

~~Mr DEPUTY SPEAKER (Mr Berry): Order! There being no mover, the notice of motion lapses in accordance with standing order 71.~~

MENTAL HEALTH BILL

Introduction



Hon. LJ SPRINGBORG (Southern Downs—LNP) (Minister for Health) (11.27 am): I present a bill for an act to provide for the treatment and care of people who have mental illnesses and for other purposes, and further to repeal the Mental Health Act 2000 and to amend this act, the Criminal Code, the Forensic Disability Act 2011, the Powers of Attorney Act 1998 and the Public Health Act 2005, and to make minor and consequential amendments of other acts as stated in schedule 4. I table the bill and explanatory notes, and I nominate the Health and Community Services Committee to consider the bill.

Tabled paper: Mental Health Bill 2014.

Tabled paper: Mental Health Bill 2014, explanatory notes.

This bill results from an extensive review of the Mental Health Act 2000 which this government initiated in June 2013. This review is part of the government's commitment to improve the quality of health services delivered to the people of Queensland. As Minister for Health, I have established hospital and health boards, the Queensland Mental Health Commission and the Health Ombudsman by legislation introduced into this parliament. This bill will further strengthen the treatment and care provided to persons with a mental illness.

This bill provides for the treatment and care of persons with a mental illness that, because of illness at a particular time, cannot make decisions about their own treatment and care. The bill enables treatment to be provided to persons in this situation in a way that protects the patient's rights. The bill provides that treatment without a person's consent can only occur if the person is unable to consent and if there is a serious risk of harm to the person or others.

To reflect this revised approach, the legal authority to treat persons in the situation will be renamed to a treatment authority rather than an involuntary treatment order. The bill will be strengthened to ensure the rights of family carers and support persons to assist the patient during the treatment and in the patient's recovery. This is subject to the patient's right to privacy. The bill introduces the ability of a patient to appoint in advance a nominated support person who has rights to receive information and support the patient under the bill. The bill also expressly provides for authorised mental health services to record advanced health directives so that the patient can be treated under directive rather than through involuntary treatment under this bill.

013

The bill recognises that when a person is acutely unwell it is difficult for the patient and their support persons to understand patients' rights and responsibilities under the bill. This can be a very stressful time for support persons. To address this issue, the bill requires public sector authorised mental health services to appoint patients' rights advisers, whose role is to assist patients and their support person to understand their rights under the bill including at hearings of the Mental Health Review Tribunal.

The bill continues the role of the tribunal to regularly review treatment authorities and orders made under the bill and to decide whether a person is fit for trial. The interstate transfers of forensic patients into and out of Queensland are to be considered by the tribunal. The bill also strengthens patients' rights at hearings of the tribunal. There will be increased flexibility for patients to be represented and supported at tribunal hearings and to submit evidence to the tribunal.

For patients in the most vulnerable situation, the tribunal will provide legal representation for the patient at no cost to the patient. This will occur if the hearing involves a minor, where the Attorney-General is represented, for applications to perform electroconvulsive therapy and for fitness-for-trial reviews.

All jurisdictions are increasing efforts to reduce the need to place involuntary patients in seclusion. The bill tightens up the circumstances in which seclusion can be used, including by giving the Chief Psychiatrist the authority to direct that seclusion only occur under a reduction and elimination plan.

The use of mechanical restraints is primarily used in the high-security unit. As with seclusion, the bill tightens up the circumstances in which mechanical restraint can be used. The bill will require

data to be collected on the use of both seclusion and mechanical restraint and for the Chief Psychiatrist to report on their use in the annual report.

The bill strongly supports a recovery orientation for patients with mental illness which will align with clinical approaches to a patient's recovery. This includes providing that a patient on a treatment authority must be treated in the community unless it is not possible to meet the patient's treatment and care needs in this way. The bill also aligns with good clinical practice in other ways including, for example, enabling treatment to be provided at a clinically appropriate place.

The restrictions in the current act in relation to the use of audiovisual technology are removed in the bill. The bill continues to regulate treatment by way of electroconvulsive therapy and strengthens this in a number of areas including by requiring the tribunal to consider all treatment for minors.

Psychosurgery is prohibited under the bill. Procedures such as deep-brain stimulation for a mental illness may only be undertaken with the informed consent of the person and with the approval of the tribunal.

There are circumstances where persons with mental illness commit unlawful acts. As with people in the community generally, this only applies to a small number of persons with a mental illness. However, where this occurs the bill needs to ensure the community is adequately protected. Persons who are on a treatment authority or an order under the bill and are charged with a serious offence may request a psychiatric report be prepared on whether, in the opinion of the psychiatrist, the person was of unsound mind at the time of the alleged offence or is unfit for trial. The bill retains the Mental Health Court to make decisions on whether a person was of unsound mind at the time of the alleged offence or is unfit for trial. Where the court makes such a finding, the court may make a forensic order.

The bill also introduces a court treatment order, which is a less intensive order for circumstances where, for example, a person had a lesser role in an unlawful act. At a future review of a forensic order by the tribunal, the tribunal can also replace a forensic order with a court treatment order where it is appropriate to do so.

Victims of unlawful acts will be able to receive specified information about a particular person under the bill including the extent of community treatment for the person. For the most serious violent offences, such as murder, rape and grievous bodily harm, the bill enables the court to impose a non-revoke period of up to seven years on the order.

There has been a lot of public concern expressed about justice examination orders under the current act whereby a person can apply to a magistrate or a justice of the peace for someone else to be involuntarily detained and examined for a mental illness. This has led to circumstances where orders are issued inappropriately, including in family disputes. The bill will be substantially tightening up this authority by requiring any applicant to receive clinical advice, such as from an authorised mental health service, before considering an application. In addition, all applications are to be made to the tribunal, which has expertise in dealing with a person's mental illness.

The bill addresses a major discrepancy in the current legal framework in Queensland by giving magistrates the express power to discharge persons who appear to have been of unsound mind at the time of an alleged offence or appear to be unfit for trial. This gives magistrates much greater discretion to deal with circumstances where a criminal penalty is inappropriate. Magistrates may also direct that a person submit for an examination to decide whether a treatment authority should be made for the person or to make other recommendations about the person's treatment or care.

The bill continues the role of Chief Psychiatrist, who replaces the Director of Mental Health under the current act. The Chief Psychiatrist is responsible for protecting the rights of patients in authorised mental health services. The Chief Psychiatrist is to prepare policies and practice guidelines for the treatment of patients which must be publicly available.

The current Mental Health Act is overly complex and difficult to administer. This bill will reduce the compliance burden on those responsible for administering the legislation and resolve numerous operational problems in administering the current act. The bill repeals the Mental Health Act 2000.

I would like to thank the numerous stakeholders who have contributed to the development of the bill, particularly the Queensland Mental Health Commissioner and including mental health consumer groups, patients' rights groups, the staff of authorised mental health services, legal groups and members of the judiciary and government stakeholders such as the Public Guardian and the Public Advocate. I commend the bill to the House.

First Reading**Hon. LJ SPRINGBORG** (Southern Downs—LNP) (Minister for Health) (11.37 am): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Health and Community Services Committee**Mr DEPUTY SPEAKER** (Dr Robinson): Order! In accordance with standing order 131, the bill is now referred to the Health and Community Services Committee.**Portfolio Committee, Reporting Date****Hon. LJ SPRINGBORG** (Southern Downs—LNP) (Minister for Health) (11.37 am), by leave, without notice: I move—

That under the provisions of standing order 136 the Health and Community Services Committee report to the House on the Mental Health bill by 23 February 2015.

Question put—That the motion be agreed to.

Motion agreed to.

~~**LIQUOR AND FAIR TRADING LEGISLATION (RED TAPE REDUCTION)
AMENDMENT BILL**~~~~**Introduction**~~~~**Hon. JP BLEIJIE** (Kawana—LNP) (Attorney General and Minister for Justice) (11.38 am): I present a bill for an act to amend the Anglican Church of Australia Act 1895 Amendment Act 1901, the Anglican Church of Australia Constitution Act 1961, the Fair Trading Act 1989, the Liquor Act 1992, the Liquor Regulation 2002, the Oaths Act 1867, the Presbyterian Church of Australia Act 1900, the Presbyterian Church of Australia Act 1971, the Queensland Congregational Union Act 1967, the Safe Night Out Legislation Amendment Act 2014 and the Wesleyan Methodists, Independents, and Baptists Churches Act 1838 for particular purposes and to repeal the All Saints Church Land Act 1924, the Anglican Church of Australia Act 1895 Amendment Act 1901, the Anglican Church of Australia Act 1977, the Anglican Church of Australia (Diocese of Brisbane) Property Act 1889, the Ann Street Presbyterian Church Act 1889, the Boonah Show Ground Act 1914, the Chinese Temple Society Act 1964, the Presbyterian Church of Australia Act 1971, the Queensland Congregational Union Act 1967, the Roman Catholic Church (Corporation of the Sisters of Mercy of the Diocese of Cairns) Land Vesting Act 1945, the Roman Catholic Church (Northern Lands) Vesting Act 1941, the Roman Catholic Relief Act 1830, the Wesleyan Methodists, Independents, and Baptists Churches Act 1838 and the Wesleyan Methodist Trust Property Act 1853. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.~~~~*Tabled paper:* Liquor and Fair Trading Legislation (Red Tape Reduction) Amendment Bill 2014.~~~~*Tabled paper:* Liquor and Fair Trading Legislation (Red Tape Reduction) Amendment Bill 2014, explanatory notes.~~

014

~~The government is committed to building a four-pillar economy in Queensland based on tourism, agriculture, resources and construction. The government also understands the vital contribution local businesses make to our economy and we want Queensland to be the best place in Australia to do business. That is why the LNP government is working hard to implement policies that will make life easier for Queensland businesses, including by eliminating unnecessary regulation and red tape that simply serve to confuse stakeholders and increase costs unnecessarily. We have committed to Queenslanders that we will reduce regulation and red tape by 20 per cent by 2018. In the last 2½ years we have made significant progress towards this target through a range of reforms to the liquor, gaming and fair trading industries and have made over 60 red tape regulation reduction changes with the assistance of the expert panel appointed in 2012. That is why I am pleased to introduce the Liquor and Fair Trading Legislation (Red Tape Reduction) Amendment Bill 2014, which continues the government's agenda to reduce unnecessary regulation and red tape by 2018.~~