

CROSS-BORDER JUSTICE AMENDMENT BILL 2009

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Michael Mischin (Parliamentary Secretary)**, read a first time.

Second Reading

HON MICHAEL MISCHIN (North Metropolitan — Parliamentary Secretary) [10.00 pm]: I move —

That the bill be now read a second time.

The cross-border justice scheme will introduce a collaborative system of justice administration in the region where the borders of Western Australia, South Australia and the Northern Territory meet. The scheme was instigated by the NPY Women's Council, which initially approached state and territory governments in 2003 seeking a solution to the serious justice problems in this remote region. In response, the governments of South Australia, the Northern Territory and Western Australia developed the cross-border justice scheme. As noted by the former Attorney General in the introduction for the Cross-border Justice Act 2008, the scheme "seeks to break down the barriers that the borders create in the administration of justice in the cross-border region".

The cross-border justice scheme will allow police, magistrates, fines enforcement agencies, community corrections officers and prisons of one jurisdiction to deal with offences that may have occurred in another of the participating jurisdictions. Western Australia developed the model legislation for the cross-border justice scheme, which was then used as the basis for the drafting of the Northern Territory and South Australian legislation. Western Australia's Cross-border Justice Act 2008 was assented to in March 2008.

During the consultation process with South Australia and the Northern Territory, several issues were raised that resulted in minor changes to the model legislation. The changes were agreed to by all three jurisdictions and incorporated in the South Australian and Northern Territory legislation. The Northern Territory's Cross-border Justice Act 2009 was assented to in March 2009, and South Australia introduced its bill into Parliament in February 2009.

The Cross-border Justice Amendment Bill 2009 amends the Cross-border Justice Act 2008 to ensure consistency with the South Australian and Northern Territory mirror legislation. To enable the cross-border justice scheme to operate successfully, it is critical that the legislation is uniform across participating jurisdictions. To ensure such consistency in the model legislation, the 2009 bill amends sections 7, 8, 29, 36, 54 and 55 of the Cross-border Justice Act 2008, and also inserts a new section, section 139A, into the act.

The amendment to section 36 and the insertion of proposed section 139A represent the only two substantive amendments to be made to the Cross-border Justice Act 2008 by way of this bill. The first substantive amendment is to section 36 of the act. South Australia and the Northern Territory expressed concern that the text in section 36(1) did not make it clear that the section applied to only those persons released without charge. Consequently, this section is amended to clarify that it specifically relates to persons released without charge rather than simply persons released. In section 36(1) the word "released" will be deleted and the words "released without charge" will be inserted.

The second substantive amendment made by this bill is the insertion of a new section, section 139A, into the act. Proposed section 139A addresses an issue raised by the coroners in South Australia and the Northern Territory. Concern was raised that section 34(3) of the model legislation may prevent a state or territory coroner from investigating the death of a person that occurred while the person was in the custody of another state or territory.

Proposed section 139A will ensure that the coronial jurisdiction of each participating state or territory is not affected by the new scheme. Consequently, this proposed section clarifies that the operation of Western Australia's Coroners Act 1996 will not be affected by the Cross-border Justice Act 2008. It is important to note that the coroners have an administrative mechanism for determining which state or territory would hold an inquest in the event that two or more of the participating jurisdictions may have the jurisdiction to investigate a death in custody.

In terms of the remainder of the Cross-border Justice Amendment Bill 2009, sections 54 and 55 of the act will be amended, not substantively, in order to make these sections clearer. Additionally, amendments will be made to sections 7, 8 and 29 to correct minor drafting errors.

The Cross-border Justice Amendment Bill 2009 will ensure consistency with the South Australian and Northern Territory legislation. The government acknowledges the support given to the cross-border justice scheme by the

previous state Attorney General, Hon Jim McGinty, MLA, and also by the Attorneys General of South Australia and the Northern Territory.

The government further acknowledges the work of the commonwealth Attorney-General in realising the operation of the cross-border justice scheme. Hon Robert McClelland, MP recently introduced the Law and Justice (Cross Border and Other Amendments) Bill 2009 into the commonwealth Parliament. This bill received assent on 7 September 2009 and makes the necessary amendments to the Service and Execution of Process Act 1992 to facilitate the operation of the cross-border justice scheme.

The cross-border justice scheme is a groundbreaking approach from Western Australia, South Australia and the Northern Territory to enhance the safety of those living in the remote communities in the cross-border region. I commend the bill to the house.

Debate adjourned and bill referred to the Standing Committee on Uniform Legislation and Statutes Review, pursuant to standing orders.