CHILDREN AND COMMUNITY SERVICES AMENDMENT BILL 2019

Second Reading

Resumed from an earlier stage of the sitting.

MR D.J. KELLY (Bassendean — Minister for Water) [3.00 pm]: Prior to question time, I made some general remarks about the track record of the Catholic Church in dealing with matters relating to child sexual abuse. I made those remarks using an example of the headmaster of the primary school I went to—CBC Fremantle—being a Christian Brother who was revealed in 2013 as an abuser. The Catholic Church effectively moved him around from being a Christian Brother here to becoming a Catholic priest in Tasmania.

I now want to talk about one of the central issues of the bill, which is a requirement that religious persons—clergy—are covered by mandatory reporting of child sexual abuse. That includes if information comes to a person through the Catholic confessional to make them aware of a reasonable likelihood that a child has been or is being abused. This is an absolutely important reform. One thing about the confessional that the Catholic Church promotes is that essentially, no matter how grievous the sin is, once it has been confessed in the confessional, in the eyes of the church and in the eyes of God, the sinner's conscience is then clear. Having grown up a Catholic, I think that is a positive thing in lots of ways. I think it is a good idea that we do not have to carry around the things we do wrong for the rest of our lives. However, in this matter—child sexual abuse—I think the Catholic Church's view that revelations of this nature made in the confessional should remain in the confessional is absolutely wrong. For an abuser to have the comfort of knowing that they can simply go to a confessional, confess their sins and have that burden lifted from their shoulders in the eyes of the church that they belong to and the god that they adhere to is an absolutely terrible proposition. It would be of absolute comfort to those abusers and, in my view, would increase the likelihood that they could abuse again, knowing that they can then confess their sins, clear their conscience and ultimately meet their maker and go to heaven, as they believe. To me, that is absolutely all wrong. The Catholic Church should put the wellbeing of children ahead of the wellbeing of abusers, including in the confessional.

It is of great concern to me that since the Royal Commission into Institutional Responses to Child Sexual Abuse made the recommendation that mandatory reporting be extended to persons of religion, various senior members of the Catholic Church have come out and said that they not only do not support this reform, but also will actively defy it. The Catholic Archbishop of Melbourne, Peter Comensoli, was reported on 14 August 2019 on the ABC website as saying he would —

> … rather go to jail than report admissions of child sex abuse made in the confessional.

The article continues —

> But if the person confessing refused to do that, he said he would not break the Catholic tradition: "Personally, I'll keep the seal," he said.

That refers to the seal of confession. The Catholic Archbishop of Melbourne, Peter Comensoli, said that he would defy the law and would rather go to jail than comply.

In Western Australia, Perth's Catholic Archbishop, Timothy Costelloe, was reported in *The West Australian* on 24 May 2019 as describing the reform as "interfering with the free practice of the Catholic faith".

The article continues —

> … Archbishop Costelloe warned moves to legislate to force priests to report child abuse would cause "concern and distress" to many people of faith, while questioning how the plan would work in practice.
>
> …
>
> To threaten priests with prosecution if they remain faithful to this teaching is to run the risk of interfering with the free practice of the Catholic faith.

I find it staggering that in the twenty-first century, after a royal commission has found child sexual abuse to be rampant within the Catholic Church, that the leadership of the Catholic Church is still saying that if someone comes to them in a confessional and says, "I have sexually abused a child", "I am in an abusive relationship" or "I am abusing a child", the priest will hear that confession, absolve that person of their sins and then take no further action. We know that priests and other religious people who abuse children do it for years and years and years. If members do not accept what I am saying, I encourage them to read the reports of the royal commission. The abuse by Catholic Brothers, nuns and priests are not one-off events. It is a pattern of behaviour that goes on for years. People who are familiar with the Catholic religion will understand that confessional is something that religious people engage in on at least a weekly basis. We can imagine that some of those people who have been abusing children during that time would have confessed their sins in the confessional. Rather than that being the end of it, I suggest it would have just assisted the conscience of the abuser. It does nothing to stop the abuse. In the case of

Perth's Catholic Archbishop, Timothy Costelloe, he should put aside his religious dogma and protect the children who he says are one of his highest priorities. I would say to him to put aside his religious traditions and look at the facts to protect the children in his care. Archbishop Costelloe made a statement on 4 March 2016 during the royal commission's hearings after some particularly disturbing testimony. The public statement said —

> … I want to assure you that in our Archdiocese …

That is, the Archdiocese of Perth —

> There are no "cover-ups", there is no withholding of information from the appropriate church or civil authorities, no deliberate transferring of offending clergy or other Church workers from one place to another, no off-handed dismissal of complaints or allegations without proper and objective investigation, and no returning … of offending priests, religious or other Church workers after allegations have been substantiated.

We know from the royal commission, and I know from what the Catholic Church did with the headmaster of my primary school, that all those things took place in the Perth Archdiocese. In his statement to the Catholic community of March 2016, Archbishop Costelloe denied that all those things had happened. Clearly, that statement was wrong. The findings of the royal commission make that clear. Archbishop Costelloe needs to reconsider his position. This reform, which requires mandatory reporting, including breaking the seal of confession, is one step that we need to take to protect children in this state. I say to the Archbishop that if he is true to his vows of protecting children in this state, he will put them first. He will accept the need for this reform, and he will require that Catholic clergy under his responsibility abide by the law.

Once again, I want to congratulate the minister for bringing this legislation to the Parliament. I want to thank those in the government who have pushed this and other reforms through. The job is not done. There is much more work to be done on this issue, but I commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clauses 1 to 7 put and passed.

Clause 8: Section 8 amended —

Mr S.K. L'ESTRANGE: Clause 8 will amend section 8(1)(d) to state —

> the nature of the child's relationship with the child's parents, siblings and other members of the child's family and with relatives and with any other people who are significant in the child's life;

That is an expansion on the current legislation. The government is trying to capture a greater number of people who are in the child's life. The minister will recall that in my second reading contribution I alluded to some assessments of the department's ability to do its job under the current legislation, based on some feedback we received last year through the media and, no doubt, letters to the minister's office. How will the government be able to make the proposed change to section 81(1)(d) happen without an increase of resources to the minister's department?

Ms S.F. McGURK: I think an important amendment that has been picked up in clause 8 is a change to the expressions "family" and "relative". That is, essentially, to try to pick up the broader expression that is often used in Aboriginal families. Not all the amendments that we are looking at in this bill relate to Aboriginal families, but in recognition that, sadly, more than 55 per cent of children who are in care are Aboriginal, we wanted the terminology in the act to try to encapsulate the broader sense. That was some very strong feedback that was given by Aboriginal stakeholders. That is the short answer to the member's question; that is, it is not an expansion of the people who will be worked with. In the act, relatives are consulted and worked with. In fact, it is a very big part of child protection in practice work in the districts and with the not-for-profit organisations that we partner with to do that work.

Mr S.K. L'ESTRANGE: I refer the minister to the substitution of paragraphs (h) and (j). Proposed paragraph (h) states —

> the need for the child to develop and maintain contact with the child's parents, siblings and other members of the child's family and with other people who are significant in the child's life;

That has been picked up on. The fact is that it is being introduced in this bill. It implies that more needs to happen to make sure that the child has that contact. Proposed paragraph (j) states —

> the child's cultural, ethnic and religious identity (including the need for cultural support to develop and maintain a connection with the culture and traditions of the child's family or community);

For that to occur, I would expect greater support to be provided to the carer. To use an Aboriginal child as an example, if the child is in the care of another Aboriginal family somewhere else or even in a different cultural group from where they are from, or they are with a non-Aboriginal foster parent, to fulfil the requirements of proposed paragraph (j), they would require a fair bit of support. If not, one would expect that that carer would not be selected unless they could do it all on their own. I am looking for some clarification. Is that what the government wants? Should the carer be able to do it all on their own—otherwise, they would not be selected—or will greater support be provided to the carer for proposed paragraph (j) to occur?

Ms S.F. McGURK: Essentially, a lot of this work is done now. As a result of the terminology that is used, the legislation is strengthening, if you like, the requirements in the act for a cultural plan to assess the cultural suitability of carers, whether in relation to Aboriginal children or children from non–English speaking backgrounds. Essentially, that work is already being done. I have spoken to many non-Aboriginal foster carers who talk about the good work that is done by the department to ensure that people appreciate the things they need to consider when caring for an Aboriginal child. The point of these amendments is to ensure that we strengthen that terminology in the legislation. Some of the words are proposed to be changed to read —

> … to develop … contact with the child's parents, siblings and other members of the child's family …

These amendments and provisions relate not only to the appreciation of the need for that cultural connection, but also to the need to develop contact with extended family, including the child's parents and siblings.

I understand that the member is asking whether this will have resource implications for the department. I think other parts of what we are proposing will have resource implications, such as the development of the Aboriginal representative organisations and the network that will occur around the state to do this work. That will be a step change for the department and it may have resource implications. Essentially, I do not think these provisions will have significant resource implications. They strengthen what should be good practice now but we are saying that it is so important to us that we want to put it in the legislation and make it crystal clear to everybody that developing and maintaining connection to someone's birth family and broader family is important, as is establishing those cultural connections, and continuing to do it. That already happens now, but it is important.

Mr S.K. L'ESTRANGE: The question I asked was not quite addressed. I understand what the minister said, and that those connections already exist. I am more interested in the support to the family who is looking after the child, ensuring that they are supported so that proposed section 8(1)(j) can occur. Will the government be looking closely at how it can better support the family that is caring for the child so that it can achieve proposed section 8(1)(j)?

Ms S.F. McGURK: I know that the member addressed the criticism of the department relating to foster carers in his speech on the second reading. I have accepted publicly in the past that we could improve on this work. Again, it is very difficult work for practitioners in the department, those working for a not-for-profit organisation and carers. Of the 2 500 foster carer families in the state, there are that many personalities and different ideas about how things should be run. It can be very difficult. Already, carers are supported in that work. The department does that now. About 20 to 25 per cent of the foster carer or child placement support work is done by not-for-profit organisations and the rest is done by the department. That is already a big part of their work—supporting the foster carers and whatever issues they have. That includes the relationship with the child's family of origin in the broader sense and also their connection to culture.

Clause put and passed.

Clauses 9 and 10 put and passed.

Clause 11: Section 12 amended —

Ms S.F. McGURK: I move —

> Page 10, line 2 — To delete the line and substitute —
>
> (1) In section 12(1) delete "arrangements." and insert:
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> arrangements or interim orders made under section 133(2)(c).
>
> (2) In section 12(2) —
>
> (a) after "Islander child," insert:
>
> or in making an interim order under section 133 (2)(c) in relation to an Aboriginal child or a Torres Strait Islander child or in varying such an order,
>
> (b) delete paragraphs (c) and (d) and insert:

Mr S.K. L'ESTRANGE: Can the minister explain to the chamber the rationale for her amendment?

Ms S.F. McGURK: The legislation needed an extra provision to give full effect to its intent, which must have regard to the child placement principle, ensuring that the court clearly understood that it has a requirement to apply

the child placement principle. It was not explicitly stated in the act or the bill; it was simply a drafting oversight. We wanted to make sure that the court has an obligation, as well as all other parties, to adhere to the Aboriginal child placement principle.

Mr S.K. L'ESTRANGE: I will now ask a question about the clause with the amendment in place. It relates to the changes that the minister made to the existing bill, which has four "in order of priority placement classifications", for want of a better term, and the new one will have six. The main change concerns "close proximity to the child's Aboriginal or Torres Strait Islander community". Obviously, a lower priority is placement with an Aboriginal person away from community and then finally placement with a non-Aboriginal person away from their community. The minister will recall that during the second reading debate, I asked what would occur if the Aboriginal community groups are significantly culturally different from, say, the far north of Western Australia compared with the south west.

Ms S.F. McGURK: I thank the member for the question, which really goes to the heart of the amendment. It is an appreciation of the geographical size of our state and of the cultural diversity of the Aboriginal people of our state. The Aboriginal child placement principle, as it exists now within the act, would prioritise placing an Aboriginal child from any one of the language groups in the Kimberley, for instance, with an Aboriginal person from one of the Noongar language groups in the south west, for instance, over being able to keep that child in proximity to their community and their broader local culture and extended family with a non-Aboriginal carer. That is essentially an insertion into the principle to enable those children to have an option to stay within their community and their culture, and in connection with their broader family if that option is available. That might mean placement with a non-Aboriginal carer. Importantly, the court can make that placement only with the report of an Aboriginal representative organisation on the appropriateness of that placement.

Mr S.K. L'ESTRANGE: I wish to clarify something the minister just said about placement with an Aboriginal person who is of a different Aboriginal culture—say, someone from the north such as the Kimberley with someone from the south west. Priority is still given to the non-Aboriginal person in close proximity to the child's community. The minister said it in a different way. I wish to clarify that.

Ms S.F. McGURK: That is right. After extensive consultation with and advocacy by a number of Aboriginal organisations, this amendment gives priority to the placement of a child within their community, connection with their culture and country, and an opportunity to maintain the connection with their broader extended family.

Mr R.S. LOVE: I might be a little bit thick—I probably am—but the amendment on the notice paper refers to deleting paragraphs (c) and (d), so what does it insert, exactly? There are no paragraphs (c) and (d). Can the minister enlighten me on what is being inserted in the place of paragraphs (c) and (d)?

Ms S.F. McGURK: It is a reordering of the paragraphs. I think that is the short answer. The first priority of the Aboriginal child placement principle is that a child is placed with a member of a child's family. If a grandmother, aunt, uncle or cousin is available, that is the priority. The second priority is the child's placement with a person who is an Aboriginal person in the child's community, in accordance with local customary practice. The third priority is the placement of a child with a person who is an Aboriginal person who lives in close proximity to the Aboriginal child's community. The new provision is the placement of a child with a person who is non-Aboriginal or a Torres Strait Islander but who lives in close proximity to the child's Aboriginal or Torres Strait Islander community and is responsive to the cultural support needs of the child and is willing to encourage the development of and maintain connection to the child's culture et cetera. The hierarchy then picks up where it left off. Paragraphs (c) to (f) will be the new paragraph (d); that is the part that has got a bit of attention. Essentially, it is a reordering of the paragraphs to make sure that the wording and the terminology used elsewhere acknowledges the importance of cultural support needs and acknowledges the importance of the need for the child to develop and maintain connections to their culture and the traditions of their family and community.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 12 and 13 put and passed.

Clause 14: Section 22 amended —

Ms S.F. McGURK: I move —

Page 12, lines 12 to 18 — To delete the lines and substitute —

(4AB) If the relevant officer for a public authority to which subsection (4AA) applies forms the opinion that the public authority cannot comply with a request under subsection (3) consistently with its duties and responsibilities or so as to not unduly prejudice the performance of its functions, the relevant officer must, at the request of the CEO, give the CEO written reasons for the opinion.

(4AC) In subsection (4AB) —

relevant officer, for a public authority, means —

(a) if the public authority is an entity referred to in paragraph (a), (b) or (c) of the definition of ***public authority*** in section 3 — the principal officer (however described) of that entity; or

(b) if the public authority is a body referred to in paragraph (d) of the definition of ***public authority*** in section 3 — the principal officer (however described) of that body; or

(c) if the public authority is the holder of an office, post or position referred to in paragraph (d) of the definition of ***public authority*** in section 3 — that holder.

Mr S.K. L'ESTRANGE: Quite an extensive amendment was made to the bill, and the minister is making some further changes. Can the minister explain to the chamber the rationale for those further changes?

Ms S.F. McGURK: Essentially, it is a drafting clarification. There is nothing of substance in the amendments. If I could put it in lay terms, the legislation previously talked about the department being the "active member". We need to replace that in the act with an "officer of the department".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 15: Section 22A inserted —

Mr R.S. LOVE: I want some clarity around the regulations that require the CEO's approval for a representative organisation. What are the parameters for that and what examples can the minister point to that would apply under this clause?

Ms S.F. McGURK: I thank the member for the question. There has been a fair bit of discussion about and requests for information on who the representative Aboriginal organisations would be. Importantly, they will need to be Aboriginal-controlled organisations. The member might be familiar with the acronym ACCO—Aboriginal community controlled organisations. That is an acronym I am familiar with in the community services sector. Essentially, that is not-for-profit organisations. They do not necessarily work in community services but, importantly, they are Aboriginal-controlled organisations. The detail of what will meet the criteria for Aboriginal representative organisations will be fleshed out in the development of the regulations. We envisage having, and certainly commit to, extensive consultation with the Aboriginal community across the state about the formulation of that criteria. Members can imagine that under the act we are putting quite a bit of store in their advice. Some of those organisations around the state might be in different states of maturity at different times. For example, in the metropolitan area, the Department of Communities has awarded quite large contracts for early intervention work with vulnerable families to try to stem the number of children in care. What was previously known as the Aboriginal alcohol and drug authority is now called Wungening Alcohol and Other Drug Support Services and is the lead manager of one of those contracts. It leads a consortium of Aboriginal-controlled organisations. I am not necessarily saying that Wungening would be an Aboriginal representative organisation, but it is an example of an Aboriginal-controlled organisation that is reasonably mature in the number of services it has, in its governance and the skills it has within its remit. Throughout the state, Aboriginal medical centres and the Aboriginal Legal Service of Western Australia have a role to play in the advocacy for and development of services. Representative Aboriginal organisations could include some of those organisations, but they will particularly include Aboriginal-controlled organisations that have a history of working with families whose connection to culture is strong and credible in their areas.

The Aboriginal representative bodies might look different, is what I am saying. They might be different organisations. They might be created in their communities, they might be created anew, they might be new organisations that come together to fulfil that role, or they might be applying that status to an existing organisation for the purposes of the act. The specifics will be fleshed out in the regulations, and we commit to consulting widely on the criteria for the Aboriginal representative organisations. I think they will develop at different times throughout the state, and we need to do that in partnership as a state government. We need to work with Aboriginal leadership throughout the state to make sure there is good development of those AROs. The other stakeholder I should make mention of is SNAICC, which has been referred to before. The Minister for Aboriginal Affairs pointed out for *Hansard* the spelling of SNAICC—the Secretariat of National and Islander Child Care—which is the key advocacy group for Aboriginal children in care. We have committed to work in partnership with it in developing this strategy, and I think it will be consulted as well.

Mr R.S. LOVE: Further to that, I appreciate the fact that these matters are yet to be worked out in regulations, but I am trying to get some idea of how this would work in practice. Is there exclusivity in a particular area? Is it envisaged that there would be one group, one representative organisation? Is there a range of groups? If a child comes from

a range of backgrounds—it might be that their mother comes from one country and their father from another—how do we determine the relevant organisation? Is there a place for a co-contribution from various organisations? It was explained to me in the briefing that the local title group would be the most likely scenario. In the case of the south west, it would be the six Boodjas, I think they are called, that are to be formed, yet the minister is now telling me about SNAICC having a role. I am just trying to understand what the standard pattern of discussion will be. Will there be some sort of hierarchy of appropriateness, if you like, of the organisations so that the department will know where to go for the correct advice in a particular area?

Ms S.F. McGURK: I thank the member. As I said, all the detail is essentially to be worked through, although this was the subject of extensive discussion during the review of the act and since the review—for instance, in the development of the drafting of the bill and the consultations around the drafting of the bill. Just to clarify, I referred to SNAICC, which is a national advocacy group. It is not an on-the-ground provider and would not give advice about specific placements; this is about a strategy and the principles, if you like, that we would adopt to work on the criteria for the AROs, and for what would occur if there were conflicts. For instance, I would imagine it would not be uncommon to have to consult with more than one ARO in the event that there were a number of language groups in a family. That would be entirely appropriate, but we would ask for advice from the Aboriginal community to make sure that the regulations are constructed in such a way as to enable the AROs to give authoritative advice. I accept that there will be times when more than one ARO might be consulted over a cultural plan or the appropriateness of a placement. The reference the member made to native title groups is, I think, an observation. There have not by any means been any decisions made about who would or would not be best placed to be asked to be accredited as an ARO.

Clause put and passed.

Clause 16: Section 28 amended —

Mr R.S. LOVE: I want to briefly ask about something that has popped up in a number of different examples. Clause 16(c) states —

> in paragraph (a)(ii) delete "relative" and insert:
>
> member of the child's family

Can the minister explain the rationale behind the change of wording between "relative" and "member of the child's family"? On the surface, it means a similar thing. Is there a specific reason for that change and can the minister explain to the house what it might be?

Ms S.F. McGURK: My understanding from the very strong feedback that was given in consultations in both the lead-up to the review of the act and in the drafting of the legislation is that Aboriginal stakeholders felt that the term "family" was an expression they felt more comfortable with but also, importantly, reflected a broader idea of Aboriginal relationships in the family sense, rather than just biological connection, which "relative" perhaps implies. There is a definition of "family", but we have removed "relative" from the legislation, and that is essentially on the advice of, I think, most Aboriginal organisations that were consulted; they said they felt it was more appropriate for them.

Clause put and passed.

Clauses 17 to 29 put and passed.

Clause 30: Section 69B inserted —

Ms S.F. McGURK: I move —

> Page 22, lines 27 and 28 — To delete "taken to be replaced by a protection order (until 18) for the child." and substitute —
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> > revoked and replaced by a protection order (time-limited) in respect of the child on the day **(notification day)** on which the CEO gives the notice.

Mr S.K. L'ESTRANGE: This amendment deals with clause 30. I ask the minister to provide to the chamber a rationale for the change.

Ms S.F. McGURK: There are actually two amendments to clause 30, as we have discussed, but I will deal with the first one. It relates to a situation that occurs very occasionally in which there is a special guardian who is the sole guardian of the child and the guardian dies; or, if there are joint special guardians, they die. This is essentially what happens with the legal status of the child. Under the original provision, it was totally unclear what would happen in that scenario—if a special guardian or guardians were to die. We therefore wanted to make clear that the protection order for two years was in place. If the circumstances change, that will allow the Department of Communities or the child's family to go back to the court and reconsider what might be appropriate for the court. That is the first proposed amendment.

Mr S.K. L'ESTRANGE: They will automatically go on to, essentially, a temporary order for two years, so why would we not try to get them to go on to an "until 18" order?

Ms S.F. McGURK: This is the substance of the subsequent amendment. There was advocacy, particularly from the Aboriginal Legal Service and the Aboriginal Family Law Services or the Aboriginal women's legal service—I think it has renamed itself—as well as the Children's Court, to see whether it was more appropriate for the court to reconsider this matter and have the option of looking at whether the child's circumstances had changed. It basically will give the court, the child's relatives and family and the department the ability to relook at the options for the child.

Amendment put and passed.

Ms S.F. McGURK: I move —

Page 23, lines 1 to 10 — To delete the lines and substitute —

(3) The protection order (time-limited) —

(a) comes into force on notification day; and

(b) for the purposes of Subdivision 4, is taken to specify the shorter of the following periods —

(i) the period of 2 years beginning on notification day;

(ii) the period beginning on notification day and ending on the day before the day on which the child reaches 18 years of age.

(4) As soon as practicable after notification day, the CEO must give written notice of the protection order (time-limited) to the following —

(a) the child;

(b) each other party to the initial proceedings (other than the special guardian);

(c) each other person considered by the CEO to have a direct and significant interest in the wellbeing of the child.

Mr S.K. L'ESTRANGE: I think the minister has answered my line of earlier questioning. If the minister thinks that I have missed anything about why she has not gone directly to an under-18 as opposed to sticking to a temporary, and if it is not picked up here, maybe the minister can explain, otherwise I am happy with the amendment.

Ms S.F. McGURK: I should clarify. I am fortunate to have the advisers to keep me in check; that is, the automatic revocation to a two-year order would not require going back to the court. That is what would occur. The department will make placements in accordance with the act as it currently applies. However, this option as well as the previous option we just discussed, gives the parties an opportunity to reconsider whether the child's situation has changed. There might be an opportunity for reunification with the broader family and the like. That was the advocacy around these two provisions—the death of a guardian or if circumstances change. It will give the court and the child's extended family and representatives an opportunity to reconsider whether an order to 18 was still appropriate.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 31 put and passed.

Clause 32: Section 81 replaced —

Mr R.S. LOVE: As the minister knows, I spoke a short while ago in the house about this bill not knowing that the organisation the minister referred to a while ago—I think it was the Secretariat of National Aboriginal and Islander Child Care—had expressed concern around some of the provisions, claiming that changes would be made to section 81 of the act, which I think this clause refers to. I am sure she is familiar with the position; I can read it into *Hansard* if she likes or do I take it that she is aware of SNAICC's position? Can the minister explain to the house exactly why, in the minister's view, SNAICC's position is flawed? What is the difference between what SNAICC is claiming and what the advisers are telling the minister?

Ms S.F. McGURK: I am sorry, I do not have the SNAICC and Noongar Family Safety Wellbeing Council statement in front of me. It is in my office downstairs. I do not think I will misrepresent them because I understand the issue they have raised. My understanding is that, essentially, the Noongar Family Safety and Wellbeing Council, a body that has been set up to help advise the Department of Communities—the state government—and its national advocate, SNAICC, have raised questions about proposed section 81. In that statement and public comments, they have said that section 81 allows for an Aboriginal child to be taken into care on the advice of one Aboriginal family member of the child. That is essentially what I read the statement to say. In fact, section 81 is not about whether to take the child into care but once a decision has been made for the child to be taken into care, but about where the child should be most appropriately placed. The Noongar Family Safety and Wellbeing Council and SNAICC have their clauses wrong. The Minister for Aboriginal Affairs referred to this in his contribution to the second reading debate. They have their wires crossed and I hope it is just

a misunderstanding of what consultation needs to take place. It is not about whether a child should be taken into care, but about once a decision has been made to take the child into care, who must be consulted for that child to be placed.

In fact, there is significant strengthening of Aboriginal consultation in proposed section 81 in clause 32 of the bill. Under the current provisions one of the following people has to be consulted: an Aboriginal practice leader or other relevant Aboriginal officer; an Aboriginal person who in the opinion of the CEO has relevant knowledge of the child, the child's family and the child's community; and an Aboriginal agency that has relevant knowledge of the child, the child's family or the child's community. That is the current provision. One of those people must be consulted. The new legislation will require that consultation must occur under all three of those proposed sections outlined in clause 32; that is, the consultation must occur with an Aboriginal member of the child's family subject to the regulations; an approved Aboriginal representative organisation; and an Aboriginal officer with the department who has relevant knowledge of the child, the child's family or the child's community. In fact, all three have to be consulted about the appropriateness of the placement of the child. This is clearly a significant strengthening of our consultation with and the involvement of Aboriginal organisations. The Secretariat of National Aboriginal and Islander Child Care—SNAICC—and the Noongar Family Safety and Wellbeing Council said very clearly that we should implement Aboriginal family-led decision-making, and we have committed not to do that within these amendments of the Act, but to trial that approach, and there is nothing in existing legislation that precludes us from doing that. We have committed to continue to explore other ways that we can strengthen not only the involvement, but also, frankly, when possible and safe to do so, the ownership of that decision-making of Aboriginal organisations, extended family and those with cultural knowledge and authority over the placement of that child.

Mr R.S. LOVE: I would like to hear more from the minister, if that is possible.

The SPEAKER: Members, under standing order 61, this business will be adjourned to another date after today's sitting.

Debate adjourned, pursuant to standing orders.