



# Report to the Legislative Assembly of Samoa

## **Sentencing Bill 2015.**

**Finance and Expenditure Committee.**

## 1. RECOMMENDATION

The Finance and Expenditure Committee recommends the Assembly take note of its Report.

## 2. RESOLUTION:

After the consideration in detail of the Sentencing Bill 2015, the Committee resolved to recommend the Assembly:

**That the Sentencing Bill 2015 progresses with Amendments.**

## 3. STANDING ORDER 170:

In accordance with the provisions of Standing Orders 170, it shall be the duty of the Finance and Expenditure Committee:-

- To consider any bill, petition or other matter referred by the Assembly pursuant to these Standing Orders; and any Estimates or review of ministerial and departmental performance;
- To allocate to any Select Committee the examination of any Estimates and of any review of departmental performance;
- To have responsibility for the overall review of financial management in all government ministries and public bodies.

## 4. PROCEEDINGS.

The Sentencing Bill 2015 was referred to the Finance and Expenditure Committee<sup>1</sup> pursuant to the instruction issued by the Assembly on 13<sup>th</sup> August 2015, to consider and report back pursuant to Standing Orders.<sup>2</sup>

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<sup>1</sup> Standing Order 170(1) – Hon PAPALIITELE Niko Lee Hang MP, TAFUA Maluelue Tafua MP, Hon PALUSALUE Faapo II MP, LEALAILEPULE Rimoni Aiafi MP, TAEFU Lemi Taefu MP, TIALAVEA F T Seigafolava MP, AFUALO Wood Dr Uti Salele MP & Hon FAUMUINA T F Liuga MP.

## 5. SUMMARY OF FINDINGS.

The core objective of the Sentencing Bill 2015 highlighted by the Committee throughout its consideration is to provide a principles and guidelines to be applied by Courts in sentencing and otherwise dealing with Defendants.

The provisions of the bill defines its main purposes which include the following:-

- (a) To provide ways in which Defendants may be sentenced or otherwise dealt with by the courts;
- (b) To aid in the public's understanding of sentencing practices, by providing principles and guidelines to be applied by the courts in sentencing or otherwise dealing with defendants;
- (c) To provide a sufficient range of sentences and other means of dealing with defendants; and
- (d) To provide for the interests of victims of crime.

As outlined in the explanatory memorandum, the sentencing bill is divided into four (4) parts which consists the following :-

- (i) *the Preliminary; which provides for interpretation and definitions of terms used;*
- (ii) *Purposes and Principles of Sentencing and General Provisions;*
- (iii) *Sentences, orders and related matters.*
- (iv) *Miscellaneous; which include general provisions for and regulations.*

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<sup>2</sup> Standing Order 170(2)(ix) – *To consider any bill, petition or other matter referred by the Assembly.*

## 6. CONSIDERATION IN DETAIL OF THE BILL.

The Committee considered the each clause of the Sentencing Bill 2015 in detail, and is satisfied with all the provisions therein except, for amendments recommended to the following provisions :-

### **Amendments;**

#### 6.1. Clause 33.

Insert new sub-clause (3) after subclause (2) to read;

**“(3) In this Division, “an officer” means a person (whether or not a prison officer) appointed by the Commissioner pursuant to the Prisons and Corrections Act 2013”.**

#### 6.2. Clause 34(2).

Omit the expression “12 months” as it appears in sub-clause(2) and substitute therewith “two(2) years” thus new subclause (2) reads :-

**“(2) The sentence term may be for a period, being no more than 2 years, that the court thinks fit”.**

#### 6.3. Clause 37.

Omit the expression “**probation officers**” as it appears in caluse 37 and substitute therewith the expression “**an officer**”.

#### 6.4. Clause 39.

Omit the expression “**probation officer**” as it appears in **clause 39** and substitute therewith the expression “**an officer**”.

#### 6.5. Clause 40.

Omit the expression “**probation officer**” as it appears in **clause 40** and substitute therewith the expression “**an officer**”.

**6.6. Clause 41.**

Omit the expression “probation officer” as it appears in clause 41 and substitute therewith the expression “an officer”.

**6.7. Clause 91.**

Amendments to the “Community Justice Act 2008”.

**(i) Clause 13.**

Omit the expression “one (1) year” and substitute the term “two (2) years”.

**(ii) Clause 17(1)(a).**

Omit the expression “72 hours” and substitute “48 hours”.

**(iii) Clause 17(1)(d).**

Omit the expression “72 hours” and substitute “48 hours”.

The proposed amendments to the Community and Justice Act 2008 are subject to the Policy decision to retain the current probation period of 2 years, and also maintain the current status of 48 hours.

**7. RESOLUTION.**

At the conclusion of its deliberations, the Committee resolved to recommend to the Assembly:

**That the Sentencing Bill 2015 progresses with amendments.**

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Appendix - 1.

Hon PAPALIITELE Niko Lee Hang.  
Chairperson

TAFUA Maluelue Tafua  
Deputy Chairperson.

Hon PALUSALUE Faapo II  
Member

Hon FAUMUINA T Faaolatane Liuga  
Member

LEALAILEPULE Rimoni Aiafi  
Member

AFUALO Wood Dr Uti Salele  
Member

TIALAVEA F T Seigafolava  
Member

TAEFU Lemi Taefu  
Member

**Assistance.****1. Minsitry of Justice and Courts Administration.**

- |                                     |   |  |
|-------------------------------------|---|--|
| <b>Masinalupe Tusipa Masinalupe</b> | - | <b>Chief Executive Officer</b>   |
| <b>Lio Heinrich Siemsen</b>         | - | <b>Assistant Chief Executive Officer</b><br><i>(Courts Division)</i>                               |
| <b>Faagutu Vaalotu</b>              | - | <b>Assistant Chief Executive Officer</b><br><i>(Probation Warrants &amp; Maintenance Division)</i> |

**2. Attorney General's Office.**

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|----------------------------------|---|--|
| <b>Aumua T Ming C. Leung Wai</b> | - | <b>Attorney General.</b>   |
| <b>Precious Chang</b>            | - | <b>Assistant Attorney General;</b>                               |
| <b>Rubeni Nawaqakuta</b>         | - | <b>Consultant;</b><br><i>(Drafting Division)</i>                 |
| <b>Meiapo Faasau</b>             | - | <b>Acting Legislative Drafter;</b><br><i>(Drafting Division)</i> |
| <b>Kylie Wilson</b>              | - | <b>Legislation Drafter;</b>                                      |

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