SECOND READING SPEECH

SENTENCE ADMINISTRATION AMENDMENT (MULTIPLE MURDERERS) BILL 2018

I move this Bill be read a second time.

This Bill introduces very important reforms to the *Sentence Administration Act 2003* (WA), so that an Attorney General, who is described as the Minster in the Bill, may direct that mass murderers and serial killers must not be considered for parole or a re-socialisation programme.

As Honourable members may recall, in 2007 the Honourable Jim McGinty MLA, publicly declared that during his term as Attorney General, prisoner Catherine Birnie would never be released. This and subsequent public declarations have had no legal effect, with the Prisoners Review Board of Western Australia (the Board) and the Chief Executive Officer (CEO) of the Corrective Services Division of the Department of Justice still being required to comply with statutory reporting obligations under section 12A of the *Sentence Administration Act 2003* (WA). Prisoner Birnie and other prisoners who are regarded as Australia's worst mass murderers and serial killers, have continued to have their parole reviewed on a periodic basis.

The proposed reforms are intended to go some way to address the trauma and emotional toll experienced by the family and friends of murder victims (also referred to as 'secondary victims'), and others impacted by the crimes including surviving victims of serial killers and mass murderers. The parole planning process can be a source of significant stress. This is due to the anticipation that these offenders may return to the community, the re-traumatisation from being periodically asked to share one's views about the potential release of the offender, and the heightened and often unwanted media and public attention associated with these cases. By allowing an Attorney General to direct that a mass murderer or serial killer must not be considered for parole or a re-socialisation programme for a period up to six years, it is hoped that this Bill will moderate one driver of stress for secondary victims and survivors.

The Bill introduces the concepts 'designated prisoner' and 'relevant offence' for the purpose of prescribing the mass murderers and serial killers to whom a Ministerial direction may apply.

These definitions cover prisoners who are serving life or indefinite imprisonment or are Governor's pleasure detainees as listed under Schedule 3 of the *Sentence Administration Act 2003* (WA).

The prisoner must be serving a sentence for at least one conviction for a 'relevant offence', which is defined to include the Western Australian offence of murder, the former offence of wilful murder, as well as similar offences when committed elsewhere (including any place outside Australia).

In addition, such a prisoner must have:

- been convicted of two or more other relevant offences which were committed at any time; or
- been convicted of another relevant offence, and the offence must have been committed on a different day to the first relevant offence.

As such, Ministerial directions can only be made regarding mass murderers, being someone who has killed three or more people on one day, and serial killers, being someone who has killed two or more people on different days.

The issue of consideration for a re-socialisation programme and periodic parole review only arises in relation to Schedule 3 prisoners. It is thus not necessary to extend the scheme to other classes of prisoners.

The Minister is empowered to make a direction following receipt of a designated prisoner's relevant report, which is defined to be the first statutory report for parole consideration. This has been necessary to avoid any potential interference with the minimum non-parole period set by a sentencing court and therefore minimises the risk of constitutional challenge to the making of a direction.

The Ministerial directions are not compulsory nor are they automated. The Minister has absolute discretion whether or not to make a direction in relation to a designated prisoner. Consistent with the current operation of the *Sentence Administration Act 2003* (WA), the decision is not subject to natural justice or any requirements for procedural fairness. The amendments also provide that a direction cannot be challenged, appealed, or reviewed in any court, except on the basis of jurisdictional error.

A direction must be in writing, and must specify start and end dates not more than six years apart. Copies of the direction must be provided to the Board, the CEO Corrections and to the prisoner concerned.

For the period that the direction is in effect, it will prevent the Board and CEO Corrections from undertaking any assessment, consideration or reporting functions in respect of parole or a re-socialisation programme for the designated prisoner.

A direction may be renewed within three months prior to when it is due to expire. There is no limit to the number of successive directions that can be made.

The legislation will maintain capacity for the Minister to request a report about a designated prisoner or for the Board to provide a report under section 12 of the *Sentence Administration Act 2003* (WA). While the intent is that the section 12 reporting mechanism will not be used during the period of a direction, the retention of this ability negates the need to include special provisions for revocation of a direction and allows for any exceptional cases where parole may need to be considered or if a different Minister has a different view in regard to an issued direction.

At the expiry of a direction, and if a further direction is not made, the statutory reporting functions under section 12A resume and due dates for future reports are calculated as if all previous reports had been completed at the times prescribed by the legislation. The amendments include capacity for a report to be deferred past the due date, provided it is given to the Minister as soon as practicable, and in any event within seven months. This ensures that the Board has sufficient time to prepare and comply with the statutory reporting requirements. The suspension on the consideration for a re-socialisation programme is also lifted at the expiry of the direction.

The amendments introduced by this Bill are targeted at the very worst mass murderers and serial killers serving life and indefinite terms in Western Australia prisons. In these cases there is no entitlement to parole or any early release, and the prisoner is liable to remain in custody for their natural life.

The amendments introduced by this Bill will elevate the interests of secondary victims, survivors and the community above that of the offenders. Allowing for the suspension of parole consideration for mass murderers and serial killers is primarily intended to address the re-traumatisation experienced by the secondary victims and survivors of these notorious crimes.

Pursuant to Standing Order 126(1), I advise that this Bill is not a uniform legislation Bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the Government of the State is a party. Nor does this Bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the Commonwealth.

I commend the Bill to the House and table the Explanatory Memorandum.