

DRAFT MENTAL HEALTH BILL 2011 — INFORMED CONSENT TO STERILISATION —
12-YEAR-OLDS

169. Hon MATT BENSON-LIDHOLM to the Minister for Mental Health:

I refer to the draft mental health bill 2011, which allows for 12-year-olds to give informed consent to sterilisation.

- (1) Can the minister explain under which circumstances a 12-year-old would need to be sterilised to achieve a mental health treatment outcome?
- (2) Will the minister support the recommendation of the Commissioner for Children and Young People that all references to sterilisation in the draft mental health bill 2011 be deleted?

Hon HELEN MORTON replied:

- (1)–(2) I am particularly pleased to hear the level of interest in the draft mental health bill; I think it is fantastic. I have missed the opportunity to say on a couple of occasions why the age of 12 years features in the draft mental health bill. People might not be aware that the concept of mature minor or competent minor does not have an age limit. Under the common law that applies at the moment in Western Australia, and in every other jurisdiction in Australia, the concept of mature minor or competent minor enables children to make decisions about these sorts of issues as long as a general practitioner considers them to have the attributes that I mentioned earlier in my response to the question of Hon Sally Talbot. For the first time in Western Australia, the draft mental health bill has sought to indicate that from at least the age of 12 years, regardless of whether somebody can be deemed to be a mature or competent minor, the person would not be able to consent to a variety of treatments. However, the reason that reference is made to sterilisation in the bill—I am one of those people who believe it could be removed and it would not make one jot of difference—is to make absolutely certain that under no circumstances can the Chief Psychiatrist approve sterilisation for anybody. That is why it is in the bill. However, when I first saw it, I asked why it was in the bill. I understood that it was a recommendation of the Minister for Health in the previous government that it be in the bill. I was prepared to let it run the course of the community consultation process, but I truly have not yet found a legitimate reason for it to be in the bill. It is not written in the legislation that the Chief Psychiatrist can approve sterilisation, so why not take it out altogether? That is certainly some consideration that is taking place at the moment.