

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 206

THURSDAY, 25 JUNE 2020

1. Meeting of Council

The Council assembled at 9.00am pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

2. Petition

Hon Colin de Grussa presented a petition from 2,643 petitioners requesting the Legislative Council to support the establishment of a Midwest based rescue helicopter service. (Tabled Paper 4005).

3. Ministerial Statement — Environmentally Sensitive Areas

The Minister for Environment made a Ministerial Statement with respect to steps the Government is taking to improve public access to information regarding environmentally sensitive areas.

4. Papers

The following Papers were laid on the Table by —

President

Auditor General's Papers —

Western Australian Public School Sector Audit Committees — Better Practice Guide
(Report No. 26) (June 2020) 3998

Information Systems Audit Report 2020 — Local Government Entities (Report No. 27)
(June 2020)..... 3999

Reports —

Corruption and Crime Commission — Review of recommendations made to the
Department of Justice arising from six reports (June 2020)..... 4000

Leader of the House

Response to Reports —

Select Committee into Alternate Approaches to Reducing Illicit Drug Use and its
Effects on the Community (Premier) 4001

Minister for Environment

Annual Reports —

Road Safety Council (2018–19) (Date received 24/06/2020) 4002

Financial Statements —

Western Australian Future Health Research and Innovation Fund Act 2012 — Section 9B estimate of income to be laid before each House of Parliament in certain circumstances 4003

Reports —

Government Mid-Year Financial Projections Statement (2019–20) (December 2019)..... 4004

5. Standing Committee on Estimates and Financial Operations — Report 82 — The Local Projects Local Jobs Program and the Establishment of a Parliamentary Budget Office

Hon Tjorn Sibma presented Report 82 of the Standing Committee on Estimates and Financial Operations, *The Local Projects Local Jobs Program and the Establishment of a Parliamentary Budget Office*. (Tabled Paper 4006).

6. Attorney General

Hon Michael Mischin: To move on the next day of sitting —

That this House —

- (a) notes the false and misleading claims of the Attorney General on 28 May 2020;
- (b) notes his repeated failure to provide full, frank and reliable information to the Parliament;
- (c) expresses its concern about the suitability of the Member for Butler to continue as Western Australia's first law officer; and
- (d) acquaints the Legislative Assembly accordingly.

7. Joint Standing Committee on Delegated Legislation — Appointment of Member

The Leader of the House moved, without notice —

That Hon Matthew Swinbourn be appointed as a member of the Joint Standing Committee on Delegated Legislation and that the Assembly be acquainted thereof.

Question — put and passed.

8. Children and Community Services Amendment Bill 2019 — Discharge from Notice Paper

The Leader of the House representing the Minister for Child Protection moved, without notice —

- (1) That the *Children and Community Services Amendment Bill 2019* be discharged and referred to the Standing Committee on Legislation for consideration and report by no later than 15 September 2020.
- (2) The Committee has the power to inquire into and report on the policy of the Bill.

Debate ensued.

Question — put and passed.

9. Order of Business

Ordered — That Orders of the Day Nos 2, *Shire of Coolgardie Parking Local Law 2019 — Disallowance*, and 3, *Shire of Coolgardie Public Places and Local Government Property Local Law 2019 — Disallowance*, be taken after Order of the Day No. 28, *Family Violence Legislation Reform Bill 2019*. (Leader of the House).

10. Eastern Metropolitan Regional Council Waste Facilities Local Law 2019 — Disallowance — Discharge from Notice Paper

The Order of the Day having been called, Hon Robin Chapple moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 1, *Eastern Metropolitan Regional Council Waste Facilities Local Law 2019 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

11. Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2020 — Disallowance — Discharge from Notice Paper

The Order of the Day having been called, Hon Robin Chapple moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 4, *Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2020 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

12. Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019

The Order of the Day for the further consideration of this Bill, in Committee of the Whole House, having been read.

The President left the Chair.

—————
In Committee

(Hon Dr Steve Thomas in the Chair)

Clause 2.

Debate ensued.

Hon Nick Goiran moved —

Page 2, after line 10 — To insert:

- (2) However —
- (a) if no day is fixed under subsection (1)(b) before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, this Act is repealed on the day after that period ends; or
 - (b) if paragraph (a) does not apply, and a provision of this Act does not come into operation before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, the provision is repealed on the day after that period ends.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 3 to 38 agreed to.

New Clause 38A.

Debate ensued.

Point of Order

Hon Nick Goiran raised the following Point of Order —

I draw to the Deputy Chair's attention Standing Order 134, "Admissible Amendments", which states —

- (1) Any amendment may be moved during consideration in Committee of the Whole House to any part of a Bill, provided the amendment –
- (a) is within the Subject Matter of the Bill;

I respectfully submit to the Chair that the amendment moved by the honourable Minister is not within the subject matter of the Bill. As the Chair will see, the heading of the new clause is "Part 5B"; in other words, it is a new part titled "Radar detectors" to be inserted in the Act.

I believe that the matter is outside the subject matter of the Bill because if one looks at the second reading speech, one will understand what is the scope and purpose of the Bill that is before the Chamber and whether an amendment will fall within the subject matter of the Bill.

I draw to Members' attention the ruling of Deputy President Ford made in 2002 and the ruling made by President Cash in 2006. In particular, one was made that is found in the 2006 *Hansard* at page 7841. I specifically draw to your attention, Mr Deputy Chair, the final paragraph. It reads —

I raise those issues because I believe that they are relevant to our considerations in committee.

Under Standing Orders —

... a committee may make an amendment to a Bill if the amendment is relevant to the subject matter of the Bill; that is, it must fall within the scope and purpose of the Bill as it was second read. It is not sufficient that an amendment fall within the title of the Bill, which in many cases simply recites that the Bill is one to amend a particular parent Act.

In this instance, the long title of the Bill is “An Act to amend the Road Traffic Act 1974 and to make consequential and other amendments to various Acts.” Clearly, the amendment before the Chamber would fall within the scope of the long title. However, as the ruling has indicated in the past, that is not sufficient, that is not the test. The test is, what was the policy of the Bill and what was the scope of the Bill as it was second read? I have taken the opportunity to do a word search of the second reading speech, and the words “radar” and “detector” and not even the word “speed” come up in the second reading speech. Why is that? The reason is that that is not the purpose of the Bill. This Bill has been commonly described outside of this Chamber as the drug-driving Bill. It is a Bill for which the primary purpose is to deal with drug-drivers. It is nothing to do with radar detectors whatsoever. There is no mention of that in the second reading speech from the search that I have conducted. There was no reference at any time to the words “radar”, “detector” or “speed”. For all those reasons, I ask you, Mr Deputy Chair, to give due consideration to whether this amendment is in breach of Standing Order 134.

Deputy Chair's Ruling

The Deputy Chair ruled as follows —

Standing Order 134 provides that any amendment may be moved to any part of a Bill, provided the amendment is within the subject matter of the Bill. Schedule 3 to the Standing Orders defines “*subject matter of a Bill*” to mean “*the provisions of the Bill as printed, read a second time and referred to the Committee of the Whole House*”.

The Minister has proposed an amendment to the Bill to introduce a New Clause 38A, which inserts an offence to drive a vehicle with a radar detector fitted to a vehicle. A review of the Bill shows that all clauses except one amend, or relate to, Part 5 Divisions 2 and 2A of the *Road Traffic Act*. Those Divisions relate to alcohol and drug related offences. The Minister's second reading speech addressed matters relating to the issue of drugs and alcohol and driving and relatedly for the taking of bodily samples.

However, there is one clause in the Bill that is broader and contains a regulation-making power, empowering the Governor to make regulations *to*:

regulate or prohibit, or anything that is necessary or convenient to be prescribed to regulate or prohibit — (i) using a vehicle with a device attached to, or removed from, the vehicle; and (ii) using or possessing a device while a person is within or on a vehicle”.

This clause contemplates the regulation of the use of or possession of devices in or on a vehicle. A Member in scrutinizing this clause would ordinarily turn their mind to whether they wish for the regulation of devices in or on vehicles to form a part of the statutory scheme. While the focus of the Minister's second reading speech was on issues of drug and alcohol driving, the principal question as to whether a matter is within the subject matter of the Bill must be answered from an analysis of the text of the words in the Bill. While the Minister's amendment is much more specific than clause 111, my ruling is that the regulation of devices attached to or used in vehicles falls within the subject matter of the Bill and the amendment is in order.

The Minister for Environment representing the Minister for Police moved —
Page 61, after line 16 — To insert:

38A. Part 5B inserted

At the end of Part VA insert:

Part 5B — Radar detectors

81G. Offence to drive motor vehicle with radar detector fitted to, within or on vehicle

(1) In this section —

radar detector means a device or other equipment that is capable of detecting the operation of —

- (a) an average speed detection system as defined in the *Road Traffic (Administration) Act 2008* section 117B(1); or
- (b) speed measuring and recording equipment as defined in the *Road Traffic (Administration) Act 2008* section 117(1); or
- (c) speed measuring equipment as defined in the *Road Traffic (Administration) Act 2008* section 117(1).

(2) A person must not drive a motor vehicle on a road if the vehicle —

- (a) is fitted with a radar detector; or
- (b) has a radar detector within or on the vehicle.

Penalty for this subsection:

- (a) for a first offence, a fine of 64 PU;
- (b) for a second or subsequent offence, a fine of 96 PU.

Debate ensued.

New Clause agreed to.

Clauses 39 and 40 agreed to.

Clause 41.

Debate ensued.

Question, That the clause stand as printed — put and negatived.

Clauses 42 to 52 agreed to.

Title agreed to.

The Acting President resumed the Chair.

Bill reported with amendments.

The Minister for Environment representing the Minister for Police, by leave, moved, That the report be adopted.

Report adopted.

The Minister for Environment representing the Minister for Police moved, without notice —

That so much of Standing Orders be suspended so as to enable the *Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019* to be read a third time.

Debate ensued.

The motion requiring the concurrence of an absolute majority.

Question — put.

The Acting President having counted the Council, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

The Minister for Environment representing the Minister for Police moved, That the Bill be read a third time.

The Acting President announced that the Deputy Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Question — put and passed.

Bill read a third time and passed.

13. High Risk Offenders Bill 2019

The Order of the Day for the further consideration of this Bill, in Committee of the Whole House, having been read.

The Acting President left the Chair.

In Committee

(Hon Adele Farina in the Chair)

Clause 29.

Debate resumed on the amendment of Hon Michael Mischin as follows —

Page 21, line 1 — To delete “standard”.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (10)

Hon Jim Chown
Hon Peter Collier
Hon Donna Faragher
Hon Nick Goiran
Hon Rick Mazza

Hon Michael Mischin
Hon Simon O’Brien
Hon Tjorn Sibma
Hon Aaron Stonehouse
Hon Ken Baston (*Teller*)

Noes (21)

Hon Martin Aldridge
Hon Jacqui Boydell
Hon Robin Chapple
Hon Tim Clifford
Hon Alanna Clohesy
Hon Stephen Dawson
Hon Colin de Grussa
Hon Sue Ellery
Hon Diane Evers
Hon Adele Farina
Hon Laurie Graham

Hon Alannah MacTiernan
Hon Kyle McGinn
Hon Martin Pritchard
Hon Samantha Rowe
Hon Charles Smith
Hon Matthew Swinbourn
Hon Colin Tincknell
Hon Darren West
Hon Alison Xamon
Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Question, That the clause stand as printed — put and passed.

Clause 30 agreed to.

Clause 31.

Debate ensued.

Clause agreed to.

Clause 32 agreed to.

Clause 33.

The Leader of the House representing the Attorney General moved —

Page 25, lines 18 to 20 — To delete the lines and insert:

- (3) A person must not without reasonable excuse remove, or interfere with, or interfere with the operation of, an electronic monitoring device required to be worn or installed under section 31(3) in such a way as to prevent or impede monitoring of the offender's location.

Debate ensued.

Amendment — put and passed.

The Leader of the House representing the Attorney General moved —

Page 25, line 22 — To delete “If” and insert:

Except as provided in subsection (4A), if

Debate ensued.

Amendment — put and passed.

The Leader of the House representing the Attorney General moved —

Page 25, after line 28 — To insert:

- (4A) If a term of imprisonment of at least 12 months would be clearly unjust given the circumstances of the offence and the person, the court may decide —
- (a) to sentence the person to a term of imprisonment of less than 12 months; or
- (b) not to sentence the person to a term of imprisonment.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 34.

Debate ensued.

Clause agreed to.

Clause 35.

Debate ensued.

Clause agreed to.

Clauses 36 to 38 agreed to.

Clause 39.

Debate ensued.

Clause agreed to.

Clause 40 agreed to.

Clause 41.

Debate ensued.

Clause agreed to.

Clause 42.

Debate ensued.

Clause agreed to.

Clauses 43 to 45 agreed to.

Clause 46.

Hon Michael Mischin, by leave, moved —

Page 34, line 26 — To insert after “high risk”:

serious

Page 36, line 9 — To insert after “high risk”:

serious

Page 46, line 28 — To insert after “high risk”:

serious

Page 47, lines 1 and 2 — To insert after “high risk”:

serious

Page 61, line 12 — To insert after “*High Risk*”:

Serious

Page 61, line 14 — To insert after “*High Risk*”:

Serious

Page 63, line 25 — To insert after “*High Risk*”:

Serious

Page 64, line 21 — To insert after “*High Risk*”:

Serious

Page 65, line 15 — To insert after “*High Risk*”:

Serious

Page 65, line 24 — To insert after “*High Risk*”:

Serious

Page 70, line 4 — To insert after “*High Risk*”:

Serious

Page 70, line 23 — To insert after “*High Risk*”:

Serious

Page 71, line 16 — To insert after “**High Risk**”:

Serious

Page 71, line 22 — To insert after “***High Risk***”:

Serious

Page 71, line 28 — To insert after “*High Risk*”:

Serious

Page 72, line 7 — To insert after “*High Risk*”:

Serious

Page 72, line 15 — To insert after “*High Risk*”:

Serious

Page 73, line 6 — To insert after “*High Risk*”:

Serious

Page 73, line 15 — To insert after “*High Risk*”:

Serious

Amendments — put and passed.

Clauses, as amended, agreed to.

Clause 47 agreed to.

Clause 48, as amended, agreed to.

Clauses 49 and 50 agreed to.

Clause 51.

Debate ensued.

Clause agreed to.

Clause 52.

Debate ensued.

Clause agreed to.

Clauses 53 to 55 agreed to.

Clause 56.

Debate ensued.

Hon Michael Mischin moved —

Page 41, line 5 — To delete “substantially”.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (12)

Hon Martin Aldridge
Hon Jacqui Boydell
Hon Peter Collier
Hon Colin de Grussa
Hon Donna Faragher
Hon Nick Goiran

Hon Rick Mazza
Hon Michael Mischin
Hon Simon O’Brien
Hon Tjorn Sibma
Hon Dr Steve Thomas
Hon Ken Baston (*Teller*)

Noes (18)

Hon Robin Chapple
Hon Tim Clifford
Hon Alanna Clohesy
Hon Stephen Dawson
Hon Sue Ellery
Hon Diane Evers
Hon Adele Farina
Hon Kyle McGinn
Hon Martin Pritchard

Hon Samantha Rowe
Hon Charles Smith
Hon Aaron Stonehouse
Hon Matthew Swinbourn
Hon Dr Sally Talbot
Hon Colin Tincknell
Hon Darren West
Hon Alison Xamon
Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Hon Michael Mischin moved —

Page 41, line 5 — To delete “standard”.

Amendment — put.

The Committee divided.

Ayes (10)

Hon Peter Collier
Hon Donna Faragher
Hon Nick Goiran
Hon Rick Mazza
Hon Michael Mischin

Hon Simon O’Brien
Hon Tjorn Sibma
Hon Aaron Stonehouse
Hon Dr Steve Thomas
Hon Ken Baston (*Teller*)

Noes (20)

Hon Martin Aldridge
 Hon Jacqui Boydell
 Hon Robin Chapple
 Hon Tim Clifford
 Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Colin de Grussa
 Hon Sue Ellery
 Hon Diane Evers
 Hon Adele Farina

Hon Kyle McGinn
 Hon Martin Pritchard
 Hon Samantha Rowe
 Hon Charles Smith
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Colin Tincknell
 Hon Darren West
 Hon Alison Xamon
 Hon Pierre Yang (*Teller*)

Amendment thus negated.

Hon Michael Mischin moved —

Page 41, line 7 — To delete “standard”.

Debate ensued.

Amendment — put and negated.

Question, That the clause stand as printed — put and passed.

Clauses 57 and 58 agreed to.

Clause 59.

Debate ensued.

Clause agreed to.

Clause 60.

Debate ensued.

Clause agreed to.

Clause 61 agreed to.

Clause 62.

Debate ensued.

Hon Michael Mischin moved —

Page 44, line 21 — To delete “may” and insert:

must

The Leader of the House representing the Attorney General moved —

Page 44, line 26 — To delete the line and insert:

- (b) that is withdrawn; or
- (c) to the extent that it contains material not relating to the need to ensure adequate protection of the victim.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 63 to 67 agreed to.

Clause 68, as amended, agreed to.

Clause 69.

Debate ensued.

Clause agreed to.

Clause 70 agreed to.

Clause 71.

Debate ensued.

Clause agreed to.

Clause 72.

Debate ensued.

Clause agreed to.

Clauses 73 to 75 agreed to.

Clause 76.

Debate ensued.

Clause agreed to.

Clauses 77 to 79 agreed to.

Clause 80.

The Leader of the House representing the Attorney General moved —

Page 54, line 16 — To delete “If” and insert:

Except as provided in subsection (2A), if

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (17)

Hon Robin Chapple
 Hon Tim Clifford
 Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Sue Ellery
 Hon Diane Evers
 Hon Adele Farina
 Hon Alannah MacTiernan
 Hon Kyle McGinn

Hon Martin Pritchard
 Hon Samantha Rowe
 Hon Aaron Stonehouse
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Alison Xamon
 Hon Pierre Yang (*Teller*)

Noes (14)

Hon Martin Aldridge
 Hon Jacqui Boydell
 Hon Jim Chown
 Hon Peter Collier
 Hon Colin de Grussa
 Hon Donna Faragher
 Hon Nick Goiran

Hon Rick Mazza
 Hon Michael Mischin
 Hon Robin Scott
 Hon Tjorn Sibma
 Hon Dr Steve Thomas
 Hon Colin Tincknell
 Hon Ken Baston (*Teller*)

Amendment thus passed.

The Leader of the House representing the Attorney General moved —

Page 54, after line 22 — To insert:

- (2A) If a term of imprisonment of at least 12 months would be clearly unjust given the circumstances of the offence and the person, the court may decide —
- (a) to sentence the person to a term of imprisonment of less than 12 months; or
 - (b) not to sentence the person to a term of imprisonment.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 81 agreed to.

Clause 82.

Debate ensued.

Clause agreed to.

Clauses 83 to 87 agreed to.

Clause 88.

Debate ensued.

Clause agreed to.

Clause 89 agreed to.

Clause 90 agreed to.

New Clause 90A.

Debate ensued.

Hon Nick Goiran moved —

Page 60, after line 24 — To insert:

90A Review of this Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review —
 - (a) as soon as practicable after the 5th anniversary of the day on which this section comes into operation; and
 - (b) after that, at intervals of not more than 5 years.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary or the expiry of the period of 5 years, as the case may be.
- (3) The Minister must transmit a copy of the report to the Clerk of a House of Parliament if —
 - (a) the report has been prepared; and
 - (b) the Minister is of the opinion that the House will not sit during the period of 21 days after the finalisation of the report.
- (4) A copy of the report transmitted to the Clerk of a House is taken to have been laid before that House.
- (5) The laying of a copy of a report that is taken to have occurred under subsection (4) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the receipt of the copy by the Clerk.

Debate ensued.

New Clause agreed to.

Clause 91 agreed to.

Clause 92, as amended, agreed to.

Clauses 93 to 96 agreed to.

Clause 97, as amended, agreed to.

Clauses 98 and 99 agreed to.

Clause 100.

The Leader of the House representing the Attorney General moved —

Page 64, line 15 — To delete “(Sexual and Violent)” and insert:

Serious

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 101.

The Leader of the House representing the Attorney General, by leave, moved —

Page 64, line 27 — To insert after “*High Risk*”:

Serious

Page 65, line 4 — To insert after “*High Risk*”:

Serious

Page 65, line 21 — To insert after “*High Risk*”:

Serious

Page 70, line 15 — To insert after “*High Risk*”:

Serious

Page 71, line 25 — To insert after “*Risk*”:

Serious

Amendments — put and passed.

Clauses, as amended, agreed to.

Clause 102 agreed to.

New Clause 102A.

The Leader of the House representing the Attorney General moved —

Page 65, after line 10 — To insert:

102A. Section 4 amended

- (1) In section 4(2) insert in alphabetical order:

community has a meaning affected by subsection (4);

- (2) After section 4(3) insert:

- (4) A reference in this Act to the *community* includes any community and is not limited to the community of Western Australia or Australia.

Debate ensued.

New Clause agreed to.

Clause 103, as amended, agreed to.

Clause 104.

Debate ensued.

Clause, as amended, put and negatived.

New Clause 104.

The Leader of the House representing the Attorney General moved —

Page 65, after line 26 — To insert:

104. Section 74A amended

- (1) In section 74A delete the definitions of *prisoner* and *serious violent offence*.

- (2) In section 74A insert in alphabetical order:

prisoner means a person —

- (a) who is serving a fixed term for a serious offence; or
 (b) who —
 (i) is serving a fixed term for an offence or offences other than a serious offence; and
 (ii) has been serving that term at all times since completing a fixed term for a serious offence;

serious offence has the meaning given in the *High Risk Serious Offenders Act 2019* section 5;

serious offender under restriction has the meaning given in the *High Risk Serious Offenders Act 2019* section 3.

New Clause agreed to.

Clauses 105 to 111 agreed to.

Clause 112.
 Debate ensued.
 Clause agreed to.
 Clause 113, as amended, agreed to.
 Clause 114 agreed to.
 Clause 115, as amended, agreed to.
 Clauses 116 to 119, as amended, agreed to.
 Clause 120.
 Debate ensued.
 Clause agreed to.
 Clause 121 agreed to.
 Clause 122.
 Debate ensued.
 Clause agreed to.
 Clause 123 agreed to.
 Postponed Clause 11.
 Hon Michael Mischin moved —

Page 9, after line 22 — To insert:

- (4A) Despite anything in the *Director of Public Prosecutions Act 1991* Part 4, subsection (1) allows the Attorney General to bring an appeal under section 69 even if —
- (a) the appeal is against a decision made in proceedings taken by the Director of Public Prosecutions under subsection (2) or by the State Solicitor under subsection (3); or
 - (b) an authorisation under subsection (2) or (3) allows the Director of Public Prosecutions or the State Solicitor to bring the appeal.

Debate ensued.
 Amendment — put and negatived.
 Question, That the clause stand as printed — put and passed.
 Postponed Clause 14.
 The Leader of the House representing the Attorney General moved —
 Page 11, line 1 — To delete “(Sexual and Violent)” and insert:

Serious

Amendment — put and passed.
 The Leader of the House representing the Attorney General moved —
 Page 11, line 5 — To delete “(Sexual and Violent)” and insert:

Serious

Amendment — put and passed.
 Clause, as amended, agreed to.

Schedule 1.

Debate ensued.

The Leader of the House representing the Attorney General moved —

Page 80, after line 4, the Table after the 1st row before item 1 — To insert:

1A.	s. 401	Burglary	If within s. 401(1)(a) or (ba) or (2)(a) or (ba) (aggravated home burglary or aggravated burglary) and if the circumstances of aggravation are not merely being in company with another person or other persons
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Debate ensued.

Amendment — put and passed.

Schedule, as amended, agreed to.

Long Title

Hon Michael Mischin moved —

Page 1, line 6 — To delete “persons of a particular class,” and insert:

high risk serious offenders,

Debate ensued.

Amendment — put and passed.

Long Title, as amended, agreed to.

The Deputy President resumed the Chair.

Bill reported with amendments, and an amendment to the long title.

The Leader of the House representing the Attorney General moved, without notice —

That the *High Risk Offenders Bill 2019* be recommitted for the purposes of reconsidering Clauses 2 and 3.

Question — put and passed.

The Deputy President left the Chair.

In Committee

(Hon Adele Farina in the Chair)

Clause 2.

Hon Michael Mischin moved —

Page 2, after line 9 — To insert:

(2) However —

- (a) if no day is fixed under subsection (1)(b) before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, this Act is repealed on the day after that period ends; or

- (b) if paragraph (a) does not apply, and a provision of this Act does not come into operation before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, the provision is repealed on the day after that period ends.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 3.

The Leader of the House representing the Attorney General moved —

Page 2, line 12 — To delete “(Sexual and Violent)” and insert:

Serious

Amendment — put and passed.

Clause, as amended, agreed to.

The Deputy President resumed the Chair.

Bill reported with amendments.

The Leader of the House representing the Attorney General, by leave, moved, That the report be adopted.
Report adopted.

The Leader of the House representing the Attorney General moved, without notice —

That so much of Standing Orders be suspended so as to enable the *High Risk Offenders Bill 2019* to be read a third time.

The motion requiring the concurrence of an absolute majority.

Question — put.

The Deputy President having counted the Council, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

The Leader of the House representing the Attorney General moved, That the Bill be read a third time.

The Deputy President announced that the Deputy Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Question — put and passed.

Bill read a third time and passed.

14. Statement by President — Parliamentary Departmental Surveys

The President made the following Statement —

I have a very brief statement to make about Members’ surveys. For those Members who have not yet done so, I would like to remind you to complete the annual performance surveys for the Department of the Legislative Council and the Parliamentary Services Department. These surveys were emailed, and distributed to you in hard copy as well, on Tuesday, 16 June 2020. The surveys are critical in assisting the departments to provide better services to you and the results will be incorporated into the 2019–20 annual reports, so it would be appreciated if you could please take a few moments to complete the surveys online or in hard copy by Friday, 26 June 2020.

15. Questions Without Notice

Questions without notice were taken.

The Parliamentary Secretary to the Minister for Health tabled *Radiological Council Annual Reports 2013–2019*, in response to a question without notice asked by Hon Robin Chapple. (Tabled Paper 4007).

The Leader of the House representing the Minister for Child Protection tabled a report titled *Evaluation of the Kath French Secure Care Centre – Final Report (2019)*, in response to a question without notice asked by Hon Alison Xamon. (Tabled Paper 4008).

The Minister for Environment tabled documents in relation to Barrow Island, Chevron’s Gorgon project and conservation on the island, in response to question on notice 2963 asked by Hon Robin Chapple. (Tabled Paper 4009).

The Minister for Regional Development, by leave, incorporated into *Hansard* information in relation to the Water Corporation owned dam at Grass Patch, in response to a question without notice asked by Hon Colin de Grussa.

16. Statement by President — Self-Defence

The President made the following Statement —

Today, I received a response to the resolution of the Legislative Council on Wednesday, 13 February 2019. That resolution called upon the McGowan Government to examine and report to the House on amending the *Weapons Act 1999* to allow individuals to carry pepper spray for the purposes of self-defence. I table that response. (Tabled Paper 4010).

17. Statement by President — Corruption and Crime Commission — Review of Recommendations Made to the Department of Justice Arising from Six Reports

The President made the following Statement —

I received correspondence from the Corruption and Crime Commission, advising that the report tabled today, “Review of Recommendations Made to the Department of Justice Arising from Six Reports”, contained an error. I table the correspondence with the erratum to the report. (Tabled Paper 4011).

18. Family Violence Legislation Reform Bill 2019

The Order of the Day having been read for the adjourned debate on the second reading of this Bill. Debate resumed.

The Leader of the House representing the Attorney General tabled a marked up version of the *Family Violence Legislation Reform Bill 2019* incorporating Government amendments. (Tabled Paper 4012).

The Leader of the House representing the Attorney General tabled a marked up version of the Explanatory Memorandum to the *Family Violence Legislation Reform Bill 2019*. (Tabled Paper 4013).

Debate resumed.

Question — put and passed.

Bill read a second time.

The Acting President left the Chair.

In Committee

(Hon Dr Steve Thomas in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clause 2.

Debate ensued.

Hon Nick Goiran moved —

Page 2, after line 7 — To insert:

(aa) sections 12, 37 and 118 — on the day after that day;

Amendment — put and passed.

Debate resumed.

Hon Michael Mischin moved —

Page 2, after line 9 — To insert:

- (2) However —
- (a) if no day is fixed under subsection (1)(b) before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, this Act is repealed on the day after that period ends; or
 - (b) if paragraph (a) does not apply, and a provision of this Act does not come into operation before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, the provision is repealed on the day after that period ends.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 3 and 4 agreed to.

Clause 5.

Debate ensued.

Clause agreed to.

Clause 6.

Debate ensued.

Hon Aaron Stonehouse, by leave, moved —

Page 4, line 19 — To delete the line and insert:

Penalty for this subsection:

Page 4, line 23 — To delete “penalty:” and insert:

penalty for this subsection:

Page 4, after line 29 — To insert:

- (2) The person is not criminally responsible for the act referred to in subsection (1)(a) or (b) if the other person consents to the act.

Debate ensued.

Amendments — put and negatived.

Debate resumed.

Question, That the clause stand as printed — put and passed.

Clauses 7.

Debate ensued.

Clause agreed to.

Clauses 8 to 13 agreed to.

Clause 14.

The Leader of the House representing the Attorney General moved —

Page 14, lines 7 to 11 — To delete the lines.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 15 agreed to.

Clause 16.

The Leader of the House representing the Attorney General, by leave, put clauses 16, 23, 24, 25, 26, 27, 28, 36, 43, 44, 51, 52, 56, 57, 58, 63, 71, 72, 76, 78, 79, 80, 94, 95 and 96 [SO132(a)].

Clauses — put and negatived.

Clauses 17 to 22 agreed to.

New Clause 25.

The Leader of the House representing the Attorney General moved —

Page 22, after line 16 — To insert:

25. Section 76A amended

After section 76A(1) insert:

- (1A) Where an offence in respect of which an ISO may apply is a family violence offence and the offender is a serial family violence offender, the court must consider whether to require electronic monitoring under this section.

New Clause agreed to.

New Clause 28.

The Leader of the House representing the Attorney General moved —

Page 24, after line 15 — To insert:

28. Section 84CA amended

After section 84CA(1) insert:

- (1A) Where an offence in respect of which CSI may apply is a family violence offence and the offender is a serial family violence offender, the court must consider whether to require electronic monitoring under this section.

New Clause agreed to.

Clauses 29 to 33 agreed to.

Clause 34.

Debate ensued.

Clause agreed to.

Clause 35 agreed to.

Clauses 37 and 38 agreed to.

Clause 39.

The Leader of the House representing the Attorney General moved —

Page 33, lines 7 to 11 — To delete the lines.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 40.

The Leader of the House representing the Attorney General moved —

Page 34, line 27 to page 35, line 19 — To delete the lines and insert:

(1) In section 30 delete “A parole” and insert:

(1) A parole

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 41.

The Leader of the House representing the Attorney General, by leave, moved —

Page 36, lines 2 to 13 — To delete the lines.

Page 36, line 24 to page 37, line 19 — To delete the lines and insert:

(1) In section 74G delete “A PSSO” and insert:

(1) A PSSO

Amendments — put and passed.

Clause, as amended, agreed to.

Clause 42, as amended, agreed to.

Clause 45 agreed to.

Clause 46 agreed to.

Clause 47.

The Leader of the House representing the Attorney General moved —

Page 41, lines 7 to 11 — To delete the lines.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 48 to 50 agreed to.

Clauses 53 and 54 agreed to.

Clause 55.

Debate ensued.

Clause agreed to.

Clause 59 agreed to.

Clause 60.

Debate ensued.

Clause agreed to.

Clauses 61 and 62 agreed to.

Clause 64.

The Leader of the House representing the Attorney General moved —

Page 51, after line 15 — To insert:

(2) In Schedule 2 item 2b delete the row relating to s. 61(1) and insert:

s. 61(1)	Breach of a family violence restraining order
s. 61(1A)	Breach of a violence restraining order

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 65 agreed to.

Clause 66.

The Leader of the House representing the Attorney General, by leave, moved —

Page 52, lines 7 to 8 — To delete the lines.

Page 52, lines 18 to 20 — To delete the lines.

Debate ensued.

Amendments — put and passed.

Clause, as amended, agreed to.

Clause 67 agreed to.

Clause 68.

Debate ensued.

Clause agreed to.

Clause 69 agreed to.

Clause 70.

Debate ensued.

Clause agreed to.

Clause 73.

Debate ensued.

Clause agreed to.

Clause 74 agreed to.

Clause 75.

Debate ensued.

Clause agreed to.

Clause 77.

Debate ensued.

Clause agreed to.

Clause 81 agreed to.

Clause 82.

Debate ensued.

Clause agreed to.

Clauses 83 to 86 agreed to.

Clause 87.

Debate ensued.

Clause agreed to.

Clauses 88 to 91 agreed to.

Clause 92.

Debate ensued.

Clause agreed to.

Clause 93.

Debate ensued.

The Leader of the House representing the Attorney General moved —

Page 74, lines 15 to 17 — To delete the lines.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 97 to 99 agreed to.

Clause 100.

The Leader of the House representing the Attorney General moved —

Page 81, lines 9 to 22 — To delete the lines.

Amendment — put and passed.

The Leader of the House representing the Attorney General moved —

Page 81, line 27 to page 82, line 19 — To delete the lines.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 101 to 108 agreed to.

Clause 109.

Debate ensued.

Clause agreed to.

Clause 110.

Debate ensued.

Clause agreed to.

Clauses 111 to 114 agreed to.

Clause 115.

Debate ensued.

Clause agreed to.

Clause 116 agreed to.

Clause 117.

Debate ensued.

Clause agreed to.

Clause 118 agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported with amendments.

The Leader of the House representing the Attorney General, by leave, moved, That the report be adopted.

Report adopted.

The Leader of the House representing the Attorney General moved, without notice —

That so much of Standing Orders be suspended so as to enable the *Family Violence Legislation Reform Bill 2019* to be read a third time.

The motion requiring the concurrence of an absolute majority.

Question — put.

The President having counted the Council, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

The Leader of the House representing the Attorney General moved, That the Bill be read a third time.
The President announced that the Deputy Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Question — put and passed.

Bill read a third time and passed.

19. Order of Business

Ordered — That Members' Statements be taken forthwith. (Leader of the House).

There being no Statements, Messages were taken.

20. Dog Amendment (Stop Puppy Farming) Bill 2020

The President reported the receipt of Message No. 203 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for Local Government moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House representing the Minister for Local Government moved, That the Bill be read a second time.

The Leader of the House representing the Minister for Local Government tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4014).

Debate stands adjourned.

21. Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019

The following Message from the Legislative Assembly was reported —

Madam President

Message No. 204

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019*.

Ms J.M. Freeman

Acting Speaker

Legislative Assembly Chamber

Perth, 25 June 2020

22. Residential Parks (Long-stay Tenants) Amendment Bill 2018

The following Message from the Legislative Assembly was reported —

Madam President

Message No. 205

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Residential Parks (Long-stay Tenants) Amendment Bill 2018*.

Ms J.M. Freeman

Acting Speaker

Legislative Assembly Chamber

Perth, 25 June 2020

23. High Risk Offenders Bill 2019

The following Message from the Legislative Assembly was reported —

Madam President

Message No. 206

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *High Risk Offenders Bill 2019*.

Ms J.M. Freeman

Acting Speaker

Legislative Assembly Chamber

Perth, 25 June 2020

The Council having continued to sit until 12 midnight

Friday, 26 June 2020

24. Adjournment

The Council adjourned at 12.01am until Tuesday, 11 August 2020 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Colin Holt.

NIGEL PRATT

Clerk of the Legislative Council

HON KATE DOUST MLC

President of the Legislative Council