



**MINISTERIAL STATEMENT
To the House of Assembly**

by

**The Hon. Kathy Lynn Simmons JP, MP
Attorney-General and Minister of Legal Affairs and
Constitutional Reform**

A Bill entitled the “*Criminal Code Amendment Act 2022*”

Friday, June 17th, 2022

Mr. Speaker, I am pleased to be tabling today in this Honourable House the Bill entitled “*Criminal Code Amendment Act 2022*”. This Bill seeks to amend temporary, or ‘sunset clause’ provisions in the **Criminal Code Amendment Act 2012**, which inserted the criminal offence of ‘instructing a person to participate in unlawful gang activity’ and instituted increased sentences for offences where unlawful gang activity is a feature of the criminal activity into the **Criminal Code 1907**.

In effect, this Amendment Bill will permanently codify sections **33A, 70JA** and **70JB** of the **Criminal Code 1907**. These now-vital provisions have been kept in operation via Ministerial Notices extending their effect, since July 2012.

Mr. Speaker, Members and the public at large, are agonizingly aware of the unprecedented scourge of gang-related criminal activity which has come to light in Bermuda society. Looking back to when the Criminal Code Amendment Act 2012 first became law, Bermuda was gripped, for the first time in its history, with increases in violent crime demonstrating the hallmarks of criminal organisation into groups we warily call ‘gangs’. In 2012, politicians were caught on the back-foot because society was slow to accept the new reality that gangs were present and operating in Bermuda. One former Premier, quite infamously, referred to the young people getting ensnarled in this type of criminal activity as “only four percent”.

With that backdrop, **Mr. Speaker**, we come to this moment in time, which—regrettably—requires us as legislators to consider the intractability of gang-related crime in Bermuda; despite sustained policing efforts and inventive Government-wide policies to dissuade young people from joining unlawful gangs and participating in unlawful conduct.

Mr. Speaker, it is proper for other Honourable Members of the Government to elucidate this House with updates related to crime, policing and social services, particularly as it relates to

our youth. However, the blunt reality is that the criminal law must also play its part with effective offences and dissuasive penalties. As the Attorney-General and Minister responsible for justice, I inherited the responsibility to continue extending the gang-related sunset clause provisions of the Criminal Code Amendment Act 2012, with no end in sight.

As Members know, ‘sunset clause’ provisions are those which set a fixed expiration date for a legislative provision within an enactment. Typically, sunset clause provisions are used when the underlying policy is sought to fix an interim problem or the enactment is expected to become unnecessary in the future. When the Legislature passed the Criminal Code Amendment Act 2012, the country as a whole could neither accept, nor portend, that society would still be gripped with gang-related criminality such that there would be a continuing need for gang-specific criminal offences and increased penalties.

Mr. Speaker, Ministerial Notices extending the operation of the **Criminal Code Amendment Act 2012** provisions have been issued repeatedly over the past ten (10) years. We have no responsible option that allows us to dispense with the attendant

provisions, addressing unlawful gang activity, in the foreseeable future.

With the support of the Director of Public Prosecutions and the Commissioner of Police, it is our collective view that the intent and utility of these provisions remain crucial to the overall efforts to mitigate against the proliferation of criminal gang activity. Thus, after ten (10) years, the use of sunset provisions to effect the policy and legal objectives in question is beyond the life-expectancy the policy makers and legislators had for the 2012 Act.

With that, **Mr. Speaker and Members**, this Amendment Bill simply seeks to permanently include sections **33A**, **70JA** and **70JB** into the **Criminal Code 1907**, thereby no longer requiring a sunset clause provision or extension Notices to be issued by the Minister responsible for justice. I look forward to providing further details of the provisions as the Bill advances through the legislative process.

Thank you, **Mr. Speaker**.