



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2004–2005–2006–2007–2008

MINUTES OF PROCEEDINGS

No. 146

TUESDAY, 1 JULY 2008

1 The Assembly met at 10.30 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Berry) ordered the bells to be rung. A quorum having been formed, the Speaker 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 PRIVILEGE—STATEMENT BY SPEAKER

The Speaker made a statement concerning an alleged breach of privilege raised by Ms Porter in relation to the private deliberations of the Select Committee on Estimates 2008-2009.

Paper: The Speaker presented the following paper:

Alleged breach of privilege—Letter to the Speaker from Ms Porter, dated 25 June 2008.

Having considered the matter, the Speaker stated that he did not believe the matter warranted precedence under standing order 276(d).

3 PRIVILEGE—STATEMENT BY SPEAKER

The Speaker made a statement concerning an alleged breach of privilege raised by Mr Corbell (Minister for Police and Emergency Services) in relation to the conduct of Mr Stefaniak, Chair of the Standing Committee on Legal Affairs, during the Committee's inquiry into ACT fire and emergency services arrangements.

Paper: The Speaker presented the following paper:

Alleged breach of privilege—Letter to the Speaker from Mr Corbell (Minister for Police and Emergency Services), dated 27 June 2008.

Having considered the matter, the Speaker stated that he was prepared to allow precedence to a motion under standing order 276(e).

4 PRIVILEGES—SELECT COMMITTEE—ESTABLISHMENT

Mr Corbell (Manager of Government Business) moved—That:

- (1) a Select Committee on Privileges be established to inquire into and report on the actions of Mr Stefaniak as the Chair of the Standing Committee on Legal Affairs in relation to a letter written to Mr Corbell on 16 June 2008 as part of the Committee's inquiry into ACT fire and emergency services arrangements;
 - (2) the Committee is to consider:
 - (a) whether Mr Stefaniak acted without the authority of the Committee when he made the requests to Mr Corbell for certain documents as outlined in his letter of 16 June 2008; and
 - (b) whether this constitutes a breach of privilege by Mr Stefaniak;
 - (3) the Committee shall report by 26 August 2008; and
 - (4) the Committee shall be composed of:
 - (a) one member nominated by the Government;
 - (b) one member nominated by the Crossbench; and
 - (c) one member nomination by the Opposition;
- notified to the Speaker by 4 p.m., Tuesday, 1 July 2008.

Debate ensued.

Mr Smyth moved the following amendment: Insert new paragraph (2(aa)):

“(2(aa)) how Mr Corbell became aware of the fact that the Committee had not authorised the letter;”.

Debate continued.

Paper: Mr Stefaniak, by leave, presented the following paper:

Inquiry into ACT fire and emergency services arrangements—Copy of letter to the Minister for Police and Emergency Services from Mr Stefaniak, Chair, Standing Committee on Legal Affairs, dated 20 June 2008.

Debate continued.

Question—That Mr Smyth's amendment be agreed to—put and passed.

Question—That the motion, as amended, viz:

“That:

- (1) a Select Committee on Privileges be established to inquire into and report on the actions of Mr Stefaniak as the Chair of the Standing Committee on Legal Affairs in relation to a letter written to Mr Corbell on 16 June 2008 as part of the Committee's inquiry into ACT fire and emergency services arrangements;
- (2) the Committee is to consider:
 - (a) whether Mr Stefaniak acted without the authority of the Committee when he made the requests to Mr Corbell for certain documents as outlined in his letter of 16 June 2008;

- (b) how Mr Corbell became aware of the fact that the Committee had not authorised the letter; and
- (c) whether this constitutes a breach of privilege by Mr Stefaniak; and
- (3) the Committee shall report by 26 August 2008; and
- (4) the Committee shall be composed of:
 - (a) one member nominated by the Government;
 - (b) one member nominated by the Crossbench; and
 - (c) one member nomination by the Opposition;
 notified to the Speaker by 4 p.m., Tuesday, 1 July 2008.”—

be agreed to—put.

The Assembly voted—

AYES, 9		NOES, 6	
Mr Barr	Ms MacDonald	Mrs Burke	Mr Stefaniak
Mr Berry	Mr Mulcahy	Mrs Dunne	
Mr Corbell	Ms Porter	Dr Foskey	
Ms Gallagher	Mr Stanhope	Mr Seselja	
Mr Gentleman		Mr Smyth	

And so it was resolved in the affirmative.

5 CHILDREN AND YOUNG PEOPLE BILL 2008

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.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

6 QUESTIONS

Questions without notice were asked.

7 PRESENTATION OF PAPERS

The Speaker presented the following papers:

Study trip—Report by—Mrs Burke MLA—Meeting of State and Territory Shadow Ministers for Health—Sydney, 23 May 2008.

8 FINANCIAL MANAGEMENT ACT—INSTRUMENTS—PAPERS AND STATEMENT BY MINISTER

Mr Stanhope (Treasurer) presented the following papers:

Financial Management Act, pursuant to section 17—Instruments, including statements of reasons, varying appropriations relating to Commonwealth funding for the following Departments:

Disability, Housing and Community Services, dated 27 June 2008.

Education and Training—

Dated 26 June 2008.

Dated 30 June 2008.

and, by leave, made a statement in relation to the papers.

9 FINANCIAL MANAGEMENT ACT—INSTRUMENT—PAPER AND STATEMENT BY MINISTER

Mr Stanhope (Treasurer) presented the following paper:

Financial Management Act, pursuant to section 18A—Statement of authorisation of expenditure from the Treasurer’s Advance in 2007-2008.

and, by leave, made a statement in relation to the paper.

10 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—COMMUNITY CONSULTATION—STANHOPE GOVERNMENT’S PERFORMANCE

The Assembly was informed that Mrs Burke, Mrs Dunne, Dr Foskey, Mr Gentleman, Ms MacDonald, Mr Mulcahy, Ms Porter, Mr Pratt, Mr Smyth and Mr Stefaniak had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Mr Stefaniak be submitted to the Assembly, namely, “The Stanhope Government’s performance in community consultation”.

Discussion ensued.

The time for discussion having expired—

Discussion concluded.

11 CHILDREN AND YOUNG PEOPLE BILL 2008

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 and passed.

Detail Stage

Clauses 1 to 6, by leave, taken together and agreed to.

Clause 7—

On the motion of Dr Foskey, her amendment No. 1 (*see* [Schedule 1](#)) was made, after debate.

Clause 7, as amended, agreed to.

Clause 8—

On the motion of Ms Gallagher (Minister for Children and Young People), her amendment No. 1 (*see* [Schedule 2](#)) was made, after debate.

Paper: Ms Gallagher presented a supplementary explanatory statement to the Government amendments.

Clause 8, as amended, agreed to.

Clauses 9 to 18, by leave, taken together and agreed to.

Clause 19—

On the motion of Ms Gallagher, by leave, her amendments Nos. 2 and 3 (*see* [Schedule 2](#)) were made together.

Clause 19, as amended, agreed to.

Clause 20—

On the motion of Ms Gallagher, her amendment No. 4 (*see* [Schedule 2](#)) was made.

Clause 20, as amended, agreed to.

Clauses 21 to 36, by leave, taken together and agreed to.

Clause 37—

On the motion of Ms Gallagher, her amendment No. 5 (*see* [Schedule 2](#)) was made.

Clause 37, as amended, agreed to.

Clause 38—

On the motion of Ms Gallagher, her amendment No. 6 (*see* [Schedule 2](#)) was made.

Clause 38, as amended, agreed to.

Clauses 39 to 69, by leave, taken together and agreed to.

Clause 70—

On the motion of Ms Gallagher, her amendment No. 7 (*see* [Schedule 2](#)) was made, after debate.

Clause 70, as amended, agreed to.

Clauses 71 to 102, by leave, taken together and agreed to.

New clause—

On the motion of Ms Gallagher, new clause 102A (her amendment No. 8—*see* [Schedule 2](#)), was inserted in the Bill.

Clauses 103 to 107, by leave, taken together and agreed to.

Clause 108—

On the motion of Ms Gallagher, her amendment No. 9 (*see* [Schedule 2](#)) was made.

Clause 108, as amended, agreed to.

Clause 109 agreed to.

Clause 110—

On the motion of Ms Gallagher, her amendment No. 10 (*see* [Schedule 2](#)) was made.

Clause 110, as amended, agreed to.

Clauses 111 to 135, by leave, taken together and agreed to.

Clause 136—

On the motion of Ms Gallagher, her amendment No. 11 (*see* [Schedule 2](#)) was made.

Clause 136, as amended, agreed to.

Clauses 137 to 145, by leave, taken together and agreed to.

Clause 146—

On the motion of Ms Gallagher, her amendment No. 12 (*see* [Schedule 2](#)) was made.

Clause 146, as amended, agreed to.

Clauses 147 to 150, by leave, taken together and agreed to.

Clause 151—

On the motion of Ms Gallagher, her amendment No. 13 (*see* [Schedule 2](#)) was made.

Clause 151, as amended, agreed to.

Clauses 152 to 171, by leave, taken together and agreed to.

Clause 172—

On the motion of Ms Gallagher, her amendment No. 14 (*see* [Schedule 2](#)) was made.

Clause 172, as amended, agreed to.

Clauses 173 to 183, by leave, taken together and agreed to.

Clause 184—

On the motion of Ms Gallagher, her amendment No. 15 (*see* [Schedule 2](#)) was made.

Clause 184, as amended, agreed to.

Clauses 185 to 207, by leave, taken together and agreed to.

Clause 208—

On the motion of Ms Gallagher, by leave, her amendments Nos. 16 to 18 (*see* [Schedule 2](#)) were made together.

Clause 208, as amended, agreed to.

Clauses 209 to 231, by leave, taken together and agreed to.

Clause 232—

On the motion of Ms Gallagher, her amendment No. 19 (*see* [Schedule 2](#)) was made.

Clause 232, as amended, agreed to.

Clauses 233 to 243, by leave, taken together and agreed to.

Clause 244—

On the motion of Ms Gallagher, her amendment No. 20 (*see* [Schedule 2](#)) was made.

Clause 244, as amended, agreed to.

Clauses 245 to 272, by leave, taken together and agreed to.

Clause 273—

On the motion of Ms Gallagher, by leave, her amendments Nos. 21 to 23 (*see* [Schedule 2](#)) were made together.

Clause 273, as amended, agreed to.

Clauses 274 to 285, by leave, taken together and agreed to.

Clause 286—

On the motion of Ms Gallagher, by leave, her amendments Nos. 24 to 26 (*see* [Schedule 2](#)) were made together.

Clause 286, as amended, agreed to.

Clauses 287 to 305, by leave, taken together and agreed to.

Clause 306—

On the motion of Ms Gallagher, her amendment No. 27 (*see* [Schedule 2](#)) was made.

Clause 306, as amended, agreed to.

Clauses 307 and 308, by leave, taken together and agreed to.

Clause 309—

On the motion of Ms Gallagher, her amendment No. 28 (*see* [Schedule 2](#)) was made.

Clause 309, as amended, agreed to.

Clauses 310 to 472, by leave, taken together and agreed to.

Clause 473—

On the motion of Ms Gallagher, by leave, her amendments Nos. 29 and 30 (*see* [Schedule 2](#)) were made together.

Clause 473, as amended, agreed to.

Clauses 474 to 503, by leave, taken together and agreed to.

Clause 504—

On the motion of Ms Gallagher, her amendment No. 31 (*see* [Schedule 2](#)) was made.

Clause 504, as amended, agreed to.

Clauses 505 to 511, by leave, taken together and agreed to.

Clause 512—

On the motion of Ms Gallagher, her amendment No. 32 (*see* [Schedule 2](#)) was made.

Clause 512, as amended, agreed to.

Clauses 513 to 524, by leave, taken together and agreed to.

Clause 525—

On the motion of Ms Gallagher, her amendment No. 33 (*see* [Schedule 2](#)) was made.

Clause 525, as amended, agreed to.

Clauses 526 to 586, by leave, taken together and agreed to.

Clause 587—

On the motion of Ms Gallagher, her amendment No. 34 (*see* [Schedule 2](#)) was made.

Clause 587, as amended, agreed to.

Clause 588—

On the motion of Ms Gallagher, her amendment No. 35 (*see* [Schedule 2](#)) was made.

Clause 588, as amended, agreed to.

Clauses 589 to 709, by leave, taken together and agreed to.

Clause 710 (including Part heading)—

On the motion of Ms Gallagher, by leave, her amendments Nos. 36 and 37 (*see* [Schedule 2](#)) were made together.

Clause 710 (including Part heading), as amended, agreed to.

Clauses 711 to 737, by leave, taken together and agreed to.

Clause 738—

Mr Mulcahy moved his amendment No. 1 (*see* [Schedule 3](#)).

Mr Mulcahy, by leave, withdrew his amendment.

Clause 738 agreed to.

Clause 739 agreed to.

Clause 740—

Ms Gallagher moved her amendment No. 38 (*see* [Schedule 2](#)).

Mr Mulcahy moved his amendment No. 1 to Ms Gallagher's proposed amendment (*see* [Schedule 4](#)).

Debate continued.

Mrs Dunne addressing the Assembly—

Adjournment negatived: It being 6 p.m.—The question was proposed—That the Assembly do now adjourn.

Ms Gallagher requiring the question to be forthwith without debate—

Question—put and negatived.

Debate continued.

Question—That Mr Mulcahy's amendment to Ms Gallagher's proposed amendment be agreed to—put.

The Assembly voted—

AYES, 1		NOES, 12
Mr Mulcahy	Mr Barr	Ms Gallagher
	Mr Berry	Mr Gentleman
	Mrs Burke	Ms MacDonald
	Mr Corbell	Ms Porter
	Mrs Dunne	Mr Smyth
	Dr Foskey	Mr Stefaniak

And so it was negatived.

Question—That Ms Gallagher's amendment No. 38 be agreed to—put and passed.

Clause 740, as amended, agreed to.

Clauses 741 to 772, by leave, taken together and agreed to.

Clause 773—

On the motion of Ms Gallagher, her amendment No. 39 (*see* [Schedule 2](#)) was made.

Clause 773, as amended, agreed to.

Clauses 774 to 791, by leave, taken together and agreed to.

Clause 792—

On the motion of Ms Gallagher, her amendment No. 40 (*see* [Schedule 2](#)) was made, after debate.

Clause 792, as amended, agreed to.

Clauses 793 to 833, by leave, taken together and agreed to.

Clause 834—

On the motion of Ms Gallagher, by leave, her amendments Nos. 41 and 42 (*see* [Schedule 2](#)) were made together.

Clause 834, as amended, agreed to.

Clauses 835 to 867, by leave, taken together and agreed to.

Clause 868—

On the motion of Ms Gallagher, her amendment No. 43 (*see* [Schedule 2](#)) was made.

Clause 868, as amended, agreed to.

Clauses 869 to 888, by leave, taken together and agreed to.

Schedule 1—

Amendments 1.1 to 1.20, by leave, taken together and agreed to.

New amendment—

On the motion of Ms Gallagher, new amendment 1.20A (her amendment No. 44—*see* [Schedule 2](#)) was inserted in Schedule 1.

Amendments 1.21 to 1.25, by leave, taken together and agreed to.

Amendment 1.26—

On the motion of Ms Gallagher, her amendment No. 45 (*see* [Schedule 2](#)), was made.

Amendment 1.26, as amended, agreed to.

Amendments 1.27 and 1.28, by leave, taken together and agreed to.

Amendment 1.29—

On the motion of Ms Gallagher, by leave, her amendments Nos. 46 to 50 were made together, after debate (*see* [Schedule 2](#)).

Amendment 1.29, as amended, agreed to.

Amendments 1.30 to 1.33, by leave, taken together and agreed to.

New amendment—

On the motion of Ms Gallagher, new amendment 1.33A (her amendment No. 51—*see* [Schedule 2](#)) was inserted in Schedule 1.

Amendments 1.34 to 1.81, by leave, taken together and agreed to.

Proposed new amendments—

Dr Foskey moved her amendment No. 2 (*see* [Schedule 1](#)), which inserts new amendments 1.81A to 1.81D in Schedule 1.

Dr Foskey, by leave, withdrew her amendment.

Amendments 1.82 and 1.83, by leave, taken together and agreed to.

New amendments—

On the motion of Ms Gallagher, by leave, new amendments 1.83A to 1.83F (her amendments Nos. 52 to 57—*see* [Schedule 2](#)) were inserted in Schedule 1, after debate.

Amendment 1.84 agreed to.

Dictionary—

On the motion of Ms Gallagher, by leave, her amendments Nos. 58 and 59 (*see* [Schedule 2](#)) were made together.

Dictionary, as amended, agreed to.

Title agreed to, after debate.

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

12 CHILDREN AND YOUNG PEOPLE (CONSEQUENTIAL AMENDMENTS) BILL 2008

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 and passed.

Leave granted to dispense with the detail stage.

Question—That this Bill be agreed to—put and passed.

13 PRIVILEGES—SELECT COMMITTEE—MEMBERSHIP

The Speaker, pursuant to the resolution of the Assembly of today, informed the Assembly that he had been notified, in writing, of the nominations of Mrs Dunne, Mr Gentleman and Mr Mulcahy to be members of the Select Committee on Privileges.

Mr Corbell (Manager of Government Business) moved—That the Members so nominated be appointed as members of the Select Committee on Privileges.

Question—put and passed.

14 ADJOURNMENT

Mr Corbell (Manager of Government Business) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 6.59 p.m., adjourned until tomorrow at 10.30 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting.

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

CHILDREN AND YOUNG PEOPLE BILL 2008

Amendments circulated by Dr Foskey

1

Clause 7 (e) (ii)

Page 6, line 7—

omit clause 7 (e) (ii), substitute

- (ii) are informed by processes which engage children and young people, wherever possible, and take their views and wishes into account; and
-

2

Schedule 1

Proposed new amendments 1.81A to 1.81D

Page 719, line 5—

insert

[1.81A] Section 25 heading

substitute

25 Children under 12

[1.81B] Section 25

omit

10 years

substitute

12 years

[1.81C] Section 26 heading

substitute

26 Children 12 and over but under 14

[1.81D] Section 26 (1)

omit

10 years

substitute

12 years

Schedule 2

CHILDREN AND YOUNG PEOPLE BILL 2008

Amendments circulated by the Minister for Children and Young People

1

Proposed new clause 8 (3)

Page 7, line 3—

insert

- (3) To remove any doubt, a reference in any section of this Act to the best interests of a child or young person does not limit this section.
-

2

Clause 19 (1), example 2

Page 14, line 20—

after

may

insert

, or must not,

3

Clause 19 (1), proposed new examples

Page 14, line 22—

insert

4 everyday decisions, including, for example, about the personal appearance of the child or young person

5 daily care decisions about education, training and employment

4

Clause 20 (1), example 4

Page 16, line 15—

after

education

insert

, training and employment

5

Clause 37, note

Page 27, line 10—

omit

6**Clause 38 (3) (b), proposed new note**
Page 27, line 19—*insert**Note* Suitable entities are dealt with in pt 2.4.

7**Clause 70 (4) (b)**
Page 48, line 18—*omit clause 70 (4) (b), substitute*

(b) any of the following occurs:

- (i) a court convicts the entity, or finds the entity guilty, of an offence involving fraud or dishonesty;

Example

A conviction, or finding of guilt, against the entity under the Criminal Code, ch 3 (Theft, fraud, bribery and related offences).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (ii) a tribunal, or an authority or person with the power to require the production of documents or the answering of questions, makes a finding against the entity about its honesty or integrity; and

Example

The discrimination commissioner substantiates a discrimination complaint under the *Human Rights Commission Act 2005*.

8**Proposed new clause 102A**
Page 74, line 21—*insert***102A Arrangements for escorting people**

The chief executive may make an arrangement for escorting a child, a young person or a young detainee as required under this Act with—

- (a) the chief executive responsible for administering the *Corrections Management Act 2007*; and
- (b) the chief police officer.

9**Clause 108 (7)**
Page 78, line 23—*omit*

10**Clause 110 (6)****Page 80, line 9—***omit*

taken

substitute

admitted

11**Clause 136, definition of *young remandee*****Page 99, line 15—***omit the definition, substitute***young remandee**—see the Crimes (Sentence Administration) Act 2005, dictionary.

12**Clause 146 (2)****Page 106, line 21—***omit clause 146 (2), substitute*

- (2) The chief executive must take all reasonable steps to ensure that the prohibited area is brought to the attention of all young detainees.

13**Proposed new clause 151 (3)****Page 110, line 6—***insert*

- (3) A corrections officer providing assistance under this section may exercise any function exercisable by a youth detention officer under the criminal matters chapters in accordance with any direction by the chief executive.

14**Clause 172 (4)****Page 124, line 23—***after*

not

insert

unreasonably

15**Clause 184 (2) (n) (v)****Page 137, line 21—***omit*

16**Clause 208 (1) (a)**
Page 156, line 10—*omit*

themselves

substitute

himself or herself

17**Clause 208 (1) (b) (i)**
Page 156, line 12—*omit*

the young detainee from engaging in harmful conduct

substitute

an imminent risk of the young detainee harming himself or herself

18**Clause 208 (1) (b) (ii)**
Page 156, line 15—*omit*

the young detainee from engaging in harmful conduct

substitute

an imminent risk of the young detainee harming himself or herself

19**Clause 232 (1)**
Page 172, line 16—*omit*

the officer

substitute

the person

20**Proposed new clause 244 (3)**
Page 185, line 15—*insert*

- (3) However, a young detainee transferred to a correctional centre under a direction under section 110 is taken to be in the chief executive's custody only until the young detainee is admitted to the correctional centre.

Note See s 110 (6).

21**Clause 273 (1)****Page 207, line 4—**

omit clause 273 (1), substitute

- (1) The chief executive may direct a youth detention officer to conduct a scanning search, frisk search or ordinary search of a person at a detention place who is not a young detainee if the chief executive—
- (a) believes on reasonable grounds that the search is prudent to ensure—
 - (i) the safety of anyone; or
 - (ii) security or good order at the place; or
 - (b) suspects on reasonable grounds that the person is carrying—
 - (i) a prohibited thing; or
 - (ii) anything else that creates, or is likely to create, a risk to—
 - (A) the personal safety of anyone else; or
 - (B) security or good order at the place.

22**Clause 273 (2)****Page 207, line 12—**

omit clause 273 (2), substitute

- (2) The youth detention officer who conducts a frisk search or ordinary search of a person mentioned in subsection (1) must—
- (a) tell the person about the search and the reasons for the search and ask for the person's cooperation; and
 - (b) conduct the search in a private area or an area that provides reasonable privacy for the person.
- (2A) The youth detention officer may conduct a frisk search of the person only if—
- (a) the person is of the same sex as the officer; or
 - (b) if that is not the case—another person of the same sex as the person to be searched is present while the search is being conducted.
- (2B) The other person mentioned in subsection (2A) (b) must not be a young detainee.
-

23**Clause 273 (3)****Page 207, line 17—***omit*

However, part

substitute

Part

24**Clause 286 (1) (i)****Page 218, line 25—***omit*

someone in a way that is likely to provoke a person to be violent

substitute

another person

25**Clause 286 (1) (s)****Page 219, line 13—***after*

section 240

insert

or an interstate leave permit under section 241

26**Clause 286 (1) (v)****Page 219, line 17—***omit clause 286 (1) (v), substitute*

(v) planning, conspiring or attempting, or assisting anyone else planning, conspiring or attempting, to commit a behaviour breach;

27**Clause 306 (5)****Page 233, line 16—***omit*

this section

substitute

subsection (2)

28**Clause 309 (1)****Page 234, line 22—***omit*

section 306

substitute

section 306 (2)

29**Clause 473, definition of *parental responsibility provision*, paragraph (b) (i), note****Page 359, line 14—***omit the note, substitute**Note* Daily care responsibility is dealt with in s 19.

30**Clause 473, definition of *parental responsibility provision*, paragraph (b) (iv), examples****Page 360, line 12—***omit the examples, substitute**Note* Long-term care responsibility is dealt with in s 20.

31**Clause 504, note****Page 384, line 6—***omit the note, substitute**Note* Long-term care responsibility is dealt with in s 20.

32**Clause 512 (3), definition of *Aboriginal or Torres Strait Islander cultural plan*****Page 391, line 6—***after*

of the identity of the child or young person

insert

as an Aboriginal or Torres Strait Islander person

33**Clause 525, definition of *personal information*, paragraph (a), proposed new note****Page 402, line 25—***insert**Note* For the meaning of *protected information*, see s 843.

34
Clause 587, proposed new note
Page 442, line 14—

insert

Note Body searches are dealt with in subdiv 16.3.5.5.

35
Clause 588, proposed new note
Page 442, line 26—

insert

Note Strip searches are dealt with in subdiv 16.3.5.4.

36
Part 19.3 heading
Page 518, line 1—

omit the heading, substitute

Part 19.3 Standard of proof

37
Clause 710 heading
Page 518, line 2—

omit the heading, substitute

710 Standard of proof

38
Proposed new clause 740 (2)
Page 538, line 18—

insert

(2) In this section:

unreasonable discipline includes—

- (a) physical punishment; or
- (b) any behaviour management strategy likely to cause emotional or physical harm to a child.

Examples

- 1 smacking
- 2 yelling
- 3 using threatening or humiliating language

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

39**Clause 773 (5), proposed new note****Page 565, line 10—***insert*

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

40**Clause 792****Page 580, line 8—***omit clause 792, substitute***792 What is *light work*?**

In this part:

light work means work that—

- (a) is not contrary to the best interests of a child or young person; and
- (b) is declared by regulation to be light work.

41**Clause 834 (1)****Page 612, line 12—***omit*

must not

substitute

may

42**Clause 834 (1)****Page 612, line 13—***omit*

except

43**Clause 868 (1), proposed new note****Page 640, line 24—***insert*

Note For the meaning of *confidential report*, see s 875.

44**Schedule 1, part 1.4****Proposed new amendment 1.20A****Page 686, line 4***insert*

[1.20A] Section 18 (1), new note*insert**Note* For a young remandee, see s 320DA.

45**Schedule 1****Amendment 1.26****Page 687, line 1—***omit amendment 1.26, substitute***[1.26] Section 213***substitute***213 Meaning of *registered victim***

In this Act:

registered victim—

- (a) in relation to an offence by an offender (other than a young offender)—means a victim of the offender about whom information is entered in the register kept under section 215; and
- (b) in relation to an offence by a young offender—means a victim of the young offender about whom information is entered in the register kept under section 215A.

46**Schedule 1****Amendment 1.29****Proposed new section 320C****Page 692, line 19—***omit proposed new section 320C, substitute***320C Young offenders and remandees—references to correctional centre, corrections officer and Corrections Management Act**

- (1) A reference in part 4.2 (Serving full-time detention) to a correctional centre or an ACT correctional centre is, in relation to a CYP young offender, a reference to a detention place under the *Children and Young People Act 2008*.
- (2) In subsection (1), *CYP young offender* means a young offender required under the *Crimes (Sentencing) Act 2005*, section 133H to serve his or her sentence of imprisonment at a detention place.
- (3) The reference in section 105 (Good behaviour—agreement to attend court) to a corrections officer is, in relation to a CYP young offender, a reference to a youth detention officer under the *Children and Young People Act 2008*.

- (4) In subsection (3), *CYP young offender* means a young offender for whom the chief executive (CYP) is responsible in accordance with a decision under section 320E (Young offenders—administration of sentences other than imprisonment).
- (5) A reference in this Act to the *Corrections Management Act 2007* is, in relation to a young offender in detention under the *Children and Young People Act 2008* or a young remandee, a reference to that Act.

47

Schedule 1**Amendment 1.29****Proposed new section 320D**

Page 693, line 4—

*omit proposed new section 320D, substitute***320D Young offenders and remandees—references to chief executive**

- (1) A reference in this Act to the chief executive is, in relation to a function to be exercised in relation to a CYP young offender or a young remandee, a reference to the chief executive responsible for the *Children and Young People Act 2008*.
- (2) In this section:
- CYP young offender means—
- (a) a young offender serving a sentence of imprisonment at a detention place; or
 - (b) a young offender serving a sentence (other than a sentence of imprisonment)—
 - (i) who is under 18 years old; or
 - (ii) who is over 18 years old and for whom the chief executive (CYP) is responsible in accordance with a decision under section 320E (Young offenders—administration of sentences other than imprisonment).

48

Schedule 1**Amendment 1.29****Proposed new section 320DA**

Page 693, line 8—

*insert***320DA Young remandees—remand to be at detention place**

- (1) This section applies (instead of section 18 (1)) to a young remandee.

- (2) The chief executive must—
- (a) keep the young remandee in custody under full time detention under this Act and the *Children and Young People Act 2008* under the order for remand; and
 - (b) return the young remandee to the remanding authority as ordered by the remanding authority.

49

Schedule 1

Amendment 1.29

Proposed new section 320E heading

Page 693, line 9—

omit the heading, substitute

320E Young offenders—administration of sentences other than imprisonment

50

Schedule 1

Amendment 1.29

Proposed new section 320E (1)

Page 693, line 12—

omit

community-based sentence

substitute

sentence (other than a sentence of imprisonment)

51

Schedule 1

Proposed new amendment 133A

Page 696, line 18—

insert

[1.33A] Dictionary, new definition of *young remandee*

*insert**young remandee* means a remandee—

- (a) who is under 18 years old; or
- (b) who is over 18 years old but under 21 years old and is on remand in relation to an offence alleged to have been committed when he or she was under 18 years old.

52

Schedule 1

Proposed new amendment 1.83A

Page 723, line 3—

insert

[1.83A] Section 152 (5)

after

section 154D (Fine defaulters—imprisonment)

insert

or section 154E (Young fine defaulters)

53

Schedule 1

Proposed new amendment 1.83B

Page 723, line 3—

insert

[1.83B] Section 153 (3) (c)

after

section 154D (Fine defaulters—imprisonment)

insert

or section 154E (Young fine defaulters)

54

Schedule 1

Proposed new amendment 1.83C

Page 723, line 3—

insert

[1.83C] Section 154D (4)

substitute

- (4) This section does not apply to a person if—
- (a) the person's liability to pay the fine is derived from a reparation order under the *Crimes (Sentencing) Act 2005*; or
 - (b) section 154E applies to the person.

55

Schedule 1

Proposed new amendment 1.83D

Page 723, line 3—

insert

[1.83D] New sections 154E and 154F

insert

154E Young fine defaulters

- (1) This section applies to a fine defaulter if the offence in relation to which the fine was imposed was committed when the person was under 18 years old.
- (2) The court may order the imprisonment of the person if the court—
 - (a) has assessed the person's capacity to pay the fine and is satisfied the person has the capacity to pay; and
 - (b) has offered the person an arrangement under section 152 (Special arrangements) about the payment of the fine; and
 - (c) has notified the road transport authority as required under section 153 (1) (Notice for suspension of driver licence etc).
- (3) The order, or any warrant under the *Crimes (Sentence Administration) Act 2005*, section 12 (Warrant for imprisonment), must not be given effect if the amount of the outstanding fine is paid to the Territory, or to someone acting for the Territory, before the person is imprisoned.
- (4) The period for which the person must be imprisoned is the lesser of—
 - (a) a period worked out at the rate of 1 day for each \$300, or part of \$300, of the outstanding fine; and
 - (b) 7 days.

154F Young fine defaulters—no capacity to pay

- (1) This section applies to a fine defaulter if—
 - (a) the offence in relation to which the fine was imposed was committed when the person was under 18 years old; and
 - (b) the court—
 - (i) has assessed the person's capacity to pay the fine; and
 - (ii) is satisfied that the person does not have capacity to pay the fine.
- (2) The court may not order the imprisonment of the person.
- (3) However, the court may (on application or on its own initiative) review the person's capacity to pay, but not more than once in any 6-month period.

 56

Schedule 1

Proposed new amendment 1.83E

Page 723, line 3—

insert

[1.83E] Section 157 (1) (a)
after

section 154D

insert

or section 154E

 57

Schedule 1

Proposed new amendment 1.83F

Page 723, line 3—

insert

[1.83F] New section 158A
insert
158A Outstanding fine satisfied by imprisonment—young fine defaulter

A person imprisoned under section 154E (Young fine defaulters) discharges the person's liability to pay the outstanding fine—

- (a) at the rate of \$300 for each day or part of a day for which the person is detained under the warrant for imprisonment; or
- (b) if the person is committed for 7 days—at the end of the 7-day period.

 58
Dictionary, definition of *Aboriginal*, paragraph (b)

Page 732, line 23—

omit paragraph (b), substitute

- (b) either—
 - (i) for any person—regards himself or herself as an Aboriginal; or
 - (ii) if the person is a child—is regarded as an Aboriginal by a parent or family member; and
 - (c) is accepted as an Aboriginal by an Aboriginal community.
-

59**Dictionary, definition of *Torres Strait Islander*, paragraph (b)****Page 750, line 10—**

omit paragraph (b), substitute

- (b) either—
- (i) for any person—regards himself or herself as a Torres Strait Islander; or
 - (ii) if the person is a child—is regarded as a Torres Strait Islander by a parent or family member; and
- (c) is accepted as a Torres Strait Islander by a Torres Strait Islander community.
-

Schedule 3

CHILDREN AND YOUNG PEOPLE BILL 2008

Amendment circulated by Mr Mulcahy

1

Section 738 (1) (c)

Page 537, line 22

insert

- (c) is reckless as to whether or not they are taking the reasonable precautions required in (b).

Schedule 4

CHILDREN AND YOUNG PEOPLE BILL 2008

Amendment to Ms Gallagher's proposed amendment No. 38 circulated by Mr Mulcahy

1

Proposed amendment 38

Proposed new clause 740 (2)

Page 538, line 18—

omit proposed new clause 740 (2)

substitute

(2) In this section:

unreasonable discipline means—

- (a) physical punishment; or
- (b) any other behaviour management strategy that is likely to cause significant emotional or physical harm to the child.

Examples

- 1 smacking
- 2 abusive or excessive yelling
- 3 using seriously threatening or humiliating language

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).
