

# Community Protection Bill

## EXPLANATORY MEMORANDUM

*Clause 1* sets out the purposes of the Act.

*Clause 2* provides for the Act to come into operation on the day it receives Royal Assent.

*Clause 3* identifies Garry David.

*Clause 4* provides for the Minister to seek an order for preventive detention of Garry David by an *ex parte* application to the Supreme Court.

*Clause 5* provides for Garry David to be detained, or continue to be detained, in a prison or psychiatric inpatient service under the Mental Health Act (as the case may be) immediately on the filing by the Minister of an application to the Supreme Court and provides for him to be so detained until the determination of the application unless the Supreme Court otherwise orders or in the case of medical necessity unless his custodian signs a written authority for his transfer.

*Clause 6* provides for the Supreme Court to make an interim order for detention pending hearing of an application under *Clause 4*.

*Clause 7* sets out the provisions that are applicable to the Supreme Court on an application for detention. It allows the Court to be fully informed as to all matters that are relevant to the application and any order sought and facilitates the Court's function by giving the Court the widest possible power to receive and obtain evidence without being restricted by the rules of practice as to evidence and allows the reception into evidence of reports, records and documents of all kinds that might bear upon the application.

*Clause 8* provides for the Court to make an order for preventive detention where it is satisfied on the balance of probabilities that Garry David presents a serious risk to the safety of any member of the public and he is likely to commit any act of personal violence to another person.

*Sub-clause (2)* requires the Court to specify whether Garry David is to be detained in a prison, a psychiatric inpatient service or other institution and requires it to specify the period of detention which must not, in any case, exceed 6 months.

*Clause 9* provides for the Court to have powers to extend, vary or revoke an order for detention on the application of the Minister.

*Clause 10* provides for the detention of Garry David in accordance with an order of the Supreme Court and makes provision for him to be deemed to be either a security patient within the meaning of the *Mental Health Act 1986* (excluding the application to him of certain discharge provisions) or a prisoner within the meaning of the *Corrections Act 1986* or to be in the custody of the person specified in the order.

*Clause 11* provides for Garry David to be provided with standards of care or treatment that are at least equal to those provided to other detainees in the institution in which he is ordered to be detained.

*Clause 12* provides that Garry David is not to be discharged or released from preventive detention except in accordance with an Order of the Supreme Court.

*Clause 13* provides that Garry David may be temporarily released from detention only pursuant to an Order of the Supreme Court under section 12 or in the case of medical necessity, pursuant to an Order of the Supreme Court or pursuant to an instrument signed by the person in whose custody he has been placed.

*Clause 14* provides for Garry David's custodian to report to the Minister at any time or as the Minister requests and requires that custodian to report at least once every six months to the Minister.

*Clause 15* provides that a report under *Clause 14* is to contain certain particulars concerning Garry David and his detention.

*Clause 16* provides for the Act to expire on the first anniversary of the day it receives Royal Assent.