

Legislative Council Hansard – 20 September 2017 – Proof

JUSTICE LEGISLATION AMENDMENT BILL (NO 2) 2017*Second Reading***The Hon. DAVID CLARKE (21:28):** On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.**Leave not granted.**

The Justice Legislation Amendment Bill (No 2) 2017 will update and improve the operation of the New South Wales justice system by improving the efficiency and operation of legislation affecting the courts and other Justice portfolio agencies. In addition, a number of amendments are made to legislation in the Premier's portfolio. The bill will make minor amendments to a number of Acts in order to: improve civil procedure and debt recovery in New South Wales; improve and clarify court processes and criminal procedure, including for domestic violence matters; enhance criminal investigation and internal procedures for law enforcement agencies; and address the lack of jurisdiction of the NSW Civil and Administrative Tribunal to exercise judicial power in matters between interstate residents.

I will now outline each of the amendments. Clause 1 of the bill sets out the short title of the proposed Act. Clause 2 provides for the commencement of the proposed Act on the date of assent, except for the amendments to section 106, which will commence three months from the date of assent, and sections 118A and 124A of the Civil procedure Act 2005, schedule 1.2 [2] and [3], which will amend the Civil and Administrative Tribunal Act 2013, and schedules 1.3 [6], 1.10 and 1.17 [2], which will make other consequential amendments, which will commence upon proclamation, so affected agencies can prepare for implementation. Schedule 1 contains amendment provisions, which amend various Acts within the Justice portfolio and the Premier's portfolio. I seek leave to incorporate the balance of the second reading speech into Hansard.

The PRESIDENT: Order! If leave is being sought honourable members will allow me to at least put the question first. Is leave granted?

Leave not granted.

The Hon. DAVID CLARKE: Under section 33 of the Mental Health (Forensic Provisions) Act 1990, a magistrate can order that a defendant who appears to be mentally ill be taken to a mental health facility for the purpose of a mental health assessment. Practical difficulties arise under the current provisions where a person is bail refused at the time the magistrate makes an order under section 33. This is because mental health facilities cannot assess or detain remandees. Police officers must then detain the person in custody until such time as they can be brought before a court. Schedules 1.19 and 1.20 amend the Mental Health Act 2007 and Mental Health (Forensic Provisions) Act 1990 to clarify and standardise bail status so that bail is dispensed with when an order is made for a person to undergo a mental health assessment under section 33(1)(a), (1)(b), (1D)(a) or (1D)(b). These amendments complement amendments to the Bail Act 2013 in schedule 1.1. I refer honourable members to the Minister's speech in the other place.