

WESTERN AUSTRALIA

# LEGISLATIVE ASSEMBLY

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## VOTES AND PROCEEDINGS

No. 69

FIRST SESSION OF THE THIRTY-NINTH PARLIAMENT

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WEDNESDAY, 19 MARCH 2014

### 1. Meeting of Assembly

The Assembly met at 12.00 noon pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

### 2. Petition

Domestic Violence in Western Australia – Ms R. Saffioti presented a petition from 723 persons requesting that the Legislative Assembly calls on the Barnett Government to protect women and children experiencing domestic violence in Western Australia by building new refuges, providing adequate funding for current refuges and the ‘Safe at Home’ program, and also, investigating the impact that cuts in these areas will have on women and families experiencing domestic violence in Western Australia (P. 111).

### 3. Papers

The following papers were presented and ordered to lie upon the Table of the House –

By the Speaker –

Auditor General, Office of the – Behaviour Management in Schools, Report 4: March 2014 (1454).

By the Clerk –

Liquor Control Act 1988 – Regulations (Liquor Control (Kundat Djaru Restricted Area) Amendment Regulations 2014 G.G. 14/03/2014) (1455).

Local Government Act 1995 – Local Laws (City of Albany Keeping and Welfare of Cats Repeal Local Law 2014 G.G. 11/03/2014) (1456).

Local Government Act 1995 – Local Laws (City of Nedlands Standing Orders Amendment Local Law 2014 G.G. 14/03/2014) (1457).

Local Government Act 1995 – Local Laws (Shire of Kellerberrin Parking and Parking Facilities Repeal Local Law 2013 G.G. 11/03/2014) (1458).

Magistrates Court Act 2004 – Rules (Magistrates Court (General) Amendment Rules (No. 2) 2014 G.G. 11/03/2014) (1459).

Public Sector Management Act 1994 – Regulations (Public Sector Management (Breaches of Public Sector Standards) Amendment Regulations 2014 G.G. 11/03/2014) (1460).

Veterinary Surgeons Act 1960 – Regulations (Veterinary Surgeons Amendment Regulations 2014 G.G. 14/03/2014) (1461).

#### **4. Notices of Motion**

#### **5. Brief Ministerial Statements**

Brief Ministerial Statements were made by –

The Minister for Police on the 'Report My Lost Property' website.

The Minister for Environment on the appointment of Mr Jim Sharp to the inaugural position of Director General of the Department of Parks and Wildlife.

The Parliamentary Secretary to the Minister for Commerce on the Rio Tinto Supplier Recognition Awards.

#### **6. Leave of Absence**

Mr A. Krsticevic, pursuant to notice, moved,

That leave be given for the absence from the Legislative Assembly of the member for Vasse until 10 April 2014 on the grounds of ill health.

Debate ensued.

Question put and passed.

#### **7. Criminal Law (Mentally Impaired Accused) Amendment Bill 2014**

Mr J.R. Quigley, pursuant to notice, moved,

That a bill for “An Act to amend the *Criminal Law (Mentally Impaired Accused) Act 1996* to provide that a court making a custody order under that Act in respect of an accused must fix a term for that order that is equivalent to the period of imprisonment that would, in the court’s opinion, have been appropriate had the accused been found guilty of the offence with which the accused was charged.” be introduced and read a first time.

Question put and passed.

Mr J.R. Quigley presented an explanatory memorandum and bill read a first time.

Ordered, That the second reading of the bill be made an Order of the Day for a later stage of the sitting.

#### **8. Custodial Legislation (Officers Discipline) Amendment Bill 2013**

The Order of the Day for the further consideration in detail of the bill was read.

#### *CONSIDERATION IN DETAIL*

Clauses 8 to 15 agreed to.

Clause 16.

Mr P. Papalia moved,

Page 28, lines 4 and 5 – To delete “**due to loss of confidence**”.

Page 29, lines 11 to 14 – To delete the lines.

Page 29, lines 21 to 23 – To delete the lines and insert:

“

- (a) the chief executive officer has formed the opinion on reasonable grounds that the custodial officer:
  - (i) has engaged in corrupt conduct (or any other conduct constituting an indictable offence); and
  - (ii) is no longer a fit and proper person to hold a position as a custodial officer; and

”.

Page 30, lines 5 to 8 – To delete the lines and insert:

“

- (1) If the chief executive officer has formed the opinion on reasonable grounds that the officer has engaged in corrupt conduct and is no longer a fit and proper person to hold a position as a custodial officer, the chief executive officer may remove the custodial officer.

”.

Page 30, lines 12 to 14 – To delete the lines and insert:

“

- (3) The chief executive officer shall conduct any necessary investigation to determine if a custodial officer is a fit and proper person to be a custodial officer.

”.

Page 30, lines 28 to 32 – To delete the lines and substitute:

“ document might incriminate the custodial officer ”.

Page 31, line 3 – To insert before “proceedings” where it first occurs:

“ or disciplinary ”.

Page 31, lines 23 and 24 – To delete “and imprisonment for 12 months”.

Page 31, line 25 – To delete “**Notice of loss of confidence**” and substitute:

“ **Written notice of CEO’s determination** ”.

Amendments put.

The Assembly divided.

Ayes (18)

Ms L.L. Baker

Dr A.D. Buti

Mr R.H. Cook

Ms J.M. Freeman

Mr D.J. Kelly

Mr F.M. Logan

Mr M. McGowan

Ms S.F. McGurk

Mr M.P. Murray

Mr P. Papalia

Mr J.R. Quigley

Ms M.M. Quirk

Mrs M.H. Roberts

Ms R. Saffioti

Mr C.J. Tallentire

Mr P.C. Tinley

Mr P.B. Watson

Mr D.A. Templeman (*Teller*)

## Noes (33)

Mr P. Abetz  
 Mr F.A. Alban  
 Mr C.J. Barnett  
 Mr I.C. Blayney  
 Mr I.M. Britza  
 Mr G.M. Castrilli  
 Mr M.J. Cowper  
 Ms M.J. Davies  
 Mr J.H.D. Day  
 Ms E. Evangel  
 Mr J.M. Francis

Mrs G.J. Godfrey  
 Mr B.J. Grylls  
 Dr K.D. Hames  
 Mrs L.M. Harvey  
 Mr C.D. Hatton  
 Mr A.P. Jacob  
 Dr G.G. Jacobs  
 Mr R.F. Johnson  
 Mr S.K. L'Estrange  
 Mr R.S. Love  
 Mr W.R. Marmion

Mr P.T. Miles  
 Ms A.R. Mitchell  
 Mr N.W. Morton  
 Dr M.D. Nahan  
 Mr D.C. Nalder  
 Mr J. Norberger  
 Mr D.T. Redman  
 Mr A.J. Simpson  
 Mr M.H. Taylor  
 Mr T.K. Waldron  
 Mr A. Krsticevic (*Teller*)

Amendments thus negatived.

Mr P. Papalia moved,

Page 31, lines 28 to 30 – To delete the lines and substitute:

“

which the chief executive officer has formed the view that the custodial officer has engaged in corrupt conduct or is no longer a fit and proper person to hold a position as a custodial officer.

”.

Page 33, lines 9 to 12 – To delete the lines and substitute:

“

- (2) Where a custodial officer has commenced an appeal under section 11CH, the Minister shall direct a maintenance payment must be paid to the custodial officer for a specified period after the maintenance period unless there are exceptional circumstances justifying that the custodial officer should not be paid a maintenance payment.

”.

Page 33, after line 16 – To insert:

“

- (4A) At the end of the specified period referred to in subsection (3), the Minister shall review the progress of the appeal and renew the maintenance period for a further specified period not exceeding 6 months unless:
- (a) the appeal has been determined by the WAIRC; or
  - (b) there are exceptional circumstances justifying why the custodial officer should not be paid a maintenance payment.

”.

Page 33, after line 19 – To insert:

“

- (5) A custodial officer who has commenced an appeal under section 11CH and is aggrieved by:
- (a) a period of any suspension; or

- (b) the exercise of the Minister's discretion to not make a maintenance payment that results in undue hardship to the custodial officer,  
may apply to a commissioner in the WAIRC who may either substitute or vary or affirm the decision of the chief executive officer, or the Minister, as the case may be.

”.

Page 35, after line 25 – To insert:

“

- (d) fourth, it must consider the validity and cogency of the facts on which the chief executive officer has determined that the officer has engaged in corrupt conduct and is no longer a fit and proper person to hold a position as a custodial officer.

”.

Page 35, lines 26 to 30 – To delete the lines.

Page 36, after line 13 – To insert:

“

- ; and  
(c) the validity and cogency of the facts on which the chief executive officer has determined that the officer has engaged in corrupt conduct (or any other conduct constituting an indictable offence), and is no longer a fit and proper person to hold a position as a custodial officer.

”.

Page 38, after line 30 – To insert:

“

- ; and  
(c) the WAIRC must allow the appellant to amend any reasons why the dismissal was harsh, oppressive or unfair.

”.

Page 42, line 19 – To delete “(not exceeding 12 months)”.

Page 45, lines 1 and 2 – To delete the lines.

Page 45, lines 21 to 25 – To delete the lines and substitute:

“ element of an offence of which the custodial officer has been convicted ”.

Page 46, after line 31 – To insert:

“

- (4) A custodial officer aggrieved by the period of suspension may appeal the chief executive officer's decision under section 11CE(5).

”.

Amendments put and negatived.

Clause agreed to.

Clauses 17 to 22 agreed to.

Title agreed to.

Consideration in detail concluded.

Leave was granted to proceed forthwith to the third reading of the bill.

The Minister for Corrective Services moved, That the bill be now read a third time.

Debate ensued.

Debate interrupted by the Chair (Mr P. Papalia speaking) and adjourned until a later stage of the sitting.

## **9. Questions**

Questions without Notice were taken.

Questions on Notice Nos 1966 to 1984 were asked.

Questions on Notice Nos 1661, 1662, 1670 to 1673, 1677, 1681, 1688, 1690, 1694, 1705, 1710, 1722, 1724, 1728, 1739, 1749, 1756, 1766, 1773, 1775, 1779, 1790, 1807, 1809, 1810, 1832, 1833, 1838, 1841 and 1888 were answered.

Paper tabled by the Premier; Minister for State Development; Science –

Question on Notice No. 1673 – Premier's Use of Ministerial Air-Charter Service (1462).

Paper tabled by the Premier –

Question on Notice No. 1809 – The Requirement of Agencies to Advise the Public Sector Commission of the Costs of Producing their Reports (1463).

Papers tabled by the Minister for Emergency Services; Corrective Services; Small Business; Veterans –

Question on Notice No. 1807 – Potential Meetings with Serco Representatives (1464).

Question on Notice No. 1688 – The Minister's Use of Air-Charter Services for the Period Since 11 August 2013 (1465).

Question on Notice No. 1832 – The Provisions Within the Fines, Penalties and Infringement Notices Enforcement Act 1994 (1466).

Paper tabled by the Minister for Corrective Services –

Question on Notice No. 1888 – Contracts Between the Department of Corrective Services and Private Companies (1467).

Paper tabled by the Minister Representing the Minister for Education; Aboriginal Affairs; Electoral Affairs –

Question on Notice No. 1710 – Hospitality, Invitations, Free Accommodation or Free Travel, Minister's Office (1468).

Paper tabled by the Minister Representing the Minister for Education –

Question on Notice No. 1672 – Clayton View Primary School Students (1469).

Paper tabled by the Minister Representing the Attorney General; Minister for Commerce –

Question on Notice No. 1749 – The Maintenance of a Register of Gifts and Benefits (1470).

## **10. Suspension of Standing Orders**

Mr M. McGowan, without notice, moved, That so much of the Standing Orders be suspended as is necessary to enable the following motion to be moved forthwith –

That the House condemns the Barnett Government and, in particular, the Minister for Corrective Services for implementing policies that allow dangerous serial sex offenders to be released from prison who otherwise would not be.

Debate ensued.

The Leader of the House moved, To add to the motion –

“

, subject to the debate being limited to 15 minutes for government members and 15 minutes for non-government members.

”

Amendment put and passed.

On the question, That the motion, as amended, be agreed to,

Question put.

The Speaker having counted the House, and an absolute majority being present and there being no dissentient voice, declared the motion, as amended, to be carried with the concurrence of an absolute majority of the whole number of members of the House.

# 11. Release of Serial Sex Offenders

Mr M. McGowan, pursuant to the foregoing motion, moved,

That the House condemns the Barnett Government and, in particular, the Minister for Corrective Services for implementing policies that allow dangerous serial sex offenders to be released from prison who otherwise would not be.

Debate ensued.

Question put.

The Assembly divided.

## Ayes (18)

Ms L.L. Baker	Mr D.J. Kelly	Ms M.M. Quirk
Dr A.D. Buti	Mr F.M. Logan	Mrs M.H. Roberts
Mr R.H. Cook	Mr M. McGowan	Ms R. Saffioti
Ms J. Farrer	Ms S.F. McGurk	Mr P.C. Tinley
Ms J.M. Freeman	Mr M.P. Murray	Mr P.B. Watson
Mr W.J. Johnston	Mr P. Papalia	Mr D.A. Templeman ( <i>Teller</i> )

## Noes (34)

Mr P. Abetz	Mrs G.J. Godfrey	Ms A.R. Mitchell
Mr F.A. Alban	Mr B.J. Grylls	Mr N.W. Morton
Mr C.J. Barnett	Dr K.D. Hames	Dr M.D. Nahan
Mr I.C. Blayney	Mrs L.M. Harvey	Mr D.C. Nalder
Mr I.M. Britza	Mr C.D. Hatton	Mr J. Norberger
Mr G.M. Castrilli	Mr A.P. Jacob	Mr D.T. Redman
Mr V.A. Catania	Dr G.G. Jacobs	Mr A.J. Simpson
Mr M.J. Cowper	Mr R.F. Johnson	Mr M.H. Taylor
Ms M.J. Davies	Mr S.K. L'Estrange	Mr T.K. Waldron
Mr J.H.D. Day	Mr R.S. Love	Mr A. Krsticevic ( <i>Teller</i> )
Ms E. Evangel	Mr W.R. Marmion	
Mr J.M. Francis	Mr P.T. Miles	

Question thus negatived.

# 12. Variation to the Order of Business

Ordered, That consideration of Government Business Order of the Day No. 1 be resumed.

# 13. Custodial Legislation (Officers Discipline) Amendment Bill 2013

The Order of the Day for the resumption of the debate upon the third reading of the bill was read.

Debate resumed.

Debate interrupted by the Chair (Mr F.M. Logan speaking) and adjourned until a later stage of the sitting.

#### 14. Variation to the Order of Business

Ordered, That Private Members' Business Order of the Day for the second reading of the Criminal Law (Mentally Impaired Accused) Amendment Bill 2014 and Private Members' Business Order of the Day No. 14 be next considered.

#### 15. Criminal Law (Mentally Impaired Accused) Amendment Bill 2014

The Order of the Day for the second reading of the bill was read.

Mr J.R. Quigley moved, That the bill be now read a second time.

Mr A. Krsticevic moved, That the debate be adjourned.

Question put and passed.

#### 16. Cost of Living in Western Australia

The Order of the Day having been read for the resumption of debate on the motion moved by Ms L.L. Baker,

That the House condemns the Premier for misleading the people of Western Australia regarding increases to the cost of living and the impact his government's increases will have on homes and businesses.

Debate resumed.

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#### *Paper*

The following paper was presented and ordered to lie upon the Table of the House –

By the Minister for Police –

Police, Minister for – Director of Public Prosecutions (WA) v TJD [No 4] [2014] WASC 71 (1471).

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Question put.

The Assembly divided.

#### Ayes (14)

Ms L.L. Baker

Dr A.D. Buti

Mr R.H. Cook

Ms J.M. Freeman

Mr W.J. Johnston

Mr D.J. Kelly

Mr F.M. Logan

Mr M. McGowan

Ms S.F. McGurk

Mr P. Papalia

Ms R. Saffioti

Mr C.J. Tallentire

Mr P.B. Watson

Mr D.A. Templeman (*Teller*)

#### Noes (29)

Mr P. Abetz

Mr F.A. Alban

Mr C.J. Barnett

Mr I.C. Blayney

Mr I.M. Britza

Mr G.M. Castrilli

Mr V.A. Catania

Mr M.J. Cowper

Ms M.J. Davies

Mr J.H.D. Day

Ms E. Evangel

Mr J.M. Francis

Mrs G.J. Godfrey

Mr B.J. Grylls

Dr K.D. Hames

Mr C.D. Hatton

Dr G.G. Jacobs

Mr S.K. L'Estrange

Mr R.S. Love

Mr P.T. Miles

Ms A.R. Mitchell

Mr N.W. Morton

Dr M.D. Nahan

Mr D.C. Nalder

Mr J. Norberger

Mr D.T. Redman

Mr M.H. Taylor

Mr T.K. Waldron

Mr A. Krsticevic (*Teller*)

Question thus negatived.



**17. Adjournment**

The Leader of the House moved, That the House do now adjourn.

Question put and passed.

The Assembly adjourned accordingly at 6.55 p.m. until Thursday, 20 March 2014 at 9.00 a.m.

*Members present during any part of the day's proceedings* – All the members except Mr T.R. Buswell, Ms W.M. Duncan, Mr J.E. McGrath and Mr B.S. Wyatt.

**PETER J. McHUGH**  
Clerk of the Legislative Assembly

**HON. MICHAEL SUTHERLAND**  
Speaker of the Legislative Assembly