

## Second Reading

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [8.59 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

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

### Leave granted.

The New South Wales Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2009 amends the Births, Deaths and Marriages Registration Act 1995, strengthening change of name procedures so that criminals cannot utilise the change of name system to cloak their criminal records. The Births, Deaths and Marriages Act provides for the registration of births, deaths, marriages, changes of name and other events with the Registrar of Births, Deaths and Marriages. Currently, the Act allows an adult who is domiciled or ordinarily resident in New South Wales, or whose birth is registered in New South Wales, to apply to the Registrar to change his or her name. Parents and those with parental responsibility may apply to change their child's name.

In practice, a person applies for a change of name by completing a statutory declaration and providing evidence of his or her identity. Trained registry staff vet change of name applications before approval. Applications that fail checks or are suspicious are forwarded to a senior compliance officer or manager for further advice. An applicant may be called on to attend an interview in person. Approximately half the 45,000 change of name applications received each year are actually registered. There are valid reasons why a person may wish to register a change of name. For example, a victim fleeing domestic violence may wish to take steps to ensure that he or she cannot be found by the perpetrator, or a person may dislike the name that he or she was given at birth. However, some people may abuse the change of name system to conceal their criminal history in order to elude detection by law enforcement agencies. This bill will help to ensure that this does not happen.

Currently, there is no restriction under the Act on people born outside New South Wales, whether interstate or overseas, applying to the Registrar for a change of name. The bill will amend the Act so that if a person was born in Australia his or her birth must be registered in New South Wales for him or her to be eligible to apply to the Registrar for a change of name. This will enable an applicant's change of name to be directly linked to his or her birth record, thereby minimising the opportunity for fraud and abuse of the change of name system. However, the bill does allow victims of domestic violence to change their names in New South Wales regardless of whether or not their birth has been registered in New South Wales. In addition, the bill only allows people born overseas to change their name in New South Wales if they have resided in New South Wales for at least three consecutive years. This is to ensure that the individual has a connection to the State of New South Wales. However, the Registrar of Births, Deaths and Marriages will have discretion to allow a change of name in this circumstance—for example, to assist in protecting the person from harm.

The proposed amendments will apply also to children, so that if a child is born in Australia the parents or person with parental responsibility can apply to change the child's name only if the child's birth is registered in New South Wales. This will not apply where a child is adopted. If a child is born overseas the parents or person with parental responsibility must have resided in New South Wales for at least three consecutive years to be eligible to apply to change the child's name. This will not apply where a child is adopted. Currently, the Births, Deaths and Marriages Act has no restriction on the number of times a person may register a change of name. A person's name should not be changed capriciously, as that name goes to his or her identity within the community.

The bill will only allow a person to change his or her name by registration once in a 12-month period and only three times in his or her lifetime, unless there is a court order for a further change of name, or if the Registrar exercises discretion to allow a further change of name. The restrictions will not include any change of name by marriage and will not apply to persons in witness protection programs or officers in authorised agencies who are using assumed identities. To ensure that people with a criminal record do not abuse the change of name system, it is proposed to amend the Act specifically to require a person applying for a change of name to disclose whether or not he or she has a criminal record. The provision of false or misleading information in this regard constitutes a special offence against the existing offence in the Births, Deaths and Marriages Act, with a maximum penalty of 100 penalty units, or two years imprisonment, or both.

A false or misleading disclosure about one's criminal history in a change of name application is in addition to an offence for any other false or misleading representation made in the same application. It is not only through legislative amendments that the New South Wales Government is stopping criminals from abusing the change of name system. New South Wales recently implemented a memorandum of understanding between the New South Wales Police Force and the New South Wales Registrar of Births, Deaths and Marriages ensuring that information is exchanged between the two agencies regarding people with criminal histories who change their names. Change of name information held by the Registrar is of interest to a range of law enforcement and security agencies.

The bill will specifically enable the registrar to provide change of name information to State, Territory and Commonwealth police forces and the New South Wales Crime Commission. Any other law enforcement or investigating agency may also be prescribed by regulation. This will help stop criminals from effectively wiping the slate clean by changing their names. The New South Wales Attorney General has also raised this issue with his colleagues at the last meeting of the Standing Committee of Attorneys-General. As a result, New South Wales is leading a

Standing Committee of Attorneys-General project to develop a national best practice approach so that criminals cannot abuse the change of name system across borders. I commend the bill to the House.