as part of their "tackling crime" agenda. The youth justice law will face a broader review next year, its fifth anniversary.

Yesterday, contrary to expectations, the government did not move to impose automatic adult jail terms on young people who commit violent crimes, although it has announced its intention to do so.

Nicholson said he awaits a Supreme Court of Canada ruling on the current law, which already provides for adult sentencing for youths in cases of violent crime.

Still, Nicholson justified his bill by saying Canadians are concerned by what he called higher rates of youth crime and the "seriousness of these crimes" in such cities as Halifax, Toronto and Winnipeg.

But experts, including Martha Mackinnon of Justice for Children and Youth, a legal clinic for low-income youth, say serious youth crime is not increasing, except for a blip last year. Mackinnon says the Conservatives are addressing a perception that has been exacerbated by politicians and the media. She also criticized the government's move to bring back "general deterrence" for youths, saying "there's no evidence that deterrence works for young people."

"They tend to act more impulsively than adults. We know how their brains work. They really just don't see the consequences of their actions anyway. They think you're going to live forever, you're not going to be caught, and they are just not going to be deterred by what happened to another young person."

Liberal justice critic Marlene Jennings (Notre-Dame-de-Grâce-Lachine) said the government was "pandering. Rather than looking at evidence-based policies that will actually make Canadians safer, they're only interested in shoring up their own political base."

Yesterday's bill does two things:

It reintroduces as a sentencing principle for judges the idea of general deterrence and denunciation. This comes more than a year after the Supreme Court of Canada found it was not a valid consideration for judges under the revamped act. The high court noted there is "much controversy" over the concept, and said Parliament had already made the "policy choice" to take "general deterrence" or denunciation out of the mix for sentencing young people.

It also makes it easier for a judge to deny pre-trial bail to an accused young person. A judge may consider "any pending charges," whether the charges are for a serious violent crime, and if the person is a repeat young offender, has a history of breaching release orders, or is a risk to cause "serious bodily harm" to another person.

Mackinnon said the provision puts "too much of the decision-making back in the hands of police officers" because it encourages officers who want to ensure a youth is jailed to jack up the number of charges they lay in an incident.

NDP justice critic Joe Comartin (Windsor-Tecumseh) said the measure is "basically useless" and a "political" move "because our judges are already dealing with the detention of youth when appropriate using the same type of criteria that's in that part of the bill."