RESTRAINING ORDERS AMENDMENT BILL 2013

First Reading

Bill read a first time, on motion by **Dr K.D. Hames (Minister for Health)**.

Explanatory memorandum presented by the minister.

Second Reading

DR K.D. HAMES (Dawesville — Minister for Health) [12.37 pm]: I move —

> That the bill be now read a second time.

In cases of apprehended violence in a domestic context, an applicant seeking a violence restraining order under the Restraining Orders Act 1997 may have children whom he, or more commonly she, is also anxious to protect. Section 68 of the act allows for a court to extend the operation of any order made in favour of a parent to also protect the applicant's children. However, since the introduction of recent amendments to the Restraining Orders Act 1997 in May 2012, the government has become aware of a practice having developed among some magistrates of not utilising section 68, requiring a parent to make a separate application to the Children's Court of Western Australia for a violence restraining order to protect their children. Consequently, distressed parents need to attend two separate courts in order to gain protection for themselves and their children. This was never intended by legislation and is plainly an onerous and unnecessary burden for a parent already suffering from violent abuse. The bill proposes an amendment to section 25 of the act to make it unequivocally clear that a child applicant or a person making an application on behalf of a child, or both, may be granted a violence restraining order in the Magistrates Court. At the same time, this amendment retains the spirit and intent of the original 2012 amendment that sought to allow for a child seeking the protection of a restraining order to be heard in the Children's Court, with all the sensitivities of that jurisdiction.

The amendment is consistent with the recommendation of the 2008 statutory review into the act that "violence restraining order applications for the protection of a child be permitted to be taken out in both the Children's Court and the Magistrates Court jurisdictions". The recommendations of the review were made following extensive consultation with 189 individuals and organisations involved in addressing domestic violence in our community. This particular recommendation was partly informed by a submission from the then Department for Child Protection, which suggested it would be an improvement should child applicants have their applications taken out in the Children's Court, stating —

> The department believes that there would be merit in considering developing provisions to enable any application on behalf of a child to be made in the Children's Court notwithstanding the existence or otherwise of protection proceedings. Children's Court Magistrates have the experience to provide a more sensitive approach consistent with the paramountcy of the best interests of the child.

I am satisfied that this amendment to the Restraining Orders Act succeeds in both allowing child applicants to have their applications heard in the Children's Court and ensuring that magistrates have the legislative power to either use section 68 to extend a parent's order to apply to the parent's children or grant separate orders for child applicants in the Magistrates Court.

In addition to the amendment to section 25, the bill proposes a consequential amendment to the Children's Court of Western Australia Act 1988 to allow for all orders relating to children under the Restraining Orders Act to be heard in the Children's Court.

The bill also proposes some minor amendments to the Restraining Orders Act to correct references in the act to legislation that has since been amended, leaving those references redundant.

I commend the bill to the house.

Debate adjourned, on motion by **Mr D.A. Templeman**.