

CORONERS AND OTHER ACTS AMENDMENT BILL

First Reading

Hon. KG SHINE (Toowoomba North—ALP) (Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland) (2.30 pm): I present a bill for an act to amend the Coroners Act 2003, the Births, Deaths and Marriages Registration Act 2003, the Cremations Act 2003 and the Residential Services (Accreditation Act) 2002 for particular purposes. I present the explanatory notes, and 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.

Second Reading

Hon. KG SHINE (Toowoomba North—ALP) (Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland) (2.30 pm): I move—

That the bill be now read a second time.

It is now almost five years since the Coroners Act 2003 came into force. The act repealed the 1958 Coroners Act, established an Office of the State Coroner and modernised and centralised the Queensland coronial regime. It is fair to say that the new act heralded a new era for the state's coronial system. 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. Now that sufficient time has passed, my department has conducted an operational review of the act 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 the procedures in the system. In particular, there are amendments to the definitions of various categories of reportable deaths. The definition of 'death in care' in relation to children in care is extended to ensure that it captures all out-of-home placements. Whilst 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 Justices 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 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. I seek leave to incorporate the remainder of my speech in *Hansard*.

Leave granted.

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 is relevant in determining whether a death would be reasonably expected 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.

Residential Services (Accreditation) Act 2002

This bill also amends the Residential Services (Accreditation) Act 2002 to provide clarity and certainty to its coverage.

The accreditation act was always intended to cover the aged rental scheme sector of the residential services industry.

This sector provides both accommodation and a food or personal care service to older members of the community.

It is now apparent that at the time of drafting, there was not a full understanding of this emerging industry, particularly the ownership and management structures involved.

As such, there has been some uncertainty as to whether the act adequately captures aged rental schemes, particularly those where the accommodation and food services or personal care services are not provided by the same person.

These amendments will ensure coverage by the act and deliver consumer protection (particularly with respect to the quality of food services) to residents of aged rental schemes, many of whom are on fixed incomes, such as aged pensions, and have limited other accommodation options.

I commend the bill to the House.

Debate, on motion of Mr Horan, adjourned.

~~Mr DEPUTY SPEAKER (Mr Wendt): I acknowledge teachers, parents and children of All Souls St Gabriels School in Charters Towers, represented in this House by Mr Shane Knuth, the member for Charters Towers.~~

~~JUSTICE LEGISLATION AMENDMENT BILL~~

~~Second Reading~~

~~Resumed from 15 April (see p. 962), on motion of Mr Shine~~

~~That the bill be now read a second time.~~

~~Mr HORAN (Toowoomba South LNP) (2.34 pm): I welcome the boys and girls from All Souls in Charters Towers who are wonderfully represented by Mr Shane Knuth sitting here beside me. The Justice Legislation Amendment Bill 2008 is the first bill that I have undertaken in the new portfolio. At the outset I thank the staff of the Attorney General and justice minister for the briefings that they have provided. I have concerns about the manner in which this bill has been presented before the House. There are a number of different segments of this bill. We have concerns when one part that is of concern to us is semi-buried amongst other sections.~~

~~The amendments that we are dealing with today are from four vastly different portfolio areas. Consequently, the way in which they have been presented raises a number of questions as to what exactly the government is trying to slip through here. There is a grand total of eight pieces of legislation that will be altered by the introduction of this bill. I mention that at the outset because there is an ongoing trend of having many different types of sections included in one bill.~~

~~The bulk of the amendments deal with the classification of films and computer games. I have a number of concerns and questions regarding this aspect of the bill. I am advised that it was only days after the Attorney General moved the amendments to the Consumer Credit (Queensland) Act that he brought in these additional amendments under this particular bill. We believe it would have been prudent to keep all amendments to a particular act in one piece of legislation. Legislation that is passed in this state under the consumer credit act is supposed to be the template for the nation, and we will be discussing that later, but as it is the template for the nation we believe the amendments proposed in this bill should have gone through with the amendments that were contained in the Consumer Credit (Queensland) Act.~~

~~The Ministerial Council on Consumer Affairs agreed to undertake a post implementation review of the code to determine whether its objectives were being achieved. The code was also subject to a National Competition Policy review. Both reviews recommended amendments to the code and have been endorsed by the Standing Committee of Officials of Consumer Affairs and the Ministerial Council on Consumer Affairs. A key recommendation of the review is that terms sale of land contracts, conditional sale agreements and tiny terms agreements are brought within the scope of the code necessitating amendments to the code.~~

~~I note that the proposed amendments put forward in this bill that will change the Consumer Credit Code are the only ones from a wider post implementation review and National Competition Policy review that were not put out for public consultation. This is a strange decision, particularly if these amendments may have implications for the interest free borrowing industry and those who wish to borrow that way.~~