

PRISONS AMENDMENT BILL 2020

Recommittal

Resumed from an earlier stage of the sitting.

Committee

The Deputy Chair of Committees (Hon Martin Aldridge) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 12: Section 46A inserted —

Hon STEPHEN DAWSON: I move the amendment standing in my name at 9/12 —

Page 5, after line 24 — To insert —

46B. Review of s. 46A

- (1) The Inspector of Custodial Services must review compliance with, and the operation and effectiveness of, section 46A, and prepare a report based on the review, as soon as practicable after the 5th anniversary of the day on which the *Prisons Amendment Act 2020* section 12 comes into operation.
- (2) The Inspector of Custodial Services must furnish a copy of the report to the Minister as soon as practicable after it is prepared.
- (3) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after the Minister receives it, but not later than 12 months after the 5th anniversary.

The amendment is to include a provision in this bill to review section 46A of the Prisons Act 1981, which is referred to in clause 12 of the Prisons Amendment Bill 2020. The government has considered the review clause proposed by Hon Alison Xamon, but is of the view that any review of the Prison Act 1981 must be conducted with due regard to the legislation that governs prisons. I have therefore moved an alternative review provision.

The government's position is that, firstly, the review of section 46A should be carried out by the Inspector of Custodial Services at the direction of the Minister for Corrective Services. The prisons are regularly inspected and reviewed by the Inspector of Custodial Services. The Inspector of Custodial Services Act 2003 allows the Minister for Corrective Services to direct an inspector to inspect or review any custodial services. The inspector's reports of any inspections or reviews are tabled before the Parliament. Secondly, the review time frame should be five years after section 46A comes into operation and the time frame will allow sufficient time for information or data to be collected to enable a meaningful evaluation of the mandatory testing scheme.

I should point out that following conversations behind the Chair with Hon Michael Mischin, an extra element was included in my amendment, which was to review compliance with section 46A.

Hon MICHAEL MISCHIN: I indicate the Liberal opposition's support of the proposed review provision and thank Hon Alison Xamon for raising the subject in the first place with her proposed review clause. I thank the minister for his cooperation and assistance in ensuring that the concerns of the opposition and Hon Alison Xamon were weighed and found to have merit and to see that the amendment was drafted in a way that is suitable to the government. Probably with the experience of parliamentary counsel behind it, with all due respect to Hon Alison Xamon, it was an effective means of achieving the end she had aimed for. I should give due thanks to the Minister for Corrective Services, Hon Fran Logan, with whom I had discussions yesterday evening, and, I think, a member of his office, Ms Rebeka Marton, who was very diligent in keeping us informed of the drafting and the like. I express my appreciation to the cooperative way that this has been dealt with to address an issue of concern.

The way the proposed section is structured, I think, overcomes quite a number of the concerns we had. The review will be in the hands of the Inspector of Custodial Services, who is required to conduct that review on the fifth anniversary. The reason for the insertion of the compliance element—hopefully, it would have been implicit anyway—was essentially to make sure that it was being used not just in an effective way and it was achieving its end, but that there was appropriate compliance on the part of the prison authorities and prison officers in the way they use the information they are gaining as a result of the regime under the legislation. Credit where it is due: I commend the minister and the minister in this house and those involved in addressing the chamber's concerns. We support the amendment in its current form.

Hon RICK MAZZA: I also rise to say that I support this amendment. I am very pleased to see that Hon Alison Xamon put forward this five-year review provision, which was negotiated behind the Chair with the minister to make sure that a review is held in five years. I think some of the issues around this review will be very important. We did not discuss this last night, but clause 23 contains a proposal for a superintendent to direct a prison officer to take

samples at some stage. I do not know what qualifications that prison officer might need and there may be samples at random. I therefore think this review provision is very important to see how this legislation plays out over the next five years, so I will certainly support the amendment before us.

Amendment put and passed.

Clause, as further amended, put and passed.

Bill again reported, with a further amendment, and the report adopted.

Third Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.19 pm]: I move —

That the bill be now read a third time.

HON ALISON XAMON (North Metropolitan) [5.20 pm]: I want to make a quick comment about the passage of the Prisons Amendment Bill 2020. In the course of the Minister for Environment's second reading speech in reply, in response to my proposal to have this bill moved to the Standing Committee on Legislation for further deliberation, the comment was made that I had blindsided the government with that motion. I wanted to correct the record on that. I had previously advised the government that I fully intended to move the motion to have the bill considered by the legislation committee. It was unfortunate that because of the very constrained time frames that we were given to consider this bill that apparently that information, although clearly given and spoken about, was not relayed to the minister in charge of the carriage of the bill in this house. Therefore, I wanted to set the record straight on that, because, as members would know, I am somebody in this place who attempts to always ensure that people are given sufficient notice of what my intentions are in relation to any bill, and my intentions on how to intend to take carriage of the bill on behalf of the Greens. One of the things that I know that I do not do is engage in behaviour that could ever be construed as "blindsiding" anybody, but particularly the government of the day. It was very unfortunate, I think, that I was mischaracterised in that way because it is certainly not what happened, although I absolutely accept that, for whatever reason, the minister who had been given responsibility for the carriage of this bill had not had that vital bit of information relayed. I still maintain that it would have been important to take a bill of this substance to the legislation committee and have it subjected to further scrutiny, and as I reflected at the time, that was certainly the desire of those members of the community who had raised concerns with me. Nevertheless, that was not the will of the house, but I certainly wanted to correct the record in relation to the way that I had moved that referral.

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.