



Speech by

Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Thursday, 23 April 2009

CORONERS AND OTHER ACTS AMENDMENT BILL

Hon. CR DICK (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (11.53 am): I move—

That the bill be now read a second time.

It is now more than five years since the Coroners Act 2003 came into force. The 2003 act ushered in a new era for the state's coronial system. It repealed the 1958 Coroners Act, established an Office of the State Coroner and modernised and centralised the Queensland coronial regime. It focused the coronial regime on finding the truth of what happened in order to prevent deaths from similar causes happening in the future. This was a significant change from the old coronial system with its undue emphasis on criminality.

This bill is the result of an operational review of the act conducted by the Department of Justice and Attorney-General to identify any necessary changes to enhance its effectiveness. The bill does not change the fundamental philosophy or the policies underpinning the act. The amendments are aimed at clarifying the scope or operation of particular provisions and improving and refining procedures in the system. In particular, there are amendments to the definitions of various categories of reportable deaths. I seek leave to have the remainder of my speech incorporated in *Hansard*.

Leave granted.

The definition of "death in care" in relation to children in care is extended to ensure it captures all "out-of-home" placements.

While these deaths are within the intent of the current definition, because of the way the definition is framed, a range of "in care" situations would not be covered by the definition.

The new definition of "death in custody" will capture deaths in detention under all state and commonwealth laws (subject to specified exceptions).

At present, the definition is limited to detention by police, or under the *Corrective Services Act 2006* or *Juvenile Justice Act 1992*.

There will also be a new, specific category for deaths which happened in the course of, or as a result of, police operations, other than deaths in custody which will continue to be classified as deaths in custody for the purposes of the act.

For example, the death of a third party bystander or a police officer in the course of an attempt by police to detain a suspect would not be a death in custody, but would be a death in the course of a police operation.

In general, these changes are not expected to significantly extend the jurisdiction of the coroner.

The majority of deaths caught by the new definitions would currently be reportable under some existing category—for example, a violent or otherwise unnatural death.

The purpose of these changes is to ensure that deaths that are properly within the policy intent of these categories are classified and treated as such—that is, they will be subject to the specific investigation, or inquest, requirements that apply to these deaths.

The bill also replaces the current requirement to report a death that "was not reasonably expected to be the outcome of a health procedure" with a new category of "health care related deaths".

This amendment addresses issues raised in the report of the *Queensland Public Hospitals Commission of Inquiry* (the Davies Report).

The State Coroner has also raised issues about the language and interpretation of the current section.

The Davies Report did not specifically recommend amendment of the section but identified ambiguities which made it difficult to apply in practice and which could lead to under-reporting of medical deaths.

In particular, the report commented on the difficulty of identifying whose expectation, and to what standard, the outcome must have been unreasonable.

The bill addresses this by making it clear that it is the expectation of an independent person appropriately qualified in the relevant area of health care that is relevant in determining whether a death would be reasonably expected.

The amendments also identify the factors that may be taken into account in making the determination.

The bill contains a comprehensive definition of "health care related death" that captures deaths caused, or contributed to, by health care administered by a wide range of health professionals.

It also expressly captures not only the provision of health care, but failure to provide health care, or failure to provide some form of health care other than that which was provided.

Other amendments are mainly procedural in nature.

They include, for example, amendments to clarify the Coroner's powers in the preliminary investigation period; amendments to clarify and improve pre-inquest conference processes; and amendments to facilitate the reopening of investigations and inquests.

These will achieve greater clarity, certainty and efficiency in the administration of the act and reinforce the reforms of 2003.

I commend the bill to the House.