

PARLIAMENTARY COMMISSIONER AMENDMENT (REPORTABLE CONDUCT) BILL 2021

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Sue Ellery (Leader of the House)**, read a first time.

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.52 pm]: I move —

That the bill be now read a second time.

The introduction of the bill is a critical milestone in delivering on the McGowan government's commitments to implement the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse and will help keep children safe. The royal commission found that organisations need to improve their responses to allegations of child sexual abuse and recommended that state and territory governments set up schemes that oblige heads of organisations to notify an independent body of reportable conduct by their employees, volunteers and contractors.

The development of the bill has been informed by extensive consultation with government and non-government stakeholders. This included the tabling of a green bill in Parliament in November 2020 after which stakeholders and the public were invited to provide submissions until the end of January 2021. The bill incorporates amendments to the green bill arising from the public consultation process, with feedback showing strong support for the establishment of a reportable conduct scheme undertaken by the Ombudsman of Western Australia.

The bill seeks to establish a reportable conduct scheme, as recommended by the royal commission, which will compel heads of organisations to notify the Ombudsman of reportable allegations or reportable convictions involving the organisation's employees, volunteers and contractors. The Ombudsman can then review investigation findings or undertake investigations of their own motion. The reportable conduct scheme will also allow the Ombudsman to provide scrutiny of the policies and procedures put in place by organisations to prevent child abuse and for handling and responding to reportable allegations or convictions. Significantly, the bill will provide that the Ombudsman, and any other person performing functions under the scheme, must regard the best interests of children as the paramount consideration. The types of conduct that will be required to be notified to the Ombudsman will include a sexual offence or sexual misconduct against, with, or in the presence of a child; physical assault committed against, with, or in the presence of a child; significant neglect of a child; any behaviour that causes significant emotional or psychological harm to a child; and other prescribed offences.

An estimated 4 000 government and non-government organisations in Western Australia will be covered by the reportable conduct scheme, including accommodation and residential services; religious institutions; childcare services; child protection and out-of-home care services; disability services; education services; health services; and justice and detention services. The scheme will not apply to organisations that do not exercise care, supervision or authority over children.

The scheme will be phased in, with childcare services, child protection and out-of-home care services, education, health, justice and detention services covered in the first year, and the remaining services after 12 months of operation of the scheme. The type of conduct will also be phased in, with sexual offences, sexual misconduct, physical assault and other prescribed offences covered by the reportable conduct scheme in the first year and the remaining types of conduct after 12 months of operation of the scheme. The phased commencement of the scheme over two years will assist organisations to prepare for the new requirements.

The scheme will require affected heads of organisations to have certain systems in place. That will include systems for preventing, notifying and dealing with any allegations or convictions of child abuse involving an employee; notifying the Ombudsman about any allegations or convictions of child abuse involving an employee; investigating any allegations or convictions of child abuse involving an employee and providing a report to the Ombudsman at the end of the investigation on any findings made and actions taken; and reporting to other bodies, such as the WA Police Force, the Department of Communities or professional bodies as required.

The Ombudsman will work with organisations covered by the scheme to build on existing procedures and reporting requirements. The Ombudsman will assist organisations to identify, notify and investigate reportable conduct by their employees; provide oversight of the organisation's investigation of reportable conduct by an employee and the action taken if a finding of reportable conduct is made; and, if it is in the public interest to do so, undertake its own investigation and make recommendations to the organisation. The Ombudsman will also monitor the organisations' systems for preventing, notifying and dealing with reportable conduct and report to Parliament on the scheme.

Importantly, the reportable conduct scheme will be complementary to, and not replace, the obligations for the head of the organisation to notify the WA Police Force and the Department of Communities of child abuse. The bill provides for the Ombudsman to consult and share information with police and key institutions to better protect

children from abuse and harm. The green bill included a provision that a finding of reportable conduct will trigger an assessment or reassessment under the Working with Children (Criminal Record Checking) Act 2004. This is still the intention, but the government proposes to deal with it as part of the forthcoming reforms to the working with children act.

The introduction of the scheme will also complement the recently passed Children and Community Services Amendment Act 2021, which implements a recommendation of the royal commission to require ministers of religion to report child sexual abuse, including when information is gained during confession. Safety of children is at the heart of the mandatory reporting reforms, which will better protect children by increasing the number of people who are legally required to report child sexual abuse.

As well as ministers of religion, the changes will extend mandatory reporting laws to early childhood workers, out-of-home care workers, registered psychologists, school counsellors, youth justice workers, Department of Communities' officers, and assessors appointed to visit residential care services and secure care. The establishment of the reportable conduct scheme will implement a key recommendation of the royal commission. It will establish a scheme in Western Australia that will enhance the existing child safety framework by providing oversight of organisations in the best interests of children.

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.

[See paper [1222](#).]

Debate adjourned, pursuant to standing orders.

House adjourned at 6.00 pm
