

**CHILDREN AND COMMUNITY SERVICES AMENDMENT (REPORTING SEXUAL ABUSE OF CHILDREN) BILL 2007**

*Introduction and First Reading*

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

Explanatory memorandum presented by the Attorney General.

*Second Reading*

**MR J.A. MCGINTY (Fremantle - Attorney General)** [12.54 pm]: I move -

That the bill be now read a second time.

On 7 March 2007 the Premier announced that new legislation would be introduced requiring the mandatory reporting by teachers, doctors, nurses and police of child sexual abuse where there is evidence that child sexual abuse has occurred or is occurring. The Children and Community Services Amendment (Reporting Sexual Abuse of Children) Bill 2007 gives effect to the Premier's commitment by amending the Children and Community Services Act 2004 to provide for the mandatory reporting of child sexual abuse and by making consequential amendments to the Evidence Act 1906 and the Freedom of Information Act 1992.

This legislation builds on the existing Western Australian system for mandatory reporting of child abuse. Currently, the only provisions in Western Australia that mandate the reporting of child abuse are contained in part 5 of the Family Court Act 1997 and in regulations made under the Child Care Services Act 2007. These provisions apply respectively to persons working in the Family Court and persons who hold a childcare licence. This bill will complement the existing provisions in the Family Court Act and the Child Care Services Act. Additionally, the Department of Health has mandated the reporting of sexually transmissible infections in children.

Child protection is a top priority of this government. During 2006 the government announced the biggest increase in funding in the history of the department, with almost \$200 million over four years. Further, in early 2007 the Premier announced an additional \$100 million over four years in response to the independent review of the then Department for Community Development, conducted by Ms Prudence Ford. As a result of the Ford report a new Department for Child Protection has been created. There has been a massive increase in staffing, greater supervision and training of those staff, with funding for an additional 287 positions in the Department for Child Protection. The Child Safety Directors group, comprising representatives from across key agencies of government, has been created to better coordinate activities among child protection, police, health, education and other agencies of government. Planning has been put in place to ensure that training and resources will be available to targeted professionals in advance of the legislation coming into effect. The government has indicated that it will fund the necessary resources to respond to child protection concerns as they arise. We will not allow the system to fall behind.

This bill builds on the child protection initiatives and has seven key features. First, the bill sets out the obligation to report. The bill requires doctors, nurses, midwives, police officers and teachers to make a report to the chief executive officer of the Department for Child Protection, or a person or member of a class of persons approved by the chief executive officer, if they believe on reasonable grounds that a child has been the subject of sexual abuse that occurred on or after the commencement day or is the subject of ongoing sexual abuse and they form the belief in the course of their work on or after the commencement day. The belief must be reported as soon as practicable after the person forms the belief. A report may be given orally or in writing. However, an oral report must be confirmed in writing as soon as practicable thereafter. A report must contain information about the person making the report, information about the child, the grounds for the belief that the child has been the subject of sexual abuse or is the subject of ongoing sexual abuse, and prescribed information. The chief executive officer is required to acknowledge receipt of the report as soon as practicable after receiving it. A person who contravenes the provisions relating to the obligation to report commits an offence. The maximum penalty for the offence is a fine of \$6 000. However, it is a defence to a prosecution for an offence of failing to report for the person charged to prove that he or she honestly and reasonably believed that all of the reasonable grounds for his or her belief had been the subject of a report to the chief executive officer made by another person or that the child's wellbeing was the subject of an inquiry or action by the chief executive officer. A person who contravenes the provisions relating to written confirmation of an oral report commits an offence. The maximum penalty for the offence is a fine of \$3 000.

Second, the bill provides protection from liability for a person who, in good faith, makes a report and a person who, in good faith, provided information on the basis of which a report was made or who was otherwise concerned in making a report or causing a report to be made. The person does not incur any civil or criminal liability, is not to be taken to have breached any duty of confidentiality or secrecy imposed by law, and is not to

be taken to have breached any professional ethics or standards or principles of conduct applicable to that person's employment or to have engaged in unprofessional conduct.

Third, the bill contains provisions to protect the identity of a reporter by making it an offence for identifying information to be disclosed to another person except in limited circumstances. The protection also extends to a person who, in good faith, provided information on the basis of which a report was made or was otherwise concerned in making a report or causing a report to be made. A person who contravenes the provisions relating to the confidentiality of the reporter's identity commits an offence. The maximum penalty for the offence is a fine of \$24 000 and imprisonment for two years.

Fourth, the bill contains provisions which limit the use of the report and the information contained therein in legal proceedings. There are also provisions which restrict the questions which may be asked of witnesses in legal proceedings.

Fifth, the bill also amends various other provisions of the Children and Community Services Act 2004 to ensure that they are consistent with and complement the new provisions relating to mandatory reporting.

Sixth, the bill amends the Evidence Act 1906 to ensure that the protection provisions in the Evidence Act relating to counselling communications made in confidence by or in relation to a victim of sexual assault do not affect the operation of the provisions protecting the confidentiality of a reporter's identity in criminal proceedings unless the court grants leave.

Finally, the bill amends the Freedom of Information Act 1992 so that matter is exempt matter, and thus protected from disclosure, if its disclosure would reveal or tend to reveal the identity of reporters and other persons mentioned in reports under the Child Care Services Act 2007, the Family Court Act 1997 and the Children and Community Services Act 2004.

Whilst the report of the review of the Department for Community Development published in January 2007 recommended that the government not expand the range of people required by legislation to report concerns, the state government did not endorse this recommendation. The state government considers that children are more likely to disclose sexual abuse to doctors, nurses, midwives, teachers and police officers and that doctors, nurses and midwives are in the best position to identify clinical signs of sexual abuse. Accordingly, these professional groups will now be required to report. The bill is a significant commitment by the state government to protect children from the scourge of sexual abuse.

It is also important to note that any person may give information to the chief executive officer of the Department of Child Protection or another officer about any aspect of the wellbeing of a child. Further, any person may give information to the Western Australia Police about the alleged commission of a sexual offence against a child. However, the bill now removes the discretion in relation to the reporting of child sexual abuse by doctors, nurses, midwives, teachers and police officers to the chief executive officer of the Department of Child Protection.

I commend the bill to the house.

Debate adjourned, on motion by **Mr T.R. Sprigg**.