

**POLICE AMENDMENT (MEDICAL RETIREMENT) BILL 2019**

*Receipt and First Reading*

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

*Second Reading*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [3.22 pm]: On behalf of the Minister for Environment, I move —

That the bill be now read a second time.

Medically retired police officers have sought for some years now to reform the legislation that governs how injured or ill officers are medically retired from the Western Australia Police Force, and to separate medical retirement from the provisions in the Police Act 1892 that deal primarily with misconduct and integrity issues. This acknowledges the service of these officers and ensures they can leave the police force with dignity. The Minister for Police has had the privilege of meeting many police officers who were medically retired through no fault of their own. The minister has spoken with officers who have given exemplary service to our state, but because of their experiences in protecting and serving the people of Western Australia, have found themselves unable to continue to serve as a police officer. Police officers turn out to road fatalities, suicides, horrific murders and all kinds of violent incidents. They interview children who have been abused, elderly people who have been bashed and women who are the repeated victims of domestic assault. They are threatened with physical violence and they are also the victims of physical violence. These incidents leave scars that affect those officers and their families.

This bill fulfils the Premier's commitment in 2015 that a McGowan Labor government would amend the Police Act to provide a dignified medical retirement process for police officers unable to continue to serve our community. This bill is the culmination of the relentless efforts of the Medically Retired Western Australian Police Officers Association and the advocacy of the WA Police Union, and their respective members. I would like to acknowledge and thank the presidents of those institutions, Mr David Bentley and Mr Harry Arnott, for their support in the preparation of this bill.

The Police Amendment (Medical Retirement) Bill 2019 amends the Police Act and the Industrial Relations Act 1979 to establish a new standalone scheme to medically retire injured or ill police officers. Under this bill, police officers who can no longer serve due to injury or illness will be able to retire without being in any way associated with section 8 of the Police Act. The new scheme will provide a more appropriate legislative framework whereby seriously injured or ill officers can leave the Western Australia Police Force with dignity. The new scheme is distinctly separate from the loss-of-confidence or removal action under section 8 and Part IIB of the Police Act.

Currently, under the Police Act, the only means by which the Commissioner of Police can retire an injured or ill officer is through the loss-of-confidence removal provisions. These provisions were principally designed to deal with misconduct, poor performance or integrity issues. Using them to retire an officer who is injured or ill creates an inappropriate stigma and is an undignified way to treat officers who, through no fault of their own, are unable to continue to serve and protect the Western Australian community.

Clause 6 of the bill inserts proposed new part IIC into the Police Act. This establishes the standalone scheme completely separate from the loss-of-confidence removal provisions. A summary of the new part is inserted to make this purpose clear. Proposed new part IIC replicates relevant sections in part IIB of the Police Act to ensure that there is appropriate accountability and procedural fairness, and to maintain entitlements to an affected officer who is subject to medical retirement. Under the new scheme, the power to retire a member on medical grounds arises under proposed section 33ZE and not section 8 of the Police Act. Medical retirement is generally initiated by the commissioner, on the basis that the commissioner reasonably suspects that a member is medically unfit. Division 2 of part IIC sets out the process to be followed. To assist the commissioner to determine the member's fitness, the commissioner can direct the member to attend an examination by a duly appointed medical board. The medical board is to consist of at least three medical practitioners. There is provision for regulations to be made permitting appointment of other experts, such as psychologists, psychiatrists or medical specialists, to the medical board, as may be required from time to time. If, after reviewing the medical board's report, the commissioner is of the opinion that the member is medically unfit, the commissioner may decide to proceed to retire the member on medical grounds. The commissioner may then give notice to the member that consideration is being given to whether the member should be medically retired. Should the member choose to respond, the member has 28 days to provide their medical reports and provide written submissions or relevant documents. The commissioner may extend the time the member has to respond.

The commissioner may medically retire an officer under section 33ZE only after considering the member's response and the medical evidence. The commissioner must at this time have formed an opinion that the officer is

medically unfit, and must give the officer notice of that decision. The bill also requires the commissioner to give written reasons for the decision. To ensure procedural fairness, the commissioner must provide copies of any documents and make available for inspection by the member any other materials relevant to the decision. The requirements to provide copies or inspect relevant materials may be subject to regulations; for example, if documents are subject to privilege. As is presently the case, the bill sets out the procedural steps to be taken to finalise an officer's retirement from office or cancel their appointment if the commissioner decides to proceed with medical retirement.

Division 3 of part IIC also prescribes similar requirements to those in part IIB in relation to an appeal. A member who lodges an appeal will be seeking to review the decision on the grounds that the original decision was harsh, oppressive or unfair. The burden and onus of proof for establishing those grounds of appeal lies with the member. Any appeal against the decision to medically retire a member is heard by the Western Australian Industrial Relations Commission constituting a panel of no fewer than three industrial commissioners.

The bill also makes a consequential amendment to the Industrial Relations Act to enable the Western Australian Industrial Relations Commission to be able to make regulations for the practice and procedure to be followed in appeals lodged under the new section 33ZI of the Police Act. In addition to creating the new standalone medical retirement scheme, the bill also amends section 33K of the Police Act to include police auxiliary officers in the definition of "removal action" to correspond with the current definition of "removal from office". This resolves any ambiguity about a police auxiliary officer's right of appeal to the Western Australian Industrial Relations Commission against a removal decision made by the Commissioner of Police. I thank all medically retired officers of the Western Australia Police Force for their service. Such service warrants recognition. The introduction of the Western Australia Police Star medal for Western Australian officers who are killed or seriously injured while carrying out their policing duties was an important step in acknowledging and distinguishing that service and sacrifice.

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.

I encourage all members of this house to support the bill and ensure our police officers who are seriously injured or ill have access to a fair and dignified scheme to be medically retired from the Western Australia Police Force. I commend the bill to the house and table the explanatory memorandum.

[See paper 2838.]

Debate adjourned, pursuant to standing orders.