

CRIMINAL LAW AND EVIDENCE AMENDMENT BILL 2006

EXPLANATORY MEMORANDUM

This Bill is an amalgamation of two proposed reform packages, amending the *Evidence Act 1906 (WA)*, the *Criminal Code 1913 (WA)* and the *Criminal Procedure Act 2004 (WA)* to give effect to procedural reforms in sexual assault cases in order to complete the reforms intended as part of the Sexual Assault Reforms Package; and also to amend the *Criminal Code*, the *Criminal Procedure Act 2004 (WA)* and the *Criminal Appeals Act 2004 (WA)* to provide for a right to appeal by the prosecution against acquittals in trials before juries and to remedy certain deficiencies in existing provisions.

PART 1 – PRELIMINARY MATTERS

This part contains the title of the Act and the commencement provisions.

1 Short title

Citation of the Act.

2 Commencement

Provides that the Act comes into operation on a day fixed by proclamation, and that different days may be fixed for the coming into operation of different Parts or provisions.

PART 2 – THE CRIMINAL CODE AMENDED

This Part sets out the various amendments to the *Criminal Code*, including: amendments to the offence of assaulting a public officer and related offences to provide for a more logical offence structure and increase the penalty for the offence; amendments to reformulate the offence of having a sexual relationship with a child under the age of 16; and other amendments to update provisions and clarify minor anomalies.

3 The Criminal Code amended in this Part

Provides that the amendments in this Part are to the *Criminal Code*.

4 Section 1 amended

Deletes the definition of “circumstances of aggravation” from section 1. The definition previously complemented section 656 of the *Criminal Code*, relating to the effect of aggravated circumstances on sentence, before that section was repealed by the *Sentencing (Consequential Provisions) Act 1995*. The phrase is used throughout the *Criminal Code* and is defined according to the offences in the respective Part to which it applies.

5 Section 297 amended

In his 2006 Report on Assaults on Public Officers, the Director of Public Prosecutions concluded that the existing penalty for doing grievous bodily harm to a public officer is inadequate. This clause amends section 297 to include a circumstance of aggravation which imposes the increased penalty of 14 years imprisonment where a person unlawfully does grievous bodily harm to a public officer, in much the same way as is presently provided for in

circumstances where the offence was committed in the course of conduct which constitutes the stealing of a motor vehicle.

6 Section 313 amended and consequential amendments to *Criminal Code Amendment (Racial Vilification) Act 2004*

As part of the implementation of the criminal law amendments to deal with and respond to heightened concern regarding racial vilification in 2004, the Parliament enacted the *Criminal Code Amendment (Racial Vilification) Act 2004*. Sections 7, 8 and 9 of that Act sought to amend ss313, 317 and 317A of the *Criminal Code*, being assault, assault occasioning bodily harm and assaults with intent. Those amendments were designed to provide the higher penalty regime under each offence, then applicable to assaults on persons over the age of 60 years of age, in circumstances where the offence is committed in the context of racial aggravation. Sections 313, 317 and 317A were, however, amended by the *Acts Amendment (Family and Domestic Violence) Act 2004* just prior to the commencement of the racial vilification amendments and those amendments mean that the intended amendments were not incorporated as intended.

This clause gives effect to the original intention of the *Criminal Code Amendment (Racial Vilification) Act 2004*, by inserting a circumstance of racial aggravation into the offence of common assault, which carries the higher maximum penalty of 3 years and a fine of \$36 000.

7 Section 317 amended and consequential amendments to *Criminal Code Amendment (Racial Vilification) Act 2004*

This clause gives effect to the original intention of the *Criminal Code Amendment (Racial Vilification) Act 2004* (see comments at clause 6 above), by inserting a circumstance of racial aggravation into the offence of assault occasioning bodily harm, which carries the higher maximum penalty.

8 Section 317A amended and consequential amendments to *Criminal Code Amendment (Racial Vilification) Act 2004*

This clause gives effect to the original intention of the *Criminal Code Amendment (Racial Vilification) Act 2004* (see comments at clause 6 above), by inserting a circumstance of racial aggravation into the offence of assault with intent, which carries the higher maximum penalty. This clause also corrects the designation of subsection paragraphs.

9 Section 318 amended

In his 2006 Report on Assaults on Public Officers, the Director of Public Prosecutions concluded that the offence of assaulting a public officer should be reformulated to:

- Make it clear that “performing a function of office” includes circumstances where a public officer is not on duty at the time of the assault, but where the assault is carried out as a consequence of, or in retaliation for, actions undertaken by that officer in the execution of their duty, or because of the officer’s status as a public officer.
- Provide for a maximum penalty of 7 years imprisonment, but include a circumstance of aggravation whereby the offence of assaulting a public officer would be said to be aggravated if during the commission of the offence, the

offender was in company with others or has used a dangerous or offensive weapon or instrument, and the aggravated offence to carry 10 years imprisonment.

- Preclude a summary conviction penalty in circumstances where an assault against a public officer has been committed in circumstances of aggravation.
- Provide that the offence applies, in addition to assaults on “public officers”, also to assaults on ambulance officers. It was considered that this protection should be extended to those individuals who perform an essential public or community function, but who do not come within the definition of “public officer” for the purposes of section 318 because they are not technically an employee of the State.

10 Section 321A replaced

This clause repeals the existing provision and inserts a reformulated 321A to achieve five main improvements.

First, this clause amends the title of the offence to “Child under 16, persistent sexual conduct with”, and to thereby remove the words “relationship with”, which imply an element of mutuality or consent and are considered inappropriate.

Second, since section 321A was enacted, the subsequent decision of the High Court in *KBT v The Queen* (1997) HCA 54, which applied the equivalent Queensland provision, significantly restricted the scope of the WA offence such that it is less likely to catch the kind of conduct which the provision originally was designed to catch. This clause reformulates the offence to overcome the decision in *KBT* and improve the provision to provide adequate protection against ongoing sexual assaults against children. Secondly, therefore, this clause overcomes the decision of the High Court in *KBT v The Queen* which, in interpreting Queensland’s equivalent provision, held that jury unanimity was required in respect of each separate offence.

Third, this clause ensures that it is clear that it is not necessary to specify dates or in any other way particularize the circumstances of the alleged acts, either on the indictment charging the offence or in the course of the proceedings in respect of those charges, in line with the recommendation of His Honour Justice Murray in his Review of the *Criminal Code*.

Fourth, this clause includes attempts as a prescribed offence for the purpose of establishing a sexual relationship, which brings the provision into line with similar provisions in New South Wales and South Australia.

Fifth, this clause enables offences which have occurred in other jurisdictions to be included for the purposes of the charge under the offence, as long as at least one of the offences is alleged to have occurred in the Western Australian jurisdiction. That is a position consistent with the New South Wales provisions.

11 Section 338C amended

Amends section 338C to correct inconsistent numbering.

12 Section 338E amended

Amends section 338E to correct inconsistent numbering.

13 Section 570 amended

Amends the definition of “videotape” in section 570 to include other types of recordable media onto which an audiovisual recording may be stored to accommodate upgrades to the Police audiovisual recording facilities.

PART 3 – CRIMINAL PROCEDURE ACT 2004 AMENDED

This Part makes a series of minor amendments to resolve a number of unintended operational and procedural tensions which have arisen with the enactment of the criminal justice reforms enacted in 2004, which sought to give effect to the Western Australian Law Reform Commission’s recommendations in its Report on the Review of the Criminal and Civil Justice System.

14 The Act amended in this Part

Provides that the amendments in this Part are to the *Criminal Procedure Act 2004*.

15 Section 14 amended

Amends section 14(1) by permitting an approved officer, rather than an authorised officer to extend the period for notice of infringement.

16 Section 20 amended

Amends subsection 20(3) to confine those who may commence a prosecution in this Part to those listed in subparagraphs 20(3)(a) and (b).

17 Section 50 amended

Repeals section 50(3) and inserts sections 50(3) and (3a), which require that the court must issue an approved notice to the Prosecutor and the accused advising them of the date to which the charge has been adjourned.

18 Section 55 amended

Amends section 55(4), to allow any person acting under section 20(3) to proceed with a prosecution that is in a court of summary jurisdiction *ex parte*.

19 Section 62 amended

Amends the definition of “expert evidence material” contained in section 62(1) to correct a numbering inconsistency.

20 Section 69 amended

Amends sections 69(2) and (3) to clarify ambiguities.

21 Section 77 amended

Section 77 allows the court to make an order that an accused who is in custody may appear via video or audio link in certain circumstances, but not in relation to trials or sentencing proceedings. This is inconsistent with section 14A of the *Sentencing Act 1995* which allows

the court to sentence an offender by video link if it is satisfied that it is in the interests of justice to do so.

This clause inserts a new section 77(6) to clarify that an application for an offender to be sentenced by video link is not to be refused on the basis of section 77, and that the court has discretion whether or not to sentence an offender by video link, having regard to whether or not it is in the interests of justice to do so pursuant to s14A of the *Sentencing Act 1995*.

22 Section 84 amended

Previously, section 84(3) unnecessarily restricted the lodging of an indictment, irrespective of where it is to be dealt with, at Perth. This created difficulties where indictments had to be lodged at circuit locations. This clause amends section 84(3) to allow indictments to be lodged in a place other than Perth, if the superior court gives leave.

23 Section 86A inserted

Previously, the Act did not contain a mechanism by which a matter could be remitted back to a lower court in circumstances where the superior court either does not have jurisdiction to deal with the matter in light of some development, or that the matter was prematurely committed up before necessary stages in procedure were achieved. This clause inserts a new section 86A which provides that the accused or a relevant authorised officer may, at any time after a court of summary jurisdiction commits an accused to a superior court on a charge and before an indictment has been lodged that contains the charge, apply to the superior court to remit the charge to the court of summary jurisdiction, provided that the superior court is satisfied that there is a good reason to do so.

24 Section 98 amended

Amends subsection 98(4) to remedy a numbering inconsistency.

25 Section 111 replaced

Replaces section 111 with a new section 111 which clarifies the time at which a trial is deemed to have commenced for the purposes of the section, and gives a trial judge discretion as to whether or not the jury should be sequestered or to suspend deliberations. That is a position consistent with the trend toward more flexible jury arrangements which are exercised in other States.

26 Section 129 amended

Inserts a new section 129(5) to clarify that although the material facts are stated aloud to the court as the factual basis on which the accused pleads guilty, that does not affect the court's power to decide the material facts of an offence on the basis of the information as it thinks fit.

27 Section 133 amended

Replaces section 133(7) with a new subsection which clarifies the inconsistency which existed between that subsection and section 26 of the *Criminal Appeals Act 2004* in relation to the circumstances in which an appeal against an order or refusal in respect of an application that the accused be tried separately on one or more charges, or that one or more of the accused be tried separately from the other or others. The new section 133(7) provides that if a superior court makes or refuses to make an order in relation to the separation of charges

or accused before any evidence is adduced in a trial, the court must not continue the trial unless it is satisfied that an appeal will not be commenced under section 26 of the *Criminal Appeals Act 2004*.

28 Section 143 amended

This clause amends section 143(2) to narrow the scope of issues that may be covered by the Defence in its opening address. This gives proper effect to the Law Reform Commission of Western Australia's Recommendation 318 in its *Review on the Civil and Criminal Justice System 1999*, which stated that "*the defence, at the close of the Prosecution address, and before any evidence is led, to outline the essence of the defence case.*" This amendment recognises that the Prosecution has a different role and function to the defence. While it is appropriate that the Prosecutor explain to the jury the State's role in terms of the onus and standard of proof and in regard to its obligation to the Court, imparts no advantage for the Prosecution case, and the entitlement to elaborate on those impartial matters is appropriately afforded and reserved for the State. In that way, this amendment clarifies that the Defence should simply state the essence of its case, which is a role consistent with their duty to their client.

29 Section 148 amended

Amends section 148 such that it contemplates the effect of section 5 of the *Criminal Code* and summary conviction penalties.

30 Section 169 amended

Previously, section 169 provided for the lawful effect of an order of a court that has dealt with a child for an offence, when they did not have jurisdiction to do so, and for the special procedure for setting aside those orders by application of the Attorney General. This clause replaces section 169 with a new broader provision which provides for the lawful effect and remedial avenues available in circumstances where there has been any "jurisdictional error" in relation to a charge against any person being dealt with by a court. The provision effectively provides that where there has been an error of fact or law that is material to whether the court has jurisdiction to deal with the charge, the determination of the court will have full legal effect unless the Prosecution or the Attorney General succeeds on an application to vary or set aside the determination.

31 Schedule 2 amended

Amends Schedule 2 clause 2(2)(d) to improve terminology.

32 Schedule 3 amended

Amends Schedule 3 clause 5(4)(b) to allow an investigating officer to apply to the relevant court for an order that a person who is or may be able to give evidence in relation to a charge be examined and recorded before the trial. Since the Court must be satisfied that the order is necessary in the interests of justice, it was considered that the making of those applications should not be function restricted to the Prosecutor.

PART 4 – CRIMINAL APPEALS ACT 2004 AMENDED

This Part creates a statutory right of appeal by the Prosecution in certain circumstances.

33 The Act amended in this Part

Provides that the amendments in this Part are to the *Criminal Appeals Act 2004*.

34 Section 24 amended

The only process by which a superior court can review a decision of a lower court is through a statutory appeal. A convicted person has the right of appeal against their conviction or sentence in respect of any matter that is tried before a magistrate, judge alone or judge and jury.

Previously, the prosecution had a limited right to appeal against an acquittal or an inadequate sentence in respect of every prosecution before a magistrate, whether the offence was only able to be dealt with by a magistrate or was indictable, and in respect of indictable matters tried before a judge alone. In respect of indictable matters tried before a judge and jury, the prosecution had a right of appeal against sentence but not against an acquittal. If the prosecution was dissatisfied with a question of law that has been decided by a superior court when dealing with a charge of an indictable offence, the Attorney General was open to refer that question of law to the Court of Appeal for its determination, however, even if the Court of Appeal decided that there was an error of law which led to an acquittal, it was not open to the Court to order a retrial.

This clause inserts a statutory right of appeal by the Prosecution in respect of trials before a judge and jury, against an error of law or fact by the trial judge or a decision to wrongly exclude admissible evidence or wrongly admit inadmissible evidence where there is a verdict of acquittal. The Prosecution right of appeal is restricted to only those cases where the offence carries a maximum penalty of at least 14 years imprisonment, which includes the most serious of offences such as sexual penetration without consent, manslaughter and burglary, and any appeal in that regard will only proceed with the leave of the Court. The circumstances in which the right of appeal will be exercised will be further limited by Guidelines issued by the Director of Public Prosecutions.

35 Section 25 amended

This clause inserts a Prosecution right of appeal against an acquittal (on a charge for which the statutory penalty is at least 14 years imprisonment) entered after a jury's special verdict that the accused is not guilty on account of unsoundness of mind, returned by direction of the judge under section 113(1) of the *Criminal Procedure Act 2004*, where the trial judge made an error of fact or law in relation to the charge. (Also see notes for clause 34 above.)

36 Section 26 amended

This clause amends section 26 to resolve a contradiction that existed between section 133 of the *Criminal Procedure Act 2004* and section 26 of the *Criminal Appeals Act 2004*, by replacing sections 26(5) and (6) with two new sections which provide that an appeal against a decision to sever, or refuse severance, of an indictment must be commenced within 7 days after the date of decision and before any evidence is adduced in the accused's trial, and that if an appeal under this section is commenced after evidence has been adduced at trial, that it must be dismissed. This clarifies the ambiguity of the old provisions which used the terms

‘after the trial has commenced’, and in respect of which there was substantial variance in opinion as to when a trial is actually deemed to have commenced.

37 Section 33 amended

This clause amends section 33 in consequence to the introduction of a new right of appeal by the Prosecution, and retains the Court of Appeal’s power to dismiss an appeal by a Prosecutor, even if a ground of the appeal has been decided in favour of the Prosecutor, if the Court considers that no substantial miscarriage of justice has occurred, in line with Recommendation 349 of the LRCWA’s *Review of the Criminal and Civil Justice System 1999*.

38 Section 34 amended

Amends section 34 to clarify the emphasis of phraseology in the section.

39 Section 35A inserted

This clause inserts a new section 35A which provides that in an appeal commenced by a Prosecutor, the accused’s reasonable costs of being legally represented in the Court of Appeal are to be paid by the State.

PART 5 – EVIDENCE ACT 1906 AMENDED

This Part: amends the provisions relating to special witnesses to enable mentally impaired people to participate more effectively in the criminal justice system; makes amendments to allow expert evidence relating to child development, behaviours and reactions to sexual abuse to be admitted in criminal proceedings against a person charged with sexual offences against a child; and makes a number of other minor amendments to give effect to procedural reforms in sexual assault cases.

40 The Act amended in this Part

States that the amendments in this Part are to the *Evidence Act 1906*.

41 Section 36BE inserted and consequential amendments

It is well established that the behaviour of a child in response to sexual assault is generally different to that of an adult and that the capacity for the jury to evaluate that behaviour is impeded by a lack of understanding about child responses. This clause inserts a new section 36BE which will allow expert opinion evidence on the subject of child behaviours, development and reactions to sexual abuse to be admitted in criminal proceedings against a person charged with sexual offences against a child. This opinion evidence will be admissible, even if it relates to a fact in issue or to an ultimate issue in the proceedings, is a matter of common knowledge, or is relevant only to the credibility of the complainant. In this way, the new section overcomes the common law rules of ultimate issue and common knowledge in relation to expert opinion evidence on the behaviour of a child.

42 Section 100A amended

The reforms contained in the following clauses relating to the evidence of mentally impaired witnesses, recognise that mentally impaired persons are likely to encounter difficulties in understanding and engaging in formal court proceedings in much the same way as young

children. These clauses amend the *Evidence Act 1906* to improve the measures of assistance available to mentally impaired witnesses, and relax the test of competency to give sworn or unsworn evidence with respect to mentally impaired persons, by taking them out of the contemplation of section 100A and making them subject to the test against which children under 12 years are currently evaluated.

This clause inserts a new subsection 100A(7) which explicitly removes mentally impaired persons from the contemplation of the section 100A competency test, which is considered to be a more difficult test than those contained in sections 106B and 106C.

43 Section 106A amended

This clause inserts a new definition of “mental impairment” for the purposes of sections 106B to 106T relating to special measures for child and special witnesses. The definition is the same as was previously contained in section 106R(3)(a) and refers to the definition of “mental impairment” as contained in the *Criminal Law (Mentally Impaired Accused) Act 1996*.

44 Section 106B amended

This clause amends section 106B to also extend the test for competency under this section in addition to children under 12, to persons who irrespective of their age, have a mental impairment. This means that the easier tests for evaluation of the competence of the witness to give sworn evidence (that were previously only available with respect to children under 12) will be available to assist the court to determine whether or not the mentally impaired witness is competent to take an oath or make a solemn affirmation.

45 Section 106C amended

This clause amends section 106C to enable a mentally impaired person, who is not competent to give evidence under section 106B to give unsworn evidence if the court is of the opinion that mentally impaired person is able to give an intelligible account of events which he or she has observed or experienced.

47 Section 106HA amended

This clause amends section 106HA to enable a visual recording of an interview with a mentally impaired person to be admitted as the whole or a part of the evidence in chief of the witness in any proceeding, pursuant to section 106HB.

48 Section 106HB amended

Firstly, this clause amends section 106HB to provide for the admissibility of a visual recording of an interview with a mentally impaired person to be admitted as the whole or a part of the evidence in chief of the witness, where the witness has been declared a special witness under section 106R.

Secondly, this clause inserts subsection (6a) which provides that, while a visually recorded interview is being played to the court, the witness must not be present in court, or otherwise visible or audible to the trier of fact. This measure is intended to avoid the trier of fact observing the child’s reaction to the visual recording, and thus avoid an impermissible form of reasoning by some sort of assessment as to the witnesses’ credibility on the basis of their reaction to the recording.

Thirdly, this clause inserts subsection (8), which provides that while the judge must not comment about the fact that a visually recorded interview may not have been adduced by the Prosecution under subsection (7)(c), that does not prevent the judge from commenting to the jury about a breach of the rule under subsection (7)(c), if it is in the interests of justice to do so, and thereby allows for remedial action by the judge, in circumstances where there has been a breach.

49 Section 106HC amended

This clause amends section 106HC to allow the Governor to make regulations prescribing classes of persons who may conduct a visually recorded interview with mentally impaired persons, and the requirements to be met for the purposes of admitting the interview into evidence in proceedings.

50 Section 106I amended

Amends section 106I to update terminology.

51 Section 106O amended

Amends section 106O to update terminology.

52 Section 106R amended

Firstly, this clause amends section 106R to remove the particulars of the definition of a person having a mental impairment to observe the new definition of “mental impairment” contained in section 106A.

Secondly, this clause expands the arrangements that may be made to assist special witnesses by inserting subsection (4)(b), which enables a person who has been declared a special witness to have the assistance of a communicator while they are giving evidence, in the same way as is available to a child under section 106F. This may help to avoid difficulties with communication that may arise, particularly with respect to mentally impaired persons, when they are participating in any proceeding.

Thirdly, this clause inserts subsection (8) which provides that where a person who is able to be declared a special witness under subsection (3a) has declined to be declared as such, the person must not be questioned in the proceeding about that fact, and the judge and counsel will be prohibited from making comment about that fact, except where there has been a breach of that rule, and the judge is making remedial comments in relation to the breach.

53 Section 106RA amended

This clause firstly amends section 106RA to clarify that it is the whole of the evidence, including cross-examination and re-examination, which may be taken at a special hearing and recorded on a visual recording. Secondly, the clause replaces section 106RA(5), removing that aspect which permitted the court to make an order that only part of the witness’ evidence is to be recorded, and inserting new directions which may be made by the court in relation to a visual recording of evidence, including a direction as to the persons or classes of persons who are to have possession, or otherwise deal with the recording.

54 Second Schedule amended

Amends the Second Schedule to update the title of the offence under section 321A accordingly.

PART 6 – OTHER ACTS AMENDED

This Part remedies minor inconsistencies and makes necessary consequential amendments to other related Acts.

55 *Bail Act 1982* amended

Amends various provisions to update terminology and inserts exceptions into section 52(4) to prohibit the charging of fees by the Supreme or District Court for or in respect of any proceedings relating to a prosecution under the section, and to confine the recovery of costs relating to a prosecution under the section, to orders made on application under section 166(2) of the *Criminal Procedure Act 2004*.

56 *Children’s Court of Western Australia Act 1988* amended

Amends section 33(2) to update terminology.

57 *Community Protection (Offender Reporting) Act 2004* amended

Amends Schedule 1 to update the title of the offence referred to under the *Criminal Code* section 321A.

58 *Criminal Injuries Compensation Act 2003* amended

Amends section 16(1)(a) to clarify the circumstances in which the section applies.

59 *Criminal Law (Mentally Impaired Accused) Act 1996*

Amends sections 11(1)(b)(ii) and 21 to update terminology.

60 *Criminal Property Confiscation Act 2000*

Amends section 101(2)(b) to update the jurisdictional limit in respect of which the District Court will have jurisdiction in proceedings under the Act. The provision refers to section 6 of the *District Court Act 1969*.

61 *Fertilizers Act 1977* amended

Amends section 38(1) to update terminology.

62 *Human Reproductive Technology Act 1991* amended

Amends section 53H(2) to update terminology.

63 *Juries Act 1957* amended

Firstly, this clause amends section 39 to remedy an inconsistency. Secondly, section 41 is amended to clarify the effect of the provision, and give full effect to the discretion which is

available to the judge under section 111 of the *Criminal Procedure Act 2004*, which gives a trial judge discretion to make orders for sequestration or suspension of deliberations and any conditions necessary to impose in the interests of justice. This overcomes the difficulty which existed previously, which seemed to require that a jury be kept under the charge of an officer when deliberating and not separate.

64 *Land Valuers Licensing Act 1978* amended

Amends section 15B(2) to update terminology.

65 *Licensed Surveyors Act 1909* amended

Amends section 8C(2) to update terminology.

66 *Official Prosecutions (Accused's Costs) Act 1973* amended

Amends the long title of the Act to update terminology.

67 *Prisoners (Interstate Transfer) Act 1983* amended

Replaces section 21(2)(b) with a new section with updated terminology.

68 *Prostitution Act 2000* amended

Updates Schedule 1 to allow for amendments to section 321A of the *Criminal Code*.

69 *Sentencing Act 1995* amended

Inserts a new section 40(5a) to provide that a body corporate must be liable, if convicted of an offence in respect of which the statutory penalty is a minimum fine, to a fine at least 5 times that minimum fine, in much the same way as is already provided in subsection (5) in respect of maximum fines.

70 *Suitor's Fund Act 1964* amended

The legal costs of an acquitted person in responding to such a Prosecution appeal will be paid by the State (section 37 of the Bill), and his or her additional costs of any retrial will be capable of reimbursement under section 14 of the *Suitors Fund Act 1964*. When the Prosecution brings an application by way of Attorney General reference to the Court of Appeal, the costs of the accused person's representation will be reimbursed by the State.

71 *Western Australian College of Teaching Act 2004* amended

Amends sections 49(1)(c) and (d) to update terminology, and amends Schedule 2 to bring certain *Criminal Code* offences into the contemplation of the provisions in the Act relating to notification and membership cancellation.

72 *Wildlife Conservation Act 1950* amended

Amends section 27B to correct phraseology.

73 *Workers' Compensation and Injury Management Act 1981* amended

Amends section 175H(2)(c) to correct phraseology.

74 *Working with Children (Criminal Record Checking) Act 2004* amended

Amends Schedule 1 to update the description of the offence under section 321A of the *Criminal Code*.

PART 7 – VARIOUS AMENDING ACTS AMENDED

75 *Acts Amendment (Court of Appeal) Act 2004* amended

Makes minor amendments to the Act.

76 *Criminal Law Amendment (Simple Offences) Act 2004* amended

Repeals section 37 to account for corresponding changes made in the *Criminal Law and Evidence Amendment Act 2006*.

77 *Courts Legislation Amendment and Repeal Act 2004* amended

Amends various Tables and Schedule clauses to update section numbers contained therein.

78 *Criminal Procedure and Appeals (Consequential Provisions) Act 2004* amended

Amends various Tables and Schedule clauses to update section numbers contained therein.