

## **Prisoners (Interstate Transfer) Amendment Bill 2009**

### **Explanatory Memorandum**

---

#### Clause 1 Short title

Short title of the Act.

#### Clause 2 Commencement

The short title and the commencement contained in the Bill will come into operation on a day that the Act receives the Royal Assent and the rest of the Act the day after that.

#### Clause 3 The Act amended

This clause informs that the amendments contained in this Bill are amendments to the *Prisoners (Interstate Transfer) Act 1983*.

#### Clause 4 Heading to Part 2 replaced

This clause provides for the heading of Part 2 to be amended from "Transfer for prisoner's welfare" to "Transfer at request of prisoner". This emphasises the fact that the impetus for a transfer comes from the prisoners themselves and better reflects the prisoner's own part in the welfare transfer procedures.

#### Clause 5 Section 5 amended

Section 5 of the *Prisoners (Interstate Transfer) Act 1983* provides for the handling of a request for a transfer and the issue of an order to transfer the prisoner. The words 'in the interests of the welfare of the prisoner' have been deleted to provide for a new section that expands the matters to which the Minister may have regard in making a decision on a request for transfer.

#### Clause 6 Section 9A inserted

This clause provides for section 9A to be inserted after section 8 of the *Prisoners (Interstate Transfer) Act 1983*. Section 9A describes the matters

that the Minister may have regard to when considering the transfer of a prisoner. Those matters are:

- the welfare of the prisoner concerned;
- the administration of justice in Western Australia or any other State;
- the security and good order of any prison in Western Australia or any other State;
- the safe custody of the prisoner concerned;
- the protection of the community in Western Australia or any other State; and
- any other matter the Minister considers relevant.

#### Clause 7 Section 9 amended

Section 9 of the *Prisoners (Interstate Transfer) Act 1983* aims to assist the Minister in forming an opinion or exercising discretion when deciding on the interstate transfer of a prisoner through the use of reports such as those from parole and prison authorities of Western Australia and of any participating State. The amended section provides a stronger emphasis to using reports in the decision making process.

#### Clause 8 Section 21 amended

This section provides the ancillary provisions to sections 18 and 19 of the *Prisoners (Interstate Transfer) Act 1983*. Section 18 refers to prisoners being returned to the original State in which they were sentenced because the sentence has been dealt with or the sentence is shorter in Western Australia. Section 19 refers to prisoners being transferred who have been sentenced under Commonwealth legislation and State legislation. Section 21 includes provisions to describe the matters that the Minister may have regard to when considering the transfer of a prisoner if the prisoner is to be returned to the original State or the sentence in Western Australia is complete. These matters are the same as those in the new section 9A.