

PRISONS AMENDMENT BILL 2020

Second Reading

Resumed from 18 February.

MRS K. L'ESTRANGE (Churchlands) [5.29 pm]: I wish to speak on the second reading of the Prisons Amendment Bill 2020. Madam Acting Speaker (Ms L. Mettam), it is a pleasure to have an Acting Speaker of your calibre now presiding over this chamber. The fairness with which I envisage you will rule over the orderly behaviour of members present will no doubt be accepted by all. I notice, Madam Acting Speaker, that the backbench members have gone very quiet indeed since you have become an Acting Speaker. Those members are, no doubt, shivering in their boots at the prospect of being thrown out of this place by an Acting Speaker who knows what she is doing.

Let us move on to the Prisons Amendment Bill 2020. I have to say, Minister for Corrective Services, that in my short space of time as the shadow Minister for Corrective Services—around six months I believe—I have noticed time and again seven typed pages of failures of the minister and his government in the corrective services portfolio. I do not wish to go through those in great detail today. However, I note that this particular amendment bill is a success of his. The bill was a long time coming. I understand that the WA Prison Officers' Union has been calling for this bill for over five years. The bill is here today, so it has taken the minister three years to get it to the Parliament. It is with pleasure that I let the minister know that the opposition, or certainly the Liberal component of the opposition, and I think the Nationals are in agreement, too, support this bill.

We support this bill because it seeks to look after a group of hardworking members of our community who do a job that not a lot of us are interested in or want to do—that is, care for and try to rehabilitate and discipline people in our community who have done wrong by the community and have ended up in our corrective services facilities; that is, our prisons. The minister is aiming to look after the prison officers through this Prisons Amendment Bill. That is a good thing, and that is why we on this side of the chamber are supporting it.

I will step the minister through some of the things that this bill focuses on and provide some commentary on the key aspects of the bill. The bill seeks to amend the Prisons Act 1981 by introducing mandatory testing of prisoners for certain infectious diseases when there are reasonable grounds to suspect that there has been a transfer of bodily fluids from a prisoner to a prison officer. The bill also seeks to increase the penalties under the existing act in line with the consumer price index. We get the reason for the bill. The main purpose of the bill is to help alleviate the stress experienced by prison officers who believe they have been exposed to or infected by a prisoner's bodily fluids. The effect of this bill is to provide for the mandatory testing of the prisoner, which will enable the affected officer to know as soon as possible whether the prisoner has any infectious diseases. The bill provides for regulations to ensure that when a prisoner exposes a prison officer to bodily fluids, the chief executive officer may disclose to the prison officer any infectious diseases disclosed on the prisoner's medical report. Under the regulations, that information will be provided to the prison officer's doctor or to family members, so that they can be notified of the prisoner's condition and understand the impact it may have on the prison officer who may have been infected.

The bill contains 23 clauses. Most of the clauses of the bill deal with administrative typo-type changes and a number of changes to the fines that may be imposed. The key parts of the bill that I will focus on are the ones that deal with the purpose I have just outlined.

I turn now to the situation in other jurisdictions. I thank the minister for enabling me to be briefed by his departmental and office staff on this bill. I asked them whether they could provide me with similar mandatory testing regimes in Western Australia and other jurisdictions, and they did, so I will quickly outline what they are. In Western Australia, police officers are covered by the Mandatory Testing (Infectious Diseases) Act 2014. The Department of Health is covered by the Public Health Act 2016, which deals with the transfer of biological material from one person to another that may result in the transmission of an infectious disease. Prison officers in this state will be covered by this bill when it becomes an act. In Victoria, police officers are covered by the Public Health and Wellbeing Act 2008. That act also covers custodians and caregivers, so it captures police officers, healthcare workers and paramedics. In Queensland, police and corrective services officers are covered under the Police Powers and Responsibilities Act 2000. That also covers victims of sexual offences and serious assaults, and includes police and prison officers. In South Australia, the police, corrective services and health are covered under the Criminal Law (Forensic Procedures) Act 2007. In the Northern Territory, police officers are covered by the Police Administration Act 1987. Other jurisdictions around the country have tried to address this issue in a number of ways. The government might want to consider how it could extend the provisions of this bill more broadly to public sector employees who deal with difficult people or people who might be at higher risk. I will leave that to the minister to contemplate. Members can see that this is not a piece of uniform legislation; it is simply a bill to help protect prison officers. That is why we support this bill, and that is why the government has brought it on.

In terms of how this will be played out, clause 12 is probably the most significant clause to look at. Clause 12 seeks to insert a new section 46A to provide for the inspection of medical records and the mandatory taking of

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blood samples if a prison officer may have been exposed to an infectious disease. We understand the reasons for that. Obviously, it will be necessary to inspect the prisoner's medical record to find out whether the prisoner has an infectious disease; and, if there is no indication on the record, the prisoner may be required to submit themselves to the taking of a blood sample for infectious disease testing. The chief executive officer may authorise the use of reasonable force. I understand the minister has received some concerns about this matter. The minister might want to elaborate on that further in his second reading response. We do not want prisoners to be able to protest and prevent this from happening. We want this bill to be robust enough to achieve its intent. There is not much point if the health sector thinks that anyone who complains and is unhappy about being tested should not be tested. This is an act of law. The minister's notes refer to "reasonable" force. The minister might want to explain that. It is important that we understand that, because we will either enable the taking of a sample, or we will not. I ask the minister to please explain that process for us, because we do not want any grey areas here. The bill provides that a person who fails to submit themselves for the purpose of giving a blood sample commits an offence, and provides regulations for the taking and treatment of blood examples, the disclosure to the prison officer of the prisoner's medical records and test results, and further disclosure to the prison officer's doctor and family.

Where did this bill come from? What is the main reason for this bill? Let us look at some examples. The minister may recall that, in 2017, a situation occurred at Acacia Prison. I refer to an article in *WAtoday* on 4 October 2017 headed, "Charges laid after prisoner 'thrust his penis' onto prison officer, spat into another's face". These are not very nice or pleasant interactions for a prison officer to have to deal with. Obviously, the prison officer who had to deal with that situation would have suffered a fair bit of stress and concern and would have been quite worried about whether they had been exposed to any viruses. The article states —

The prison officer who was spat at is now undergoing tests for blood borne viruses. They will have to wait several months for the results.

Two years ago at the WA Prison Officers' Union conference Mark McGowan, who was then opposition leader, said Labor would introduce mandatory blood testing for prisoners involved in such incidents so test results could be obtained quicker.

Yes, the government is bringing it in now but, as I said earlier, the issue is that that poor prison officer had to wait several months for their own results. Had this law been in place at the time, or even three years ago when the government came into power—it could have brought it forward a bit quicker, because there were other bills the government pushed through that were probably not as important as this one—they might have got those results much quicker. Another example was in 2015, at Bandyup Women's Prison, where there was a biting incident. That was reported in *The Sunday Times* on 15 March 2015, in an article headlined, "HIV fears for bitten guard". It states —

A FEMALE prison officer faces an agonising six-month wait for blood test results after being bitten by an inmate at Bandyup women's jail.

...

The prison officer was bitten on the stomach and head-butted by the inmate on March 5 ...will now undergo blood tests ... to see if she has contracted any diseases ... such as HIV.

It was a six month, quite painful wait for her and her family, along with recovery from the trauma of the event itself. A number of documented police incidents also had to be covered before mandatory testing was introduced. I will not go into those in any great detail, because today we are focusing mainly on prison officers, but the prevalence of blood-borne viruses in Australian prisons is something well worth taking a look at. We will take a look at hepatitis C, for example. For members who do not know, hepatitis C is an infection that causes liver inflammation and, if left untreated, can lead to complications such as cirrhosis, a chronic liver disease, and cancer. It is the most commonly reported notifiable blood-borne disease in Australia. As the minister would be aware, the prison population is especially at risk of hepatitis C infection due to the high proportion of people in custody with a history of injecting drug use and the at-risk behaviours associated with illicit and injecting drug use, including needle sharing, and other at-risk behaviours such as amateur tattooing and violence that can lead to blood-to-blood contact. We know also that people in prison often come from marginalised groups, where medical care in the community is unavailable or not accessed, and so are at risk of having undiagnosed hepatitis C before they enter prison. Statistics from "The Health of Australia's Prisoners: 2018", a report from the Australian Institute of Health and Welfare, which was released on 30 May 2019, found that in 2016, more than one in five, or 22 per cent, of prison entrants tested positive for hepatitis C. Understanding how serious this particular blood-borne disease is makes us understand and appreciate the need for prison officers to be better served by our health system, by giving them accurate information as quickly as possible so that their stress and worry can be alleviated, or so that they can immediately act on the information given. One of the other diseases, hepatitis B, is also a common blood-borne virus that causes inflammation of the liver and can lead to cirrhosis and cancer. That is another one. About one in six, or 16 per cent, of prison entrants tested positive to hepatitis B. Those are just two examples. Fortunately, in 2016, no prison entrants

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tested positive to HIV. That is not to say that that will be the case in the future. These things always need to be looked at carefully.

Clause 14(1) of this bill increases the monetary penalty for bringing unauthorised articles into a prison from \$2 000 or 18 months' imprisonment to imprisonment for 18 months and a fine of \$12 000. That is a significant jump in penalty from \$2 000 to imprisonment and \$12 000. The minister does not need me to remind him of the numerous breaches of security that have occurred in our prison system under his government's watch, which is of concern to the opposition and the community. Certainly, increasing the penalty from \$2 000 to \$12 000 will, we hope, be a significant deterrent for a former partner, family member or friend of a prisoner who wants to bring some sort of contraband to the prison and try to smuggle it through and get it to that prisoner. Obviously, we would be keen to see how this change will impact on the changes to unauthorised articles being brought into prison. Maybe the government could review it after a 12-month period, following this bill coming into play, so that we can see whether there has been a drop or not. It certainly makes sense to have that provision. If we think of the many different weapon and drug seizures that we have seen in our prison system under the minister's watch, it is obviously of concern. We had one quite recently. On 13 June 2019, PerthNow reported under the headline "Woman arrested for trying to smuggle meth into Hakea in a balloon" —

A woman caught allegedly trying to sneak more than four grams of methamphetamine into Hakea Prison on Wednesday has been taken into custody.

Maybe that woman would think twice with the penalty going from \$2 000 to \$12 000. At the time, Commissioner Hassall was most concerned. He said —

"If you attempt to bring drugs, weapons, mobile phones or other illicit items onto prison property, you will be caught," he said.

"All these items have the potential to lead to the death of, or cause serious injury to, prisoners, prison officers or other staff.

It is clearly a problem. The minister will recall another headline, from 5 June last year, in WAtoday, "'Don't go from visitor to prisoner': Dozens of charges laid as drugs halted at WA prison gates". It states —

Heroin, methamphetamine and a pen gun are among the contraband halted at WA prison gates as part of a police and Corrective Services crackdown in recent weeks.

Dozens of charges have been laid for a range of offences ...

In the most recent case, a 31-year-old woman visiting an inmate at Hakea on Saturday was arrested and charged with possession of a prohibited drug ... 2 grams of methamphetamine ...

Special Operations Group officers and the Drug Detection unit carried out car park searches at Casuarina Prison and Hakea, uncovering heroin, meth, drug paraphernalia and weapons before they could get through to the prison.

Nine people were charged with drug offences after the Casuarina search ...

It goes on to talk about cannabis, drug paraphernalia and methamphetamine et cetera. These are concerning. The minister has heard me question the government during question time about my concerns with security. He has heard me ask questions on my concerns about the lack of CCTV coverage in prisons. He has heard me talk and ask questions on my concerns about security breaches in our prisons. There is plenty of evidence to support that. Hopefully, as I said, the effort to increase the penalty will have an impact on preventing people from trying to bring some of those contraband into the prison system.

Clause 23 amends section 110, enabling the making of regulation surrounding mandatory testing and the taking of body samples. Essentially, this clause enables the making of regulations to authorise a prison officer to take blood and other body samples from a prisoner when the prisoner may have committed a prison offence, and to regulate the treatment of such samples. It enables the making of regulations to authorise the superintendent to direct a prison officer to take blood and other body samples from prisoners at random to detect whether an aggravated prison offence has been committed, and to regulate the taking and treatment of such samples. The random nature of this is also a strength because it enables the prison officer community to be better supported. In the event that somebody is found to have an infectious disease, before they do anything wrong to endanger the health of a prison officer, the prison officers would be aware of that so they can make sure, as best they can, that they give themselves the protection or space that they need when dealing with that prisoner. That is an important aspect of this bill.

As members can see, a number of things are important here. Earlier in my introduction, I highlighted the issue of how we can make sure that the health sector is supported so that it is comfortable with how this bill is enacted. The president of the Western Australian Police Union, Harry Arnott, stated that the Mandatory Testing (Infectious Diseases) Act 2014

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came with its own challenges. Members may recall that. An article in the *South Western Times* of 20 February this year headed “New law aims to protect prison officers” stated —

WA Prison Officers’ Union assistant secretary Paul Ledingham said the union welcomed the announcement and had been campaigning for the change for more than five years.

Mr Arnott, the president of the WA Police Union, was reported as having said —

“Doctors are refusing to take blood from offenders which is making this legislation ineffective and it needs to be urgently addressed by the State Government as this is not in keeping with spirit of the legislation.”

That is from the police union president. If he is saying that under the existing law that protects police officers, it is obviously an issue that will need to be addressed for the prison officers. Is the minister aware of the police union president’s concerns?

Mr F.M. Logan: No, I am not.

Mr S.K. L’ESTRANGE: That article appeared in the *South Western Times* on 20 February 2020. The minister may want to look at the president’s quote. If he is saying that and the WA Prison Officers’ Union is reading that because its comments are in that article —

Mr F.M. Logan: Can I ask the date of that article?

Mr S.K. L’ESTRANGE: It is 20 February 2020. The article appeared in the *South Western Times* and was titled “New law aims to protect prison officers”. It is worth looking at that.

As I said, there have been numerous problems and issues around the management of our prisons, which I have highlighted to the minister on several occasions over the last six months. We are supporting this legislation. We think it is important as a society to protect those people who are willing to do the hard work on our behalf to try to keep us safer. An effective corrective services and prisons system keeps society safe from dangerous offenders. Corrective services and prisons also have a role to play in preventing recidivism and making sure that, whenever possible, people can get some skills, training and rehabilitation so when they re-enter the community, they do so with a positive outlook on life with a view to not ending up back in jail so they can become good contributors to our society and be as successful as possible.

I do not want to digress too much but with regard to recidivism, one of the real concerns is that only 29.7 per cent of eligible prisoners participate in education and training in WA prisons. I am digressing a bit but I wanted to highlight that point. I will come back to the bill in a moment. Also, 56.2 per cent of young people released from sentenced youth justice supervision returned within 12 months. I think we need to do more to make our prison sector better able to skill, train and support our youth in particular or our young men and women so that they can re-enter the community with a positive outlook and be positive contributors. Making their experience in prisons safer with regards to infectious diseases should be part of that. Anybody who has already done wrong by society is trying to reform, or not, but the system should be trying to reform them—either way, we do not want them being at risk of health issues, which may add to an already existing demoralised state of mind, which may make them double down and reoffend when they leave. We do not want that. We need our prisons to be safe not only for the prisoners, but also for the prison officers. We want the programs in our prisons to run effectively so they can help prepare people for release and not end up back in there within 12 months, as we have seen. Aboriginal and Torres Strait Islander communities are over-represented throughout the prison system in Western Australia. Therefore, any efforts to help reduce recidivism by improving those statistics in education and training become paramount.

I will offer a bit of feedback. I attended the Durack division Liberal Party conference on the weekend. Members from the Kimberley and Pilbara were present. I sat on a law and order panel with the member for Hillarys, who represented the police portfolio, while I represented the prisons portfolio. We heard some very disturbing stories and anecdotes of behaviour. I heard a story about a young girl, which I will repeat for *Hansard* but I do not know the accuracy of it, so I say that up-front. The story goes that a 10-year-old girl grabbed a brick, got onto the bonnet of a police car while police were in the car and smashed a brick through the window. The police arrested her. They asked why she did that. She said it was because her cousin was at Banksia Hill Detention Centre and she wanted to stay with her cousin.

When the frequency of being in and out of the corrective services system becomes so high that it almost becomes normalised, we are doing a huge disservice to our youth by not getting them into an environment or some sort of program in which they can be disciplined and be given some training, skills and hope—maybe some of those wraparound social services that can better support them so they do not think smashing a police window to get themselves to Banksia Hill is a good idea. We can do a lot more with a number of young people, particularly from our communities in the north, to prevent them from ending up in prison. We need to offer them more structure, support and help to make sure that they do not see the prison system as just a way of life. This government came into office promising a lot in that space, but the statistics are not showing results. I think much more can be done.

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Obviously, a few people on this side of the chamber would like to speak to this bill. In summary, from my perspective as the Liberal opposition's shadow spokesman on corrective services, I congratulate the minister and the government for bringing forward this bill. We will be supporting this bill. We hope that it will do what it needs to do to support out prison officer community in particular but also our prison community in general. It is there to help look after the health and wellbeing of prisoners.

MR K.M. O'DONNELL (Kalgoorlie) [5.58 pm]: Greetings. I, too, would like to talk about the Prisons Amendment Bill 2020. Even before I start, I say to the minister that I fully support this legislation. Whenever I see a good bill, I will say it is a good bill, and it is. The Prisons Amendment Bill 2020 provides for an act to amend the Prisons Act 1981 to introduce mandatory testing of prisoners for certain infectious diseases when there are reasonable grounds for suspecting that there has been a transfer of bodily fluids from a prisoner to a prison officer and to increase monetary penalties for certain offences. The minister in his second reading speech said —

The purpose of taking the blood sample is to promptly identify whether any infectious disease is present in the individual and inform the affected officer of the test result as soon as possible, therefore reducing the period of anxiety experienced by the officer.

Prison officers are not unlike police officers and they should be afforded the same safeguards as police. When I was a police officer, I was lucky not to have had any bodily fluids passed on to me by an offender.

Mr P.C. Tinley: I'm glad you didn't.

The ACTING SPEAKER: It is good to hear.

Mr K.M. O'DONNELL: Maybe I should have worded it differently.

The ACTING SPEAKER: We may be saved by the bell.

Mr K.M. O'DONNELL: I was bitten on the knee by an offender but back in those days—back in the 1980s—we just went down to the hospital and the nurse said, “Drop your pants and bend over” and we got a needle for rabies.

Mr P.C. Tinley: This is going south real quick!

Mr K.M. O'DONNELL: I remember when I got that rabies shot. My partner was a female police officer. I was sitting in the cubicle, and she was with me when the doctor said, “Drop your pants.”

Sitting suspended from 6.00 to 7.00 pm

Mr K.M. O'DONNELL: Greetings. I wish to continue my contribution to the debate on the Prisons Amendment Bill 2020. I reiterate—I want to word it correctly—that in my 34 years as a police officer, there was no transfer of bodily fluid from a prisoner or offender to me. When fellow police officers were involved in an incident—when they were stabbed, bitten or assaulted—they would have to wait between six weeks and three months before they could be tested. It was very harrowing sitting and waiting, “Do I have HIV?” which was the concern back then. “Will I get any diseases?” or “Will I pass anything on to my family?” It is very harrowing. This is a very important bill. The second reading speech states that prison officers are not unlike police officers. It is sad that it has taken this long before prison officers are afforded the same privileges as police officers. Police officers do prison officer jobs in their line of work. Nearly every police station has a lock-up. In this day and age, some lock-ups have been decommissioned. The Perth watch house is a mini prison. In my years in the police force, I was in charge of prisoners many times. I was a lock-up keeper. When a person first got into the police department and they went to the lock-up, they could be the reserve officer, which means that they would write who comes in in the prison book, or the man on cells, which means that that person had the keys and if anybody wanted to get in and out of the cell, they had to go through that person. In the old days, an officer who was on the bottom of the regimental numbers on the roster would be responsible for fingerprinting every prisoner who came through. I am so glad I did well in the academy—so, so glad.

Mr D.A. Templeman: How'd you go? What was your score?

Mr K.M. O'DONNELL: I came twentieth!

Mr D.A. Templeman: Out of 20?

Mr K.M. O'DONNELL: Maybe. No! We started with 51 people and, by the end, we got down to 47. One person pulled out because he thought we were overzealous in how we arrested people. He decided it was not for him and resigned.

Mr D.A. Templeman: What was your badge number?

Mr K.M. O'DONNELL: Thank you. I am very proud! It was 6417.

Mr D.A. Templeman: It sounds like a postcode.

Mr K.M. O'DONNELL: Yes! They now use barcodes because there are police officers with the number 10 000 or greater. When I first joined, I was a 64-number and I came across someone who had a number in the low 2000s. Wow! But just before I finished in the force, all the young bucks would say, “Six, four—jeez, you're old”. When

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police officers talk amongst themselves or when family members talk about the police, they say, "What's your regimental?" and they know that the person is either an ex-police officer or involved.

I did my time in the lock-up. I never had to take fingerprints. Other people from my academy had a lower number so they had the privilege of doing that, which was good. I found out that one of my best friends beat me. He got 6416. I cannot duck dive. It took me until I joined the police academy to find out that I cannot duck dive.

Mr Z.R.F. Kirkup: What does that mean?

Mr K.M. O'DONNELL: When a person is treading water, say at Beatty Park in the huge deep part, it is when they go under and down.

Mr D.A. Templeman: You can't do that?

Mr K.M. O'DONNELL: No. And I did not know that I could not do it until I was told to do it.

Dr A.D. Buti: You don't need to do it in Kalgoorlie.

Mr K.M. O'DONNELL: I know! Glen Miller and Bert O'Meagher were the two officers. They would throw weights into the deep end at Beatty Park Leisure Centre. Have members been to Beatty Park and seen the huge diving part? They said, "Just jump in the water." We thought, "What are we doing?" The next minute they said, "Go down and get one of the weights." Everybody was doing it. I would go under and straight back up, under and straight back up.

Mr D.A. Templeman: It was a long weight!

Mr K.M. O'DONNELL: Yes. I could not do it, which is why my friend beat me. It was like jumping off the diving board. I digress; we had to jump off the three diving boards. Back then I had a fear of heights. When I went onto the first diving board, I thought, "Oh jeez, I can't jump; there's no way in the world." There were half a dozen recruits behind me and they said, "Kyran, just stay there. Don't do it because we don't want to do it." Glen Miller, the senior constable, said, "O'Donnell, jump." I said, "I want to but I can't." He said, "Right." The next minute this huge senior constable came up the stairs. I lost it and jumped because I would rather have jumped than face him. I jumped in, got out and did it three more times. I was so ecstatic that I could do it. I got glandular fever when I was in the academy so I did not have to jump off the top diving board. That was even better.

Mr D.A. Templeman: That was handy.

Mr K.M. O'DONNELL: It was, because I do not think I could ever do that. I do not think I could even climb up there. I was glad that I never had to rescue anybody in the ocean. I was so, so glad.

Mr D.A. Templeman: They'd never put you in the water police.

Mr K.M. O'DONNELL: No, nor the air wing, because I was not very good at flying.

Mr D.A. Templeman: You limited your scope.

Mr K.M. O'DONNELL: I know, that is why they left me in Kalgoorlie for 30 years! I do not know whether the member remembers Michael Dean.

Mr D.A. Templeman: Yes. He lives in Mandurah.

Mr K.M. O'DONNELL: Does he? He stood in front of the commissioner and he said, "Do you want police officers like Kyran O'Donnell to come back to the metropolitan area?" It was Karl O'Callaghan. Karl O'Callaghan turned to Murray Lampard, the assistant commissioner, who said, "No, we don't." They said, "You can stay."

Mr D.A. Templeman: And you said yes.

Mr K.M. O'DONNELL: Yes. They left me there for 30 years.

Mr Z.R.F. Kirkup: And Kalgoorlie is all the better for it.

Mr K.M. O'DONNELL: I hope so.

Mr D.A. Templeman: I thought you came in here with a bit of dust on your shoulders.

Mr K.M. O'DONNELL: It is called work, minister; you should give it a crack!

The bill authorises the chief executive officer to disclose a prisoner's medical record to a prison officer if an incident takes place. That is really good because when prisoners are admitted, their medical records are entered and prison officers can be told there and then what is going on. A lot of people do not realise what goes on in prisons and lock-ups. The police lock-ups deal with prisoners when they are going off—and I mean going off. We had to restrain prisoners, which can be very hard in itself. In the movies they just have a big dustup and a fight, but we have to restrain them without violence, and it is very hard to do. I will talk about the monetary penalty after. I would like to bring the minister's attention to a spelling mistake. He is probably already aware of it. If it is not a spelling mistake, I would like to know what the word is. On page 3 of the explanatory memorandum, about clause 12(2) it states —

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Therefore, a medical officer may be delated with the power to inspect medical ...

I have never heard the word “delated”. I am assuming that should be “delegated with the power”.

Mr F.M. Logan: Yes. It is not in the bill.

Mr K.M. O'DONNELL: No. But I did not know what “delated” meant.

It is good that the bill states that the chief executive officer may authorise the use of reasonable force for the taking of a blood sample. This comes about when a medical officer or a nurse asks the prison officer for assistance when taking a blood sample if the prisoner refuses. It is very good that the government has this in the bill. Many a time people had to submit their fingerprints, and if they did not want to give them we had to, with reasonable force, make them do it. It could take two or three of us to hold the person to actually do it. This is a good one. As a safety precaution, the medical officer or the nurse may ask the prison officer to hold on to the prisoner. I daresay more than one prison officer would be needed to hold them. It does not matter how wiry, skinny, big, or fat they are; if they do not want to do something, it can be very awkward. The more people they have, the less force they need. If they are non-compliant or behaving in a manner that is likely to cause harm to a medical officer or a nurse, then the testing will not go ahead. In these circumstances the superintendent may charge the prisoner for failing to submit. I have a question to the minister on this one and the next one. It is fine to charge them, but I am looking to find out whether it is stated in the bill that reasonable force can be used to get the sample when they refuse. I am assuming that that is the case.

Clause 14 will increase the monetary penalty for bringing unauthorised articles into the prison. That is very good; hit them hard! I know that in our Eastern Goldfields Regional Prison, officers do their utmost to stop stuff getting in, but drugs still get in. It is very annoying. It is hoped that that is their chance—that is, no drugs for 18 months or for three years, but they still get it in. Loitering around a prison is a good one as well, as the member for Churchlands said as he talked about different things. People go to the prison and throw things over.

Mr F.M. Logan: In Kalgoorlie they do that. They try.

Mr K.M. O'DONNELL: Back in the 1980s we caught a bloke for trying to blow up the prison.

Mr D.A. Templeman: Really?

Mr K.M. O'DONNELL: Yes. He tried to blow it up, but he did not do it. He had cannabis on him, so they charged him for attempting to blow up the prison and possession of cannabis. He went to the District Court, was found guilty and was sentenced to so many years. He went next door to the Magistrates Court to deal with the minor thing. Let us suppose he had six years in jail. He went next door and the magistrate said that he would be fined \$100 and asked whether he had anything to say. He said, “Yes, can I have time to pay—at least six years?” Just because people are inside a prison, it does not mean —

Mr D.A. Templeman: His name is probably Rodney Rude! It sounds like something Rodney Rude would say!

Mr K.M. O'DONNELL: He is a big guy. I know him. I will not say his name in here. We get along at the moment. He is a huge unit.

Mr F.M. Logan: He was not that National Party candidate was he? Big John or whatever his name is?

Mr K.M. O'DONNELL: Big Nick. No, it was not him.

Several members interjected.

Mr K.M. O'DONNELL: But he is going to have a crack at state.

It is good that the government will increase the fine to \$3 000 for prisoners who do not submit to the mandatory blood testing. That is really good. It might already be the case, but my question is whether all monetary fines will be cumulative onto their sentence rather than concurrent if they do not pay it while in prison. Let us say somebody gets two years' imprisonment and \$6 000 worth of fines. Rather than, as a magistrate might say, cut them out, so they are just wasting time, if we make them cumulative, it sends a stronger message—that is, add it on.

When I have talked to the mob over the years—this is back in the 1970s when I was in Port Hedland in hotels and in the police—I used to hate it when I would say to somebody, “I haven't seen you for a while. Where've you been?” And the mob would say, “I've been on holiday.” I would tend to think, “How good is that? Where did you go? Melbourne? Bali?” And they would say, “No. Greenough.” Or they would say Broome or Eastern Goldfields. That is why I say it is sad —

Mr D.A. Templeman: They were holidaying at home!

Mr K.M. O'DONNELL: Well, when you think about it, when we go on holiday, we might go to see family, we have three meals a day, we get to exercise and we get to do activities. They go to the prison and they get to see

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their family. They get have three meals a day and do activities. It is a sad indictment that that is the mentality. I have been out of the system for a while, so I am hoping that that has changed and they do not have that anymore.

The member for Churchlands was correct when he talked about the smashing of a window to get locked up. We have had that. I have done it. I said it once and I never said it again after that.

Dr D.J. Honey: How many windows have you smashed?

Mr K.M. O'DONNELL: No. Not that I have done that. I have made the comment to a person. Back in the 1980s they had their blanket and wanted to sleep in the lock-up. It was a common occurrence for the mob to sleep at a police station. It could have been done even before the 1980s as well. We used to let them, because we would know that they were safe and had a roof over their heads, and it did not hurt us. But we were told we had to stop doing that. One guy came in as per usual and asked if he could sleep in the station. I said he could not. He said that I always let him, but I said that only those who commit an offence could stay—those who smash a window or whatever. He walked to the front of the police station, picked up a rock and smashed one of the car windows. We put him in for the night. He got what he wanted, but I learnt never to say that ever again. The sergeant was not happy about that at all.

[Member's time extended.]

Mr K.M. O'DONNELL: While we are talking about prisons, if I just touch on one final thing, the prison staff at the Eastern Goldfields Regional Prison are very keen for the government to come forward with incentives to try to entice more prison officers to transfer to Kalgoorlie–Boulder or go through the academy and then stay.

Mr D.T. Redman: We did it in government with the district allowance. It meant that for one of the hardest to staff prisons, which was Roebourne Prison, there was a line of 20 officers trying to get the gig. With the district allowance, you can achieve that outcome, but since then it has kind of been smashed.

Mr K.M. O'DONNELL: Yes. I have also been told that the rosters in Roebourne also helped with that. In the police department, the district allowance if officers go to South Hedland is a \$35 000 or \$36 000 district allowance. Officers in Kalgoorlie or Broome do not get that, but they give that for South Hedland. They are on \$700 a week straight up, which is outstanding. At the police station in Kalgoorlie, our staff were on a five panel roster and everybody was trying to transfer to Kalgoorlie police station. Sick leave plummeted and the department did not have to put any money in. It was the roster that enticed them there. That was years ago. To this day they still struggle to implement that roster. It got taken away because it was granted as a social roster. I am hoping that the government can do things that might not make it a financial decision to move, but I have been informed that the rosters are not the issue, so it needs to come up with an incentive. At the moment, the prison officers who live there do not get any benefits for electricity, rental subsidies and water; whereas if a prison officer transfers in, they get those extra benefits. Therefore, staff are on different wages. They have the same rank, but one earns more money than another. That would be an area in which to bring in the equalisation of wages, because at the moment, my understanding is that there are no applications to work in the Kalgoorlie–Boulder prison system, yet —

Mr F.M. Logan: We're sending prison officers up there all the time.

Mr K.M. O'DONNELL: As I have said, in some of the information that I have been given, there are zero applications. I do not dispute what the minister says. It would be good, but I am told that the prison is well below strength. If the minister can help them in any way to improve that, it would be appreciated by the prison and the people of Kalgoorlie–Boulder, because we would love to have more families of prison staff come to Kalgoorlie–Boulder. With those people coming in, the schools would start to pick up and more shops would open, not just because of those people, but that is what it takes to get more people in and make it liveable.

One prison wing has never been used since the Liberal–National government opened it, and I have been informed that the second wing has now been closed. If we can get more prison officers there, we can bring more prisoners up. It would be good for our prisoners who are from the goldfields, especially the lands. There is nothing worse than when the families cannot visit them because the prisoners have been moved away. We know that amongst the mob, they heavily rely on their family.

I will finish up now. I thoroughly support the minister's bill, and I wish him all the best. Hopefully, this bill will help all prison officers in the future.

MR D.T. REDMAN (Warren–Blackwood) [7.21 pm]: On behalf of the Nationals WA, I will make a few comments on the Prisons Amendment Bill 2020. I state at the outset that the National Party will be supporting this bill and all the provisions that it purports to represent. For the most part, the basic tenet behind the bill is that it makes provision for the mandatory testing of prisoners if it is reasonably suspected that there has been a transfer of bodily fluids from a prisoner to a prison officer. The intent of the bill is to have testing in place such that we can effectively shortcut the likelihood of a prison officer picking up some sort of communicable disease from a prisoner. If we do not do that, we have to wait for the prison officer to show the symptoms of disease, and that may take weeks to play

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out, and, of course, during that time they would wonder where the hell they are at. I fully appreciate that viewpoint, and it was expressed to me when I took the position of Minister for Corrective Services.

I am told that it is a very similar provision to what the WA police had when their act came into operation in 2014. I know the minister is taking notes of some questions, and one question that he might like to answer for me, given that it is unlikely that we will go into the consideration in detail stage—I will let the Liberal opposition work that one through—is about the court security and custodial services contract. This bill applies only to prison officers. It is my understanding, however, that it does not apply to contractors under the court security and custodial services contract. But there are other contracts in place, such as the Acacia Prison contract. I assume that the bill applies to prison officers in Acacia Prison. I assume it also applies to prison officers under the Melaleuca Remand and Reintegration Facility contract that is in play. The government has some private-sector arrangements in place, but, interestingly, it does not apply to the CS and CS contract.

It is my understanding that one of the premises behind this, or, if you like, a demarcation of whom it applies to and whom it does not apply to, is the application of this provision to those who are forced by virtue of their position to intervene in something. Prison officers have to intervene if there is a dispute or an issue. Police officers have to intervene if something is going on. Other groups like nurses and teachers and so on can step back and say, “Well, that’s life.” They can raise a whole heap of other things, but they do not have to physically intervene. The minute that someone has to physically intervene, there is a bit of a line in the sand. I would have thought that if CS and CS contractors were transferring prisoners, they would have to intervene, by virtue of their positions, if, for example, they were having problems with a prisoner or there was a dispute or a fight or whatever might happen. I am intrigued as to why the bill did not capture those who come under the CS and CS contract, because I would have thought that the principle of the demarcation here is sound and that is the reason why the minister has not chosen to pick up others who work in the prisons, such as the people who teach and the mental health counsellors. There are people in the design and technology areas who do a whole heap of workshop-type activities who are not prison officers per se, but could well be in a situation in which they pick up a communicable disease through the transfer of bodily fluids. But they do not come under the provision that the minister is giving to prison officers, whereby if they reasonably suspect that to be the case, there is mandatory testing of those prisoners. There is a demarcation line, and I would like the minister to explain why the government has chosen this path but has not chosen to pick up the CS and CS contractors in that mix.

The bill also covers not only assaults, but also accidental circumstances in which there has been a transfer of bodily fluids. Sexual assault is one of the clear examples in which there could well be the transfer of bodily fluids but not in a consensual sense. That might sound like a silly thing to say about a prison, but those sorts of things happen. One of the questions that I asked is: what other provisions are there in our various acts under which we can force someone to undertake a test if we reasonably assume that someone is infected with something? I believe that the Health Act has similar provisions, but, of course, it has a much higher threshold, as I understand it, and it is a much longer process. Although the scope is there to respond quickly to a circumstance in a prison, it is not done in a speedily enough way—if that is the right word—to respond to the issues concerned. I agree with that. I think the argument that was put to us about why the existing provisions are not sufficient to deal with that issue is the reason that this bill has been brought forward.

Another part of the bill updates the penalties and aligns them to be consistent with those in other states and with consumer price index increases. Penalties need to be made contemporary. If that is not done, they are not a disincentive for prisoners, and that applies right across the Prisons Act, not just to the transfer of communicable diseases.

One topic has not been touched on tonight, and I am a tad surprised that it has not. We are talking about diseases, and clause 4, “Section 3 amended”, states —

infectious disease means any of the following —

- (a) Human Immunodeficiency Virus (HIV) infection;
- (b) Hepatitis B;
- (c) Hepatitis C;
- (d) any other prescribed disease capable of being transmitted by the transfer of bodily fluid;

Of course, one of those diseases is the coronavirus. Right now, COVID-19 is very relevant, given that we are talking about the broader community, a level of social isolation and—what do they call it?

Mr Z.R.F. Kirkup: Social distancing.

Mr D.T. REDMAN: Social distancing. A whole heap of very strong positions have been taken by the national and state governments to ensure that the coronavirus does not spread. Prisons are a really challenging environment in which to manage that issue. For one, the scope to isolate is very difficult. In the first instance, I would have thought that it would have been a pretty solid goal to make sure that no-one in prison gets the coronavirus; therefore, we have a chance of managing the issue in an environment that has a big wall around it. This is an opportunity for

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the minister to put on the public record how he intends to manage coronavirus in prisons, because this bill is relevant to that. When someone presents inside a prison, bodily fluids can be transferred with a sneeze. In those circumstances, it may or may not be known whether the person has coronavirus. Will that risk be a trigger for getting prisoners tested? Will prisoners be tested before they are remanded to prison so that we know they are going in with zero risk of having the disease? What is happening in prisons? The risk to prisons and, by extension, to the community, is substantial. If prisoners have the disease, it will not be difficult for the prison officers to pick it up. That then becomes a workforce issue, and the minute a prison has a workforce issue, there is the risk of having a reduced workforce and lockdowns and all the things that go with that; the temperature rises and we could end up with another Greenough.

A lot of issues sit on the minister's plate as the minister responsible for managing prisons in Western Australia in an environment that is changing on a daily basis. The minister's response to that would be a good chance to put on the public record how he is managing the prisons in Western Australia. The scope to isolate prisoners is very difficult; there are not too many options. Interestingly, the member for Kalgoorlie mentioned that there were empty wards in the Eastern Goldfields Regional Prison, and maybe some other prisons. I have not looked at that recently. Prisons can quickly become inundated with prisoners when trying to segregate prisoners. How will the application of this bill apply to group situations? How will it apply to coronavirus-type diseases that are very easily transferred, and will the minister pursue mandatory testing of prisoners so that we know exactly where we sit? I am sure prison officers would like to know that as well.

I am interested in the minister's response to staffing strategies for managing coronavirus infection. I have looked at a lot of different information on how coronavirus progresses, and it is a fact that it will get here; it is just a matter of managing how quickly it gets here. In addition, a relatively big proportion of the population will get it. I do not want to quote the death rate per 100 000 population, but as people get older, the death rate dials up. That will apply to prisons just as much as anywhere else. Some of our prison staff and prisoners are at the higher end. I am in my mid-50s and I know a lot of them are my age and older in some cases. The minister, under his portfolio, is responsible for people who carry a level of risk commensurate with their age.

We support this bill, and rightly so, but I have a couple of key questions for the minister. I would like to know the delineation of who is in and who is out, particularly regarding the court security and custodial services contract and why the government chose not to pick them up in the provisions. Also, this is a chance for the minister to put on the record the management of coronavirus as it plays out and how that applies to our prisoners. Prisons are a risk to our community if they are not managed correctly, as we have seen, I might add, under the minister's watch. The biggest prison breakout in Western Australia's history happened in Greenough under the minister's watch. That is on the public record. Now is the minister's chance to put on the record his strategy for managing coronavirus as it applies to his portfolio, and I look forward to hearing his response.

DR A.D. BUTI (Armadale) [7.34 pm]: That was a very interesting contribution by the member for Warren–Blackwood. It started off very nicely but the assassin came out at the end. It was very unbecoming of the member. As the member for Warren–Blackwood knows, being the Minister for Corrective Services is probably one of the hardest portfolios because people want to talk to the minister only when something has gone wrong. They never congratulate the minister for the 98 per cent or 99 per cent of the time when things are okay. The member knows that very well, as a former Minister for Corrective Services. It was a cheap shot at the minister for something the member for Warren–Blackwood said he supports.

I would like to make a contribution to this debate on the Prisons Amendment Bill 2020. In many respects, this bill will provide what is already available to police officers who have mandatory testing in certain circumstances when there are concerns that bodily fluid has been transferred from a person to a police officer. That could also take place in the prison system and to prison officers. In some respects, it could be argued that this bill will apply to prison officers the occupational health and safety compliance policies that are enforced for police officers. I congratulate the minister for having that concern for our prison officers.

Obviously, mandatory testing is a controversial issue. When a blood sample is sought, particularly in this type of situation, it is an invasive process on someone's body; therefore, there will always be some civil liberty issues. However, it is hard to argue that there should not be a requirement or legal power for blood testing or drug tests for a prison officer who may have been infected by a prisoner. Mandatory testing occurs in many other areas in a number of workplaces, especially in the mining industry, based purely on occupational health and safety issues. It is controversial, but mandatory testing often occurs for people who work in dangerous occupations. The member for Roe, the outstanding tennis player of the Western Australian Parliament, would know all about the testing that occurs in the sporting arena. Drug testing in the sporting arena is a particular area of law that has developed. It is a unique, *sui generis*, area of law whereby many of the rights of individuals are taken away if they participate in sport. The testing regimes that athletes have to agree to include a severe limitation of their civil liberties that not many people are aware of. I think the general view is that drug testing in sport is very important to ensure —

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Mr P.J. Rundle: Integrity.

Dr A.D. BUTI: Yes, to ensure the integrity and viability of the system and also for health and safety reasons. Many different policies lie behind why we have drug testing in sport. One policy is the so-called level playing field so that athletes get there on their own ability. As we know, that is compromised because obviously that is not always the case. It is never a completely level playing field. Another policy is to uphold the integrity of the sport so that the people who watch sport know the athletes have got there on their merits and by training. Further policies include health and safety and, in some cases, to reduce criminality regarding drug trafficking in sport.

In this bill, the system we are talking about is the prison system, which is a very defined area. Prison officers work in a unique environment and they face many dangerous situations. I am sure that prison officers often fear being infected by a prisoner and it is very important that their fears can be alleviated by introducing a mandatory drug testing regime so that when they are infected, the appropriate medical response can take place.

Many years ago, during the 1990s, I was a solicitor at the Aboriginal Legal Service. The height of the HIV era was around the 1980s. At the time, two Aboriginal prisoners were in prison for quite minor offences but because of their HIV status, the policy of Corrective Services at the time was to segregate them from the other prisoners. That meant the only place they could engage in their one-hour recreational activity each day was in what was called block 6 in Casuarina Prison. At that time Casuarina was where the most hardened criminals, including the Birmies, were held. These two Aboriginal prisoners, who were in for very minor offences, were segregated from the general prison population and had to engage in their recreational activity with the most hardened prisoners. We claimed discrimination on the basis of disability—HIV was considered a disability—in front of the Australian Human Rights and Equal Opportunity Commission, and were successful. I am not sure whether the Department of Corrective Services changed its policy. I had left the Aboriginal Legal Service. I understood there would be industrial action if the department mandated that these two prisoners should have to interact with the general prison population. The fact they were HIV positive was known from their medical history. It is incredibly important that prison officers and the management of prisons know the medical condition of the inmates. Obviously, medical records are very well known and testing can occur when a prisoner enters the prison system. However, when a prison officer is fearful or concerned that bodily fluids may have been transferred from a prisoner to a prison officer, it is incredibly important that the prison system have the legal authority to undertake mandatory drug testing of the prisoner who it is thought may be carrying an infectious disease. That is incredibly important for the duty of care of the minister and the department to ensure they comply with occupational health and safety good practices.

I commend the minister for bringing the Prisons Amendment Bill 2020 before the house. As we know, the opposition is supportive of it. The sooner this bill is passed and goes to the other place and becomes law, the sooner prison officers will be very relieved.

MS J.J. SHAW (Swan Hills) [7.42 pm]: I am very pleased this evening to speak in support of the Prisons Amendment Bill 2020. I would like to run through some of the provisions of the bill and talk more generally about what this means for a number of my constituents in particular. The seat of Swan Hills contains both Acacia Prison and Wooroloo Prison. A lot of my constituents are prison officers. I have had many conversations over the last few years with them about various employment conditions they have had to endure in prison. It is a tough place. I think this bill goes some way to addressing a range of concerns that many of my constituents have. It fulfils the government's commitment to introduce new laws requiring mandatory testing for infectious diseases of prisoners who assault prison officers. The purpose of mandatory testing, as the member for Armadale has just gone through, is basically to alleviate the stress experienced by prison officers who may have been exposed to a prisoner's bodily fluids. The transfer of bodily fluid may be intentional when an assault occurs against a prison officer or it may be unintentional. The point is that these fluids are capable of transmitting infectious diseases. The member for Warren-Blackwood went through a number of them. These diseases could themselves take time to manifest and that can leave prison officers in a terrible position not knowing whether they have contracted a disease or otherwise. Mandatory testing of prisoners enables affected officers to know whether a prisoner has an infectious disease as soon as possible. If the CEO of the Department of Justice reasonably suspects there has been a transfer of bodily fluid from a prisoner to a prison officer, he or she may require mandatory blood testing of that prisoner. In practice, however, it means that the superintendent, as delegate of the CEO, will issue the requirement for testing. The CEO may authorise the use of reasonably necessary force to take the blood sample when the prisoner is unwilling and those blood samples will be taken by a doctor or a nurse and a prison officer may be asked by a doctor or a nurse to use reasonable force to assist with the taking of the blood sample. Failure or refusal to provide a blood sample will constitute an aggravated prison offence under the Prisons Act and the penalty will be a fine or six months of imprisonment or separate confinement.

There are also some interesting mechanisms in the bill around the prisoners who are medically examined on admission to a prison and the ability of the CEO to inspect a medical record to ascertain whether a prisoner has any infectious diseases. When a prisoner exposes a prison officer to bodily fluids, regulations will be made to authorise the CEO to disclose medical records to the affected prison officers. The bill also authorises regulations to be made to deal

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with procedures for the taking and treatment of blood samples, the disclosure of a prisoner's medical records and test results to the affected prison officer, further disclosure by the affected prison officer, for example, to a doctor or a partner and the recording of disclosure and use of test results.

The WA Police Force and the Department of Health have legislation for mandatory testing for infectious diseases. This is not new and they have been consulted in the development of the bill. The bill will also do some tidying up within the act and some increases to monetary penalties for offences that have not been revised since the introduction of the offence provisions.

Considering this bill has caused me to reflect on the nature more broadly of corrective services. I have always been rather interested in corrective services. When I was a young law student many years ago, I took summer school and took a unit on the sociology of punishment, which was taught by the late Dr Frank Hayes, who was the Commissioner of the New South Wales Corrective Services Commission and a member of the New South Wales Parole Board. He was a very eminent scholar in New South Wales. Members might be familiar with Professor Tony Vinson, who undertook some major investigations into corrective services in New South Wales. Frank collaborated with Professor Vinson and produced a number of articles and conference papers on crime prevention, psychology and social work. Frank established the first work release program in New South Wales and facilitated the establishment of accommodation services for ex-prisoners. He was a wonderful man. In 1985, he was chosen as a member of the Australian delegation to the United Nations Congress on the Prevention and Treatment of Offenders and pioneered many ideas that are now common practice, including rehabilitation services for prisoners and their families and changes to custodial rules to enable women prisoners to keep their children with them. He was ahead of his time and worked tirelessly for reform of the penal system in this country. He was a beautiful man, very dedicated to his wife, Marie, and deeply religious. It was a real privilege to study sociology of prisons and punishment with him. When I had finished that course, he asked me if I was interested in becoming a research assistant with him. He was doing a project at the time looking at the sociological structure of prisons and the degree to which genuine rehabilitation was being delivered and the complex social and power structures within prison populations. We went to a number of prisons in New South Wales. We went to Silverwater and the Silverwater Women's Prison and the remand facility in Long Bay, which was a particularly confronting experience for me. We went to Parklea and spoke with prisoners and prison officers. It really piqued my interest in corrective services. Certainly, Frank and I had long discussions about the nature of corrective services and international trends, particularly the move underway in Australia at the time towards privatisation of the prison system in Victoria. Following that experience, I went to the Australian National University in the early 2000s and did a pretty lengthy research project on the privatisation of the Victorian prison system as part of the Australian National Internships Program. I had a look at what was then a fairly new trend, or move, towards privatisation in the prison system in Victoria. That was a fascinating exercise in itself. Certainly, I had more of an academic dive into the philosophy of privatisation rather than looking at just the sociological outworkings of public and private corrective service delivery.

As a bit of an aside, my great-grandfather was chief warden of HM Brixton Prison in the United Kingdom. My nan was born in the prison. As I said, a lot of my constituents in the seat of Swan Hills are corrective services officers. I frequently engage with people who live in Wooroloo, Chidlow and in Mt Helena. This important legislation will measurably impact on their lives. During a number of my interactions with prison officers, they often talked about the Respect the Risk campaign. It is such a vital campaign that recognises the need to protect the rights of prison officers working in public and private sector prisons by advocating for better recognition by the state government of the serious risks faced by Western Australia's prison officers. Obviously, this legislation goes some way towards addressing their concerns around the transmission of disease. It is an important step to recognise the very legitimate concerns in both the public system and the private system. These guys do a tough job and they can play a really key role in inmates' outcomes. Making sure that we look after prison officers in both the public system and the private system delivers a direct good and a direct social benefit because it improves outcomes for inmates.

I was recently made aware of the work of Mr Neil Hutton, who is a trades instructor at Acacia Prison. He received a major award for his work rehabilitating Aboriginal inmates. I found out about the award and wrote to congratulate him for his tireless efforts. He told me that he is passionate about rehabilitation and assisting inmates to gain employment beyond their incarceration period. He said, and I refer to my notes —

I believe that if [inmates] are shown how to do something that they see at the end that makes sense to them, they love it.

None have done anything like I have shown them before, and I always try to make it interesting for them so as they can focus on what they are doing. I start by teaching the elders and they help me show the young guys.

From the age of 1 year old our family grew up with an indigenous family and I still see them today.

Mr Hutton said that he has a lot of ideas about employment opportunities for Aboriginal inmates, who it is well known experience far higher rates of incarceration than the general public and are over-represented in our prison

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system. The work that he has been doing in rehabilitation is a wonderful service to our community and it will contribute significantly to closing the gap and assisting inmates to make the transition from incarceration, which, as I said before, is something Dr Hayes was so committed to. It is great to see such passion and dedication. I want to recognise Mr Hutton and commend him for his work. He is an example of a prison officer in the private system doing an absolutely fantastic job.

Having said that, the comments I am about to make are no reflection on the quality of work or the dedication and hard work of prison officers in the private system. But I am concerned when I hear from my constituents about private prison officers' experiences more broadly in the private system and the way that incentives work through the privatisation of the prison system to skew outcomes. I am concerned about the impacts on inmates and I am concerned about the impacts on the state's bottom line, because I think it is very questionable whether it delivers the reputed benefits.

Point of Order

Mr D.T. REDMAN: I absolutely respect Madam Acting Speaker in the Chair. During debate on the Voluntary Assisted Dying Bill, she made the effort to make sure people remained on topic. I ask Madam Acting Speaker to draw the member back to the subject at hand.

The ACTING SPEAKER (Ms J.M. Freeman): It is a second reading debate, member for Warren–Blackwood. I always tend to bring people back in their speeches in the third reading debate, and I am pretty good at that. The contributions to the second reading debate allow for a bit of latitude, but I will check with the Clerk. I will allow it, member.

Debate Resumed

Ms J.J. SHAW: Thank you, Madam Acting Speaker. Let me explain to the member for Warren–Blackwood, who may be a little confused about these issues, why the point that I make is so directly relevant. There are undoubtedly different outcomes in the public and the private systems with respect to prison officers and I think that very important point needs to be made. This government is making tangible steps to improve the paucity of the corrective services system that we inherited. I think that needs to be put on the public record. By all means bring it on, but I am going to make my point and I ask the member to sit there and listen.

The incentives in the private system to cut corners to make a buck are strong, and the people who suffer are prison officers and the inmates themselves. This legislation increases the protections available to prison officers in both the public system and the private system, but there are deep philosophical problems with the privatisation of the prison system. Experiences around the world have demonstrated that when the profit motive creeps into the delivery of such an essential human service, all sorts of negative outcomes arise.

Mr D.T. Redman: Will you take an interjection, member?

Ms J.J. SHAW: No, I will not, member. I sat in silence and listened the whole way through the member's speech and ask him to extend me the same respect. I seek the protection of the Chair, Madam Acting Speaker.

The ACTING SPEAKER: Absolutely.

Ms J.J. SHAW: Criminal justice, particularly when it involves the deprivation of liberty, is one of the most critical, central functions of a state. Prison privatisation abdicates this function. It turns it over to private sector contractors to make a buck. It opens the door to cost overruns, the mistreatment of inmates and poorer employment conditions for prison officers and associated ancillary staff. This bill begins to address that. In the United States, a range of studies have considered the perverse drivers and links between privatisation and increased incarceration rates. There are also a range of spurious assumptions underpinning arguments in favour of the privatisation of corrective services. There is blind faith in the role of competition, in what is actually a very shallow, oligopolistic market, in Australia and more so in Western Australia. False comparisons are made between public and private facilities, and their capital and operating expenditure profiles related to the characteristics of inmates, treatment of staff and employment conditions, which this bill goes to directly, and the condition, age and drivers to maintain incarceration facilities.

In the US, the bias around these assumptions has led to adverse outcomes for inmates. A recent study titled "Do Private Prisons Affect Criminal Sentencing?" by Michael Poyker and Christian Dippel, from the University of California, Los Angeles, published on 19 June 2019, provided causal evidence of the effect of private prisons on criminal sentencing. Using state-level changes in private prison capacity and comparing changes in sentencing across trial court pairs that straddle state borders, the study found that the doubling of private prison capacity raises sentence lengths by 1.3 per cent, but not the likelihood of conviction. The effect is not driven by changes in state legislation, and the research found no evidence for judicial capture. It did, however, find evidence that judges may internalise the lower cost of imprisonment in private prisons, and moreover that the effect was greater in states with more laws mandating larger private prison cost savings, which the authors contend suggest judges feel more

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comfortable with longer sentences because they were not as worried about the cost, irrespective of whether the costs were actually lower.

Again in the USA, a study titled “Impacts of Private Prison Contracting on Inmate Time Served and Recidivism” by Anita Mukherjee from the Wisconsin School of Business, published on 11 June 2019, made the link between the increased tendency of private prisons in Mississippi to issue conduct violations and an increase in time served, which obviously generates demand for the service the private contractor is shopping. In 2016, the US federal Department of Justice “Report on the Federal Bureau of Prisons’ Monitoring of Contract Prisons” noted a higher incidence of safety and security-related incidents, serious or systemic safety failures, and improper housing at many private prisons. At least one private prison was the subject of criminal investigation for encouraging gang violence among inmates.

Noah Smith, in an opinion piece published in April 2019, noted that prison privatisation in the US is —

... a glaring symbol of the failure of pseudo-privatization. Private ownership, by itself, offers no magic pixie dust that saves money or improves quality; instead, because government sends money without sufficient oversight, it often pays more and gets less.

It is morally repugnant for corporations to make money out of human misery. It is inappropriate for the state to contract out its coercive powers.

[Member’s time extended.]

Ms J.J. SHAW: There is a range of other sectors, other markets, in which private participation works. Markets work, and the involvement of the private sector is 100 per cent legitimate, and I am a big fan of it, but not in corrective services. Insofar as this legislation protects officers in the private system, it delivers a positive outcome. It is a shame, however, that we still have private prisons here in WA, but I note that one of the greatest achievements of the McGowan government was its decision to turn back the tide of privatisation in corrective services and to repurpose Wandoo Rehabilitation Prison. Wandoo provides innovative programs to try to break the cycle of drug reoffending, that include follow-up care after an inmate’s release. The decision to bring Wandoo back into public hands has proven to be remarkably successful, a fantastic decision to establish Australia’s first female alcohol and drug treatment prison. I was reviewing the media statement about the one-year anniversary that had a look at the participation of female prisoners. I understand that the positions there were massively oversubscribed when the facility first opened. On the day after the first anniversary, I was with the member for Vasse at the ABC studios listening to a graduate of the program recount her story to Geoff Hutchison. It was so emotional. The impact the program had on her life was incredible. I congratulate the minister for an absolutely wonderful initiative. Other preliminary figures from a three-monthly snapshot produced at the one-year anniversary showed bringing the facility back into public hands resulted in a 10 per cent reduction in prison costs, dispelling the myth so often put out there that privatising corrective services leads to cheaper outcomes. It was an absolutely wonderful achievement. Taking Wandoo back into public hands represented the delivery of a great election commitment. The passage of this bill is yet another commitment delivered by the McGowan Labor government and in part, at least, addresses significant concerns for officers working in both the public and private systems. I hope that this provides the corrective services officers in the private system who do such a fantastic job some measure of comfort, but having discussed this issue with many of them, I know that they would like to see the government do more to bring corrective services back into their rightful place, back into public hands. This legislation respects the risk presented to our prison officers, and taken in conjunction with the state’s decision to take Wandoo prison back into public hands, represents an extraordinarily positive move forward in corrective services.

MR F.M. LOGAN (Cockburn — Minister for Corrective Services) [8.03 pm] — in reply: I acknowledge the contributors to the second reading debate on the Prisons Amendment Bill 2020. I acknowledge the member for Churchlands, the member for Kalgoorlie, the member for Warren–Blackwood, the member for Armadale and the member for Swan Hills. The member for Swan Hills forgot to mention the bringing back into public hands of Melaleuca Remand and Reintegration Facility.

Ms J.J. Shaw: Sorry, minister.

Mr F.M. LOGAN: It will come back into public hands in April this year.

I have to explain to the member for Roe, who interjected not only on the member for Swan Hills, but also on me, that it has nothing to do with union control. All private prisons have union members completely, 100 per cent, so it does not have anything to do with the unions. The member for Roe needs to —

Several members interjected.

Mr F.M. LOGAN: It is not.

Several members interjected.

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The DEPUTY SPEAKER: Members!

Mr F.M. LOGAN: Thank you, Madam Deputy Speaker. I have to get the record correct for the purposes of Parliament, because this is a house of record.

I go back to the original points I made in the second reading speech about the reasons for the introduction of this bill. There are two key components of the bill. The first is the introduction of matters dealing with bloodborne viruses and the ability to be able to take blood and ensure that prisoners provide their blood when there has been an incident between a prisoner and a prison officer, thereby reducing the period of anxiety experienced by a prison officer. Currently, if there is the exchange of blood or bodily fluid between a prisoner and a prison officer, whether it is intentionally or by accident, and tests are undertaken, the results of these tests can take weeks or even months to be known; therefore, the anxiety borne by that prison officer and their family about whether they have contracted any one of the three key diseases referred to in this bill, but two of the key diseases that exist in prisons, is reduced through the actions of this bill.

The second key component of the bill is the increase in fines that apply to both prisoners and visitors to prisons for prison offences, particularly visitors trying to bring contraband into prisons, disturbing the visit process, hanging around in front of prisons or any other nefarious exercises they might undertake in and around any prison ground. This is the first time since the inception of the legislation in 1981 that those prison fines have been increased. Many people in this chamber should think about that, their time spent both as ministers and members of the government and why those prison fines were not increased when they had an opportunity to do so. It is not just the people currently in this chamber; it is the people who have been in this chamber and since left. I have no idea why those fines did not keep up with the relevant penalties applied by other prison systems and jurisdictions in Australia, but they did not. It befalls me as the current Minister for Corrective Services to correct this problem and update those fines. Consequently, there will be significant increases in the fines that will apply to people who breach prison rules either in or outside prison. Those are the two key things that this bill does.

The work of the prison officers in Australia, but typically in our jurisdiction of Western Australia, should always be commended. I travel the length and breadth of Western Australia visiting all of our prisons, whether they be work camps, prison farms or prisons, to meet with prison officers regardless of their rank and thank them on behalf of the people and government of Western Australia for keeping us safe and working in very, very difficult conditions. The pay and conditions of prison officers are very good, and so they should be. The work they do for and on behalf of the community of Western Australia every day is not normally acknowledged. It is not normally acknowledged in this chamber or by Parliament itself and it is not normally acknowledged in the media or by the general public, because most of the time people really do not know what goes on behind prison walls. That is a sad thing. It is obviously a situation that we cannot change, because that is the nature of prisons themselves. However, it is a sad thing for and on behalf of the prison officers because no-one really understands the extensive work they do on behalf of the people of WA, not only in terms of keeping them safe but also in the rehabilitation of prisoners themselves.

Prison officers quite often come across very difficult situations in their work, when a prisoner has assaulted another prisoner or assaults them or another prison officer. That is the reason for this bloodborne virus bill. For the record and for the benefit of the chamber, I will give some examples of the types of situations that occur in which there can be an exchange of blood-borne viruses or fluid. For example, during assaults on prison officers there can be biting, scratching, punching, spitting and smearing of blood or fluids by the prisoner. I am pleased to say that that does not happen on a regular basis, but it happens too often. That is the nature of the work. They are dealing with very, very difficult criminals and sometimes fragile people. The exchange of fluid between prisoners and prison officers is not always the direct result of an assault, such as when officers have to clean up blood as a result of self-harm by a prisoner or fighting amongst prisoners, or deal with needlestick injuries, industry workshop injuries or bronzing up. The member for Churchlands might not have heard about bronzing up, but he will hear about it—welcome to the portfolio. Bronzing up is when a prisoner strips naked and smears his own faeces all over his body to make it difficult for prison officers to clean up and hold the person. Obviously, an exchange of bodily fluid occurs between the prisoner and prison officers in that situation. Thankfully, that does not happen often, but it does happen. Another example of the exchange of fluids from prisoners to prison officers is when urine or other substances are thrown at prison officers. These things happen. They do not happen every day—thank goodness they do not happen every day—but they do happen. This is the work that prison officers do. The general public just does not understand that.

Prison officers work with criminals. They quite often work with very violent and bad people, people with mental health problems and people who are very fragile. As a result, these incidents, whether through direct assaults or indirect contamination by prisoners, happen across our prison system every year. We can understand why prison officers have been calling for this legislation for quite some time. The member for Churchlands indicated that he had been aware of it for the past five years.

Mr S.K. L'Estrange: Not me personally.

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Mr F.M. LOGAN: Not him personally, but he did say that the WA Prison Officers' Union had been calling for it for five years. I think it goes back a little beyond that. According to the advice I have received, the Prison Officers' Union has been calling for it for a significant period of time because of the types of things I just referred to. The Labor Party in opposition gave a commitment to the Prison Officers' Union that should it be elected, it would pass legislation as soon as possible. Unfortunately, it has taken three years. In discussions that I had with the member for Churchlands offline, I explained that this has been a difficult piece of legislation to bring to the house. I initially wanted to amend the Police Act to bring prison officers under that act, as has been done in other states—the member for Churchlands referred to those other jurisdictions and the way in which prison officers are covered there—however, that was not deemed to be suitable. I also thought it might be possible to bring them under the Health Act or that we could at least have a joint approach with the Department of Health, but that was not possible either, for other reasons. As a result, we have proceeded with a standalone bill to amend the Prisons Act and to get on with it. That is why it has taken a long time between the commitment to and delivery of this bill in the house. An unfortunate set of circumstances led to it taking that long, but that is just the nature of negotiations between the Department of Justice and various other agencies in Western Australia.

I will briefly go through the very important issues raised by members opposite on this bill. I not only acknowledge the contributors to the debate on this bill, but also thank them for their support in making sure that this bill goes through as rapidly as possible. The member for Churchlands, who was the first speaker on this bill, asked whether we could expand the bill more broadly. That issue was also raised by the member for Warren–Blackwood with respect to the court security and custodial services contract—the Broadspectrum contract for the transportation of prisoners from court to a remanded place and then from there back to court. The member for Warren–Blackwood asked why this bill would not cover those people and whether we should be able to broaden this bill in the future. Member for Warren–Blackwood, the commitment was made to the prison officers—they are the ones who face the issue of the exchange of bodily fluid and blood on a regular basis. For example, the bill also does not specifically cover vocational support officers when they do their normal work as industry teachers and educators, but when a VSO takes on the role of a prison officer, which happens quite often when they step up into the role of a prison officer for a period of time, they will be covered by this legislation. Medical staff are also not covered by this bill. I went back and had a look at the number of assaults and incidents involving an exchange of blood or bodily fluid between prisoners and VSOs or medical officers, and it was an extremely low number. That is not to say that we could not broaden the act in the future to include them as well. The problem with employees covered by the CS and CS contract—that is, the court security staff from Broadspectrum—is that they are covered by the Court Security and Custodial Services Act 1999; they are not covered by the Prisons Act. Furthermore, the way in which this bill will work is that the superintendent of a prison will be able to direct a prisoner to undergo the delivery of blood for the purposes of testing, but the superintendent will not be able to direct a prisoner or arrestee who is under the charge of a CS and CS contractor such as Broadspectrum, nor will the superintendent be able to direct the contractor themselves when they are in the process of transporting a prisoner. That is covered by a separate act of Parliament. Under this bill, the superintendent will be able to direct a prisoner to provide blood for the purposes of testing, but they will not be able to do that for someone who is in the hands of Broadspectrum.

Mr D.T. Redman: Would you consider changing the act relevant to them to capture this? The principle of what you are achieving is that it will cover those who are required to intervene in a situation by virtue of their job. We would have thought that it would also apply to those contractors.

Mr F.M. LOGAN: It did not come up, because it was obviously not put to us by the union that covers those workers; it was primarily put to us by the Prison Officers' Union, which represents the people who have to deal with prisoners on a day-to-day basis. If we were to change the Court Security and Custodial Services Act 1999 to cover those Broadspectrum workers, for example, it would not have the same impetus as this amendment to the Prisons Act, because the taking of blood will be done by a medical practitioner in the same way as it is done for police. It will be done with the agreement of a medical practitioner in the same way as it is done for police. As the members for Warren–Blackwood and Churchlands have highlighted, it will be done at the direction of the superintendent and undertaken by a prison medical officer or prison medical staff. Blood can be taken by force, if necessary, but I will talk about that in two seconds. That is the difference between the two.

On the matter raised by the member for Churchlands about the types of bloodborne viruses that exist in prisons, he quite rightly said that there are no examples of the existence of HIV in prisons at the moment, and that is a very good thing. The member for Churchlands referred to both hepatitis C and hepatitis B and talked about their impacts on an individual. Hepatitis C is the most prominent bloodborne virus that exists in general society because of the exchanging of needles, sexual practices and a whole series of other methods of contracting it. It is also the number one bloodborne virus that exists in prisons. The member for Churchlands will be pleased to know that we have a program for dealing with hepatitis C, the HIP HOP—Health in Prisons, Health Outta Prisons—program. Because of the breakthroughs by Australian scientists and doctors in both Western Australia and Melbourne as part of a worldwide approach to dealing with hepatitis C, it is now curable. We can get rid of hepatitis C completely, which is a remarkable breakthrough globally. Because of the nature of the drugs that are provided to cure hepatitis C,

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which have less impact on the individual so they do not feel so bad after taking the drugs, we have attempted to wipe hepatitis C out of the prison system in Western Australia. Our program won the Department of Health Director General's Award at the 2018 WA Health Excellence Awards. We have been able to reduce the incidence of hepatitis C from 17 per cent to 7.85 per cent. The program is working extremely well. I would add that that has been done with the assistance of funding from the federal government, because, as the member knows, prisoners are not covered by Medicare. Some funding was provided by the federal government to tackle hepatitis C in places such as prisons. We also have been able to increase the number of people in the program on hep C drugs by ensuring that a nurse works solely on this program. That nurse rolls out the program to those people in the system who have hepatitis C so that we can speed up the removal of hepatitis C from our prisons. What we are doing with our transformation of the prison system is fantastic under the leadership of the Department of Justice.

The member for Churchlands referred to the article in the *South Western Times* in which the president of the WA Police Union, Harry Arnott, is reported to have said that although the Mandatory Testing (Infectious Diseases) Bill 2014 had been highly beneficial for police officers, it had come with its own challenges. Mr Arnott basically went on to say, as the member for Churchlands pointed out, that police rely on doctors to take the blood of the person who has either attacked or assaulted a police officer. A medical practitioner is required to take the blood of the assailant for the purpose of testing to alleviate the concerns of the police officer. Mr Arnott indicated that in many cases, doctors are reluctant to do that, and he saw that as one of the weaknesses of that legislation. He is probably right. They certainly expressed their concerns to us when we wanted to do this bill in conjunction with the Department of Health and possibly bring it under that bill. However, this bill is completely different. I draw the member's attention to section 42(1) of the Prisons Act, which states —

Without prejudice to any power otherwise conferred, a superintendent may authorise and direct the restraint of a prisoner where in his opinion such restraint is necessary —

- (a) to prevent a prisoner injuring himself or any other person; or
- (b) upon considering advice from a medical officer or some other medical practitioner, on medical grounds; or
- (c) to prevent the escape of a prisoner ...

As I highlighted before, under the Prisons Act, there are powers to restrain prisoners for the purpose of undertaking medical procedures on the advice of a medical practitioner. The power to restrain is already in the Prisons Act.

The member for Churchlands asked me to explain exactly how blood will be taken by force. As I say, there is provision in the Prisons Act for the purpose of restraint. However, for the purposes of this amendment to the act, the blood of a prisoner who has been directed by the superintendent of a prison to provide blood will be taken by a medical practitioner or a nurse practitioner in the prison infirmary. The prisoner can be held, and, as the member for Kalgoorlie has already indicated, probably by more than one prison officer, while that blood is taken so that the nurse practitioner or medical practitioner does not snap off the needle in the prisoner's arm or cause any other unnecessary injury. I make it absolutely clear that for the purposes of this legislation, we will not constrain prisoners by strapping them down to take their blood, because that would be a breach of both international conventions and human rights issues in the way in which prisoners are treated. Holding the prisoner's arms to ensure that blood is taken in a safe manner for the prisoner, prison staff and the nurse practitioner or medical practitioner is fine, and that will be the extent of the use of force, but we will not go to the extent of strapping people down.

Mr S.K. L'Estrange: On that point, if they therefore fail to submit to the taking of a body sample, which under the bill is an aggravated prison offence, can you just explain how that aggravated prison offence charge will be laid in those circumstances?

Mr F.M. LOGAN: That charge would be laid by the superintendent and be dealt with by the visiting magistrate, who can apply whatever penalty they like, which includes extending the prisoner's sentence.

Mr S.K. L'Estrange: With the refusal recorded at the time it is being refused as evidence?

Mr F.M. LOGAN: As I say, we will be able to take the blood by force, but if the person is struggling to the extent that it is dangerous for them and everyone who is in the room with them, they will be facing a prison charge.

Mr S.K. L'Estrange: They'll be cautioned and told about the charge?

Mr F.M. LOGAN: They will be cautioned and told what is going to happen next—that is, that they will be charged and will appear at the next visit of the prison magistrate.

I wanted to make that clear so that if this is ever challenged in court or in any other forum, exactly how the blood will be taken and the extent of force that will be used against the prisoner to comply with this legislation will be known.

The member for Churchlands referred to the fines provided under clause 14, particularly for those who try to smuggle contraband into prisons. He talked about the significant jump in fines. As I say, this is long overdue and has never been done before under this act. The member asked whether we would review the success of the program. We would.

That would be very sensible and appropriate. We would need to see whether the increase in fines works or whether we have to do other things. I draw to the member's attention that since I have been the minister, we have reintroduced the professional standards unit, which has been highly successful in charging prisoners who have assaulted prison officers. Those charges have been brought with the Western Australia Police Force to court, not to a prison magistrate, as a proper assault. The unit has been very successful at doing that. It has been very successful at taking action against prison officers who have been doing the wrong thing and bringing that to termination, coordinating against criminal action that has been undertaken in prisons, and working with the police to gather intelligence for the purpose of the safe running of the prison and in the day-to-day work of police officers outside the prison. The professional standards unit has been doing significantly good work. We have caught a significant number of people who are still attempting to bring contraband into prisons, and the member for Churchlands gave some examples. Believe it or not, until I became the minister, there was no signage anywhere in the prison system that indicated to a visitor that if they attempted to bring contraband into the prison, they would be caught and charged under the Criminal Code. There was nothing to warn people not to attempt to bring contraband into prisons. That has been fixed. The drug detection unit has been significantly expanded and funded to undertake the work it does, which is why more people are being caught. We have introduced more dogs into the system, in both the metropolitan area and regional Western Australia. For the first time, we have allocated dogs to prisons in regional Western Australia, such as Eastern Goldfields Regional Prison and Albany Regional Prison, to intercept any type of contraband that is coming in. That is one of the reasons we are catching more and more people. It is a good thing. We need to interdict contraband, particularly drugs, coming into prisons for the safe operation of our facilities.

The member for Churchlands talked about rehabilitation, specifically education, work and training for prisoners. I can inform the member that we are in the process of overhauling all the education programs in prisons at the moment. We believe that some programs are not appropriate and are not having an impact on the rehabilitation of prisoners. The programs are not making them job ready or ready to engage with society. Believe it or not, we are going back to some very simple things to assist those prisoners—that is, improving their reading skills, writing skills and mathematics skills. Basically, we are improving their job skills so that they will have the opportunity to engage with the market when they leave prison. I know that sounds very old-fashioned, but that is what is needed because of the nature of people in prisons and their reading and writing skills, which, on average, are at the level of an 11-year-old. Instead of providing them with programs for their wellbeing and various other fairly highfalutin programs, we want to give them the skills they missed out on in primary school and the early years of secondary school.

We have a major program to overhaul and broaden prison industries to ensure that prisoners are engaged in doing things on a regular basis so that they are not sitting around plotting and planning their next issue in prison, whether it is an assault against a prison officer or against another prisoner, which happens too often and on a regular basis. Prisoners simply do not engage with either educational programs or industry programs and are sitting around doing nothing because, in many cases, there is not enough work for them. That is why we are in the process of overhauling our entire industries system to ensure that we have more meaningful jobs—jobs that relate to jobs outside the prison system—and also to make money for the Department of Justice and corrective services. Those two things are well underway. I hope the member can understand why what he has seen —

[Interruption.]

Mr F.M. LOGAN: I think that *Scotland the Brave* being played in the house on St Patrick's Day is not really the right thing to do!

The DEPUTY SPEAKER: I would call it to order!

Mr F.M. LOGAN: Yes; a call to order is certainly needed!

The member for Churchlands raised issues that came up when he attended a Liberal Party Durack branch meeting. The examples in the Kimberley that the member gave happen all too often, which is why we are rolling out the Kimberley youth justice program. It is aimed at engaging with those young people to guide them away from the behaviours that they are undertaking at the moment. In particular, it aims to guide them away from incarceration. Let us look at the number of young people have been in Banksia Hill Detention Centre over the last three years. In 2015, there were over 200 people in Banksia Hill. Last year, we got it down as low as 87 people. Today it stands at 134 young people—both males and females. Of those 134 people, around 10 to 12—both males and females—would be from the Kimberley. It is probably fewer than that, but I do not have those figures in front of me. Nevertheless, it is far better for those young people to be kept on country and engaged in other programs rather than being sent to Banksia Hill, because it avoids the example that the member gave to this house of the young person who wanted to join her brother at Banksia Hill because that is all she seemed to know about. If we engage those young people and divert them from Banksia Hill into more meaningful programs that are beneficial to the community, particularly their own community, I believe we will have done a great thing as both a government and a society. That is the point of the Kimberley youth justice program. Although these matters do not directly relate to the blood-borne virus legislation, hopefully they will be addressed.

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I thank the member for Kalgoorlie for that wonderful, entertaining contribution to the house tonight. We would love to hear more stories from his 30 years' experience as a police officer in Kalgoorlie and the reasons why he was never allowed back to Perth. The member asked whether all the monetary fines will be cumulative. The answer is that a magistrate can make the fines cumulative, so that is possible. The member raised a number of issues. I hope I have delineated the difference between taking blood after an assault on a police officer and taking blood after an assault on a prison officer. I hope I have shown the member, as a former police officer, the difference between those two things. This legislation is far stricter and tougher and, I think, will be more successful at alleviating the concerns of prison officers than those concerns that are still lingering for police officers because of the nature of that legislation.

The member for Kalgoorlie raised the issue of regional incentives to retain prison officers staff at Eastern Goldfields Regional Prison. I think I have told the member before that I lived in Kalgoorlie. I pegged mineral claims outside Kalgoorlie. It is a great place and I had no problem living there. However, as the member knows, some public servants who end up going to Kalgoorlie do not want to be there for one reason or another. Maybe it is too far from the coast. Although it is not far to drive to Esperance, they just do not want to be there. That is not new. When I was a minister in a previous government, we had the same problem getting people to work for the mines department in Kalgoorlie. They just did not want to go. This is not new. The member talked about incentives that should be provided to Eastern Goldfields Regional Prison staff to keep them there. People who already live in Kalgoorlie or who move there already have incentives to stay in the workforce and we gave them further incentives, particularly around housing, to ensure that.

The members for Kalgoorlie and Warren–Blackwood talked about district allowances. They are set by the Western Australian Industrial Relations Commission as part of the general order for the public sector. It is not something that we can just change; it applies to every public servant across Western Australia.

Mr D.T. Redman: That is where you are wrong, minister, because we had in place a regional allowance that paid an additional amount based on a regional pricing index for the cost of living in those regional areas. You have taken that away.

Mr F.M. LOGAN: That is not the issue the member for Kalgoorlie raised; that is the issue the member for Warren–Blackwood raised. The member for Kalgoorlie raised the issue of changing the district allowance. The former minister would know that is virtually impossible to do, which is why the former minister did what he did. It can be done, but it would have to be run by UnionsWA or the WA Prison Officers' Union and it would be very difficult to get that decision up to change the general order specifically for Kalgoorlie, as opposed to every other town in Western Australia, some of which are far more remote than Kalgoorlie. That would be very difficult. The member for Warren–Blackwood talked about the extra allowances in place for not only prison officers, but also many public servants across government under the previous Liberal–National government and previous Labor governments.

The member for Kalgoorlie said that unit 5 in the Eastern Goldfields Regional Prison is not being used and that unit 3 is not open. To be honest, I do not know why unit 5 was built. It sits like a shag on a rock outside the main prison system. It is supposed to be for minimum-security prisoners. I put it to the member that I believe—maybe the member for Warren–Blackwood can answer this, because I cannot—that unit 5 was built because the Warburton facility had been closed and therefore all the section 95 prisoners were to be held in that building. Warburton should never have been closed. The member for Kalgoorlie knows that, I know that, and we both agree. Unit 5 is empty because I reopened Warburton, and that is where the section 95 prisoners go. We are looking at using unit 5 for other purposes, some of which the member for Kalgoorlie might be pleased with if we are successful. We are looking at using that facility for other purposes; it will not stay empty forever. I do not know why it was built in the first place. Only the people involved in building that facility could tell me.

When the prison numbers started to fall off—they have come back again, but they did fall off—we moved people around the prison system so that prisoners from Kalgoorlie are now in Kalgoorlie. We brought people from Kalgoorlie who were incarcerated in prisons around the state to Kalgoorlie and we brought people from other areas such as Bunbury, Albany or wherever, back to the prisons in their own areas for the purposes, in all cases, to facilitate prisoners' families being able to visit them easily whether the families live in Kalgoorlie, Bunbury, Geraldton or wherever. That is why we moved them around, and we ended up with fewer people in Kalgoorlie on that basis. Not everyone in Kalgoorlie is a criminal! Therefore, unit 3 was closed. We have not reduced the staff numbers.

Madam Acting Speaker, can I seek an extension?

The ACTING SPEAKER: Extension granted.

Mr D.A. Templeman: No.

The ACTING SPEAKER: No, you are not allowed to. I am terribly sorry, minister. I cannot grant it, as much as I would love to say yes.

Mr F.M. LOGAN: That is the answer, member for Kalgoorlie. I hope that answers his questions.

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I will quickly raise COVID-19. It would be very nice if the member for Warren–Blackwood asked me a question on it. Nevertheless, I think I have answered the other questions he raised so I will get to the final issue of COVID-19. Thank goodness, right now no people in the prison system have COVID-19 or show any of the symptoms. That is very good, and we would love to keep it that way. As a former corrections minister, the member for Warren–Blackwood knows that flu viruses regularly sweep through prisons. For some reason, the former government did not leave us the use of the prison hospital at Fiona Stanley Hospital; that 10-bed hospital will now be used. Prisoners on remand can be held there, and, if they show symptoms, they can be tested and not introduced into the prison system. Therefore, we can keep the system as clean as we possibly can by holding those people there while they undergo COVID-19 testing even before they are introduced into the prison system.

Mr D.T. Redman: Does that include regional prisoners?

Mr F.M. LOGAN: No, it does not, but it is early days yet.

Mr D.T. Redman interjected.

Mr F.M. LOGAN: We may look at that but, primarily, it is for prisoners from the metropolitan area, although we could look at regional prisoners being sent there for the specific purpose of testing. We have a taskforce headed by Andrew Beck that covers the full length and breadth of the operations of the prison system, and they are leading our COVID-19 charge. Every prisoner, every prison officer and every visitor knows exactly what their rights are regarding COVID-19. All visitors must fill in a questionnaire about whether they have travelled overseas, whether they are showing symptoms, and any other relevant matter before entering the prison system.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

MR F.M. LOGAN (Cockburn — Minister for Corrective Services) [8.48 pm]: I move —

That the bill be now read a third time.

MR S.K. L'ESTRANGE (Churchlands) [8.49 pm]: Thank you very much Deputy Speaker; pleasure to have you in the chair again.

The DEPUTY SPEAKER: Oh, really!

Mr S.K. L'ESTRANGE: Thank you, minister, for addressing a lot of our queries in reply to the contributions to the second reading debate. In the absence of the consideration in detail stage, we highlighted a couple of issues in the second reading debate that the minister said he would look into, and we appreciate that.

Probably one of the most important things I picked up from the minister's second reading wrap-up was an acknowledgement that more needs to be done about recidivism, particularly with youth in the north of Western Australia. We are not comfortable on this side of the chamber that only 29.7 per cent of eligible prisoners participate in education and training in WA prisons. Either the training is not working, is not attractive enough or is not relevant. Something obviously has to be looked at to make sure the relevance is applicable. As I said during my contribution to the second reading, that 56.2 per cent of young people were released from sentenced youth justice supervision in 2016–17 and returned to sentenced youth justice supervision within 12 months tells us something is wrong there, too.

I, too, enjoyed the contributions of members during the second reading, as did the minister. In particular, the member for Swan Hills maybe gave me an opportunity. If the minister had paid a fair bit of attention to her speech, he would realise that one way to reduce that 56.2 per cent recidivism rate of youth would be to create the member for Swan Hills' lecture series and put it into the prison system. I am pretty confident they would not want to come back!

Ms J.J. Shaw interjected.

Mr S.K. L'ESTRANGE: That might help out there.

I particularly enjoyed the member for Kalgoorlie's contribution. As a former police officer in Kalgoorlie, he is well aware of the issues going on out there and, of course, understaffing is an issue. As the minister knows, there has been the Wooroloo Prison walk out recently and issues at Kalgoorlie.

Mr F.M. Logan: We are not understaffed in Kalgoorlie. We are short two prison officers only. Where we are short and the people we want are principal officers and VSOs.

Mr S.K. L'ESTRANGE: That is good to hear. The main thing is that prison officers are supported. If there is pressure on staffing, it can create friction. As the member for Warren–Blackwood outlined, it can create friction and increase the likelihood of some rioting by prisoners and therefore an increased likelihood of the transfer of those diseases, for example, bodily fluids in that conflict with—what did the minister call it?

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Mr F.M. Logan: Bronzing up.

Mr S.K. L'ESTRANGE: Bronzing up, as one example of that most distressing example indeed.

These are the issues. Staffing and resourcing are important to keep the temperature down and make sure everyone in those facilities is looked after

Another issue that the minister mentioned in his speech was signage, given that I had highlighted clause 14 and the bringing of unauthorised articles into prisons. Just a little bit of a takeaway for the minister: maybe put some signage in some of the car parks for people not to leave rifles in cars. That might be something for him to keep an eye on. As he will know, one of the prison officers decided to leave an assault rifle in the boot of a vehicle over a weekend at one of the prisons. That is a breach of security that is of serious concern.

Mr F.M. Logan: These former military types!

Mr S.K. L'ESTRANGE: The minister is well aware of it. Any effort should be made to tighten up not only the security of articles going into a prison but also tightening up procedures of security by the prison staff themselves.

Mr F.M. Logan: I can assure you that is tightened up.

Mr S.K. L'ESTRANGE: That is very important because we do not want assault rifles left in car boots over the weekend in a prison car park that the public could access quite easily.

I thank the minister for the collegiate way in which he has addressed the issues raised tonight. As he knows, I have been very friendly to him and left my seven pages of typed notes on faults to do with the prison sector alone for the purpose of this Prisons Amendment Bill. However, we are supportive of the bill and hope it moves through the upper house rather quickly so that those prison officers who are backed by their prison officers union are supported and the anxiety and concern when they are worried they may be infected can be resolved much quicker by understanding and appreciating prisoners' medical records quickly. We thank the minister for that and wish the bill all the best as it passes through the other place.

MR D.T. REDMAN (Warren–Blackwood) [8.54 pm]: A number of comments were made. Obviously, we are supportive of the bill. I think it is a top initiative. The minister has highlighted all the aspects of it as has the opposition. I am contributing to the third reading to get clarity on one of the points the minister made in his response to the second reading. He might use the third reading to respond. We talked about COVID-19 concerns. Pleasingly, the minister said that no prisoner in the system now has tested positive and that in a scenario in which that occurs, they will be moved to a facility under Fiona Stanley Hospital.

Mr F.M. Logan: It is early days yet, member, so we have not had to put people in there yet. The plans are for remandees—that is, new prisoners coming into the system—and as we are dealing with the plan for COVID-19, if they exhibit or claim that they have COVID-19, we will hold them there to test them.

Mr D.T. REDMAN: For clarity, prisoners and/or remandees can be referred —

Mr F.M. Logan: In this case, remandees. If we still have room, it will be prisoners who also claim or exhibit —

Mr D.T. REDMAN: I guess the point is that there is a location in metropolitan Perth for them to move to but there is not for those in regional Western Australia. If someone presents to regional Western Australia, as I understand the minister's response, there was not such a facility or such a strategy.

Mr F.M. Logan: They would be dealt with as we would normally do under a pandemic plan, which would have been in place for flu when the member for Warren–Blackwood was minister, and they will be dealt with by a nurse practitioner or a medical officer onsite.

Mr D.T. REDMAN: Managed onsite? They will remain within the prison system?

Mr F.M. Logan: Yes. They will remain in the prison system and then be isolated to an individual cell.

Mr D.T. REDMAN: On site.

Mr F.M. Logan: Yes. Which is what the member did when he was the minister, and what he would normally do —

Mr D.T. REDMAN: Minister, I am simply asking questions given the very unique circumstances we find ourselves in in Western Australia, which is absolutely appropriate.

Mr F.M. Logan: You are just asking the question. I am not arguing with you; I am just saying what happens normally—they are isolated in their own cell. That happens normally with any flu in any year in prisons and would have happened under you.

The DEPUTY SPEAKER: Member, I think you should continue with your speech.

Mr D.T. REDMAN: I guess another aspect is the testing. I assume the minister has available testing capacity.

Mr F.M. Logan: Yes.

Mr D.T. REDMAN: Is there any limitation to that testing?

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Mr F.M. Logan: No.

Mr D.T. REDMAN: Is the minister acknowledging that there is no limitation to testing in our prison system for managing prisoners?

Mr F.M. Logan: We are testing people who exhibit or claim to have COVID-19.

Mr D.T. REDMAN: Which includes prisoners, remandees and/or prison officers?

Mr F.M. Logan: Yes.

Mr D.T. REDMAN: Thank you.

Mr F.M. Logan: In the same way, member, that the general public is treated.

Mr D.T. REDMAN: Thank you, Deputy Speaker.

Question put and passed.

Bill read a third time and transmitted to the Council.

House adjourned at 8.56 pm
