



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2004–2005–2006–2007–2008

MINUTES OF PROCEEDINGS

No. 154

THURSDAY, 21 AUGUST 2008

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 CORRECTIONS MANAGEMENT AMENDMENT BILL 2008

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Corrections Management Act 2007*.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 21 August 2008.

Title read by Clerk.

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

Debate adjourned (Mr Seselja—Leader of the Opposition) and the resumption of the debate made an order of the day for the next sitting.

3 STANDING ORDER 156—ASSISTANT SPEAKER'S RULING

The Assistant Speaker advised the Assembly that Ms Porter and Mr Seselja (Leader of the Opposition) should refrain from participating in the debate on the Legislative Assembly (Members' Staff) Amendment Bill 2008, in accordance with standing order 156.

4 LEGISLATIVE ASSEMBLY (MEMBERS' STAFF) AMENDMENT 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.

Suspension of standing orders—Vote on agreement in principle to Bill: Mr Corbell (Manager of Government Business) moved—That so much of the standing orders be suspended so as to require a vote to be taken on the question—That the Bill be agreed to in principle.

Question—put and passed, with the concurrence of an absolute majority.

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

The Assembly voted—

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

And so it was resolved in the affirmative.

Detail Stage

Bill, by leave, taken as a whole—

Debate continued.

Bill, as a whole, agreed to.

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

5 ETHICS AND INTEGRITY ADVISER FOR MEMBERS—AMENDMENT TO RESOLUTION OF APPOINTMENT

Mr Berry (Speaker), pursuant to notice, moved—That the resolution of the Assembly of 10 April 2008 establishing the position of the Legislative Assembly Ethics and Integrity Adviser be amended as follows: In paragraph (6) after “for the life of the Assembly” insert “and the period of three months after each election”.

Question—put and passed.

6 PUBLIC ACCOUNTS—STANDING COMMITTEE—REPORT 17—REVIEW OF AUDITOR-GENERAL’S REPORT NO. 1 OF 2006: REGULATION OF CHARITABLE COLLECTIONS AND INCORPORATED ASSOCIATIONS—REPORT NOTED

Dr Foskey (Chair) presented the following report:

Public Accounts—Standing Committee—Report 17—*Review of Auditor-General’s Report No. 1 of 2006: Regulation of Charitable Collections and Incorporated Associations*, dated 14 August 2008, together with a copy of the extracts of the relevant minutes of proceedings—

and moved—That the report be noted.

Question—put and passed.

7 PUBLIC ACCOUNTS—STANDING COMMITTEE—REPORT 16—REVIEW OF AUDITOR-GENERAL’S REPORT NO. 5 OF 2006: RHODIUM ASSET SOLUTIONS LIMITED—MOTION THAT REPORT BE NOTED

Dr Foskey (Chair) presented the following report:

Public Accounts—Standing Committee—Report 16—*Review of Auditor-General’s Report No. 5 of 2006: Rhodium Asset Solutions Limited*, dated 15 August 2008, together with a copy of the extracts of the relevant minutes of proceedings—

and moved—That the report be noted.

Debate ensued.

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.

8 QUESTIONS

Questions without notice were asked.

9 PAPERS

Mr Hargreaves (Minister for Territory and Municipal Services), making a personal explanation under standing order 46, presented the following papers:

HotRot—

Copy of email from Larry O’Loughlin, Operational Policy and Business Coordination, ACT NoWaste, to Lee-Anne Wahren, dated 21 August 2008.

Visit to see the HotRot in Action—Copy of article from TAMS Intranet, dated 21 August 2008.

Copies of photographs (3).

Mrs Dunne sought leave to make a statement in relation to Mr Hargreaves’ personal explanation.

Objection being raised, leave not granted.

10 SUSPENSION OF STANDING ORDERS MOVED—STATEMENT BY MEMBER

Mrs Dunne moved—That so much of the standing orders be suspended as would prevent Mrs Dunne from making a statement in relation to Mr Hargreaves’ personal explanation.

Debate ensued.

Question—put.

The Assembly voted—

AYES, 7

Mrs Burke Mr Smyth
Mrs Dunne Mr Stefaniak
Mr Mulcahy
Mr Pratt
Mr Seselja

NOES, 10

Mr Barr Mr Gentleman
Mr Berry Mr Hargreaves
Mr Corbell Ms MacDonald
Dr Foskey Ms Porter
Ms Gallagher Mr Stanhope

And so it was negatived.

11 PRESENTATION OF PAPER

The Speaker presented the following paper:

Study trip—Report by Mr Stefaniak MLA—Visit to NSW Judicial Commission—Sydney, 4 to 6 June 2008.

12 HOMELESSNESS STRATEGY—BREAKING THE CYCLE—THIRD PROGRESS REPORT AND EVALUATION—PAPERS AND STATEMENT BY MINISTER

Ms Gallagher (Minister for Disability and Community Services) presented the following papers:

Homelessness Strategy—Breaking the Cycle—

Third progress report for the period July 2006-June 2007, dated November 2007.

Evaluation, dated December 2007.

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

13 PATHWAYS FOR HOMELESSNESS INTO HOME OWNERSHIP—MINISTERIAL STATEMENT

Mr Hargreaves (Minister for Housing), by leave, made a ministerial statement concerning pathways for homelessness into home ownership.

14 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—INFRASTRUCTURE—PLANNING AND DELIVERY

The Assembly was informed that Mrs Burke, Mrs Dunne, Dr Foskey, Mr Gentleman, Ms MacDonald, Ms Porter, Mr Pratt, Mr Seselja (Leader of the Opposition), 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, “Planning and delivery of infrastructure in the ACT”.

Discussion ensued.

The time for discussion having expired—

Discussion concluded.

15 LEGAL AFFAIRS—STANDING COMMITTEE (PERFORMING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE)—ROAD TRANSPORT (THIRD-PARTY INSURANCE) AMENDMENT BILL 2008—STATEMENT BY CHAIR

Mr Stefaniak (Chair), pursuant to standing order 246A, made a statement concerning the Committee’s deliberations on the Road Transport (Third-Party Insurance) Amendment Bill 2008.

16 SUSPENSION OF STANDING ORDERS—CONSIDERATION OF PRIVATE MEMBERS’ BUSINESS

Mr Stanhope (Treasurer) moved—That so much of the standing orders be suspended as would prevent order of the day No. 2, Private Members’ business, relating to the Road Transport (Third-Party Insurance) Amendment Bill 2008, being called on forthwith.

Question—put and passed, with the concurrence of an absolute majority.

17 ROAD TRANSPORT (THIRD-PARTY INSURANCE) AMENDMENT 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 3, by leave, taken together and agreed to.

Clause 4—

Mr Stanhope (Treasurer) moved his amendment No. 1 (*see* [Schedule 1](#)).

Debate continued.

Mr Stefaniak moved his amendment No. 1 to Mr Stanhope's proposed amendment No. 1 (*see* [Schedule 2](#)).

Question—put.

The Assembly voted—

AYES, 8		NOES, 9	
Mrs Burke	Mr Seselja	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Smyth	Mr Berry	Ms MacDonald
Dr Foskey	Mr Stefaniak	Mr Corbell	Ms Porter
Mr Mulcahy		Ms Gallagher	Mr Stanhope
Mr Pratt		Mr Gentleman	

And so it was negatived.

Mr Stanhope's amendment No. 1 agreed to.

Clause 4, as amended, agreed to.

Clause 5 debated and negatived.

Title agreed to.

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

18 SUPERANNUATION (LEGISLATIVE ASSEMBLY MEMBERS) AMENDMENT 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.

Dr Foskey addressing the Assembly—

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

Ms Gallagher (Deputy Chief Minister) requiring the question to be forthwith without debate—

Question—put and negatived.

Debate continued.

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.

19 SEXUAL AND VIOLENT OFFENCES LEGISLATION AMENDMENT 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

Clause 1 agreed to.

Clause 2—

On the motion of Mr Corbell (Attorney-General), his amendment No. 1 (*see* [Schedule 3](#)) was made, after debate.

Papers: Mr Corbell presented the following papers:

Supplementary explanatory statement to the Government amendments.

Revised explanatory statement to the Bill.

Clause 2, as amended, agreed to.

Clause 3 agreed to.

Clause 4—

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

Clause 4, as amended, agreed to.

Clauses 5 and 6, by leave, taken together and agreed to.

Clause 7—

Dr Foskey moved her amendment No. 1 (*see* [Schedule 4](#)).

Debate continued.

Amendment negatived.

Clause 7 agreed to.

Clause 8—

On the motion of Mr Corbell, by leave, his amendments Nos. 4 to 6 (*see* [Schedule 3](#)) were made together.

Dr Foskey, by leave, moved her amendments Nos. 2 and 3 together (*see* [Schedule 4](#)).

Debate continued.

Amendments negatived.

On the motion of Mr Corbell, his amendment No. 7 (*see* [Schedule 3](#)) was made.

Clause 8, as amended, agreed to.

Clause 9—

On the motion of Mr Corbell, his amendment No. 8 (*see* [Schedule 3](#)) was made, after debate.

On the motion of Dr Foskey, her amendment No. 4 (*see* [Schedule 4](#)) was made, after debate.

Clause 9, as amended, agreed to.

Clause 10 agreed to.

Clause 11—

Dr Foskey moved her amendment No. 5 (*see* [Schedule 4](#)).

Debate continued.

Amendment negatived.

Clause 11 agreed to.

Clauses 12 to 15, by leave, taken together and agreed to.

Clause 16—

On the motion of Mr Corbell, his amendment No. 9 (*see* [Schedule 3](#)) was made.

Clause 16, as amended, agreed to.

Clauses 17 to 24, by leave, taken together and agreed to.

Clause 25—

On the motion of Dr Foskey, her amendment No. 6 (*see* [Schedule 4](#)) was made, after debate.

Clause 25, as amended, agreed to.

New clause—

On the motion of Mr Corbell, new clause 25A (his amendment No. 10—*see* [Schedule 3](#)) was inserted in the Bill.

Clauses 26 and 27, by leave, taken together and agreed to.

Clause 28—

On the motion of Mr Corbell, his amendment No. 11 (*see* [Schedule 3](#)) was made.

Clause 28, as amended, agreed to.

Clauses 29 to 32, by leave, taken together and agreed to.

Clause 33, debated and agreed to.

New clause—

On the motion of Mr Corbell, new clause 34 (his amendment No. 12—*see* [Schedule 3](#)) was inserted in the Bill.

Title agreed to.

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

20 COURT LEGISLATION AMENDMENT 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.

21 LONG SERVICE LEAVE LEGISLATION AMENDMENT 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.

22 ADJOURNMENT

Mr Barr (Minister for Education and Training) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 9.54 p.m., adjourned until Tuesday, 26 August 2008 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

ROAD TRANSPORT (THIRD-PARTY INSURANCE) AMENDMENT BILL 2008

Amendments circulated by the Treasurer

1
Clause 4
Proposed new section 2
Page 2, line 18—

omit

1 March 2009

substitute

1 October 2008

2
Clause 5
Page 3, line 1—

[oppose the clause]

Schedule 2**ROAD TRANSPORT (THIRD-PARTY INSURANCE)
AMENDMENT BILL 2008**

Amendment circulated by Mr Stefaniak to the Treasurer's amendment
No. 1

1
Amendment 1
Clause 4
Proposed new section 2
Page 2, line 18—

omit

1 October 2008

substitute

1 January 2009

Schedule 3

SEXUAL AND VIOLENT OFFENCES LEGISLATION AMENDMENT BILL 2008

Amendments circulated by the Attorney-General

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 has not commenced within 9 months beginning on its notification day, it automatically commences on the first day after that period.
- (3) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to this Act.
-

2

Clause 4

Proposed new section 37, new definitions of *less serious violent offence* and *serious violent offence*

Page 3, line 9—

insert

less serious violent offence means an offence against any of the following provisions of the *Crimes Act 1900*:

- (a) section 21 (1) (Wounding);
- (b) section 22 (Assault with intent to commit certain indictable offences);
- (c) section 23 (1) (Inflicting actual bodily harm);
- (d) section 24 (1) (Assault occasioning actual bodily harm);
- (e) section 25 (Causing grievous bodily harm);
- (f) section 26 (Common assault);
- (g) section 28 (Acts endangering health etc);

- (h) section 29 (4) and (5) (Culpable driving of motor vehicle);
- (i) section 31 (Threat to inflict grievous bodily harm);
- (j) section 35 (Stalking);
- (k) section 37 (Abduction of young person);
- (l) section 41 (Exposing or abandoning child).

serious violent offence means—

- (a) an offence against any of the following provisions of the *Crimes Act 1900*:
 - (i) section 12 (Murder);
 - (ii) section 15 (Manslaughter);
 - (iii) section 19 (Intentionally inflicting grievous bodily harm);
 - (iv) section 20 (Recklessly inflicting grievous bodily harm);
 - (v) section 21 (2) (Wounding);
 - (vi) section 23 (2) (Inflicting actual bodily harm);
 - (vii) section 24 (2) (Assault occasioning actual bodily harm);
 - (viii) section 27 (Acts endangering life etc);
 - (ix) section 29 (2) and (3) (Culpable driving of motor vehicle);
 - (x) section 30 (Threat to kill);
 - (xi) section 32 (Demands accompanied by threats);
 - (xii) section 34 (Forcible confinement);
 - (xiii) section 36 (Torture);
 - (xiv) section 38 (Kidnapping);
 - (xv) section 40 (Unlawfully taking child etc);
 - (xvi) section 42 (Child destruction);
 - (xvii) section 43 (Childbirth—grievous bodily harm); and
 - (b) an offence against any of the following provisions of the *Criminal Code 2002*:
 - (i) section 309 (Robbery);
 - (ii) section 310 (Aggravated robbery).
-

3

Clause 4**Proposed new section 37, definition of *violent offence***

Page 3, line 21—

*omit the definition, substitute**violent offence* means a serious violent offence or a less serious violent offence.

4

Clause 8**Proposed new section 38AA**

Page 5, line 20—

*insert***38AA Meaning of *relevant person*—div 4.2**

- (1) For this division, *relevant person*, in relation to an accused person, means—
- (a) a domestic partner of the accused person; or
- Note* A *domestic partner* need not be an adult (see Legislation Act, s 169).
- (b) a relative of the accused person; or
 - (c) a child of a domestic partner of the accused person; or
 - (d) a parent of a child of the accused person; or
 - (e) someone who is in a domestic relationship with the accused person.
- (2) For this section, a *relative* of an accused person—
- (a) means the accused person's—
 - (i) father, mother, grandfather, grandmother, stepfather, stepmother, father-in-law or mother-in-law; or
 - (ii) son, daughter, grandson, granddaughter, stepson, stepdaughter, son-in-law or daughter-in-law; or
 - (iii) brother, sister, half-brother, half-sister, stepbrother, stepsister, brother-in-law or sister-in-law; or
 - (iv) uncle, aunt, uncle-in-law or aunt-in-law; or
 - (v) nephew, niece or cousin; and
 - (b) if the accused person has or had a domestic partner (other than a spouse)—includes someone who would have been a relative mentioned in paragraph (a) if the accused person had been legally married to the domestic partner; and

Note *Domestic partner*—see the Legislation Act, s 169.

- (c) includes—
- (i) someone who has been a relative mentioned in paragraph (a) or (b) of the accused person; and
 - (ii) anyone else who could reasonably be considered to be a relative of the accused person.

Examples—par (c) (ii)

- 1 if the accused person is an Aboriginal or Torres Strait Islander, the following people:
 - (a) a person the accused person has responsibility for, or an interest in, in accordance with the traditions and customs of the accused person's Aboriginal or Torres Strait Islander community;
 - (b) a person who has responsibility for, or an interest in, the accused person in accordance with the traditions and customs of the accused person's Aboriginal or Torres Strait Islander community
- 2 a person regarded and treated by the accused person as a relative, for example, as an uncle or aunt

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).

- (3) In this section:

domestic relationship—see the *Domestic Relationships Act 1994*, section 3.

5

Clause 8

Proposed new section 38B (1)

Page 5, line 22—

omit proposed new section 38B (1), substitute

- (1) This section applies to the complainant or a similar act witness (the *witness*) giving evidence in—
- (a) a sexual offence proceeding; or
 - (b) a violent offence proceeding in relation to a serious violent offence; or
 - (c) a violent offence proceeding in relation to a less serious violent offence if—
 - (i) the witness is a relevant person in relation to the accused person; or
 - (ii) the court considers that the witness has a disability that affects the witness's ability to give evidence because of the circumstances of the proceeding or the witness's circumstances.

Examples—par (c) (ii)

- 1 the witness is likely to suffer severe emotional trauma because of the nature of the alleged offence
- 2 the witness is intimidated or distressed because of the witness's relationship to the accused person

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).

6

Clause 8

Proposed new section 38C (1)

Page 6, line 15—

omit proposed new section 38C (1), substitute

- (1) This section applies to the complainant or a similar act witness (the *witness*) giving evidence for the prosecution in—
- (a) a sexual offence proceeding; or
 - (b) a violent offence proceeding in relation to a serious violent offence; or
 - (c) a violent offence proceeding in relation to a less serious violent offence if—
 - (i) the witness is a relevant person in relation to the accused person; or
 - (ii) the court considers that the witness has a disability that affects the witness's ability to give evidence because of the circumstances of the proceeding or the witness's circumstances.

Examples—par (c) (ii)

- 1 the witness is likely to suffer severe emotional trauma because of the nature of the alleged offence
- 2 the witness is intimidated or distressed because of the witness's relationship to the accused person

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).

- (1A) This section also applies to a child or witness with a disability (the *witness*) giving evidence for the prosecution in a sexual or violent offence proceeding.

7

Clause 8

Proposed new section 38D (1)

Page 8, line 14—

omit proposed new section 38D (1), substitute

- (1) This section applies to the complainant or a similar act witness (the *witness*) giving evidence in—
- (a) a sexual offence proceeding; or
 - (b) a violent offence proceeding in relation to a serious violent offence; or

- (c) a violent offence proceeding in relation to a less serious violent offence if—
- (i) the witness is a relevant person in relation to the accused person; or
 - (ii) the court considers that the witness has a disability that affects the witness's ability to give evidence because of the circumstances of the proceeding or the witness's circumstances.

Examples—par (c) (ii)

- 1 the witness is likely to suffer severe emotional trauma because of the nature of the alleged offence
- 2 the witness is intimidated or distressed because of the witness's relationship to the accused person

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).

8

Clause 9

Proposed new section 39 (1)

Page 9, line 13—

omit proposed new section 39 (1), substitute

- (1) This section applies to the complainant or a similar act witness (the *witness*) giving evidence in—
- (a) a sexual offence proceeding; or
 - (b) a violent offence proceeding in relation to a serious violent offence; or
 - (c) a violent offence proceeding in relation to a less serious violent offence if—
 - (i) the witness is a relevant person in relation to the accused person; or
 - (ii) the court considers that the witness has a disability that affects the witness's ability to give evidence because of the circumstances of the proceeding or the witness's circumstances.

Examples—par (c) (ii)

- 1 the witness is likely to suffer severe emotional trauma because of the nature of the alleged offence
- 2 the witness is intimidated or distressed because of the witness's relationship to the accused person

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).

9

Clause 16**Proposed new section 42**

Page 26, line 20—

*omit proposed new section 42, substitute***42 When does div 4.3 apply?**

- (1) This division applies if the complainant or a similar act witness (the *witness*) is to give evidence in any of the following proceedings, whether the evidence is to be given on oath or otherwise:
- (a) a sexual offence proceeding;
 - (b) a violent offence proceeding in relation to a serious violent offence;
 - (c) a violent offence proceeding in relation to a less serious violent offence if—
 - (i) the witness is a relevant person in relation to the accused person; or
 - (ii) the court considers that the witness has a disability that affects the witness's ability to give evidence because of the circumstances of the proceeding or the witness's circumstances.

Examples—par (c) (ii)

- 1 the witness is likely to suffer severe emotional trauma because of the nature of the alleged offence
- 2 the witness is intimidated or distressed because of the witness's relationship to the accused person

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).

- (2) In this section:

relevant person—see section 38AA.

10

Proposed new clause 25A

Page 32, line 20—

*insert***25A New part 10***insert*

Part 10 Transitional—Sexual and Violent Offences Legislation Amendment Act 2008

150 Application of amendments

The amendments to this Act made by the *Sexual and Violent Offences Legislation Amendment Act 2008*, part 2 do not apply to a proceeding if the hearing of the proceeding has started before the commencement of that part.

151 Expiry—pt 10

This part expires 1 year after the day it commences.

11

Clause 28

Dictionary, proposed new definitions

Page 34, line 9—

insert

less serious violent offence, for part 4 (Evidence in criminal proceedings)—see section 37.

relevant person, for division 4.2 (Sexual and violent offence proceedings—general)—see section 38AA.

serious violent offence, for part 4 (Evidence in criminal proceedings)—see section 37.

12

Proposed new clause 34

Page 38, line 13—

insert

34 New chapter 12

insert

Chapter 12 Transitional—Sexual and Violent Offences Legislation Amendment Act 2008

460 Application of amendments

The amendments to this Act made by the *Sexual and Violent Offences Legislation Amendment Act 2008*, part 3 do not apply to a proceeding if the hearing of the proceeding has started before the commencement of that part.

461 Expiry—ch 12

This part expires 1 year after the day it commences.

Schedule 4

SEXUAL AND VIOLENT OFFENCES LEGISLATION AMENDMENT BILL 2008

Amendments circulated by Dr Foskey

1

Clause 7

Proposed new section 38 (4), note

Page 4, line 18

before

complainant

insert

court may direct that a

2

Clause 8

Proposed new section 38C (2)

Page 6, line 22—

omit

A self-represented accused person

substitute

The court may, by order, direct that a self-represented accused person

3

Clause 8

Proposed new section 38C (3)

Page 7, line 2—

after

a witness,

insert

and the court has made an order under subsection (2),

4**Clause 9****Proposed new section 39 (4)****Page 10, line 1—**

omit proposed new section 39 (4), substitute

- (4) However, an order under this section does not stop the following people from being in court when the witness gives evidence:
- (a) a person nominated by the witness;
 - (b) a person who attends the proceeding to prepare a news report of the proceeding and is authorised to attend for that purpose by the person's employer.

Note Publishing certain information in relation to sexual offence proceedings is an offence (see s 40).

5**Clause 11****Proposed new section 40E (2A)****Page 13, line 14**

insert

- (2A) The audiovisual recording must show enough of the witness's body to ensure the witness's demeanour and body language is visible to a person viewing the recording.

6**Clause 25****Proposed new section 81D (4)****Page 32, line 12**

omit proposed new section 81D (4), substitute

- (4) However, an order under this section does not stop the following people from being in court when the witness gives evidence:
- (a) a person nominated by the witness;
 - (b) a person who attends the proceeding to prepare a news report of the proceeding and is authorised to attend for that purpose by the person's employer.

Note Publishing certain information in relation to sexual offence proceedings is an offence (see s 40).

7

Clause 33

Proposed new section 90AA (11)

Page 37, line 17

omit proposed new section 90AA (11), substitute

- (11) However, if the person is a complainant in relation to a sexual offence, the court may, by order, direct that the person must not be required to attend and give evidence at a preliminary examination in relation to the sexual offence (whether or not the examination relates also to another offence).
- (11A) If the court makes an order under subsection (11), subsections (4), (7), (8) and (10) do not apply to a written statement made by the person.
-