

Agreement in Principle

Mr MICHAEL DALEY (Maroubra—Minister for Police, and Minister for Finance) [11.30 a.m.]: I move:

That this bill be now agreed to in principle.

The Child Protection Legislation (Registrable Persons) Amendment Bill 2009 amends the Child Protection (Offenders Registration) Act 2000 and the Child Protection (Offenders Prohibition Orders) Act 2004 to improve the management of child sex offenders in the community. Recent events have raised questions about how child sex offenders are managed in our community once they have served their time and have been released from custody. In New South Wales since 2001 these offenders have been managed through the Child Protection Register, governed by the Child Protection (Offenders Registration) Act 2000 and administered by the New South Wales Police Force.

Schedule 1 of the bill contains various amendments to the Child Protection (Offenders Registration) Act. Offenders on the register—known as "registrable persons"—are required under section 9 of the Act to inform police of a wide range of personal information, including their primary place of residence. They are also required under section 11 of the Act to inform police of any change to that information within 14 days. The exception to this is that under section 11 (1) (a) registrable persons must currently inform police of any unsupervised contact with a child when that contact is for three days or more in a 12-month period, within three days of that contact occurring.

The bill amends section 11 (1) (a) so that registrable persons will now have 24 hours to report contact with a child. This change results from a recommendation of a national Child Protection Register working party, established through the Ministerial Council for Police and Emergency Management—Police [MCPEMP] and endorsed by MCPEMP in June 2009. All Australian jurisdictions will require their registrable persons to report any total of three days unsupervised contact with a child to police within 24 hours. Twenty-four hours is a more appropriate time frame for reporting ongoing contact with a child, as any such contact should be evaluated by police as soon as possible.

The bill also amends the section 11 requirements so that registrable persons must notify police of a change to their primary place of residence 14 days before they move. This change will ensure that police have advance notice of any planned moves made by registrable persons so that they can assess the new location and inform any relevant agencies if necessary. Clearly, 14 days advance notice will not be possible in all circumstances so the legislation makes an exception for unforeseeable emergency circumstances. Regardless of circumstance, a change of address must be notified to police as soon as practicable and, at most, within three days of a move.

Another key change to the Child Protection Register contained in this bill is the ability for the clock to be stopped on a registrable person's reporting period when that person is overseas for one month or more, through the proposed new section 15 (3) of the Act. The length of a registrable person's reporting period is determined by section 14A of the Act and will be eight years, 15 years or life, depending on the offence committed. For juveniles, these periods are halved, with a maximum of 7.5 years. Section 15 of the Act allows for a person's reporting period to be suspended for certain reasons. If the person is in custody, their reporting obligations are suspended and the period for which they are required to be registered is extended by that time. For example, if a person who is registered for seven years is jailed for two years during their reporting period, their reporting period will be extended to a total of nine years, with no reporting required during the two-year jail term.

Police have observed that some registrable persons appear to be going overseas for long periods of time to avoid their reporting obligations. It is also believed that some persons who are required to register in New South Wales and have not done so are, in fact, overseas and will return to New South Wales only when their reporting period has expired. An example is that of a citizen of the United Kingdom who returned to the United Kingdom for six or seven years of his eight-year reporting period and returned to Australia as soon as his reporting obligations ceased. While registered sex offenders in the United Kingdom are required to report in Australia as their legislation is recognised as corresponding to our regulations, our legislation is not recognised as corresponding by their legislation. This may need to be pursued through the Ministerial Council for Police and Emergency Management—Police and the Commonwealth to ensure that, where possible, corresponding registration with other jurisdictions is occurring.

Another example is a man who travelled to Indonesia for six months, a country without a register, returned to Australia for less than 14 days—so that he was not required to report—to renew his visa, and then returned to Indonesia. The bill inserts section 15 (3) into the Act so that prolonged periods of a month or more of overseas travel to countries without a corresponding register will result in a corresponding increase to the reporting period, as with terms of custody. The bill also amends section 16 of the Act so that a registrable person whose reporting period is extended under section 15 (3) can apply to the Administrative Decisions Tribunal to have their reporting obligations suspended for the extended period.

Police do more than an admirable job in managing registrable persons. However, to be truly effective, monitoring and management of high-risk registrable persons must be done on an interagency basis. To promote interagency collaboration in relation to registrable persons, in 2008 the Government endorsed the progressive statewide rollout of the Child Protection Watch Team across New South Wales. The Child Protection Watch Team consists of representatives from the New South Wales Police Force, Corrective Services NSW, Community Services, NSW Health, Justice Health, Juvenile Justice, Education and Training, Ageing, Disability and Home Care, and Housing NSW. The team takes an interagency risk management approach to high-risk registrable persons. This approach has been found to be effective in monitoring these persons and ensuring that information is exchanged appropriately and a person's risk of reoffending is minimised.

The Child Protection Watch Team was being progressively rolled out across New South Wales with a planned completion date of 2010. However, given current public concern about child sex offenders in the community, the Government has agreed to accelerate the rollout of the remaining branches of the team to cover the whole of New South Wales. To facilitate this accelerated rollout the allocation of seven new positions to the Child Protection Registry within the Sex Crimes Squad of the NSW Police Force that chairs the Child Protection Watch Team branches has been brought forward from 2010-11 to 1 January 2010. As part of the introduction of the Child Protection Watch Team, section 19BA of the Act was introduced clearly to allow the exchange of information on registrable persons between agencies.

Section 19BA currently states that agencies may disclose personal information about a registrable person to another agency if the disclosure of that information accords with the written authorisation given by a senior officer. The officer giving the authorisation must be satisfied that there are reasonable grounds to suspect that there is a risk of substantial adverse impact on the registrable person, or another person or class of persons, if the information is not disclosed, or that the information will assist in developing or giving effect to a case management plan for the registrable person. The intention of this legislative amendment was to clarify that there were no privacy impediments to the exchange of personal information in these circumstances. However, I am advised that certain agencies have remained reluctant to exchange information without the consent of the registrable person concerned.

It makes effective management and monitoring of registrable persons difficult if the full range of information is not made available. This bill therefore amends section 19BA to allow the Commissioner of Police to serve a notice on a scheduled agency directing it to provide personal information of a particular kind about a registrable person. A drafting error in the definition of "personal information" in section 19BA (5) has recently been identified which means that the current definition does not cover health information protected under the Health Records and Information Privacy Act 2002. As the Department of Health is a key member of the Child Protection Watch Team, section 19BA is clearly intended to cover the exchange of health information. This amendment therefore corrects the definition of "personal information" to clarify that health information is covered by section 19BA and can be exchanged freely between scheduled agencies under a section 19BA authorisation.

Information that has been exchanged between the Child Protection Watch Team agencies to date has been exchanged with the consent of the registrable person, so agencies have not been relying on section 19BA and thus have not been in breach of the legislation. Schedule 2 to the bill contains changes to the Child Protection (Offenders Prohibition Orders) Act 2004. This Act commenced in July 2005 fulfilling an election commitment made by this Government in 2003 to give officers in the NSW Police Force additional powers to monitor and restrict the conduct and behaviour of high-risk offenders against children who are on the Child Protection Register. Police can apply to a Local Court for an order to prevent registrable persons from engaging in specific behaviour when there is a reasonable cause to believe the behaviour poses a risk to the sexual safety or life of a child, or children generally.

This bill introduces a new type of order under that Act—a contact prohibition order—so that police can prevent a registrable person from contacting a specified co-offender or victim. Centrelink was recently criticised in the media for allegedly putting Dennis Ferguson into contact with his co-offender Alexandria Brookes. However, currently there is no general legislative restriction on a registrable person contacting a co-offender. Similarly, there is no general legislative restriction on a registrable person contacting a victim. Prohibiting association with a specified person or class of persons can be issued on sentence under the Crimes (Sentencing Procedure) Act, as a condition of an extended supervision order [ESO] under the Crimes (Serious Sex Offenders) Act, or of a child protection prohibition order [CPPO] under the Child Protection (Offender Prohibition Orders) Act.

The new contact prohibition order will complement the existing options for prohibiting associations by allowing police to prohibit registrable persons who are living in the community and who are not the subject of an ESO or a CPPO from contacting particular individuals who are their co-offenders or victims. A contact prohibition order will be granted by a Local Court on application from the Commissioner of Police when the commissioner has reasonable grounds to suspect that the registrable person will seek to contact the specified victim or co-offender. If the contact prohibition order is breached the registrable person will face a penalty of 12 months imprisonment, 50 penalty units, or both. Section 16D of the Act specifies that contact prohibition orders cannot be issued to restrict contact with a close family of a registrable person unless the court considers that there are exceptional circumstances that make this necessary.

This bill and the associated changes to the Child Protection Watch Team will enhance the multi-agency approach to the management of high-risk and high-profile registrable persons and continue to send a clear message to the community that protecting the safety of our children is a top priority of this Government. I commend the bill to the House.