

**PUBLIC HEALTH AMENDMENT  
(IMMUNISATION REQUIREMENTS FOR ENROLMENT) BILL 2019**

*Second Reading*

Resumed from 8 May.

**HON NICK GOIRAN (South Metropolitan)** [8.32 pm]: I rise as the lead speaker for the opposition on the Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019. I note that this is the first time that this bill has come on for debate in this place. It was introduced in this place, which is, of course, permissible, albeit not customary, and I note that it was first read into this place on 8 May this year. I have been told by the government that this bill is priority legislation; indeed, as it has been put to me, this is an urgent bill that the government said must be passed by 30 June. I note that in the bill that has just been debated, there was much discussion about the significance of the words “may” and “must”. As I understand it—I stand to be corrected if I am incorrect—the government said that this bill “must” be passed by 30 June and that is why the bill, a piece of legislation that the government says is a priority, was brought on for debate today, 11 June, albeit for the first time.

The opposition’s position on this bill is that we are strongly pro-immunisation; indeed, we, the opposition, support endeavours to lift Western Australia’s vaccination rate. We also wish to put on the public record that we are strongly pro-early childhood education and, indeed, we encourage parents, who have the primary responsibility for the education of their children, to facilitate the attendance and participation of their children in early childhood education. We, the opposition, have little confidence in this government’s ability to get the details right. I note that the government has a strong bad track record of getting the details of legislation right in this fortieth Parliament. Having assessed this bill, the government seems to think that it is appropriate to carve out significant exemptions to this scheme or regime in Western Australia. I particularly draw to members’ attention clauses 4 and 8, in which the government is endeavouring to carve out significant exemptions for childcare services and children. It is a statement of the bleeding obvious that the constituency that will be most affected by this bill will be the children of Western Australia. In prosecuting its case for this bill, the government must explain to the Parliament and the people of Western Australia why it is appropriate to carve out such a multitude of that constituency. If it is indeed the aspiration of this bill to lift Western Australia’s vaccination rate for children, one wonders why the government seeks to provide so many exemptions.

It has been put to me during the course of briefings and the like that the government has allowed for an extravagant delegation of legislative power in this bill because of what has been put to me as “drafting approaches” and “desiring flexibility”. Members opposite know that that has never been persuasive in this chamber. It may well be persuasive in other places, but in this place that type of approach has never been persuasive, no matter who has been in government. Although the opposition supports the passage of this bill, nevertheless, as I have foreshadowed, we have significant concerns with the scope of the government’s exemptions. The government will need to explain why it is appropriate that such a significant number of children be exempted from the scheme. With the few examples that I will put to the minister with the carriage of this bill in this place, I would like a cogent explanation about why it is appropriate to exempt children in state care. I refer to a child in the care of the state; in other words, a child who is the responsibility of the chief executive officer of the Department of Communities. The state of Western Australia says in one moment, “We want you to vaccinate your children”, but in the next moment it says, “We have certain children in our care but we are going to exempt them from the scheme.” I ask the minister with carriage of this bill to explain why it is not good enough for the state when it has the responsibility for children in its care to participate in the regime, but it is good enough for other Western Australians to do so. Why is it the case that the government will do everything it can to ensure that other Western Australian children are vaccinated but those in the care of the state will be exempted?

Indeed, one of the more curious exemptions that the government proposes is that if a parent of a child is on some kind of commonwealth payment, the child will be exempted from the scheme. Why would that be the case? Why would it be necessary for a child whose parent happens to have a commonwealth Health Care Card to be exempted from this scheme? It is not obvious to the opposition why the government would have such a broad range of exemptions in this endeavour to lift Western Australia’s vaccination rate. In addition, the opposition’s position is that the government needs to explain why these broad exemptions that it wants to bring in should be left to the regulations and not enshrined in the act. We want an explanation of that.

I note that a small number of other jurisdictions in Australia also have a model along these lines but two of those jurisdictions do not have exemptions without limitation. New South Wales, as I understand it, allows a 12-week grace period and Victoria allows a 16-week grace period, whereas the exemptions put forward by the WA government would be without limitation. I hasten to add that I do not want the government’s response to this to be that New South Wales and Victoria do not enforce those grace periods. That is not a satisfactory explanation. We need to know why the government has decided not to have a limitation on the exemptions. New South Wales and Victoria, in effect, having fake limitation periods does not justify the WA government having no limitation period. Why was consideration

not given to providing a 12 or 16-week limitation period as in New South Wales and Victoria but, unlike them, ensuring that our limitation period was enforced? We seek an explanation about that from the government.

In addition, the opposition would like an explanation from the government about the extent to which it considered and contemplated implementing the inconvenience model for exemptions. By way of explanation, for the benefit of members, some legal academics have suggested that if we are really going to try to boost our vaccination rate through this type of regime, the best thing that we can do is make it inconvenient and difficult for those people who want to claim an exemption. Rather than simply granting a person an exemption because they meet a particular type of criteria, we should make them do some work in order to be granted that particular exemption. In other words, it is the inconvenience model. I look forward to an explanation from the government about to what extent it considered that type of approach.

I would like to know from the government what initiatives other states have implemented to lift their vaccination rates. As I said earlier, not all states have taken this approach, so I would like the government to explain to the house what those other states have done to lift their rates. As I understand the second reading speech, one of the government's concerns, which is shared by the opposition, is that Western Australia has the lowest rate. If we have the lowest rate, and some states have decided to implement a model such as this and some states have decided not to implement such a model, what have those other states done to enable them to lift their vaccination rate to a far superior rate to that of Western Australia?

I also call on the government to advise us what the Commissioner for Children and Young People had to say about this bill. In particular, what has the Commissioner for Children and Young People had to say about the collision of rights that is taking place on this issue? On the one hand, it is in the best interests of children to deny them access to one right—education—in order to increase another right, which is health. I assume a competent government would have put this question to the Commissioner for Children and Young People and I look forward to hearing what the commissioner had to say on that issue.

I ask the government to release the modelling that it would no doubt have done for this bill. It would be incomprehensible to think that a government would bring in a bill of this significance without having done any modelling whatsoever. The opposition would like to know what modelling has been done to assess the impact of this bill. In particular, what is the expected uplift in the vaccination rate? The opposition is shoulder to shoulder with the government in its desire to increase the vaccination rate in Western Australia. If the government, with its massive resources, has come to the conclusion that one way in which this can be done is through this bill, the opposition will support it. We will continue to be shoulder to shoulder with it in that aspiration, but we simply ask the government to release its modelling, which will indicate to us the expected uplift in the vaccination rate. We would like to know exactly how many childcare services would be exempted by virtue of the significant exemptions in this bill, and in particular we would like to know how many Western Australian children would be exempted as a result of the government's extremely generous regime.

It would be helpful for members, as they are contemplating the passage of this bill, to understand from the government what health and social problems can be created for those excluded from early childhood education. The government has put to me during the course of briefings prior to today's debate that the rationale for at least some of the exemptions that the government wishes to put forward is that health and social problems can be created if we exclude certain children from early childhood education. If that is the case—it seems to me that it most probably is—we would like the government to articulate what those health and social problems are that it says justified this massive list of exemptions that the government proposes to put in, at this stage by way of regulation.

We must not forget that this scheme that has been put together by the government will have an impact on childcare services and the operations of community kindergartens and schools. We ask the government to release to Parliament what exactly those impacts will be. What will be the impact on the operations of those particular industries and organisations as a result of this bill? It would be remiss of me not to add that the opposition, although supportive of the passage of this bill and the government's aspiration to lift the vaccination rate, joins the government in concluding that it is appropriate for there to be medical exemptions. Although we agree that there should be an eligibility criteria for medical exemptions, we call on the government to release its modelling to determine how many people would be eligible for this medical exemption process.

We may tease this out. Indeed, we will tease this out during the Committee of the Whole House because, as members will be aware, a number of amendments are on the supplementary notice paper. I foreshadow to the government that I would like an explanation of how a parent will deal with an enrolment situation when their child has been rejected from enrolment, for example, in kindergarten due to incompetence or because of a mistake. By way of explanation, I understand that the passage of this legislation will result in a school not being able to enrol a student for a kindergarten program if the student's immunisation certificate is not up to date or subject to other criteria and exemptions. How will a parent deal with the situation in which a school is not competently across this regime and therefore incompetently rejects their application for enrolment? What mechanisms will be available to a parent to allow them to provide a copy of their child's immunisation certificate that states that their

immunisations are up to date to somebody who will then be able to competently understand what has taken place? I have no doubt that the various agencies and individuals who will be responsible for the administration of this scheme, whether they are in childcare services, community kindergartens or schools, will, in large part—beyond 99 per cent—be able to do so competently. I am concerned about those rare occasions when somebody does not understand the scheme and the mechanics of it, and an injustice takes place, and a child misses out on early education due to some form of incompetence or mistake.

Indeed, will there be any capacity for a parent to appeal a refused request for a medical exemption? Imagine for a moment a parent who has had a very traumatic experience with their first child having an adverse reaction to an immunisation and, as a result, has grave concerns about their second child. They apply for a medical exemption for their second child and it is rejected. What would be the right of appeal on that initial refusal for a parent in that untenable situation? I ask the government to explain how that situation would be dealt with under the provisions of this bill. It is not obvious to me that a parent would have any capacity to do anything whatsoever. If there is some capacity for a parent to appeal a decision, I ask the government to explain what that mechanism and procedure would be.

I have a number of smaller technical queries, but they can be addressed in the Committee of the Whole House, since, in any event, we will be going into the committee phase to deal with the amendments on supplementary notice paper 127, as foreshadowed by me, Hon Rick Mazza and, I understand, the government. It seems to me that a better way forward for this bill, which clearly is not going to happen, would have been for it to be referred to the Standing Committee on Legislation to consider the massive list of exemptions the government proposes for this bill and determine which, if any, of those exemptions are justified. The rest of the house would then have the benefit of that committee's inquiry. I put forward that proposal to members behind the Chair during the course of the last sitting week, but it was made clear to me that the government has no appetite whatsoever for that to be done. I think that is a missed opportunity, but I respect that this government desires that this bill will come into effect express, pronto. I have no qualms about that; however, I express my disappointment that the government brought on the legislation for debate for the first time only on 11 June, in circumstances in which it says that it is priority legislation that must be passed by 30 June. We have, frankly, wasted weeks of parliamentary sitting time because of this government's incompetence over the course of this year, so to now be put in the undesirable position of an important bill being brought on for debate for the first time on 11 June is very disappointing. It is because of that late provision of the bill to this house that we are now, in effect, hamstrung on referring the bill to a committee.

If this bill had been brought on in February or March, there would have been ample time for it to go to a committee to look at the government's massive list of exemptions. I have counted at least eight categories of exemptions that the government wants; for example, the government says that one of the exemptions should be for Aboriginal children. Members will have an opinion on whether that is appropriate. The opposition's position is that that exemption should be tested by a parliamentary committee. If it is the case that there is a cogent explanation for Aboriginal children to be provided with an exemption, a committee of this Parliament should look at that particular issue and make a finding and a recommendation and come back to Parliament. We do not have that opportunity; all we have is the very limited information given to us by the government. We are simply expected to agree to those exemptions.

I have already outlined a couple of other scenarios, including children in state care. On the surface, it is not obvious why that exemption would be needed, but it is also clear that the government, with its significant resources, has considered that issue and come to the considered position that it is appropriate for children in state care to be granted an exemption. We would much prefer that a committee have the opportunity to test that exemption. That is a missed opportunity indeed. If this matter had gone to a parliamentary committee to be considered, I note that the hardworking Standing Committee on Legislation, chaired by Hon Dr Sally Talbot, in its customary way, would have looked at the fundamental legislative scrutiny principles that it often looks at. I note that there are 11 questions that the committee uses to consider any piece of legislation under the broad heading of whether the bill has sufficient regard to the rights and liberties of individuals. I will take members through those 11 questions. The first question is: are rights, freedoms or obligations, dependent on administrative power, sufficiently defined and subject to appropriate review? On the face of it, no, they are not subject to appropriate review. It is not obvious to me that they are subject to any review whatsoever. That is something that would have been teased out by a parliamentary committee.

The second question is: is the bill consistent with principles of natural justice? The answer to that question is no. The bill is not consistent with principles of natural justice, because, as I outlined earlier, it is not obvious to me that there is any appeal mechanism or dispute resolution procedure in the provisions of the bill. In effect, if a person applies for a medical exemption and the Chief Health Officer agrees with them, they will be given an exemption. If the Chief Health Officer says no, that is the end of the matter. Under no-one's definition of natural justice would that process be considered consistent with the principles normally sought by the Standing Committee on Legislation. That is a missed opportunity, members.

The third question is: does the bill allow the delegation of administrative power only in appropriate cases and to appropriate persons? I think it does. In fairness to the government, it is appropriate that the Chief Health Officer is delegated this duty, or responsibility, to issue or declare immunisation certificates. On that note, I think the

government has done a good job with this bill. It is disappointing on the first two questions, but on the third one, I think that is right.

The fourth question is: does the bill reverse the onus of proof in criminal proceedings without adequate justification? No, it does not. We have no concerns there. The fifth question is: does the bill confer power to enter premises and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer? Perhaps in reply, the Leader of the House can tell us whether the bill confers any such power. The sixth question is: does the bill provide appropriate protection against self-incrimination? That is not applicable with this bill. The seventh question is: does the bill adversely affect rights and liberties, or impose obligations, retrospectively? I say that it is clear that it does affect rights and liberties and impose obligations, but I cannot say that it does so retrospectively. The eighth question is: does the bill confer immunity from proceeding or prosecution without adequate justification? No, it does not. The ninth question is: does the bill provide for the compulsory acquisition of property only with fair compensation? That is not applicable. The tenth question is: does the bill have sufficient regard to Aboriginal tradition and island custom? I thought that was a very good question. Does it? Perhaps the government can indicate what consideration has been given to that matter. As a passing comment, it has been suggested to me that Aboriginal and Torres Strait Islander children have very high immunisation rates in Western Australia.

**Hon Donna Faragher:** Above 95 per cent.

**Hon NICK GOIRAN:** I am told by my colleague the very knowledgeable Hon Donna Faragher that it is above 95 per cent. I ask the government: does the bill give sufficient regard to Aboriginal traditional island custom? We will see what the government has to say about that.

The eleventh question is: is the bill unambiguous and drafted in a sufficiently clear and precise way? Generally, yes. However, I note that a number of amendments are on the supplementary notice paper, some of which I would like to think members will support, including one that I think is a typographical error. Generally speaking, it is unambiguous and drafted in a sufficiently clear and precise way.

The second tranche of matters that the Standing Committee on Legislation would ordinarily consider when it looks at the fundamental legislative scrutiny principles is five questions under the heading “Does the Bill have sufficient regard to the institution of Parliament?” The first of those questions is: does the bill allow the delegation of legislative power only in appropriate cases and to appropriate persons? No, I do not think it does. With all due respect to the government, there are junior Henry VIII clauses in this bill. The carving out of such a massive constituency by this government and the breadth of the exemptions relating to children are quite extravagant. It is true that that does not amend an act only by another act, as would ordinarily be the definition for a Henry VIII clause, but the carve-out of the constituency by this bill is so significant that the best way I can describe it for members is that the bill contains junior Henry VIII clauses. I do not think that the bill allows delegation of legislative power in appropriate cases and to appropriate persons. Why should the executive of government be able to, at the stroke of a pen in effect, exempt every single child in Western Australia? Why would that be an appropriate delegation of legislative power? I look forward to an explanation from the government about why it says that this is necessary. Please do not say it is because of futureproofing or flexibility or any of those usual catchphrases. We want a cogent, proper explanation that would be sufficient to persuade members of the Standing Committee on Legislation had this matter been brought before it.

The next question is: does the bill sufficiently subject the exercise of a proposed delegated legislative power—instrument—to the scrutiny of the Legislative Council? I think that is a good question. In a number of instances it does. I am not sure that it does in every instance, and no doubt we will tease that out during Committee of the Whole House. The third of the five questions in the second part of the fundamental legislative scrutiny principles is: does the bill allow or authorise the amendment of an act only by another act? In other words, are there any Henry VIII clauses? I do not think there are. For the reasons that I have already articulated —

**The ACTING PRESIDENT:** Order, members! There is a lot of chatter around the chamber, which of course makes it difficult for Hansard. If people wish to have a conversation, they might like to take it into the corridors. Please keep it to a dull roar.

**Hon NICK GOIRAN:** I can well understand that members are curious to look at the bill and scrutinise it for the junior Henry VIII clauses that are contained within it.

The fourth of the five questions is: does the bill affect parliamentary privilege in any manner? It clearly does not. The last of the questions relates to uniform legislation, and clearly that would not be applicable in this instance. I have taken the time to go through each of those 16 questions that would ordinarily be considered by the Standing Committee on Legislation if the bill was referred to it. I trust that members can therefore see that a number of areas would ordinarily enliven the interest of the Standing Committee on Legislation. It is plainly a missed opportunity that this bill will not go to the committee for further consideration.

In summary, I indicate that the opposition will be supporting the passage of this bill. We are very disappointed that the government has left it so late to bring this bill on in the autumn sittings. We now find ourselves with fewer

than two sitting weeks prior to the winter recess. We are told by the government that this is a priority, urgent piece of legislation. The opposition is very disappointed by that lack of legislative planning and programming by the government. Notwithstanding that, we support the passage of the bill because the opposition is strongly pro-immunisation. I reiterate that the opposition is strongly pro-early education. The opposition calls on the government to explain why it is appropriate and why the government has decided to allow itself the flexibility to, in effect, exclude every child in Western Australia from this scheme and why it has already telegraphed that it will have a massive list of exemptions for children. We call on the government to explain why it has chosen that way forward.

**HON RICK MAZZA (Agricultural)** [9.07 pm]: I rise to make some comments on the Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019. In principle, I support this bill.

I think immunisation is a very important function that is undertaken in Australia. Vaccinations in general for diseases, particularly childhood diseases, have saved thousands of lives throughout the state. As a young child just starting school in the early 1960s, I remember that we all lined up for our pink sugar cube to protect us against polio. At that time, some students in classes above me displayed the ravages of polio and the disabilities that polio had wrought on them. That was only a few years before my age group. In my age group, I cannot remember one person who had polio during their childhood. It is a great success story as far as that is concerned. It is very disturbing to hear that there are signs of polio returning in First World countries such as the United States. We would like to think that polio is pretty much extinct in Australia and that people are not contracting it. For various reasons, there are signs that that disease is returning in some countries. I hope that Australia does not see any cases of it in the future. Cases of measles have also been reported. An article on 1 and 2 June in *The Weekend West* stated —

**US measles cases at 971**

The US has recorded 971 cases of measles in the first five months of this year, surpassing the total for any year since 1994, the US Centres for Disease Control and Prevention say.

There were a total of 963 US cases of measles in 1994, the CDC said.

Public health officials blame the resurgence on the spread of misinformation about vaccines. A vocal fringe of parents oppose vaccines. Although the virus was eliminated from the US in 2000, outbreaks occur because of travellers from countries ...

In recent times we have heard of cases of people in Australia with measles as well. It is important that there are vaccination programs in this state, and the purpose of this bill is to increase the number of children who are vaccinated. Some children cannot be vaccinated for medical reasons. That is the case with my daughter, who had some birthing difficulties. The staff at Princess Margaret Hospital for Children said that she would not be able to have a whooping cough vaccination. We took comfort from the fact that pretty much every other kid would have had a whooping cough vaccination so the chances of her contracting whooping cough would be very low. However, in recent years, whooping cough has made a comeback. A couple of infants died tragically from whooping cough because people had failed to keep up the immunisation against whooping cough. I accept that a school of thought among some people out there is that there have been issues with adverse reactions to vaccinations. Those occur extremely rarely and people must balance the benefits with the risks. The risk of contracting a childhood disease because people are not immunised is far greater than the risk of an adverse reaction to a vaccine. Therefore, it is very important that we keep up those vaccinations.

This bill requires that for non-compulsory schooling—that is, kindergarten or child care—children must present with an immunisation history statement that is issued by the federal government. There will be some scope for the Chief Health Officer to also issue a certificate in certain circumstances. The explanatory memorandum refers to cases in which vaccines may not be available for a time, so children will be able to get a certificate that states that they can attend school in those circumstances because their failure to be immunised is through no fault of their own. An extensive list of exemptions for children is proposed, but I have some difficulty with that. At the end of the day, we are trying to ensure that children who attend kindergarten or child care are vaccinated. In this day and age, I do not see why there should be certain circumstances in which children are not vaccinated. If a child does not have a vaccination certificate and a parent or guardian intends to enrol them at school, it is not difficult to get their child immunised.

Unfortunately, the bill does not prevent children who have not been vaccinated from attending compulsory school such as preschool or year 1. If people decide to not have their children vaccinated, their children may be prevented from attending kindergarten, but they will not be prevented from attending compulsory schooling. That may cause issues later. When I had the briefing with the department, I asked a few questions about this bill. I got a response from the department that was quite interesting. One question I asked was —

**The immunisation enrolment requirements are applicable to enrolments in pre-compulsory years of early education and care only, up to and including kindergarten. Is it possible for children to attend compulsory school without being full vaccinated?**

The answer stated —

Yes, the new immunisation enrolment requirements do not apply to compulsory years of schooling. However, as of 1 January 2019, new regulations came into effect under the Public Health Act 2016 to provide that when a child is enrolled at a school, the parent/guardian for the child is required to give to the person in charge of the school the immunisation status of the child.

I will not read the entire answer. I also asked —

**Would the exempt group be likely to attend kindergarten anyway?**

The answer was —

Department of Education estimates that more than 96% (34,296) of kindergarten aged children in 2019 are enrolled in kindergarten programs.

I then asked —

**If a child applies to enrol without their AIR Statement indicating an ‘up to date’ immunisation status, will they be turned away?**

For enrolments into child care services, community kindergartens and school-based kindergarten programs, if a child applies to enrol and does not meet one of the following criteria, the child care service, community kindergarten or school will be unable to enrol the child:

- i. The child’s immunisation status on their AIR certificate is ‘up to date’;
- ii. The Chief Health Officer has issued an alternative immunisation certificate to the child, declaring the child’s immunisation status would be ‘up to date’ but for a particular circumstance;
- iii. The immunisation certificate for the child is a document, or in a class of documents declared by the Chief Health Officer to be an immunisation certificate;
- iv. The child is on a prescribed catch up schedule;
- iv. The person in charge is satisfied that the child is an exempt child.

Then I asked whether someone could set up a school or kindergarten that did not require a vaccination certificate. The answer I got back was basically no, and that there would be a \$10 000 fine if someone was running a kindergarten that did not require an immunisation certificate.

It is voluntary for children to attend a kindergarten. If someone has an issue with vaccination of their children, they do not need to send them to kindergarten. However, when it gets to compulsory education, they must send them. I think that the policy of this bill is sound. It is very important for many reasons that vaccinations are up to date. Since I was at school, a lot of new vaccinations have been introduced. There are vaccinations for things like cervical cancer, which was developed in Australia, and a number of other vaccinations.

I am a great supporter of vaccinations. I support the bill. I have an amendment on the supplementary notice paper that would delete the exempt child status. I really do not think we need to have that. If a child is to attend a kindergarten or a preschool, they can get an immunisation certificate. Perth Children’s Hospital has explained to me that if for some reason a child is unable to have a vaccination due to a medical condition, they will still be issued with an immunisation certificate that can be presented as part of their enrolment. Also, there is provision in the bill for the Chief Health Officer to issue a certificate. I think there are a lot of safeguards in the bill. I would like to see that all kids who attend kindergarten or preschool are vaccinated in an attempt to ensure that we do not see the ravages of childhood diseases that we have seen in the past.

**HON DONNA FARAGHER (East Metropolitan)** [9.18 pm]: I rise also to say a few words in the second reading debate on the Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019. I have given very careful consideration to this bill with regard to my perspectives on immunisation, which I will say a little bit about, and also in my role as shadow education minister. I also apologise for my voice. I have the cold or something like that, but I have had the flu shot.

Members who have been in this place for some time will know that I have spoken in this place on many occasions in support of our national immunisation program. I am the mother of two small children, albeit they are growing up fairly rapidly, and have had my fair share of visits to doctors for vaccinations over the past few years. Much like the vast majority of our community, I know the importance of immunising our children against vaccine-preventable diseases. There is absolutely no doubt that the national immunisation program is very comprehensive. I will refer to the schedule. Childhood vaccinations are scheduled to be given at birth, two months, four months, six months, 12 months, 18 months and four years. At six months and 12 months, there are additional vaccines for Aboriginal and Torres Strait Islander children and certain vaccines for medically at-risk children. That Western Australia’s immunisation coverage rate continues to lag behind most other states is of ongoing concern to me and, I am sure, all members of this house. As I think was reflected in the second reading speech, it is considered that at least 95 per cent of children should have an up-to-date immunisation status to effectively prevent outbreaks of contagious diseases.

I will quote from the very helpful “Decision Regulatory Impact Statement Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019: Recommendations for strengthening immunisation requirements for enrolment into childcare services and kindergarten programs in Western Australia” dated April 2019. On herd immunity, it states —

Known as herd immunity, the 95% immunisation rate is important to protect others in our community, including those who are too young to be vaccinated and those who are unable to be vaccinated for medical reasons, including pregnant women, children with immune disorders and some cancer patients.

However, WA is below the target of 95% immunisation coverage for each age group reported in AIR, and immunisation coverage rates in WA have lagged behind those for other Australian states and territories. In data extracted on 31 December 2018, WA had the ... lowest immunisation rates compared to other jurisdictions for 12 ≤15 months (93.4%) and 24 ≤27 month old children (90.0%), and the lowest immunisation coverage for children aged 60 ≤63 months (93.6%) ...

As has been noted by other speakers, I recognise that various reasons can explain these rates and why we do not have 100 per cent herd immunity or close to it. It is recognised that we will never get to 100 per cent. Obviously, there will be children who for certain medical reasons would be deemed exempt, such as those with medical contraindication for immunisation or who are immunocompromised for live vaccines. I think everyone understands that situation. Of course, some parents make a conscious decision to not immunise their children; others might just forget the critical times for vaccinations. Around the four-year vaccination time, parents are less likely to have regular contact with child health nurses and other opportunities for reminders, so they may well be a little late getting those vaccinations. I will quote from the regulatory impact statement again. It refers to comments from the Australian Medical Association of Western Australia on the latter. I think this is an important part of dealing with the consideration of this bill. It states —

The AMAWA believes that for the most part, families of under-vaccinated children do not object to vaccination, but are more likely to be too busy, unaware of the vital importance of vaccination, or may simply not have gotten around to keeping on top of their children’s’ vaccination schedules. It is anticipated that this policy will provide the motivation for these families to get their children’s immunisation status ‘up to date.’ This viewpoint is also consistent with respondents who supported Option B.

Option B, which was discussed in the regulatory impact statement, relates to the enactment of the legislation we are debating now. Notwithstanding those reasons, I am concerned that not immunising a child not only increases that child’s risk of contracting a disease, but also puts other innocent children and others at risk, particularly those children who might be too young to be protected or cannot be immunised for medical reasons, some of which I have already outlined. Whooping cough is a particularly strong example of the devastating consequences that can occur. The minister is nodding in agreement, and we have both talked about examples of that, tragically, happening in this state. Statistics show that children under the age of five have some of the highest disease rates for a number of vaccine-preventable diseases. According to the regulatory impact statement, children under five represented 45 per cent of all meningococcal notifications. On measles, it states —

Measles cases notified in WA from 2014 to 2018 were associated with importations from overseas (49%) and subsequent local transmissions (51%). The age groups with the highest number of measles cases were children under 5 years (16 cases), teenagers 15 to 19 years (15 cases), and adults aged 20 to 39 years (62 cases).

Importantly, it states —

All of the young children infected with measles had not received a measles vaccination.

For all those reasons and many more I support the bill. It is an important bill and I think that the intent is right. I recognise that some in our community do not support this legislation. They have contacted me along with all other members in this house. Notwithstanding that, I respectfully disagree. I believe in the importance of the immunisation program that we have in this country.

Notwithstanding that this is a step in the right direction, I have some concerns. I echo the comments on the time frame made by our lead speaker, Hon Nick Goiran. I also agree that it would be useful for this matter to be considered by a committee. It is a very important piece of legislation. Parliament should focus on matters such as this, which will impact many people in our community for a wide variety of reasons. My first concern is that the government has indicated that this bill is urgent and it would like it through by 30 June. It wants this law in place for the 2020 school year. This bill deals with two groups of children—that is, those who may be in the childcare or alternative care system, and those who will enrol in kindy. In this instance, my focus will be on the kindy kids, for want of a better word. The second reading speech states —

It is proposed that the bill is to be in effect in time for the July 2019 enrolment for 2020.

Therein lies the first problem. If the government wanted this in place in time for the 2020 school year—I do not have a problem with that—it should not have introduced this bill now, but at the very beginning of the year. Enrolments for kindy kids are already happening now. In my view—the minister may correct me—the government saying “in time for the July 2019 enrolment” does not deal with those who are enrolling now. We are going to have two groups of kids already. I appreciate that the minister may well say that children can be enrolled at any time, and I accept that. But on the Department of Education website there is some very handy documentation titled “How to enrol — a step by step guide”. One of the pages is titled “Enrolling your child in Kindergarten or Community Kindergarten”. It states —

If your child is four years old by 30 June 2019 you can apply to enrol them in Kindergarten for 2019.

Visit your local school and apply to enrol as soon as possible.

There is another section titled “Enrolling in school”. Underneath the heading “Who needs to enrol?”, it states —

Enrolments are now open. Please return your application to your local school by Friday 26 July 2019.

I am happy to be corrected on this. The minister may tell me that enrolments are not finalised until a later point in the year when a letter is received from the school advising that the enrolment has been confirmed. But there is a case—the minister will know this, and I would suggest that most members in this house would know—that school newsletters are going out now saying, “Enrol your children”, in particular with respect to kindergarten and preprimary. There are families who are enrolling their children now, prior to this legislation even passing this house of state Parliament. My first question to the minister is: is it correct that those children will not be captured by this legislation? I cannot see that they would be, because even if they have enrolled now and they do not receive a confirmation letter until later, their families have already provided all the student’s enrolment information to the schools. I appreciate that not everyone enrolls this early, but certainly there is a very strong push, generally by schools—they want to get things in order, and that is completely understandable—for families to get their enrolments in place now. Certainly in the case of community kindergartens—the minister knows I ask a few questions about community kindies—there are very clear requirements for when they are required to put enrolments in. I do not understand why a piece of legislation like this was not brought in earlier, prior to us being at the critical point when enrolments have probably already been taken and will continue to be taken between now and the passage of this legislation. The minister needs to respond clearly to that issue.

With regard to the exemptions, I absolutely agree that we need and want to minimise the impact on children from an early education sense. I know the government will say that this might be a bit unwieldy—perhaps the minister might explain it and I might be convinced otherwise—but, in fact, when we are talking about early education from a kindergarten sense, I think it would have been far more sensible to at least consider the notion of a conditional enrolment for kindergarten children. Bearing in mind the comments that I have already made, which have been backed up by others and even through the regulation impact statement, that for many, it is not the case that they are against immunisation and the program itself, but they simply have not kept up to date for whatever reason. I would argue that for those who might seek to enrol in July, those children will not start school until probably the first week of February next year. Therefore, there is ample opportunity between the point of enrolment and the commencement of the next school year for their immunisation status to become up to date. I appreciate that their enrolment might be knocked back; that gives them the opportunity to go and get their immunisation up to date, then come back and seek to enrol again. Maybe that is what the government is saying. If that is correct, I want to know what type of communication will be given to those families to ensure that that is the case. I think a conditional enrolment would have been another way to go, because it would have been a proactive way to say, “Your child will be enrolled if their immunisation becomes up to date in time for the 2020 school year”, or every other school year thereafter.

I recognise that there are certain cases when an exemption may be warranted. However, I have concerns with the breadth of exemptions that have been put forward, which we have been made aware of both in the second reading speech and the briefings that have been provided. I am concerned that it potentially weakens the system that the government is seeking to put in. I do not believe that is the intent of the government. That is my concern. It is not just the opposition that has those concerns; indeed, again, the RIS stated that with respect to legislation —

Of those who supported Option B, the vast majority agreed that, with rare exception, there should be a requirement for a child’s immunisation status to be ‘up to date’ as a condition of enrolment into child care services and kindergarten programs.

That is a “rare exception”. It goes on to say —

Notably, only 37% of Option B supporters agreed with the provision of exemptions for vulnerable and/disadvantaged children, believing that these children are a priority for vaccination. Such responses demonstrated a misunderstanding of the Proposal, in that it is the full intention of the DoH to ensure these exempt children are in fact supported to be fully immunised ...



I do not disagree that is what the Department of Health wants, but why is it a misunderstanding? Is this a preventive health bill or not? I believe that there are opportunities for children to become up to date in time for the start of the following school year. Between the time of potential enrolment and the beginning of the school year, there is ample opportunity for a child to become up to date.

I would argue that because of the vulnerability of some children, we absolutely need to make sure that their immunisation status is up to date. Hon Nick Goiran has gone through a couple of matters and we can go through some of these issues during the Committee of the Whole. In the case of Aboriginal and Torres Strait Islander children, I absolutely accept from an educational perspective that they fall within the vulnerable category, if I can put it that way. Equally, though, it is incredibly important that their immunisation status is up to date as well, because from a health perspective they are also vulnerable to infectious diseases, such as the ones that we are referring to. In fact, we know that at six and 12 months, as I have already indicated, they receive additional vaccines, and that is incredibly important. In saying that, and I think Hon Nick Goiran referred to this, it is important to note that, very pleasingly, Aboriginal and Torres Strait Islander five-year-olds are above the 95 per cent target. That is absolutely what we want. Indeed, as at December 2018, the coverage rates were a little below the target at 92.62 per cent for one-year-old Aboriginal and Torres Strait Islander children. Further work needs to be done for two-year-olds, at 88.2 per cent, but for five-year-olds, 96.66 per cent are fully immunised and are up to date. That is what we want our entire community to be at, and I appreciate that that is the intent of this legislation.

I simply want to say to the government that I support the intent of the legislation. I recognise the importance of ensuring that our children are up to date from an immunisation perspective, to reduce not only their risk but also the risk of others who might be innocently affected by the actions of those not taking the steps that we all want them to take. I strongly support the immunisation program. I strongly support actions that are taken to increase the coverage rates, but it remains my very strong view—I have said this in this place and many other places on many occasions—that it is incumbent upon all of us in our community, not just some of us, to support the comprehensive immunisation program that is in place in this country. This legislation is absolutely a step in the right direction. I am concerned, though, that its intent is diminished somewhat with both the timing of the legislation, certainly for the next school year, and the breadth of the exemptions. Again I indicate that I believe that some exemptions are necessary, or we can argue why there might be cause for exemption, but I have some concerns with some others, and we need to discuss that through the Committee of the Whole House. With those comments, I support the bill, notwithstanding some concerns that I have.

**HON AARON STONEHOUSE (South Metropolitan)** [9.43 pm]: I rise tonight to talk to the Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019. To be honest, I cannot really say at this point whether I support this bill, because not only are there quite a few tricky ethical questions around it, not to mention questions around the effectiveness of the policy of this bill, but also we now have a rather complex and lengthy supplementary notice paper with a few amendments, including one from me. Whether members support this bill should really depend on what the bill looks like by the time it gets out of Committee of the Whole House. It would look like a substantially different bill if a number of these amendments are agreed to. Not to foreshadow the Committee of the Whole House process too much, but, for example, I am aware of discussions behind the Chair about the long list of exemptions from this scheme. There was a conversation about having these exemptions removed from subsidiary legislation, from regulations, and placed within the primary bill. I am glad to see the government has agreed to that suggestion and has introduced its own amendments to that effect, but it does not end there. There are also conversations about whether those exemptions have merit. I admit that I am a little confused by some of these exemptions because some of them do not seem to make much sense. I am a little confused about why some of them exist in the first place. There will definitely be a lot of questions around that. We can leave that for when we get to the Committee of the Whole House stage.

Debate adjourned, pursuant to standing orders.