

CRIMINAL CODE AMENDMENT (COVID-19 RESPONSE) BILL 2020

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Sue Ellery (Leader of the House)**, read a first time.

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [9.29 pm]: I move —

That the bill be now read a second time.

As a community we are facing extremely challenging, indeed unprecedented, times as we strive to combat the COVID-19 pandemic. A state of emergency has been declared in Western Australia and similar declarations have been made in other states and in countries right around the world. A national cabinet has been established for the first time in our nation's history. Daily, Western Australians see shocking scenes from China, Italy, Iran, France, the United Kingdom and a multitude of other nations that were unimaginable just a month or so ago. Most of us never thought we would see anything of this nature or on this scale in our lifetime. Those who have lived through wars and depressions hoped never to see anything like those life-altering events ever again.

Circumstances such as those before us bring to the fore the very best qualities of most in our community. People step forward and work together, going well above and beyond to protect their families and the wider community. We have already seen many selfless and generous acts and I am confident that we will continue to see the very best in our community as they put their own needs aside for the benefit of others. Unfortunately, although we see the very best from many, we see the very worst from a few.

There have been abhorrent reports of people here, across the country and overseas claiming that they have COVID-19, deliberately coughing or spitting on police officers or wrestling with officers doing their job to look after us. The Commissioner of Police and the WA Police Union both raised with me examples of concerning incidents. This reckless behaviour is occurring, and at risk of occurring, to frontline essential staff who are working tirelessly around the clock to keep our community safe and to stop the spread of COVID-19. This disgraceful behaviour is unacceptable, presents a serious risk to officers' health and safety and must not be tolerated.

In addition to the trauma to the officer who has been assaulted, there is also the distress and fear that they and their loved ones experience about whether they have contracted COVID-19. This behaviour in turn impacts on the wider community. It results in the self-isolation or quarantine of the officer who has been assaulted. That takes an essential worker off the front line and prevents them from fulfilling their duties to keep us safe.

As members of Parliament we must step up to enact the laws needed to safeguard the health and safety of the Western Australian community. Never more so than in these times will the community turn to our frontline staff, to our police officers, our doctors and nurses, our paramedics and others, to protect, care for, and support them. In turn, those on our front line need to know they have our support.

The Criminal Code Amendment (COVID-19 Response) Bill 2020 introduces higher penalties for assaulting and threatening public officers and certain other officers delivering frontline services—including police officers, doctors and nurses, ambulance workers, bus drivers and prison officers—in circumstances of actual or threatened exposure to COVID-19.

The bill amends the Western Australian Criminal Code to provide for higher penalties for the offences of serious assault and threat. Under the specified COVID-19-related circumstances contemplated by the bill, sections 318 and 338B of the code will be amended so as to provide for a higher maximum penalty than is currently the case for serious assaults and threats generally. This reflects the seriousness of the conduct and sends a clear message that the government and, indeed, the WA community at large, does not and will not accept it.

Section 318 of the code deals with assaults on particular categories of people, including but not limited to, public officers in the course of performing their duties. This includes police officers, doctors, nurses, ambulance workers, fire and emergency service workers and prison officers. Depending on the circumstances of the commission of the offence, varying penalties apply, including different terms of imprisonment.

This bill provides a higher maximum penalty of 10 years' imprisonment in the following circumstances: when an offender assaults a person within the categories of people contemplated by section 318 and the offender knows that they have COVID-19, or, when at, immediately before or immediately after the commission of the offence the offender makes a statement or does some other act that creates a belief, suspicion or fear that they have COVID-19. This is the equivalent to the penalty for assault when an offender is armed with a dangerous weapon or is in company, and is an increase from the standard serious assault penalty of seven years' imprisonment.

These amendments seek to send a strong message of deterrence to protect our essential frontline officers. Depending on the specific circumstances, other code offences may also apply; for example, sections 304(1) and (2) provide for

offences relating to doing an act or omission causing bodily harm or danger when undertaking a duty, with a penalty of imprisonment for seven years, or, when there is intent, imprisonment for 20 years.

Section 338B of the code deals with threats. The bill amends section 338B to provide a higher maximum penalty when the offender threatens to injure, endanger or harm someone by exposing them to COVID-19. This offence will attract a penalty of imprisonment of seven years, with a summary conviction of three years' imprisonment and a fine of up to \$36 000.

Sunset clause: Finally, these amendments are COVID-19-specific. The bill includes sunset provisions that provide that the amendments will cease to have effect 12 months after commencement, at a point in time we all hope COVID-19 is well behind us.

Just as our frontline officers have, without hesitation, stepped forward to look after us, this bill is one initiative to demonstrate that we will do our best to protect them. The Criminal Code Amendment (COVID-19 Response) Bill 2020 makes it clear that assaults on, and threats to, essential officers on the frontline fighting this pandemic will not be tolerated.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

We can, and will, get through this by all working together. I hope that this bill and the measures contained in it get universal support from every member of the Western Australian Parliament so that those at the front line know that our community is grateful for their service and will not tolerate them coming to harm.

I commend the bill to the house and table the explanatory memorandum.

[See paper [3750](#).]

Debate adjourned, pursuant to standing orders.

Made Order of the Day — Motion

On motion by **Hon Sue Ellery (Leader of the House)**, resolved —

That the second reading of this bill be made an order of the day for the next sitting of the house.