LEGISLATIVE COUNCIL

Thursday, 6 February 2025

The PRESIDENT (Hon. T.J. Stephens) took the chair at 14:16 and read prayers.

The PRESIDENT: We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of this country throughout Australia, and their connection to the land and community. We pay our respects to them and their cultures, and to the elders both past and present.

Members

SENATE VACANCY

The PRESIDENT (14:18): I lay upon the table the minutes of proceedings of the joint sitting of the two houses held on Thursday 6 February 2025 to choose a person to hold the place in the Senate of the commonwealth rendered vacant by the resignation of Senator Simon Birmingham. Ms Leah Blyth was the person so chosen.

Ordered to be published.

Parliamentary Procedure

PAPERS

The following paper was laid on the table:

By the Minister for Emergency Services and Correctional Services (Hon. E.S. Bourke)—

Regulations under National Schemes—
Education and Care Services National Law—Transitional Provisions

Question Time

SAND DREDGING

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:19): I seek leave to make a brief explanation prior to addressing questions to the Attorney, as the minister responsible for the Adelaide Beach Management Review, regarding West Beach dredging.

Leave granted.

The Hon. N.J. CENTOFANTI: The opposition has been approached with information that the sump atop saltwater intake pipe No. 3, which is one of the water inlet pipes for both SARDI West Beach and Robarra, has been significantly damaged with the top section broken off, leaving the intake pipe completely open and vulnerable. Research shows that a damaged saltwater intake pipe in a farmed aquaculture system can have several significant effects, including water quality issues of reduced water flow, oxygen depletion, temperature fluctuations and salinity changes; contamination risks, including sediment and debris infiltration or pathogen and toxin exposure; and pump and filtration system strain from overworking pumps and clogging and fouling, amongst other things.

My question to the minister responsible for the Adelaide Beach Management Review is: is the minister aware of or has the minister been briefed by either DEW or EPA about such damage, and if not, will the Attorney commit to this chamber that in light of this information he will seek a briefing on this issue as a priority?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:20): I thank the honourable member for her question. I am not aware of the issue that the honourable member has raised. The infrastructure is part of my colleague the Hon. Clare Scriven's portfolios properties at the SARDI research facility. As the Hon. Clare Scriven has very adeptly pointed out, there is an investigation

underway, using world-renowned experts to conduct that investigation, and I look forward to those results.

SAND DREDGING

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:21): My question is to the Minister for Primary Industries regarding infrastructure from the SARDI research centre. In light of the information that I have just presented to the Attorney, is the Minister for Primary Industries aware of or has the minister been briefed about such damage to water intake pipe No. 3, and if not, will she commit to this chamber that in light of this information she will seek a briefing from her department on this issue as a priority?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:22): I thank the honourable member for her question. I have been made aware that there is potentially some damage to one of the pipes. That, of course, is part of the analysis of the situation at West Beach, and in terms of maintenance and so on, that is part of the ongoing approach that has been taken.

SAND DREDGING

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:22): Supplementary: could this incident have contributed to the fish deaths at SARDI West Beach and Robarra?

The PRESIDENT: Minister, you can answer it if you want.

VESSEL MONITORING SYSTEMS

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:22): I seek leave to make a brief explanation prior to addressing questions to the Minister for Primary Industries regarding vessel monitoring systems.

Leave granted.

The Hon. N.J. CENTOFANTI: Yesterday during question time, at the end of replying to a question I asked regarding ongoing maintenance and repairs of VMS devices, the minister said:

> I guess I would ask the honourable member: is she opposed to appropriate real-time compliance and monitoring?

My questions to the minister on this matter today are: does the minister think the current compliance program is insufficient? If so, can she provide evidence to this chamber as to why she believes it is currently insufficient?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:23): My department is always looking for ways to improve efficiency and efficacy. I think that is something that should always be top of mind for departments and, indeed, for businesses as well, for that matter. I think the VMS has proved elsewhere to be of benefit. As I have mentioned before in this place, a number of fisheries in South Australia already utilise VMS.

VESSEL MONITORING SYSTEMS

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:24): Supplementary: if VMS will indeed, as the minister says, improve efficiency and efficacy, why won't fishers see this through a reduction in the cost-recovery process?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:24): I thank the honourable member for her supplementary question. The cost-recovery process is always looking at a number of things. First of all, there is a base level of services that need to be provided, and that's the case to enable the sustainability of the fisheries to be maintained, as well as compliance activities and so on. Wherever there are opportunities to reduce costs without compromising either compliance outcomes or sustainability, the department continues to look at that. Indeed, there was constant advocacy from various fishery businesses for that to occur.

VESSEL MONITORING SYSTEMS

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:25): Supplementary: does the minister believe that VMS will improve compliance outcomes?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:25): The advice I have is that it has been proven to do so in other jurisdictions.

EMERGENCY SERVICES

The Hon. T.T. NGO (14:25): My question is to the Minister for Emergency Services. Can the minister inform the council about the SA volunteers and firefighters who have been deployed to assist with interstate emergencies?

The Hon. E.S. BOURKE (Minister for Emergency Services and Correctional Services, Minister for Autism, Minister for Recreation, Sport and Racing) (14:26): I thank the honourable member for his question. It was a great privilege this morning to join the 20 members of our State Emergency Service (SES) to be deployed to answer the call for help in communities in Queensland. They are flying out of Adelaide to support those in Townsville who have been hard hit by the recent intense storms and flash flooding.

I am advised that this group of 20 is the first deployment of a group of 60 frontline personnel from the SES, CFS and MFS who will support Queensland communities to help with response and recovery efforts in devastated areas. This first group of SES volunteers hail from all across South Australia, from metropolitan Adelaide as well as from our regional areas, including Kangaroo Island and Port Augusta. This morning I had the great privilege of chatting with Peter who, I was surprised to find out, is 79 and still volunteers. He made his way down from Port Augusta to be sure that he could go to help out in Queensland. He is a self-described workaholic, and I can certainly see that stays strong by his characteristics.

I understand the CFS and MFS will also send two joint strike teams to Queensland to assist with the flood emergency, with more volunteers departing on Sunday 9 February and Wednesday 12 February. Each five-day rotation comprises 10 personnel of CFS volunteers and MFS firefighters, demonstrating South Australia's commitment across our emergency services to support interstate agencies.

I understand the deployment of these volunteers highlights South Australia's ability to quickly respond to requests and calls for help from our interstate communities while ensuring resources at home can respond to local needs. These deployments to Queensland come at a time when our emergency services personnel have also answered the call from our interstate neighbour to help with fires such as the Little Desert fire.

Once again, I want to thank each and every volunteer, people like Peter, and also their families, who have sacrificed having a family member with them at the dinner table for the next five days. To the people who have been affected by the floods in Queensland, our thoughts are with them, as well as the families and the communities in Victoria.

POLICE RAMPING

The Hon. J.S. LEE (14:28): I seek leave to make a brief explanation before addressing a question to the Attorney-General, representing the Minister for Police, about police officers being ramped at hospitals.

Leave granted.

The Hon. J.S. LEE: In a report by the ABC News on 14 January 2025, police spent thousands of hours being ramped at hospitals last financial year while transporting prisoners or mental health patients. According to new data, police were delayed for a total of 1,264 hours in 2023-24, an increase of 597 hours from the 2019-20 financial year. SA Police also confirmed there had been a significant increase in demand on officers from the number of mental health incidents over the past five years, with a police spokesperson stating that:

…the number of SAPOL detained mental health presentations to emergency departments has increased 116 per cent in the last five years…[and that] the average delay…has increased 7 per cent over the same period.

My questions to the Attorney-General are:

1. Does the Attorney-General believe that the number of hours police officers are being delayed while waiting at hospitals is a suitable use of policing resources?

2. What action plans will the government implement to prevent police officers being excessively ramped at hospitals?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:30): I thank the honourable member for her question. It is a very good question. I will, of course, refer the specific question she has asked to my ministerial colleague in another place the Hon. Stephen Mullighan, the Minister for Police. I will note that we have just seen this week the police commissioner—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: —make some very substantial announcements about how police resources are deployed to continue to keep South Australians as safe as possible.

SEXSOMNIA

The Hon. C. BONAROS (14:30): I seek leave to make a brief explanation before asking a question of the Attorney about a legal defence term, namely sexsomnia.

Leave granted.

The Hon. C. BONAROS: As reported in *The Australian* last Thursday a jury has recently found a 40-year-old Sydney burlesque business owner not guilty of having non-consensual sex with a woman at his apartment owing to the claim that he was asleep when the assault took place. The case follows another case previously reported by the ABC in 2022 wherein a judgement to acquit a man who sexually abused his young daughter was upheld owing to the same defence.

Perhaps for all of us, sexsomnia is said to refer to a medical condition where a person is said to exhibit sexual behaviour during sleep. According to the media reports one inquiry of concern to the judge hearing the matter regarded the consequences of committing crimes while a person is unconscious. They also noted there were no laws in that particular jurisdiction about sexsomnia or something happening while somebody has that condition.

The issue before the jury at trial was whether the individual in question was having an episode of sexsomnia at the time of the alleged rape or whether he was awake. It was not in dispute that the other individual involved in the incident was indeed asleep when the alleged sexual offending or rape initially started.

With that in mind, my question to the Attorney is: given that the claim of sexsomnia has now resulted in a number of acquittals across Australian jurisdictions, has the Attorney-General turned his mind to the issue in the South Australian context, especially given comments that have been made by judiciaries in other jurisdictions that there are simply no laws to deal with this issue in terms of sexsomnia?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:33): I thank the honourable member for her question. I am not particularly familiar with—and I think there have been a couple of cases maybe in Victoria and the Northern Territory where this has been raised as a defence. The law as it has developed over centuries is quite clear in terms of these sorts of major indictable offences: you need to have the mental element proved to prove guilt in relation to the offences. That is, you have to be voluntarily committing the action that is caused.

Automatism, or being able to function without having essentially any control over what you are doing, is something that I know has been raised in a number of different areas and would generally require a very, very significant amount of medical evidence to show that that was there at

the time. The law has been developed over a very long time, where you need to know and intend what you are doing. We have in the criminal law provisions for mental impairments—section 8A in the Criminal Law Consolidation Act—for mental incompetence, so it is a well-established principle. If you can prove that these were not voluntary actions, that mental element is not made out.

I am happy to take it on notice because, quite understandably, victim survivors of events where the physical element has occurred are concerned if a prosecution is not made out for lack of that mental element. Having said that, it is a very longstanding cornerstone of our criminal justice system that needs to occur. But I am happy to get a bit more information for the honourable member on this specific area, which I am not particularly familiar with.

SEXSOMNIA

The Hon. C. BONAROS (14:35): Supplementary: I thank the Attorney for his answer. In terms of providing that response back, would the Attorney also ensure that that includes where a person is known to have the condition but it does not necessarily need be to proved that you were having that condition at the time of the alleged rape?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:35): I am happy to seek some advice in relation to that and bring that back for the honourable member.

LIQUOR THEFTS

The Hon. H.M. GIROLAMO (Deputy Leader of the Opposition) (14:36): I seek leave to make a brief explanation before asking the Attorney-General questions concerning recent liquor thefts in South Australia.

Leave granted.

The Hon. H.M. GIROLAMO: According to a report published on the SAPOL website on 10 January 2025, nine people were arrested after a theft at a Marden bottle shop on 9 January 2025. *The Advertiser* reported on 31 January 2025 that a further eight people were arrested after two separate bottle shop raids at Norwood and North Adelaide.

The Australian Hotels Association has voiced its concern over the increasing brazenness of these thefts, noting that offenders often come equipped with weapons and, if not, they immediately have one as soon as they pick up a bottle. My questions to the Attorney-General are:

1. Can he provide data on how often courts have applied the maximum penalties (or close to the maximum penalties) for liquor theft offences?

2. Is the government planning to undertake a review of the sentencing relating to liquor theft to determine whether judicial discretion is leading to lenient penalties that fail to act as a deterrent?

3. Can he confirm how many offenders charged with bottle shop thefts have been granted bail and have subsequently reoffended whilst on bail over the past 12 months?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:37): We take community safely very, very seriously, particularly in relation to the safety of those who work in retail settings. We have made a number of changes to the law already in this term of government to help increase safety for those working in retail settings, having frontline retail workers as the category of workers for whom an aggravated offence applies if they are assaulted. We recently announced an intention to introduce workplace protection orders that will be particularly relevant in retail settings and would not just apply to individual stores but to entire shopping precincts.

In relation to the specifics of the question, I am happy to take it on notice. I do not think there is a separate category of liquor bottle shop theft as distinct from other sorts of theft from retail outlets. I am not sure if the statistics are available, but I am certainly happy to see whether it can be broken down. I am not sure that that is the case, but if they can I am very happy to bring back an answer.

LIQUOR THEFTS

The Hon. H.M. GIROLAMO (Deputy Leader of the Opposition) (14:38): Supplementary: is the government considering any changes to the current legislation, such as the introduction of mandatory minimum sentences for repeat liquor theft offences?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:38): I thank the honourable member for her question. I have outlined some of the legislative changes we have made and we will be making in relation to protecting retail workers. In relation to minimum mandatory sentences, we do not have any intention to introduce minimum mandatory sentences. In South Australia the only mandatory sentence we have is for murder, and that is a mandatory life sentence.

Governments, of all persuasions—Labor and Liberal—over a long period of time in South Australia have not introduced mandatory sentencing and have left the discretion to the court, and I think for very good reason. As soon as one introduces as a parliament minimum mandatory sentencing for a particular offence like a theft offence, then once there is much more serious offending that occurs against people in a completely different area it would not be unreasonable for victims of those offences to request minimum mandatory sentencing.

I think one of the reasons over decades we have seen governments, of all persuasions, avoid mandatory sentencing and leaving it to the courts is that that slope, once you go down it for one particular offence it is very difficult then not to go for other offences which have an even greater impact on individuals, and we get to a situation where for many, many categories of offending you end up with minimum mandatory sentencing which can result in pretty perverse outcomes in some circumstances.

LIQUOR THEFTS

The Hon. H.M. GIROLAMO (Deputy Leader of the Opposition) (14:40): Supplementary: what is the Attorney-General planning to do, then, to address the increases in reoffending of offenders who are often on bail?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:40): I will have to take that on notice, but I will have a look to see if what is being asked in that question is, in fact, factually correct. I think South Australia has had, and I am not sure if the latest Report on Government Services figures have been released, but I think they may have in relation to recidivism, and, if I am remembering correctly, South Australia—if not the lowest—was certainly at the low end of reoffending in Australia.

Members interjecting:

The Hon. K.J. MAHER: As I have said, I am not aware of statistics that break it down into bottle shops, but if the honourable member has a large suite of statistics that indicate this and has the evidence for it I would be very happy to have a look at it.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! Attorney, you had your chance while you were on your feet. The Hon. Mr Hunter, and everybody on the opposition bench, order! The Hon. Mr Hanson has the call.

DROUGHT ASSISTANCE

The Hon. J.E. HANSON (14:41): My question is to the Minister for Primary Industries and Regional Development. Will the minister speak to the chamber about the recent charity hay runs that have been happening across the state with funding support from the Malinauskas government?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:42): I thank the honourable member for his question. As

members in this chamber know, last November, the Premier and I announced the government's drought support package to provide assistance to primary producers affected by drought.

The state government's drought support package includes:

- $5 million for the On-farm Drought Infrastructure Rebate Scheme, which provides rebates of up to 75 per cent (to a maximum of $5,000 excluding GST), to assist with eligible projects that manage drought conditions and strengthen drought preparedness, with strong interest recorded in the scheme so far;
- the Connecting Communities Events program which has also received strong interest where groups can apply for up to $5,000 to host events that foster social connections and provide support during these challenging times;
- $2 million to assist charities with freight costs to transport donated fodder to assist farmers with feeding livestock; plus
- an additional $1 million for additional health and wellbeing support through Family and Business Mentors and Rural Financial Counsellors.

I am very pleased to see this funding going to good use, for example with the massive Aussie Hay Runners charity hay run over the Australia Day long weekend. Over 100 truckloads of donated hay from Victoria were delivered to farming communities across the state through financial support from the Malinauskas government. Donated hay provides much needed support for primary producers during some of the driest conditions on record.

With hay becoming more difficult to source in SA and prices increasing, donated fodder can provide much needed relief to primary producers who are struggling to feed livestock. The trucks travelled a total of 218,770 kilometres carrying over $400,000 worth of donated hay, being 3,630 bales, which assisted over 130 farmers. The fleet of trucks left early in the morning on 25 January via the Calder Highway through Sea Lake, Mildura, Renmark, Morgan and Burra. The convoy arrived on Saturday afternoon at the Peterborough Rodeo Grounds, where they were met by the Rotary Club of Peterborough, and truck drivers were able to sit down and have a meal. I am told that this event provided much-needed community connection, with people coming together and supporting each other.

The trucks then headed in multiple directions to cover 11 local government areas, including the Adelaide Plains, Ceduna, Elliston, Goyder, the Mid Murray, Mount Remarkable, Murray Bridge, Northern Areas, Orroroo Carrieton, Peterborough and Wakefield.

Other organisations, including Need for Feed and Rural Aid, have been and are continuing to deliver thousands of bales of donated hay to hundreds of farmers with the assistance of government funding. The assistance is spread all across the state, from the South-East to the Mid North, Murraylands and all the way to Eyre Peninsula.

I am so pleased that the government has been able to support these hay runs, which are providing much-needed assistance to farmers affected by drought. I would particularly like to thank the various volunteers involved in this very, very important initiative.

DROUGHT ASSISTANCE

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:45): Supplementary: is the minister considering fodder subsidies as part of any future drought package, given many farmers are telling the opposition that they are unlikely to see significant rain prior to April and consequently feed for livestock is unlikely to be unavailable until at least July?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:45): I thank the honourable member for her supplementary question. I assume, when she talks about fodder subsidies, she actually means actually purchasing fodder itself. As I have mentioned in this place previously, under the National Drought Agreement actual direct fodder subsidies are discouraged because they can distort the market and have unintended consequences. That is something that is in the National Drought Agreement, which of course South Australia is a signatory to.

In terms of further support for farmers, given that the drought is so far not abating, we will continue to monitor the conditions, we will continue to have engagement with peak bodies and with farmers directly, and we will obviously take any future actions as needed as that situation evolves.

COP31

The Hon. T.A. FRANKS (14:46): I seek leave to make a brief explanation before addressing a question to the Leader of the Government, representing the Premier, on the topic of COP 31.

Leave granted.

The Hon. T.A. FRANKS: The Premier's press release of 14 October last year states:

South Australia has set its sights on becoming the host for COP31, the 2026 United Nations Conference of the Parties on Climate Change.

One of the world's largest…events, the conference gathers representatives from 197 nations to discuss and make decisions on climate change.

The state's bid reflects its strong commitment to climate action and renewable energy innovation, with South Australia already established as a global leader in decarbonisation.

The state government recently commissioned a feasibility analysis, confirming Adelaide's capacity to host this high-profile event in November 2026.

With appropriate planning, Adelaide has the infrastructure, accommodation, and logistical capacity to welcome international delegates.

In that press release, the Premier further stated that within the Adelaide Convention Centre and wider precinct is where the COP31 would be hosted and that it was estimated to bring some 30,000 people into the state and, further, that it would bring a quantified potential benefit to the state of $511 million. In discussion of the economic benefits of hosting a COP, these are usually quoted by COP itself as being some $100 million to $200 million. My questions to the minister representing the Premier therefore are:

1. What do the Premier and his department intend to do differently from previous COP hosts to ensure such a significant economic benefit to South Australia—of some hundreds of millions of dollars more—should our state be chosen to host COP31?

2. Is the feasibility study to be released, and does it indeed comply with all the requirements that COP sets to host one of their events?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:48): I thank the honourable member for her question. I will certainly pass on those questions to the Premier in another place and bring the honourable member a reply.

COP31

The Hon. T.A. FRANKS (14:49): Supplementary: the Premier's press release said that we intended to be 'the host' for COP31. Did the Premier mean 'a host' for COP31?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:49): Again, I am happy to—

The PRESIDENT: By your own good grace you are answering that, because that was not a supplementary question—but again, it was a very good try.

DAVENPORT COMMUNITY COUNCIL

The Hon. J.M.A. LENSINK (14:49): I seek leave to make a brief explanation before directing a question to the Minister for Aboriginal Affairs regarding the Davenport Community Council.

Leave granted.

The Hon. J.M.A. LENSINK: In a recent article, it was reported that Davenport Community Council is still in receipt of federal and state funding despite not having operated for at least

14 months. I understand the Attorney-General's Department has been quoted saying that the Corporate Affairs Commission:

> … recently filed proceedings to wind up Davenport Community Council Inc as an incorporated association as a result of breaches of the Associations Incorporation Act.

My questions for the minister are:

1. Can the minister provide an update to the chamber on the filed proceedings by the Corporate Affairs Commission to wind up the Davenport Community Council as an incorporated association as a result of breaches of the Associations Incorporation Act, including when the proceedings were filed and when the commission became aware of the council's breaches?

2. Can the minister advise on the current funding arrangements between the state government and Davenport Community Council?

3. Can the minister advise the chamber on what plans his government has to address the ongoing concerns in Davenport?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:51): I thank the honourable member for her question. I know that through the honourable member's former role in housing she would be very familiar with Davenport, which has a significant amount of public housing on the Aboriginal Lands Trust land for Aboriginal people in that area.

As I have mentioned in the chamber before, the Corporate Affairs Commissioner has filed an application in relation to appoint a liquidator to Davenport Community Council Incorporated. That is a matter for the Corporate Affairs Commissioner as a regulator of associations to make that decision in relation to their compliance with their rules and the law in relation to that association.

In relation to state government funding, there is a very small amount—from memory it is some tens of thousands of dollars but I will check that if that is dramatically wrong—that is paid for by the state government for, I think, things like dust suppression around Davenport and general clean-up around Davenport. The state government provides funding for rubbish collection. My understanding, and again I will double-check it is correct, is that is not paid to Davenport or the community council but to the service provider directly who does that rubbish collection.

In terms of housing at Davenport, of course that is SA Housing who provides the housing. That is not provided by, or goes through, Davenport Community Council. There is a Wami Kata Old Folks Home near Davenport that is obviously, I think, federal government-funded for that purpose. There are further federal government programs. I am happy to see if I can get some information from the National Indigenous Advancement Agency, who are responsible for providing those programs.

I have had a meeting in the last few weeks with the Aboriginal Lands Trust, as I do regularly, who own the land that Davenport is situated on. Like I think about half a million hectares that are held on trust by the Aboriginal Lands Trust for Aboriginal people, Davenport is an old mission, the Umeewarra Mission, as are many areas around South Australia. The old Point McLeay Mission at Raukkan, Point Pearce, and many other areas are Aboriginal Lands Trust-held land on behalf of those Aboriginal communities, as former missions in the centuries gone by.

I know that the Aboriginal Lands Trust is ensuring that services continue to be provided. There is continuity of services that are provided to Aboriginal people on Davenport so that if there was a transition from the Davenport Community Council, residents there should not be disadvantaged in terms of services that are generally provided. I know that both state and federal government Aboriginal affairs agencies are working towards that aim as well.

DAVENPORT COMMUNITY COUNCIL

The Hon. J.M.A. LENSINK (14:54): Supplementary question: has the minister had a briefing with the Corporate Affairs Commission. If not, why not? If so, when did that take place?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:54): I thank the honourable member for her question. I will check—and again, if it's dramatically wrong on my memory, I am

happy to bring back a response—but I think sometime in December would have been the last time I met with officers from Consumer and Business Services in relation to Davenport. Again, I am happy to check. I know I had a meeting towards the end of last year, but if that's dramatically wrong, I am happy to bring back an answer.

DAVENPORT COMMUNITY COUNCIL

The Hon. F. PANGALLO (14:55): Supplementary: when was the last time the minister visited Davenport?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:55): I thank the honourable member for his question. From memory—and again, if this is dramatically wrong I am happy to correct the record—certainly I was in Port Augusta and Whyalla during NAIDOC Week in the middle of last year and would have visited Davenport. I think I would have visited Davenport. I am guessing, during this term of government, there would have been three or four times that I have visited the Davenport community, but certainly on more occasions than that I have met with not just members of the Davenport community but the Aboriginal community in Port Augusta on quite a number of visits that I have made to Port Augusta in this term of government.

DAVENPORT COMMUNITY COUNCIL

The Hon. F. PANGALLO (14:55): Supplementary: I was there last week. The football oval has not been used for years because you could not even play on it. The dressing rooms are trashed, as is the community hall. I am just going to ask the minister whether—

The PRESIDENT: You can't have a preamble, the Hon. Mr Pangallo. Ask the question.

The Hon. F. PANGALLO: Will the minister find funding to bring back the football ground, which hasn't been used for years, and the community hall that has been trashed?

The PRESIDENT: Minister, it didn't arise from the original answer, so it's your choice there.

FIRST NATIONS BUSINESS SHOWCASE

The Hon. R.B. MARTIN (14:56): My question is to the Minister for Aboriginal Affairs.

The Hon. L.A. Henderson interjecting:

The PRESIDENT: Order! The Hon. Mrs Henderson, stop the vicious attack on the Hon. Mr Martin.

The Hon. R.B. MARTIN: Will the Minister for Aboriginal Affairs please inform the chamber about the First Nations Business Showcase event?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (14:56): I thank the honourable member for his surprise question that he has come up with. He shows a great interest in these sorts of matters, and this is an important area. I would be more than happy to inform him about the First Nations Business Showcase.

I am very pleased to update the council on the most recent First Nations Business Showcase. The showcase, now in its third year, continues to grow and diversify, with First Nations enterprises promoting innovation and economic strength of their businesses. The showcase generally coincides with Indigenous Business Month and is organised by the First Nations Entrepreneur Hub, the Circle. Once again, the Circle delivered a successful and engaging event.

Industry events such as this one are vitally important in connecting First Nations businesses with industry and government agencies so that we can collaborate, boost South Australia's economy and create and support jobs in the community. I know that there is a genuine desire to connect and do business, which is evidenced by this year's events being the largest yet, hosting over 140 First Nations businesses, attracting over 1,500 attendees.

The flow-on benefits of First Nations business ownership are significant in supporting employment and education opportunities as well as building family and community income. It has

been reported that Aboriginal businesses are 100 times more likely to employ an Aboriginal person than a non-Aboriginal business.

As Minister for Aboriginal Affairs, I am proud of our First Nations business owners and what they have achieved and the support that is provided. Importantly, we are seeing Aboriginal businesses and entrepreneurs in a wide range of fields, such as health, creative industries, gaming, native produce, service sectors, legal and accounting, tourism and much more.

I am encouraged by the genuine commitment from industry and the public sector in their support of First Nations businesses in South Australia. As I have wandered around events, not just this one but ones like this that showcase Aboriginal and Torres Strait businesses, I am very buoyed by the level of diversity, complexity and enthusiasm that Aboriginal businesses have in this state.

MEDICAL DIAGNOSIS, ARTIFICIAL INTELLIGENCE

The Hon. F. PANGALLO (14:59): I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Health in the other place, a question about the use of ChatGPT in medical diagnosis.

Leave granted.

The Hon. F. PANGALLO: There will also be a legal question in there as well to the Attorney. This morning I received contact from a constituent who yesterday attended a GP appointment for a sick mother. Since December, her mother has been in and out of both her local GP's office and Flinders Hospital emergency department, being misdiagnosed on multiple occasions.

During yesterday's consultation the constituent observed the GP entering her mother's ongoing symptoms into ChatGPT and engaging in a back and forth exchange to determine a diagnosis and appropriate treatment plan. When questioned, the GP confirmed it was ChatGPT for doctors to assist in making clinical decisions. This can be quite concerning and you have to wonder at the accuracy of the diagnosis and/or any consequences that could follow.

I say this because a well known person I know who used ChatGPT to test its accuracy by requesting a CV about themselves returned numerous inaccuracies. My questions to the minister are:

1. Given the very well known risks that these AI applications produce incorrect information, does the minister believe it is appropriate for doctors to rely on AI-driven applications like ChatGPT for medical diagnosis and treatment advice?

2. What guidance, if any, has been issued by the government to medical professionals?

3. Regarding the use of AI tools like ChatGPT in patient care, what steps are being taken by the government to safeguard patients?

And one for the Attorney-General:

4. What guidance, if any, has the Attorney-General and the government issued to public servants and Crown law about the use of AI technology?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:01): I thank the honourable member for his question; it is a very important question. Certainly, when people are getting treatment for themselves and their loved ones it can be a very difficult and distressing time. When things don't go as they should that just compounds what can be some of the most traumatic parts of people's lives, when loved ones are undergoing serious medical treatments and receiving diagnoses.

The interaction of new technologies with how we do everything in life is a field that is very rapidly changing. We are seeing with machine learning and iterative artificial intelligence exceptionally dramatic changes in many fields, and I think that will only increase. It is something that, as technology changes, governments and ourselves in this chamber as legislators necessarily need to grapple with.

We saw only in the last week a new appointment in terms of the executive of the South Australian government, with the Member for Florey, Michael Brown, appointed as

parliamentary secretary, particularly with responsibility for looking at issues around artificial intelligence and I think that shows how seriously, as the South Australian government, we are taking how new technology is applied to what we do as governments, but how we interact in society generally. In my area we released a discussion paper recently looking at how artificial intelligence can—whether a person should have some sort of right of ownership of their likeness and their image in terms of how artificial intelligence is used to create what I think are commonly known as deep fakes. So, yes, these are areas that are developing.

Certainly in relation to this particular technology's use in relation to health settings, I will be happy to take that on notice for the honourable member and refer it to the health minister and bring back a reply.

MEDICAL DIAGNOSIS, ARTIFICIAL INTELLIGENCE

The Hon. F. PANGALLO (15:04): Supplementary: I also asked about your department, Attorney. Is ChatGPT being used in the Attorney-General's Department, Crown law, DPP? Has any guidance been issued to solicitors working for the government?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:04): I thank the honourable member for the question. Certainly in the legal area it is an issue that has thrown up complexities. I think there was a US case where written submissions were clearly made by an artificial intelligence-generated program. I remember reading a report of referring to cases that did not exist, that the artificial intelligence program wrote precedents that had not actually occurred.

I have no doubt that in some areas, particularly policy modelling, there will be some sort of iterative learning that will be developed and employed, like in every policy area across government. In terms of its application, I assume what the honourable member is talking about is in making legal submissions or formulating argument. I am not aware that it is used in that form, either with the Crown or the DPP, but I would certainly be happy to take that on notice for the honourable member.

ARTIFICIAL INTELLIGENCE

The Hon. D.G.E. HOOD (15:05): Supplementary: Attorney, has the government considered a mechanism by which a self-declaration may be appropriate when individuals are using this new technology, whether it be AI, ChatGPT or whatever it may be, so at least it is disclosed and clear to those who are consuming the product in the end?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:06): I thank the honourable member for that question. That is certainly something I might take up with the new assistant minister who has particular responsibilities in relation to artificial intelligence. It is a good suggestion, and I think we are going to see these sorts of issues right around the world needing to be considered.

While I am on my feet, I have some further information in relation to the Hon. Mr Pangallo's supplementary question. I am informed that the Attorney-General's Department has an AI policy that provides guidance, including particularly for the development of legal advice, and that it is not allowed to be used particularly for the Crown Solicitor's Office.

REMOTE WORKING ARRANGEMENTS

The Hon. B.R. HOOD (15:06): I seek leave to make a brief explanation before asking a question of the Minister for Industrial Relations and Public Sector regarding remote work arrangements.

Leave granted.

The Hon. B.R. HOOD: The State of the Sector 2024 Report highlights that 17,284 public sector employees were working remotely during 2024, with formalised remote work arrangements increasing from 10,966 in 2023 to 15,135 in 2024. In an *Advertiser* article in August 2024 a spokesperson for the Premier said 'the Premier has consistently made clear his expectation that public sector employees work from the office'.

Further, a response given by the minister yesterday to a question taken on notice stated that a whole-of-government email was issued in May 2022 by the Commissioner for Public Sector Employment requesting that all employees who had not resumed their pre-COVID working arrangements should do so as a priority.

My question to the Minister for Industrial Relations and Public Sector is: what action is the government taking to ensure that public servants are adhering to the Premier's expectations and the commissioner's directions in returning to the office?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:08): I thank the honourable member for his question. In relation to action that has been taken, the honourable member outlined some of the action that has been taken in relation to what the Premier said and also what the Commissioner for Public Sector Employment has given advice and guidance on. Of course, the Commissioner for Public Sector Employment regularly monitors the way government departments are performing, and I would expect, in terms of remote working, that there was an element of remote working for various reasons pre-COVID across a range of different areas.

Of course, for many, many people in the public sector any form of remote working is just not possible. For those face-to-face frontline service providers, who comprise a very great number of the South Australian public sector and who work exceptionally hard, particularly those who have interactions with members of the public, working from home or remote working is not an option whatsoever. However, I will be happy to pass on to the Commissioner for Public Sector Employment the question that was asked to make sure that there are follow up steps, not just that initial request but follow up steps, to give effect to making sure we are returning to the pre-COVID arrangements.

AUSTRALIAN WOMEN LAWYERS AWARD

The Hon. M. EL DANNAWI (15:09): My question is to the Attorney-General. Will the minister inform the council about last year's recipient of the Australian Women Lawyers Award, which recognises a female lawyer who has made a significant contribution to advance and support other women in law?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:09): I thank the honourable member for her important question and her lifelong dedication to the role of women in workplaces in relation to a question about women lawyers. I am pleased to share with the council that the most recent recipient of the Australian Women Lawyers Award is Ms Fleur Kingham.

The Australian Women Lawyers Award is a significant honour and a lifetime achievement award that acknowledges and celebrates a female lawyer who has made an outstanding career-long contribution to the advancement and support of not only women who are working in the law but the advancement of all women's rights through the law.

The recipient, Ms Kingham, is the immediate past president of the Australian Association of Women Judges, where she supported judges both Australia-wide and internationally, and is widely celebrated not only as an excellent legal mind but as a lifelong gender equality advocate and inspiring mentor. For many years, she has provided guidance, encouragement and support for many women in their legal journey and has been a powerful force in the community through various volunteer and pro bono roles with an underlying drive to further advance the rights and opportunities of all women in the law.

I congratulate Ms Kingham, the recipient of this well-deserved award, and wish to personally offer my congratulations for the significant achievement that she has undertaken. I look forward to her future contributions and the very significant contributions that women make in the legal profession.

HYDROGEN PROJECT

The Hon. R.A. SIMMS (15:11): I seek leave to make a brief explanation before addressing a question without notice to the Minister for Regional Development on the topic of the Whyalla Steelworks.

Leave granted.

The Hon. R.A. SIMMS: This morning, it has been reported that the government's proposed $600 million hydrogen project is in doubt due to the ongoing issues with GFG Alliance and the Whyalla Steelworks. Yesterday, the Premier revealed that GFG Alliance owes the state tens of millions of dollars. The hydrogen project was to be one of the key energy suppliers for the production of green steel at the steelworks and the cornerstone of the Labor government's jobs plan for the Whyalla region. Now, thousands of regional jobs hang in the balance.

In 2023, when this place was considering the Hydrogen and Renewable Energy Bill, the Greens pushed for the bill to be referred to a select committee so that the parliament could examine the risks associated with the hydrogen project, including the economic benefits. At that time, Labor did not support any scrutiny of the bill.

My question to the Minister for Regional Development is: given the thousands of jobs that now hang in the balance, does the minister concede it was a mistake to block the Greens' proposal to refer the bill to a select committee so that the risk could have been properly scrutinised; why didn't Labor allow appropriate scrutiny of their hydrogen plan; and what does this mean for the regions?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (15:13): I thank the honourable member for his question. I think this chamber has a good track record in scrutinising legislation and this one was no exception.

Members interjecting:

The PRESIDENT: Order! I will listen to your supplementary, the Hon. Mr Simms.

HYDROGEN PROJECT

The Hon. R.A. SIMMS (15:13): Does the minister consider passing a bill of this magnitude—that committed the state to spending $600 million—in one sitting day appropriate scrutiny; why was Labor so reluctant to give this bill the scrutiny it deserves; and what does it have to say to the people of Whyalla who have their livelihoods on the line?

Members interjecting:

The PRESIDENT: Order! A supplementary question has to arise from the original answer.

Members interjecting:

The PRESIDENT: Well, actually, I don't think it did, okay? I'm sorry.

Members interjecting:

The PRESIDENT: Order! The Hon. Dennis Hood, a supplementary question arising from the original answer.

HYDROGEN PROJECT

The Hon. D.G.E. HOOD (15:14): Supplementary: minister, are you suggesting that an item costing some 3 per cent of the state budget is not worthy of scrutiny by a select committee?

Members interjecting:

The Hon. D.G.E. HOOD: Is not worthy of scrutiny by a select committee?

Members interjecting:

The Hon. D.G.E. HOOD: Well, I disagree, but anyway.

The PRESIDENT: Order! While you are on your feet, the Hon. Dennis Hood, you can ask your next question. Okay?

Members interjecting:

The PRESIDENT: Order!

PRISON COMPLAINTS

The Hon. D.G.E. HOOD (15:14): I seek leave to make a brief explanation before asking questions of the Minister for Emergency Services and Correctional Services.

Leave granted.

The Hon. D.G.E. HOOD: The Ombudsman has reported that out of the some 4,634 complaints that their office received in the year 2023-24, an unexpectedly large number of 609 of those pertained to correctional services. Prison complaints comprised the vast majority of the concerns raised with one of the reports alleging, extraordinarily, that a correctional services officer used a prison intercom to attempt to counsel an inmate to commit suicide. This was actually later verified. My questions to the minister are:

1. Does the minister consider the number of complaints made concerning South Australia's correctional services to be unacceptable?

2. What are the specific nature of the complaints against our state's correctional services, and what action is she taking in order to prevent the already high numbers from escalating even further?

3. What specific action has been taken against the officer who counselled an inmate over the intercom to commit suicide?

The Hon. E.S. BOURKE (Minister for Emergency Services and Correctional Services, Minister for Autism, Minister for Recreation, Sport and Racing) (15:15): I thank the honourable member for his question. I am aware of the report and the allegations that have been made around the correctional services officer and how they made inappropriate use of the prison intercom system.

I am advised that the Department for Correctional Services was, at the time, conducting its own internal investigations, and I am further advised that the investigations found that the allegations were sustained and that findings of misconduct were made. I have also been advised that the employee resigned during the course of this investigation.

In respect of the Ombudsman's findings, I am advised that she was satisfied with the department's actions and that they were taken appropriately.

PRISON COMPLAINTS

The Hon. D.G.E. HOOD (15:16): Supplementary: I thank the minister for the answer. Is the minister able to provide either now or on notice any further breakdown of the exact nature of those complaints, as outlined—any further detail from the Ombudsman's report that is not publicly available at this point?

The Hon. K.J. Maher: That's a few supplementaries, sir.

The PRESIDENT: Thanks very much, Attorney, for your cheering on.

The Hon. E.S. BOURKE (Minister for Emergency Services and Correctional Services, Minister for Autism, Minister for Recreation, Sport and Racing) (15:16): I can advise the honourable member that 531 of the 609 complaints were made by prisoners. I am further advised that overall complaints about the department have decreased by 12 per cent. I am also advised that the Ombudsman reported that the vast majority of cases received a satisfactory response and were resolved promptly or investigated.

GYNBURRA

The Hon. R.P. WORTLEY (15:17): My question is to the Minister for Primary Industries and Regional Development. Will the minister inform the chamber about the Gynburra community festival that was supported by PIRSA fisheries officers?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (15:17): I thank the honourable member for his question. I am pleased to inform the chamber about Gynburra, which was held on 24 and 25 January in Port Victoria, and the role that PIRSA fisheries officers had in supporting this fantastic event.

Celebrations included a family fun day and a free family movie night on the Friday, leading into a women's pamper day and fireworks and First Nations entertainers on Saturday night. But the main event of the festival is the Clem Graham Senior Memorial Butterfish Competition held on the Saturday. Indeed, the name of the festival, Gynburra, is taken from the traditional Narungga name for butterfish, otherwise known as dusky morwong.

I am advised Gynburra is important to the Narungga people. It has provided an abundant food source for generations and is a species closely tied with the Narungga cultural identity. Traditionally hunted with harpoons on reefs with incoming tides, the method for attracting Gynburra was for the Narungga men to stir up sand by making slight movements with their feet as they waded into the water. This movement would attract the inquisitive and docile Gynburra, which would investigate the movement in the hope of finding their own feed in the form of small crustaceans. Once the fish was close by, with incredible skill, the men would harpoon the Gynburra.

Methods of catching fish have, of course, evolved over time with modern boats, spearguns and snorkelling gear, but the importance of the species remains the same which is why the Gynburra festival and the fishing competition is so important to the local community. The fishing competition has taken place in the waters off Port Victoria for over 50 years, allowing men and boys from Narungga to maintain a cultural connection in passing on knowledge of traditional fishing practices, to provide a feed for their family and community, and battle it out for the title of Butterfish King, a title that goes to the person who catches the biggest fish on the day.

This year's Clem Graham Senior Memorial Butterfish Competition winner was Coen Dixon, with a whopping 90.1-centimetre butterfish. That's right, Mr President: 90.1 centimetres. In terms of winners of other categories, in the under 18's Geoffrey 'Scooby' Webb 'Butterfish Prince' trophy the winners were Ricky Wanganeen and Farin Wanganeen, with butterfish measuring 82.4 centimetres; the Wayne Newchurch Snr Most Butterfish trophy went to Michael Buckskin; the under 18s Neville O'Loughlin Most Butterfish trophy winner was Callan Buckskin; and, finally, the SuperFish for over 55s winner was Ian Harradine Senior.

I congratulate all the winners and everyone who participated in this fantastic competition. After the competition butterfish caught by competitors was cooked by the Royal Volunteer Coast Patrol and served free of charge to the community by Gynburra volunteers.

PIRSA fisheries officers attend each year to provide support to the spearfishing competition and to provide education opportunities through an education stall as well as in mingling over the course of the festival with attendees and competitors. Indeed, fisheries officers attend and promote a range of activities and events to both support and educate the community on sustainable fishing practices, and I think they do an incredible job.

Aboriginal traditional fishing is an important part of the overall fisheries landscape, with our First Nations having always understood the importance of sustainably harvesting our precious marine resources. I congratulate the Gynburra event organisers on a successful event and wish them all the best for their future festivals, highlighting and encouraging the hugely important connection between the Narungga people and traditional fishing.

Bills

SUMMARY OFFENCES (KNIVES AND OTHER WEAPONS) AMENDMENT BILL

Introduction and First Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:21): Introduced a bill for an act to amend the Summary Offences Act 1953. Read a first time.

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:22): I move:

That this bill be now read a second time.

I am proud to introduce the Summary Offences (Knives and Other Weapons) Amendment Bill 2025 into this parliament. The safety of the community is a top priority for this government. South Australia has long had strong knife laws, particularly following reforms implemented by the Rann and Weatherill Labor governments. However, this government is committed to ensuring our laws remain up to date and effective. This bill represents the government's unreserved commitment to tackling knife and weapons-related crime in our community.

The introduction of this bill follows the release of the public discussion paper to examine how existing knife laws in South Australia might be strengthened. This public consultation received significant engagement, with over 100 YourSAy survey responses and 36 written submissions. The government worked particularly closely with South Australia Police to design laws that are not only strong but which can be used effectively by police officers on the ground.

The result of this extensive work is a package of reforms which will make our community safer. Unlike the opposition, we are not content to simply take one small measure and call it a day. We know that a holistic package is needed if we are to have confidence in our laws remaining effective. South Australia's criminal law already contains a range of offences and penalties relating to knives. This bill builds on that strong foundation and has been developed in reliance both on the substantial public feedback from the discussion paper and through extensive consultation with South Australia Police.

The bill reforms knife laws in South Australia in several key ways. It expands the ability of a police officer to scan people for weapons by using electronic metal detectors at declared public transport hubs, public transport vehicles and shopping precincts; at any public place where there is a likelihood of violence or disorder involving weapons; and at any time on a person in a public place if the person has, in the past five years, been convicted of certain offences or has been a member of a declared criminal organisation.

This bill will amend existing search powers to allow a police officer to detain and search a person who the police suspects on reasonable grounds is a person to whom a weapons prohibition order applies. The bill will allow police officers, by written notice, to request that a person leave certain areas if the police officer apprehends or believes on reasonable grounds that the presence of the person poses a risk to public order and safety, or that an offence of a kind that may pose a risk to public order and safety has been, or is about to be, committed by that person.

The bill will also create a new offence for a person to remain in the area after having been ordered to leave an area or vehicle or if they attempt to re-enter the area or vehicle in the 24-hour period after being served the order. The bill will also allow police officers to use necessary and reasonable force to remove the person from an area or vehicle if they have been ordered to leave and fail to do so or re-enter the area or vehicle.

It will create two new offences, which make it unlawful to supply a knife to a minor, knowing or having ought reasonably to have known that the minor will use the knife in the commission of an offence. It will ban the sale of knives to all minors, including those aged 16 and 17—with no exemptions. It will require that certain types of knives are subject to storage requirements at retail premises. It will require that prohibition notices are displayed at retail premises.

It will make amendments in anticipation of prescribing swords as a prohibited weapon by regulation, meaning they will be subject to more strict laws around their use and possession. Also in anticipation of the more strict prescription of machetes as prohibited weapons (again to be done by regulation), the bill will create an exemption to the prohibited weapons offences for gardening and camping purposes, which will apply only to machetes.

Finally, the bill will also expand the operation of offences relating to possession, carriage and use of weapons in schools to apply to 'education facilities', which are defined to include a childcare centre, a preschool or kindergarten, a primary or secondary school, a place at which an approved learning program is undertaken (within the meaning of the Education and Children's Services Act 2019), and a university, TAFE SA campus or other tertiary education facility. I will now outline in more detail each of the measures in the bill in further detail.

Metal detector police search powers.

The new metal detector police search powers proposed in this bill require the repealing of sections 72A, 72B and 72C of the Summary Offences Act 1953 that deal with metal detector and weapons searches, where the substance of these current provisions, as well as several new metal detector search powers, will be contained within a new part 14C. It will be an offence to hinder or obstruct a police officer (or a person accompanying a police officer) in the exercise of powers conferred under part 14C of the bill. It will also be an offence to refuse or fail to comply with a requirement made, or a direction given, under part 14C. The maximum penalty for each of these offences is $2,500 or imprisonment for six months.

While this offence already exists in the Summary Offences Act, the bill will expand the offence to apply to the exercise of the new search powers introduced by these reforms. The searches conducted under new part 14C must be by metal detector in the first instance, other than searches relating to anticipated incidents of serious violence between a group or groups of people. If metal is detected, the police officer may require the person to produce the items detected. If the person refuses or fails to produce any such item, the police officer will be able to conduct a search in relation to the person or property for the purpose of identifying the item, as if it were a search conducted under current laws on a person reasonably suspected of being in possession of an item contrary to law.

This is a well-established process in the Summary Offences Act, and the bill expands its operation to more public areas to better protect our community from violence. The various reporting obligations contained in the current section 72A(7) and 72B(9) of the Summary Offences Act have been replicated in the bill, and several additional reporting obligations have been included to reflect the new powers in the bill. The various safeguards contained in section 72C have also been replicated in the bill.

Special measures to prevent serious violence.

Existing section 72B allows for the search of persons on the authorisation of an officer of, or above, the rank of superintendent, where there is or may be an incident of serious violence involving a group or groups of people. For ease of reference in the Summary Offences Act, this section will be repealed and reproduced in new part 14C of the bill and, while there are minor changes to update the language and layout of the provision, the substance and effect will remain the same.

Metal detector searches for the deterrence of violence or disorder in public places.

Under the government's proposed bill, the Commissioner of Police will be able to authorise the use of search powers (which must be a metal detector search in the first instance) in relation to a specified public place if there are reasonable grounds to believe that an incident of violence or disorder may take place in the area and that the exercise of the powers is reasonably necessary to prevent the incident. The authorisation will be limited to a period of no more than six hours and must be by written instrument unless the commissioner is satisfied that circumstances of urgency exist, in which case the authorisation may be oral, provided that it is reduced to writing as soon as reasonably practicable.

Where an authorisation is made in relation to a specified public place, police officers would be empowered to conduct searches of any person who is in or is apparently attempting to enter or leave the place, and any property in possession of such a person, for the purpose of detecting the commission of an offence against part 3A of the Summary Offences Act.

Power to conduct metal detector searches of certain persons.

Under this bill, police officers will be authorised to conduct a search (which must be a metal detector search in the first instance) of any person who has, within the last five years immediately preceding the relevant time, been found guilty of an offence prescribed by regulation, or has been a member of a criminal organisation, for the purposes of detecting the commission of an offence against existing part 3A of the Summary Offences Act.

A police officer will be authorised to conduct a metal detector search of a person who meets this criteria and who is in, or is apparently attempting to enter or leave, a public place. Before carrying out the search, the police officer must provide the person to be searched with information including the grounds for the search, an explanation of the effect of hindering or obstructing a police officer, or

refusing or failing to comply with a requirement made of the person (including the penalty for doing so). If the person to be searched so requests, the identification number of the police officer must also be provided.

Power to conduct metal detector searches at certain events and places.

This bill would also give new powers to police to conduct searches (again, via a metal detector search in the first instance) for the purpose of detecting the commission of an offence against existing part 3A of the Summary Offences Act of any person who is in, or apparently attempting to enter or leave, the following places:

- licensed premises;
- a public place holding a declared public event;
- a declared shopping precinct;
- a declared public transport hub;
- a car parking area specifically or primarily provided for the use of patrons and customers of an area referred to in a preceding paragraph; or
- a public transport vehicle providing a declared public transport service.

With respect to licensed premises, this bill reflects the existing powers within section 72A(3)(a) of the Summary Offences Act; however, the definition of 'licensed premises' will be expanded. Licensed premises are currently defined in the Summary Offences Act to include:

- the premises defined in the Casino licence under the Casino Act 1997;
- premises subject to a licence prescribed by regulation; and
- premises in respect of which one of the following classes of licence is in force under the Liquor Licensing Act 1997; that is, a general and hotel licence, an on-premises licence, a restaurant and catering licence, a club licence, and a licence of a class prescribed by regulation, other than premises, or premises of a class, declared by the regulations to be excluded.

The current definition of licensed premises does not permit police officers to conduct metal detector searches in many of the licensed premises within which it is an offence to carry an offensive weapon pursuant to section 21C(3) of the Summary Offences Act—for example, for short-term licences and small venue licences. Therefore, the definition of licensed premises for the purposes of metal detector searches will be expanded by this bill to include all licensed premises within the meaning of the Liquor Licensing Act (other than any that are excluded by regulation).

The police commissioner's existing power to declare community, cultural, arts, entertainment, recreational, sporting and other similar events occurring in a public place for the purpose of metal detector searches for weapons under section 72A(3)(b) of the Summary Offences Act will remain. However, currently, a declaration in respect of a public event must specify that the declaration operates during the period for which the event is held. This means that police are not currently permitted to conduct searches prior to the event time.

The bill has rectified this so that the declaration must specify the period during which the declaration is in force (being a period commencing no earlier than the start of the day on which the event starts and ending no later than the end of the day on which the event ends). The commissioner will also be empowered through these reforms to declare shopping precincts, public transport hubs and public transport services for the purposes of metal detector searches for weapons. Certain additional criteria must be satisfied before such a declaration may be made. Before declaring a shopping precinct, public transport hub or public transport vehicle the commissioner must be satisfied:

- that the exercise of the search powers is necessary or appropriate for the purposes of deterring or detecting the commission of offences involving the possession or use of a knife or other weapons in the shopping precinct or public transport hub;

- that the exercise of the search powers is likely to be effective in detecting or deterring the commission of offences involving the use of a knife or other weapons in the shopping precinct or public transport hub; and
- that the exercise of the search powers will not unduly affect lawful activity in the area.

Additionally, where a shopping precinct or public transport hub has previously been the subject of a declaration, the commissioner will be required to have regard to whether searches carried out previously identified persons carrying knives or other weapons.

Declarations of shopping precincts, public transport hubs and public transport services will be in effect until revoked by the police commissioner. The commissioner must revoke a declaration if they are no longer satisfied with the criteria. The commissioner will be required to publish declarations on the commissioner's website before the commencement of the period during which the declaration will operate.

A police officer will be required, if reasonably practicable in the circumstances, to notify a person prescribed in the regulations of the terms of the declaration and the intent to search persons during the specified times or during the specified period for which the declaration is in force. A police officer need only notify the prescribed person once in relation to each declaration, and failure to notify will not invalidate the exercise of the powers.

Weapons prohibition order search powers.

The Summary Offences Act currently provides that a police officer may detain and search a person to whom a weapons prohibition order applies, as reasonably required for the purpose of ensuring compliance with a weapons prohibition order. The existing search provision will be amended to allow a police officer to detain and search a person whom the police suspect on reasonable grounds is a person to whom a weapons prohibition applies.

Request to leave certain areas or vehicles.

The bill will give police additional powers, similar to those that apply in declared public precincts, that would allow police to order a person, or persons in a group, to leave the declared area or vehicle in certain circumstances. An order may be made if a police officer believes or apprehends on reasonable grounds that an offence posing a risk to public order and safety has been or is about to be committed, or if the person or the group of persons poses a risk to public order and safety. The order must be by notice in writing and served on the person personally and must specify the area to which the order relates, or, if the order relates to a public transport vehicle, specify the public transport service which the vehicle is providing. The order is operational for 24 hours.

The bill also makes it an offence for a person, who having been ordered to leave an area or a vehicle, to remain in the area or vehicle after having been so ordered, or to re-enter or attempt to re-enter the area or vehicle within a 24-hour period, commencing at the time the order was served on the person. The penalty for this offence will be a maximum fine of $1,250. If a person fails to leave an area or vehicle when ordered to, or re-enters an area or vehicle within the period specified in the written notice, a police officer will be empowered to use necessary and reasonable force to remove the person from the area or vehicle.

Unlawful supply of knives to minors.

This bill will also create a new offence of supplying a knife to a minor if the supplier knew, or ought reasonably to have known, that the minor intended or was likely to use the knife in the commission of an offence. There is no requirement that the minor actually use the knife in the commission of an offence. There will be two tiers of the new supply offences, dependent on the type of offence where the supplier is alleged to have known, or ought reasonably to have known, that the minor intended or was likely to commit using the knife.

For the new top tier offence, the supplier must have known, or ought reasonably to have known, that the minor to whom they supplied the knife intended or was likely to commit a serious offence of violence. A serious offence of violence will include various offences within the Criminal Law Consolidation Act 1935 in which harm, serious harm or death is caused to a victim.

For the new lower tier offence, the supplier must have known, or ought reasonably to have known, that the minor to whom they supplied the knife intended or was likely to commit an offence against section 21E of the Summary Offences Act—being possession of a knife in a public place or education facility. The maximum penalty for the new top tier supply offence is four years' imprisonment or a fine of $35,000. The maximum penalty for the lower tier supply offence would be six months' imprisonment or a fine of $10,000.

For the sale of knives to minors under the age of 18, currently, under section 21D(1) of the Summary Offences Act, it is unlawful for a person to sell a knife to a minor under the age of 16. Section 21D(1) will be amended to raise the age at which a person can lawfully purchase a knife to 18 years old, making it unlawful for a person to sell a knife to a minor under 18. The existing defence that applies to section 21D(1) will be amended to reflect this.

There will be no exceptions for minors under 18 to purchase a knife, even for the purposes of their education, training and employment, and they will need to rely on guardians, employers or training providers to supply knives to them if they are required for these legitimate purposes.

It is worth noting that certain knives are already exempt from section 21D(1) by the regulations, including razor blades permanently enclosed in a cartridge, or plastic or wooden knives intended to be disposed of after use. This new offence to raise the age for sale of knives with no exemptions is an unapologetically strong new measure from this government to protect our community from knife crime.

Consultation with the retail sector made clear that exemptions to the prohibition on selling knives to minors, even if well-intended, would create significant difficulty and confusion for retail staff. It is our view that a ban with no exemptions is the only way to ensure, as best we can, that knives are not available to be purchased by minors.

Certain knives to be kept secured in retail premises.

Under the proposed reforms, a person selling knives from retail premises will be required to ensure that any prescribed knives stored in that part of the retail premises to which members of the public are permitted access are either kept in a securely locked cabinet or container, securely tethered, or secured in any other manner prescribed by the regulations such that members of the public are not able to gain access to the knives without the assistance of the person, or an agent or employee of the person.

The maximum penalty for this new offence will be $10,000 and may also be expiated upon payment of a $1,000 fine. The new offence will not apply during an inspection of a prescribed knife by a prospective purchaser.

As with the prohibition notice requirements, retail premises will include a market stall, a temporary pop-up shop or any other premises or place, or premises or place of a class, prescribed by the regulations. The types of knives that will be required to be stored securely will be determined through regulations.

Display of notices in the sale of knives.

Under this bill it will also be an offence to sell knives from retail premises unless a prohibition notice is displayed regarding the age of sale of knives and other information relating to the lawful sale and use of knives. This notice must be displayed in a manner likely to be seen by customers at each point of the sale in the retail premises or at each area of the retail premises in which knives are displayed for sale.

The maximum penalty for this new offence will be $10,000. Again, an expiation fee of $1,000 will apply. A 'retail premises' will include market stalls, temporary or pop-up shops, or any other premises or place prescribed by the regulations.

This bill will also create an offence to sell knives by direct sales transaction (being a transaction in which the knife is to be delivered to or picked up from an address in the state). This is unless, in the case of a direct sales transaction taking place over the internet or using a website, the information prescribed by the regulations is published on the website through which the transaction occurred or, in any other case, the information prescribed by the regulations is given to the purchaser

in accordance with any requirements set out in the regulations. Again, the maximum penalty for the new offence will be $10,000 with a corresponding expiation fine of $1,000.

It will be a defence to the direct sales offence to prove that the defendant did not know, or could not reasonably have been expected to know, that the knife was to be delivered to or picked up from an address in this state. The direct sales offence will ensure that bricks-and-mortar retailers are not unfairly disadvantaged by the provisions and to avoid potential displacement issues, such as minors turning to purchase knives online due to the increased barriers to purchasing knives from bricks-and-mortar retailers and the increased likelihood of their conduct going undetected by police.

The prohibition notice must contain the information set out in the regulations, which will relate to the age requirements for the sale of knives to minors, and must be displayed in accordance with the requirements set out in the regulations, including its required size and form.

Removal of the reference to swords from the definition of 'offensive weapon'.

The reference to a sword in the definition of offensive weapon in existing section 21A of the Summary Offences Act will be removed to prepare for the addition of swords and machetes to the list of prohibited weapons in the Summary Offences Regulations 2016. This is a technical change in anticipation of a change to the regulations requested by South Australia Police.

The removal of the reference to swords in the definition will in no way reduce the powers and safety around how swords are dealt with and will in fact increase the level of seriousness in which swords are ultimately regarded. Section 21A(1) contains a definition of an offensive weapon, which includes a non-exhaustive list of items that are included in the definition. Swords are included in that non-exhaustive list.

This amendment simply removes the reference to swords for consistency and clarity when the regulations are made. Once swords have been prescribed as prohibited weapons by the regulations it will be an offence to possess them without an exemption. The necessary changes to the regulations to consider swords and machetes as prohibited weapons will occur at the same time as the commencement of this corresponding legislative amendment.

New category of prohibited weapons exemption for machetes.

It is intended that machetes and swords will be prescribed to be prohibited weapons by regulation. In anticipation of this change there will be an exemption for gardening and camping purposes in the schedule of exemptions to the offence of manufacturing, selling, distributing, supplying or otherwise dealing in prohibited weapons. As previously mentioned, the exemption will apply only to machetes. Again, this legislative amendment will commence at the same time as the corresponding regulations.

Education facilities.

Finally, current section 21C(7) of the Summary Offences Act will be amended to make it an offence to, without lawful excuse, use or carry an offensive weapon that is visible in the presence of any person in an education facility or public place in a manner that would be likely to cause a person of reasonable firmness present at the scene to fear for their personal safety.

Similarly, section 21E will be amended to make it an offence for a person to, without lawful excuse, have possession of a knife in an education facility or public place. Previously, the offences within sections 21C(7) and 21E of the Summary Offences Act were limited to 'schools', defined as primary and secondary schools. An 'education facility' will be broadened and now defined to include a childcare centre, a preschool or kindergarten, a primary or secondary school, a place at which an approved learning program—within the meaning of the Education and Children's Services Act 2019—is undertaken and a university, TAFE SA campus or other tertiary education facility.

These amendments will not impact those persons who legitimately need to carry, possess or use knives in these locations for a legitimate purpose which constitutes a lawful excuse—for knives that are offensive weapons—or where the person is exempt pursuant to schedule 2 to the Summary Offences Act for knives that are prohibited weapons.

I am very proud of the government's actions in bringing this comprehensive knife crime reform package to this place. It has been a significant piece of work informed by a lot of hard work and diligence by many people and the close work of SAPOL, particularly the Commissioner of Police.

This government is committed to ensuring public safety and this bill is testament to that—containing a comprehensive suite of amendments targeting both prevention and law enforcement to ensure the safety of South Australians against knife crime.

I commend the bill to the chamber and seek leave to insert the explanation of clauses in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

Part 2—Amendment of *Summary Offences Act 1953*

3—Amendment of section 21A—Interpretation

This clause amends section 21A of the Act to insert definitions of terms used in the measure, and deletes swords from the definition of offensive weapon.

4—Amendment of section 21C—Offensive weapons and dangerous articles etc

This clause consequentially amends section 21C of the Act following the insertion of the term 'education facility' to replace 'school'.

5—Amendment of section 21D—Unlawful selling or marketing of knives

This clause amends section 21D of the Act to raise the age at which a person can lawfully buy a knife to 18.

6—Insertion of sections 21DA, 21DB and 21DC

This clause inserts new sections 21DA, 21DB and 21DC as follows:

21DA—Supplying knives to minors that are used in offence

This section creates 2 new offences committed where a person supplies a knife to a minor if they knew, or ought to have known, that the minor would intended or was likely to use the knife in the commission of a serious offence of violence as defined, or an offence against section 21E.

21DB—Certain notices to be displayed where retail sale of knives

This section requires sellers of knives to display certain notices in retail premises.

21DC—Certain knives to be kept secured in retail premises

This section requires retail sellers of knives to keep certain kinds of knives secured in parts of premises to which members of the public have access.

7—Amendment of section 21E—Knives in schools and public places

This clause consequentially amends section 21E of the Act following the insertion of the term 'education facility' to replace 'school'.

8—Amendment of section 21L—Power to search for prohibited weapons

This clause substitutes a new paragraph (a) into section 21L(2), clarifying that a police officer need only suspect on reasonable grounds that a person is a person to whom a weapons prohibition order issued by the Commissioner applies in order to search them for prohibited weapons.

9—Insertion of Part 14C

This clause inserts new Part 14C into the Act, providing for a series of powers to be conferred on police officers to conduct metal detection and other searches in the circumstances set out in the Part.

Procedural provision is made for declarations triggering the places in which searches can occur, how notice of proposed searches is to be given and how searches are to be undertaken.

A power to order a person to leave an area declared under the Part is also provided for.

10—Repeal of sections 72A, 72B and 72C

This clause repeals sections 72A, 72B and 72C of the Act, those sections now being subsumed into new Part 14C.

11—Amendment of Schedule 2—Exempt persons—prohibited weapons

This clause inserts new clause 25 into Schedule 2, providing exemptions for the use of machetes (which are to be declared to be prohibited weapons by regulation) for gardening or camping purposes.

Debate adjourned on motion of Hon. L.A. Henderson.

CRIMINAL ASSETS CONFISCATION (REVIEW RECOMMENDATIONS) AMENDMENT BILL

Introduction and First Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:46): Obtained leave and introduced a bill for an act to amend the Criminal Assets Confiscation Act 2005. Read a first time.

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:47): I move:

That this bill be now read a second time.

The bill I introduce today is the Criminal Assets Confiscation (Review Recommendations) Amendment Bill 2025. The bill implements the remaining recommendations of the statutory review into the prescribed drug offender provisions of the Criminal Assets Confiscation Act 2005 that were not included in the Criminal Assets Confiscation (Miscellaneous) Amendment Act 2024 passed last year.

The bill also contains amendments made at the suggestion of South Australia Police to ensure that the Criminal Assets Confiscation (CAC) Act remains an effective piece of legislation to ensure criminal offenders do not profit from their crimes. The amendments implementing the new review recommendations include amendments allowing the Chief Recovery Officer to assist with asset forfeitures using the powers under the Fines Enforcement and Debt Recovery Act 2017. This will promote efficiency in dealing with forfeited assets by allowing the most experienced agency to undertake the processes and will free up resources within the Office of the Director of Public Prosecutions.

There is an amendment that will bring the treatment and confiscations of property from prescribed drug offender confiscations into line with those from non-prescribed drug offenders by allowing the costs of administering the CAC Act to be taken from forfeited assets prior to the remainder flowing to the Justice Rehabilitation Fund.

There has been a significant cost burden falling upon South Australia Police, as numbers of prescribed drug offender confiscations have grown to become the majority of all confiscations, as opposed to when the provisions were first commenced. This issue has become particularly acute due to the large number of prosecutions associated with Operation Ironside. It makes little sense to treat these prescribed drug offender confiscations differently to ordinary confiscations, as the confiscated assets are more voluminous and are required to be stored and ultimately sold in the same way.

The amendments ensure that it is the assets of criminals that fund the operation of the CAC Act and not taxpayers. The Justice Rehabilitation Fund, which receives the prescribed drug offender confiscation proceeds, funds programs aimed to divert and rehabilitate offenders, including within the prison population.

The fund currently assists the Department for Correctional Services to provide an overall uplifting in alcohol and other drug support services, including programs run by the Aboriginal Drug and Alcohol Council and Offenders Aid and Rehabilitation Services. The fund also supports abuse prevention programs, victim programs and programs run by the Carly Ryan Foundation. There are also amendments included in the bill that require offenders to provide SAPOL and the Director of Public Prosecutions with information about third-party interests in property that is subject to

confiscation, including proof of such interests, to prevent offenders declaring false third-party interests to try to frustrate the confiscation process.

The bill also contains a technical amendment clarifying that simultaneous convictions will be taken into account for the purposes of the definition of a prescribed drug offender, as well as clarifying amendments in relation to the exclusion of assets from confiscation in exchange for cooperation with law enforcement.

The additional amendments requested by SAPOL included in this bill are: an amendment to increase the time period that is allowed for the return of seized material from 25 to 60 days, with an ability to apply to a magistrate for a further extension of time; various amendments to increase the penalties for offences in the CAC Act to provide further deterrence for noncompliance; an amendment to the time permitted for financial institutions to respond to requests for information under section 160 (the time period will be amended from 14 business days to at least three and no more than seven); and an amendment to ensure that the provisions requiring compliance with freezing orders apply to all persons, not only to financial institutions.

This bill will ensure that the CAC Act continues to be fit for purpose and allows law enforcement agencies to continue to use every available lever to tackle serious crime in our community and to ensure that criminals cannot profit from their offending. I commend the bill to the chamber and seek leave to insert the explanation of clauses without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

Part 2—Amendment of *Criminal Assets Confiscation Act 2005*

3—Amendment of section 6A—Meaning of prescribed drug offender

This clause amends section 6A to clarify that in determining whether a person who is convicted of a serious drug offence has 2 other convictions for prescribed drug offences, convictions occurring in the same proceedings are to be taken into account.

4—Amendment of section 13—Delegation

This clause provides for the taking of enforcement action under Part 7 of the *Fines Enforcement and Debt Recovery Act 2017* where functions relating to enforcement of pecuniary penalty orders or literary proceeds orders are delegated to the Chief Recovery Officer under the *Fines Enforcement and Debt Recovery Act 2017*.

5—Amendment of section 22—Failure to comply with freezing order

This clause ensures that persons (other than financial institutions) who are given notice of a freezing order are also bound by it.

6—Insertion of section 56AB

This clause inserts a new section as follows:

56AB—Prescribed drug offender to provide information as to interests in property

A prescribed drug offender must, within 14 days after a deemed forfeiture order (or such longer period as may be allowed by the DPP) provide the DPP with a statement specifying certain information in relation to property subject to the order.

7—Amendment of section 59A—Exclusion orders based on cooperation with law enforcement agency

This clause amends the section allowing a court to exclude property of a prescribed drug offender from forfeiture by:

(a) adding a requirement that the court be satisfied that cooperation was not taken into account when the person was sentenced for the offence; and

(b) specifying matters that the court must have regard to; and

(c) allowing for the monetary value of the property to be paid instead where an exclusion order would alert other persons to the applicant's cooperation and as a result put the applicant at risk of violent retribution.

8—Amendment of section 76AA—Excluding property based on cooperation with law enforcement agency

This clause amends the section allowing a court to exclude property specified in a restraining order from automatic forfeiture by:

(a) adding a requirement that the court be satisfied that cooperation was not taken into account when the person was sentenced for the offence; and

(b) specifying matters that the court must have regard to; and

(c) allowing for the monetary value of the property to be paid instead where an exclusion order would alert other persons to the applicant's cooperation and as a result put the applicant at risk of violent retribution.

9—Insertion of Part 6 Division A1

This clause inserts a new section as follows:

Division A1—Duty to provide information

130A—Suspect to provide information as to interests in restrained property

If property of, or subject to the effective control of, a suspect becomes subject to a restraining order the suspect must, within 14 days (or such longer period as may be allowed by the DPP) provide the DPP with a statement specifying certain information in relation to the property.

10—Amendment of section 160—Giving notices to financial institutions

The time within which a financial institution must provide information or documents pursuant to a notice under section 160 is reduced from 14 days to a period between 3 and 7 business days specified in the notice.

11—Amendment of section 186—Return of seized material if applications are not made for restraining orders or forfeiture orders

The time for making an application for a restraining order or a forfeiture order that would cover seized material is increased from 25 days to 60 days (or such longer period as may be ordered by a magistrate under proposed new subsection (1a)).

12—Amendment of section 209A—Credits to Justice Rehabilitation Fund

This amendment allows the proceeds of confiscated assets of a prescribed drug offender to be firstly applied towards the costs of administering the Act with the balance to be paid into the Justice Rehabilitation Fund.

Schedule 1—Further amendment of *Criminal Assets Confiscation Act 2005*

This schedule increases various penalties in the Act.

Schedule 2—Transitional provisions

1—Transitional provisions

This is a transitional provision related to clauses 6 and 9.

Debate adjourned on motion of Hon. L.A. Henderson.

SUMMARY OFFENCES (PROHIBITION OF PUBLICATION OF CERTAIN MATERIAL) AMENDMENT BILL

Introduction and First Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:51): Obtained leave and introduced a bill for an act to amend the Summary Offences Act 1953. Read a first time.

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:52): I move:

That this bill be now read a second time.

I am pleased to introduce the Summary Offences (Prohibition of Publication of Certain Material) Amendment Bill 2025. Recent reports of people posting material on social media platforms to brag

about their involvement in crime, known as posting and boasting, have raised concerns about the risk of harm to the community through to the promotion of crime and community exposure to offensive material on social media.

To address these concerns this bill will criminalise posting and boasting through the creation of a new standalone offence. I wish in particular to note the significant contribution the Hon. Frank Pangallo has made in relation to this. He brought the issue to the attention of this chamber last year and I thank him and his office for a substantial amount of interaction and work to have the bill in the shape that it is in today, which will make the community safer once we pass it.

The bill proposes to insert a new offence of publishing material depicting an offence in the Summary Offences Act 1953. The offence has a maximum penalty of two years' imprisonment and will apply if a person publishes material depicting conduct constituting, or apparently constituting, a prescribed offence; if the person publishes the material with the intention of encouraging, glorifying or promoting the depicted conduct; or to increase a person's notoriety because of their involvement in the depicted conduct.

Published means published by electronic means and will include the posting, uploading or sharing of material via the internet on a social media platform or other electronic platform. A prescribed offence means any offence involving driving or operating a vehicle or vessel, violence, weapons, damage or destruction of property, theft or criminal trespass. An offence or a class of offences may be included or excluded from the definition of prescribed offence by regulation. Offences against the law of another jurisdiction that would, if committed in South Australia, constitute any of the above offences would also be considered a prescribed offence for the purposes of the posting and boasting offence.

A person may be charged with the new offence whether or not the person, or any other person, has been or will be charged with the related prescribed offence. This means that a person can be charged or convicted of the posting and boasting offence even if the person were not involved in the prescribed offence depicted on the published material.

It will be a defence to a charge under the new offence if the defendant proves that the depicted conduct did not constitute a prescribed offence. Additionally, a person will be taken not to have committed the new offence if the publication was for a legitimate public purpose.

Publication of material will be taken to be for a legitimate public purpose if the publication was in the public interest having regard to various factors, such as whether the publication was for the purpose of educating or informing the public, for the purpose of publishing a fair and accurate report of any event or matter of public interest, or a work of artistic merit. There is also the ability to prescribe other factors through regulations. The onus lies on the prosecution to prove that the publication was not for a legitimate public purpose.

Finally, the bill provides that a penalty imposed for the posting and boasting offence must not exceed the maximum penalty that may be imposed for the related prescribed offence to ensure that the penalty imposed for the new offence is not disproportionately high compared to the maximum penalty for the prescribed offence depicted in the published material.

The bill is intended to promote the safety of the community through the prevention of crime and its promotion and glorification on social media. Whilst this bill would apply the proposed offences equally to all people, it is pleasing that it will contribute in the fight against damaging posting and boasting behaviour that has been reported in young people inside and outside of school environments. It is bad enough to commit violent offences involving or against a young person, but to compound their humiliation by publishing footage of the event is deserving of a penalty itself.

I commend the bill to the chamber and seek leave to insert the explanation of clauses without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

Part 2—Amendment of *Summary Offences Act 1953*

3—Insertion of section 21AA

This clause inserts new section 21AA as follows:

21AA—Publishing material depicting offence etc

This clause provides that a person who publishes material depicting conduct constituting, or apparently constituting, a prescribed offence with the intention of encouraging, glorifying or promoting the conduct, or increasing the person's, or another person's, notoriety because of their involvement in the conduct, is guilty of an offence. A person may be charged with an offence against this clause whether or not a person has been or is to be charged with the prescribed offence.

An exemption is provided where the publication of the material was for a legitimate public purpose. The clause also provides a defence against a charge of an offence against this clause for the defendant to prove that the conduct the material depicted did not constitute a prescribed offence.

Debate adjourned on motion of Hon. T.A. Franks.

CRIMINAL LAW CONSOLIDATION (MENTAL COMPETENCE) AMENDMENT BILL

Introduction and First Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:56): Obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935 and to make related amendments to the Children and Young People (Safety) Act 2017, the Child Safety (Prohibited Persons) Act 2016, the Disability Inclusion Act 2018 and the Young Offenders Act 1993. Read a first time.

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (15:57): I move:

That this bill be now read a second time.

I am pleased to introduce the Criminal Law Consolidation (Mental Competence) Amendment Bill 2025. This bill amends the terminology used in relation to a defence of mental incompetence under division 2 of part 8A of the Criminal Law Consolidation Act 1935. In particular, the bill replaces the phrase 'not guilty by reason of mental incompetence' in the act with a finding of 'conduct proved but not criminally responsible due to mental incompetence'.

This reform addresses concerns that have been repeatedly voiced in South Australia and interstate about the problematic use of the phrase 'not guilty', particularly for victims in this context. In particular, concerns have been raised with the government and myself personally in the wake of the tragic stabbing of Ms Julie Seed at a Plympton real estate agency in December 2023.

Stabbing victim Ms Susan Scardigno and the partner of the late Ms Julie Seed, Mr Chris Smith, have also strongly advocated for the change in this wording. I would like to take this opportunity to particularly thank Chris and Susan for their strength and passionate advocacy to ensure that these important changes are made for victims of these horrific incidents.

Under part 8A of the act, if the court finds the objective elements of the offence are established and that the defendant was, at the time of the conduct, not mentally competent to commit the offence, the court must find the defendant not guilty. It is important to note that this finding of not guilty does not mean there is no consequence for the offence. Subject to division 3A of part 8A of the act, the court must declare the defendant liable to supervision and, in doing so, may make the supervision order either committing the defendant to detention or releasing them on licence with specified conditions.

Where the court makes a supervision order, it must fix a limiting term for the equivalent to the period of imprisonment or supervision that would have been appropriate if the defendant had been convicted of the offence. This means, for example, that for an offence of murder dealt with

under division 2 of part 8A of the act, the court must set a limiting term of life under supervision because the penalty for murder is life imprisonment. Part 8A also provides checks and balances to ensure that decisions made in relation to a defendant who is liable for supervision prioritise the safety of the community.

The bill does not make any substantive changes to the operation of part 8A, nor to any other law; however, we have heard from the community that the use of the phrase 'not guilty' in this context can cause confusion for victims, their families and the broader community, leaving them with the sense that justice has not been served. It can be particularly painful for victims to hear the phrase 'not guilty' when it is undisputed that the person has committed the act that resulted in the death of a loved one. Advocates have made clear that better terminology should be adopted to make it clear that harm did occur, even if the defendant is not criminally responsible. The government agrees. I am advised that a similar change is also being made in New South Wales.

Clauses 3, 4, 6, 7 and 8 of the bill amend the relevant sections within the Criminal Law Consolidation Act to replace the phrase 'not guilty' with 'not criminally responsible due to mental incompetence' in relation to a defence of mental incompetence.

Clause 5 of the bill inserts new section 269AB of the Criminal Law Consolidation Act, which is intended to ensure that the bill has no substantive effect on any other law that refers to a finding of not guilty. In particular, new section 269AB provides that a reference in the law to a person being found not guilty of an offence will, unless a contrary intention appears, be taken to include a relevant finding that the defendant committed the objective elements of the offence but was mentally incompetent to commit the offence. Schedule 1 of the bill contains consequential amendments to other acts where the terminology 'not guilty' appears.

I am grateful to the Commissioner for Victims' Rights for recommending this reform and, in particular, the advocacy of Ms Sue Scardigno and Mr Chris Smith. I commend the bill to members and seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

3—Amendment of section 5H—Procedural provisions

This clause amends section 5H of the Act to substitute the reference to recording a finding of not guilty by reason of mental impairment and to rather specify that, if the conduct constituting an offence is proved but the person is not criminally responsible due to mental incompetence, the court must record a finding of conduct proved but not criminally responsible due to mental incompetence.

4—Amendment of section 267AA—Offence where unlawfully supplied firearm used in subsequent offence

This amendment is consequential to the proposed changes to section 5H.

5—Insertion of section 269AB

This clause inserts a new section as follows:

269AB—Reference to finding of not guilty to include finding of mental incompetence

This clause provides that a reference to a person being found not guilty of an offence in any Act, legislative instrument or other law will, unless the contrary intention appears, be taken to include a reference to a finding of a court under this Part that the objective elements of the offence are established but the person is not criminally responsible due to mental incompetence.

6—Amendment of section 269F—What happens if trial judge decides to proceed first with trial of defendant's mental competence to commit offence

7—Amendment of section 269G—What happens if trial judge decides to proceed first with trial of objective elements of offence

8—Amendment of section 269NB—Division 3A orders

These amendments are consequential to the proposed changes to section 5H.

Schedule 1—Related amendments

Part 1—Amendment of *Children and Young People (Safety) Act 2017*

1—Amendment of section 16—Interpretation

Part 2—Amendment of *Child Safety (Prohibited Persons) Act 2016*

2—Amendment of section 5—Interpretation

Part 3—Amendment of *Disability Inclusion Act 2018*

3—Amendment of section 18A—Interpretation

Part 4—Amendment of *Young Offenders Act 1993*

4—Amendment of section 32—Reports

These related amendments are consequential to the proposed changes to section 5H of the *Criminal Law Consolidation Act 1935*.

Debate adjourned on motion of Hon. J.S. Lee.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO AND OTHER JUSTICE MEASURES) BILL

Introduction and First Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (16:02): Obtained leave and introduced a bill for an act to amend various acts within the portfolio of the Attorney-General and to amend certain other acts. Read a first time.

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (16:03): I move:

That this bill be now read a second time.

I am pleased to introduce the Statutes Amendment (Attorney-General's Portfolio and Other Justice Measures) Bill 2025. From time to time, an Attorney-General's portfolio bill is required to rectify minor errors, omissions or other deficiencies identified in legislation committed to the Attorney-General and to other ministers' legislations where such changes are technical in nature. This bill makes various amendments to nine acts committed to the Attorney-General and three justice-related amendments to acts committed to other ministers.

Part 2—Controlled Substances Act 1984.

Part 2 of the bill makes two separate amendments to the Controlled Substances Act. Firstly, the bill amends section 33P of the Controlled Substances Act to provide that a reference to an offence committed against part 5 of the Controlled Substances Act includes an attempt to commit that offence in accordance with section 270A of the Criminal Law Consolidation Act 1935.

An additional amendment is made to subsection 33P(2) to clarify that it is not necessary for the prosecution to establish the person knew or was reckless in respect to the identity or quantity of controlled substance. This is consistent with the intent of the heading to section 33P, which is titled 'Knowledge or recklessness with respect to identity or quantity'.

Secondly, the bill amends section 51 of the Controlled Substances Act to allow for analysis to be appointed by the minister by way of written instrument and published in the *Gazette* rather than by the Governor. South Australia is the only jurisdiction which requires such appointments by the Governor in Executive Council.

Part 3—Correctional Services Act 1982.

Section 71 of the Correctional Services Act currently provides that where a person has been released on parole from the sentence, the Parole Board may on application on its own motion vary or revoke the conditions of parole to which that person is subject. Pursuant to section 74AAA(1) it appears that the Parole Board may only impose a further condition of parole if the Parole Board finds there has been a breach of parole. The Parole Board has requested that an amendment be made to make it clear that it can impose new conditions on parole where there has been no breach to ensure that it is able to appropriately respond to protect the safety of the community.

Accordingly, part 3 of the bill amends section 71 of the Correctional Services Act to permit the Parole Board to impose further conditions on parole in addition to its existing powers to vary or revoke conditions in circumstances where there has been no breach. A transitional provision has also been provided to include clarity that the amendments will apply to the parole of a person who has been released on or before the commencement of the amendments.

Part 4—Criminal Law Consolidation Act 1935.

Part 4 of the bill amends subsection 85B(3)(b) of the Criminal Law Consolidation Act to achieve greater consistency with section 201A of the Victorian Crimes Act 1958 with the intent of tightening the operation of the backburning defence in relation to the offence of causing a bushfire. Section 85B(1) of the Criminal Law Consolidation Act provides that a person who causes a bushfire intending to cause a bushfire, or being recklessly indifferent as to whether the conduct causes a bushfire, is guilty of an offence, which carries a maximum penalty of imprisonment for life.

Subsection 85B(3)(b) provides that no offence is committed if the bushfire results from operations genuinely directed at preventing, extinguishing or controlling a fire. Concerns have been raised that this provision may appear to permit a situation where the fire was originally lit by a person for genuine fire prevention purposes—e.g., backburning—and that person loses control or fails to extinguish the fire, the fire spreads onto a neighbouring property without the consent of the owner and destroys the neighbouring property.

To address these concerns, section 85(3)(b) has been recast to tie operation of backburning defence in line with the Victorian Crimes Act. This will ensure that the defence will only be available where the bushfire is caused in the course of carrying out a fire prevention suppression or a land management activity and, at the time the activity was carried out, there was a provision made by or under an act or code of practice approved by the act in force that regulated or otherwise applied to carrying out the activity and that the person acted in accordance with that provision, and that the person believed that their conduct in carrying out the activity was justified having regard to all the circumstances.

Parts 5 to 7, 12 and 13—District Court Act 1991 and other related acts.

Rule 175.1 of the Uniform Civil Rules 2020 provides that if a presiding judicial officer dies or becomes incapacitated before the final determination of the proceedings, another judicial officer may be appointed to complete the hearing and determine the proceedings. However, there is currently no equivalent provision in relation to the criminal jurisdiction.

The government considers that it is appropriate to ensure consistency across both criminal and civil jurisdictions with respect to the appointment of a substitute judicial officer in the event of death or incapacity. Accordingly, part 5 of the bill amends the District Court Act 1991 to allow for a substitute judge to be appointed by the Chief Judge to preside over a civil or criminal trial that has been part heard, whether the trial is by jury or judge alone, in circumstances where the presiding judge dies or has become incapacitated. Parts 6, 7, 12 and 13 of the bill make similar amendments in respect of the Environmental and Development and Resources Court, the Magistrates Court, the Supreme Court and the Youth Court.

Part 8—Motor Vehicles Act 1959.

Part 8 of the bill amends the Motor Vehicles Act 1959 to make technical amendments related to driver licensing. In December 2022, changes were made to require drivers of ultra high-powered vehicles to obtain a new class of driver's licence within two years, being a U-class licence.

An ultra high-powered vehicle is a light motor vehicle, not including a bus or a motorbike or a motor trike, that has a power to weight ratio equivalent to or greater than 276 kilowatts per tonne. The bill amends section 74 of the act to ensure that the learner driver provisions of the act interact appropriately with the ultra high-powered vehicle provisions. The bill amends the interpretation section of the act to include that an ultra high-powered vehicle means a motor vehicle prescribed by the regulations as one for the purposes of this definition.

The bill also makes an administrative amendment to section 79A(3)(b) of the act to clearly set out the registrar's requirements as to being satisfied that an applicant has passed testing prior to the issue of a licence. Additionally, amendments are provided to remove the need to separately itemise offences and associated demerit points for camera-detected offences.

Part 9—Sentencing Act 2017.

Section 59 of the Sentencing Act 2017 allows for the Director of Public Prosecutions or a detained person to apply to the Supreme Court for release on licence in relation to an offender who has been declared unwilling or unable to control their sexual instincts.

Part 9 of the bill amends subsection 59(11) of the Sentencing Act 2017 to replace an erroneous reference to the 'Crown' with the 'Director of Public Prosecutions'.

Part 10—Spent Convictions Act 2009.

Part 10 of the bill amends paragraph (d) of the definition of 'justice agency' in section 3 of the Spent Convictions Act 2009 to replace and update an outdated reference to 'the Australian Commission for Law Enforcement Integrity' with 'the National Anti-Corruption Commission'. These changes are consequential upon the commencement of the National Anti-Corruption Commission Act 2022, which came into force on 1 July 2023.

Part 11—Summary Offences Act 1953.

Part 11 of the bill amends section 43 of the Summary Offences Act 1953 to address concerns regarding an increase in the number of incidents of individuals interfering with or damaging assets on the rail network, including the theft of copper wire and piping. Section 43 of the Summary Offences Act makes it an offence for a person to interfere with any part of a railway or track or any signal or machinery used in connection with a railway, tramway or track.

While this offence would likely capture the theft of copper wire or piping that forms part of the railway or track, it is uncertain whether it would capture interruptions caused to the railway network system or processes. For the avoidance of doubt, part 11 of the bill amends the offence to make it clear that it applies to any conduct that interferes with any signal, cable, system or machinery used in connection with a railway, tramway or track, such as the theft of copper wire or piping.

A further amendment has been made to increase the current maximum financial penalties for this offence from $10,000 to $50,000 in recognition of the significant financial impact of this type of offending.

That concludes the matters that are the subject of this bill. It is a bill that covers many different areas and deals with a range of important issues to ensure that our justice system continues to work effectively and efficiently for our community. I commend the bill to the chamber and seek leave to insert the explanation of clauses in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

Part 2—Amendment of *Controlled Substances Act 1984*

3—Amendment of section 4—Interpretation

This amendment is consequential on the amendment in clause 5.

4—Amendment of section 33P—Knowledge or recklessness with respect to identity or quantity

The amendment in subclause (1) inserts a reference in section 33P(2) to the quantity of a regulated substance in line with the offences to which that section refers.

Clause (2) inserts a new subsection (3) which provides that a reference in the section to an offence against Part 5 relating to a controlled substance includes an offence of attempting to commit that offence in accordance with section 270A of the *Criminal Law Consolidation Act 1935*.

5—Amendment of section 51—Analysts

This clause amends subsection (1) to remove the requirement for the Governor to appoint analysts for the purposes of the Act and instead makes provision for the appointment of analysts by the Minister by notice in the Gazette.

6—Transitional provisions

Subclause (1) makes transitional provision for the application of the amendments made in clause 4 to proceedings for an offence that are commenced after the commencement of those amendments, regardless of when the offence occurred.

Subclauses (2) and (3) enable the appointment or approval of analysts made by the Governor before the commencement of the amendments in clause 5 to continue as if the appointment or approval was made by the Minister.

Part 3—Amendment of *Correctional Services Act 1982*

7—Amendment of section 71—Variation or revocation of parole conditions

These amendments provide that the Parole Board may, when a person has been released on parole, in addition to varying or revoking a condition of parole, impose a further condition on parole.

8—Transitional provision

This clause makes a transitional provision to allow the amendment in this Part to apply to a person who is released on parole before or after the commencement of that amendment.

Part 4—Amendment of *Criminal Law Consolidation Act 1935*

9—Amendment of section 85B—Special provision for causing bushfire

This clause amends section 85B(3)(b) to clarify the circumstances in which no offence will be committed for causing a bushfire if the bushfire is caused in the course of carrying out a fire prevention, fire suppression or other land management activity.

Part 5—Amendment of *District Court Act 1991*

10—Insertion of section 50C

This clause inserts a new section as follows:

50C—Death or incapacity of Judge during trial

The proposed section sets out the process by which the Chief Judge may appoint another Judge during the course of a civil or criminal trial if the presiding judge at the trial dies or is incapacitated.

Part 6—Amendment of *Environment, Resources and Development Court Act 1993*

11—Amendment of section 15—Constitution of the Court

This clause inserts a new subsection (15) which sets out the process by which the Senior Judge of the Court may appoint another Judge or magistrate during the course of a civil or criminal trial if the judge or magistrate presiding at the trial dies or is incapacitated.

Part 7—Amendment of *Magistrates Court Act 1991*

12—Insertion of section 48C

This clause inserts a new section as follows:

48C—Death or incapacity of magistrate during trial

The proposed section sets out the process by which the Chief Magistrate may appoint another magistrate during the course of a civil or criminal trial if the presiding magistrate at the trial dies or is incapacitated.

Part 8—Amendment of *Motor Vehicles Act 1959*

13—Amendment of section 5—Interpretation

This clause inserts a definition of ultra high powered vehicle in the Act.

14—Amendment of section 74—Duty to hold licence or learner's permit

This clause provides that a person is authorised to drive an ultra high powered vehicle only if they hold a licence class that authorises them to do so. The proposed amendments also clarify that, for the purposes of the offences in subsections (1) and (2) of the section, a person who, immediately before 1 December 2024, held a licence in this State (other than a provisional licence) that authorised them to drive an ultra high powered vehicle will be taken to have been previously authorised to drive a motor vehicle of that class on a road.

15—Amendment of section 79A—Driving experience required for issue of licence

This clause corrects a drafting error.

16—Amendment of section 98B—Demerit points for offences in this State

This clause amends section 98B to ensure that the number of demerit points incurred by a natural person on conviction for or expiation of an offence against section 79B(2) of the *Road Traffic Act 1961* constituted of being the owner of a vehicle that appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of a prescribed offence is the same number of demerit points that are incurred by a person who is convicted of or expiates the prescribed offence.

17—Transitional provision

This clause makes the amendment to section 98B retrospective in operation.

Part 9—Amendment of *Sentencing Act 2017*

18—Amendment of section 59—Release on licence

This clause replaces a reference to the Crown in subsection (11) with a reference to the DPP.

Part 10—Amendment of *Spent Convictions Act 2009*

19—Amendment of section 3—Preliminary

This clause updates the definition of justice agency to update an obsolete reference as a result of the formation of the National Anti-Corruption Commission.

Part 11—*Summary Offences Act 1953*

20—Amendment of section 43—Interference with railways and similar tracks

The amendment in subclause (1) seeks to clarify that the offence of interfering with railways extends to interference with a cable or system associated with the railway.

Subclause (2) increases the maximum penalty applying for an offence against subsection (1) from $10,000 to $50,000.

Part 12—Amendment of *Supreme Court Act 1935*

21—Insertion of section 126B

This clause inserts a new section as follows:

126B—Death or incapacity of judge during trial

The proposed section sets out the process by which the Chief Justice may appoint another Judge during the course of a civil or criminal trial if the presiding judge at the trial dies or is incapacitated.

Part 13—Amendment of *Youth Court Act 1993*

22—Insertion of section 31A

This clause inserts a new section as follows:

31A—Death or incapacity of judicial officer during trial

The proposed section sets out the process by which the Judge of the Court may appoint another judicial officer during the course of a civil or criminal trial if the presiding judge at the trial dies or is incapacitate

Debate adjourned on motion of Hon. L.A. Henderson.

CHILDREN AND YOUNG PEOPLE (SAFETY AND SUPPORT) BILL

Committee Stage

In committee.

Clause 1.

The Hon. C.M. SCRIVEN: I indicate that I understand there are quite a number of contributions that will be made at clause 1, and there may be some members who wish to make a contribution in the next sitting week. So subject, of course, to the will of the chamber, the intention of the government will be to have the contributions today at clause 1, to report progress and then to adjourn until the next sitting week.

The Hon. T.A. FRANKS: I appreciate the minister's clarification for the council and I seek the indulgence of the council in an unusual situation where this bill was referred to a select committee to inquire into the bill. That was done on 28 November 2024. That select committee was chaired by myself and established under my motion, so I will outline some of what the committee's work undertook and heard. That committee was populated by myself, the Hon. Connie Bonaros, the Hon. Mira El Dannawi, the Hon. Sarah Game and the Hon. Laura Henderson. I particularly want to thank our secretary, Ms Maureen Affleck, and our research officer, Dr Margaret Robinson, who gave up, unexpectedly in some cases, their summer holidays to do this work.

That committee, of course, advertised and took submissions. There were 50 recognised submissions and 11 form submissions from carers. They were substantive. For a bill that we were told had been consulted on, I note that there were at least 50—depending on how you want to count them—substantive submissions from organisations and individuals and 11 form submissions, so over 60 submissions in that summer period. There were also three days of witnesses.

We heard from the Commissioner for Aboriginal Children and Young People, Commissioner Lawrie. We also heard from the Guardian for Children and Young People, Shona Reid. We heard from Junction and The Carer Project, in particular Lisa O'Malley and Gavin McAloney. We heard from the Aboriginal Legal Rights Movement, and I thank them for their contribution. We heard from Connecting Foster and Kinship Carers, in particular Fiona Endacott, chief executive officer, and Niamh Keller, carer advocate. We heard from Uniting Communities, in particular Simon Schrapel AM, chief executive of Uniting Communities, as well as Leisha Olliver, senior manager of community services.

We also had the department come and present and the chief executive Jackie Bray, the deputy chief executive Darian Shephard-Bayly, and the director of legal services Elizabeth Boxall, all of whom made time available to present to the committee. A former member of this place the Hon. John Darley OAM made a submission and presented with his former staffer Ted Lee, and the former deputy chief executive of the Department for Child Protection, Adam Reilly, also presented.

While we heard from those witnesses—and we heard from more witnesses than that—and took those submissions, the committee members have not come back with resolutions because that is the role of this council. Given the short period of time we had, I reflected on moving a motion to compel a select committee that this would be a process a little like a Budget and Finance Committee report, where we simply came back with the evidence out in the open, and then that would be able to inform members—and we now have a new additional crossbencher, the Hon. Jing Lee, but the opposition and crossbench members—with the information we felt we needed to participate in this debate fully.

As Chair, I have my own views. The members of the committee will no doubt have their views; other members of this council will have their views. But what I think is really important is that those views are formed not in a silo, not in an echo chamber, but with the transparency that this select committee has been able to provide. It often used to be said that children should be seen and not heard. It seemed to be the attitude of this government that those who wish to advocate about the Children and Young People (Safety and Support) Bill should be seen and not heard.

We are here today having a debate on clause 1 of this bill with not just a few amendments but no doubt with dozens of amendments to come because I feel the government did not do its

homework. The stakeholders who corresponded with us raised many concerns. The first of those concerns that I wish to speak to in the main today, and which form the basis of my first set of amendments to this bill, relate to those stakeholders who presented or made submissions to the committee on the paramount consideration, as it is in this bill currently, going to child safety as opposed to best interests of the child.

The committee took these submissions, and I would say that it was a growing number of submissions as this committee undertook its process, and we had a situation where we in fact published the uncorrected transcripts of the *Hansard* on the day of the hearing and we published the submissions as we went, and we found that those stakeholders who had participated in well over a year of consultations with the government, and being siloed by the government, started to realise that they were not sole voices in advocating for paramountcy of best interests of the child.

The Commissioner for Aboriginal Children and Young People, on page 1 of her submission, stated:

> The Bill does not recognise the best interests of children and young people as the paramount consideration in making decisions consistent with the United Nations Convention on the Rights of the Child.

In fact, her recommendation 9 was:

> 9. Restore 'best interests' as the paramount consideration within the Children and Young People (Safety) Act 2017...

She went on to also observe:

> …that for Aboriginal and Torres Strait Islander children their best interests are determined in the context of the application of the 5 pillars of the ATSICPP as a paramount consideration.

She was hardly Robinson Crusoe. Connecting Foster and Kinship Carers, on page 1, recommendation 1, state:

> That the Bill be amended to hold the best interests of the child as the paramount consideration under the Act.

Members of Junction Australia perhaps led the government to feel that they had a slight glimmer of hope in support for their contention that child safety be the paramount consideration, but Junction Australia's recommendation on page 1, recommendation 2, was that:

> 2. Dual Paramountcy Framework: Ensure safety and long-term best interests are equally paramount…

However, Junction, when presenting to the committee, had seen everyone else's submissions and gave evidence to the committee that actually they thought they were not allowed to have best interests of the child as the paramount consideration so they reprised their position and they stand and advocate for best interests of the child to be paramount. It emerged that the government had told them that was simply not on the table for negotiation.

The Commissioner for Children and Young People, in recommendation 3 of her submission, stated:

> 3. Make the best interests of the child the paramount principle and consideration in decision making.

Uniting Communities, on page 4 of their submission, stated:

> Uniting Communities strongly endorses a shift to Best Interests as the Paramount Principle in the Bill.

Infinity Community Solutions, on page 3 of their submission, stated:

> Elevating 'best interests' of the child from a guiding principle to be incorporated into the paramount principle. Safety should not be a stand-alone paramount principle [they contended]. There are suitable examples of this being achieved in other Australian jurisdictions...

The Leadership Coalition for Child Protection Reform, on page 3, category 1, stated, 'Best Interests Principle to be paramount.' They expanded upon that in their submission and certainly have since made several contributions and, indeed, circulated a public document following the select committee's work with their four key reforms, the first of which is, 'Elevating Best Interest as the Paramount Principle in the legislation.'

Should you have not heard of the Leadership Coalition for Child Protection Reform before, that is no surprise; they felt the need to actually unite and band together in order that their voices

and their advocacy be heard. They are indeed Infinity, Uniting Country, Uniting Communities, Baptist Care, Junction, KWY and Lutheran Care, the very people we rely on as NGOs in this sector, the experts in this sector. They all banded together to try to finally have their voices heard.

The Reily Foundation, on page 3, point 2, states:

> …we urge the select committee to highlight that safety must be considered alongside the best interests of the child.

I will go into that later because, in fact, in their submission they acknowledge, and again were under the impression from government, that they could not ask for what they really believed, that it was not on the table, and so again fall in with best interests of the child.

Child and Family Focus SA at page 10 say:

> It is recommended that the best interests of the child be the paramount principle for all decision making, in line with other Australian jurisdictions.

KWY Aboriginal Corporation at page 5 state that they:

> …support the QLD Child Protection Act 1999 definition of the Paramount Principle which states "safety, wellbeing and the best interests of a child, both through childhood and for the rest of the child's life, are paramount".

Again, I will note that we then had the Leadership Coalition for Child Protection band together, realising that they were no longer to be siloed and silenced, and advocate that the paramount principle be the best interests of the child.

A little organisation called the Legal Services Commission of South Australia might know a thing or two about the law. At page 2, and then extensively in their submission, they stated:

> Legal Services supports best interests as the paramount principle for the welfare of the child rather than the safety of the child as the paramount principle. We would argue that the safety of the child is part of a consideration of their best interests.

South Australian Aboriginal Community Controlled Organisation Network (SAACCON), at page 6, urges the select committee to reinstate the best interests of the child as the paramount consideration. SACOSS (South Australian Council of Social Service)—again, a little organisation; you might have heard of them—at page 10, said:

> The paramount principle and consideration must be the best interests of the child.

John Darley, a former member of this place and, like some members of this place, involved in the original debates where we did support safety as the paramount principle, put on record that:

> The best interests of each child and young person, including their safety and security, must be the focus of present efforts.

He supported that the paramount principle be the best interests of the child.

Relationships Australia SA, at recommendation 3, said: 'Ensure decisions are made in the Best Interests of the Child.' At page 6 they said:

> The best interests principle promotes a holistic approach, balancing immediate safety with the broader context of a child's developmental, emotional, cultural and familial needs…By prioritising safety over best interests, the proposed legislation diverges from international and national standards, isolating South Australia's child protection system from established best practices.

The Australian Centre for Child Protection, at page 10, stated:

> ACCP recommends the principles be revised to elevate children's best interests as the paramount principle and cautions the committee that there are potential unintended negative consequences of retaining safety as the paramount principle.

That is the Australian Centre for Child Protection. The Aboriginal Legal Rights Movement, at recommendation 1, stated:

> Best interests must be the paramount principle for all decisions made for children.

The Guardian for Children and Young People, at page 16, stated:

Restoring the best interests of children and young people as the paramount consideration in decision-making and operation of the legislation.

Certainly, it was quite interesting to note the holistic view of so many stakeholders that the best interests principle be paramount. I reflect on when the department was asked about this and was asked to name a stakeholder, an organisation, that wished safety to remain—as is in the current bill that is before us and that we debate today.

When the chief executive officer was given the opportunity in front of the committee to name a stakeholder that was a legitimate, credible organisation in the child protection space—one single organisation that saw that child safety should be the paramount principle over and above the best interests of the child—she was unable to do so. We allowed her to take that on notice. She was still unable to do so. The weasel words in the response some days later are worthy of mention later. I think I will be raising them later in the debate as a question. So I alert the minister to that.

Other stakeholders noted that the bill is not consistent with Australia's obligations under the United Nations Convention on the Rights of the Child: article 3, all organisations concerned with children should work towards what is best for the child; article 12, children have the right to say what they think should happen when adults are making decisions that affect them and to have their opinions taken into account; article 20, children who cannot be looked after by their own family must be looked after properly by people who respect their religion, culture and language; and article 25, children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.

As I say, almost every stakeholder supported best interests of the child, albeit some stakeholders were silent on the issue because they had other issues that they wished to raise with the committee. Certainly the idea of an independent process for complaints about the Department for Child Protection was also consistent in those. However, they were not just raised, as they have been for some many years now, by carers; they were particularly raised by those Aboriginal NGOs and stakeholders with that context. In some cases they were raised for the rights of children, of siblings, to have their voices heard, for staff employed in the workforce to have their voices heard in a protected way so that they could be whistleblowers. But those voices and those calls for an independent investigations process—where we move away from the current situation where DCP investigates DCP—were also ignored by the government and are ignored in this bill, in effect.

There is a lot of rhetoric in this bill and there are some good measures in this bill. I do not think any member of this council has expressed a wish to not have this debate. We would have appreciated a debate where the government had done their homework properly and had listened to the voices of stakeholders, so we will force the government to listen to the stakeholders at this point.

Stakeholders, in particular the Leadership Coalition for Child Protection, have identified at least four key reforms for those particular organisations that they would like to see. I will move on from best interests but I will return there later. They also add in those four key reforms the consistent application of significant harm threshold, as well as expanding and amplifying active efforts within the bill and prioritising and creating stronger provisions for the reunification of families.

Professor Leah Bromfield of the Australian Centre for Child Protection certainly went some way to share her expertise, and I cannot understand why somebody who is Australian of the Year for South Australia and lauded by this government was ignored by this government in this bill. I have no idea how powerful you must be or how much cachet you must have on a subject matter to be literally nominated as the South Australian nominee for Australian of the Year, be an expert in child protection, and still be ignored in this consultation process, so heaven help those who are more vulnerable and less powerful and have less government cachet.

I draw members' attention in particular to the correspondence as well from the Guardian for Children and Young People, and note that in that correspondence the guardian appreciated the opportunity not only to provide a submission in the first place but to provide a supplementary submission that then reflected on the evidence of not only herself but also the department. I really do urge members of this council to read that submission in full. I will be revisiting some aspects of the guardian's submission with my questions to the minister, both today and ongoing, and I look forward to better answers than the committee received in the last 10 weeks.

I will not labour the point today. I feel like the committee has done an excellent job in allowing stakeholders to finally be heard. It is now up to this council to do the hard work of listening properly and listening deeply and to move beyond the rhetoric. We are going to no doubt be happy to see some of the government's hard work that is reflected in this bill supported as improvements. But I find it extraordinary that submission after submission, stakeholder after stakeholder argued that best interests of the child be the paramount principle, that the chief executive could not name a single stakeholder who supported the government's position, and yet here we are with a bill that has got it all around the wrong way as far as all of the credible stakeholders were concerned.

I currently have two sets of filed amendments. One goes to best interests of the child. Fortunately for us, other jurisdictions have given us something to follow. Jurisdictions that previously thought—just like our jurisdiction did—that child safety as the paramount principle was actually the advisable way to go have since moved their position. In fact, none of those other jurisdictions right around the country now has child safety as the paramount principle. We are alone in South Australia in holding that line.

The Victorian example is the one that I have chosen to use as a model for my set of amendments in Franks-1. The amendment defines best interests of children and young people as paramount. I reflect that there are 20 points here about what that actually means, which does give guidance and is something that is well tested and advisable for this government to take seriously.

I refer the current filed amendment to the council. Again, I will not labour the point here because I think it will be wise for members who will have a vote on this to read the submissions, to digest what has been ignored and to make their own decisions on whether or not a good job has been done here in the consultation process and the drafting of this bill.

I ask the council to disregard my second set of filed amendments. In the government's rush to put this on priority one for this week, I sent some instructions to parliamentary counsel. Parliamentary counsel did not read the email that outlined the full scheme of an independent complaints and grievance process and only had one small section of it in their instructions, so I will not be pursuing those amendments. They are not what I was intending, but they are a reflection of this government rushing this council, and the parliamentary counsel, in a way that was not productive.

But I find it quite amusing that the government spent a lot of time today running around telling stakeholders that the sky is falling because of an amendment that was going to be moved by me that was never intended to be moved by me. So you know how it feels now to have to clean up other people's messes.

The Hon. L.A. HENDERSON: Inoperable—that is how the bill before us today has been described. In this chamber we see a bill, and we often see in black and white, but after hearing from the witnesses appearing before the select committee to which this chamber referred this bill, it is hard not to see the many faces that the child protection system has let down. It is a stark reminder of what is at stake if we get this wrong.

This is not just any bill. This bill gives us as a parliament the very rare but the very real opportunity to make a meaningful impact on the lives of so many vulnerable South Australian children, to make a meaningful impact on the carers who so passionately advocate for the children in their care, who at times feel that they have a mountain to climb within the department just to be able to protect and advocate for the child who is in their care.

As a parliament, we have the opportunity to give these little humans a voice in this big, scary system that impacts them more than anybody else. We have the opportunity to encourage the early intervention and prevention that stops families from getting to that pointy end where children need to be removed, and to ensure that the department has done everything in their power to do all that they can before a child is removed from a family. We have the opportunity to encourage the reunification of families where it is safe to do so. But we only do this if we get this right, and heaven forbid if we get this wrong.

To read from the co-signed letter from South Australia's Guardian for Children and Young People, the Commissioner for Aboriginal Children and Young People and the Commissioner for Children and Young People they say:

> Our advice is; the Bill is not ready, and it is not aligned with the commitments and objectives articulated within. It will not create the meaningful change that children and young people need. And there are parts which will cause new harms.
>
> The Bill, in its current form, does not serve the best interests of children and young people. It will be ineffective to turn the tide on the overrepresentation of Aboriginal children and young people in care. It is inconsistent with the United Nations Convention on the Rights of the Child, the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Convention on the Rights of Persons with Disabilities.

Despite these concerns and the many concerns of others in the child protection sector, the government indicated late last Thursday afternoon that it intended to pass this bill this week. Notably, this bill was listed as the first item on their agenda.

The select committee established to review this legislation only finished hearing from witnesses roughly around 5pm last Wednesday afternoon and reported back to the parliament on Tuesday of this week. I appreciate the minister has now indicated that they only intend to progress to clause 1 today, but their priority letter that was sent out last week was listed to complete all stages by the end of sitting today and to have this legislation listed as their number one priority.

From the outside looking in, this does not appear to be a timeline of a government which is actively listening and taking on board the feedback of the sector. This government sat on the report for the review of the act since February 2023 and only introduced the bill before us in October of 2024, roughly around 20 months after the report for the review of the act. Yet somehow this government has been able to consider the work of the parliamentary committee in less than the span of a week.

This parliamentary committee received over 50 submissions. They, for the most part, were not short submissions either. Each of these submissions had been formulated with great consideration and contemplation of the bill before us and the system more broadly. Most, if not all, of these submissions included numerous recommendations on ways in which this legislation could be improved and highlighted ways in which this legislation was lacking.

My point in sharing this is that to actually consider the submissions and whether each and every proposed amendment in the submissions should be brought would have been, I would have thought, something the government could not adequately do in the span of 24 hours. I say 24 hours because that is roughly how long it was between the conclusion of the committee's final witness and hearing and the government indicating that they planned to take this legislation to a vote this week as its number one priority.

The government took roughly around 20 months to produce legislation after the report for review of the act, yet they want to pass this legislation the same week the committee reports back. Somehow this government thinks it is good practice, good governance and a good way to legislate by ramming through highly complex legislation the week after the select committee concludes hearing evidence.

We have been told as an opposition and as a committee time and time again that the consultation this government has undertaken is lacking and that stakeholders feel that their voices have not been heard in this process. Importantly, we have heard from many stakeholders that this legislation in its current form should not be supported and that there are many changes that need to be made.

We have been given a long list of different changes stakeholders would like to see made to this flawed legislation. A list that, quite frankly, cannot properly be considered, nor the amendments drafted and consulted on, to meet this government's rushed timeline. It is not good practice to turn a piece of legislation into a package of amendments in an attempt to put lipstick on a pig to meet this government's rush to ram this legislation through. Sound policy reform involves broad consultation, something that this government's timeline does not allow for.

I find it interesting that the minister has said she will consider amendments that are put to this bill. Respectfully, minister, it is the government's job to listen to stakeholders and to consult on this legislation before it is brought to this parliament. Instead, the minister has decided to outsource her job to the crossbench and the opposition rather than taking the time to consider what stakeholders are asking the government for.

Rushing amendments to a flawed piece of legislation does not remedy the inherent issues, it only perpetuates them. When we rush through amendments without thorough review, consultation and debate of those amendments we risk entrenching errors that could have long lasting and unforeseen, unintended consequences for South Australia's most vulnerable children and families.

It is imperative that the government take responsibility for its legislative agenda and be accountable to the electorate, which is loudly and clearly telling them that they are not happy with the legislation in its current form. It is imperative that the government take the feedback given to the committee and come back to the parliament with amendments that address those concerns.

For the government to push ahead without a single amendment, and at such haste, really paints a picture of a tin ear approach to the many submissions received by the committee and, in turn, the many suggestions from the sector as to how this legislation could be improved. Instead, this government and this minister have deferred responsibility and showed that this government is not proactive in its engagement with the sector.

The government has spoken of extensive consultation being undertaken—I believe the number given was around 1,000 people—but consultation should not be about volume. It should be about meaningful engagement. Based on feedback given by stakeholders and, quite frankly, what we are witnessing play out before us now with the government trying to ram legislation through without bringing amendments based on feedback from the select committee, this government seems to be adopting a tin ear approach, an approach of, 'We know best.'

One of the key issues that highlights the government's tin ear approach best is the retention of safety as the paramount principal. It has been apparent throughout the select committee process that the child protection sector is at odds with the government on one of the key founding principles of this legislation, that the safety of the child be the paramount consideration.

It is been abundantly clear that the sector largely disagrees with the adoption of safety, and is for the most part in support of the best interests of the child being the paramount principal. It strikes me as unusual that the government would adopt an approach that appears to be contradictory to the views of the sector.

What is important to note is that best interests includes a child or young person's safety as one of the core rights that should guide all assessments of best interests. Keeping a child or young person safe is always in their best interests. The best interests principle does not sit in opposition to the principle of safety.

Based on feedback received, safety as the paramount consideration results in a one-dimensional application of decision-making rather than a holistic framework that considers safety amongst emotional needs, developmental needs, cultural identity, and long-term outcomes, amongst other things. It has been said that:

> the current framework is purposely intended to create an unfettered focus on safety. This is not the full picture in how we grow our children, and it is not fair to children and young people in care that they have to live under that framework through no fault of their own

We heard about what safety as the paramount principle means in reality. In reality, it means that children are unable to go on play dates because their friends' parents are sick and tired of going through police checks. In reality, it means children could not go on a school trip to Canberra with their peers. In reality, safety means that children are being told that they have to stand out from their class photo on school picture day. I want to share with this chamber exactly how it was put to the committee by the guardian because, quite frankly, I cannot paint this picture any better than she has. The guardian said:

> I have children calling me—and this is the one that gets me—crying because they have to stand next to the photographer on school photo day because it's not safe, according to their social worker, for them to be in the school photo, despite there being no assessed safety risks. Those embarrassing school photos are a rite of passage for every person. We look at them and we laugh at our hair and how times have changed.
>
> Imagine just for a second what it would feel like if your whole class is up there and you are standing there next to the photographer and all the kids are looking at you and the photographer. They know that you are that kid in care. They know that stuff has happened to you. Also, you are looking back at them. You know that you're not worthy of a photo, or that's at least what you are telling yourself. You have no photographic memory available to you about

your experiences at school. You won't even remember that one teacher who gave you a fair go. So these are the very real things that that safety clause has put into play that we must address, because it has very real impacts for children and they are missing out on life opportunities because of that.

What has been abundantly clear throughout the committee process is that some issues within the child protection system stem from the legislation, but other issues stem from issues of either culture within the department or issues with practical application of procedures. Ultimately, though, the person who suffers as a result of these issues is the young person.

The committee heard that often appointments or referrals for children in state care are not obtained in a timely manner or are not pursued at all, despite recommendations or requests that this occurs. The committee was told that where multiple services or assessments are required or recommended, as is often the case when a child first enters out-of-home care, the department may only support access to one service initially, and that these delays or refusals lead to carers seeking out services through private channels and paying out-of-pocket for medications, appointments and assessments without reimbursement from the DCP. Where reimbursements are provided, carers can experience significant delays in receiving them.

The committee also, concerningly, heard that sometimes services are not deemed necessary or appropriate according to the Department for Child Protection's determination, even if this is contrary to the views of service providers, medical professionals, school staff and the carer. One example given to the committee was psychology support being recommended by a service provider working with the child; the department has deemed it not necessary or appropriate. The parliament was told that these decisions are not made in partnership or in consultation with the care team and could even be made by a DCP psychologist who has not met with the child or young person.

The committee was informed of cases where access to services had been denied based on lack of funding. These decisions are not limited to decisions regarding health or education. One example given for funding being denied was classroom support, such as an education support officer. The parliament was also told that despite no change in the child or young person's support needs, funding is denied or considerably reduced due to funding restrictions. These are but a couple of examples that were shared with the committee. Whether it is an issue of legislation, of policy or procedure or application, it is ultimately the child and young person who misses out and suffers.

Some of the other areas the sector would like to see changed within the legislation before us, that the committee and we as an opposition have heard about—but, to be quite frank, this does not even scratch the surface of the many issues that have been identified—are:

- a lack of an independent complaints process;
- inconsistent application of the significant harm threshold;
- expanding and amplifying active efforts;
- prioritising and creating stronger provisions for reunification of families;
- establishing firm principles to prioritise family-based placements for all children and young people in care;
- bringing external oversight to decisions about children's contact with their family and other important people by making these decisions judicially reviewable;
- mandating referrals to family group conferencing, placing the decision-making about whether to participate in the hands of family in conjunction with an independent coordinator;
- prioritising and scaffolding early intervention and prevention pathways over statutory removal responses;
- requiring family group conferencing be offered to all families to promote family-led decision-making, family preservation, and preventing children from entering care supported by intensive family support to enact decision-making; and
- lacking recognition of informal kinship carers.

This does not even begin to touch the surface of things that have been requested by the sector to be amended within the legislation before us today. We call on the Minister for Child Protection and the government to pause its plans to forge ahead with this bill. We call on them to go away and to consider the many suggestions of stakeholders and to come back to the parliament with some considered amendments that they have consulted on. As an opposition, we have consulted broadly on this legislation and have heard from most stakeholders that they do not want this bill to pass in its current form.

The ball is in the government's court to consider the vast number of amendments that are being called for to be made by the sector. It is not every day that we get this opportunity and we should make the absolute most of it. In closing, I would like to share a couple of quotes with the chamber:

> This bill as it stands risks overburdening an already strained child protection system by failing to address systemic issues like resource shortages, high caseloads and underfunded support services. I urge this committee to pause and engage in deeper consultation, ensuring this legislation is not just a reaction to current crises or a way to satisfy small interest groups by the substantial evidence-based framework that looks to the future. Without this foundation the reform risks being ineffective, inconsistent and detrimental to children and families.

Another quote:

> To put it bluntly and give you an analogy: I believe it is an appeasement bill aimed at oiling squeaky wheels, patching punctured tyres and trying to click over a 300,000-kilometre mark on an old Holden that hasn't been serviced in decades. My assessment of this bill is that at a practical level it is confusing. It sends mixed messages with those charged to enact it, it relegates children and young people to being sidelined in a range of arenas, as they sit and watch those with a vested interest argue about what should be done to them. All of this is done with no real requirement to engage and prioritise children's feelings, thoughts and perspectives. There are statements about the importance of voice and reasonably taking steps to hear them, but in the same breath there are actual obligations to include children in their own life, and their existence has been taken out of the legislation.

Finally, I leave the chamber with the words of Belinda Valentine, a name that everyone in this chamber should know:

> This bill does not do enough to protect the next Chloe.
>
> My question to you is simple: will this bill actually protect children like Chloe, or is it just more empty words? The overwhelming feedback is the latter.
>
> What will you do to help protect children today? And when will we get serious about a community education campaign and recognise the invaluable point of reference that lived experience brings to the table?
>
> Chloe would have turned 18 this year. She should have had a happy childhood and a full life. Instead, she was left in danger and lived only four short years.
>
> Don't let her death—and others like hers—be in vain.

The Hon. J.S. LEE: Thank you, Chair, for the opportunity to speak at clause 1 on the Children and Young People (Safety and Support) Bill 2024 and to express my deep concerns about the legislation. This piece of legislation has been presented by the government as transformative and is intended to fundamentally reform and improve the child protection and family support system. Unfortunately, as we have heard today from many honourable members, particularly the Chair of the select committee and those on the select committee, it does not quite meet their lofty ambition.

My office has been inundated in recent days with correspondence from a range of stakeholders, peak bodies, carers and families, not one of which, alarmingly, has been in support of the bill in its current form. Many concerns have been raised with me directly and through the select committee process that have given me significant misgivings about the consultation process on the bill and the key areas of so-called reform it is supposed to implement.

After learning about those critical concerns I cannot support the bill in its current form, and I believe it is incumbent on us as legislators to take the time to consider the detailed submissions and proposed changes that have been presented to the select committee. This legislation cannot be rushed and should not be allowed to become law when so many sections of the community feel that it is simply not fit for purpose.

As stated in the report of the select committee:

> Evidence heard and submissions received expressed concerns that the Bill is not aligned with the commitments and objectives within and falls short of its stated purpose. It requires amendments to promote meaningful change and the primacy of the best interests of the child.

I would like to thank all the stakeholders and community members who have contacted me in relation to this bill, and I acknowledge their deep commitment to protecting and supporting our children and young people. I would like to take this opportunity to highlight some of the impactful representations that I have received from key bodies in the child protection space.

The Leadership Coalition for Child Protection Reform, as many members have highlighted, represents the largest block of community service agencies operating in the child protection and family support services field in South Australia with significant and longstanding experience in the delivery of out-of-home care, protective interventions and support services for children and families.

I want to pay tribute to the leadership coalition, which consists of CEOs and senior leaders from peak bodies and key providers of child protection and family support services in South Australia. These organisations include Uniting Communities, Lutheran Care, Uniting Country SA, Baptist Care SA, KWY Aboriginal Corporation, Junction Australia and Infinity Community Solutions.

It is very clear that there is a consistent and unified voice on the part of so many leading organisations that have merged together in complete agreement on something as important as the area of child protection. This is a powerful indication that positive reform is needed, and it demands that the minister and the Malinauskas government take their advocacy seriously.

The leadership coalition has provided a detailed submission to the select committee that outlines four key reforms to improve South Australia's child protection system and has provided detailed wording suggestions and proposed amendments that could be included in the legislation. I am very pleased that many honourable members will be moving amendments for consideration next sitting week.

The four key reform principles outlined are (1) elevating 'best interests' as the paramount principle, (2) the consistent application of the 'significant harm' threshold, (3) expanding and amplifying 'active efforts' and (4) prioritising and creating stronger provisions for reunification of families.

I take this opportunity to personally thank Rohan Feegrade, CEO of Lutheran Care, for his valuable input, passionate advocacy and guidance, walking through the four key reform principles directly with me and my office. I also want to make a few remarks on some of the advice I received over the last few days. Simon Schrapel AM, Uniting Communities chief executive and Leadership Coalition spokesperson, said, 'Without all four of these must-have reforms this bill will fail to deliver the transformation needed.'

The Aboriginal Legal Rights Movement also expressed its deep concerns at the prospect of the Children and Young People (Safety and Support) Bill passing in its current form without revision. The language of the bill does not require the Aboriginal child placement principle to be implemented, nor ensure accountability for complying with it.

Belinda Valentine, Chloe Valentine's grandmother and staunch advocate for child protection, echoed concerns that the bill does not do what it claims and that it does not do enough to protect the next Chloe. Ms Valentine stated in an open letter to all members of parliament:

> The proposed Children and Young People (Safety and Support) Bill does not do what it claims. Instead of protecting vulnerable children, it instead protects the department and the government with vague wordings and loopholes. This is a missed opportunity to prevent future tragedies.
>
> The issue isn't just the words; it's how they're applied. 'Best interests' failed Chloe and safety alone has failed children since.

I have also heard from many foster carers, who expressed their frustrations at the consultation process of this bill and feel that the government has not listened to their concerns and suggestions. I wish to place some of these comments on the public record. One carer wrote:

> Despite contributing to many discussions and forums, I do not feel my voice is heard. Many carers have spent much time and effort to offer suggestions for meaningful change. They too have been ignored.

Another carer sent me a copy of the correspondence she sent to the Premier stating:

> Despite the vital role we play in providing 24/7 care for vulnerable children, I feel unheard and have not been given the opportunity to engage in meaningful consultation regarding this legislation.

Another advocate for carers highlighted to me:

> A continued pattern of dismissiveness and self-interest in addressing critical issues within the child protection system…failure to engage with those on the frontlines of child protection issues, raised serious concerns about the integrity and transparency of this reform process
>
> This legislation is definitely not fit for purpose.

These concerns must be listened to and addressed by the minister and the Malinauskas government. I will be closely reviewing and considering amendments filed by honourable members, and the many submissions and representations I have received from stakeholders in this place.

Vulnerable children and young people in South Australia deserve legislative reform that will safeguard them and bring about genuine reform that effectively supports at-risk South Australian children, young people and their families. I conclude my remarks.

The Hon. T.A. FRANKS: On 16 January, chief executive Jackie Bray was asked by, I think, myself in the select committee, 'Can the department identify stakeholders who support the elevation of child safety above best interests?' On that occasion of 16 January, a single stakeholder was unable to be identified. That question was taken on notice.

On 28 January, the committee received correspondence from the chief executive, Jackie Bray, which stated in response to that question:

> The volume of feedback received from stakeholders presented a wide variety of views across many aspects of the bill. The majority of the submissions received focused on areas stakeholders had identified for improvement, rather than confirming aspects of the bill that they were in favour of retaining. Many of the submissions received discussed the paramount principle and interplay between 'safety' and 'best interests' in a nuanced way that did not preference the elevation of either principle, while a further cohort of submissions did not discuss the paramount principle at all.

My question therefore to the government is, and obviously noting that the minister is representing the minister, can the government now confirm stakeholders who advocate for the elevation of safety as the paramount principle over best interests as the paramount principle?

The Hon. C.M. SCRIVEN: I am happy to take that on notice and bring back any additional information before the next sitting week.

The Hon. T.A. FRANKS: Why has there been no preparation and response to that question now that was first asked on 16 January, and why have the voices of all of those stakeholders who have advocated for best interests being the paramount principle been ignored?

The Hon. C.M. SCRIVEN: I would expect that, given that a response was provided to the select committee, the honourable member has now asked for further clarification around that.

The Hon. T.A. FRANKS: I asked in that committee for a single stakeholder to be named. On 16 January, a single stakeholder could not be named by the chief executive. Over a week later on 28 January, the chief executive in correspondence to the committee could still not name a single stakeholder, and here were are on 6 February and the government is still unable to name a single stakeholder.

One stakeholder who did make it very loud and clear to the government was the Guardian for Children and Young People about her concerns about why safety should not be the paramount principle. The Hon. Laura Henderson has reflected in some ways upon that aspect. It sounds counterintuitive, of course. We all want children to be safe but by elevating safety over best interests we have had some unintended consequences, and the committee certainly heard evidence of that.

The evidence presented by the guardian went some way to that reflected upon by the Hon. Laura Henderson: that children were unable to go on play dates, that children felt isolated and made the odd one out, exposed, unable to be in school photos, unable to participate in the full scope of their lives, their social lives and their schooling lives. Shona Reid, as guardian, presented that information in the consultation of this bill that the government undertook.

In her evidence on 16 January, the chief executive then claimed that Shona Reid, the Guardian for Children and Young People, had never raised those matters with her. We received an additional—and I certainly asked questions about it on 16 January because I was then able to provide quotes from the guardian's submission direct to the Chief Executive of DCP, which were sent on 24 September 2024 at 4.57pm via email direct to Ms Jackie Bray of DCP and copied to the DCP chief executive mailbox and to YourSAy, to the person there in charge of the consultation that outlined those very points that had already been made to Jackie Bray as the chief executive, and also in the official consultation process on this bill.

Those concerns about child safety were claimed by Ms Bray to have never been raised with her. Then when she was challenged and read sections of that submission—and they are heartbreaking sections of that submission in the children's own voices: 'We've been told as children we're not allowed to have our photos taken.' 'Mum knows exactly where we are so it doesn't actually impinge on our safety.' 'We get sick of having no friends, because we're always the ones who need child protection checks before we can go on a play date.'

That had all been raised with the chief executive, Jackie Bray—and quite specifically, as I say, direct to her email on 24 September 2024. The chief executive informed the committee that these things had never been raised with her. Then, when she was challenged with the evidence, she admitted that she had misled parliament—or a parliamentary committee, which is parliament. My questions are:

1. Has Ms Bray now apologised to the Guardian for Children and Young People?

2. Has Ms Bray been counselled by the Minister for Child Protection about misleading parliament?

The Hon. C.M. SCRIVEN: I am happy to take that question on notice and bring back a response.

The Hon. T.A. FRANKS: Is it the view of the Malinauskas government that the chief executive should be able to mislead parliament?

The Hon. C.M. SCRIVEN: Is that really about this bill?

The CHAIR: We are in the clause 1 committee stage, minister. It's pretty wideranging, normally. You can respond how you see fit.

The Hon. C.M. SCRIVEN: I am sure it is an expectation that all public officials would do their best to provide accurate answers at all times.

The Hon. T.A. FRANKS: In that, I think that we should move to report progress so that we can possibly get some accurate answers next time.

Progress reported; committee to sit again.

STATUTES AMENDMENT (BUDGET MEASURES) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 4 February 2025.)

The Hon. R.B. MARTIN (17:17): It is a pleasure to speak to the budget measures bill, which highlights elements of the Malinauskas Labor government's 2024-25 state budget. The South Australian community is facing some complex and significant challenges and pressures, as are our communities in jurisdictions around the nation and, indeed, around the world.

I am proud to speak today about some of the ways in which our government is responding to those challenges, working through this budget and through a broad range of other policy and legislative efforts to forge a path for the South Australian community that leads us to a better future. This budget maintains the Malinauskas government's promise of no new taxes, and most fees and charges have been indexed by 3 per cent, ensuring that increases are well below inflation.

A keen area of focus for the budget is housing. Amidst a housing market that continues to present challenges, the budget provides a record $843.6 million for housing to build more houses, and is aimed at measures to improve affordability. Notably, stamp duty has been completely abolished for all eligible first-home buyers who build or buy a new home, regardless of the property's purchase price. This means that an eligible first-home buyer who buys a newly constructed home with a house price of $750,000 stands to receive more than $50,000 in both stamp duty relief and the First Home Owner Grant of $15,000. That is a significant amount of support for a cohort of South Australians who deserve assistance in seeking the opportunity to own a home.

Another focus of the budget is jobs. In the crucial area of skills, the budget provides an additional $692 million over five years, representing a 43 per cent increase in skills funding, to ensure South Australians get the skills they need for the jobs that are being created across our state's economy. This includes $275.6 million for more than 160,000 training places in key areas, such as defence, health, building and construction, early childhood education, clean energy transition and ICT, and a further $56.2 million to help more students complete their training.

I am glad to assure South Australians that our budget position is strong. Indeed, we now know that the Malinauskas government has delivered its second budget surplus, with the final budget outcome outlining a surplus of $413 million for the 2023-24 financial year. This is $107 million higher than projected at last June, following stronger revenues from the property market and a more buoyant economy, and after three deficits under the previous government, despite our significant program of investments across a range of policy areas including generational investment in our health system.

The budget includes $25.6 billion in infrastructure funding over four years, with $7 billion across the forward estimates for the north-south corridor—River Torrens to Darlington project—and $1.7 billion for the new Women's and Children's Hospital.

The 2024-25 state budget delivers a lot of good for our community and it does so in a manner that is fiscally sustainable. I commend the bill to the chamber.

The Hon. D.G.E. HOOD (17:20): I rise to speak on the budget measures bill. As the Deputy Leader of the Opposition in this place stated in her second reading contribution, it is disappointing that the state Labor government has demonstrated a propensity for overspending, as we have seen in this budget, with South Australia facing a looming debt of some—I will say it slowly—$46 billion in just two years. It is proving that Labor, once again, is incapable of responsible fiscal management, which is what South Australians desperately need and deserve.

Indeed, in recent times, residents of our state have been grappling with the mounting cost-of-living pressures, as all of us know and understand. But they are also facing increased crime rates according to the latest police data, and a healthcare system that is in—you could use the word 'crisis'; it would not be unreasonable. There is unprecedented ambulance ramping, which is a statistical fact, soaring business costs and, of course, a severe housing shortage. In fact, it is estimated that the average South Australian family now is around $20,000 worse off than they were at the last election. The opposition will therefore continue to call upon the government to implement measures that will have a real impact on the financial situation that South Australian households and businesses face.

The Liberals are committed to keeping the dream of home ownership alive in our state. It is unfortunately becoming increasingly out of reach, especially for the younger generation of South Australians. The government's abolition of stamp duty for all first-home buyers purchasing or building a new home is certainly a positive step and we agree with them on that, and indeed we go so far as commending them for it. It is good, sound policy.

But we believe as an opposition that much more can be done, and that is why we are going the extra step of calling for a $10,000 reduction in stamp duty for first-home buyers purchasing an existing home—so not just new homes but also existing homes—up to the value of $750,000. This would provide relief for countless more aspiring home owners. We look forward to taking these policies to the next election if the government refuses to implement them as part of their platform.

As noted by the opposition's lead speaker on this bill, payroll tax is another issue that needs attention. In fact, it has risen by some 33 per cent in this financial year's budget, which equates to an increase of the extraordinary number of $483 million per year since Labor was elected in 2022. The

Liberal opposition has been calling on the government to lift the payroll tax threshold from the current $1.5 million to a new proposed threshold of $2.1 million, and will continue to do so.

Payroll tax is a significant financial burden on our small businesses that is severely impeding their ability to remain profitable. By raising the payroll tax threshold—as, of course, the Liberal party did when we were last in government—we can give small businesses the best possible chance to survive, expand and create more job opportunities.

As we all know, small businesses make up 98 per cent of all businesses in our state and employ around 300,000 South Australians, or 40 per cent of the total workforce. Given that South Australia has already had the highest unemployment rate in the country, we cannot afford to see these businesses continue to struggle—or worse, cease operating. Of particular concern in terms of taxation in this regard is the GP payroll tax, which will inevitably inhibit accessibility to GP services and put further strain on our already overstretched emergency departments in South Australia.

In addition to these initiatives, the Liberals have been calling for payroll tax exemptions for apprentices and trainees. South Australia is currently facing critical skills shortages in more than 350 occupations according to the 2023 Skills Priority List. Furthermore, a survey by the Australian Chamber of Commerce and Industry found that 75 per cent of businesses consider payroll tax as a barrier to hiring young workers. We need to listen to the plight of small business owners and abolish payroll tax completely for apprentices and trainees to encourage businesses to take on new employees. That is our position.

This government has proven itself to be high taxing and high spending. Despite this, South Australia has the highest unemployment rate in the nation, growing state debt—extraordinarily high state debt; unprecedentedly high, in fact—some of the most expensive energy prices in the country, and sometimes the most expensive, and a failing health system. Our state taxpayers deserve a government they can trust to distribute funds in a manner that aligns with the priorities of the average South Australian. As it stands, this is certainly not the case at the moment.

There is so much more that I could talk about, but I wanted to merely touch on some of the key issues. I could talk about the need to release more land. The government has made steps in this direction. We will give them credit where credit is due, but it has been a trickle, not the large-scale release that is required. The building industry is saying this loud and clear from the sideline: they want more land and they want it now.

There is a need to slash red tape in this state. It has become onerous particularly for small businesses that do not have the resources to cope with the filling out of forms and dotting the i's and crossing the t's that are required. This is something that we would urge the government to focus on. It is certainly something that a Liberal government would focus on.

The other thing, which is the elephant in the room I think for all of us, indeed not just in South Australia but right across our nation, although it certainly is a significant problem in South Australia as well, is to seriously tackle energy prices. The hydrogen dream that has been centred around Whyalla appears to be slowly coming apart at the seams. No-one wants that, of course. That is not what we want for our state, but we need a solution to the ludicrously high energy prices that we face. This is something that we must focus on as a parliament. We urge the government to draw their attention to this most important matter. It hurts businesses. It hurts households. Nobody wins. With those few words, I conclude my remarks.

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (17:26): I thank all members for their contributions and look forward to the committee stage.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. C. BONAROS: For the benefit of members, I will not be progressing my amendment to this bill. I have had some conversations now with the relevant minister. I think the message has been well and truly received, and we have agreed in terms of the process for how we go about these and other measures. As such, I indicate I will not be progressing this amendment.

Clause passed.

Clause 2.

The Hon. F. PANGALLO: I move:

Amendment No 1 [Pangallo–1]—

Page 3, after line 2 [clause 2(2)]—After paragraph (a) insert:

(ab) section 4A;

This is essentially an amendment to make the operation of my amendment to extend the stamp duty exemptions to existing homes to the date of 6 June 2024.

The Hon. K.J. MAHER: I thank the honourable member for his amendment. He spoke in great detail about why he is putting it forward, I know, during the second reading stage. I indicate that the government will not be supporting the amendment. We understand why the honourable member is moving it but in the government's view and policy it is our intention that the current scope of eligibility for the First Home Owner Grant and first-home stamp duty relief is limited to the purchase of a new home and vacant land on which a new home is to be built.

This policy reflects the government's intention to support the construction of new homes to increase supply in the housing market and this would not aid in that particular policy aim. The proposal would also, I am advised, significantly erode the budget position and the government's capacity to pursue other strategic economic priorities. I am advised the proposed extension would cost in the order of $190 million a year by the end of the forward estimates, reflecting the provision of relief to an estimated additional 4,000 first-home transactions per annum. The government will not be supporting the amendment.

The Hon. H.M. GIROLAMO: As indicated in my second reading speech, we will not be supporting the amendment.

Amendment negatived.

The CHAIR: The Hon. Mr Pangallo, you have another amendment at clause 2. Do you wish to progress that?

The Hon. F. PANGALLO: I gather it will be consequential, but can I just use the opportunity here to acknowledge an error I made the other day where I whacked into the opposition. We were looking at media reports from six months ago where the former opposition leader was saying that his government would provide stamp duty relief to first-home buyers on existing dwellings but those reports did not go into the particulars of that. I now acknowledge that that amount is actually capped at $10,000. I will say it is a miserly $10,000 but it is better than nothing, I guess, and is still not going far enough. I still would have expected the opposition to support my amendments for full relief.

The Hon. K.J. MAHER: 'I was wrong and so were you.'

The Hon. F. PANGALLO: I am happy to admit that, Attorney.

Clause passed.

Clauses 3 and 4 passed.

New clause 4A.

The Hon. F. PANGALLO: I move:

Amendment No 3 [Pangallo–1]—

Page 3, after line 36—After clause 4 insert:

4A—Amendment of section 18—Amount of first home owner grant

(1) Section 18(1)(b)(i)—after subsubparagraph (B) insert:

and

(C) if the commencement date of the eligible transaction is on or after 6 June 2024—$15,000;

(2) Section 18(4a)—after '2014' insert 'but before 6 June 2024'

This amends section 18 of the act to extend eligibility for the $15,000 grant to first-home buyers purchasing existing homes after 6 June 2024. Again, I am at a loss to explain why it has not been extended to existing purchases and perhaps the Attorney can explain that.

The Hon. K.J. MAHER: I reiterate the brief contribution that I made in relation to the honourable member's first amendment: in the government's view, part of the policy the government put forward is an intention to increase supply in the housing market by incentivising the construction of new homes.

Suggested new clause negatived.

Clauses 5 to 10 passed.

Clause 11.

The Hon. F. PANGALLO: It is obvious they are not going to get up, so I will not be moving any further amendments.

Clause passed.

Remaining clause (12) and title passed.

Bill reported without amendment.

Third Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector, Special Minister of State) (17:36): I move:

That this bill be now read a third time.

Bill read a third time and passed.

BIOSECURITY BILL

Final Stages

Consideration in committee of message No. 213 from the House of Assembly.

The Hon. C.M. SCRIVEN: I move:

That the House of Assembly's amendment be agreed to.

Motion carried.

STATUTES AMENDMENT (CRIMINAL PROCEEDINGS) BILL

Final Stages

The House of Assembly agreed to the bill without any amendment.

MOTOR VEHICLES (DISABILITY PARKING PERMIT SCHEME) AMENDMENT BILL

Introduction and First Reading

Received from the House of Assembly and read a first time.

At 17:39 the council adjourned until Tuesday 18 February 2025 at 14:15.