

CHILD SUPPORT (ADOPTION OF LAWS) 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) [10.14 pm]: I move —

That the bill be now read a second time.

As honourable members will be aware, the commonwealth child support scheme enables the collection of child support payments from a parent and the payment of that maintenance to the person having responsibility for a child, as well as the collection and distribution of other maintenance payments, including spousal maintenance. The scheme operates under two commonwealth statutes: the Child Support (Registration and Collection) Act 1988 and the Child Support (Assessment) Act 1989. Following the making of an assessment for child support, which includes the payments to be made for the maintenance of a child, the Child Support Registrar and the Department of Families, Housing, Community Services and Indigenous Affairs ensure that those payments are deducted from either salary payments or other income. Through the legislation administered by that commonwealth department, the scheme also establishes enforcement procedures to ensure that payments are able to be collected on behalf of the child; that is, the commonwealth legislation means that parents must provide for their children. However, as honourable members may also be aware, the commonwealth Parliament has constitutional power to legislate for only children of a marriage. Therefore, exnuptial children are not covered by the commonwealth legislation unless state Parliaments either refer power to the commonwealth or adopt the legislation.

All other states have referred power to the commonwealth Parliament so that the commonwealth scheme applies to exnuptial children in those states. Western Australia has not referred power; rather, pursuant to the Western Australian Child Support (Adoption of Laws) Act 1990, the Western Australian Parliament has adopted the commonwealth legislation establishing this scheme, as well as subsequent commonwealth amendments. Therefore, the commonwealth statutes that implement the child support scheme now apply to exnuptial children in Western Australia. The commonwealth legislation has been amended on several occasions. In Western Australia those amendments do not apply until they are adopted by this Parliament. The method of adopting legislation rather than referring power requires that commonwealth legislative changes to the child support scheme must, if they are to apply to exnuptial children in Western Australia, be also adopted through the amendment of the Western Australian legislation.

The present bill describes the various commonwealth acts that have amended the Child Support (Registration and Collection) Act 1988 and the Child Support (Assessment) Act 1989 since the last adoption legislation enacted by the Western Australian Parliament in 2007, together with amendments that may not have been previously adopted. However, those amendments do not apply in Western Australia until they have been adopted by Western Australian legislation. I trust that all honourable members will agree that it is appropriate and desirable that the recent commonwealth amendments be adopted by Western Australia as proposed in this bill. This legislation will ensure that the child support scheme and the commonwealth amendments relating to it can apply to and benefit all children in Western Australia.

Finally, I draw honourable members' attention to section 51(xxxvii) of the commonwealth Constitution, which permits state Parliaments to adopt commonwealth legislation that is based on powers referred by other states to the commonwealth. The bill utilises that method of adoption to allow the recent commonwealth child support amendments to apply for the benefit of exnuptial children in Western Australia.

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.