

METHAMPHETAMINE — CRIMINAL CODE PROVISIONS

10. Hon COLIN TINCKNELL to the minister representing the Minister for Police:

I refer to questions without notice 804 and 827 of Tuesday, 13 August and Wednesday, 14 August 2019 respectively. Sections 34(3)(4) and (5) of the Misuse of Drugs Act 1981 refer only to the issue of children being present when in conjunction with the conviction of a greater crime such as drug trafficking or manufacturing. There is no mention of penalties for those who simply use drugs around children. It appears not to be a standalone offence.

- (1) Is it illegal to use drugs around children; and, if so, under which law, and when was the last time a person was charged and convicted under this law?
- (2) What is the procedure police follow when confronted with children found to be in the homes of drug users—not just drug manufacturers, as outlined in section 34 of the Misuse of Drugs Act 1981, but drug users?
- (3) What procedures do police follow if they suspect or are confronted with evidence that a minor has been contaminated by the illicit drug use of an adult via second-hand smoke?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The following information has been provided to me by the Minister for Police.

- (1) I am unable to provide an answer to the question under section 105 of the standing orders, as the honourable member is seeking a legal interpretation or opinion.
- (2)–(3) The Western Australia Police Force advises that if police are confronted with a child in need of immediate care and attention, they are empowered under section 37 of the Children and Community Services Act 2004 to take the child into provisional protection and care. Police do not require a warrant to exercise these powers. Police would then enlist the support of crisis care to commence protection proceedings and provide necessary care for the child.

Section 41 of the Children and Community Services Act 2004 enables a police officer to move a child to a safe place if the officer finds the child at a place other than the child's usual place of residence and the officer believes on reasonable grounds that the child is not under the immediate supervision of a parent of the child or an adult capable of adequately supervising the child and that there is a risk to the wellbeing of the child because of the nature of the place where the child was found, the behaviour or the vulnerability of the child at that place, or any other circumstance.