

SECOND READING SPEECH

CHILD SUPPORT (COMMONWEALTH POWERS) BILL 2018

I move –

That the Bill be now read a second time.

It gives me great pleasure to introduce this Bill.

The Bill will greatly benefit ex-nuptial children in this State.

It will ensure that they receive all of the benefits of Commonwealth legislative amendments to the Child Support Scheme immediately, like all other children in Western Australia, and like children in other parts of Australia, rather than having to wait for the enactment of WA adoption legislation.

As Members will be aware, the Commonwealth Child Support Scheme was introduced with the objective of ensuring that separated parents shared equitably in the financial cost of supporting their children.

The scheme operates under two Commonwealth statutes: the *Child Support (Registration and Collection) Act 1988* (Cth); and the *Child Support (Assessment) Act 1989* (Cth).

In this context, the Commonwealth Parliament has constitutional power to legislate with respect to children only if they are the product of a marriage. Legislative power with respect to unmarried parents and their children vests in State Parliaments.

For the Commonwealth Child Support Acts and, therefore, the Child Support Scheme to apply uniformly to married and unmarried couples and their children State Parliaments must either firstly, refer legislative power in respect of the maintenance of ex-nuptial children to the Commonwealth Parliament or secondly, afterwards adopt the Commonwealth Acts under which the Scheme operates by State legislation.

All States, except Western Australia, have referred legislative power so that whenever one, or both, of the Commonwealth statutes is amended those amendments have immediate application to all children in those referring States.

Instead of referring power to the Commonwealth Parliament, this Parliament has previously adopted the Commonwealth legislation which governs the Child Support Scheme.

As Members will be aware, these Commonwealth Acts have been amended many times.

Under section 51 (37) of the Commonwealth Constitution, amendments to the Commonwealth child support legislation only extend to WA when this Parliament “afterwards adopts” the amended Commonwealth legislation.

Therefore, the method of adoption of laws, rather than referral of legislative power, means that the Child Support Scheme as amended by Commonwealth Acts does not apply to unmarried couples and their ex-nuptial children in WA until this Parliament amends the *Child Support (Adoption of Laws) Act 1990 (WA)* to adopt the Commonwealth Acts as amended.

During the hiatus between amendment of the Commonwealth Acts and adoption by the WA Parliament, often ex-nuptial children in WA do not have the benefits of the Commonwealth amendments.

Until this Parliament adopts the Commonwealth Acts as amended, two versions of the Commonwealth legislation operate in WA.

This Parliament regularly has to pass Bills adopting current versions of the Commonwealth Child Support Acts. Since 1990 this Parliament has passed eight such Bills. As amendments at Commonwealth level are becoming more frequent, the need for adopting Bills in WA is correspondingly greater. For example, there have been three such WA Bills in the past four years.

Under section 51(37) of the Commonwealth Constitution, this Parliament can only adopt amendments after they have been enacted by the Commonwealth Parliament and then, in practice, only when WA Parliamentary time is available. The result, is that considerable time often elapses between the commencement of a particular amendment to the Commonwealth Child Support Acts and the adoption of the same amendment by this Parliament.

As the Commonwealth amendments take effect immediately with respect to children of a marriage in WA, these delays mean that for a period of time the Commonwealth scheme does not apply equally to children of a marriage and ex-nuptial children in WA. Authorities

administering the child support scheme need, in effect, to operate two schemes in WA, one for children of a marriage and one for ex-nuptial children.

This inequality can disadvantage the latter, especially financially.

It should also be noted that since the first adoption by the WA Parliament in 1988 of the Commonwealth legislation relating to the Child Support Scheme, the WA Parliament has always adopted, albeit with some delay, all Commonwealth amendments.

Therefore, this Bill, will first adopt all Commonwealth Child Support laws which this Parliament has previously adopted and also Commonwealth amendments which have been enacted between 1 September 2017 and when this Bill receives Assent.

Second, the Bill refers State legislative power to the Commonwealth Parliament.

Members will also note that the adoption and referral can be terminated by the Governor issuing a proclamation which has been approved by both Houses of this Parliament.

I trust that all Members will agree that this Bill will greatly benefit children in this State.

Pursuant to Standing Order 126(1), I advise that this Bill is a uniform legislation Bill. It is a Bill that, by reason of its subject matter, is part of a uniform scheme or uniform laws throughout the Commonwealth.

I commend the Bill to the House and table the explanatory memorandum.