



STUART GRIMLEY MP

Member for Western Victoria
State Leader of Derryn Hinch's Justice Party

MEDIA RELEASE



Derryn Hinch's Justice Party Calls for Investigation into Bail Law Loophole in State's Border Communities

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Derryn Hinch's Justice Party MPs Stuart Grimley and Tania Maxwell are calling on the Attorney-General to meet with the Cross Border Commissioner to discuss a loophole that is providing inconsistencies in the state's bail laws.

The MPs – who both represent electorates that run along the Western and Northern border of Victoria – argue that not having 'cross border specific' legislation is creating a number of loopholes with regard to prosecuting bail breaches.

The loopholes surround those who commit offences whilst on bail; that these offences are dealt with very differently in respective states. This could effectively mean if a threat to kill (or any other serious offence) is made in Albury instead of Wodonga or Bordertown instead of Kaniva, the outcome could be different.

In Victoria, when someone commits a [Schedule 2](#) offence (including manslaughter, home invasions and arson causing death) whilst on bail for a less serious crime (for example, a shop theft, assault or drink driving), they must satisfy a "Show Compelling Reasons" test to be granted bail. If they committed a Schedule 2 offence whilst on bail for a Schedule 2 offence, the higher "Exceptional Circumstances" test must be proven.

If someone is currently on bail in *New South Wales* though, for an offence that is equivalent to a Victorian Schedule 2 offence and you then cross the border to Victoria and commit a Schedule 2 offence, Victorian Courts cannot take into account their current bail in NSW during a bail hearing and they will be placed into the "Show compelling reasons" test only.

More worryingly, if you are bailed in NSW for a Non-Schedule 2 offence and then commit an offence of the same level in Victoria, neither test needs to be satisfied and you will be given bail unless you're a risk to the community as Victoria doesn't recognise NSW bail.

If either a "Show Compelling Reasons" test or "Exceptional Circumstances" test is required, there is a 'reverse onus', where the offender must prove reasons why they should be granted bail. But again, this is only under Victorian law.

It's stark how the two states' different bail laws are not being applied consistently especially in border communities.

In 2008, an Act passed in Western Australia that dealt with a similar cross-border problem. It was mainly aimed at family violence cases but included taking a consistent approach with offences such as drink and drug driving. The *Cross Border Justice Act 2008* between Northern Territory, Western Australia and South Australia means that the law, in relation to family violence, can be dealt with consistently in border areas.



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Mr Grimley and Ms Maxwell acknowledged that the issue affects all offences that occur interstate but that the overwhelming issue and problem was with cross-border communities where travel across the border can occur frequently.

Quotes Attributable to Stuart Grimley MP:

“The very different bail laws that we have in Victoria versus our bordering states is making it very difficult to apply the law consistently to offenders.

You could step into New South Wales and commit a crime and have a completely different justice response, even if you’re living in Victoria. It’s a huge loophole.

It’s an absolute dog’s breakfast for police and police prosecutors in border communities. They are understandably frustrated at not being able to apply the law consistently.

I’d welcome the Attorney-General to meet with the Cross Border Commissioner about how bail laws are being applied in these communities and the possibility of creating cross-border laws.”

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