2001-2002-2003-2004

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

MINUTES OF PROCEEDINGS

No. 114

WEDNESDAY, 18 AUGUST 2004

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1 The Assembly met at 10.30 a.m., pursuant to adjournment. The Speaker (Mr Berry) took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 PETITION

The Clerk announced that the following Member had lodged a petition for presentation:

Mr Cornwell, from 215 residents, requesting that the Assembly call on the ACT Government to, as soon as possible, place a 40km school speed zone on Strangways Street, Curtin to ensure the safety of students of Holy Trinity Primary School, Curtin.

3 LAND (PLANNING AND ENVIRONMENT) (UNIT DEVELOPMENTS) AMENDMENT BILL 2004

The order of the day having been read for the resumption of the debate on the question – That this Bill be agreed to in principle –

Debate resumed.

Ms Tucker, by leave, was granted an extension of time.

Question – That this Bill be agreed to in principle – put.

The Assembly voted —

Ayes, 1	Noes, 12	
Ms Tucker	Mr Berry	Mr Hargreaves
	Mr Cornwell	Ms MacDonald
	Mrs Cross	Mr Pratt
	Ms Dundas	Mr Quinlan
	Mrs Dunne	Mr Stefaniak
	Ms Gallagher	Mr Wood

And so it was negatived.

4 LATE NIGHT SITTINGS

Ms MacDonald, pursuant to notice, moved – That this Assembly:

(1) recognises the impact late night sittings of the ACT Legislative Assembly have on Members and staff and their families;

(2) notes that the effectiveness of work and quality of debate diminishes during late night sittings;

(3) agrees that a time limit and alternative sitting patterns need to be considered to ensure quality debate and effectiveness; and

(4) requests that the Standing Committee on Administration and Procedure inquire into this issue.

Debate ensued.

Mrs Dunne, who had already spoken, by leave, again addressed the Assembly.

Debate continued.

Question – put and passed.

5 QUESTIONS

Questions without notice were asked.

6 CORRECTIONS REFORM AMENDMENT BILL 2003

The Assembly, according to order, resumed consideration at the detail stage.

Detail stage

Clause 1 agreed to.

Clause 2 –

On the motion of Mr Smyth (Leader of the Opposition), his amendment No. 1 (*see* Schedule 1) was made, after debate.

Clause 2, as amended, agreed to.

Clause 3 agreed to.

Clause 4 –

On the motion of Mr Smyth, his amendment No. 2 (*see* Schedule 1) was made.

Clause 4, as amended, agreed to.

Clause 5 –

Mr Smyth, by leave, moved his amendments Nos. 3 to 7 (*see* Schedule 1) together.

Debate continued.

Amendments negatived.

Clause 5 negatived.

Clauses 6 to 14, by leave, taken together and negatived, after debate.

Clause 15 negatived.

Remainder of the Bill, by leave, taken as a whole, debated and negatived.

Question – That this Bill, as amended, be agreed to – put and passed.

7 NATURE CONSERVATION (NATIVE VEGETATION PROTECTION) AMENDMENT BILL 2004

The order of the day having been read for the resumption of the debate on the question – That this Bill be agreed to in principle –

Debate resumed.

Question – That this Bill be agreed to in principle – put.

The Assembly voted —

Ayes, 2	Noes, 13	
Ms Dundas	Mr Berry	Mr Pratt
Ms Tucker	Mrs Burke	Mr Quinlan
	Mr Cornwell	Mr Smyth
	Mrs Cross	Mr Stanhope
	Ms Gallagher	Mr Stefaniak
	Mr Hargreaves	Mr Wood
	Ms MacDonald	

And so it was negatived.

8 PRESENTATION OF PAPERS

Mr Wood (Acting Minister for Health) presented the following papers:

Calvary Public Hospital – Information Bulletin – Patient Activity Data – External Distribution – July 2004.

The Canberra Hospital – Information Bulletin – Patient Activity Data – July 2004.

9 CHARTER OF RESPONSIBILITIES BILL 2004

The order of the day having been read for the resumption of the debate on the question – That this Bill be agreed to in principle –

Debate resumed.

Mr Stefaniak addressing the Assembly –

Adjournment negatived: It being 5 p.m. – The question was proposed – That the Assembly do now adjourn.

Mr Stanhope (Chief Minister) requiring the question to be put forthwith without debate –

Question – put and negatived.

Debate continued.

Question – That this Bill be agreed to in principle – put.

The Assembly voted —

Ayes, 5	Noes, 9	
Mrs Burke	Mr Berry	Mr Quinlan
Mr Cornwell	Ms Dundas	Mr Stanhope
Mrs Dunne	Ms Gallagher	Ms Tucker
Mr Smyth	Mr Hargreaves	Mr Wood
Mr Stefaniak	Ms MacDonald	

And so it was negatived.

10 CORRECTIONS REFORM AMENDMENT BILL 2003 – RESCISSION AND RECONSIDERATION

Mr Smyth (Leader of the Opposition), by leave, moved – That the Assembly:

(1) rescind the resolution of the Assembly to agree to the remainder of the Bill as a whole and that the Bill, as amended, be agreed to; and

(2) recommit the Bill at the detail stage and that the following questions be put in relation to the Bill:

(a) that clauses 16 and 17 be agreed to;

(b) that the Title be agreed to; and

(c) that this Bill, as amended, be agreed to.

Question – put and passed.

11 CORRECTIONS REFORM AMENDMENT BILL 2003

The Assembly, according to order, commenced reconsideration of clauses 16 and 17 at the detail stage.

Detail stage

Clauses 16 and 17, by leave, taken together and negatived.

Title agreed to.

Question – That this Bill, as amended, be agreed to – put and passed.

12 RESIDENTIAL PROPERTY (AWARENESS OF ASBESTOS) AMENDMENT BILL 2004

The order of the day having been read for the resumption of the debate on the question – That this Bill be agreed to in principle –

Debate adjourned (Mr Hargreaves) and the resumption of the debate made an order of the day for the next sitting.

13 ADJOURNMENT

Mr Wood (Manager of Government Business) moved – That the Assembly do now adjourn.

Debate ensued.

The Assembly continuing to sit until 5.30 p.m. – The Speaker adjourned the Assembly until tomorrow at 10.30 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting, except Mr Corbell (on leave).

T Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

CORRECTIONS REFORM AMENDMENT BILL 2003

Amendments circulated by Mr Smyth (Leader of the Opposition)

1
Clause 2
Page 2, line 5—

omit clause 2, substitute

2 Commencement

(1) This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

(2) If this Act, or a provision of this Act, has not commenced within 12 months beginning on the notification day of this Act, the Act or provision automatically commences on the first day after that period.

2
Clause 4
Proposed new section 338 (1) (a) (ii)
Page 3, line 23—

omit proposed new section 338 (1) (a) (ii), substitute

(ii) if ordered by a court—may be reviewed by the sentence administration board; and

3
Clause 5
Proposed new section 366C (1) to (10)
Page 8, line 2—

omit proposed new section 366C (1) to (10), substitute

(1) A court that sentences an offender may, by order (a ***review order***) provide for the review of the sentence during its term by the sentence administration board, subject to this section.

(2) A review order may provide for 1 or more reviews of the sentence by the board, to be carried out within periods, or in circumstances, stated in the order.

(3) A review order may provide for either or both of the following:

(a) a penalty mentioned in section 366B to be imposed on the direction of the board, after a review by the board;

(b) the circumstances in which a penalty may, subject to any conditions stated in the order, be changed on direction by the board, after a review by the board.

Note ***Change*** includes change by omission, substitution or addition (see Legislation Act, dict, pt 1).

(4) Before making a direction under a review order, the board must ask the offender's case manager to make a written submission to the board about the proposed direction.

Note Case managers for offenders are appointed under the *Rehabilitation of Offenders (Interim) Act 2001*, s 97A.

(5) In considering whether to make a direction under a review order, the board must take into account any submissions given to the board under subsection (4).

(6) If the board makes a direction under a review order, the direction takes effect as if it had been made by the court in sentencing the offender.

(7) If a review order is made for an offender, and the offender breaches a penalty order, or a condition stated in the review order, the court may, by order, in addition to any other powers the court may exercise in relation to the sentence—

(a) change the review order to restrict or remove the powers of the board under the order; or

(b) revoke the review order.

(8) This section does not prevent the court, by order, otherwise than under subsection (7)—

(a) changing a review order (including a change to a condition of a review order); or

(b) revoking a review order.

(9) The court may not, by a review order, authorise the board to change—

(a) a nonparole period fixed in the sentence; or

(b) the overall term of the sentence.

4
Clause 5
Proposed new section 366C, example 1
Page 9, line 12—

omit

The court also orders

substitute

The court, by a review order, orders

5
Clause 5
Proposed new section 366C, example 2
Page 9, line 24—

omit

The court also orders

substitute

The court, by a review order, orders

6
Clause 5
Proposed new section 366C, example 2
Page 9, line 29—

omit

The court further orders

substitute

The review order also provides

7
Clause 5
Proposed new section 366D
Page 10, line 11—

omit

Supreme Court or Magistrates Court

substitute

Supreme Court and Magistrates Court

8
Clause 15
Proposed new section 97A (1)
Page 18, line 4—

omit proposed new section 97A (1), substitute

(1) The director of corrective services must, in writing, appoint a case manager for a sentenced offender, unless the only penalty imposed on the offender is a fine.

9
Clause 16
Dictionary, proposed new definition of *case manager*
Page 18, line 11—

omit the proposed new definition, substitute

case manager, in relation to a sentenced offender, means a person appointed as case manager for the offender under section 97A.