

MENTAL HEALTH AMENDMENT BILL 2012

Second Reading

MR M.P. WHITELEY (Bassendean) [4.26 pm]: I move —

That the bill be now read a second time.

The Mental Health Amendment Bill 2012 removes two of the five alternative criteria that under section 26 of the Mental Health Act 1996 can see a person, who is considered to be mentally ill by a psychiatrist, made an involuntary patient. The two alternative criteria for becoming an involuntary patient that will be removed are: if a person considered to be mentally ill is, first, at risk of serious damage to their own reputation; and, secondly, at risk of lasting or irreparable harm to any important personal relationship resulting from damage to the reputation of the person to be detained. The three ways that will be retained are where the person considered to be mentally ill is: first, a danger to the health and safety of themselves or others; or, second, at risk of causing serious damage to property; or, third, at risk of serious self-inflicted financial harm.

Being made an involuntary patient often involves being involuntarily treated with psychotropic medications or other invasive interventions. These people have usually not committed any crime and yet they are denied their freedom. It is incumbent upon the Parliament to prevent arbitrary detention and treatment of people by ensuring that mentally ill people are denied their liberty only when absolutely necessary.

The case of Maryanne Connor, who was made an involuntary patient at Fremantle Hospital on 23 March 2012, demonstrates the need for this legislation. Maryanne was made an involuntary patient at Fremantle Hospital and put on a drug regime that was contraindicated given her past history of severe adverse drug reactions. This was all done against not only her wishes, but also those of her mother, who is now her guardian, and her treating private sector psychiatrist, who was not consulted. Maryanne, her mother and her private psychiatrist all agree that Maryanne has an ongoing mental illness requiring treatment. All were happy for her to continue to be treated with a low efficacious dose of Solian, an antipsychotic. However, they all opposed her involuntary detention and treatment. The rationale for making Maryanne an involuntary patient was that Maryanne may have raised her voice in a coffee shop meeting with her caseworker and as a result she was considered to pose a “serious risk to her own reputation”. This “damage to reputation” provision is so ambiguous and easily abused as a catch-all provision that it must be removed. I am advised by the Mental Health Law Centre that Maryanne’s case is just one example of the inappropriate use of the “damage to reputation” criterion.

The other criterion for removal—that is, where a person is made an involuntary patient because damage to their reputation could result in lasting or irreparable harm to an important personal relationship—is just as ambiguous and open to abuse. What somebody thinks about the lawful behaviour of another person is not an appropriate basis for denying a person their liberty.

The three abovementioned alternative remaining rationales for making a mentally ill person an involuntary patient are adequate. They will allow sufficient scope to involuntarily detain mentally ill people who represent a danger to the health and safety of themselves or others, or are at risk of seriously damaging property or of suffering serious future financial harm. These three alternatives offer sufficient scope to protect mentally ill people from harms that are real, demonstrable and significant.

The two provisions that are to be removed via this bill currently confer unreasonable power upon psychiatrists to detain and treat citizens who have committed no crime and who do not represent a danger to themselves, others or property, or their own financial future.

The bill will help restore an appropriate balance between the need to protect mentally ill people and others from significant harm and the liberty and freedoms of all law-abiding people.

Debate adjourned, on motion by **Mr D.A. Templeman**.