

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.19 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

I am pleased to introduce the Crimes (Forensic Procedures) Amendment Bill 2008.

The purpose of the bill is to amend the Crimes (Forensic Procedures) Act 2000 to expand the circumstances in which DNA profiles can be matched on the DNA database.

There are currently 7 indexes on the DNA database. These indexes contain DNA information taken from different sources. They are comprised of a crime scene index, suspects index, volunteers (limited purpose) index, volunteers (unlimited purpose) index, offenders index, missing persons index and unknown deceased person index. Matching between these indexes is only permitted in certain circumstances as outlined in section 93 of the Crimes (Forensic Procedures) Act 2000.

DNA identification has become one of the most valuable tools for police in investigating crime and identifying people. The amendments in this bill will further assist law enforcement officers in using DNA evidence to catch criminals and solve crimes.

The bill permits the DNA profile of a suspect to be matched with a DNA profile on the "suspects index" of the DNA database and also permits the DNA profile of an unknown deceased person to be matched with a DNA profile on the "unknown deceased persons index" of the DNA database.

The bill enables the regulations to prescribe a person or body as a "responsible authority" of a participating jurisdiction for the purposes of Part 12 (Intestate enforcement) of the Principal Act and also permits the Attorney General to enter into a wider array of arrangements with the responsible authorities of one or more of participating jurisdictions to permit the matching of DNA information and the transfer of other information following any positive match.

I now turn to the detail of the bill.

Schedule 1 [1] clarifies the operation of the matching table in section 93 of the Crimes (Forensic Procedures) Act 2000. This technical amendment ensures that the matching table can be read both horizontally and vertically and maintain its symmetry. The effect is that the matching permitted by the table is abundantly clear.

The table to schedule 1 [1] adjusts the table in section 93 of the Act in the following ways:

Firstly, it allows a DNA profile on the "suspects index" of the DNA database to be matched with another DNA profile on the "suspects index". As the law currently stands no such matching is allowed. This is an invaluable tool for police as it ensures that any suspects who may have fraudulent or multiple identities cannot escape detection.

As required under s121 of the Act, the Ombudsman has conducted a thorough review of the Forensics legislation. In their review they have recommended that matching between profiles within the suspect index be permitted. They outline two main benefits of such matching:

One, the management of the DNA database will be improved by knowing exactly how many individuals are on the suspect index. The change allows duplicates to be identified and removed from the database. It will also improve the efficiency of the database by streamlining the data kept on it.

Two, any inconsistencies in the data on the database, for example, where suspects provide a false name, can be detected and dealt with. Criminals will no longer be able to use false identities in an attempt to avoid being matched through their DNA.

Secondly, it clarifies that a DNA profile which has been placed on the volunteers (limited purpose) index is permitted to be matched with a DNA profile in the crime scene index, offenders index, missing persons index or unknown deceased person index. However, such matching is only allowed if it is carried out for a purpose for which the DNA profile was placed on the volunteers (limited purpose) index.

The volunteers (limited purpose) index contains DNA profiles from victims and others who volunteer their DNA profiles to help fight crime or find loved ones. The purpose of these amendments is to make it abundantly clear that appropriate protections are in place for these volunteers. This legislation clarifies that when a volunteer provides a sample of their DNA, it can only ever be used for a specific purpose, and that is the purpose for which it was collected. It cannot be stored or matched against any other database, except for the purpose as specified at the time of collection.

Thirdly it clarifies that a DNA profile that is on the volunteers (unlimited purposes) index is permitted to be matched with a DNA profile on the offenders index.

Lastly, the table to schedule 1[1] permits matching of a DNA profile of an unknown deceased person to be matched to the DNA profile of another unknown deceased person on that index. Currently no such matching is permitted. This amendment will assist police in an event such as an explosion or a terrorist attack where it may be difficult to identify body parts and where it might be necessary to match unknown deceased DNA to other unknown deceased DNA.

Schedule 1 [2] through to 1 [6] relate to the sharing of DNA information with other jurisdictions. The changes, although technical, provide the Attorney General with the flexibility to enter into a greater variety of arrangements to share DNA information with other jurisdictions while retaining important protections in relation to how such information can be used.

New South Wales is currently matching and sharing DNA information with the Australian Capital Territory, the Commonwealth, South Australia, Western Australia, Tasmania and Victoria. Matching is conducted by the CrimTrac Agency, a Commonwealth body which controls the National DNA Database. CrimTrac will now be named in the Act as the body that does so.

We also have an arrangement to share DNA data concerning specific investigations with Queensland.

These agreements will be retained, however, these amendments allow for greater flexibility in entering such arrangements. The validity of our current arrangements is ensured by the saving provisions in schedule 1 [7].

The new section 97 provides that the arrangements with other jurisdictions may be entered into only for the purposes of investigating, or conducting proceedings for, an offence against the law of this State or those jurisdictions, or the identification of missing or deceased persons. If CrimTrac is a party to an arrangement or an arrangement is made bilaterally with CrimTrac, like the one New South Wales has now, CrimTrac can be authorised to compare New South Wales DNA data with DNA data from another jurisdiction. CrimTrac can also be authorised to inform New South Wales agencies and other jurisdiction's agencies of any matches that it finds.

Information transmitted under any such arrangements may not be used except for one of these purposes.

Section 97 of the Act limited the transmission of data from the database under certain circumstances. The proposed amendments in this bill allow the Attorney General to conclude more nuanced agreements for transmitting DNA to other jurisdictions and ensure that such transmission is appropriate to the circumstances. The proposed amended section 97 still ensures that DNA data can only be used for limited purposes once it is transmitted.

This Government is committed to reducing rates of crime, particularly violent crime. This bill implements election commitments concerning the DNA matching table and matching suspect profiles. The bill will ensure that New South Wales can effectively share DNA information with other jurisdictions and that police in New South Wales can adequately utilise the available technology.

I commend the bill to the House.