



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2016–2017–2018–2019

MINUTES OF PROCEEDINGS

No 114

TUESDAY, 24 SEPTEMBER 2019

- 1 The Assembly met at 10 am, pursuant to adjournment. A quorum of Members not being present, the Speaker (Ms J. Burch) ordered the bells to be rung. A quorum having been formed, the Speaker took the Chair and made a formal recognition that the Assembly was meeting on the lands of the traditional custodians. The Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 ABSENCE OF CLERK

The Speaker informed the Assembly that, due to the absence of the Clerk on Assembly Business for this sitting period, the Deputy Clerk will act as Clerk for the duration of the Clerk's absence.

3 JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE (LEGISLATIVE SCRUTINY ROLE)—SCRUTINY REPORT 35—STATEMENT BY CHAIR

Mrs Jones (Chair) presented the following report:

Justice and Community Safety—Standing Committee (Legislative Scrutiny Role)—Scrutiny Report 35, dated 23 September 2019, together with a copy of the extracts of the relevant minutes of proceedings—

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

4 HEALTH, AGEING AND COMMUNITY SERVICES—STANDING COMMITTEE—CONSIDERATION OF STATUTORY APPOINTMENTS—STATEMENT BY CHAIR—PAPER

Ms Cody (Chair), pursuant to standing order 246A and Continuing Resolution 5A, made a statement concerning consideration of statutory appointments by the Standing Committee on Health, Ageing and Community Services.



Paper: Ms Cody, pursuant to Continuing Resolution 5A, presented the following paper:
Health, Ageing and Community Services—Standing Committee—Schedule of Statutory Appointments—9th Assembly—Period 1 January to 30 June 2019.

5 MENINGOCOCCAL B VACCINATION PROGRAM FOR BABIES—UPDATE—MINISTERIAL STATEMENT—PAPER NOTED

Ms Stephen-Smith (Minister for Health) made a ministerial statement concerning Meningococcal B vaccinations for babies, and presented the following paper:

Meningococcal B Vaccination Program for Babies—Update—Ministerial statement, 24 September 2019.

Ms Stephen-Smith moved—That the Assembly take note of the paper.

Debate ensued.

Question—put and passed.

6 WORKPLACE SAFETY PERFORMANCE—ANNUAL STATEMENT 2018-19—MINISTERIAL STATEMENT—PAPER NOTED

Ms Orr (Minister for Employment and Workplace Safety) made a ministerial statement concerning the Territory's workplace safety performance and presented the following paper:

Workplace Safety Performance—Annual statement 2018-19—Ministerial statement, 24 September 2019.

Ms Orr moved—That the Assembly take note of the paper.

Question—put and passed.

7 EVIDENCE (MISCELLANEOUS PROVISIONS) AMENDMENT BILL 2019

Mr Ramsay (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Evidence (Miscellaneous Provisions) Act 1991* and the *Evidence (Miscellaneous Provisions) Regulation 2009*, and for other purposes.

Papers: Mr Ramsay presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 23 September 2019.

Title read by Clerk.

Mr Ramsay moved—That this Bill be agreed to in principle.

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

8 SENTENCING (DRUG AND ALCOHOL TREATMENT ORDERS) LEGISLATION AMENDMENT BILL 2019

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

Bill, by leave, taken as a whole—

On the motion of Mr Ramsay (Attorney-General), by leave, his amendments Nos 1 to 15 (see [Schedule 1](#)) were made together, after debate.

Paper: Mr Ramsay presented a supplementary explanatory statement to the Government amendments.

Bill, as a whole, as amended, agreed to.

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

9 COURTS (FAIR WORK AND WORK SAFETY) LEGISLATION AMENDMENT BILL 2019

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.

10 HEALTH AMENDMENT BILL 2019

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.

Paper: Ms Stephen-Smith (Minister for Health) presented a revised explanatory statement to the Bill.

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.

11 QUESTIONS

Questions without notice were asked.

12 LEAVE OF ABSENCE TO MEMBERS

Mr Wall moved—That leave of absence be granted to Mrs Dunne and Mr Parton for this sitting week to attend the Commonwealth Parliamentary Conference.

Question—put and passed.

13 PRESENTATION OF PAPERS

Mr Gentleman (Manager of Government Business) presented the following papers:

Auditor-General Act, pursuant to section 21—Auditor-General's Reports—

No 5/2019—Management of the System-Wide Data Review implementation program—Government response.

No 6/2019—ICT Strategic Planning—Government response.

Network19—Impact on students—Response to the resolution of the Assembly of 15 May 2019.

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

ACT Teacher Quality Institute Act and Financial Management Act—ACT Teacher Quality Institute Board Appointment 2019 (No 1)—Disallowable Instrument DI2019-207 (LR, 9 September 2019).

Emergencies Act—Emergencies (Strategic Bushfire Management) Plan 2019—Disallowable Instrument DI2019-206 (LR, 12 September 2019).

Government Procurement Act—Government Procurement (Secure Local Jobs) Amendment Regulation 2019 (No 1)—Subordinate Law SL2019-24 (LR, 12 September 2019).

Medicines, Poisons and Therapeutic Goods Act—Medicines, Poisons and Therapeutic Goods Amendment Regulation 2019 (No 1)—Subordinate Law SL2019-23 (LR, 12 September 2019).

Road Transport (General) Act—

Road Transport (General) Application of Road Transport Legislation Declaration 2019 (No 9)—Disallowable Instrument DI2019-208 (LR, 2 September 2019).

Road Transport (General) Application of Road Transport Legislation Declaration 2019 (No 10)—Disallowable Instrument DI2019-209 (LR, 5 September 2019).

Utilities (Technical Regulation) Act—Utilities (Technical Regulation) Listed Dams Determination 2019—Disallowable Instrument DI2019-205 (LR, 29 August 2019).

14 AUDITOR-GENERAL'S ACT—AUDITOR-GENERAL'S REPORT NO 5/2019—MANAGEMENT OF THE SYSTEM-WIDE DATA REVIEW IMPLEMENTATION PROGRAM—GOVERNMENT RESPONSE—PAPER NOTED

Mr Gentleman (Manager of Government Business), pursuant to standing order 211, moved—That the Assembly take note of the following paper:

Auditor-General's Act, pursuant to section 21—Auditor-General's Report No 5/2019—Management of the System-Wide Data Review implementation program—Government response.

Debate ensued.

Question—put and passed.

15 NETWORK19—IMPACT ON STUDENTS—RESPONSE TO THE RESOLUTION OF THE ASSEMBLY OF 15 MAY 2019—PAPER NOTED

Mr Gentleman (Manager of Government Business), pursuant to standing order 211, moved—That the Assembly take note of the following paper:

Network19—Impact on students—Response to the resolution of the Assembly of 15 May 2019.

Debate ensued.

Question—put and passed.

16 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—SUSPECTED CHILD ABUSE—OBLIGATION TO REPORT

The Assembly was informed that Ms Cheyne, Ms Cody, Mr Coe (Leader of the Opposition), Mr Gupta, Mr Hanson, Mrs Kikkert, Ms Lawder, Ms Le Couteur, Mr Milligan and Mr Pettersson 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 Pettersson be submitted to the Assembly, namely, “The importance of Canberrans understanding their obligation to report suspected child abuse following implementation of the Royal Commission recommendation”.

Discussion ensued.

Papers: Mr Ramsay (Attorney-General) presented the following papers:

Child sexual abuse—ACT Government factsheets—

Changes to mandatory reporting.

Changes to reportable conduct scheme.

All adults must report child sexual abuse.

New laws to improve reporting of child abuse.

Discussion continued.

Discussion concluded.

17 ADJOURNMENT

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

Debate ensued.

Question—put and passed.

And then the Assembly, at 3.50 pm, adjourned until tomorrow at 10 am.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting, except Mrs Dunne*, Ms Lee* and Mr Parton*.

*on leave

J Agostino
Acting Clerk of the Legislative Assembly

SCHEDULE OF AMENDMENTS

Schedule 1

SENTENCING (DRUG AND ALCOHOL TREATMENT ORDERS) LEGISLATION AMENDMENT BILL 2019

Amendments circulated by the Attorney-General

1

Clause 9

Proposed new section 82A

Page 6, line 11—

omit

2

Proposed new clause 9A

Page 9, line 8—

insert

9A Meaning of *community-based sentence*
New section 264 (1) (a) (ia)

insert

(ia) a drug and alcohol treatment order;

3

Clause 10

Proposed new dictionary definition of *drug and alcohol treatment order*

Page 9, line 12—

omit

, for chapter 5A (Drug and alcohol treatment orders)

4

Clause 14

Proposed new section 12A (2) (iii)

Page 11, line 23—

after

sentence

insert

except as directed by the court

5

Clause 14

Proposed new section 12A (3) and (4)

Page 12, line 18—

omit proposed new section 12A (3) and (4), substitute

- (3) If the court makes a treatment order for an offence (the **primary offence**), the court may extend the order to an associated offence, but only if the total period of imprisonment liable to be served under any consecutive sentences imposed for all offences to which the order relates, is not more than 4 years.
- (4) To remove any doubt—
 - (a) if the court extends a treatment order to an associated offence, the offender must not be subject to more than 1 treatment order for all offences at any particular time; and
 - (b) an associated offence to which the court extends a treatment order may be an offence for which the court imposes a sentence of imprisonment of less than 1 year; and
 - (c) sentences for multiple offences may be served concurrently or consecutively (or partly concurrently and partly consecutively), subject to subsection (3).

Note Words in the singular number include the plural (see Legislation Act, s 145 (b)).

6

Clause 14

Proposed new section 12A (9), new definition of **associated offence**

Page 13, line 7—

insert

associated offence, for an extended treatment order, means an eligible offence—

- (a) to which the offender pleads guilty; and
- (b) for which the offender is sentenced to imprisonment; and
- (c) dealt with in the same sentencing proceeding as the primary offence.

7

Clause 19

Proposed new part 5.4A, new section 80TA

Page 25, line 11—

insert

80TA Court may remit proceeding

- (1) This section applies if—
 - (a) the court declines to make a treatment order for a particular offender; and

- (b) the offence for which the offender is to be sentenced could have been dealt with summarily by the Magistrates Court; and
 - (c) the offender was committed to the court only because the offender refused consent to the offence being dealt with summarily by the Magistrates Court.
- (2) The offender or the director of public prosecutions may apply to the court for an order to remit the proceeding for the offence to the Magistrates Court.
 - (3) The court must make the order if it is satisfied that the offender refused consent to the offence being dealt with summarily for the purpose of seeking assessment for a treatment order.
 - (4) The court may otherwise make the order if it is satisfied the order is in the interests of justice.
 - (5) If the court makes an order under this section, the court must, as soon as practicable after the order is made, ensure that written notice of the order, together with a copy of the order, is given to—
 - (a) the offender; and
 - (b) any other person who the court considers should receive the notice.
 - (6) Failure to comply with subsection (5) does not invalidate the order.

8

Clause 19**Proposed new section 80U, new note****Page 25, line 24—***insert*

Note Words in the singular number include the plural (see Legislation Act, s 145 (b)).

9

Clause 19**Proposed new section 80X (1) (e)****Page 28, line 12—***omit*

10

Clause 19**Proposed new section 80Y (2) (fa)****Page 30, line 15—***insert*

(fa) not return a positive test sample under alcohol and drug testing;

11**Clause 19****Proposed new section 80ZA (2)****Page 32, line 15—***after*

adding

insert

, modifying

12**Clause 19****Proposed new section 80ZC (3), new note****Page 35, line 14—***insert*

Note A sentence of imprisonment suspended under a treatment order is not part of a suspended sentence order (see s 12 (7)).

13**Clause 19****Proposed new section 80ZE (4), new note****Page 38, line 22—***insert*

Note The court must make a good behaviour order in relation to an offender who is the subject of a treatment order if the treatment and supervision part of the order ends before the sentence of imprisonment suspended under the custodial part of the order (see s 80Z).

14**Clause 19****Proposed new section 80ZG, new subsections (5A), (5B) and (5C)****Page 40, line 2—***insert*

- (5A) The court may, on the review, confirm or amend the order as the court considers appropriate.
 - (5B) If the court amends the order, the court must, as soon as practicable, ensure that written notice of the review decision, together with a copy of the amended treatment order is given to—
 - (a) the offender; and
 - (b) any other person who the court considers should receive the notice.
 - (5C) Failure to comply with subsection (5B) does not invalidate the order as amended.
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15**Clause 19****Proposed new section 80ZL (4), definition of *relevant drug offence*****Page 43, line 2—***omit the definition, substitute****relevant drug offence*** means the following:

- (a) an offence against the Criminal Code, section 618;
 - (b) an offence against the *Drugs of Dependence Act 1989*, section 162, section 164, section 169 or section 171;
 - (c) an offence against the *Medicines, Poisons and Therapeutic Goods Act 2008*, section 26 (2), section 34 (1) or (2), section 37 (2) or section 43 (3);
 - (d) an offence prescribed by regulation.
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