

**EQUAL OPPORTUNITY AMENDMENT BILL 2009**

*Receipt and First Reading*

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

*Second Reading*

**HON SUE ELLERY (South Metropolitan — Leader of the Opposition)** [9.59 pm]: I move —

That the bill be now read a second time.

I am pleased to be the proposer of this bill to amend the Equal Opportunity Act 1984. The principal purpose of this amending legislation is to prohibit discrimination against mothers breastfeeding in public places. We have all heard recent public reports about a mother who was asked to leave a restaurant in one of Perth's premier hotels in order to breastfeed her infant. She was quoted as saying that it left her feeling frustrated and embarrassed. This instance served to draw attention to the fact that breastfeeding mothers in Western Australia did not have the same legislative protection as is the case in other parts of Australia. The response of some was to say that laws to protect breastfeeding mothers were unnecessary and that commonsense should prevail. It would, of course, be ideal if commonsense could prevail and that all kinds of discrimination never occurred, but sadly this is not the society in which we live, and laws to protect people from various forms of discrimination have proved necessary.

When the Equal Opportunity Act became law in July 1985, it outlawed sexual harassment and discrimination on the basis of sex, pregnancy, race, religious and political conviction, and marital status. In 1988 it was made illegal to discriminate on the grounds of physical or mental impairment. In 1992 it was made illegal to discriminate on the grounds of family responsibility, family status and age, and race. With the enactment of the Spent Convictions Act in 1988, discrimination on the ground of a person's spent conviction became unlawful. In 2002 gender history and sexual orientation were added as unlawful grounds for discrimination. In 2005 amendments to the Criminal Code strengthened provisions relating to racial harassment and incitement to racial hatred. This history of efforts to prohibit the various forms of discrimination in Western Australia is outlined in the Equal Opportunity Commission's "Review of Equal Opportunity Act 1984 Report: May 2007".

In 1984 the then government introduced legislation to prohibit various forms of discrimination. It provided a positive example to other states, which then followed. Sadly, now, as the first comprehensive review of the act in over 20 years has revealed, other states and the commonwealth are in the lead. Other states and territories now have legislation that has benefited from more modern drafting and that includes a wider range of grounds for discrimination.

The first in the list of recommendations in the May 2007 report is that the act should be amended to include a new ground of breastfeeding, to put the question beyond doubt. It is that recommendation that has now been acted upon in the bill before us. The matter of breastfeeding ought to be one that is not contentious and can be quickly and simply addressed so as to put beyond doubt a woman's right to breastfeed in public and not be disadvantaged in doing so. The review of the Equal Opportunity Act stated —

The vast majority of the submissions that addressed this ground specifically, however, considered that breastfeeding ought to be unequivocally established as a ground of discrimination protected by the Act,

Further, the report stated —

At present, if a woman were to lodge a complaint of breastfeeding discrimination under the Act, the only relevant ground would be that of sex or, more precisely, a characteristic that appertains generally to persons of the same sex as the complainant.

It is arguable whether breastfeeding is such a characteristic, at least in terms of the standard of proof required under the Act. Consequently, it would be for the State Administrative Tribunal to determine the answer. Breastfeeding is a ground of discrimination in Victoria, Northern Territory, Tasmania, Queensland, and the ACT. The Commonwealth *Sex Discrimination Act 1984* states that breastfeeding is a characteristic appertaining generally to women.

The Commission recommends that the Act should be amended to include the ground of breastfeeding to put the question beyond doubt.

Breastfeeding children gives them the best possible start in life. Breastfeeding offers children protection against a range of illnesses and infections. Many of those benefits are believed to last well into adult life. Breastfeeding is also advantageous to mothers in helping them with weight loss after birth. There is also evidence that women

who breastfeed their infants gain other health benefits, including protection from some cancers and other diseases. The World Health Organization and the National Health and Medical Research Council recommend that babies be exclusively breastfed for the first six months.

While it is almost universally acknowledged that breastfeeding is best and that breastfeeding is what nature intended, we still need to support and encourage women to breastfeed their infants. Disappointingly, there appears to have been a decline in breastfeeding rates in recent years. In the 1980s around 98 per cent of Australian women leaving hospital after giving birth were breastfeeding, and 60 per cent were continuing to do so when their babies were six months old. According to the Australian Breastfeeding Association, by 2004 the percentage of women breastfeeding at discharge from hospital had dropped to around 90 per cent and only about one-third were still breastfeeding at six months.

Members of the Western Australian Parliament have the opportunity to unequivocally support breastfeeding mothers by endorsing this legislation and thereby ensuring that the greatest number of Western Australian infants have the best possible start in life. I commend the bill to the house.

Debate adjourned, pursuant to standing orders.