

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 67

FIRST SESSION OF THE THIRTY-NINTH PARLIAMENT

THURSDAY, 13 MARCH 2014

1. Meeting of Assembly

The Assembly met at 9.00 a.m. pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

2. Expiration of Notice of Motion

The Speaker advised members that Private Members' Business Notice of Motion No. 1, notice of which was given on 9 May 2013 and renewed for a further 30 sitting days on 26 September 2013, will be removed and will not appear on the next Notice Paper.

3. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Housing on the SharedStart Program.

The Minister for Sport and Recreation on the major grants round of the Community Sports and Recreation Facilities Fund.

The Minister for Veterans on the National Anzac Centre in Albany.

4. Grievances

The Speaker called for grievances which were then made.

5. Disability Services Amendment Bill 2014

The Parliamentary Secretary to the Minister for Disability Services, pursuant to notice, moved,

That a bill for “An Act to amend the *Disability Services Act 1993*.” be introduced and read a first time.

Question put and passed.

The Parliamentary Secretary to the Minister for Disability Services presented an explanatory memorandum and bill read a first time.

The Parliamentary Secretary to the Minister for Disability Services moved, That the bill be now read a second time.

Ms S. McGurk moved, That the debate be adjourned.
Question put and passed.

6. Mental Health Bill 2013

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

CONSIDERATION IN DETAIL

Clauses 10 to 14 agreed to.

Clause 15.

The Parliamentary Secretary to the Minister for Mental Health moved,

Page 17, line 22 – To insert after “if”:

“

another person who is performing a function under this Act that requires that other person to determine that capacity is satisfied that

”.

Amendment put and passed.

The Parliamentary Secretary to the Minister for Mental Health moved,

Page 17, after line 28 – To insert:

“

(ca) weigh up the factors referred to in paragraphs (a), (b) and (c) for the purpose of making the decision; and

”.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 16 and 17 agreed to.

Clause 18.

The Parliamentary Secretary to the Minister for Mental Health moved,

Page 19, line 2 – To delete “does not have” and substitute:

“ has ”.

Page 19, line 3 – To delete “unless” and substitute:

“

if another person who is performing a function under this Act that requires that other person to determine that capacity is satisfied that

”.

Page 19, after line 10 – To insert:

“

(ca) weigh up the factors referred to in paragraphs (a), (b) and (c) for the purpose of making the treatment decision; and

”.

Amendments put.

The Assembly divided.

Ayes (33)

Mr P. Abetz
 Mr F.A. Alban
 Mr C.J. Barnett
 Mr I.C. Blayney
 Mr I.M. Britza
 Mr V.A. Catania
 Mr M.J. Cowper
 Ms M.J. Davies
 Mr J.H.D. Day
 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 J.E. McGrath

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*)

Noes (16)

Dr A.D. Buti
 Mr R.H. Cook
 Ms J. Farrer
 Ms J.M. Freeman
 Mr W.J. Johnston
 Mr F.M. Logan

Mr M. McGowan
 Ms S.F. McGurk
 Mr P. Papalia
 Mr J.R. Quigley
 Ms M.M. Quirk
 Mrs M.H. Roberts

Mr P.C. Tinley
 Mr P.B. Watson
 Mr B.S. Wyatt
 Mr D.A. Templeman (*Teller*)

Amendments thus passed.

Clause, as amended, agreed to.

Clause 19.

Dr A.D. Buti moved,

Page 19, after line 23 – To insert:

“

- and
- (d) advising that the person may refuse to consent to the admission or treatment and that, if the person does give consent, the person can withdraw consent at any time; and
- (e) advising that the person may obtain independent legal and medical advice about the admission or treatment before consent is given and that the person may request assistance to obtain that advice.

”.

“

- and
- (d) informing the person about any financial advantage that may be gained by any medical practitioner or mental health service in respect of the admission or treatment, except information about the fees and charges payable by or on behalf of the person for the admission or treatment; and
- (e) informing the person about any research relationship between any medical practitioner and any mental health service that may be relevant to the admission or treatment.

”.

Amendments put.

The Assembly divided.

Ayes (18)

Dr A.D. Buti
Mr R.H. Cook
Ms J. Farrer
Ms J.M. Freeman
Mr W.J. Johnston
Mr D.J. Kelly

Mr F.M. Logan
Mr M. McGowan
Ms S.F. McGurk
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 B.S. Wyatt
Mr D.A. Templeman (*Teller*)

Noes (34)

Mr P. Abetz
Mr F.A. Alban
Mr C.J. Barnett
Mr I.C. Blayney
Mr I.M. Britza
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
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 J.E. McGrath
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.

Clause agreed to.

Clauses 20 to 24 agreed to.

Clause 25.

Dr A.D. Buti moved,

Page 23, lines 1 and 2 – To delete “harm to the person or to another person” and substitute:

“ financial harm to the person ”.

Amendment put and negatived.

The Parliamentary Secretary to the Minister for Mental Health moved,

Page 23, lines 3 to 8 – To delete the lines and substitute:

“

- (c) that the person does not demonstrate the capacity required by section 18 to make a treatment decision about the provision of the treatment to himself or herself;

”.

Page 23, lines 26 to 31 – To delete the lines and substitute:

“

- (c) that the person does not demonstrate the capacity required by section 18 to make a treatment decision about the provision of the treatment to himself or herself;

”.

Amendments put and passed.

Clause, as amended, agreed to.

Clauses 26 and 27 agreed to.

Clause 28.

Dr A.D. Buti moved,

Page 26, line 6 – To delete “or physical”.

Amendment put.

The Assembly divided.

Ayes (18)

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

Noes (30)

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

Amendment thus negatived.

The Parliamentary Secretary to the Minister for Mental Health moved,

Page 26, lines 17 and 18 – To delete the lines and substitute:

“

- (3) The person cannot be detained under orders made under this section for a continuous period of more than —
 - (a) if the place where the referral is made is in a metropolitan area —
72 hours; or
 - (b) if the place where the referral is made is outside a metropolitan area —
144 hours.

”.

Amendment put and passed.

The Parliamentary Secretary to the Minister for Mental Health moved,

Page 27, line 13 – To delete “the person” and substitute:

“ the person, the person’s psychiatrist ”.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 29 to 33 agreed to.

Clause 34.

The Parliamentary Secretary to the Minister for Mental Health moved,

Page 32, line 7 – To delete “inpatient” and substitute:

“ inpatient, the inpatient’s psychiatrist ”.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 35 to 41 agreed to.

Clause 42.

Dr A.D. Buti moved,

Page 36, after line 21 – To insert:

“

- (2A) Any information provided to the practitioner under subsection (2) must be notified to the Chief Mental Health Advocate.

”.

Debate interrupted by the Chair and adjourned until a later stage of the sitting.

7. Members' Statements

The Acting Speaker called for members' statements which were then made.

8. Distinguished Visitors

The Speaker noted the presence in the Speaker's Gallery of the Ambassador of the People's Republic of China Mr Ma and his delegation.

9. Questions

Questions without Notice were taken.

Questions on Notice Nos 1940 to 1948 were asked.

Questions on Notice Nos 1667, 1686, 1701, 1703, 1720, 1735, 1737, 1747, 1754, 1764, 1771, 1781, 1786, 1788, 1798, 1803, 1805, 1842, 1886 and 1914 were answered.

10. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 3 be next considered.

11. 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

Clause 7.

Mr P. Papalia had moved,

Page 10, lines 7 to 10 – To delete the lines and substitute:

“

- (2) Where a prison officer has commenced an appeal under section 106, the Minister shall direct that a maintenance payment must be paid to the prison officer for a specified period after the maintenance period unless there are exceptional circumstances justifying that the prison officer should not be paid a maintenance payment.

”.

Amendment put.

The Assembly divided.

Ayes (18)

Ms L.L. Baker
 Dr A.D. Buti
 Mr R.H. Cook
 Mr W.J. Johnston
 Mr D.J. Kelly
 Mr F.M. Logan

Mr M. McGowan
 Ms S.F. McGurk
 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 B.S. Wyatt
 Mr D.A. Templeman (*Teller*)

Noes (32)

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

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 J.E. McGrath
 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*)

Amendment thus negatived.

Mr P. Papalia moved,

Page 10, after line 14 – To insert:

“

- (4A) At the end of the specified period, 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 prison officer should not be paid a maintenance payment.

”.

Amendment put and negatived.

Mr P. Papalia moved,

Page 10, after line 17 – To insert:

“

- (5) A prison officer who has commenced an appeal under section 106 and is aggrieved by:
- (a) a period of suspension; or
 - (b) the exercise of the Minister's discretion to not make a maintenance payment that results in undue hardship to the prison 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.

”.

Amendment put.

The Assembly divided.

Ayes (18)

Ms L.L. Baker
 Dr A.D. Buti
 Mr R.H. Cook
 Ms J. Farrer
 Mr W.J. Johnston
 Mr D.J. Kelly

Mr F.M. Logan
 Mr M. McGowan
 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 B.S. Wyatt
 Ms S.F. McGurk (*Teller*)

Noes (31)

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

Dr K.D. Hames
 Mrs L.M. Harvey
 Mr C.D. Hatton
 Mr A.P. Jacob
 Dr G.G. Jacobs
 Mr S.K. L'Estrange
 Mr R.S. Love
 Mr W.R. Marmion
 Mr J.E. McGrath
 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*)

Amendment thus negatived.

Mr P. Papalia moved,

Page 12, line 14 – To delete “section” and substitute:

“ subdivision ”.

Page 12, 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 prison officer.

”.

Page 12, lines 26 to 30 – To delete the lines.

Page 13, after line 13 – To insert:

“

- (c) ; and
 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 prison officer.

”.

Page 14, lines 5 to 13 – To delete the lines.

Page 15, after line 30 – To insert:

“

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

”.

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

Page 21, lines 13 and 14 – To delete the lines.

Page 22, lines 2 to 6 – To delete the lines and substitute:

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

Page 22, after line 30 – To insert:

“

(3A) A prison officer aggrieved by the period of suspension may appeal the chief executive officer’s decision under section 103(5).

”.

Amendments put and negatived.

Clause 7 agreed to.

The Leader of the House moved, That the debate be adjourned.

Question put and passed.

12. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 4 be next considered.

13. Electronic Conveyancing Bill 2013

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

Debate resumed.

Question put and passed.

Bill read a third time and passed.

14. Additional Information

The Premier provided additional information relating to Question without Notice No. 96 from Mr M. McGowan.

15. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly at 5.17 p.m. until Tuesday, 18 March 2014 at 2.00 p.m.

Members present during any part of the day's proceedings – All the members except Mr T.R. Buswell, Mr G.M. Castrilli, Ms W.M. Duncan and Mr M.P. Murray.

PETER J. McHUGH
Clerk of the Legislative Assembly

HON. MICHAEL SUTHERLAND
Speaker of the Legislative Assembly