Speech By

Melissa McMahon

MEMBER FOR MACALISTER

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JUSTICE AND OTHER LEGISLATION AMENDMENT BILL

Mrs McMAHON (Macalister—ALP) (2.43 pm): I rise to contribute to the debate on the Justice and Other Legislation Amendment Bill 2019. From the outset, I would like to thank my Legal Affairs and Community Safety Committee colleagues and the secretariat for their able assistance and support during the deliberation of this bill. This bill amends several acts that will facilitate our justice system—matters before the court, matters pending and the administration of penalties and sentences. There are few major changes foreshadowed in this bill. However, the changes, in most cases, are minor and technical in nature and provide further clarification and represent an ongoing process of continual improvement in our justice system.

As I said, there are a number of acts amended by this bill. If the member for Southern Downs would prefer we had a separate inquiry for every single act amended, we could be here for quite some time, hence the omnibus bill.

Opposition members interjected.

Mrs McMAHON: I understand that dealing with multiple bills can be quite difficult for some. I will firstly address the changes to the Coroners Act. The majority of these amendments are as a result of recommendations from the Auditor-General's report titled *Delivering coronial services*. I apologise in advance to those who will hear some of this again during my speech tomorrow in the debate on committee reports. I promise I will go into far more detail then. Just a warning: it will be after lunch.

I note that the acting minister has discussed the issue of powers relating to inquests held pre commencement of the act. My intention is to focus on the issue of preliminary examinations. To provide clarity to members of this House, not every death in Queensland is reported to the Coroner. Section 8 of the Coroners Act identifies what is a reportable death. Approximately 17 per cent of all deaths in Queensland between 2011 and 2017 were considered reportable deaths under the definition. Not every reportable death is then examined by the Coroner. In fact, only 62 per cent of those were considered further. Not every death reported to the Coroner requires an autopsy, and even then there are different types or levels of autopsy conducted. Only after an autopsy and further examination of the evidence does a coroner consider whether an inquest will be heard. Only one per cent of all reportable deaths results in an inquest.

Each of these steps requires a volume of work by initial investigating police officers, coronial support staff, pathology and laboratory staff as well legal aspects conducted by the Coroners Court. Let us not forget that in and around all that is a grieving family. This process must be swift, it must be thorough, it must find answers to lingering questions, but it must also be compassionate. The aim is to prevent non-reportable deaths from entering the coronial system. Do not be mistaken, the processes undertaken once a body is lodged in a morgue are invasive and not delicate. For a grieving family each step through this process can compound the loss.

It is therefore essential that a balance must be found between finding the cause of death and being sensitive to the needs of the family of the deceased. Where a reportable death does not require a full or even partial autopsy, it should be triaged out of the coronial system so that a body may be released as soon as practicable and a family's grieving process continue. Ensuring that the least invasive of measures is taken is a key part of this particular amendment.

I have attended countless sudden deaths. I probably averaged one or more a week over my operational career. In my experience, the statistics on what is reportable to a coroner do hold true. In the instances where no cause of death certificate can be obtained and there are no external or outward indicators of the cause of death, it is understood by all that further investigation by the coroner is required. This should not mean that a full autopsy is required in every instance.

Clause 28 of the bill allows an approved doctor or a suitably qualified person under the supervision of a doctor to perform certain preliminary examinations of the body. Current preliminary examinations are limited to reviewing medical records and taking CT scans of a body. The act specifically prohibits the taking of blood samples. Amendments before the House seek to change this. New section 11AA(4) provides that a doctor approved by the State Coroner may perform preliminary examinations, including the taking of blood samples. Also included in these amendments is the consideration that must be given to a deceased's cultural traditions and spiritual beliefs prior to commencing an examination. For the benefit of members of the House, this information is provided on the form 1 provided to the examiner by attending police. Further amendments also seek to triage cases out of the coronial system.

Clause 29 allows a coroner, following the result of an autopsy that determines that death is due to natural causes, to stop investigating the death. Clause 31 additionally empowers the coroner to continue an investigation without necessarily conducting an autopsy. This amendment gives the coroner the discretion as to whether an autopsy is required. Currently, the only way a coroner can avoid an autopsy as a matter of course is to cease investigation. The conduct of autopsies can be extremely stressful for a grieving family. This amendment recognises that if a cause of death can be determined by less invasive means then it should be the preferred course of action.

To increase efficiencies within the coronial system, the amendment allows the appointment of additional coronial registrars to assist in managing cases and allow the delegation of some powers to the registrar but does not grant the power to conduct an inquest or require a person to give information relevant to the investigation. Additional delegation to coronial registrars includes the ability to consent to the removal of tissues and organs. Currently, if a deceased person's wish was to donate tissues or organs and the death is under investigation by the coroner, the coroner must consent to the release of those tissues and organs. This comes with time constraints and workload issues for coroners to consider those requests in a timely fashion that makes such donations viable. By being able to delegate this consent to the coronial registrars, a deceased person's wish regarding organ donation may still occur. I think that is probably enough of me talking about death for the day.

There are three other amendments in this bill I would like to briefly talk about, and they are changes to the Criminal Code and Evidence Act. Firstly, clause 49 amends the definition of 'law enforcement officer' with respect to the application of section 359E, 'Punishment of unlawful stalking'. Currently, there is a circumstance of aggravation for stalking where the subject of the stalking is a law enforcement officer currently undertaking an investigation into the activities of a criminal organisation. The amendment before the House ensures clarity that the term 'law enforcement officer' applies to a range of officers who conduct such investigations and is not limited to a sworn police officer. Whilst it does include an officer of a law enforcement agency, it now also includes a person appearing for a director under the DPP Act, such as a prosecutor, a person authorised in writing by the Police Commissioner or the Crime and Corruption Commission, understanding that these are not always sworn officers. This amendment is to ensure that all people who undertake investigations against organised criminal activity have the necessary protections.

Another amendment to the Criminal Code that may interest members is the amendment to section 463 under clause 50. Section 463 deals with setting fire to vegetation. This section is as old as the Criminal Code, and as such provided some level of difficulty in prosecuting instances of vegetation fire. The current definition under the Criminal Code allows for offences where the vegetation set fire to was (a) a crop of vegetable produce; (b) a crop of hay or grass; (c) any trees, saplings or shrubs; and (d) any heath, gorse, furze or fern.

Notwithstanding that few could provide clear definitions or even identify gorse or furze if they saw it, it has not been helpful in prosecuting grassfires—that is, naturally growing grass by the side of the road or in a backyard. Police would have had to prove the existence of saplings, shrubbery or heath in order to prosecute under this section. Subsection (d) will now refer to any grass other than the grass mentioned in subsection (b).

Finally, I turn to the Evidence Act. This bill amends section 93A, 'Statement made before proceeding by child or person with an impairment of the mind'. A 93A statement is commonly a video or taped interview with a child and a police officer used for the purpose of the child's evidence during a criminal proceedings. I am sure members would understand that the prospect of a child in a witness box is not conducive to the wellbeing of the child, particularly when you keep in mind the evidence they would be required to give and possibly who in front of.

Ordinarily when a vulnerable witness does give evidence in court the court may give consideration to excluding the public while the evidence is presented. However, the act has been silent on the playing of 93A statements to a court. This bill clarifies that a court may exclude the public from a courtroom while a statement made under section 93A is being presented. There are many other amendments I could address, but I will let others speak to them. I commend this bill to the House.