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8 June 2012

Hon Adele Farina MLC  
Chairperson  
Standing Committee on Uniform Legislation  
and Statutes Review  
Parliament House  
Perth WA 6000

Via Facsimile: 9222 7805

Dear Ms Farina

**INQUIRY INTO COMMUNITY PROTECTION (OFFENDER REPORTING)  
AMENDMENT BILL 2011**

Thank you for the invitation to make a written submission concerning the impact of the above Bill on Western Australia's parliamentary sovereignty and law making powers.

The *Community Protection (Offender Reporting) Amendment Bill 2011* ("the Bill") seeks to amend various sections of the *Community Protection (Offender Reporting) Act 2004* (WA) ("the Act"). It is noted from Hansard that the Bill adopts the remaining recommendations from the Ministerial Council for Police and Emergency Management.

It is noted that Section 80C of the Bill creates an offence if a reportable offender applies to an interstate Registrar to register a change of name under the law of another State without approval from the Commissioner of Police in WA.

Section 2(1) of the *Constitution Act 1889* (WA) states that the Parliament of Western Australia has powers to make law for the "peace, order and good governance" of Western Australia". Generally the WA Parliament may legislate for persons, events or things outside Western Australia where the subject of the legislation has a substantial connection to Western Australia.

There is an issue in the Bill as to whether there is a sufficient nexus between the proposed s80C and Western Australia because the provision deals with the regulation of the change of name process in another State and the creation of an offence for conduct potentially occurring while the reportable offender is in the other State.



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In the case of *Brownlie v State Pollution Control Commission* (1992) 27 NSWLR 78 at 83-5 consideration was given as to whether conduct occurring in another State could be an offence under the legislation of a different State. The Court in that case held the release of pollution in Queensland could be an offence in NSW under NSW law provided the relevant consequence occurred in NSW.

Under s80C the adverse consequence the provision is aimed at is that a WA reportable offender born in another State may potentially change their name without the knowledge of the WA Police Commissioner and thereby avoid compliance with obligations in WA under the Act. It is considered that this could be said to provide the relevant connection to WA and thereby provide an appropriate foundation for the section.

Yours faithfully



George Turnbull  
DIRECTOR OF LEGAL AID