CHILDREN AND COMMUNITY SERVICES LEGISLATION AMENDMENT AND REPEAL BILL 2014

Second Reading

Resumed from 24 September 2014.

DR A.D. BUTI (Armadale) [3.21 pm]: I am the lead speaker for the opposition on the Children and Community Services Legislation Amendment and Repeal Bill 2014. This bill came about after a statutory review of the Children and Community Services Act 2004, as required under that act. The "Report of the Legislative Review of the Children and Community Services Act 2004" was tabled in this chamber in November 2012. So, this bill before us has been a long time in gestation.

The review found that the 2004 act was operating with a fair degree of efficiency in protecting children. However, it identified a number of areas in which improvements needed to be made to strengthen the act. The review made 28 recommendations, and, of those, 17 required legislative amendment. The bill before us seeks to incorporate most of the legislative amendments that were proposed in the statutory review. As a result, this bill repeals a number of pieces of legislation. It repeals the Parental Support and Responsibility Act 2008, the Parental Support and Responsibility Regulations 2009 and the Parental Support and Responsibility (Disclosure of Information) Guidelines 2009. The bill also makes consequential amendments to the Children's Court of Western Australia Act 1988 and the Young Offenders Act 1994.

We will be supporting this bill. Overall, it is a good piece of legislation. The amendments in the bill seek to make it easier for various agencies to share information with the purpose of providing greater protection to children. Of course, in doing that, we always need to be careful to maintain confidentiality. I would like to raise with the parliamentary secretary an issue that I am quite concerned about. This issue is not related to this bill, but this debate gives me the opportunity to raise it. I wrote a letter to the Minister for Child Protection based on a number of representations that I have received from my constituents, and also from interaction that I have had with the police force. This letter summarised the fears and concerns of some residents who live in a certain street in my electorate with regard to the activities of certain under-age children. I am told, and I am incredibly surprised, that someone in the department then told the adult who was supposed to be supervising these allegedly out-of-control children that I had written a letter of complaint. Parliamentary secretary, I find it quite worrying that letters that we write to the minister will be disclosed to our constituents. How can we have any confidence in writing frank letters on behalf of our constituents if the fact that we have written those letters is disclosed to our constituents? I find that quite worrying, and I will be writing to the minister on that issue. I think some guidelines may need to be put in place to ensure that does not continue to happen. There may be ramifications for a local member—not in the case before me; I do not want to mislead people—if they write to the minister on behalf of their constituents and outline what their constituents have told them. As members, we do not always have the ability to verify allegations. But we have the right, and I think the responsibility, to transfer that information to the respective minister. Of course the complaints can be disclosed. But it is appalling, and a breach of confidentiality, for a department to disclose the identity of the member who is the author of a letter outlining those complaints.

As I have said, the legislation before us is good legislation. We do not intend to go into consideration in detail on this bill, although I know that the parliamentary secretary will be moving an amendment to the bill. The whole premise of this legislation is to foster a better system for the protection and wellbeing of children. Child abuse is an issue that is very complex. No government has ever been able to completely solve the issues of child abuse and neglect et cetera. I want to outline to the house some facts about child abuse and neglect in Western Australia that show how important it is to have legislation such as this bill. It is estimated that in 2012, the cost of child abuse and neglect in Western Australia was around $1.1 billion. It is estimated that in 2012, about 19 400 children under the age of 18 were abused or neglected. I am sure we are all alarmed by that number. Of course, that is probably an underestimation of the amount of actual abuse and neglect of children that is occurring in our community. That is a phenomenal impost on the economy of this state. We can understand why this would be the case. If children are abused or neglected, that will have a carry-on effect on the health system and the education system. It will also have an effect on the justice system, because children who have been abused or neglected often turn to crime. When these children become adults, their ability to be productive and contribute to the economy may be reduced, and that will result in the indirect cost of loss of taxation revenue. Children who have been the victim of abuse or neglect often suffer from physical ailments or mental illness, and suicide is also a factor in some cases. Therefore, the wellbeing and protection of children is incredibly important from not only an economic point of view but also a societal point of view.

The literature and the studies basically state that there are generally five categories of abuse and neglect. There is physical abuse, which occurs when a parent or carer physically injures a child intentionally; emotional and psychological abuse; sexual abuse; neglect; and, of course, children who are forced to live with family violence.

That last category is a form of child abuse if children have to witness family violence, which can have consequential damages to that child. The damages can be quite significant if the victim—generally female—has to flee from that violence and the environment the child is growing up in. There is a great problem providing sufficient shelters for victims of domestic violence, and in some cases the shelters do not take males that are 15 or 16 years of age. If a mother fleeing domestic violence has a child of 16, often they cannot be housed in a shelter, and that creates its own set of problems.

As I stated, the bill before us repeals a number of pieces of legislation and also results in consequential amendments to certain pieces of legislation. The bill before the house seeks to amend the Children and Community Services Act 2004. One of the themes running through the bill is improvement in the coordination between various agencies, and the ability for agreements to be reached for the care of the child in question. The amendments before us, for instance, will allow one or more of the authorised CEOs, such as the CEO of the Department of Education or of the Department of Corrective Services, to engage in a joint agency response; that is very important. In my electorate, often the police have sought to sit down with officials from the Department for Child Protection and Family Support and, in some cases, people from the education sector to try to work out some way to better care for and protect children. I have often wanted to be part of those meetings, but I have been told that for privacy and confidentiality reasons I cannot, which I understand, but I think it would be advantageous sometimes if the local member of Parliament could be a participant in those meetings. It is ironical that I cannot be a participant in those meetings, but it is okay for the department to let one of the stakeholders know that I have written a letter on behalf of my constituents. I must say, I was incredibly surprised that that was the case. I am told that was the case. I will be writing to the Minister for Child Protection to find out if that was the case.

As far as reaching agreements for the treatment or care of a child are concerned, we are looking at what the agreement will consider to be relevant behaviour, such as criminal and anti-social behaviour, persistently failing to attend school and whether the behaviour is having a detrimental effect on the wellbeing of the child. This bill will therefore allow agreements to be put in place to try to alleviate some of those so-called negative relative behaviours that can have incredible long-term effects on a child. Children who are subject to abuse and neglect, which may result in their absence from school, are set up for a major fall in their life choices. Their life choices are extremely limited, and may go beyond severely affecting their health and general wellbeing as they move into adulthood. The bill before us also seeks to improve the exchange of information between what are called "prescribed authorities" under the bill, which are really public authorities, and "authorised entities" in the non-government sector. Sometimes service providers are from the non-government sector and it is very sensible, obviously, that there be an exchange of relevant information between the public authorities and the authorised non-government entities. Those non-government entities can include independent and Catholic schools that educate a number of students in Western Australia. Independent and Catholic schools are determined by whether they are registered under part 4 of the School Education Act 1999.

In exercising the powers that this bill will give certain people and bodies—certain "prescribed authorities" and "authorised entities"—the best interests of the child are of paramount importance. The best interests of the child are of paramount consideration. It is interesting to note, if one follows the history of it, that the law of guardianship has its roots in Roman law. The guardian considered the interests of the child, but as time moved on and we moved into the feudal and medieval periods, the interests of the parents became of greater importance. Of course, we did not have gender equality back in those days, and some people say we do not have gender equality today. However, it was the interests of the father that was the determining factor rather than the best interests of the children. Then it became the best interests of the mother. Then, of course, there was often a dispute between the mother and the father about who would make the choice. When I say the "best interests", I actually mean the authority that was vested in the father to make decisions in regard to the child. Then the mother became more important. In some jurisdictions, including Western Australia, an unwedded mother had the dominant authority in respect to the upbringing of the child. As time moved on, the best interests of the child became of most importance. If the parents separated, the best interests of the child were determined by whether the child should go with the mother or the father or be placed with a different authority. Of course, in respect of that we have the sordid details of the stolen generations in the Indigenous class of Western Australia whereby the authorities considered that the so-called best interests of the child would be best served by the children being removed from their Indigenous environments.

This bill before us takes up a number of recommendations in the statutory review. It is with great pleasure that I note that recommendation 6(b) of the statutory review on family and domestic violence has been incorporated into this bill before the house, which recognises that acts of family and domestic violence are a form of child abuse. That is a relevant factor that is allowed to be exchanged between the "prescribed authorities" and the "authorised entities" in this bill, and I think that is a very good point.

The Children and Community Services Legislation Amendment and Repeal Bill 2014 picks up some of the recommendations of the Blaxell inquiry into St Andrews Hostel in Katanning. My friend and colleague the member for Albany was instrumental in having that inquiry set up. He, of course, advocated very strongly for it. The bill picks up on the issue of mandatory reporting of child sexual abuse as a result of Hon Peter Blaxell's inquiry into St Andrew's Hostel in Katanning, the report on which was tabled in Parliament on 19 September 2012. This bill requires boarding supervisors or country high school hostels to report child sexual abuse to the relevant authorities. I think that is an incredibly significant part of the bill before the house. I commend the Minister for Child Protection for ensuring that this recommendation of the St Andrew's Hostel inquiry has been taken up. The requirement for mandatory reporting has also been extended to boarding supervisors working in other school boarding facilities, including government agricultural colleges and boarding facilities servicing non-government and Catholic schools. Those amendments appear in clauses 43 and 44. Boarding supervisors are defined as those working in these facilities, including boarding house managers and supervisors whose duties include the supervision of the children. Boarding supervisors do not include auxiliary staff such as gardeners and kitchen staff. I think that is very important, and I am sure the member for Albany will be pleased to know that that has been picked up. As I say, I think the contribution the member for Albany made to this inquiry being established should be fully recognised by this house. It was a very important part of the workings of this Parliament before the last election.

Other amendments in the bill deal with a number of areas, one being education, which I think is very important. Often we worry about the basic needs of children in dire situations. I think education is a basic need, but when I say "basic needs", we think of shelter, food and clothing. But we need to consider education, because if we do not consider education, we really are decreasing the chances of those children having successful, fully engaged roles in Western Australian society as they become adults, and in the Western Australian economy. From a moral, ethical, community and economic point of view that is very, very important.

Recommendation 1 of the review, in regard to recognising the needs of children with disabilities, has also been taken up. Children with disabilities who are in undesirable or dangerous situations have to be among the most vulnerable people in our society, so it is important that we seek to ensure their protection. The recommendation, which is given effect in clause 24, provides that when decisions about a child with disability are made, special consideration should be given to any difficulties or discrimination the child may encounter as a result of that disability. As an aside, it is interesting that under the new student-centred funding model for education, the feedback I am receiving from a lot of principals in my electorate is that some children with disability are not getting the attention or support they need. One of my schools has a child with a disability who requires five days' support a week. It is about not only support for the child, but also the other children because if a teacher has to spend a disproportionate amount of time looking after the child with the disability, the other children in the class suffer. This child requires additional support five days a week, but as a result of the funding formula the school can only afford to give him one day a week of support. Of course, the government will say that under the one-line budget the money can be found. The money only goes so far, and every time we take money from one pool, another part of the budget is affected. This bill rightly recognises the needs of children with disabilities, but we have to ensure sufficient funding is available for that to take place.

Proposed amended section 28 of the act provides a number of grounds for a child being found to be in need of protection, including the separate grounds of harm caused by psychological abuse and harm caused by emotional abuse. The bill proposes an inclusive definition of emotional abuse under clause 28(1), of the bill before us, which states —

> ***emotional abuse*** includes —
>
> (a) psychological abuse; and
>
> (b) being exposed to an act of family and domestic violence;

That is as defined in the Restraining Orders Act 1997. That is quite important because with a statutory system we need to be sure of the harm we are dealing with. Clause 28(1) states what emotional abuse is. Clause 28(2) states —

> (2) In section 28(1) in the definition of ***harm*** delete "wellbeing;" and insert:
>
> wellbeing, whether caused by —
>
> (a) a single act, omission or circumstance; or
>
> (b) a series or combination of acts, omissions or circumstances;

I now return to the mandatory reporting provision. As I stated, recommendation 18 of the review was to implement recommendation 3 of the St Andrew's Hostel, Katanning inquiry that related to mandatory reporting. Over the years there has been debate about how useful mandatory reporting of abuse is. It is an interesting issue from a philosophical, operational and effective point of view. As an aside, the Minister for Health was

interviewed on Radio National some time ago and stated that in the eastern states there is mandatory reporting of doctors with a substance abuse problem. It was interesting hearing the minister being interviewed. He said that has created a problem now in WA, because many of those doctors have migrated to WA because we do not have mandatory reporting of doctors with a substance abuse problem. But I think in regards to child abuse, particularly sexual abuse, the arguments for mandatory reporting far outweigh any consequential negatives. What are the possible negatives? It is interesting; I find it hard to think of a negative. There is a negative in the sense that if people make a false allegation, that can have a major effect on the person who is the victim, but that can happen with voluntary or mandatory reporting. I think the mandatory reporting provisions incorporated in this bill that, hopefully, will pass this Parliament at some stage are commendable and consistent with the recommendations of the St Andrew's Hostel inquiry.

I think I have mentioned the issue of wellbeing—something that is integral to the grounds for protecting a child—and this bill amends the inclusive definition of "wellbeing" in section 3 of the Children and Community Services Act 2004 to refer to the child's physical, emotional and psychological development and health. It is an inclusive holistic overview of the child, because physical, emotional and psychological development and health are interlinked and can have consequential effects on one another and it is appropriate that it is now included as one inclusive definition, but, of course, as members know, there are differences between emotional and psychological harm. The amendments to the definition of "harm" at clause 28 of the bill seem to emphasise or recognise the cumulative patterns of harm on a child's wellbeing, which takes up the findings in the WA Ombudsman's report titled "Investigation into ways that State government departments and authorities can prevent or reduce suicide by young people". The issue of suicide is interesting. Most members in this chamber will know someone or a family who has unfortunately had to deal with suicide. When I was a teacher at law school at Murdoch University, two students committed suicide. One was my research officer at the time, which was obviously very upsetting. Then one of my best friends, who was godfather to one of my children and co-author of two books that I have written, committed suicide last July. We know what effect suicide can have on people, but the effect it has on families can be incredibly serious. There was a very interesting interview on the Saturday morning Geraldine Doogue program on Radio National in December last year. She was interviewing a historian from Columbia University in the United States who had written a book on suicide. I cannot remember the name of that book now, but I will try track it down. She carried out an analysis of societal acceptance of suicide over time and said that a few centuries ago when religion and churches dominated a lot of public discourse, suicide was incredibly unacceptable, because some religions considered suicide was a sin that would result in a person going to hell et cetera. As society moved through the Enlightenment, that view changed, and a famous Scottish philosopher whose name escapes me —

Mr P.C. Tinley: Jock.

Dr A.D. BUTI: No, not that one. Yes, it was probably Jock Ferguson!

He stated that suicide was an individual choice and it was a personal decision if a person wanted to commit suicide. The historian argued that if a person wanted to commit suicide, it became more acceptable. I know I need to be very careful about what language I use, because suicide is tragic, and it is incredibly sad that people get to that point to—not "want to", but do—commit suicide. As I said, I know the depths that my friend who committed suicide last July was at, but we need to have a conversation about suicide and about whether—this is very difficult to state—we accept it. Does society accept suicide as just a person's decision? I suppose we do, but I think we need to be careful about not talking about it so much. Along the Armadale train line that goes out to my electorate, a number of white crosses and flowers are set out in memory of people, generally teenagers, who have committed suicide, and we really need to be careful about how we talk about it. We have to try to educate people. It does not matter how low a person is feeling, suicide is not an option because the effect on the people left behind can be devastating. The female historian stated that the chances of a child eventually committing suicide is increased to a significant extent if their parents committed suicide when the child was under the age of 16. I am sure our hearts go out to anyone who feels so low that they have no option than to commit suicide; but I think we also need to try to change the debate about suicide. In Roleystone, for instance, which of course is not in my electorate—it is in the electorate of the member for Darling Range—but is in my community area, there was a spate of teenage suicides a few years ago. That is why we need to try to have a conversation and really look at why this might be the case and try to make suicide unacceptable. I do not want to say that it is appealing and I do not want to be insensitive to people who have committed suicide, but we really need to look at how we address this issue, because what we are doing is not working. It is like trying to deal with how we try to reduce addiction to drugs. That is not working. We need to be prepared to engage in a mature conversation and not seek to score political points in respect of suicide. I know that was off the track, but the Ombudsman's report brought that to my attention.

Something that is very good in the bill is how it takes up review recommendation 16, which concerns tattoos and branding. I admit that I am a square on this issue. I hate tattoos. I think they are revolting. I am sure the

Minister for Corrective Services would disagree with me; I think he has a number of tattoos, including one of his dogs. I absolutely love my dog and I loved my former dog.

Mr P.C. Tinley: You don't want to crush it up and put it on your arm.

Dr A.D. BUTI: I would not crush it up and put it on my arm! I think tattoos are revolting.

Mr P. Papalia: It is on his chest, above his heart.

Dr A.D. BUTI: Is it? Why is it that those navy types seem to know all the tricks!

Currently, the 2004 act prohibits a person from tattooing or branding a child without written parental consent, but it imposes no minimum age at which a child may be tattooed or branded. I commend the minister for consulting with young people, carers, parents, other sectors and government and non-government stakeholders, so that clause 42 of the bill introduces an offence and prohibits a person from tattooing or branding a child under the age of 16. I think that is a fantastic move. However, a child who is aged 16 and over can have a tattoo with parental consent. I am interested in all the football players who have tattoos: what are they going to look like when they are old? Look at Collingwood Football Club—basically the whole team is tattooed.

Mr P.B. Watson: Settle down!

Dr A.D. BUTI: Seriously, though, that move to introduce the offence is commendable, and that is probably because I am a bit of a square and a bit old-fashioned when it comes to tattoos. Tattoos have been around for a long time, so I am not really old-fashioned; I just do not like them. One could argue that my personal view should not prevent other people from getting tattoos. It does not, if they are over 16 years of age. If they are between 16 and 18, and as long as they have parental consent, they can get a tattoo.

This bill contains a lot of changes that are well thought out, and I think the minister should be commended for that. Often when legislation is repealed or amended, there are consequential effects on other legislation and there is also the need to bring current legislation up to date with new terminology. For instance, recommendation 17 of the review sought to change the definition of "police officer". The definition of "police officer" in section 3 of the act will be removed because it relies on an outdated definition under the Protective Custody Act 2000, which was removed in 2008 by the Police Amendment Act 2008. Under the act, the meaning of "police officer" will be the definition provided in the Interpretation Act 1994. The definition of "responsible person" in section 41 of the act will be replaced with the term "appropriate person", and that is a result of introducing responsible parenting agreements under proposed new part 5A of the act. However, those definitional issues do not have any substantive effect on the operations or consequences of the act.

Overall, as I have said, this is a good piece of legislation and the opposition supports it. It has been a long time coming. The review was tabled in 2012, but sometimes some delays in bringing forward better legislation can be accepted, although the bill has been before the house for some time. When did the parliamentary secretary introduce the bill?

Ms A.R. Mitchell: Towards the end of last year.

Dr A.D. BUTI: Yes, so it has been with us for some time. Hopefully, the bill can be passed today, depending on the parliamentary secretary's amendment. I hope she is not going to be too difficult with her amendment! I do not think I need to labour the point anymore. Over all, this is a good piece of legislation and has the support of the opposition.

MR P.C. TINLEY (Willagee) [4.02 pm]: I am pleased to make a contribution to the Children and Community Services Legislation Amendment and Repeal Bill 2014. I note the member for Armadale's commentary. Like most people in this place, I am better educated when he stands to make a contribution on various matters. The depth of his knowledge and background in a broad range of areas is really interesting and insightful. This legislation is particularly important to me in only one context, apart from its obvious effects and the good it intends to do, as a local member in an electorate that has its fair share of antisocial behaviour—maybe a little more. My electorate has the highest concentration of public sector housing of any state electorate.

Mrs G.J. Godfrey: I don't think that's true. I think Fremantle has.

Mr P.C. TINLEY: Does the member want to bet?

Mrs G.J. Godfrey: No, I don't want to bet.

Mr P.C. TINLEY: I am speaking from the facts.

Mrs G.J. Godfrey: Check the facts.

Mr P.C. TINLEY: Maybe the member can move a motion in this place and I can be referred to the Procedure and Privileges Committee for misleading the house or something!

Several members interjected.

The ACTING SPEAKER: Members! The member for Willagee has the call.

Mr P.C. TINLEY: My information may well be dated, member for Belmont, but the last time I looked, nearly 31 per cent of the total number of dwellings in my electorate were public housing, and that includes community housing organisations. The member for Fremantle would attest to the fact that she has more knocked down than she has filled in her electorate. That is not through any lack of her urging the government to make sure that it spends some of the $500 million in retained earnings at the Department of Housing on places such as the Burke Drive complex, for which she has been calling for years.

I do not want to make my contribution anywhere near controversial; I want to make it on the basis of adding to the debate and adding to the record the importance of this legislation to the state and, of course, fundamentally to the children of the state.

As the member for Armadale said, we are extremely supportive of this legislation. We are supportive of it on the basis that the government consulted quite widely, as the Western Australian Council of Social Service and others made contributions to the legislative review of the Children and Community Services Act 2004. The only point I will make is that, unfortunately, that review was done in October 2012 and here we are, two years later, dealing with the bill. I know that the exigencies of drafting legislation, getting it on the legislative agenda for Parliament and getting it through the various required stages always meant that it is a challenge. It is here nonetheless and, hopefully, before we rise today, it will be out of here and into the other place so that it has some work to do.

The important point that is really interesting and instructive is that all but two of the recommendations of the review were taken up and included in the legislation. I have looked at the breadth of the recommendations, including the provisions describing harm, being at risk and disability, and it is good that they have been included. I would be particularly interested if the parliamentary secretary would make a contribution in due course about the two recommendations that were not taken up. She said in her second reading speech that the two outstanding matters, which deal with the legal representation of children in protection proceedings, are being addressed by an interagency working party and will be progressed in future amendments to the act. I would be particularly interested if she could enlighten us about why they could not be included; where the working party is at, which I presume has been established since the drafting of the legislation commenced; and when we are likely to see the amendments to the act that deal with the legal representation of children in protection proceedings. It would be beneficial for us to know so that, if nothing else, Parliament can keep tabs on the substantive aspects of the report that were included in the new legislation.

It is also very important that the legislation refers to children with disability and their rights. As we all know, with the spectrum of disabilities, sometimes children's disabilities are not physical or visible. There is a particular case in my electorate. I recently heard a program about it late at night on my way home from here. A child who had been subject to abuse—obviously, I will avoid personal details—was diagnosed with a reasonably rare syndrome called selective mutism, which meant the child could not speak except in very limited circumstances. For all intents and purposes, that child is as normal as any other, except they were subject to an extreme amount of bullying and emotional abuse in their own street and at school. The ignorance of the parents, in not understanding that they needed professional support, and not seeking that support, to my way of thinking was abuse by neglect. I would like to think that this bill will attend to that child who has a disability and has special needs. The parents never hit or maltreated the child, and the child was never malnourished or unhygienic. On the surface, it looked like any other house. The teachers and the school chaplain similarly had no idea. Only through speaking to the other people around this child—lily pads of trust, if you like—could I determine there was something wrong. The parents could not accept the fact that their child had a disability. In the end, the abuse caused me to get in touch with the Department for Child Protection and Family Support and get it involved to ensure that there was some through-the-door approach to the family. That case is ongoing as we speak, so I will not speak further on it, but it describes some of the issues that can be present.

One of the things that this legislation does not address, and probably could not address, is what is missing. One of the provisions in the bill relates to mandatory reporting. I wholeheartedly support the idea of mandatory reporting. Too long have we seen, across the country and across the world, how the institutionalised abuse of children has been allowed to go on, abrogating the professional and moral responsibility of those that lead those organisations. These things creep into these organisations and become learned behaviours, and then become accepted practices. At some point, they get beyond the stage at which any one person feels they can correct the situation, and they then become complicit in the continued actions that end up being crimes. As the old saying goes, the standard we walk past is the standard that we are prepared to accept. How many leaders in these

organisations, at every level, saw things that they should have acted upon but walked past, and became complicit in the tacit conspiracy that allowed others to abuse our kids? It is beyond comprehension, and I look forward to mandatory reporting provisions being implemented.

The member for Armadale also talked about what he considered the potential downsides or negatives of mandatory reporting, including false allegations. As he correctly noted, false allegations happen whether or not the reporting is mandatory, so maybe that is a moot point. If mandatory reporting is implemented in particular organisations or professional bodies, the worst negative is that the victim is not supported, or is ignored, and nothing is done. How many times have we seen this in the various reviews of sexual abuse in various institutions around the country? The most recent was the one carried out by former Corruption and Crime Commissioner, Justice Len Roberts-Smith, into the Defence Force sex scandals. It is a very good case study into how people can just keep walking past things that are wrong and not show true leadership. If the Defence Force cannot do it, with all its structure and stratified controls over its organisation, what hope does a more relaxed volunteer organisation have, where the gamut of professional ability is a little bit lumpy? The biggest problem that I see of mandatory reporting is that the abuse may well be reported, but what happens after that? That is the most important aspect.

One of the things this legislation does not address is that, when a child needs to be protected, it is invariably more than just that. Too often, legislation is siloed and looks only at the rights of the child, as this one does. However, what are the circumstances surrounding that child coming into care, or into the purview of the state's responsibility? Time and again in our electorates we see that there is a problem involving a child protection agency, but it is also a housing problem, an employment problem and an education problem. There are multiple levels, and there may be dysfunction in the family generally. I would happily take an interjection from anybody who knows better, but I would say that in every case when a child is abused there is family dysfunction of some kind. I am sure all electorates have their fair share of extremely challenged families. In some of the families that I am particularly challenged by, removing the child is a downside risk management process. Removing the child from the situation is the easy bit. I know that I have waved away a lot of things that come into place when that occurs, but what is left behind is family dysfunction, unemployment, perhaps substance abuse—a range of things.

One of the things that I am enamoured with—I have not done enough research to wholeheartedly advocate this, but I have spoken on it before, and I say this in guarded terms because I am not sure that more laws are always helpful—is the Victorian model, where there is complex needs legislation. An agency cannot attend to a particular issue in relation to its role—in this case the child protection agency—and cannot look at a child protection case without invoking complex needs requirements, which take account of all these other issues I am talking about, including the dysfunction in families and maybe housing issues. It might be a lead agency, but it is not up to the child protection agency to just deal with what it has and then walk away. It is important that we investigate that, and at some time we may look at the whole gamut of the dysfunction that happens in our communities. It is not just a crime or a police issue or a planning issue.

One of the houses I am dealing with at the moment has an inordinate amount of hoarding. The whole backyard is piled with all sorts of things that, in the mind of the owner, will turn into all sorts of beautiful things if he keeps collecting them. There is a child in that situation who might be subject to something that this legislation might cover. There are certainly emotional and mental needs in that family and there is no point just going in there with a control order over the property or a works order from the local government in relation to cleaning up without looking at all the other things that occur in the household. We are just lucky that there is a household.

[Member's time extended.]

Mr P.C. TINLEY: Another thing that illustrates my point about complex needs is the story of a particular constituent of mine whom I have recently assisted. She is a single mother with an eight-year-old child living in a Department of Housing house in my electorate. She was a substance abuser—abusing cannabis—and I am obviously being very cautious in order to protect her privacy. She was a very good tenant in paying the rent and getting along with her neighbours. Obviously, during the course of this case I spoke to the neighbours to make sure she was someone deserving of the efforts required to ensure she was supported. Was she a dealer? No. Was she a criminal? Yes, in the sense that she cultivated cannabis in her backyard. The house was raided by the police, and to this day I do not know the circumstances that got them to the house on that particular night. She was charged with cultivation and in the Residential Tenancies Act, which the department operates under, there is a section that can describe a tenancy as being for criminal use. Through that section, the department sought the woman's eviction on the basis of the conviction for the drug charge. The magistrate who heard her case on the drug charge saw the situation for what it was. He saw that she needed help but that, yes, she had broken laws. For that he charged her $300 for court costs, that is all, and ordered rehabilitation. The reason she came into my circle was that she was particularly keen to meet the requirements of that rehabilitation because the Department for Child Protection and Family Support was about and had been alerted to the fact that this child

was in that particular set of circumstances. I investigated everything—at the local school I talked to the principal and the teachers, and I talked to the neighbours—to find out exactly what the mix was. All the teachers said the child was never late, never missed school and always turned up with lunch. This school knows struggling kids; this school knows dysfunction because it comes to school every day. The child was a bright child who did his homework, met all the requirements of the school and was an active participant, so the child got a good tick there. We were able to convince the magistrate, only through a grand series of efforts on behalf of the community legal services in Fremantle and the Department for Child Protection and Family Support, which I should say was very supportive. This is not an attack on the department in any way. Everybody was supportive except for the Department of Housing. We made all the applications in the world for that department to withdraw its eviction notice. We suggested that the woman could fulfil some sort of good behaviour order with a 12-month arrangement and as many home inspections as the department wanted—those sorts of things—but the department would not or could not look at it. The reason this matter is important and relevant to this legislation is that it is complex. The woman's issues were not just about child protection and not just about housing; they were about substance abuse and all the challenges of being a single mother living alone and trying to bring up a healthy child. We were very lucky. In the meantime she met all the reporting requirements such as the urine analysis test that the court required, all the rehabilitation she had to turn up to and all those sorts of things. She was meeting those requirements and ticking them off the whole time because we got the community around her. There were a lot of good people we knew in her suburb whom we could wrap around her to bring her along to make sure she had all the support she needed.

The point of this is that the people at child protection said that if she lost her secure accommodation, there was every likelihood that she would lose custody of the child—the child would be placed into care. What care was there? There was none. Her father was the only relative around and he had abused the mother as a child—again this is a complex issue—and she obviously could not go back to him. I presume that, according to all the studies the department would have done, the child could not have gone to the father either. So what would have happened? The child would have gone into state care, the mother would have gone into depression, no doubt, or some downward spiral and there would be a self-fulfilling prophecy because it was not understood that a case management approach was needed as opposed to a particular response or action. Luckily, there was a happy ending. The magistrate saw our point of view and said that eviction would not be in the best interests of the child or the defendant. She is now making a very solid and great contribution to her local suburb. She is involved in all sorts of different things. It is a work in progress and it will be years before we can safely say that there will not be another problem. That is just one story to highlight the problems with silo legislation. Again, I do not want to denigrate the legislation. I think it is very good. It is a great step forward in bringing a couple of acts together, but also bringing in all associated stakeholders to talk about the needs of the client.

The last point I want to draw on is this idea of information sharing. I refer to the second reading speech given by the parliamentary secretary. It states —

> The proposed amendments at clause 27 will enable information exchange between a prescribed authority and an authorised entity. These entities include the independent and Catholic school sectors, and non-government providers providing a wide range of social services under a contract or agreement with a prescribed authority, including services to victims and children, and to perpetrators of family and domestic violence.

This is an outstanding inclusion. One of the biggest things that hampers a coordinated or cogent response between agencies is the difficulty of talking with the Department for Child Protection and Family Support because of its responsibilities between the protection and the privacy of all those concerned in the particular case. I would be interested in consideration in detail, if we go into it, to understand the definition of "authorised entity", how broadly it can be applied, who has the authority—I might have missed this—to appoint an authorised entity and the difference between an authority and an entity. Do I have the language right? The reason I say that is that I wonder whether at any point a local member of Parliament could be an authorised entity for the purposes of information sharing.

I wish I had a dollar for every time I have rung someone from the Department for Child Protection and Family Support to tell them I have an issue and have been told that they cannot talk to me and have no capacity whatsoever to include me in the remedy to this situation. This might be quite controversial, but, as we all know, members of Parliament have a particular role to play in our community. I know that some take it up with more vigour than others, but I think there should be a greater inclusion of those members who are willing to be an authorised entity, even if they need more training to ensure they have a complete understanding of the privacy requirements around this stuff. If we included local members, we would open up a whole network of other organisations, not necessarily just the traditional ones from the non-government sector and so on. I talk, of course, about some things in my local area such as the police and community youth centre and the Willagee Alive community group, which is a fantastic local community group full of people with a lot of different

experiences who can be brought to bear as part of the solution as opposed to being cut out and not being present at the opportunity. I would be really keen to hear from the parliamentary secretary if she gets the opportunity to talk about authorised entities and who has the capacity to authorise them.

I cannot sit down before making a comment about something the member for Armadale segued into in relation to suicide. Suicide is something we need to talk about because it is fundamentally central to a lot of what goes on here. The number of suicides and attempted suicides that are related to child abuse issues is not insignificant, and we need to address that issue. We should never shy away from talking about suicide but, in common with the debate on crime, we also should not just be talking about the act; we should be talking about the causes of the act. Dealing with attempted suicides is, in many ways, more important because we have a second chance to turn them around. The causes of suicide, in particular youth suicide, often come from a melting pot of turbulence, if you like, in a young person's life. We know that suicides cluster, particularly in remote communities. The member for Kimberley has said in this place that when there is one suicide in a remote community, everyone goes on suicide watch for the whole community because there may well be another.

On that note, I commend the bill and the work that has been done on it, particularly on stakeholder engagement. I am sure that it will not cover everyone's needs and that there are people out there in the community who will now write to me saying, "You missed the point. We weren't included. This is wrong." That is fine; that is just part of the process, and we will keep chugging on.

MR P.B. WATSON (Albany) [4.31 pm]: I know that the parliamentary secretary wants to have this Children and Community Services Legislation Amendment and Repeal Bill 2014 tucked away today, but I just want to make a few comments on it. I do not know whether it is part of being a member in a regional area, or because people know local members in a smaller community, but people tend to come to me with a lot of issues, and two of the worst issues I have had as a local member in Albany have involved child abuse. The first case was one that involved a child coming home to his father and mother after having been out on a farm for the weekend with a teacher, and there were certain things the father was concerned about so he came to see me. We called in the police and some people to help with the young boy, and that night the police went out and interviewed one of my constituents who later the same night committed suicide.

I do not want to go into details, but we also had an issue with the young boy, whose mother wanted to get counselling for him over a period of time, and we found it very, very hard. As the member for Willagee also said, it was very difficult for me to gain access to the Department for Child Protection and Family Support because I was not the original person involved. We had to go through a number of things, and the mother did not have any confidence because she was obviously stressed, and the father was also stressed. It was a situation in which the young boy's teacher had committed suicide, and all these sorts of things make it very, very hard to get the message across to the department. I would not like to work in that department for all money in the world; its caseloads are so heavy. I know that the department has 30 to 40 children on its list just in our area. It is very hard when a constituent comes to me and says, "I want to do this, I want to do that", and I know we need to protect the child, but there are some real issues out there, and I think this bill will help in a big way.

Another bad incident was the St Andrew's Hostel, Katanning case. The three men involved in that case came to my office and told me what had happened to them. They had nowhere to go. They had told people what had happened and no-one listened to them. They went to various people around the community and spoke to them, and everyone said, "Oh, no, look, everything's all right." The parliamentary secretary may be able to confirm this, but I understand Justice Blaxell recommended that this should be a one-stop shop so that if people want to report such cases, they can go to one place instead of going through several departments. There should be a central place where people can make their complaint so that there is no chance of them being brushed aside. Looking through this legislation, I do not see any provision for such an arrangement, but there are other good aspects of the bill.

However, that was the main point that these men made: that they had tried to tell people. One of the young men had tried to do the right thing and had gone to the head of the board of the hostel, but was expelled from the school because McKenna, the offending headmaster, found out and expelled him. This is great legislation, and I congratulate the government for bringing it to the Parliament and for the Blaxell report, but I still think it would be good if we could pursue the one-stop shop idea for people to have one place they can go with their complaints. In many cases, complaints go through various frameworks and do not reach the people that really should be reached. I applaud the fact that the legislation provides for mandatory sentences; boarding supervisors of other boarding facilities servicing government and non-government schools; and supervisors and managers of various position titles in these facilities. I say to the parliamentary secretary that I think this bill goes a long way towards rectifying these issues.

Another issue that was brought up by the member for Willagee is that of accommodation. I have mothers coming to me saying, "I can't get accommodation", and in a very short time the relevant authorities might say, "You've

got to get accommodation in two weeks otherwise we're taking your children off you." That is a real issue and we try to find people accommodation but as all members will know, it is very hard to get accommodation. They will not let people go into caravans or anything like that; it has to be a house, for the sake of the child, so what generally happens is that they go and live in a car. People are living in cars down on the beach and up at the forts and all over Albany because they cannot get accommodation. There are many people that the department does not know about.

Another issue, parliamentary secretary, is that of children with disabilities. I have an issue at the moment in which a young person has been staying with a foster family but the department has put his contract out to a non-government organisation and it has now decided that the people who have looked after the young person for the last 16 months are not good enough. I do not know whether this is the case, but I have been told that a lot of these non-government organisations will place the child where there is more money to be made for the NGO, rather than look out for the best interests of the child. I cannot substantiate that claim because I am still investigating it, but I am concerned that if children are being palmed off to other agencies, we are losing control over what happens to those children, especially ones with disabilities. I know some people who work in these areas, and that is their living; they look after children and get paid for it, but it does concern me. We need to have strong provisions in the legislation so that if it is the case that these NGOs are carrying out these practices, we can check on them to make sure that the best interests of the children are being served, rather than the best interests of the NGO.

I know that the parliamentary secretary wants to deal with this legislation tonight, but there is one other thing I want to mention. Under clause 34 is provision for the preparation of a care plan for children in the chief executive officer's care. Does that mean the CEO of the Department for Child Protection and Family Support, or the CEO of an NGO? Do they make the care plan for the child?

Ms A.R. Mitchell: It would be the CEO of the department because they oversee that.

Mr P.B. WATSON: Therefore, minister—future minister—I think this is a great bill, and I fully support it. However, as I have said, I have a concern about two issues. The first is that if a child is having an issue with sexual abuse issues, or any other issue, there should be a one-stop shop to which that child can go. The second is that if non-government agencies are given a contract to look after a child, we need to ensure that the child's best interests are protected.

MS A.R. MITCHELL (Kingsley — Parliamentary Secretary) [4.39 pm] — in reply: I would like to thank members opposite for their support of the Children and Community Services Legislation Amendment and Repeal Bill 2014 and for their very positive comments about the amendments proposed in this bill.

I want to respond to a couple of the questions that were raised with me during the second reading debate. In the member for Armadale's initial comments on this bill, he raised some concerns, and I would encourage him to please make representation to the Minister for Child Protection and seek that information accordingly, because I am not in a position to comment on that at this time.

I was pleased to hear the member for Armadale comment on the importance of education to young people. That is why the proposed information sharing will include not only the Department of Education, but also other departments. As the member said, education is critical to the future of young people, and we are looking at the future, not just dealing with the present. The member for Armadale also made some comments about the age at which young people should be allowed to get a tattoo. I would like to reassure the member that he is not the only person who feels that way. In the consultation that was undertaken on the matter of tattooing, 97 per cent of respondents supported the introduction of a minimum age for tattooing, and 83 per cent of respondents agreed that people under the age of 16 should be prohibited from getting a tattoo. That view was quite dominant. In fact, some of the figures that came through showed that it is not acceptable to allow a young person to get a tattoo at any age that they like. There is very much a concern about the capacity of people to understand the implications of getting a tattoo at a young age, and we can all see what those implications are, but sometimes young people cannot. The respondents to the consultation are very much in favour of setting a minimum age at which young people can get a tattoo, and of the need to obtain approval from the parents of the child. This is in line with the legislation in four other Australian states—Victoria, South Australia, Queensland and New South Wales—so the member for Armadale is not abnormal.

Mr P.B. Watson: Point of order!

Ms A.R. MITCHELL: Yes!

I also have some responses to the concerns raised by the member for Willagee. I am sure he will be reading this a bit later on. Firstly, the "authorised entity" is listed as the CEO of a non-government provider, or the governing body of a registered school or school system under the School Education Act 1999, part 4. At this point in time, members of Parliament are not considered to be an authorised entity. However, under the changes to information sharing, there might be some occasions on which, rather than take a blanket approach, some representation might

be considered. I will certainly raise that with the department at a later date, but it is not currently provided for in the bill. So, I ask members to pass that on to the member for Willagee.

The member for Willagee also asked why a number of the recommendations have not been finalised, and about the time line for the finalisation of those recommendations. The recommendations are being finalised as we speak. They include guidelines that need to be prepared in conjunction with Legal Aid WA. It involves quite far and wide consultation to get it correct. The Youth Affairs Council of WA was also on the working group. The working group's draft report and the draft guidelines will now go to the President of the Children's Court for consideration. The changes with regard to separate representation will be included in the next set of amendments. There is a process that they are going through, and it is quite comprehensive, but it is moving along as we speak.

The member for Willagee was also concerned that things are operating in a silo. I reassure the member for Willagee that the Department of Child Protection and Family Support does not want to take children from their home. The department does everything it possibly can to ensure that does not occur, and it works with other agencies, other organisations and other people to ensure that does not happen. The department recognises that there are a number of reasons why dysfunction occurs. As I have said, the intent of the department is to make sure that, if at all possible, children are not taken away from their family situation. I think we saw a number of examples in the south east metropolitan area of how the department is working collectively with families and organisations to bring about an overall result, rather than deal with just one issue at a time.

The member for Albany raised the issue of a one-stop shop. That actually relates to the Commissioner for Children and Young People Act, not to this bill. That act is administered by the Attorney General. The recommendations of the review of that act are currently under consideration. I am sure that issue has not been lost, but it does not appear in this legislation. The member for Albany also wanted clarification about non-government organisations. The department maintains the case management and decision-making to ensure that the best interests of the child are met. What certainly came through from members in their speeches is that it is important that the best interests of the child be protected.

I also want to make a comment about the proposed amendments and assure members that they are what we want. The amendments on the notice paper are the result of recent amendments to the School Education Act 1999 that came into effect on 17 December; therefore, these are consequential amendments that have come to light since that bill went through Parliament.

With those comments, I would like to say thank you very much to members for their support for this bill, and I look forward to this bill being concluded so that it can proceed to the other place.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clauses 1 to 17 put and passed.

New part 2 —

Ms A.R. MITCHELL: I move —

Page 14, after line 10 — To insert new part 2, division 3, subdivision 1A —

Subdivision 1A — *School Education Act 1999* amended

17A. Act amended

This Subdivision amends the *School Education Act 1999*.

17B. Section 26 amended

In section 26(3) delete "*Parental Support and Responsibility Act 2008*" and insert:

Children and Community Services Act 2004

17C. Section 40 amended

In section 40(3A) delete "*Parental Support and Responsibility Act 2008*" and insert:

Children and Community Services Act 2004

New part put and passed.

Clauses 18 to 46 put and passed.

Title put and passed.

House adjourned at 4.50 pm

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