Speech by

Ros Bates

MEMBER FOR MUDGEERABA

Hansard Thursday, 20 August 2009

CORONERS AND OTHER ACTS AMENDMENT BILL

Ms BATES (Mudgeeraba—LNP) (12.54 pm): I rise today to make a contribution to the Coroners and Other Acts Amendment Bill 2009. The main objective of the bill is to amend the Coroners Act 2003 to improve operational efficiency in the coronial regime. The bill also makes a coronial related amendment to the Births, Deaths and Marriages Registration Act 2003 and consequential amendments to the Cremations Act 2003.

When the act came into force in 2003, it established a new coronial regime focused on finding the truth of what occurred in order to prevent deaths from similar causes happening in the future. This represented a marked departure from the repealed Coroners Act 1958, which gave the coronial process an undue focus on criminal liability. The Department of Justice and Attorney-General has conducted an operational review of the act to identify any necessary amendments to enhance administrative efficiency and to clarify the scope and operation of the act.

The amendments to this act are in part a direct response to the Davies inquiry. They change what has been deemed a reportable death through health care. These amendments will also introduce a new classification for a reportable death to the coroner involving 'death in the course or as a result of a police operation'. A death in care is also redefined and a death in custody is broadened to include all persons held under any state or Commonwealth act. The types of deaths that are reportable for deaths in care are to be expanded to include the following: places where accommodation is provided to persons with a disability; a person who is detained in a mental health service; a person who is in the custody or guardianship of the chief executive (child safety) under the Child Protection Act 1999; persons placed in care on a care agreement; and a child under a long-term guardianship order.

The bill also seeks to extend a reportable death to the coroner to include health care related deaths. This bill states—

(1) A person's death is a health care related death if, after the commencement, the person dies at any time after receiving health care that

(a) either—

(i) caused or is likely to have caused the death; or

(ii) contributed to or is likely to have contributed to the death; and

(b) immediately before receiving the health care, an independent person would not have reasonably expected that the health care would cause or contribute to the person's death.

(2) A person's death is also a health care related death if, after the commencement, the person dies at any time after health care was sought for the person and the health care, or a particular type of health care, failed to be provided to the person and—

(a) the failure either—

(i) caused or is likely to have caused the death, or

(ii) contributed or is likely to have contributed to the death; and

(b) when the health care was sought, an independent person would not have reasonably expected that there would be a failure to provide health care, or the particular type of health care, that would cause or contribute to the person's death.

This legislation is sweeping and does not contain a statute of limitations as to what period of time post hospitalisation the death is considered to be a reportable death. Does this include 24 hours post surgery or is it 12 months after the initial treatment was sought? A person who was known to me is a classic example of what should be reported as a health care related death and begs the question as to how long after the treatment was given it remains a death that requires notification.

This person was hospitalised for ongoing chest pain that required coronary artery bypass grafts. The patient was deemed fit for surgery and prior to surgery had no heart failure. It was also noted that this patient had mild renal impairment and as such would require close monitoring during the procedure. The patient had an adverse outcome during the procedure when an arterial line dislodged and was not noticed by staff for a period of 20 minutes intra-operatively, which led to massive haemorrhage resulting in heart failure and renal failure.

These were not present pre-operatively but were present postoperatively. The patient subsequently took eight months to die and during this time her quality of life was severely impacted. The cause of death on the death certificate was heart failure, which, again, was not present prior to the procedure, which led to the early death of this patient, who would otherwise have recovered normally given that the surgery itself was textbook. This example begs the question of whether this health care related death, which was due to care given or not given during the procedure which led to an untimely death, would be reported even if it were eight months after the initial procedure.

Additional amendments redefine who can view an autopsy. Further amendments outline how an application for an inquest can be held and how such an application must be made and opens the way for a coroner to reopen an inquest to re-examine a finding or hold a new inquest. The proposed amendments are primarily for the purpose of clarification, are procedural or technical in nature and do not involve a shift in the fundamental policy underpinning the legislation.

In particular, the bill includes amendments to clarify the scope and operation of the categories of reportable deaths, including amendments to address one of the coronial issues raised in the report of the Queensland Public Hospitals Commission of Inquiry—the Davies report—which was tabled 30 November 2005. This relates to the operation of the provision requiring the reporting of deaths that are the 'not reasonably expected to be the outcome of a health procedure'.

The philosophy underpinning the legislation and coronial legislation in other Australian jurisdictions is that certain deaths must be reported to and investigated by the coroner and that as part of this process the coroner must take control of the body.

Sitting suspended from 1.00 pm to 2.30 pm.

Ms BATES (Mudgeeraba—LNP) (2.31 pm): The legislation strikes a careful balance between the public interest in the effective conduct of the coronial investigation and the rights and interests of families. The Liberal National Party supports this bill but, as previously outlined, the changes to what constitutes a health care related death have no time frame or statute of limitations which must indeed be clarified and included in this bill by the minister.

Clear time frames are necessary, particularly for those families who have lost loved ones as a result of care given or not given in a health care related death. In many instances, whilst a coroner's case is onerous on families, for those families such as mine—where health care or lack thereof resulted in my mother's untimely death—it would have been welcomed. It will ensure that the civil process of malpractice is unnecessary because this act will now cover instances such as this, where a statute of limitations is outlined. I commend the bill to the House.