CHILD SUPPORT (ADOPTION OF LAWS) AMENDMENT BILL 2017

Introduction and First Reading

Bill introduced, on motion by **Mr J.R. Quigley (Attorney General)**, and read a first time.

Explanatory memorandum presented by the Attorney General.

Second Reading

MR J.R. QUIGLEY (Butler — Attorney General) [12.11 pm]: I move —

That the bill be now read a second time.

As honourable members will be aware, the commonwealth child support scheme was introduced with the object of ensuring that separated parents shared equitably in the financial cost of supporting their children. The scheme provides for the assessment of the financial support required to support the children and the enforcement, collection and transfer of child support payments. Prior to the implementation of the scheme, child support could be obtained only by parents reaching agreement or by instituting proceedings for an order in the Family Court. The scheme operates under two commonwealth statutes, the commonwealth Child Support (Registration and Collection) Act 1988 and the commonwealth Child Support (Assessment) Act 1989. However, as members may be aware, in this context the commonwealth Parliament has constitutional power to legislate with respect to only children of a marriage. For the commonwealth child support scheme to apply uniformly to married and unmarried couples and their children, state Parliaments must refer legislative power to the commonwealth or afterwards adopt the commonwealth scheme by state legislation.

All states except Western Australia have referred legislative power to the commonwealth Parliament. Western Australia has not referred power but has adopted the commonwealth acts, initially by the Child Support (Adoption) Act 1988 and subsequently by the Child Support (Adoption of Laws) Act 1990. The adoption method means that the commonwealth amendments to the commonwealth child support acts, and therefore changes to the child support scheme, do not apply to unmarried couples and their ex-nuptial children in WA until the Parliament of Western Australia amends the Child Support (Adoption of Laws) Act 1990 to adopt again the commonwealth child support acts once those commonwealth amendments have come into operation. The Child Support (Adoption of Laws) Act 1990 of Western Australia was last amended in 2015 and adopted the commonwealth acts in the form in which they existed on 1 July 2015.

Since the last adoption date of 1 July 2015, the commonwealth child support acts have been amended by several commonwealth acts including the Norfolk Island Legislation Amendment Act 2015. As members will be aware, Norfolk Island has been an external territory of Australia since 1913. The commonwealth Norfolk Island Act 1979 established a limited form of self-government for Norfolk Island and imposed responsibility for all local and state and some federal services. An inquiry in 2014 by the Commonwealth Parliament Joint Standing Committee on the National Capital and External Territories determined that Norfolk Island was unable to deliver the services for which it was responsible and was reliant upon the Commonwealth of Australia for survival. As a result there have been substantial changes recently to the governance arrangements for Norfolk Island. Residents of Norfolk Island are now considered to be residents of Australia for the purposes of the child support scheme.

Similarly, the commonwealth Territories Legislation Amendment Act 2016 extended the operation of the child support scheme to Christmas Island and Cocos (Keeling) Islands by including residents of those external territories in the definition of "resident of Australia" in the commonwealth Child Support (Registration and Collection) Act 1988 and the commonwealth Child Support (Assessment) Act 1989.

Until adoption by the WA Parliament of the commonwealth acts as amended by the commonwealth Norfolk Island Legislation Amendment Act 2015 and the commonwealth Territories Legislation Amendment Act 2016 the definition of a "resident of Australia" that is to apply to ex-nuptial cases in Western Australia continues to exclude residents of Norfolk Island, Christmas Island and Cocos (Keeling) Islands. This affects ex-nuptial children where the child resides in WA with one parent and the other parent resides in Norfolk Island, Christmas Island or Cocos (Keeling) Islands. Currently, and until adoption by the WA Parliament, the other parent of the WA ex-nuptial child is not a resident of Australia for purposes of the commonwealth child support scheme and the WA parent is unable to obtain a child support assessment for the child in WA. Once the commonwealth acts as amended are adopted by the WA Parliament the other parent will come within the definition of "resident of Australia" and have enforceable obligations under the commonwealth child support scheme to support the WA child.

The commonwealth Courts Administration Legislation Amendment Act amended the commonwealth Family Law Act 1975 by changing the titles Chief Judge of the Family Court to Chief Justice, and Deputy Chief Judge of the Family Court to Deputy Chief Justice. A consequential amendment was to make those title changes where required

in the commonwealth child support acts. The commonwealth Statute Law Revision Act (No. 1) 2016 made technical amendments to both commonwealth child support acts to correct cross-references and a typographical error, and to modernise the language. The commonwealth Civil Law and Justice (Omnibus Amendments) Act 2015 amended the commonwealth Child Support (Registration and Collection) Act 1988 consequential upon minor technical amendments to the operation of the commonwealth Administrative Appeals Tribunal Act 1975.

I trust that all members will agree that it is appropriate and desirable that the recent commonwealth amendments be adopted by Western Australia, as proposed in the bill. I commend the bill to the house.

Debate adjourned, on motion by **Ms L. Mettam**.