



Privacy And Personal Information Protection Amendment (Prisoners) Bill

**Corrected
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20/11/2002**

Second Reading

PRIVACY AND PERSONAL INFORMATION PROTECTION AMENDMENT (PRISONERS) BILL

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Bill introduced and read a first time.

Declaration of urgency agreed to.

Second Reading

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [11.22 a.m.]: I move:

That this bill be now read a second time.

Honourable members will recall the recent statements of my colleague the Minister for Corrective Services, Mr Amery, in the other House about the convicted serial killer Ivan Milat. Mr Amery expressed concern about the possibility that Milat may be entitled to \$40,000 compensation for a breach of his privacy by the Department of Corrective Services, involving the public release of X-rays of Milat which were taken following his ingestion of razor blades and other metal objects in prison. Honourable members will also recall the disquiet following suggestions that the public release of a videotape taken in the course of a prison visit by family members with Bilal Skaf, the recently convicted serial rapist, may have involved a breach of privacy on the part of the Department of Corrective Services.

The Government remains committed to the privacy principles set out in the Privacy and Personal Information Protection Act 1998 and is committed to respecting the privacy of people in their dealings with government in general. The Government's view, however, is that criminals whose crimes are so serious that they warrant incarceration should not enjoy the full range of remedies available to others when their rights are infringed. In particular, the Government acknowledges the community's outrage over the proposition that Milat may be entitled to seek monetary compensation for a breach of his privacy by the Department of Corrective Services and believes that the right to damages for breaches of privacy is not a right that should be extended to prisoners or their relatives, friends or associates.

This is not to say that the Government is not prepared to protect prisoners from the inappropriate use of their personal information by government agencies. Indeed, it acknowledges that all government agencies, including the Department of Corrective Services, are obliged to ensure that records containing such information are handled with care. It also acknowledges that the sensitive management of these records is of particular importance for an agency such as the Department of Corrective Services where, for instance, the improper use of personal health records which disclose a prisoner's HIV status may put the life of a prisoner at risk. It is simply saying that if a prisoner's privacy is breached the prisoner should not be entitled to monetary compensation for that breach.

The bill provides that damages for a breach of privacy cannot be paid by a public sector agency—or the Privacy Commissioner where he acts as the agent of the agency—on an internal review of its conduct, or awarded by the Administrative Decisions Tribunal on an external review of the agency's conduct, if the applicant is a prisoner or a former prisoner, and the claim relates to the conduct of a public sector agency in relation to the prisoner or former prisoner that occurred while

the prisoner or former prisoner was an inmate in prison, or relates to the period when the prisoner or former prisoner was an inmate. It extends the prohibition on damages awards to a spouse, partner, relative, friend or associate of the prisoner or former prisoner where their claim relates to the conduct of a public sector agency in relation to the prisoner or former prisoner while the prisoner or former prisoner is, or was, in gaol. I commend the bill to the House.

Debate adjourned on motion by the Hon. John Jobling.

Bill Name: Privacy And Personal Information Protection Amendment (Prisoners) Bill
Stage: Second Reading
Business Type: Bill, Debate
Keywords: 2R
Speakers: Egan, The Hon Michael
Database: LC Hansard Extracts - 52nd Parliament of NSW / 523pc063 / 11

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