

**PRISONERS (INTERSTATE TRANSFER) AMENDMENT BILL 2009**

*Introduction and First Reading*

Bill introduced, on motion by **Hon Simon O'Brien (Minister for Transport)**, and read a first time.

*Non-referral to Standing Committee on Uniform Legislation and Statutes Review*

On motion without notice by **Hon Simon O'Brien (Minister for Transport)**, resolved —

That pursuant to Standing Order 230A(3), the Prisoners (Interstate Transfer) Amendment Bill 2009 not stand referred to the Standing Committee on Uniform Legislation and Statutes Review.

*Second Reading*

**HON SIMON O'BRIEN (South Metropolitan — Minister for Transport)** [5.54 pm]: I move —

That the bill be now read a second time.

The Prisoners (Interstate Transfer) Amendment Bill 2009 will amend the Prisoners (Interstate Transfer) Act 1983 by introducing nationally agreed changes to the range of factors taken into account when a transfer of prisoner is requested.

The bill introduces amendments to part II of the Prisoners (Interstate Transfer) Act 1983 to broaden the range of factors that the minister may have regard to when considering a request by a prisoner to be transferred to, or from, another state or territory. The Prisoners (Interstate Transfer) Act 1983 forms part of the national cooperative legislative scheme that permits inmates to be transferred between participating jurisdictions. Currently the act allows prisoner transfers for only two purposes: to stand trial or for welfare purposes.

Part II of the Prisoners (Interstate Transfer) Act 1983 covers transfers for welfare purposes. A transfer for welfare purposes may be made at the request of the prisoner concerned and depends on the minister forming the opinion that it is in the interests of the prisoner's welfare that the prisoner be transferred. Under the national cooperative legislative scheme, welfare transfers involve a three-step process. Firstly, a prisoner makes a request to the minister in his or her state for a transfer. If that minister is of the opinion that the transfer is in the interests of the prisoner's welfare, the minister writes to the corresponding minister in the receiving jurisdiction requesting that the minister accept the transfer. Secondly, under the corresponding legislation, the relevant minister in the receiving jurisdiction then has discretion to approve the transfer. Thirdly, if the minister in the receiving jurisdiction consents to the transfer, the minister making the original request may make the order for transfer. When the prisoner is a federal offender or a joint state or territory and federal offender, the commonwealth Attorney-General must also consent to the transfer.

I turn now to the detail of the bill. The heading of part II is changed from "Transfer for prisoner's welfare" to "Transfer at request of prisoner". This emphasises the fact that the impetus for a transfer comes from the prisoner and better reflects the prisoner's own part in the welfare transfer procedures.

Proposed new section 9A is inserted to provide a non-exhaustive list of factors that the minister may consider when a prisoner makes a request to be transferred to, or from, another state or territory. This bill provides that the minister may have regard to the following when considering such a request: the welfare of the prisoner concerned; the administration of justice in Western Australia or any other state; the security and good order of any prison in Western Australia or any other state; the safe custody of the prisoner concerned; the protection of the community in Western Australia or any other state; and any other matter the minister considers relevant.

The current terms of the Prisoners (Interstate Transfer) Act 1983 allow the minister to consider welfare transfers only in a relatively narrow and unclarified manner. This bill increases the scope of the minister's discretion to consider broader policy objectives, such as the general administration of justice, as well as other important matters such as the prisoner's safety and the safety of the community in general. These amendments are supported by the Standing Committee of Attorneys General and the Corrective Services Ministers' Conference.

As a point of historical background to this bill, members may recall considering this bill last year. The bill was passed by the Legislative Assembly on 8 April 2008 and was introduced into this house on 10 April 2008. Due to its status as uniform legislation and pursuant to standing order 230A, the bill was subsequently referred to the Standing Committee on Uniform Legislation and Statutes Review. The committee released its report on the bill and finds that —

The Committee finds that the Prisoners (Interstate Transfer) Amendment Bill 2007 is consistent with the agreement to amend the prisoner transfer legislation made by the Standing Committee of Attorneys General and the Ministerial Council of Corrective Services Ministers.

I commend the bill to the house.

Debate adjourned, pursuant to standing orders.