Hansard

LEGISLATIVE COUNCIL

60th Parliament

Thursday 15 August 2024

By authority of the Victorian Government Printer

Members of the Legislative Council

60th Parliament

President

Shaun Leane

Deputy President

Wendy Lovell

Leader of the Government in the Legislative Council

Jaclyn Symes

Deputy Leader of the Government in the Legislative Council

Lizzie Blandthorn

Leader of the Opposition in the Legislative Council

Georgie Crozier

Deputy Leader of the Opposition in the Legislative Council

Evan Mulholland (from 31 August 2023)
Matthew Bach (to 31 August 2023)

Member	Region	Party	Member	Region	Party
Bach, Matthew[1]	North-Eastern Metropolitan	Lib	Luu, Trung	Western Metropolitan	Lib
Batchelor, Ryan	Southern Metropolitan	ALP	Mansfield, Sarah	Western Victoria	Greens
Bath, Melina	Eastern Victoria	Nat	McArthur, Bev	Western Victoria	Lib
Berger, John	Southern Metropolitan	ALP	McCracken, Joe	Western Victoria	Lib
Blandthorn, Lizzie	Western Metropolitan	ALP	McGowan, Nick	North-Eastern Metropolitan	Lib
Bourman, Jeff	Eastern Victoria	SFFP	McIntosh, Tom	Eastern Victoria	ALP
Broad, Gaelle	Northern Victoria	Nat	Mulholland, Evan	Northern Metropolitan	Lib
Copsey, Katherine	Southern Metropolitan	Greens	Payne, Rachel	South-Eastern Metropolitan	LCV
Crozier, Georgie	Southern Metropolitan	Lib	Puglielli, Aiv	North-Eastern Metropolitan	Greens
Davis, David	Southern Metropolitan	Lib	Purcell, Georgie	Northern Victoria	AJP
Deeming, Moira[2]	Western Metropolitan	IndLib	Ratnam, Samantha	Northern Metropolitan	Greens
Erdogan, Enver	Northern Metropolitan	ALP	Shing, Harriet	Eastern Victoria	ALP
Ermacora, Jacinta	Western Victoria	ALP	Somyurek, Adem	Northern Metropolitan	DLP
Ettershank, David	Western Metropolitan	LCV	Stitt, Ingrid	Western Metropolitan	ALP
Galea, Michael	South-Eastern Metropolitan	ALP	Symes, Jaclyn	Northern Victoria	ALP
Heath, Renee	Eastern Victoria	Lib	Tarlamis, Lee	South-Eastern Metropolitan	ALP
Hermans, Ann-Marie	South-Eastern Metropolitan	Lib	Terpstra, Sonja	North-Eastern Metropolitan	ALP
Leane, Shaun	North-Eastern Metropolitan	ALP	Tierney, Gayle	Western Victoria	ALP
Limbrick, David[3]	South-Eastern Metropolitan	LP	Tyrrell, Rikkie-Lee	Northern Victoria	PHON
Lovell, Wendy	Northern Victoria	Lib	Watt, Sheena	Northern Metropolitan	ALP
			Welch, Richard[4]	North-Eastern Metropolitan	Lib

[1] Resigned 7 December 2023
[2] Lib until 27 March 2023
[3] LDP until 26 July 2023
[4] Appointed 7 February 2024

Party abbreviations

AJP – Animal Justice Party; ALP – Australian Labor Party; DLP – Democratic Labour Party;
Greens – Australian Greens; IndLib – Independent Liberal; LCV – Legalise Cannabis Victoria;
LDP – Liberal Democratic Party; Lib – Liberal Party of Australia; LP – Libertarian Party;
Nat – National Party of Australia; PHON – Pauline Hanson's One Nation; SFFP – Shooters, Fishers and Farmers Party

CONTENTS

CONTENTS

Thursday 15 August 2024

The DEPUTY PRESIDENT (Wendy Lovell) took the chair at 9:32 am, read the prayer and made an acknowledgement of country.

Business of the house

Notices

Notices of motion given.

Motions

Middle East conflict

Samantha RATNAM (Northern Metropolitan) (09:41): I move, by leave:

That this house:

(1) notes that since the Legislative Council's resolution on 17 October 2023 concerning Israel and Gaza, which stated that this house 'stands with Israel', the following have occurred:

(a) Israel has killed or injured 130,000 Palestinians in Gaza, and at least 10,000 Palestinians are missing;

(b) in the last fortnight Israel has bombed two schools in Gaza which were housing displaced Palestinian civilians, killing over 100 people, including many children, in what is a clear violation of international humanitarian law;

(c) the bombings at the schools now account for 50 per cent of schools housing displaced Palestinians being bombed in Gaza;

(2) does not support the state of Israel's continued invasion of Gaza;

(3) supports calls for an immediate and permanent ceasefire; and

(4) calls on the Victorian government to advocate to the Australian government that it ends its support for the state of Israel's invasion of Gaza.

Leave refused.

Condolences

Robert Lawson

Jude Perera

Inga Peulich

The DEPUTY PRESIDENT (09:43): I advise the house of the death, on 12 July 2024, of Robert Lawson, member of the Legislative Council for the electoral province of Higinbotham from 1979 to 1992.

I advise the house of the death, on 23 July 2024, of Jude Perera, member of the Legislative Assembly for the electoral district of Cranbourne from 2002 to 2018.

I advise the house of the death, on 25 July 2024, of Inga Peulich, member of the Legislative Assembly for the electoral district of Bentleigh from 1992 to 2002 and the Legislative Council for the South-Eastern Metropolitan Region from 2006 to 2018.

As a mark of respect, I ask members to rise in their places for 1 minute's silence.

Members stood in their places.

Members statements

Inga Peulich

David DAVIS (Southern Metropolitan) (09:45): I will say something, and I will refer to Mrs Peulich – a great loss, Inga Peulich. I want to begin by marking my view that the government made a mistake in not allowing a proper condolence motion on Inga. I think that is unfortunate because she was a person who made a great contribution to this chamber and many of us knew. I was at the funeral the other day. It was an enormous funeral; it was one which was a great marker to her life. I spoke to Savo, I spoke to others – Paul in particular. The truth of the matter is that Inga was a great contributor, a great democrat, a great protector of democracy. With her family coming from a communist country, they understood the importance of freedom, they understood the importance of standing up for our values, and I for one had the greatest of respect for Inga. I had a lot to do with her, both as Leader of the Opposition and Leader of the Government and when she was cabinet secretary. I do believe that her campaigning was a very big part of us winning government in 2010, and I put that on the record very clearly. It is the truth that Inga's remarkable character and remarkable ability to engage with people right across the whole social spectrum was something that will be remembered very much by people in the south-east and across the state. As one who served with her, I will never forget Inga Peulich.

Jude Perera

Lee TARLAMIS (South-Eastern Metropolitan) (09:47): I rise to speak about the late Jude Perera, former member for Cranbourne in the other place, a friend and comrade for many years, who recently passed away. Jude will be remembered by all who knew him as a resilient, hardworking and compassionate person. He was a champion of multiculturalism and equality, and although he was always known and loved for his warm and genial nature, he had a steeliness in him and was respected for staying true to his principles. He faced many challenges in his life, but he was someone who was not prepared to be stopped or discouraged on the basis of the barriers that confronted him.

He joined the Labor Party in the 1990s to continue his fight for the principles of equity, fairness and equality – principles he championed throughout his life. Jude was elected to Parliament in 2002 and was the first Sri Lankan born, in fact the first person born on the Indian subcontinent, to be elected to a lower house of an Australian parliament. I was honoured to have been his campaign director leading into this election, where I was first exposed to his tenacity, dedication and passion. Later I would come to share an electorate office with him in Cranbourne when I was first elected in 2010, and amongst so many others I was the recipient of his encouragement, support and friendship. He proudly represented the Cranbourne electorate for 16 years at a time when the area was much less culturally diverse than it is now.

Jude was a proud Australian who contributed so much and in so many ways to his new country. Having migrated to Australia with his young family when he was in his 30s, he worked very hard, at times holding two jobs, and sought to hone his English and public speaking skills through other activities. Once established, he was renowned for supporting and helping other Sri Lankan migrants, particularly in the Carrum Downs area where he lived, to settle in and form connections and friendships in their new home. Such was Jude's love for and pride in Australia that as a member of Parliament he worked to share the joys and opportunities of this country with others who wanted to migrate here too or have the chance to visit and spend time with their friends and family living here. He noted in his valedictory address that he had derived the highest satisfaction from his work assisting with migration applications or sponsoring visitor visas for people who had been rejected previously.

He was of course also proud of the country of his birth and retained a strong connection to it. Sri Lanka is a beautiful country but one that across the years has suffered many travails, both natural and human caused. This has been heartbreaking and challenging for the Sri Lankan diaspora, with the potential to open up rifts and divisions in Australia if these conflicts were reflected here. Jude was acutely aware of this and worked tirelessly to prevent conflict, promote harmony and unity and heal division. In his

inaugural speech, Jude spoke about his vision for the Cranbourne community as a secure, quality place to live, work and visit. He fought hard for his community and secured significant investment in infrastructure and services to meet the needs of the growth in the area. In his valedictory address, he reflected on this and the many new schools, police stations, community and family hubs, sporting complexes and modernised health facilities and the hundreds of kilometres of road infrastructure and improvements to the public transport system.

As a testament to his tireless contribution to the local community that he loved, Jude went on to be re-elected a further three times until he retired from Parliament in 2018 due to poor health. As much as he loved his politics, it is important to highlight that nothing could come close to the love he had for his family. My heart goes out to all of them for their loss, including Ira, Rangana and Judy. We can legitimately say about Jude that he left the electorate he served, the community he loved and belonged to and this world a better place thanks to his advocacy and contributions. Vale, my friend. Rest in peace.

Inga Peulich

Bev McARTHUR (Western Victoria) (09:50): 'My darling girl' is how her devoted husband Savo referred to his darling wife. It was a privilege, albeit a sad one, to attend the memorial service in Springvale of a life cut short too soon. Inga Peulich was born in Bosnia and Herzegovina on 15 October 1956 and died on 25 July 2024 after a traumatic and very painful illness. She married Savo in 1980. As Savo told me, at least she is no longer suffering. The light of her life, her son Paul, provided a moving tribute to his incredible mother. He said her favourite saying was 'Failure is not falling down but staying down.'

Inga was a passionate proponent of democracy and free speech. Everything that looked like communism and socialism she was an opponent of, having fled communist Eastern Europe. Her family fled communist Yugoslavia when her father was blacklisted from working as a journalist for uncovering state corruption. Like many immigrants to Australia, Inga arrived with her family carrying two suitcases, speaking no English and without a penny, but that did not stop this family or Inga. She became a renowned educator, teaching VCE English and psychology, and was awarded an international teaching fellowship.

Inga's parliamentary career spanned two periods: firstly, as the MP for Bentleigh from 1992 to 2002 and then as a member of this chamber as an MLC for South-Eastern Metropolitan Region from 2006 to 2018. Inga was an inspiration to many in the Liberal Party and was often described as an unstoppable force, and I can personally attest to her support for so many volunteers and political aspirants. She mentored many candidates, and many of them got into Parliament. She had time for everyone. I am not sure when she ever slept. She is now asleep in the place that was also so important to her as a proud woman of faith. Vale, Inga Peulich.

Jude Perera

Samantha RATNAM (Northern Metropolitan) (09:53): I too on behalf of my Greens colleagues would like to offer our condolences for the losses this chamber is reflecting on today, firstly for Jude Perera, who contributed to this Parliament for many years from 2002 to 2018 – a long period of service both in this Parliament but, I think more importantly, to the broader community. He was one of the first people, if not the first person, of Sri Lankan heritage to be elected to a parliament anywhere in Australia, I believe. I know his presence was felt very deeply in the broader Sri Lankan diasporan community and especially in the south-east. He worked very tirelessly to grow support for his party across the region, and there were not many conversations within the broader diasporan community that you would encounter without the name Jude Perera mentioned. While when I began in this place in 2017, our family orbits had not quite overlapped, it was inevitable that they would, and the last time that I got to meet Jude was actually at a family function – the engagement of my cousin. Finally our family orbits had indeed overlapped, as is true of the Sri Lankan diasporan community. So it was a very fitting, in some ways, finale to our interaction in this place. Our deep condolences go to his family, his friends, his children and his colleagues especially in this place, who will miss him very deeply.

Inga Peulich

Samantha RATNAM (Northern Metropolitan) (09:55): I too, on behalf of the Greens, would like to offer our condolences for Inga Peulich, who I served with, as well as many in this place, over the years after I began in 2017. I want to thank her for her contribution, as has been reflected by her colleagues this morning. She was a woman of great spirit and tenacity and made an incredible contribution, I know, to the Liberal Party and to the areas that she was elected for and represented over many, many years. As many in this place would know, we might not have always agreed on the subject of policy that was debated very vociferously in this Parliament, but I did respect her passion and tenacity. I respect anyone who cares so deeply they are willing to fight for the things they believe in. Our deep condolences go to her family, her son, her friends and her colleagues in this place, who I know will miss her very deeply, because they served very closely with her just a short while ago – our deepest condolences to all of you.

Inga Peulich

Wendy LOVELL (Northern Victoria) (09:56): I too wish to join in and send my condolences to the family of Inga Peulich. Inga is someone who was not only a colleague but also a friend. I first knew Inga long before I came into Parliament – as a member of the Liberal Party in the south-eastern suburbs and then as the member for Bentleigh from 1992 to 2002 and then she joined us here in the Legislative Council again from 2006 to 2018. Serving 10 years as the member for Bentleigh and 12 years here in the upper house I am fairly certain makes Inga the second-longest serving Liberal female MP in the history of the Victorian Parliament, second to Louise Asher. But it is a title I might wrestle off her before the end of this term of Parliament, and that would have been something that Inga would have appreciated, that battle.

Inga was someone who was very, very passionate. We all know that she was extremely passionate. Unfortunately, I was unable to make her funeral last Thursday due to work commitments, but I was able to tune into some parts of the service online. When they described her as an unstoppable force, I thought that that was really the perfect way to describe Inga, because she was an unstoppable force. When Paul said that her favourite saying was 'Failure is not falling down but staying down,' that was Inga to a tee. She would get up and live to fight another day, and I think we all appreciated that level of commitment and that spirit from Inga, which was born in her young life, having been born in a communist regime and escaping communism from Yugoslavia, coming here as a nine-year-old – I think she was – with no English and virtually no money and no possessions and making the most of a life here in Australia. She always fought for those freedoms of individuals, those rights to freedom of association and freedom of religion. She was someone who was very fiercely against being over-regulated and overbearing governments, having had that experience of communism.

Inga was not only a fierce advocate here in the Parliament, she was a fierce advocate in her community, even when she was not a member of Parliament, and a great contributor to the Liberal Party. Between her two terms of Parliament she actually served as the vice-president of the Liberal Party. She is someone that will be sadly missed. As Mr Davis said, she made a great contribution to the Liberal Party winning government in 2010 by selecting candidates in the south-east and running campaigns in those seats in the south-east that helped us get to government. I send my deepest condolences to her beloved husband Savo; to the light of her life, Paul, and his wife Primrose; to her mother Nena; and to her extended family and her many, many friends.

Jude Perera

Jeff BOURMAN (Eastern Victoria) (09:59): It feels like a lifetime ago when I started here, and I will start with Jude Perera. Jude was obviously coming to the end of his parliamentary time and I was at the beginning of mine. Whilst I cannot claim to have known Jude that well, he always stopped and talked to a new crossbencher who was obviously out of his depth and had no real idea what was going on. At that time that was a big thing. I had come and really did not have, and still probably do not have,

a political bone in my body, and he recognised that and he would always stop and talk. I think from that I can understand why he was a good politician. Vale, Jude.

Inga Peulich

Jeff BOURMAN (Eastern Victoria) (10:00): Inga Peulich was a very different person. She was quite friendly to the new crossbench at the time. 'Unstoppable force' is a term that has been used a number of times. I do not think that is really adequate. Inga hated the commies, hated the socialists, but in fairness, she also had an intense dislike for some of her people who did not subscribe to her way of thinking. That is not a criticism; that actually shows that Inga was true to her word. She never, ever, ever compromised. She never gave in. I will, unlike some people, fondly remember Inga. She had her moments with me. When I did not do what she wanted, she was never, ever going to hold back. I just took it because on the whole, whether you agreed with her or not, she was doing what she thought was right. I think a lot of us in this place should remember that even though you do not have to agree with someone, you can agree with their reasons for doing stuff. I will miss Inga. I did not know she was that sick until I read that she had died. I did not have a chance to go to her funeral. Vale, Inga Peulich. You made quite a contribution to this place, and you will not be forgotten for a long time.

Inga Peulich

Melina BATH (Eastern Victoria) (10:02): I would like to put on record the Nationals' condolences for those who we are mourning today in this house but specifically speak to Inga Peulich. She was a force of nature. The first time I came and sat in here in 2015, she wandered in with her handbag, plonked it down and then went forth into the debate. It was something that was so good to see. She was an inspiration. She was well versed in her subject matter. If English was her second language, you did not know it because she adored the debate, the contest of ideas and the picking out of the issues that she felt were real and relevant to her and her community. But she also cherished the fact that she had come to Australia and our Australian values and our freedom and our democracy. These were things that really impressed on me, as a new MP, her will. I too was very saddened to learn of her death in the news, and I think we should learn from her and cherish the good things that are in Australia and fight to keep our democracy whole and rigorous and push away socialist and communist ideals from this house and from this country. I have two sons and she had one, and I remember swapping photos and discussions about our love of our sons. To her family I do say vale.

Transport Workers Union

Adem SOMYUREK (Northern Metropolitan) (10:03): I was not surprised to read recently that state secretary of the Transport Workers Union Mem Suleyman was stood down amid multiple allegations of bullying and stealing hundreds of thousands of dollars from the TWU organisers social club fund. I was disgusted to read yesterday that halfwit Mem attempted to deflect by throwing mud at three respected TWU officials Dissio Markos, Peter Mancuso and Bill Baarini, who are true champions of workers rights. Unlike Suleyman, who treated the TWU as booty, they have no hidden agenda. Two of them are from the shop floor and the other is a well-respected barrister. While I commend the TWU Victoria branch for acting quickly and suspending Suleyman, having been around the Labor Party for many years I am suspicious as to why the TWU national office's investigation does not cover allegations of theft levelled against Suleyman. Unlike Suleyman, Michael Kaine, the national secretary of the TWU, is a committed unionist first and foremost. I would urge Mr Kaine to forego the temptation to save Suleyman just because his family deliver valuable ALP national delegates from their stacked branches to buttress the TWU power base nationally. The Suleymans' ALP numbers no doubt were pivotal in Mr Kaine supporting Suleyman's ticket at the last election. This time backing Suleyman must not be an option for anybody. Mr Kaine either stands with the TWU members and their right to representation from fit and proper persons or he stands with the sleaze of Mem Suleyman and his family.

Sheepvention

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Regional Development) (10:05): I rise today to acknowledge the success of Sheepvention, a remarkable two-day event in Hamilton that has become a cornerstone of our region's agricultural calendar. Since its inception in 1979 this premier show has grown in significance each year, showcasing the strength and innovations that define our agricultural sector. Sheepvention not only celebrates our rich pastoral heritage but also serves as a vital forum for farmers, educators and innovators to exchange knowledge and drive progress. This year's event was particularly notable for its array of highlights. The official opening, captivating demonstrations, interactive workshops and competitive exhibitions were among many features that made Sheepvention 2024 exceptional. The new pavilion housing the producer's market and innovation hub is a significant enhancement to the Hamilton showgrounds, and I am proud to have been amongst its first exhibitors in this state-of-the-art venue, a testament to the dedication and unity of the Hamilton community in bringing this project to fruition. The focus on sheep, central to the event, underscored the importance of western Victoria's wool-growing region. It was inspiring to see people from across Australia and beyond come together to share knowledge on products, agriculture, husbandry and heritage at this vibrant gathering. For the past 19 years I have cherished the opportunity to connect with the community at Sheepvention, and this year was no exception. Sheepvention 2024 was an outstanding success, made possible by the tireless efforts of volunteers, the Hamilton Pastoral and Agricultural Society and the Sheepvention committee. Their commitment ensures the ongoing preservation and prosperity of our agricultural heritage in western Victoria.

Frankston Hospital

Rachel PAYNE (South-Eastern Metropolitan) (10:07): Two weeks ago one of my members of staff fell very ill. In uncertainty and distress a beacon of hope and healing emerged through the dedicated efforts of the healthcare team at Frankston Hospital. Throughout the week that my staff member was under their care every interaction exuded empathy, professionalism and absolute competence. The nurses and medical professionals not only attended to her physical needs but also nurtured her with kindness and respect. Their commitment to excellence and tireless dedication made it possible for her to recover. My staff member now stands on the threshold of renewed health and wellbeing. Her heart overflows with profound appreciation. The gratitude she expresses is testament to the profound impact of the exceptional care that was received at Frankston Hospital. I extend my sincere thanks to the healthcare team for their unwavering commitment to healing and humanity. This experience serves as a poignant reminder of the invaluable privilege we all share: the privilege of accessible health care in moments of crisis. The depth of gratitude expressed by my staff member and me serves as a tribute to the remarkable care provided by the healthcare team at Frankston Hospital. To the healthcare team at Frankston Hospital, I am so grateful to you for looking after my staff member, who is a dedicated and much-loved member of my team – thank you.

Country Fire Authority Moorooduc brigade

Tom McINTOSH (Eastern Victoria) (10:08): It was great to be in Moorooduc last week to join acting assistant chief fire officer Sean Kerr, ex-captain Nev Jones, first lieutenant Justin Newson, Geoff Goding, Megan McDonald, who I have not seen for a lot of years, and big Tom Winkles to officially hand over two brand new tankers to Moorooduc CFA. Their new heavy tanker is safer and easier to operate. It includes new rollover and burn protection to keep volunteers safe in extreme heat, brand new electronic monitoring and an electric rewind hose. Their new ultra-heavy tanker has a 10,000-litre water tank, better equipping them to deal with grassfires, a key concern on the peninsula. These tankers are just two of over 75 tankers we are rolling out across the state as part of a $35.5 million investment in heavy and ultra-heavy tankers for CFAs. This will allow them to continue doing the great work that they do. In Moorooduc the CFA has been a key pillar of the local community for more than 80 years, with 64 members, including 44 operational members, and the brigade responds to around 100 call-outs each year. Thanks to the team for showing me around, and thanks to Nev for the history of the shed and talking about the community and all manner of other things.

Congratulations to everyone involved in getting these new tankers. It is a testament to the hard work of all the volunteers. As the fire season approaches, I am proud that we are giving our volunteers the equipment they need to keep themselves and our community safe.

Cyclist safety

Katherine COPSEY (Southern Metropolitan) (10:10): The coroner's report into the tragic death of Angus Collins has been released, and it has revealed that Labor and developers ignored multiple safety warnings about the intersection where he was killed on his bike. It is heartbreaking to think that Angus could still be alive today if those warnings had not been ignored. I send my sincere condolences to Angus's family and friends. There are several other deadly intersections across Melbourne where trucks and cars are put on a dangerous collision course for people on bikes, including some on the Footscray and Dynon roads corridor near where Angus was killed. The community is urging Labor to fix these intersections, and the Greens back those calls. The coroner's report must be a wake-up call. In Australia a person on a bike is killed nearly every nine days, and the death of Angus Collins shows how non-existent or poorly designed infrastructure can contribute to those deaths. Meanwhile the UN recommends governments dedicate 20 per cent of transport funding to active transport like cycling, but Victoria spends only about 1 per cent. Both in funding and design, the government must stop prioritising the movement of trucks and cars over the lives of people on bikes. I call on the government to urgently fix the intersections on Footscray and Dynon roads, audit all intersections across Melbourne with similar conflicts and commit to serious investment in safe bike infrastructure across the city. The government must act now to prevent more deaths of those of us who ride.

Ukrainian delegation

Michael GALEA (South-Eastern Metropolitan) (10:11): A couple of weeks ago, along with colleagues in this place Mr Tarlamis and Mrs Hermans, I had the distinct honour of meeting with a visiting delegation from Ukraine. We met with Major Andrii Berezovskyi, a decorated war veteran and a former battalion commander who participated in the liberation of the Kherson region and defended Avdiivka and most recently Bakhmut. Major Berezovskyi has only just turned 29 but has already seen things which those of us in this place cannot even begin to comprehend. It was extremely moving to be able to meet with him and hear his stories and as well meet with the mother of one of his soldiers who is still on the front line in Ukraine. We also met with Pavlo Tsapiuk, who is the founder of logistics charity Military Post and the drone school Volyn Falcons, who has been assisting the Australian Federation of Ukrainian Organisations, the AFUO, in their Defend Ukraine appeal to deliver military aid, including drones, to the front line. We also met with Kateryna Argyrou, who is the co-chair of the AFUO, who joined us and is facilitating the tour. It was a very moving experience for us all to be a part of, and as we approach another Independence Day for Ukraine, I am sure those of us in this place would all join together in hoping that before long Ukraine can be fully independent once again. Slava Ukraini.

Government construction projects

David LIMBRICK (South-Eastern Metropolitan) (10:13): I would like to draw the house's attention to something that I believe has been overlooked potentially by Parliament and certainly by the media and that is the connection between many arms of organised crime, which I have spoken much about in this place. We know from Parliamentary Budget Office figures that the heroin market is around a quarter of a billion dollars per year. We know that the black market for vaping products is about a half a billion dollars per year. I think we can estimate that the black cannabis market is about $1 billion per year, and on top of this there are other markets which I do not have numbers on, such as methamphetamine and other drugs. One must conclude that all of this money is somehow being laundered. I do not believe that it is being laundered through fruit and veggie shops. I do not believe that it is being laundered through the casino. In fact there are very few industries that could launder this amount of money and I would suggest that the one industry that is big enough to absorb this sort of money for money laundering is construction. Therefore I call on all members of Parliament to

support my push to have the Auditor-General urgently investigate government procurement contracts so that maybe we can shed some light on what has been happening in the construction sector, because if it is being used as a vehicle for money laundering for other organised criminal activities, it must be stopped.

Sheepvention

Jacinta ERMACORA (Western Victoria) (10:15): I too want to celebrate Sheepvention. Last week Minister Tierney and I attended Sheepvention in Hamilton, hosted by the Hamilton Pastoral and Agricultural Society. Sheepvention is a celebration of all things agricultural in the south-west region. It is a combination of a field day and an agricultural show, including a sheep show, farm dog championships, wool-handling competitions, junior sheep judging competitions, agricultural machinery, clothing, wool-crafting, health, education and farming organisations, agricultural support businesses and local food producers. At our stall we provided information on a seniors pack as well as our free TAFE, our fishing and fish measures, cost-of-living assistance and other information about supports the government is providing. The minister and I provide an estimated 2500 bags, useful information as well as multiple meetings and conversations across the two days. I want to thank all those who came by and had a chat about what is going on for them. Congratulations to the organisers, stallholders and businesses and the Hamilton community for hosting and participating in such a wonderful event.

Extremism

Aiv PUGLIELLI (North-Eastern Metropolitan) (10:16): The planned attacks on the Taylor Swift concerts in Austria were another chilling reminder of the continued radicalisation we are seeing of young men online, and it is a problem that we need to take very seriously here as well. Violent extremism, fuelled by a hatred of women, a hatred of people of colour and a hatred of queer people, is putting these communities at risk. We heard from ASIO earlier this year that hate groups want to start a race war here in Australia, and we have seen white supremacists brazenly parading disgusting banners through our streets – things like 'Australia for the white man'. Groups have targeted queer events and forced the cancellation of rainbow family events and other LGBTIQA+ occasions. Vile misogynists are idolised by young men online, fuelling toxic attitudes that put women in danger. Labor needs to take action to combat this lurch towards dangerous right-wing extremism. Without meaningful and urgent action the community remains at risk.

Business of the house

Notices of motion

Lee TARLAMIS (South-Eastern Metropolitan) (10:18): I move:

That the consideration of notices of motion, government business, 278 to 538, be postponed until later this day.

Motion agreed to.

Bills

Youth Justice Bill 2024

Second reading

Debate resumed on motion of Harriet Shing:

That the bill be now read a second time.

David DAVIS (Southern Metropolitan) (10:18): *(By leave)* I want to circulate the additional amendments that I flagged last night that were being worked on by Vivienne. I think the house could have the advantage of having them circulated now.

Amendments circulated pursuant to standing orders.

Trung LUU (Western Metropolitan) (10:19): I rise today to speak in firm opposition to the Youth Justice Bill 2024 as proposed by the Allan Labor government. This is a youth justice bill in name only. It does not address the problem. It does not give police or the courts power, nor does it provide the resources that they need to keep violent and troubled youth off our streets. In fighting crime we must be proactive. We must look to support and reform our youth through a balanced approach with a combination of strong discipline and positive intervention programs.

I need to highlight that this bill does not align with community expectations. If passed, it will increase the age for being held responsible for a crime from 10 to 12 years of age. Labor's initial intention was to then raise it to 14. After we saw outrage from the community and strong opposition from the Chief Commissioner of Police Shane Patton, the Premier has backpedalled. The Liberal and National parties have consistently opposed this because we understand the consequences. Using a broad brush to legislate that all children under 12 years of age do not understand what is right and what is wrong does not address the problem. You cannot paint a broad brush on every single kid across the state that they are all the same. Children are intelligent. They are no fools. They will utilise this ill-advised legislation, as is clearly demonstrated by the data from the Crime Statistics Agency, whose statistics show that there has been a 52 per cent increase in crime committed by 10- and 11-year-olds over the past years.

I just want to ask people: do they understand the consequences of this law being passed? I will give you a small example of what will happen at schools. All of those kids between 10 and 12 years of age will not be considered to be committing a crime when something happens at a school. 'How can schools discipline these kids?' parents will ask. When they commit no crime, what can the principal do to the kids? There will be issues down the track, consequences that will be a flow-on effect of this legislation. If anything, it is time to strengthen our approach to youth crime. Reports show that there were 3426 alleged child offenders aged between 10 and 15 involved in property crime, including a 16 per cent rise in aggravated burglary compared to the previous year. This was in an announcement from the Labor government last year in relation to the increase in responsibility for crime. The bill conveys to these youth that they are untouchable, which is not the case. It will send a false message to these kids of the reality of society. The prevailing perception that these youths are free to act without consequences, even in the event of serious crime, it does not meet community expectations. It is time to show strength and not react with weakness. The government's plan to raise the age of criminal responsibility to 12 seems like an avoidance of the harsh truth of juvenile law-breakers, not a genuine solution.

Groups like the Community Advocacy Alliance and the Police Association Victoria strongly oppose this bill. It is time we listened to the frontline experts. While it is true that there are very few individuals aged 10 and 11 who are placed in detention, this is because it is already in place in the system to make sure that these kids will not be incarcerated. The doli incapax common-law principle, which requires proof that a child between 10 and 14 understands their actions before they can even be prosecuted, already offers protection to all young people before the court. The government's approach seems to lack this understanding of the consequences for young offenders. The government mentioned that in this latest legislation they are introducing doli incapax for children below 14 years of age. As a matter of fact, this has been in place in the system for decades. Thirty years ago, when I joined the police force, this was already preached and taught to police officers. Police interview kids from the age of 10 upwards. They need to prove and establish that the kid understands what is right and wrong. The court also establishes this when the kids are brought in front of the magistrate or the judge. What this bill does is complicate law enforcement's responsibility.

The current bail laws enacted by this Labor government allow individuals to be released in spite of their actions. In recent times this has resulted in loss of life, sadly. I would like to quickly mention that, because of this, three tragic incidents in recent months involving youth criminals granted bail have cost the lives of three innocent people. Most recently, Davide Pollina was killed when a stolen car hit him while he was riding a motorcycle. The driver of the stolen car is still on the run, leaving Davide's family devastated, yet the co-offender in the stolen vehicle was released on bail the very next day. Just

a few weeks ago trainee doctor William Taylor was killed in a hit-and-run by another young offender, and earlier this year Dr Ash Gordon was fatally stabbed by two boys after his Doncaster home was burgled. The latest crime stats show that concerning trends have been continuing under this Labor government for a decade, with a 20 per cent increase in criminal incidents by youth offenders. Aggravated burglaries increased by 18 per cent last year, a whopping 146 per cent increase since 2014.

Many of those who committed those crimes are young people on bail. In the past six years 137 people have been injured by cars stolen from aggravated burglaries. This rate has continued to rise in the past 12 months, with 53 people injured, which is a whopping 82 per cent increase. So, when it comes to bail this government has a bad track record, whether that be due to influence by the Greens or to accommodate various groups in the community. The fact is there is one crime being committed every 3 hours by a youth offender on bail under Premier Allan's Victorian government. The solution is not to make the law weaker. Instead, governments should be focusing on reducing crime rates and strengthening and investing in rehab and reform and intervention programs. That is why this bill is critically flawed; instead of working to prevent crime, the Allan government has cut funding for crime prevention. In the recent budget the government has cut $20 million from crime prevention at a time when crime rates are at record highs.

Addressing youth justice, the Armytage–Ogloff review highlighted two main key factors for a successful youth justice system. It should address the reason why young people offend, and it should address the community concerns about youth crime. This bill fails on both. The bill does not make the necessary changes and will be adopted by a government unwilling or unable to invest in early intervention programs. In conclusion, I urge the members of this house to reject this bill. It does not provide the solutions our communities need, nor does it effectively address the complexity of youth crime. Instead, we must work towards a more balanced rehabilitative approach and prioritise the wellbeing of our youth while ensuring the safety of communities. The Allan government has no real solution to youth crime in Victoria. This bill is not about helping young people or reducing crime. It aims to please a section of the community by keeping young offenders out of our legal system. However, it fails to address how to stop these misguided youths from committing crime in the first place or prevent them from committing more crimes in the future. The government should have focused on preventing crime from the start. Since 2017 it has been delaying important reforms. This bill does not serve the interests of our community. It does not address the community's concerns, nor does it serve the best interests of the youth. I hope those opposite and those on the crossbenches agree and support the opposition's proposed changes.

David LIMBRICK (South-Eastern Metropolitan) (10:28): I will start by saying what I think we all agree on: children being incarcerated is a failure of our society, of our government and of families. I do not think that anyone in this place wants to see children incarcerated. So I start on that basis. This bill in particular I have mixed feelings about. I feel that there are some things in it that are very good improvements to the youth justice system, and there are some things that I have concerns about. On balance I am not inclined to oppose this bill, but we will wait to see how the final product looks after the vast array of amendments that have been proposed.

The first thing the bill does, which is most significant, is raise the age of criminal responsibility from 10 to 12 years. I support this change. From my understanding, the majority of crimes committed by children in this age group are not of the most serious category, and it is certainly true that children of this age are very unlikely to be able to understand the acts that they have committed and the criminality of what they have done. So I support that. I note the Greens are going to be moving an amendment to raise the age to 14. I will not be supporting this amendment for a number of reasons, although in theory it sounds like a good idea to maybe do this. Many of the more serious crimes that we have seen in this state by youth have been by those in that age group, 13- and 14-year-olds. I am talking about very serious crimes – unfortunately things like rape and murder and terrorism and all sorts of horrible things like that – and I do not believe that there are sufficient alternative systems in place to deal with this.

I will point to an unfortunate thing that happened recently. This house passed a bill to remove the crime of public drunkenness, which I supported at the time, but I recall I did express concerns about the alternate systems to help people who are drunk on the street and how we might deal with them. Unfortunately the systems to support these people, in my view, have failed. Recently we have seen the death of someone who was drunk and could not be arrested. They ended up lying on the street and being hit by a car – that is my understanding of what happened. It is an absolute tragedy. I see that as a failure of the implementation of this. I feel that raising the age to 14 without sufficient intervention systems would be potentially even more catastrophic.

I would also make the point of the vast hypocrisy and inconsistency of the Greens. They claim that raising the age to 14 is justified because they do not believe that children should have criminal responsibility – they believe that they are incapable of forming that – yet they also believe that 10- and 11-year-olds are somehow capable of making decisions about puberty blockers and changing their gender and making lifelong decisions that will effectively sterilise them. I think that this is a gross inconsistency and should be pointed out.

Another thing that this bill has which I think is very good – on paper at least; we will wait and see how it is actually implemented – is a diversion system. Anything that we can do to keep children out of the criminal justice system is good, because we know that with children we have the most ability to influence their behaviour and hopefully put them on a path where they will be productive, law-abiding citizens of society rather than criminals. It is much, much more difficult to change the behaviour of adults that have fallen into criminality. For children there is a chance if we can get them back into school, if we can maybe provide support to their families and if we can get them associating with sports and community groups and more productive things rather than getting involved in gangs that provide them some sense of belonging. This is a good thing.

Another thing that this bill does which I am very supportive of is it expands the warning and cautioning system. This is an excellent option that should be given to police – to tell children that they have done the wrong thing and give them a warning and make it clear. Hopefully, for those that have not fallen into deep criminality, this might influence them to the point where they think twice before doing things again. Another thing that this bill does which I am very supportive of is it codifies the common-law principle of doli incapax. The law effectively assumes that a child is incapable of understanding the criminality of their actions and therefore the obligation is on police and the prosecutors to show that the child did have the mental capacity to understand the criminality of their actions. I am very supportive of this, for reasons I have already expanded on.

The other thing that this bill is hoping to expand is the idea of restorative justice. My team and I have done a lot of research on this on jurisdictions where it has been implemented. The idea of criminals and victims working together to both show the victim that justice is being served and show the criminal the impact of what they have done on the rest of the community and on victims – hopefully that will change their behaviour. I am cautiously optimistic that this will have some positive effects.

Now to some of the things that I am concerned about, I thank the many stakeholders that I have engaged with to obtain their views on this, including the Attorney-General's office. They have provided much information on this, but also we have engaged very widely with many stakeholder groups on these issues. One issue, which has been raised by many, is the concern about powers of transportation for 10- and 11-year-olds – giving the police the powers to transport children. I do have very serious concerns about this. I would like to see better safeguards in this power, such as maybe forcing police to have body cams on or potentially having independent third parties there to witness what is happening. Nevertheless I accept that in certain situations it may be necessary or desirable for police to take children out of a situation – for example, if they are on the street and alone and they cannot contact their parents or guardian or whoever – and take them back to a police station until such time as someone responsible can take custody of the child. I do have concerns about this. Nevertheless I again draw attention to what I believe has been the failure of the implementation of the removal of the public drunkenness offence. I am concerned that without this power we might end up with a similar

tragic situation. With concerns, I accept the necessity of this. I do think that there needs to be potentially better oversight of this and reporting, so let us see how that happens.

Electronic monitoring is another thing that I am very concerned about. However, one must consider the circumstances under which electronic monitoring would be utilised. My understanding is that the intention for electronic monitoring is that it is for children who otherwise would not be given bail due to being a risk of flight. Having that electronic monitoring offers the police and the courts the opportunity to potentially give someone bail that would not otherwise have had bail and therefore keep them out of remand and keep them out of a cell. We know that once children get locked up it sets in train an entire course of events which can lead to lifelong consequences, and if this is a method of keeping children out of remand, then I am cautiously optimistic about this. Also I note that it is a trial. The advice that I have is that there is not good evidence about whether this is effective or not for children. For adults there is reasonably good evidence that it works in certain circumstances. For children there is not good evidence; therefore it is appropriate that this is a trial. I would urge the government to do everything that they can to make sure that the data collected is sufficient for academic analysis so that we can make sure that this is actually an effective thing. I will be, I assume, one of many calling for it to be abandoned if it is not effective.

I often talk about root causes of crime. What we are looking at here are the consequences of children in bad situations resorting to crime. I think that there needs to be a more sensible discussion about some of these root causes. Everyone acknowledges over-representation of Indigenous people, also over-representation of other groups, such as South Sudanese. A few years ago there was an academic that did a paper on root causes and some of the factors causing children in the South Sudanese community to commit crimes, and they were decried as a racist, which was absolutely irresponsible. I think from both sides we need to have more sensible discussions about these things. From the left, anyone that wants to look into these things gets decried as a racist, and then on the other side we have people who smear people as 'African gangs'. I think that there are real concerns about people that have been brought, especially from traumatic situations, as refugees from other countries. They do face special challenges. In many cases they only have a single parent. They might have large families. We need to look at what sorts of supports can be provided. I am not necessarily saying that those supports need to be from the government, but some simple things have been put to me like: if you have got a single parent without a father in the family, just getting the kids to school is a big challenge. If there are ways that we can help with that, that is a big thing.

I would also point to the fact that the children committing these offences are boys for the most part, and we need to really think about the role of men and in particular fathers – the role that they play. If children do not have fathers for whatever reason, then we need to look at how we can have better male role models for these children, for these young boys, because what happens is that if they do not have good role models in their life, they often get sucked into these gangs that provide them a sense of community, and these are not the sorts of role models that we want children to be looking up to. I would also note that these sorts of crimes are expensive. It costs taxpayers a lot of money to look after these things, and any way that we can divert them would be a good thing.

Another thing which I have spoken about many times – I go on and on and on about it – is the impact of drug prohibition. For many of these children, if they are charged with possession and those sorts of things, I think that is a total waste of resources. It unnecessarily criminalises children, and we need to look at how we deal with that.

Getting children into school – one of the things that has been clearly put to me is that pretty much the gold standard of getting kids on the right track is making sure that they go to school. Whatever we can do to make sure that kids are going to school, learning and getting an education and associating with teachers and other students who are also there to learn would be a great thing.

On the whole the Libertarian Party will not be opposing this bill, noting that I do have some concerns about some of the aspects of it. I do have some concerns about whether or not the government can

successfully implement some of these programs that they are committing to. Nevertheless we have a problem at the moment, and something needs to be done. I hope that this will fix it, and I will be watching with great interest some of these new programs, such as expanding restorative justice and electronic monitoring. I think that this Parliament needs to pay very close attention to that. If it is successful, we need to call it out, but if it is failing, similarly, we also need to call it out and knock it on the head as soon as possible if it is not working as we hope it does.

Sheena WATT (Northern Metropolitan) (10:44): I rise today in support of the Youth Justice Bill 2024, a bill that will see much-needed reforms in our justice system and implement some long-awaited tools to keep Victoria's youth out of the justice system. As many of us know, youth offending is a fraught and complicated challenge for our community to respond to. This bill takes an evidence-based approach to keeping kids at home, in school and out of the criminal justice system. The bill contains much-needed reforms, which will build on Victoria's success in driving down the number of young people coming into contact with the youth justice system. These reforms aim to reduce youth offending and improve community safety while also providing genuine opportunities for young people who come into contact with the youth justice system to turn their lives around. This is about doing more of what works to keep the Victorian community safe. Can I take a moment to acknowledge the incredible and extensive work in coming to form this bill led by Minister Erdogan and Minister Symes from this place and of course by folks from the other place as well. But my deep respects go to the justice ministers here in the Legislative Council.

This bill follows the central recommendation of the 2017 Armytage and Ogloff review that Victoria establish a new dedicated youth justice act. It is about ensuring we have a modern and robust youth justice framework that is focused on community safety and guided by the evidence of what works. Through this bill Victoria will become the first state to raise the age of criminal responsibility from 10 to 12 years old. Changing one number in this legislation may seem small, but the message is significant. Our 10- and 12-year-olds do not belong in custody; they belong in school and with their families, carers and communities. We are doing this because we know that this is the right thing to do, not just for the children involved but because it is the best thing for the safety of our community. The evidence is clear that the younger a child is when they are first sentenced, the more likely they are to reoffend and reoffend more frequently, more violently and later on as adults. Focusing on helping these children address the underlying causes of their offending and getting them on the right path will keep the community safer in the long run.

We know that serious offending by 10- and 11-year-olds is very rare, as is a situation where a 10- or 11-year-old would come before the courts, and it is rarer still in fact that a child that young would receive a custodial sentence. We thankfully do not have any children in the system of that age, and with these important reforms, we never will again. In the rare situation in which a 10- or 11-year-old does engage in criminal activity, it stems from something going very wrong in their life, and this warrants a response of help and of support, one that is best done not through the criminal justice system but instead through support services with age-appropriate services. While some may disagree with this approach and offer a tough-on-crime approach for young children, the evidence tells us that this simply does not work. This is because very young children typically lack the maturity to form criminal intent, and their charges end up being withdrawn or ultimately not proven. We know that children and young people who come into contact with the criminal justice system need to be treated differently to adults, recognising young people's extra capacity for rehabilitation and their developing maturity. The best way to do that is to divert young people away from the criminal justice system as early as possible while holding serious and repeat offenders to account. This is about being fair on young kids and ensuring that our youngest Victorians do not fall into the justice system and never come out.

There are also key reforms in this bill for victims of youth crime, including creating a new victims register for people impacted by youth offending. The bill is also a comprehensive reform across the full youth justice system and the first major reform of our youth justice system in decades, and it will see transformative changes. We are legislating more early, pre-charge diversionary opportunities –

including warnings, cautions and early diversion group conferencing – and supporting better outcomes for victims of crime. The bill includes clear principles for sentencing, custody and other important factors that must be taken into account when a young person comes into contact with the criminal justice system. We are legislating a new custodial framework to make our youth justice precincts safer for those in custody and, just as importantly, for our hardworking youth justice staff. This bill before us also includes meaningful steps towards establishing a self-determined Aboriginal community controlled youth justice system in the future.

I want to be very clear: raising the age does not mean the child escapes consequences. It is entirely appropriate and expected that children be held accountable for their behaviour, particularly when this leads to serious harm. What raising the age does is recognise that the criminal justice system, as it stands, is not the most appropriate way to hold a young child to account. What does work is putting in place developmentally appropriate supports that put a stop to their harmful behaviour, as is the overarching objective of this legislation. Raising the age of criminal responsibility must be done in a way that prevents the exploitation of young people in criminal activity. This is why this bill proposes to make a series of changes to the charging framework for recruitment offences involving young children. This includes amending the definition of 'criminal activity' for the offence of recruiting a child, to make it clear that this includes conduct by a child who is under the minimum age or is presumed incapable of committing an offence because of the doli incapax principle. In practice what this means is that recruiting or inciting a child under 14 to commit an offence, or even conspiring to, will still constitute criminal activity for the purposes of prosecuting an adult charged with the recruitment offence. We are lowering the age to which the offence of recruiting a child applies from 21 to 18. Let me just repeat: that is the offence of recruiting a child to offend – that has been lowered from 21 to 18. Together these changes make it blatantly clear that involving young children in offending schemes offers no protection, and there are clear and further reaching consequences for this conduct.

While this bill raises the age of criminal responsibility to 12, the bill also codifies the existing common-law doctrine of doli incapax for 12- and 13-year-olds. What this means is that a 12- or 13-year-old child can only be found to have criminal capacity if the prosecution can prove beyond reasonable doubt that the child knew their conduct was seriously wrong in a moral sense as opposed to naughty or mischievous. This doctrine is a longstanding and fundamental common-law principle that exists in every jurisdiction in Australia and in other common-law countries overseas. Things that may be considered when making the determination include the age, the maturity, the stages of development, their history of offending, whether the child has any disability or mental illness or any other matter relevant to making the determination of their criminal capacity, as well as evidence from witnesses about what the child may have said or done in the lead-up to the offending. This leads to more efficient outcomes for children so that those 12- and 13-year-old children who do not, or are unlikely to have, criminal capacity avoid unnecessary contact with the criminal justice system.

This again builds on the overarching objective of this bill to ensure that the system is more attuned to and cognisant of responding to youth offending in a developmentally appropriate way. The bill will provide courts and youth justice with more tools to keep the community safe while giving young people the best possible chance to turn their lives around. This is how you keep the community safe over the long term – by implementing programs and systems that help our youth avoid the criminal justice system, help them get out of the reoffending cycle, which does not just benefit kids, it benefits all Victorians of all ages. The kind of programs that are frontline responses, like Operation Alliance, are aimed at disrupting and dismantling youth offending networks by focusing on new and emerging groups to prevent escalation into more serious and more violent crime – dismantling gang activity and helping kids get out of the cycle of criminal behaviour and peer-related crime. We also have embedded the youth outreach program, which aims to reduce long-term involvement in the criminal justice system by engaging with young people and their family, assessing their needs and referring them to youth-specific supports. Our partnership with local government, community and legal services is also working to reduce the involvement of young people in the criminal justice system.

Victims are at the very heart of the Youth Justice Bill, and this reform adopts a victim-inclusive approach so that we can support members of the community that have been affected by crime. We know the profound effect that crime can have on victims, and this bill will ensure that the impact on victims is considered in all decisions and that the victims have a voice. Under the Youth Justice Bill victims will have the opportunity to participate in pre-charge diversion as well as during the sentencing process and at the parole stage through restorative justice conferences. Youth Parole Board membership will be expanded to allow for the appointment of people with lived experience with youth justice, including as a victim or family member of a victim of youth offending, and doing this will allow our justice system to better reflect modern standards, with individuals that can accurately inform us on the genuine experiences felt by those involved in the criminal justice system. Continuing on about victims, I will say that this bill will also provide a new youth justice victims register so victims can provide information to the board to inform decisions around parole conditions. The changes to the minimum age will not affect the rights of victims, and the victims charter will continue to apply to victims impacted by harmful behaviour by very young children, which means that victims will still be able to access critical information, support and financial assistance. We want to give young people who come into contact with the criminal justice system the very best chances to turn their lives around and reform themselves, and that is what this bill is about: changing lives and keeping kids out of the criminal justice system.

Before I wrap up my remarks and finish my remarks can I just say that before I came to this place one of the jobs that gave me the most pride was finding opportunities for young people who had been in contact with the criminal justice system, helping them get traineeships and turning their lives around, and a bill that enforces this, that strengthens this and that says we believe in young Victorians and their second chance in life is something that I support wholeheartedly. In Brunswick about 1700 metres from my electorate office is Parkville, and I see each and every day the vans that I know are filled with kids. I hope that, through the incredible investments that will be made as part of this bill and as part of our continued commitment to the safety of our community, those vans run a little less frequently up and down Park Street. I know that our ministers have put in a lot of work. But before I commend the ministers more, I am going to say that our ministers have done an incredible bit of work. They have done this with stakeholders, with community, with the legal fraternity, with child advocates, with commissioners and with others. All of them have come together to bring in a bill that has waited long enough, and I am really pleased to see that it is finally here before us. I commend the bill, and I look forward to following its implementation over the years to come. I will leave my remarks there.

Melina BATH (Eastern Victoria) (10:59): I am pleased to make some comments on the Youth Justice Bill 2024 today and clearly state that the Nationals will be opposing this bill. The Nationals and Liberals do have amendments, and should they fail we will not be supporting this bill. We will oppose it in the division. I have been listening to debate, and it is a vexed situation, there is no doubt about it. But increasingly Victorians are feeling their personal safety is at heightened risk, whether it be in their homes, in streets, in shopping centres or in car parks. Sadly, there seems to be an element of youth offending that is just quite disturbing in nature. If we look at the statistics, it has been revealed that in the past children as young as 10 certainly have been offending. Those statistics say they are the highest over the last 10 years. We see that there is a 53 per cent spike in the number of offences committed by children as young as 10 or 11 and indeed that children are breaching their bail every 3 hours, with youth from 12 to 17 breaching their bail more than 2770 times. If we look to my own electorate in Gippsland, there has been a 20 per cent rise in youth crime among that 10- to 17-year-old group.

There is an issue here that is not being solved by a government that has been in for 10 years. There is an issue that is impacting people in my electorate very severely but also people across Victoria. Each crime or alleged crime – we can put that word in front of it – has a victim, and that victim has a shockwave of other victims within that family or friendship circle. We saw the latest victim, Davide Pollina, 19 years old, who came out to have a better life. My goodness, what are his parents thinking now? We saw trainee doctor William Taylor die at the hands of youths. We saw a story that I know

all too well – poor, dear Dr Ashley Gordon and his bereft family in Traralgon in my electorate. There is nothing like sitting in front of a family who are bereft and crying to know the impact on victims of youth attacks and youth crimes. People think that they can operate with impunity, and if we increase the age of criminal responsibility, that will only embolden youth. I note that the Gordon family have a petition out, and indeed that petition calls for three things. One that the government has not addressed and probably will not address is to provide police with greater stop-and-search powers.

We know that the government has now walked back on its commitment to raise the age of criminal responsibility to 14. It has walked back. I am sure that is kind of a pleasing position, but for people who are victims it is all still a very bad taste in their mouth. We also note that the government has walked back and is partially repealing section 30B of the Bail Act 1977 – to a point. This is again a partial level of victory for people, but really this problem is emanating from a government that has not been responsive to these needs over time.

We have seen the Armytage report spoken to and looked at. The government should address the reasons for youth offending. It should address the community's concerns about youth offending, and it clearly has not done that in all this time. I have a very direct and personal understanding of this. In my hometown a lady who I know very well – a dear, dear lady – had her car stolen by a youth a couple of months ago. She was so traumatised she had to leave town and stay with friends and family to cope with that impost. This child was 13, turning 14, and had an alleged litany of incidents over the last few months. The thing that is very frustrating for police in this situation is that this recidivism is turning up again and again. Now is not the time to reduce accountability for young offenders.

One of the things that this very voluminous bill does not do is address preventative measures. They were there in the Armytage report back in 2017. I believe that the government should be listening to private individuals and entities who are doing amazing work. We see the work of Bernie Shakeshaft in the BackTrack Youth Works program. He has got an Australian of the Year citizenship award. The work that they do is outstanding, and indeed it is being emulated in my own electorate by Mountain Track. Two most amazing people, Laura and David, and their small team are creating a safe space for these young offenders, and they can certainly be quite young. They are starting out this fledging operation. They are about creating boundaries for children, and this is what we are not seeing anymore – boundaries with hard love but love and consistency. These kids are given a purpose, and they are given skills. The skills that they have picked up are chainsawing, backhoeing, painting vehicles, mechanics, photography and the like, concreting and general building. These are important things that give kids courage and give kids a sense of self-worth, and this is what this government over the last 10 years has failed to do. It is a big problem, and I understand that, but doing this and putting this bill before the house is not part of solving that.

This bill focuses on restorative justice practices. I know when I was a teacher they talked about restorative justice, where you put the victim in front of the perpetrator and you tell the story. It sounds good in theory, but I am very concerned that this government has botched just about every department that it touches and works in. It is so frail in its ability to actually achieve things that I am concerned that this restorative justice will not do what it is supposed to do. This bill is largely silent on bail reform, and our victims do deserve better.

People have spoken on this before, but there is the doli incapax. There are systems in place now, and they are systems where the police and prosecution have to prove beyond all reasonable doubt that these young people up to the age of 14 – between 10 and 14 – are actually capable of understanding. There are provisions there already. There are safeguards and due safeguards, and they need to be put in place. What will raising this do to actually stop young offenders? What will it do to save more victims? I do not believe it does. One of the key players in all of this is Victoria Police, our police force, and they have come out very strongly and said that they are firmly against raising the age of criminal responsibility. The fact is that early intervention and diversion services to target young people are wholly insufficient at the moment. Why provide another layer without actually tackling this problem? We see it time and time again – and I will keep my comments brief. The thin blue line is

being asked to stretch thinner and thinner, and I understand that police get so frustrated with the youth justice system.

Finally, we need to certainly solve a number of problems. The government has made that comment that it will not be raising the age to 14. It is a hollow victory, but we will take it anyway. The government have ignored our private members bill in the past about repealing the repeal, and they have come back a short way. Rather than playing political games in this situation, responsible government should listen to solutions wherever they emanate from. They should be protecting Victorians from more perpetrators. They should be seeking preventative measures, and this is not the way through with this bill.

Georgie PURCELL (Northern Victoria) (11:08): I rise to support this bill today not because I think it is perfect, nor do I even think this bill is great, but I am supporting the view that it offers some much-needed progress in our youth justice system and acknowledges and seeks to address the overcriminalisation of First Nations youth. This bill did have the potential to be great, and with the right amendments, this Parliament could have achieved something extraordinary. Instead this government chose at the last minute to move backwards. My position today is informed and guided by experts and those with firsthand experience through extensive consultation with the Human Rights Legal Centre, the Victorian Aboriginal Legal Service and WEstjustice. I stand in support of the Greens and Legalise Cannabis amendments that are a direct result of these inputs from these stakeholders. I also want to put on the record at the outset how disgraceful this process has been this week. Key stakeholders and crossbenchers that the government relies on in order to pass its legislative agenda should not have to find out about policy backflips when they read the morning news on the very day that debate begins.

I want to make it known this government blindsided not only this chamber but every single community legal centre, every law authority, the judicial system itself and every single Victorian in announcing these revised amendments on the morning of the debate. This was a departure from the processes that we normally have in place in a bid to prevent those who oppose the amendments coming together and did not allow us time to hold meaningful consultations with the stakeholders we have been in constant communication with. I approach this debate not hopeful, like I once thought I would be, with not only the government performing a backflip so spectacular that it could win Olympic gold but the opposition wanting harsher and more punitive laws against our youth in their own amendments. It all feels to be without empathy, without reason and without consideration of what truly needs to be done to support vulnerable and marginalised youth in our state.

The guiding youth justice principle in clause 18 enshrines what we as a state have been calling for, such as the recognition of the underlying causes of children's offending, the importance of support networks and the prioritisation of diversion. Division 3 of part 1.3 provides for matters specific to Aboriginal children and young persons, such as their over-representation in the youth justice system and in custody. The bill also speaks to the inequality and structural and institutional racism caused by colonisation and laws, policies and systems which explicitly excluded and harmed Aboriginal people and culture and led to this over-representation and the continuation of systemic injustice. It is a truly groundbreaking compromise for a bill, and one that is long overdue, yet one that the Liberals with their amendments wish to see overridden by the old common law.

The bill promises better involvement with Aboriginal support services, leaders or community members throughout custodial centres, strategic partnerships with Aboriginal communities in cultural support plans and the requirement for the secretary to publish information annually relating to the accountability measures to improve outcomes for Aboriginal children and whether the outcomes are being achieved. Further protection will be provided by moving division 3, specifically clause 23, into the purposes of the bill to inform all the provisions and actions taken with Aboriginal contextualisation and to entrench the aim of eliminating over-representation and institutional racism. We must now keep the government, custodial centres and police accountable in upholding these principles. However, what is a devastating shame is that the remainder of the bill is drafted in competition with these aims,

with serious powers and initiatives introduced that are incompatible with these youth justice principles. This is not closing the gap, it is potentially intentionally widening it. For all of the talk of diversion in the bill, with these new amendments it is clear there is no intention of diverting children away from the criminal justice system and incarceration.

From what I have heard today in the chamber I think it is prudent to first remind everyone that we are talking about children, and often the most vulnerable children in our communities. They are not committing crimes out of a desire to inflict pain or destruction; they are committing crimes because of our own failures and because of the system's failures. It is the domestic and family violence they experience at home. It is the ostracisation from society. It is the racism and stigmatisation imposed upon them from the moment that they are born. It is the social and economic disadvantages caused by colonisation and dispossession. It is poverty. It is inadequate access to education, housing and health care. There are a thousand factors that lead children to commit crimes. It is a simplistic reduction, and an inaccurate one at that, to blame the child and say it is something innate within them. It is not.

What is abundantly clear, through evidence and community wishes, is that the age of criminal responsibility must be raised to 14 years old, with no exceptions. This must be an immediate raise, or at the very least the government should legislatively commit to a future raising of the age with a timetable of implementation dates in this bill. But what we see in this bill is not even a genuine raising of the age to 12, because police will have additional powers to take 10- and 11-year-olds into the station, transport them and use limited force. This contact with police at such a young age can be fatal to the development and views of a child, harming them for their entire lifetime.

The bill must also be amended to prohibit the transfer of children aged 16 or over to an adult prison. It is wholly inappropriate and nonsensical. Clause 18 of the bill refers to children's differences and vulnerabilities from adults. In no other circumstance do we treat children as adults. Again, this is where the bill contradicts itself. To place vulnerable and impressionable children amongst seasoned criminals and unsafe adults is, frankly, a foolish idea and only perpetuates the current problem. We should be ensuring that more children are diverted away from police contact and the criminal justice system in the first place, because we know that this contact substantially increases the likelihood of further offending in adulthood.

The Sentencing Advisory Council's report titled *Reoffending by Children and Young People in Victoria* found that for every year a child was older when they appeared before a criminal court there was an 18 per cent decline in the likelihood of reoffending. But children aged 10 to 14 had reoffending rates of 80 per cent, proving that contact with police and the criminal justice system is fatal to young children under the age of 14, perpetuating a cycle of reoffending. The older the person is, the less likely they are to reoffend after exposure to the criminal justice system. Therefore our goal should be to keep children under 14 away from police contact and the courts with no exceptions. Young children have the highest prospects of rehabilitation and diversion. We must pour our energy into these avenues and not into further vilification.

This government talks the talk about violence against women, yet it has neglected to address any of the systemic issues in our criminal justice system that enable and protect perpetrators. There is nothing being done to better the so-called protection offered by intervention orders and the rampant breaches of these orders, yet this bill says to Victorians that using children in experiments of punishment is appropriate and that it is also appropriate to use $30 million of taxpayer dollars doing so. The children of this state are not here for our games of trial and error. The government has ignored evidence, expert advice and facts. We have been here before time and time again. It is kneeling to fearmongering and is blatantly ignoring the findings of the inquiry into Victoria's criminal justice system.

I can tell you with confidence that there is absolutely no evidence in support of ankle monitoring devices. Let us talk about what electronic ankle monitoring has been proven to do though. It has been proven to be expensive, ineffective and unreliable, and it has a strong record of not reducing crime. It is criminalising children who have not yet even been found guilty of a crime. This bill proposes to

make great strides in the overcriminalisation of First Nations youth, but the government cannot grandstand this motive while simultaneously proposing to chain them up, breaching their human rights and further contributing to the stigmatisation and racial profiling that they already face every single day.

Instead of fulfilling the guiding principles of this bill, the government wants to send a blaring physical reminder to our children of just how outcast we have made them. Decision-makers sitting in their offices with no experience practising criminal law and no firsthand insight into our justice system nor youth custodial centres find themselves fit to make decisions beyond their realm of knowledge that will have lifelong effects on children. Electronic ankle monitoring has received no support from any legal institution in this state nor any support from our justice system. The Victorian Criminal Bar Association has expressed its strong concern over this proposal for the detrimental impacts it will have on the rehabilitation of children. Similarly, Victoria Legal Aid has vocalised its opposition to the proposal, stating that children need support and connection, not ankle bracelets, and has criticised the government for shamefully moving away from carefully considered reforms and instead trialling an initiative that we know will not work. The Human Rights Law Centre is also adamantly opposed to it.

The proposal of electronic ankle monitoring shows just how out of touch we can be with the lives of youths in this state. It is not children who are the problem, it is the system that has failed them. Electronic ankle monitoring does nothing but exacerbate the underlying causes of youth crime. It is not possible to shame and humiliate them in the community into safety. Instead of funnelling $30 million into Big Brother type surveillance, the government should be investing in programs that reconnect children with support networks and their communities. These are evidence-based reforms that are already proven to be successful in reducing offending. This proposal seeks to turn us backwards. No matter how this government tries to dress it up by calling it a bracelet, it will not hide the fact that it is a chain, it is an internalised prison and it is incarceration by another name.

I, like the majority of Victorians, have no illusion about the conduct of our police force towards youth, people of colour, marginalised communities and Aboriginal and Torres Strait Islander people. The bill itself expresses this in acknowledging the system's responsibility. Yet it goes on to create new police powers and new methods and opportunities for police to come into contact with and detain children. This is entirely counterintuitive to the purposes of the bill. You cannot reduce racial profiling by giving more power to the hands responsible for it. Police will have excess powers to search, use force and detain children at stations. Not only this, but the youth cautions and youth warnings will be police led instead of court led, allowing the decriminalisation to continue and placing those least equipped to decide on what are fundamentally judicial decisions. The bill says it all when it provides an exemption under clause 527, exempting officers from personal liability for the use of excessive force in custodial centres. This bill does not protect children, it protects those who have the power to harm our children. If this was not already wicked enough, the government announced at the last minute that it intended to expand the new powers, emboldening police to more frequently apply for bail revocation for repeat offenders. They intend to blur the lines between the judiciary and government bodies to allow police, who are largely responsible for the criminalisation of First Nations youth and racial profiling, to now have a stronger say in their incarceration.

With every progressive reform this government promises in this bill, it betrays it with another provision that overrides it. A Victorian coroner called these provisions in the Bail Act 1977 a 'complete and unmitigated disaster', and it is these reverse onus provisions that have driven an increase in incarceration levels, not an increase in crime. We saw this same overwhelming opposition in New South Wales, with Australia's top legal and criminal justice experts and 60 organisations, including Save the Children and Amnesty International, signing a letter to the Premier opposing the introduction of the reverse onus youth bail reforms, similar to reverse onus provisions we have in this state. The government must acknowledge its mistakes and remove these provisions in the Bail Act as once promised.

The new inclusion of a council on bail, rehabilitation and accountability is an absolute insult to many of us. First, the council is made up of only government bodies, who will report as they please to

exercise will with no independence at all. This must be amended to broaden membership to include the legal assistance sector and community sector. Secondly, they have insulted community legal services and law authorities that already told them what the driving factors are for young offenders and how to stop them. We already know because the evidence is already there, and it has been there for a long while now. We need diversion, we need to raise the age of criminal responsibility to 14, we need to reduce the contact of police with children, we need full bans on solitary confinement, we need to ban oppressive prison practices and we need to address the racial profiling and overcriminalisation of First Nations children. What we do not need is electronic ankle bracelets, more police powers, draconian legislation and kids in adult prisons.

This government had all the information before them and chose to ignore the majority of it. Not only that, but they lied to us in their initial announcement. They lied to Aboriginal communities, such as the Victorian Aboriginal Legal Service, who had engaged in good-faith consultations with them for the last five years on the Bail Amendment Bill 2023 and this bill. They trusted the government, and the government has betrayed them. They said they would remove the reverse onus provisions. They promised change and progress but instead gave us this draconian bill. I thank WEstjustice, the Human Rights Law Centre and the Victorian Aboriginal Legal Service for their briefings, input and passion for a better future for the youth of this state. We are sorry that you have been let down and we are sorry to the children who have been let down by this bill.

Fearmongering and false narratives should not dictate government policy. We owe the children of this state so much more. The families and children of this state will not forgive them. This government has let Victoria down with this bill today. As I said from the outset, I am supporting this bill but with no great enthusiasm. I am sure I speak for many of the crossbenchers in that we feel put over a barrel by the government to advance the small amount of good this bill does. I will not say I commend this bill to the house but rather the conversation will not end here today and we will continue to push for meaningful youth justice reform in our state.

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (11:25): It is a pleasure to follow Ms Purcell on a really important bill. I think you were underselling it in your sum-up there, but I do concur that there is never a full stop after a bill in justice. I know that all too well, and the conversations will indeed continue after this monumental piece of legislation hopefully passes the Parliament today or indeed tomorrow. I do want to start by acknowledging the significance and importance of the reforms that we are debating today. The reforms we make in this place around justice and around how we keep community safe and hold to account people who are offending are often the most challenging and nuanced. That is especially so when it comes to dealing with children. This bill – all 1000-plus pages of it, in two volumes – is about introducing comprehensive, evidence-based, long-term solutions to how we approach youth offending. I would encourage everyone in this place today to carefully think about the opportunity and the obligation that we have: our opportunity to do right by the youngest and often most vulnerable members of our community by giving them the best opportunity to contribute meaningfully to society, as well as the obligation as policymakers to intervene and to break the cycle of offending so that we are building a safer and more collegiate community.

As Attorney-General I have had the privilege to lead reforms on certain aspects of this bill. Today I am proud that we are a government that is seeking to raise the age of criminal responsibility from 10 to 12. The minimum age of criminal responsibility – or MACR, as it becomes known when you are talking about it so often and acronyms just become words – was last set 40 years ago. Many of us here would have been under the age of criminal responsibility then – a few were not born, actually. Since then we have learned so much about child and adolescent brain development and what works to stop youth offending. The reforms in the bill are guided by evidence that makes clear that children aged 10 and 11 do not have the capacity to form criminal intent. It is not about letting kids get away with criminal conduct. It is not about turning a blind eye to naughty behaviour. It is about approaching

things in a way that works and that can ensure the community are kept safe and young children are supported.

That is why to coincide with this change we are introducing a set of carefully considered necessary powers for police to enable them to ensure that they can take steps when necessary to protect the community and the young people themselves. I am certainly aware that there are those who would prefer that we did not have to introduce police powers. They have concerns about how they will be implemented in relation to children. But I want to be clear that these powers are not about entrenching police interaction with children. They are powers that balance the need to minimise contact between police and children to avoid the criminogenic effects of police contact. Police will be first responders in many situations – that is unavoidable in dynamic situations – and they may warrant intervention. It would not be safe to leave children in situations where serious harm could result to them or anyone else, and it is the community's expectation that if a young person is at risk of harming themselves, there is somebody that could step in and protect them. In instances where that is police, it is appropriate to codify that.

I do want to urge caution – and I am glad Mr Davis is here in the chamber at the moment – through discussions about amendments from both sides, Greens and coalition, in relation to police powers. It is the intention of the Greens to have no police powers. It is the intention of the coalition to have additional police powers. But we need to be careful, in addressing those amendments in the committee stage, that we do not have unintended consequences with that contest of ideas, particularly from the coalition, who I do not believe want to see a situation where there are no police powers. So I would, Mr Davis, urge caution in how we progress those, because at the moment, from what I am hearing, that may be an outcome that would be reached if you are not careful in how we vote on some of those. But I will talk to you after this.

I do want to also just touch on the codification of the long-held common-law principle doli incapax. I know that there are those who wish we were raising the age higher than 12. We are not raising MACR to 14, but there are provisions in the bill that certainly acknowledge those under 14. We are codifying the existing and longstanding common-law presumption of doli incapax. It is certainly not new. It is a balanced doctrine that begins with a presumption that children younger than 14 lack the mental capacity to form criminal intent by virtue of their age and relative development. The presumption is rebuttable, meaning that if the prosecution is able to establish that a 12- or 13-year-old knew that their conduct was seriously wrong and not just mischievous or naughty, they are able to be found culpable. These reforms do stem from feedback from those who work directly in the prosecution and defence of the youngest children in our system, and we have taken on board their feedback that this doctrine is important but can be better implemented when it is set clearly out in legislation. So that is what the intention is today, and I would just also inform the house that most other states have codified doli incapax.

We have spoken time and time again in this place, predominantly through question time, about our trial of electronic monitoring (EM). I want to make clear for the house not so much what it is – I think I have gone through that – but what it is not. Electronic monitoring is not a fix-all to bail offending. What it is is a further tool for our courts and police to ensure that those granted bail who are at high risk but not an unacceptable risk of repeat offending are complying with the conditions of their bail. I have been clear about this: when young people are complying with their bail conditions, they are given the greatest opportunity to turn their lives around. They are going to school, they are going to work and they are participating in programs. We want to get them back on track. EM, alongside those important programs, is all about improving compliance and really about supporting young people. It is a trial. I will be keeping a very close eye on the benefits that this can bring to young offenders.

Whilst talking about bail, it would be a good opportunity for me to run through the house amendments that have been tabled by previous speakers. I want to start with confirming that the reforms we introduced last year to bail, the reforms that came into effect in March of this year, did not weaken bail or make it easier for serious offenders to get bail. What the reforms did was ensure that our bail system

had a more nuanced approach to different types of offending, between low-level nonviolent offending and serious offending that was causing the community harm and indeed concern. On this side of the house we know the difference. We know our system can distinguish between the two. When you do not, you have poor outcomes, and we are very proud that we have resolved those outcomes. The house amendments that have been introduced today reaffirm this approach, making it clear that serious offences such as aggravated burglary, home invasion, sexual offending, family violence offences and armed robbery must be recognised for what they are – crimes that cause harm to the community. Our amendments ensure that the bail decision makers can have absolute clarity around the risks of reoffending and when bail can be revoked. In doing so we are fostering a system that takes seriously the risk involved in offending and ensures that it is front and centre for considerations of bail, as it should be.

Based on Mr Mulholland's contribution – and it is a shame he is not in the chamber, but I am sure we will have some conversations in committee – it is clear he does not quite understand the difference between the offence we are introducing today and the decrepit one that he has continually sought to bring back. So allow me to clarify: in line with our bail reforms, our focus is on ensuring there are serious consequences for serious offending. That is why those serious offences outlined in schedule 1 and schedule 2 of the Bail Act 1977 will be able to be charged with a standalone offence. This, again, does not capture low-level nonviolent offences that the previous coalition's offence included and which we know had a significant contribution on the over-representation of nonviolent vulnerable offenders. We want to make sure our systems respond to offending in an appropriate, risk-informed manner that prioritises community safety, which has always been at the centre of our reforms and remains so today.

It would be a great opportunity – because I have got 5 minutes left – to acknowledge the many, many hands that have helped craft this important youth justice bill. To the advocates who have dedicated much of their working lives to striving for better outcomes for young people in the justice system – these are amazing people. They are on the ground day in, day out. They motivate my work, and I am in awe of theirs. Their expertise and commitment to building the best future for our most vulnerable is admirable. It is something that the community benefits from, and we should be so grateful for their efforts. I thank them for supporting this bill. Of course I recognise that the bill does not do everything that they would like. I know that it takes the first crucial steps, however, to building a better system for our young people, and we could not have done it without these stakeholders.

In particular I would like to acknowledge the work and contribution of those within the First Nations sector – Nerita Waight of the Victorian Aboriginal Legal Service and Chris Harrison and Marion Hansen of the Aboriginal Justice Caucus and other members of the justice caucus and their teams; those within the justice sector and the courts, particularly the Children's Court, the Office of Public Prosecutions, the Law Institute of Victoria and Victoria Legal Aid; and certainly those that are on the front line dealing with our youth in our streets and in their homes and dealing with the consequences of serious crime. To those that enforce the law, Victoria Police and the Police Association Victoria, you have approached these reforms passionately, comprehensively and with an unwavering commitment to seeing our justice system do better.

My colleague, co-justice minister and friend Enver Erdogan – what a legacy piece this is for him. Most of us do not end up cutting our teeth on such a massive bill, but what he is seeking to achieve is something significant. It is a pleasure to have been in a position to progress this with him. Can I also acknowledge the hardworking, dedicated department staff, some of whom have worked over years to see this bill come to fruition. In particular can I acknowledge the work of the Secretary of the Department of Justice and Community Safety Kate Houghton, deputy secretary Marian Chapman, executive director Katie Bosco, Janice Lim, Ben Russo, Jodi Henderson, Andrea Davidson and the many, many people in their teams that have worked tirelessly on this bill over its conception and its progression. They will be mightily important to its implementation. I commend the bill to the house and look forward to a lengthy committee stage where both the Minister for Youth Justice and I are

looking forward to answering many questions and getting this bill passed through the Legislative Council.

Ann-Marie HERMANS (South-Eastern Metropolitan) (11:38): I too, like many people in this chamber, rise to speak on the Youth Justice Bill 2024. Obviously, this is a very, very big bill, and it is one that has a lot of amendments that have come into the chamber that will be there when it is time for us to discuss and pick apart this particular bill in review. But I just wonder – there are good things that are in here. There is no denial that there are some good things in here. You can randomly open to pages to see a few. As someone that has worked in this industry, I find it just incredible that we are actually having to put this in writing because it has not happened – things like, for instance, clause 491:

> **Actions after placing the child or young person in isolation**
>
> As soon as reasonably practicable after any child or young person is placed in isolation, a youth justice custodial officer –
>
> (a) must inform the child or young person of the reason for being placed in isolation; and
>
> (b) if the child or young person is reasonably suspected of requiring medical attention, or if the child or young person requests medical attention, must ensure that the child or young person –
>
> (i) is examined by a health practitioner; and
>
> (ii) receives the medical attention and mental health care the child or young person requires …

Things like this are good, but the fact that we actually have had to get to the point of writing these things into this is just phenomenal, because it stems from a greater problem.

I do not know how many people in this chamber have actually worked with young people at risk of being involved in crime or those who have been in crime. I myself have worked with young people. I have been in the court system. I have written court reports. I have been alongside young people when they have had to face court. I have been in the youth detention centres to visit young people who were vulnerable, who had lived in homeless accommodation and who were now having to live in detention, and I understand the number of issues that arise, the challenges and all the complications that go with the system that we have. We all know our history in Australia, our penal history; you do not have to go far across Bass Strait to look at Little Island to see where there were once young people that were being shipped across to our nation to actually have to do hard time for very minor crimes.

Clearly everybody in this place feels very strongly about our youth justice system and the need to get this right, and so do we here in the Liberal coalition. This is not about wanting to be unfair or unjust. We are genuinely concerned. That is why there are about 300 amendments that are coming from our side, where there has been tremendous scrutiny taking place on this bill. We all share, I think, a desire to get this right. I have to be honest in saying that in the beginning I was a little bit uncomfortable with the idea of 10- and 11-year-olds and the opportunity for them to be in detention. But I realised on closer examination that provisions are made and that we can say that we do not have 10- and 11-year-olds in detention – at least that was definitely the case at the start of the month, and I have not looked since. In this state we are not looking at that as a situation.

We do need to look at more preventative measures. It does bother me that we do not have police in schools anymore. It does bother me that we do not have support programs, particularly those private enterprises and community ones that have not been government funded and that are doing a wonderful job because they have some sort of story behind them or a narrative of a person that genuinely wants to make a difference and whose life was turned around and they want to do the same for someone else. There are some really good programs out there, and there are some really good people. There is a real concern that this bill, even though it is massive in size and there is some good content in it, really does not go far enough in addressing some of the major issues. It is not out of belligerence or a desire to be difficult that the coalition is turning around and wanting to object to some of these issues.

I cannot help but note some of the things that my colleague in the other place Michael O'Brien, the Shadow Attorney-General, mentioned in terms of some of the issues that we are concerned about, and I have to say, after listening to Ms Purcell, I really do not agree with her position at all. Having worked with young people, one of the baselines that we use in social work and youth work is consequences for actions. That is how we determine case management: teaching consequences for actions. If we do not have that baseline, then we actually do not have anything to work with when we are putting a case management situation together for a client. We know that especially those that are wards of the state, under the custody of someone else or in the system need to be taught about boundaries and there need to be consequences for actions.

One of the concerns that I genuinely have is that we do not want to have a society and develop a society for young people where they think that they can do terrible offences and that there are no consequences. Not only is that bad for society but that is bad for them too because it puts them at risk. It puts them at risk of organised crime. It puts them at risk of becoming long-term offenders, because there is no consequence for them to go out and actually be a perpetrator of something. I do not think it is actually protecting them, and I am glad that the government has at least seen the necessity to pull back on raising the age of criminal responsibility. I think that we do need to consider that we seem to have raised the ability for young people to mature through social media and their ability to understand and know what is out there. So sadly, as Mr Limbrick mentioned, we have 13- and 14-year-olds currently responsible for dreadful crimes, dreadful crimes of rape, dreadful crimes of abuse. Without having parameters in our society that can actually pull them back and make them responsible for that, we are just causing chaos.

You do not have to go very far to discover the issues that we have in our community. I can speak from the perspective of the south-east about the issues that we have in the community with crime. I do not have to go very far at all. I only have to knock on one door or go to a ladies meeting that is about something else and people are talking about crime. Only just last week a lady I hardly knew was speaking about how she had to give her children bats in their beds because young people had broken into the home to steal while they were asleep in their home. The dog had come in, so they had woken up not realising that there was someone in the house, thinking that the dog had just somehow got out. They went out and discovered and sprung these people actually in their home, and they all took off. But when they called the police in, the police said, 'Look, they'll be back because they've taken your car keys.' Sure enough, a week later they were back.

A mother having to give her children bats to have in their beds in case they could be in a situation of risk and waiting a whole week for these people to come back – I mean, that is tremendous fear, and that is taking place not far from where I live. This is a mother – I do not even know her last name. I can tell you that when I went down to Carrum and doorknocked, I heard of a mother who went inside to visit her friend, took her baby into the house, took the nappy bag, went back to get a couple of things from the car and the whole car had been stolen by young people. We cannot have a situation where we are not getting it right on youth justice.

I know that there are a number of issues that we are concerned about, a number of issues to do with bail and bail reform. I realise that these are the things that we all need to address. I am running out of time and I have been asked to keep this brief, so I just want to make it known that there has been a great deal of thought gone into our position on this particular bill. We do have concerns. We do recognise that young people need to take responsibility for their behaviour and there have to be consequences for actions. We do want people to be safe in isolation. We do not have now a situation where parents can even smack a child on the hand and get away with it and say, 'You can't do that. You could get in trouble.' We do not have that. Isolation in a bedroom is one way, timeout is one way, that parents use these days in order to be able to allow the child to actually decompress, have a little bit of time to think about their actions and then be able to try and reason with them and talk through how they were behaving and why that was inappropriate. We have to find ways to do this in youth justice as well. Prevention is always better than intervention. Early intervention is always better than

late intervention. I recognise that a lot of work has gone into this, but the reality is we have so much more we need to do. I know it has not been rushed through. But it feels like there are still things that we need to talk about, and that is why there are so many amendments.

Sure, there are ideological perspectives that are different in this house from different sides of the chamber, but the reality is we are concerned about families in Victoria being safe. We do want young people to understand that there are consequences for actions, and I personally do not want 10- and 11-year-olds and 12-year-olds and 13-year-olds to be in a situation where they can be susceptible to people from organised crime situations using them because they personally will have no consequences. That cannot happen in the state of Victoria. We have enough crime here. We have enough embedded crime. You do not have to look far to see where that is. It is through organised situations in every sort of sector. We have talked about it. I do not want to get off the topic by bringing up the CFMEU, so I will not. I just think that we need to be very, very careful in what we do. We had 413 offences in the year to March 2024 that were committed by 10- and 11-year-olds. I think that that is just an awful lot. We cannot actually say that 10- and 11-year-olds are not committing serious crimes and that the age is not getting younger.

I do have genuine hesitations about some of the implications of this bill. I wholeheartedly will be standing with the Liberal coalition in our amendments that we have put forward. I will unfortunately have to oppose the bill, with our party, because we just feel this is not going far enough and there are some loopholes that could be very, very difficult for people in the future.

David ETTERSHANK (Western Metropolitan) (11:50): My colleague Ms Payne last night circulated our amendments to the bill and indicated our support for the amendments circulated by the Greens. I would also like to commend Ms Purcell for her analysis just a few minutes back. Legalise Cannabis Victoria (LCV) has sought the views of many stakeholders on this bill, and we thank the Federation of Community Legal Centres, Youthlaw, the Human Rights Law Centre, the Centre for Multicultural Youth, WEstjustice, the Victorian Aboriginal Legal Service (VALS) and others for their comprehensive briefings. These organisations played a significant role in the development of this bill, as the Attorney-General indicated before, with their advocacy resulting in the inclusion of important reforms around sentencing, cautions and diversions and youth justice principles. I applaud those organisations for their steadfast commitment to social justice and for the work they do day in and day out to get the best outcomes for some of our state's most vulnerable people. They do not get nearly enough acknowledgement or funding.

By and large the sector is satisfied with the bill. VALS went so far as to commend the government for finally showing leadership and progressing critical reforms on youth justice rather than pandering to the dangerous agenda of conservative newspapers, although given Tuesday's announcement they may want to qualify that. Whilst stakeholders generally support the bill, they have suggested amendments to better protect children and young people from the harms of the criminal justice system. Their concerns are largely addressed in the Greens' amendments, which, as I have said, LCV will be supporting.

As LCV spokesperson on treaty and First Peoples, I might use my remaining time to reflect on the specific concerns raised by those legal services, particularly VALS, who represent young Aboriginal people in the criminal justice system and whose clients are directly affected by these reforms. The profound intergenerational effects of colonisation on our Aboriginal and Torres Strait Islander Victorians still play out through their contact with the criminal justice system. We know that our First Nations people have long been over-represented in our youth and adult criminal justice systems. Despite accounting for only 3 per cent of the total Australian population, Aboriginal and Torres Strait Islander people still make up 39 per cent of all prisoners. We know that First Nations children have long been over-represented in child protection services. Data from the Productivity Commission shows that in the last year 43.7 per cent of children in out-of-home care were Aboriginal and Torres Strait Islander children. That is close to half of all children in out-of-home care despite them representing only 6 per cent of all children in Australia aged 17 and under. As we know, Aboriginal

and Torres Strait Islander people continue to be oversurveilled and overpoliced. Data from the *Victorian Government Aboriginal Affairs Report 2023* shows the number of young people processed by the police continues to increase and that the rate of young Aboriginal people processed by Victoria Police is nearly seven times greater than that of non-Aboriginal young people. An even more confronting bit of data is that since 2008 there has been an almost 50 per cent decline in the rate of police processing of non-Aboriginal young people and basically no decline for Aboriginal young people.

Earlier this year the government abandoned its plans to reform its bail laws, memorably described by a Victorian coroner as a complete and unmitigated disaster. This includes the removal of the presumption of bail and reverse onus provisions for minors. Currently around half of Aboriginal children are in youth detention because their bail was denied after being charged for petty offences. Instead of reforming bail the government is trialling an expensive electronic monitoring program on children as young as 14. In announcing the trial the Attorney-General stated that:

> … kids that have had significant trauma will be unlikely suitable for an electronic bracelet –

which makes me wonder what child would be suitable. I doubt there is a single child affected by these reforms who is not suffering from significant trauma, if not a range of other undiagnosed mental health conditions. How could they not be? The 50 or so young people who are the likely subjects of the trial have been known to child protection and the police since they were toddlers. Most have suffered a lifetime of abuse and trauma, with their first contact with child protection taking place before they had turned three and their first contact with the criminal justice system before they had turned 10. They have been in foster care, residential care or the last resort of home care for most of their lives. All have issues at school, most have been expelled and when these children have acted up in school or in resi care they have had the cops turned onto them. These traumatised young people have been aggressively policed and punished for behavioural issues long before they were involved in any criminal activity.

I would dispute that any of these young people should be on the electronic bracelet trial. There are alternative programs that could be trialled, many that are working successfully now, that do not involve further stigmatising, further traumatising and further entrenching young people in the criminal justice system. They are also a damn sight cheaper and I would hazard far more effective in encouraging young people to engage with school or a job and get their lives back on track. Shackling traumatised kids with electronic bracelets may go some way to appeasing the editors of the *Herald Sun* and their devotees opposite, but it will do nothing to break the cycle of trauma or to reduce crime. Eventually we will need to have a broader conversation about the costs of criminalising our young people.

One of the main reasons we turn up here to fight for cannabis law reform is that we know there are too many young people in detention because of our inhumane drug laws. We hear examples of this all the time – a young person on bail gets busted for possession of a bit of weed, and just like that they have breached their bail conditions. Look, we are not in the grip of a youth crime wave, and we should not be pandering to baseless beat-ups whipped up by sections of the media. Our young people are living through pretty tough times, and they need our support. Yet year on year we underfund those crucial services that do support our vulnerable young people and their families: domestic violence services, drug and alcohol services, mental health services, community legal services and early intervention programs. Services are underfunded, working at capacity and in many cases facing staffing cuts. But, hey, times are tough. Everybody needs money, and the government cannot fund everything. Yet they can find $34 million for an electronic monitoring trial that will inevitably fail. I am not suggesting that $34 million is anywhere near enough money to fix the issue, but off the top my head maybe diverting some of the $83 million we give to Victorian racing industry might help, because going by their latest annual report figures I reckon they are just fine without it.

Kids do not just end up as serious criminal recidivists, they become embedded in the criminal justice system because of systemic failures to care for them or support their family to care for them. As clichéd as it sounds, it all comes down to priorities. We can invest in prevention and early intervention, in

housing and education and in reducing the harms of poverty and homelessness that propel our young people into the criminal justice system, or the alternative is we can throw more money at policing and build more prisons. I doubt it will make our state any safer, but I guarantee it will certainly bankrupt it.

Business interrupted pursuant to standing orders.

Questions without notice and ministers statements

Child protection

Georgie CROZIER (Southern Metropolitan) (12:00): (621) My question is to the Minister for Children. Minister, a 14-year-old under your department's supervision, already on probation for involvement in a violent hit-and-run that left two cyclists seriously injured while he was on bail, now faces charges over a machete-wielding carjacking. Given the serious safety concerns involving children in care, what is the government doing to ensure these children receive proper supervision?

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (12:00): I thank Ms Crozier for her question. At the outset I would say that I obviously cannot comment on individual cases. I would also at the outset say that bail conditions and bail matters are obviously not a matter for me but for the Minister for Youth Justice and the Attorney-General. But I would say that in relation to all children in care, particularly high-risk children, my department works very closely with Victoria Police and with the department of justice to ensure that there is information sharing, planning and support for children in out-of-home care who might have such high-risk issues associated with them. We have high-risk youth panels which support multidisciplinary case review, planning, decision-making and service integration – collaborative decision-making – to support the child and those around them and in order to support the care teams who are working with those high-risk young people, some of whom absolutely might be involved in high-risk criminal behaviours. I would say at the outset, though, as I so often remind those in this place, we do want to say that correlation is not causation and that the children who are in out-of-home are in exactly that – out-of-home care. The services that are provided by out-of-home care are those that relate to ensuring that the child has a safe place to live. Decisions around bail are decisions for the courts and others.

Georgie CROZIER (Southern Metropolitan) (12:02): Minister, thank you for your response. I ask: what advice have you received as to how many children currently under state care are also on bail?

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (12:02): Again I cannot, as the minister for child protection, being responsible for providing care for children, comment on the various bail conditions or otherwise of children who happen to also be in care. Those children who are in care are in care for exactly that – a safe place to live. The thing that these children all have in common is that they need a safe place in which to live. The issues around high-risk children are managed by partnerships across government and across the various government agencies but in particular through providing support to the care teams.

Georgie Crozier: On a point of order, President, it was a very specific question around the number of children who are currently on bail in state care. The minister, if she does not know, can just inform the house. It is a very serious issue, and I would ask you to ask the minister to come back to answering that very specific question.

The PRESIDENT: I believe the minister was being relevant to the question.

Lizzie BLANDTHORN: Thank you, President. I again thank Ms Crozier for the question and again remind Ms Crozier that I am the minister for child protection. My responsibilities relate to the protection of children in care. Matters around bail and other youth justice considerations should be directed to the appropriate portfolio ministers.

Child protection

Georgie CROZIER (Southern Metropolitan) (12:04): (622) My question is again to the Minister for Children. Minister, PAEC heard that there were 215 incident reports of sexual abuse of children and young people in residential care as of May this year. The commissioner for children and young people has said that:

> … I continue to see children who are repeatedly missing from placement and victimised through sexual exploitation, with inconsistent and ineffective responses …

In response, your department said that:

> … young people placed in residential care are supervised by carers 24 hours a day, seven days a week …

Minister, what advice have you received regarding the inconsistent and ineffective responses the commissioner has referred to?

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (12:05): Thank you, Ms Crozier, for your question. Again, this goes to an issue we have discussed in this place a number of times in relation to the protection of children in out-of-home care, and as we have said, we are talking about many of the most vulnerable children in Victoria. The conditions that in the first place land these children so often in out-of-home care and particularly in residential care are also the same conditions that often place them at heightened risk of exploitation of all kinds, including sexual exploitation, and this is a responsibility that both I as minister and the community service organisation partners that we have that partner with us in the delivery of residential care take extremely seriously.

The department is working in collaboration with Victoria Police to protect those vulnerable children from exploitation, including sexual exploitation, and we have also acknowledged in the past that we need to do more in relation to this, which is why we were very pleased that in the 2023–24 state budget we built on previous actions by providing funding for additional sexual exploitation practice leads, who are central to the department's efforts in order to both identify and prevent sexual exploitation and to provide coverage to all areas across the state. This is funding that was provided in the 2023–24 state budget and which is being rolled out with the introduction of sexual exploitation leads in both the metropolitan and rural after-hours services in order to identify and prevent sexual exploitation outside of business hours, at night and over the weekend. The 2023–24 state budget investment enabled the department to increase the number of sexual exploitation practice leads from 11 to 19. This is obviously a very significant increase.

I was pleased to recently meet with some of those recruits at their training. I also met with the sexual exploitation practice lead in the south division – I think it was about the same week as PAEC, actually – and got to hear firsthand from her about her important work and the way in which that is working with other divisions as well, the way in which it is ensuring that we have additional capacity and capability to better enable detection and to share intelligence on sexual exploitation. It is important to note that when we have more staff dedicated to this task, we get better at finding the abhorrent conduct. This was a really important achievement of that previous budget allocation and one which I know that the commissioner for children and young people was most pleased by and was calling for at that time. It is also for this reason that we made that investment in the last budget in order to ensure that we are finding the people responsible for such exploitation and that we are holding them to account. Sexual exploitation is a very serious crime. It is a crime that is so often targeted at those who are at their most vulnerable, and we are dedicated to tracking them down.

Georgie CROZIER (Southern Metropolitan) (12:08): Minister, the commissioner also said that any progress made towards protecting the nearly 500 children in residential care could not paper over the impacts of any shortcomings in out-of-home care. You have referred to some of the things that the government is doing, but I would also like to ask: what is the government doing in response to the

commissioner's repeated calls for child protection and care providers to work with police to investigate perpetrators and stop the abuse of children in out-of-home care?

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (12:08): I thank Ms Crozier, and I am happy to repeat some of my earlier remarks. But as I have indicated, I have met with the police minister on this issue both in relation to high-risk youth and in relation to those who are at risk of exploitation, including sexual exploitation. This is a conversation that I have had with the Minister for Police. It is a conversation that is being had across departments. The work that I spoke to in my answer to the substantive question, in the way in which I have outlined all of the additional resources and capacity we are building into the fight against sexual exploitation of children, is happening across the system, and we are very much dedicated to ensuring that that work achieves its goal.

Ministers statements: community food relief

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:09): I rise today in my capacity as Minister for Housing, and last week we were able to announce 11 organisations who will receive a share of the $1.1 million community food relief funding earmarked in the 2024–25 budget. I want to give a huge thankyou to every organisation who continues to provide help and support to those who are doing it tough – we know that food insecurity is a challenge for people all over the state – helping them to put food on the table and in the bellies of their little ones, providing every essential item that they need, including those items that are of greatest importance to making and keeping a good clean house: detergent, bedding, toiletries, sanitary items. These organisations are the Community Grocer, St Vincent de Paul's soup van, Stonnington Community Assist, Uniting Hartley's Meals, St Mary's House of Welcome, Reaching Out in the Inner West of Melbourne, Merri Outreach Support Service, Flemington people's pantry, Emerald Hill Mission, Australian Muslim Social Services Agency and, finally, the Park Towers Community Pantry.

It was a real joy to return to Park Towers and to meet with Troy, who has been running the community pantry there for some time. Troy is a force of nature, and it was such a joy to return after his advocacy efforts alongside the extraordinary Nina Taylor in the other place to confirm a $250,000 grant to help him to provide additional support within community to an extra 1000 people as a result of this fund. His daughters Shilo and Amber are justifiably so proud of the work that he does to make sure that people who are most vulnerable, who do not have a voice of their own, are given what they need as a consequence of his advocacy. I want to say congratulations to Troy on achieving this outcome with, for and by his communities, and since opening its doors in 2022 the pantry has done remarkable work thanks to his efforts, his stamina and his dedication.

Construction, Forestry and Maritime Employees Union

Evan MULHOLLAND (Northern Metropolitan) (12:11): (623) My question is for the Minister for Skills and TAFE. The minister has claimed that spot checks are carried out as part of the Skills First training program. Why did the minister fail to direct her department to immediately conduct a spot check into the CFMEU after allegations of misconduct by union officials emerged in the media?

Gayle Tierney: On a point of order, President, I seek your guidance because I believe that this is a repeat of a question that was asked in the last parliamentary sitting.

Members interjecting.

The PRESIDENT: Order! Before you call a point of order, I will rule on this one, because it might acquit you. There have been many rulings that questions can be similar by a number of previous presidents. I appreciate the minister's point of order that it may be the same, but I do not believe it is. I just think it is similar, so I will call the minister.

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Regional Development) (12:12): I will give a very similar answer then. The fact of the matter is that I have not

received any criminal allegations from anyone. Not only that, the Premier has outlined a process that if people have got concerns of any criminal activity, they should be submitted to Mr Wilson. It is a process that is underway, and that is the correct process for anyone who has an allegation. I would encourage anyone who has an allegation connected or related to my portfolio to actually contact Mr Wilson and to have those allegations investigated.

Evan MULHOLLAND (Northern Metropolitan) (12:13): The minister has previously stated that the department runs all of that, but the ministerial code of conduct specifically states that ministers are accountable for the decisions of those who act as their delegates or on their behalf. Given that the minister is personally accountable for her department's action or inaction, why has she failed to seek assurances that there are no CFMEU officials who are also outlaw motorcycle gang or organised crime members delivering Skills First training?

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Regional Development) (12:14): Again, I believe that this is a question that has been previously asked and I have answered. The fact of the matter is that there is a process. I have not received any allegations. The fact of the matter is that there is a process where allegations can be placed, raised and investigated. That is the proper process, otherwise you have got a situation where there are processes cutting across processes and allegations are not getting fully ventilated.

Georgie CROZIER (Southern Metropolitan) (12:15): I move:

That the minister's response be taken into account on the next day of meeting.

Motion agreed to.

Police conduct

Katherine COPSEY (Southern Metropolitan) (12:15): (624) My question is for the Attorney-General. Attorney, I wanted to ask about the matter of the death of Aguer Akech, who was 17 years old. Police use flawed ID evidence, as reported in the *Guardian*, in the investigation into his murder, and because of this flawed evidence-gathering the case against the accused collapsed. Attorney-General, what is the government doing to address the failings of police in this matter, noting not only the failed evidence-gathering, which led to a botched prosecution, but the deep feelings of unease that have been left in the South Sudanese community over what they feel is a racialised investigation of this matter?

Enver Erdogan: On a point of order, President, I think this might be a matter best addressed to the Minister for Police in the other place. I am happy to seek your clarification, President.

Katherine COPSEY: On the point of order, President, I am happy to redirect it. I thought it may be for the Attorney, given the impact it had on the prosecution in this matter.

The PRESIDENT: Does the minister wish to respond?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:16): As always, I will try and be helpful. It is actually your question that I have the issue with, not the minister you have put it to, because what you are seeking is a government minister, whether that is the Attorney or the police minister, to comment on a specific investigation – whether it is the investigation conducted by police or indeed the court processes. I think where I could be most helpful is probably regarding police oversight and my role in relation to the policy oversight and policy development of supporting IBAC's role in police oversight. Indeed, as you would be aware, Ms Copsey, we are looking at those matters. We have conducted a comprehensive review – that was a recommendation that we have acquitted. We do know that all Victorians rightly expect a robust oversight system for police, and we expect the highest standard of integrity from our police officers. There is ongoing work. I am on the record saying that more needs to be done. As I said, the systemic review was to really understand the experience of complainants and victims, and those that want to see changes have certainly been heard. The work remains a priority for me. I have more work to do in bringing that to

the Parliament, but we are in the process of targeted consultation now with the stakeholders as a result of the initial broader consultation, so that work is progressing, and I will have more to say in due course in relation to changes and indeed legislative proposals for the consideration of the Parliament.

Katherine COPSEY (Southern Metropolitan) (12:18): Yes, the Attorney has actually pre-empted in part my supplementary, so thank you for taking this, Attorney, and for your response so far. In this case, the police who have done the wrong thing have also been prevented from being identified due to the function of section 534 of the Children, Youth and Families Act, which was designed to protect young people in these matters but is actually inhibiting police oversight in this particular case. Attorney, you have spoken to the progress the government is making on police oversight generally. I am interested to know if that includes reviewing the operation of this section or progressing the creation of an independent police ombudsman.

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:19): I thank Ms Copsey for her question. It is not appropriate for me to produce the legislative response in an answer to a question in question time. But I can assure you that matters such as the one you have raised have all been fed into the consultation process, and when it comes to bringing the product, I will certainly give you advance notice of that.

Ministers statements: victims of crime commissioner

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:19): I rise to update the chamber on the recent appointment of the new victims of crime commissioner Ms Elizabeth Langdon. Experiencing crime can have a devastating impact on a person's life, and too many victims of crime tell us that they feel silenced by the justice system. That is why the commissioner is so important, to advocate for victims' rights and provide advice to government on issues affecting them. Ms Langdon has been appointed for five years, and I am confident she will use her extensive experience to provide an effective voice for victims. The commissioner also has a range of regulatory duties. The new commissioner will have a major new project starting later this year: a review of the victims charter. The victims charter establishes the basic rights and entitlements of victims of crime and has been supporting victims of crime for almost 20 years, after it was introduced by the Bracks Labor government in 2006. Ms Langdon will play a vital role in making sure it remains contemporary and fit for purpose. I look forward to receiving the outcome of that statutory review late next year.

By the end of this year the commissioner will also have a new part of her job: overseeing the financial assistance scheme. This follows the Allan Labor government's overhaul of the support we provide to victims of crime to help them recover. With her extensive experience, Ms Langdon is well suited to the tasks and duties ahead. I look forward to working closely with her. And of course I would like to thank the outgoing victims of crime commissioner Fiona McCormack for her tireless advocacy on behalf of victims. No government has done more to support victims of crime than this Labor government. But there is always more to do, and with the support of experts like Ms Langdon the Allan Labor government is getting on with the job.

Bushfire preparedness

Melina BATH (Eastern Victoria) (12:21): (625) My question is to the Minister for Emergency Services. In 2023 your government announced a strategic firebreak program to protect our vulnerable communities. With another summer approaching, can you advise why these firebreaks to protect human life have not been completed, and in most cases not even started?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:21): Whilst I welcome any question in relation to fire preparedness in my role as Minister for Emergency Services, the specifics of what Ms Bath is seeking would ordinarily fall more within the remit of DEECA and the Minister for Environment. Of course CFA volunteers are regularly engaged to do back-burning and firebreak-type activities, but what Ms Bath is referring to would more appropriately

fit within the remit of the Minister for Environment. But, as always, these are such matters that can be discussed at our summer preparedness briefings that we provide to all members of Parliament, so any specifics like that that Ms Bath would like addressed at that briefing, which is normally in around October, we can certainly factor that in, and if there is any advanced information that she requires, I am more than happy to take it on notice in my capacity as acting for the Minister for Environment to get her a full picture of those types of activities.

Melina BATH (Eastern Victoria) (12:23): I thank the minister. I understand that you can have a briefing in October; however, actual bushfire mitigation and firebreaks need to happen prior to the start of the fire season. It is too late by October. The reason is that they are not being done. One of the firebreaks on Sydenham Inlet Road, which is the only road in and out of Bemm River – the community is calling for this firebreak to be installed before summer and is concerned that the lack of fuel reduction burning is also putting this community at highly vulnerable risk. The CFA at Bemm River often conduct these sorts of fuel burns and provide cover. Can the minister assure us that this community will be protected by engaging all of those activities – CFA fuel reduction and firebreak programs – before the start of summer to protect human life at Bemm River?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:24): Ms Bath, it is squarely the responsibility of the Minister for Environment, that question. If you would like me to direct it to him to provide you an answer, I can do that. It is my advice that those representations that you have made on behalf of members of your community have already been made directly by those members of the community to the appropriate minister and his department.

Kangaroo control

Jeff BOURMAN (Eastern Victoria) (12:24): (626) My question today is for the minister representing the Minister for Agriculture in the other place. Farmers are reporting exploding kangaroo numbers whilst at the same time having their authority-to-control-wildlife permits reduced to pointless levels. Professional shooters are not making up the numbers, which has led to the situation we face today. My question is: what will the government do to overhaul the authority-to-control-wildlife system to ensure that farmers are getting their permits in a timely fashion and for suitable numbers relevant to their situation, not a made-up number in the hopes that professional shooters will do the rest?

Jaclyn Symes: Mr Bourman, you directed that to the Minister for Agriculture. I think it needs to go to the Minister for Environment because the Minister for Environment has policy responsibility for those permits.

The PRESIDENT: I think Mr Bourman is happy with that. The minister representing the Minister for the Environment, Ms Tierney?

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Regional Development) (12:25): I am happy to do that.

Jeff BOURMAN (Eastern Victoria) (12:25): My question is for the minister representing the Minister for Environment in the other place. Farmers are reporting exploding kangaroo numbers whilst at the same time having their authority-to-control-wildlife permits reduced to pointless levels. Professional shooters are not making up the numbers, which has led to the situation we face today. What will the government do to overhaul the authority-to-control-wildlife system to ensure that farmers are getting permits in a timely fashion and for suitable numbers relevant to their situation, not a made-up number in the hopes that the professional shooters will do the rest?

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Regional Development) (12:26): Thank you, Mr Bourman, for your supplementary. I will refer that matter to the Minister for Environment.

Ministers statements: WEstjustice

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:26): Last week I had the pleasure of opening WEstjustice's brand new offices in the heart of Sunshine. Alongside the Minister for Youth and the members for Laverton, Point Cook and Footscray, I had the opportunity to tour and launch the new office, accompanied by WEstjustice's new strategy for 2024–27 – a testament to their commitment and dedication to continuing to help vulnerable communities in the west. We heard from Susie King, board director, and Melissa Hardman, CEO, about the vital services that WEstjustice provides and the growing need in those communities.

As I have said in this place many times, community legal centres are awesome. They provide critical legal assistance to the most in need, and as was outlined to us at the launch, they provide so much more – early intervention work, supporting vulnerable community members in other aspects of their lives and really making a difference and ensuring people do not become entrenched in the justice system. They also do a mountain of work in the advocacy and policy space, and their work and excellent endeavours are about evidence-informed submissions. They are frequently considered by Parliament and the government.

I had a chance to tour the office, and it is so great that legal practitioners, who should be interested and encouraged to join community legal centres, have the opportunity to work at a place like WEstjustice. This is a facility that has an updated and fit-for-purpose environment, which is really what those workers deserve, matching their dedication and commitment. I do encourage anybody in the west to drop in. It is on Clarke Street, located close to the train station. It is a testament to accessibility to justice as practitioners, clients and broader support staff can easily be found in the digs, as well as other supporting organisations in that hub. It was a wonderful event. I do also note Mr Ettershank was there. You cannot miss Mr Ettershank when you are at an event, but I am sure he joins me in congratulating WEstjustice on the work that they do.

Construction, Forestry and Maritime Employees Union

Georgie CROZIER (Southern Metropolitan) (12:28): (627) My question is for the Attorney-General. Attorney, as first law officer, can you clarify if a CFMEU official needs to be a fit and proper person under Victorian law in order to work on a taxpayer-funded project?

Members interjecting.

The PRESIDENT: Order! I am struggling to see how the question falls within the minister's responsibility. What I will do is I will ask the minister, and she will answer in the way she sees fit.

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:29): It is a common misconception. The Attorney-General, the first law officer of the state, is not responsible for every law that operates in the country of Australia or indeed impacts on Victorians in this instance. Ms Crozier may be advised to freshen up on industrial relations laws and how they operate in the state of Victoria.

Georgie CROZIER (Southern Metropolitan) (12:30): I note this is a very testy issue for the government – the CFMEU and the corruption that has occurred – a very testy issue indeed. My supplementary around this issue, which is a very serious one for the community given what has been happening in the state of Victoria, is: is the government currently investigating changes to the law which would require a CFMEU official to be a fit and proper person in order to work on a taxpayer-funded project?

The PRESIDENT: What I am struggling with is the minister's answer saying that it does not fall within her remit whatsoever.

David Davis interjected.

The PRESIDENT: I am getting there, Mr Davis. It is me pondering out aloud. I am struggling a bit with that. But I will ask the minister, and once again she can answer as she sees fit.

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:31): I thank Ms Crozier for her question, and again, question time is not the appropriate place to formulate legislation and laws. But what I can confirm, which may be of assistance to Ms Crozier, is that I am already on the public record in relation to these matters that the government is considering and will soon bring to this place anti-association laws, which may fit within similar themes to which Ms Crozier is referring. But I am really stretching my helpfulness in using that as a response to her question, because her question, again, does really fall within the remit of the federal industrial relations system.

Housing

Sarah MANSFIELD (Western Victoria) (12:32): (628) My question is for the Minister for Housing. The most recent public figures show that Colac has 246 households on the priority housing waiting list. Over the past year there have been several public promises to build 50 new public homes in Colac, including by former Premier Daniel Andrews. As recently as 13 October last year, during the Commonwealth Games select committee inquiry hearing, Simon Newport, CEO of Homes Victoria, confirmed the 50 homes planned for Colac were specifically public housing. Recent reports state that this is no longer the case and that there will now be 30 social homes and 20 affordable homes built at this site. Minister, is it true that there will now be no public housing at this site?

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:33): Thank you, Dr Mansfield, for that question. There are a few things in your question that I do want to address, particularly around the assistance that we are providing through a range of funding sources. There is the Big Housing Build, as you know. But then there is also the Regional Housing Fund, and at the same hearings last year we actually had an exchange in relation to the provision of housing under the latter fund, which is the $1 billion under the Regional Housing Fund for the purposes of at least 1300 additional social and affordable homes across the state. We are determined to provide housing across rural and regional Victoria that meets the needs of families and communities, again, in a variety of different configurations, and that also sits alongside the $150 million fund that Minister Tierney is administering for worker accommodation across rural and regional Victoria.

The Colac homes that you have referred to are about making sure that we can provide housing and support for people, including in response to natural disaster and emergency, and those homes were announced as part of the first tranche of allocations under the Regional Housing Fund, as well as the partnerships that we are working on across the Big Housing Build. We will continue to work to develop that social housing, and it will be done in consultation and in partnership with local government and with other agencies and community organisations who can provide that wraparound support. I am looking forward to continuing those conversations and very happy to provide you with briefings as those projects progress.

Sarah MANSFIELD (Western Victoria) (12:35): That did not actually answer my question, though, Minister. It was specifically about whether there would be any public housing at the site. I will take your answer as possibly a no. But the Greens have heard from many constituents who have been successful in the government's affordable housing ballot but then have gone on to be denied housing because their income was deemed too low. The acceptable rent-to-income ratio is up to 30 per cent of total income for people to be eligible for affordable housing. I note that the average rent-to-income ratio in Victoria is over 30 per cent, so most people are technically earning too little to be able to access affordable housing. So given your government's income test for affordable housing, will those who are on the priority waiting list in Colac be eligible to live in the 20 affordable homes that you are proposing at this site?

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:35): Dr Mansfield, I really wish you had asked that as the starting point for the question,

because you have raised some really significant issues around the interface between affordable housing and the definitions in the planning and environment control act and the way in which social housing operates. This is something that I have also raised with the Commonwealth at the ministerial council discussions that we have been having around Australia. This is not a unique issue for Victoria. We are looking at the gaps between the systems whereby affordable housing kicks in and social housing ends, and it is my determination and commitment to this place and indeed to you that we continue to work to identify where those gaps arise so the people who are sitting on the edges of those eligibility criteria are able to access housing that is fit for their needs. Again, affordable housing, as you know, is defined by the terms and the amounts of income set out in the planning and environment control act, and we do want to make sure that we are calibrating that amount to what it is that people need by way of housing. In regional Victoria that amount, as you would know, is set lower in reflection of the incomes that people have outside of Melbourne. I am very happy to provide you with an additional briefing and information on that Colac site as it relates to social housing but also affordable housing there and then more broadly across the Colac area.

Ministers statements: TAFE sector

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Regional Development) (12:37): Last week I had the pleasure of opening the TAFECreates conference at RMIT, celebrating the indispensable role of TAFEs in Victoria. For the first time the conference was hosted at one of our dual-sector institutions, RMIT University, and the Storey Hall setting was spectacular. The conference room was standing room only, full of leaders, educators and policymakers from across TAFEs and the dual-sector universities, all committed to ensuring we deliver the best possible vocational education for the future. Our TAFE network is on the balls of its feet to respond to the changing needs of students, industry and the economy. The conference served to leverage collective knowledge and enhance Victoria's TAFEs to benefit students, industry and our communities. There was palpable excitement as the network considered the game changer presented by the National Skills Agreement to support Victorians to achieve their dreams. Our commitment to the TAFE network is why the Allan Labor government has invested over $4.6 billion since 2014 into training and skills. This includes $555 million through our most recent budget, which invested $394 million to boost access to free TAFE and training services. Since its inception in 2019, more than 175,000 students have benefited from free TAFE, saving over $503 million in tuition fees. As I have said to the leaders, teachers and professionals of our incredible TAFE network, together we are building a future where every Victorian has access to quality education and the opportunity to thrive. This is the vision and this is the reality that TAFE creates.

Written responses

The PRESIDENT (12:39): Minister Tierney will get a response from the Minister for Environment for Mr Bourman, and Minister Symes answered Ms Bath's question in her capacity in terms of that government forum. As far as the extra information she offered in the supplementary goes, that is outside the standing orders, because we do not want to set a precedent that a minister answers in her capacity and then we have a second one. So outside the standing orders, we appreciate that she will get Ms Bath the information.

Michael Galea: On a point of order, President, it has come to my attention that yesterday two members of the Legislative Assembly publicly rebroadcast the Legislative Council's IPTV feed in open defiance of the broadcast terms and conditions of April this year and your ruling in May this year. I am concerned that this action by the member for Richmond and the member for Melbourne during yesterday's third general business slot shows a lack of respect for Parliament and indeed a failure to meet the high standards of conduct that are expected of all of us. I seek your guidance as to whether this action was appropriate given, I believe, it is in direct defiance of your ruling.

Samantha Ratnam: On the point of order, President, just to clarify what the request that has been made of the Presiding Officer in this case is. My understanding is that a broadcast of the public stream

is not contained within the restrictions. There are two different types of streams: one is a stream within the Parliament and then there is a public stream. My understanding is that the public stream was being broadcast, so just for clarity's sake I think it is important to understand what we are asking the Presiding Officer to investigate and to make sure the proper request is being made based on accurate information, not misinformation.

Michael Galea: Further to the point of order, President, I am happy to provide evidence that it was in fact the IPTV feed.

The PRESIDENT: That would be helpful, Mr Galea. I will take this into consideration. There were clear guidelines reiterated after a previous incident, so I will get back to the house. The issue that I will have to consider is we are talking about two members of the Parliament that are not in this particular chamber, in terms of where my remit lies, but I will get back to the chamber on that point of order.

Georgie Crozier: On a point of order, President, I would seek your guidance in relation to the answer given by the minister to my supplementary question for question one. It was quite specific around the number of children under state care who are currently on bail, and I am wondering if you could review that answer to see if it could be reinstated, please.

The PRESIDENT: I am happy to review it, Ms Crozier. It is always difficult in real time. The minister's answer was that it is not for her to comment on bail – that is the way I took it at the time. I will review it and get back to the house. I think we have got a bit of time today, so I will get back sometime this afternoon.

Constituency questions

Southern Metropolitan Region

Ryan BATCHELOR (Southern Metropolitan) (12:43): (1029) My question is to the Minister for Housing. How is the Victorian Labor government helping to address cost-of-living and food security issues for our most vulnerable residents in social housing? As the minister outlined in ministers statements today, in Southern Metropolitan nearly $450,000 has been made available to support food relief providers. It is an exceptionally welcome investment from the state, including $250,000 for the pantry at Park Towers in South Melbourne; for Stonnington Community Assist and Uniting Hartley's Meals, both in Prahran; and for the Emerald Hill Mission in Port Phillip, each receiving $66,000. The pantry, as the minister said, provides for more than 2400 households in Park Towers, supporting up to 600 residents every night. Stonnington Community Assist helps with food relief and advice. This Labor government is standing to protect those who are the most vulnerable in our society, providing families with reassurance they can access the food they need when they need it.

North-Eastern Metropolitan Region

Nick McGOWAN (North-Eastern Metropolitan) (12:44): (1030) My constituency question is in respect of a development. The government committed back in 2021 to undertake the development of 62 affordable homes in Mitcham. In particular those homes were supposed to accommodate low-income families. I would be very grateful if the minister were able to update the house and provide an understanding at least of where that project is at, in McDowall Street, Mitcham – as I said, 62 affordable homes to accommodate low-income families in the suburb of Mitcham in my electorate of Ringwood. We would certainly appreciate the update. It has been some time now. I understand that these projects can sometimes be delayed. Some of it is to be expected. Nonetheless time is marching forward. I know that the constituents locally are very keen to see as many affordable housing opportunities as is humanly possible, and I certainly for one would welcome the minister's update on that initiative.

Northern Metropolitan Region

Adem SOMYUREK (Northern Metropolitan) (12:45): (1031) My constituency question is directed to the very popular and hardworking Minister for Environment Steve Dimopoulos about the concerns of my local residents about the proposal to construct a waste processing facility in Wollert. The proposed facility is projected to process more than 380,000 tonnes of waste material which otherwise would be sent to landfill. My office has been approached – inundated, I should say – by residents cynical about the project, referring to it as an incinerator and pointing out that such a facility would not be built in Toorak and Brighton. I think it is a matter of fact that it will not be. Residents claim that they are being taken for granted by the Labor Party because they live in struggling migrant communities. I ask the Minister for Environment to take action to ensure that my constituents are appropriately and fully consulted on this particular project, because at the moment they do not think that their voices are being heard.

Eastern Victoria Region

Tom McINTOSH (Eastern Victoria) (12:46): (1032) My question is to the Treasurer in the other place. Under the Allan Labor government, business investment in Victoria was almost 6 percentage points higher than the rest of Australia last year, and we are not slowing down. We are replacing stamp duty on commercial and industrial properties with a more efficient tax, lifting the payroll tax free threshold by $300,000 and abolishing insurance duty. Combined these three reforms will save Victorian businesses around $900 million over the next four years, and the stamp duty reform alone is expected to generate up to $50 billion in economic benefits over the next 40 years and create around 12,000 jobs. We have also continued to back in Victorian businesses in our budget, with $555 million to build our state's future workforce, $40 million for LaunchVic to support innovators and entrepreneurs and $9.4 million to attract more international businesses. Treasurer, how is the government cutting red tape to businesses like Red Gum BBQ on the peninsula and Gurneys Cider in Gippsland to lower the cost of living and make it easier for small businesses to operate in Eastern Victoria?

Southern Metropolitan Region

David DAVIS (Southern Metropolitan) (12:48): (1033) My matter is for the attention of the Premier, and the reason for that is this crosses a number of portfolios. I am particularly concerned about my electorate of Southern Metro, as I have had a number of Jewish community members and individuals come to me concerned and fearful about the ongoing demonstrations organised by pro-Gaza Palestinian groups and others. What we need finally from the Allan Labor government and from Jacinta Allan herself is unequivocal condemnation of the threats, the implied violence and the inherent antisemitism that is involved. We have seen the weakness of the minister for tertiary education and the failure to deal with the university campuses, but we also have these large demonstrations and the diversion of massive police resources. We have got a youth crime crisis on one side and police being diverted in their thousands to deal with the matters around Gazan protests. So I call on the Premier to start organising a whole-of-government response with clear communications that say enough is enough. This is not acceptable, and we need to respond with a whole-of-government response.

South-Eastern Metropolitan Region

Rachel PAYNE (South-Eastern Metropolitan) (12:49): (1034) My constituency question is for the Minister for Public and Active Transport. My constituent is a resident of Dandenong who commutes regularly from Yarraman station in Noble Park. While parked at this station last year, my constituent returned to her car to find her catalytic converter had been stolen in broad daylight. This left my constituent with hefty bills for insurance and repairs. According to 2023 data from the Crime Statistics Agency, car theft in Noble Park has increased by 25 per cent from the previous year. Lighting and CCTV coverage at Yarraman station car park is minimal, allowing little recourse for victims of these

crimes to seek justice and financial compensation. So my constituent asks: what will the minister do to deter crime at Yarraman station to ensure the safety of commuters and their property?

Eastern Victoria Region

Renee HEATH (Eastern Victoria) (12:50): (1035) My question is for the Minister for Transport Infrastructure regarding the long-promised Lang Lang bypass. This bypass is much needed and has been on the drawing board for many years. During the last state election, the coalition committed $1 million to complete the initial planning; however, there has been no word from the Labor government since. My question for the minister is: what is the latest on the Lang Lang bypass? Have any funds been provided for or decisions made about the bypass, and what work has been undertaken since the last election?

Western Victoria Region

Sarah MANSFIELD (Western Victoria) (12:51): (1036) My question is to the Minister for Public and Active Transport. In June, the long-awaited Torquay and Armstrong Creek bus network reform commenced, promising 500 new weekly bus services, with more services and stops throughout the rapidly growing communities of Torquay and surrounds. The reality for constituents is very different. The new network is not fast, frequent or far reaching. The reality is a reduction in services, new services being dropped and the rapid bus service being scrapped. Will the minister commit to revisiting the bus network review to ensure it delivers on its promise for the people of the Surf Coast?

Northern Victoria Region

Wendy LOVELL (Northern Victoria) (12:51): (1037) My question is for the Minister for Roads and Road Safety. When will repair work start and finish on the Tylden-Woodend Road and the Kilmore Road from Monegeetta to Gisborne? The recent *My Country Road* report by the RACV, based on a survey of 7000 Victorians, has revealed that the top four worst roads in Victoria are all in my electorate in the Northern Victoria Region. Two of the top three worst roads in Victoria are in Macedon Ranges shire: the Tylden-Woodend Road, C317, and the Kilmore Road, C708, from Monegeetta to Gisborne. The member for Macedon Mary-Anne Thomas said that she has been advocating for investment in these roads, but she cannot have been advocating very hard, because these roads have been atrocious for years. Ms Thomas told our local paper that both of these roads are on the priority list for the upcoming season's works. The residents of Macedon will believe it when they see it. Victorian regional roads are in ruins after a decade of Labor neglect, and two of the worst roads are in Macedon.

Northern Victoria Region

Rikkie-Lee TYRRELL (Northern Victoria) (12:52): (1038) My question today is for the Minister for Health. Four years ago, the world changed in a way that had not been seen for over 100 years. The COVID-19 pandemic caused chaos, panic and disorder in ways that we, as a society, had not seen before. During this time, vaccine mandates were introduced to 'keep everyone safe and stop transmission'. Now the world has returned to normal, yet to this day, vaccine mandates remain for our hardworking doctors, nurses, midwives, police, paramedics and firefighters, including many in my electorate of Northern Victoria Region. Victoria is one of the only states that still has these mandates in place. Amid a severe healthcare worker shortage, nurses are leaving Victoria for the same work interstate, and police, fire and ambulance officers remain furloughed at a time when we need them more than ever. My constituents ask: will the minister follow the rest of the country, drop the mandates and allow these people back to work?

Eastern Victoria Region

Melina BATH (Eastern Victoria) (12:53): (1039) My constituency question is for the Minister for Roads and Road Safety, and it relates to the San Remo bridge. There is one bridge in to and one bridge out of Phillip Island, a great area in my electorate. My constituent is concerned about the bridge's

structural integrity. Seen at low tide, there appears to be concrete cancer, visible cracking, chunks of concrete floating away and evidence of rust. The Department of Transport and Planning is currently undertaking a level 3 bridge investigation. My resident wants to know: when will the final report be presented to government, and will it be released in full for community understanding and transparency?

Northern Metropolitan Region

Samantha RATNAM (Northern Metropolitan) (12:54): (1040) My constituency question is to the Minister for Transport Infrastructure. The Broadmeadows community have raised the ongoing neglect of safety and infrastructure around Broadmeadows train station for many years now. This station precinct is used by thousands of locals, including elderly people and students, who witness incidents on a daily basis. The station is relied on heavily by the community to get to work, school, university and services; however, the Labor government has failed to keep its commitment to redevelop the train station precinct to meet the community's needs. A redeveloped station would help meet the needs of the growing size of the community and their safety and security, especially for women using the station and its underground section after dark and people using wheelchairs, prams and mobility aids, who currently do not have any easy way to access the platforms. I understand that the station is being considered to become a transport superhub but not until 2056. Minister, this timeline completely ignores the pleas of the Broadmeadows community and Hume City Council to redevelop the station as a matter of priority. My question, Minister, is: will the Labor government commit to redeveloping Broadmeadows train station so that it is functional and safe as a matter of priority within the next two years?

Northern Metropolitan Region

Evan MULHOLLAND (Northern Metropolitan) (12:55): (1041) My constituency question is for the Minister for Public and Active Transport, and it is to support the Northern Councils Alliance's long overdue campaign to extend and duplicate the Upfield line. The Northern Councils Alliance represents over 1 million Victorians – a large number of them are in my electorate. This week they have launched another campaign to duplicate the Upfield line to connect it to Roxburgh Park and electrify the Craigieburn line all the way to Wallan. This has appeared in Public Transport Victoria development plans for years and years and years, where you get all the experts together and map out the growth needs of Victoria, but because the state government is putting all of its eggs in one basket with the $216 billion Suburban Rail Loop the north misses out. The level crossings on the Upfield line – scrapped. Level crossings – scrapped. Priorities are not where the growth is required. The government is setting 300 per cent housing targets for these areas but is failing to invest in the infrastructure.

Northern Victoria Region

Georgie PURCELL (Northern Victoria) (12:56): (1042) My constituency question is for the Minister for Environment. Earlier this week I was contacted by constituents in Chewton after a kangaroo was pierced through the skull with a bow and arrow and left to die. It is the second time in a week a bow-hunting attack on wildlife has been reported to authorities. In fact residents tell me that animals are often brutally attacked in this way, but still nothing is being done to regulate the sale and use of bows in Victoria. I have raised it in here many times. It continues to happen, and the minister continues to ignore us. You do not need a licence to possess a bow and arrow in this state, and if one is shot illegally, there is essentially no way at all to trace it back to the perpetrator. My constituents are sick of these regular incidents in Northern Victoria and want to know when the minister will ban bow-and-arrow hunting just as South Australia is doing right now.

Northern Victoria Region

Gaelle BROAD (Northern Victoria) (12:57): (1043) My question is for the Minister for Veterans, concerning the Doreen RSL. Within the suburbs of Doreen, Hurstbridge and Yarrambat, according to

ABS data, there are 115 serving members of the Australian Defence Force and more than 650 veterans. The Doreen RSL branch has over 180 members, including many returned services personnel with young children in need of a safe place to meet. The branch together with the Whittlesea council has looked at a number of options and is yet to find a suitable premises. The Doreen RSL want to honour a promise they made to their first president, the late Whittlesea councillor John Butler, a retired colonel, that they would get a place where veterans of the community could go to have a chat and help each other through the good times and the bad. To honour our veterans I would appreciate the minister's support to meet with the Doreen RSL branch and help find a solution.

The PRESIDENT: We have exceeded the amount of constituency questions, but we have only got two more. I reckon we forge ahead and call Mr Limbrick.

South-Eastern Metropolitan Region

David LIMBRICK (South-Eastern Metropolitan) (12:58): (1044) My question is for the Minister for Transport Infrastructure. Over the past few months there has been a string of traffic incidents along Thompsons Road in South-East Metro. At the intersection of Lonsdale Crescent in Cranbourne a streetlight was knocked over by a speeding vehicle which launched over the wrong side of the road and into a fence. The traffic island is still littered with debris from the streetlight and car. Another scene occurred at the Western Port Highway intersection in Lyndhurst, where a road sign was knocked over and the traffic barrier was damaged. Debris and bunting continue to litter this scene. Both locations have seen this refuse blow onto the road during extreme weather, causing more safety concerns for motorists. Minister, when will the government clean up these traffic hazards?

Western Victoria Region

Bev McARTHUR (Western Victoria) (12:59): (1045) My question for the Minister for Public and Active Transport concerns V/Line's plan to make permanent the unpopular and unattractive mechanical boom gate installed at Ballarat's Lydiard Street level crossing. The Heritage Victoria permit allowing the removal of the heritage gates in the historic rail precinct required an assessment and public consultation on restoring the timber gates, yet despite the gates causing no previous safety issue V/Line now claims they cannot be safely restored. As I said last sitting week, V/Line's taxpayer-funded VCAT case against the information commissioner's ruling – the justification they released is disgraceful. Last night Ballarat council's planning committee unanimously objected to V/Line's efforts to ditch the gates, questioning the safety argument and correctly stating that V/Line's plan to display various portions of the gates in separate locations would be a confusing mess. Minister, when will you intervene to ensure the original gates are restored and the heritage precinct is protected?

Sitting suspended 1:01 pm until 2:02 pm.

Bills

Youth Justice Bill 2024

Second reading

Debate resumed.

Samantha RATNAM (Northern Metropolitan) (14:02): Just before I begin my formal contribution, I would like to circulate some further amendments on behalf of my colleague. These are in lieu of amendments 23 and 24 on sheet KC27C. I ask for them to be circulated now.

Amendments circulated pursuant to standing orders.

Samantha RATNAM: I rise to speak on the Youth Justice Bill 2024. It has been an extraordinary and devastating week, extraordinary for the chaos in this place, devastating for the regression we are witnessing when it comes to supporting our young people in this state and keeping them out of the criminal justice system. My colleague Ms Copsey has outlined in detail the Greens' position on this bill. I thank her and her team for the mountain of work they have been doing in preparation for this

bill throughout this year and for the amendments we will be moving to make this bill better. While I will not cover the ground that she has so well, I want to focus my contribution on one of the central tenets of this bill and the issue that has garnered the most attention this week, and that is Labor's decision to renege on its promise to raise the age of criminal responsibility to 14 years of age.

After years of advocacy, good-faith negotiations and trust being built, the government has committed an act of betrayal by withdrawing support for raising the age to 14. I think it is important for this Labor government to understand the depth of their betrayal. They need to understand that this broken promise is much more damaging than they probably think, so allow me to amplify what First Nations leaders and organisations have said, especially this week, in this state, on stolen Aboriginal land where First Nations young people are subjected to racist policing and over-incarceration. These community leaders are the most important stakeholders. Firstly, the Victorian Aboriginal Legal Service said:

> The Victorian Government's Treachery Will Continue The Overincarceration Of Aboriginal Children
>
> "White promises can disappear, just like writing in the sand."
>
> …
>
> Aboriginal children are targeted by racist policing and courts. The Victorian Government's decision to abandon this reform means she has chosen to continue to subject our children to the trauma of racist and violent policing.
>
> VALS, along with the Aboriginal Justice Caucus, have worked on the Youth Justice Bill with Government for over 5 years. To have a crucial reform gutted from the Bill at the very last minute and without consulting us is truly shameful.

VALS chief executive Nerita Waight went on to say:

> "It's obvious that the Victorian Government has caved to a scare campaign from Victoria Police and the Herald Sun. Neither of them will reward the government for bending the knee."
>
> "It will be very hard for Aboriginal communities to trust this Government now that we know she will ditch their commitments."

Antoinette Braybrook, the CEO of Djirra, a First Nations family violence and support legal service, said they were 'shocked and dismayed' by the Allan Labor government's decision to break its promise to raise the age of criminal responsibility to 14 years by 2027.

> The youth crime wave narrative we are all reading about and seeing in the media is not reality.
>
> …
>
> Children do not belong in the criminal justice system …Our children belong with their families and thriving in their culture and identity.
>
> …
>
> Now is not the time for the Allan Government to back out, it is time to show real leadership and follow through on its commitments to our people and our self-determination. We no longer accept a betrayal of our trust. Our kids deserve better.

The First Peoples' Assembly co-chair Ngarra Murray said:

> Like every Aboriginal mother hearing this news, I am deeply disappointed and concerned. Children need support to learn from mistakes, not getting caught up in a broken system that inflicts more harm than good.

Assembly co-chair Rueben Berg said:

> The Premier has previously demonstrated she can work in good faith with First Peoples, but the decision taken yesterday is in stark contrast to this decision. It flies in the face of recommendations arising from the Yoorrook Justice Commission's truth-telling process as well as countless other reports and inquiries.

Chair of the Yoorrook Justice Commission Professor Eleanor Bourke said:

> The Government's promise to raise the age to 14 was seen as a critical step towards rectifying historical injustices faced by First Peoples. This would move towards a more just and equitable system. Today that promise has been broken.

Deputy chair of the Yoorrook Justice Commission Adjunct Professor Sue-Anne Hunter said:

> The evidence shows that criminalising young people at an early age doesn't rehabilitate them, it puts them on a pipeline to the adult justice system and a life of disadvantage and injustice.
>
> This decision means our people will continue to suffer for generations to come. But if we amend the law and raise the age, everyone benefits.

The Human Rights Law Centre said:

> No child should ever grow up in a prison. Premier Allan breaking the promise to raise the age to 14 by 2027 is a heartless move which will break children's lives and cause avoidable lifelong harm.

It is appalling that this government intends to go back on its word and their previous commitments to raising the age. Raising the age to at least 14 is underpinned by extensive evidence and expert advice. And the Attorney-General herself, Jaclyn Symes, in evidence to the Yoorrook Justice Commission, recently said:

> … I don't want to be a government that's building prisons. I want to be investing in ensuring that young people in particular are diverted away from crime so they are not in youth detention and certainly not … in adult detention later on … I think raising the age is a way of doing that because we are committing ourselves to a health and wellbeing response, not a justice response for that cohort …
>
> …
>
> … my personal commitment to particularly the Aboriginal advocates is we're getting on with this to get it done by '27.

That was in reference to raising the age to at least 14 years.

Daniel James, in a *Guardian* article titled 'Victoria's about-face on raising the age is its surrender to a fear campaign', wrote:

> In the end what has resulted is a slap-dash legislative response to a complex issue by a government that seems to see its relationship with the most vulnerable and maligned section of society as no more than transactional.
>
> The decision will calm the nightly news cycle, the government can now point to what it is doing to tackle youth crime, but it has forever damaged the relationship with Victoria's First Nations communities.
>
> …
>
> In a broader sense, the about-face from the Allan government is another blow to the First Nations community of Victoria, and it comes at a critical time. For in the coming days and weeks Aboriginal and Torres Strait Islander people residing in Victoria, including traditional owner groups, are expected to enter into treaty negotiations with the state of Victoria. The decision not to raise the age of criminal responsibility, despite a myriad of statements to the opposite, further erodes any good faith that still exists.
>
> Victoria used to pride itself on being the most progressive state in the country, but with each day that passes it seems to be reducing into your regular run-of-the-mill ex-colony captured by vested interests and headed by a political class without the courage or vision required to move beyond the shackles of the 24-hour news cycle, let alone our own history.

We have canvassed for years in this place the reasons why children do not belong in jail, and the main reason is because they are children. It seems completely incongruous that in one breath some governments can claim that children are too young to have access to social media but in another breath that they are old enough to be policed, detained and locked up in jail. You cannot have it both ways. We hear the government claim that because there may not be under-14-year-old children in prison right now at this moment, we do not need to worry about this broken promise. But that is disingenuous, because we know that the age of criminal responsibility is also about the entire continuum of contact young people have with the police and justice systems.

I will never forget a forum that I attended just before the 2022 state election, an election forum, when a community leader from my diverse community pleaded with the audience to do something about the overpolicing of young people from migrant backgrounds. A young person in his community had just died because of his treatment by police and the justice system, and they wondered, 'How many more young people need to die before we take action on the whole system that is pitted against these

vulnerable young people?' Young people need our care, not our contempt. Refusing to raise the age of criminal responsibility fails young people and fails communities. It is especially galling to First Nations people and communities, who continue to bear the brunt of colonisation and ongoing systemic racism in the justice system. This decision forever damages the relationship between Victorian Labor and First Nations people in this state. Ahead of treaty negotiations, this backflip is a serious breach of trust. All the evidence shows that continuing to criminalise children will directly lead to more recidivism and make communities less safe, not more.

When the media and some in this place wring their hands and generalise criminality onto whole swathes of young people, what they should be asking themselves and saying instead is: is it any wonder, when we do not fund our public schools properly, that more young people disengage from them? Is it any wonder, when we rate-cap and cost-shift to local councils, starving them of funds to build more youth centres and fund youth engagement programs, that more young people do not have enough meaningful activity to engage in? Is it any wonder, when governments retreat from public housing, hand land to private developers and let property moguls write our housing policy, meaning 120,000 people languish on the housing waiting list, that there is more family violence and more family breakdown and young people start to find themselves distressed, leaving their families and getting into trouble? Is it any wonder, when we fail to fund youth crime prevention programs, like those at YSAS, which got defunded recently, that more young people are coming into contact with the law? Is it any wonder, when food is getting so expensive because governments refuse to take action on supermarket corporations and people and families become stressed about their next meal, that families start falling apart? Is it any wonder, when governments stop looking at their budgets and economy as a way to support people to build good lives, that our society starts to fall apart?

If people are worried about crime, they should be worried about what governments are spending their money on. They should be demanding that, instead of billions going to fund massive corporations like Transurban, more of our budget is spent on helping people, and young people, build good lives. More money for housing, cost-of-living relief and social connection programs – that is what we in this place have the power to do. Rather than locking up young people and throwing away the key, this government should listen to youth workers and community leaders, who know that investing in young people's lives is the best way of protecting them and the community and keeping them out of the criminal justice system. The comments I have relayed to this house are from the communities you represent – the communities you have let down with this broken promise to raise the age of criminal responsibility to at least 14 years. May you hear their words, listen to them and remember them while you push through this treacherous decision.

Sonja TERPSTRA (North-Eastern Metropolitan) (14:14): I rise to make a contribution on the Youth Justice Bill 2024. In so doing I want to talk about some of the important reforms that are in this bill. The legislation will establish a robust, end-to-end framework for Victoria's youth justice system. Whilst we obviously as a government need to ensure that we can appropriately deal with youth offending, community safety is at the heart of these reforms. I will go into a bit more detail about that shortly. The bill contains nation-leading reforms. It builds on the very important work of the 2017 Armytage and Ogloff review, which was commissioned by the Honourable Jenny Mikakos, the then Minister for Families and Children. A central recommendation of that review was that there was a need to establish a dedicated youth justice act. It was a significant piece of work, a very critical and important piece of work. It has taken some time to bring that to the Parliament today, but here we are.

Of course this is about ensuring we have a modern and robust youth justice framework that is focused on community safety but also guided by evidence and what works. We know that children and young people do come into contact with the youth justice system and that they need a different response to adults. They are young people – they have different developmental needs. We also need to recognise their maturity and capacity for rehabilitation. The best way to do that is in fact to divert young people away from the criminal justice system when those opportunities arise and as early as possible but at the same time hold serious and repeat offenders to account. It has been widely reported in the media,

and statistics bear this out, that with youth offending there is a small cohort of recalcitrant, for want of a better term, offenders who are repeat offenders. They are not responsible for all of the youth crime, but it is a very small cohort. One of the things that this bill does is address some of the loopholes, for want of a better term, in the existing bail system, which will also help police and the courts deal with any repeat offenders. That is an important step to make sure that community safety is at the forefront of these reforms.

The key reforms for victims of crime include creating a new victims register for people impacted by youth offending. Although we need to deal with crime, and in terms of youth crime we need to make sure we can put the appropriate responses in place, we have also got to be fair on young kids. I want to go to a bit more detail about that in a sec, because it is important. One of the things in this debate that I find a little bit troubling is that some who are conservative, particularly conservative commentators in the media, like to lump all kids in the one basket. Not all kids should be lumped in the one basket. I do not think we have any children below the age of 12 in juvenile justice settings at the moment. As the kids move through in age, they are a small number, if they are at all represented in the justice system.

We also need to recognise that – and this is what experts tell us – the brains of young people are still growing and developing. What we know is if you incarcerate a child at a point in their life when they are young, there is a very high risk of them becoming a life-course offender. So what is at the heart of these reforms is making sure that we can get those early intervention steps in place to make sure we can divert young people from the juvenile justice system, to get them back on track and find out what is going on. This goes to the point I just made about lumping all kids in the one basket. We know that many people who are in our custodial settings, whether it be juvenile justice or even adult prisons, suffer from intellectual disabilities – 60 per cent, I believe. That could even be underquoted, but the last time I was speaking to someone about this 60 per cent of people in incarceration would have some type of intellectual or medical issue. Sadly, sometimes for the first time in their lives, they may have only just been able to access appropriate medical care through being in our juvenile or criminal justice systems. They may have had a life of being incapacitated in some way, but for whatever reason they have not been able to get the medical care or assessment that they may have needed to give some kind of indication about the challenges that they may have been facing.

As I said, the important message that is germane in this bill is that 10- and 11-year-olds do not belong in custody, they belong at school and with their families, carers and communities. That is the critical thing. We know it is the right thing to do for the children involved because it is the best thing for the safety of our community. The evidence is also clear that when a younger child is first sentenced, they are more likely to reoffend and reoffend more frequently and violently as adults. That just goes to the point I made about the creation of a life-course offender. Focusing on helping these children to address the underlying causes of their offending and getting them on the right path will keep the community safer in the long run. I can reflect on one of the programs I was happy to engage with when I was first elected; I think it was called Second Chance. It was a fantastic program where juvenile offenders were given the opportunity to learn a trade. One of the things we arranged was to get young people who were engaged through this program to come and do electrical safety testing of appliances in my office. That was a really fantastic initiative because they were able to have meaningful work, they were able to train and acquire skills, get a trade and then be on the pathway to attaining meaningful work, a job and an income stream and the like.

These are all things that I think sometimes we take for granted. Sometimes young people who might be suffering from disadvantage or have come from a background of family violence and the like may not have access to the most simple or basic things that many of us would take for granted. If you have come from a background where your parents do not work and you do not have access to income yourself, even enrolling in a TAFE course – how do you get there if you do not have a car, you cannot afford a car and you cannot afford the public transport fees to get there? How do you then access further education? It can even mean dropping out of school for some young people because whatever

may be going on at home may be just too traumatic to deal with and so they may leave home at a young age. There are many complexities that can impact young people and impact their trajectories in life. I try to look at this through a lens of empathy, understanding and compassion, whereas some of our more conservative commentators like to think that some of these kids have got nothing better to do than run around and cause trouble.

Moira Deeming: On a point of order, Acting President, I do not even know what the point of order would be, but is the member referring to someone in this chamber as the 'conservatives'? I disagree with her that conservatives like to think that.

The ACTING PRESIDENT (Bev McArthur): There is no point of order, sorry.

Sonja TERPSTRA: Like I said, I like to approach this with compassion and empathy for young people who, through no fault of their own, may be suffering from many different aspects of disadvantage and family violence. Again, often this is through no fault of their own, and they do not deserve to be punished. Often what happens is society fails everybody, whether it is a victim of crime or a young child who goes out and starts offending; we fail everybody in that context. What we really need to get to is to focus on those early intervention opportunities to try and help and support young people and young offenders to get back on track.

I just want to talk a bit, in the 5 minutes I have left, about the doctrine of doli incapax. That doctrine is a common-law doctrine and has been around for many, many years, but the bill that is before the Parliament today will codify this existing common-law doctrine of doli incapax, or doli, for 12- and 13-year-olds. What doli means is that a 12- or 13-year-old child can only be found to have criminal capacity if the prosecution can prove beyond a reasonable doubt that the child knew their conduct was seriously wrong in a moral sense as opposed to merely naughty or mischievous. The doctrine is a longstanding and fundamental common-law principle that acknowledges that a child under the age of 14 lacks the mental capacity to form criminal intent by virtue of their age and relative development. The presumption exists in every jurisdiction in Australia and other common-law countries overseas. The doctrine is a longstanding and fundamental common-law principle, and while it already exists in practice, stakeholders across the legal sector have fed back that doli incapax is not well understood in the system and is often applied inconsistently. So this presents a good opportunity to codify that and to clarify it.

The bill seeks also to remedy this by setting out the new procedural requirement for police officers when deciding whether to charge a child aged 12 or 13 when the alleged offence was committed. Specifically, the police must have regard to whether it appears there is admissible evidence to rebut the doli incapax presumption beyond a reasonable doubt prior to commencing criminal proceedings against a 12- or 13-year-old. This is important as well, and it is good to get it on the record so that people understand, if anyone is playing along at home and watching us – maybe not. But nevertheless it is good for people to understand how the law works and the application of some of these tests, because I often think that the granular detail is glossed over just for news headlines. The things police may consider when making this determination can include the child's age, their maturity and stage of development and their history of offending; whether the child has any disability or mental illness and any other matter relevant to making the determination of their criminal capacity; as well as evidence from witnesses about what the child may have said or done in the lead-up to the offending. This then leads to more effective outcomes for children so that those 12- or 13-year-old children, who are unlikely to have criminal capacity, avoid unnecessary contact with the criminal justice system. So it is an important intervention at that early stage. Therefore when police officers are making that assessment, there can be other alternatives and interventions offered depending on the circumstances that are presenting.

As I said, whether the child has a disability or a mental illness is a central and important aspect around capacity. Does the person understand what they are doing? Do they have the capacity to make a decision and the like? If someone lacks capacity because they are suffering a disability or a mental

illness, they do not belong in jail. They belong somewhere else but not in jail. This is important. There are examples – and we have heard about this – of young children who are born with fetal alcohol syndrome, for example. That is a lifelong condition. It is a brain injury acquired – it is not through birth, but it is from birth – in utero. It is something that a child will never recover from, and depending on the severity, the child may require lifelong care. That impacts the child's capacity. It is not appropriate for those people to be incarcerated; it is appropriate that they be given other assistance. However, we do not compromise then on community safety. So there is a balancing act, and I think, as I said, codifying the doli incapax test will help to clarify and provide further guidance to those who will now have to make those decisions. This will lead to more efficient outcomes for children so that those 12- or 13-year-olds who do not or are unlikely to have criminal capacity avoid unnecessary and unwarranted contact with the criminal justice system. It also means we avoid wasting the police's and the courts' time on lengthy criminal proceedings that have no reasonable prospect of success.

The clock is against me; I know there is a lot more that I could say on this. But I just wanted to focus on some of those critical reforms and important tests that the police will apply going forward and the codification and clarification of the doli incapax test. With that, I commend the bill to the house.

Moira DEEMING (Western Metropolitan) (14:29): This Youth Justice Bill 2024, I must admit, does some wonderful things. I think it is fair to say that no matter which party you are in, nobody wants to see children in jail. Nobody wants to see children and their entire futures, really no matter what they have done, thrown in the bin. That is not who any of us are. I think in many ways this bill is all about competing sides of the line – where you fall on certain issues, certain ideas. It is all about rights and responsibilities and different concepts. The biggest one that I noticed was doli incapax versus mature minor. I constantly take issue with the fact that this state does not even seem to know what a child is, depending on the department that you ask. On doli incapax we hear that you want this hard upper limit. You want to protect children from adult responsibility for their own decisions, and I agree with you. Children are a special class – they are. We make special exceptions for children because we love them, we care about them, we want them to have a future and we understand they lack wisdom and they make mistakes. Children should be deemed incapable of adult culpability in many situations. They should be protected from the consequences and the responsibilities of those things, I agree with you – and I say that as someone who was a victim as a minor of one of the very horrendous minor-on-minor assaults.

But when we come to the mature minor status, there is no lower age limit at all. My problem with the mature minor status is that you force children to carry responsibility like an adult for their own decisions. That is why I hate it. Because who can they turn to when they have made a decision about their bodies when it comes to gender issues, which are extremely controversial? They can damage their bodies. They can make irreversible decisions, and if they regret them later and they come back and say, 'Why did you let me do that?' the state says, 'Excuse me – you are responsible for that. You made that decision yourself. You were a mature minor, and you understood all the pros and cons. We explained everything to you. We went through the medicine. We went through the risks. You made that decision, and you have to live with the consequences. We aren't responsible for what you did when you were a mature minor.' That makes no sense, and that is not looking after children. It is an obscene hypocrisy in our law, and we need to get it sorted out. I am not going to be lectured about vaguely being conservative and wanting any kind of consequences for children. That is not happening. If you believe that children can have sex at 12 but not have tattoos until they are 18 and they cannot commit a crime until they are 12, then I am sorry, but I just fail to understand you.

Offender versus victim – the rights of the child offender versus the rights of the victim, many of whom are also children. We want children to have special rights even if they commit heinous, heinous crimes. In fact we want them to have very, very special protections. That is why none of us wants them in jail. We know what is going to happen to them if they get put into the system: they are going to be groomed by older criminals and they are probably going to be assaulted. They have got so much of their life before them. We want them to return to us as rehabilitated citizens. We want them to have a right to

change their life after they make a mistake even more than we want that for every person who commits a crime, which I am sure that we do – but we especially want that for children. But what about the victims?

I had a mother email me about a minor-on-minor crime at a primary school, which they caught on camera. Three times a little girl under 10 digitally raped another little girl under 10. Now, as a teacher, I think, 'Those poor little girls.' What happened to the little girl who did the – I am not even allowed to call it a crime – heinous thing? Clearly she is a victim in some important way. Obviously we need to help that little girl, but what about the victim? The Department of Education refuses to help the mother of the actual victim. She is not even allowed to have it acknowledged that her child was raped three times on school property. There is no record of rape, because no crime was committed, because the offender was under 10. I do understand that you do not want to give a child under 10 a criminal record – I get that – but why can't we say that a crime happened to that victim? Do you know what they described it as instead of an assault? Sexualised behaviour. And I thought, does that mean that this government is kind of burying the stats on minor-on-minor assaults in our schools – accidentally or otherwise, I do not care – because of this issue, because of the way that we are categorising things legally? Because that little girl is traumatised, and she is not even allowed to say that she was assaulted.

We literally write the laws in this place. I do not understand why we could not have found a way to protect both. I do not understand why we could not have said to these children, even if they were criminally responsible, even if they knew what they were doing, that we could still protect them because they are children, and we should also be aiming to protect the victims by acknowledging the reality of what happens to some of them. As a teacher I have seen horrendous things done by children to other children and to adults. Most of the time they did know. I believe that they knew what they were doing, and I still would not have sent them to jail. It is not like our only options are putting minors in jail with adults or leaving them free on the streets to do whatever they like. That is why I like a lot of the intermediary measures in this.

Then we have mercy versus justice. How can we help children to learn from their mistakes? This is not about compassion. This is about what works. As a parent, as a teacher, do you know what does not work? A total lack of consequences. You know what does not work? So much understanding, hot chocolate and pats on the shoulder that they think, 'Yes, I'm the victim, not the person that I did something wrong to.' I mean, they might also be a victim in a sideline kind of way, but 'I have had a hard life and that gives me some kind of special excuse to do bad things to other people' – we do not want to be giving them that message either. Where you fall on either side of the line when it comes to consequences for kids on these things, that is very, very subjective. I understand all of us have the impetus to act with extra caution when it comes to children, but you cannot just shovel justice out of the way.

There is such a thing as taking ownership of what you have done. Part of rehabilitation, in my humble opinion, begins with acknowledging that you have done the wrong thing. I do not think you can ever be rehabilitated before you take that first step of admitting that you were wrong, of admitting that you did something wrong. That does not mean that everyone else gets to trample you for the rest of your life or throw your whole life in the bin or treat you like a criminal forever on after that point, but you have to take responsibility for what you have done, even just in words, even just in the legality of it.

I am very pleased to hear everybody's speeches and the compassion that everybody has shown for the very delicate issue of dealing with children, children who unfortunately can do great harm. The gross failures of the bail system and honestly our culture and our society in many ways are being exposed through this horrific rise in youth crime. You can blame the system, you can blame the kids, you can blame whoever you like. In a recent interview with Neil Mitchell former Supreme Court judge Lex Lasry shifted attention away from the system that incentivises and emboldens repeat violent offending by youths on bail and said, 'The first question you have to ask is: where are the parents?' I will tell you where they are. They are sidelined. They are discouraged. They are disempowered, and they are

scapegoated. Parents are expected to bear the responsibility for their children whilst having had all of their parental authority stripped from them.

To make matters worse, the justice system is failing to support parents by refusing their rights to exercise their authority in all sorts of ways. Parents are not allowed to be told all kinds of things. They are not allowed to have medical power of attorney over their own children as soon as they step onto school grounds. When the children commit a violent crime, people blame the parents – where are they? Why didn't you raise them better? We all know about the intergenerational trauma that makes these things difficult, but when their kids want to change their name, their uniform and their legal sex at school, then they are mature minors who need protection from their interfering, vaguely abusive parents, those parents who can only be trusted to be a bed and breakfast, not with information about state-sanctioned psychosocial sex changes during school hours of their children. Children at the age of 12 apparently can start puberty blockers, but they cannot be responsible for a crime. I try to get on board. I try and give you a good hearing for the laws that you bring to this place, but I would really like to see some consistency from this government. What exactly is a child? That needs to be consistent across every department, otherwise this is just an absurdity.

Tom McINTOSH (Eastern Victoria) (14:40): I rise to support the Youth Justice Bill 2024 as it will establish a robust end-to-end framework for Victoria's youth justice system. It is all about improving our community's safety. It is an important step in reforms to deliver what will be modern and effective responses to youth offending, and it is guided by evidence. These reforms aim to reduce offending and improve community safety while providing genuine opportunities for young people who come into contact with youth justice to turn their lives around. This is about doing more of what works to keep the community safe. This bill contains nation-leading reforms which build on Victoria's success in driving down the numbers of young people engaged with youth justice. This is a result of a significant amount of work following the central recommendation of the 2017 Armytage and Ogloff review that Victoria establish a new, dedicated youth justice act.

This is about ensuring we have a modern and robust youth justice framework that is focused on community safety and guided by the evidence of what works. We know that children and young people who come into contact with the criminal justice system need a different response to adults, recognising their immaturity and capacity for rehabilitation. The best way to do that is to divert young people away from the criminal justice system as early as possible while holding serious and repeat offenders to account. There are also key reforms for victims of crime, including creating a new victims register for people impacted by youth offending. This is about being tough on youth crime while also being fair on young kids.

The bill will make Victoria the first state in Australia to raise the minimum age of criminal responsibility to 12 and includes an electronic monitoring trial for young people on bail. The bill is also a comprehensive reform across the full youth justice system. We are legislating making early, pre-charge diversionary opportunities – including warnings, cautions and early diversion group conferencing – and supporting better outcomes for victims of crime. The bill includes clear principles for sentencing, custody and other important factors that must be taken into account when a young person comes into contact with the criminal justice system. We are legislating a new custodial framework to make our youth justice precincts safer for those in custody and, just as importantly, for our hardworking youth justice staff. In addition to electronic monitoring, the bill includes other measures to respond to a small cohort of serious repeat offenders, with enhanced measures to target high-risk, high-harm offending. The bill also includes meaningful steps towards establishing a self-determined, Aboriginal-controlled youth justice system in the future.

Through this bill, Victoria will become the first state to raise the age of criminal responsibility from 10 to 12 years old. Changing one number in this legislation may seem small, but the message is significant: our 10- and 11-year-olds do not belong in custody. They belong at school, with their families, carers and communities. We are doing this because it is the right thing to do, not just for the children involved but because it is the best thing for the safety of our community. The evidence is clear

that the younger a child is when they are first sentenced, the more likely they are to reoffend and reoffend more frequently, violently and as adults. Focusing on helping these children address the underlying causes of their offending and getting them on the right path will keep the community safer in the long run. We know that serious offending by 10- and 11- year-olds is very rare, as is the situation where a 10- or 11- year-old would come before our courts, and it is rarer still that a child that young would receive a custodial sentence. We thankfully do not have any children in the system of this age, and with these important reforms, we never will again. In the rare situation in which a 10- or 11-year-old does engage in criminal activity, it stems from something going very wrong in their life. This warrants a response of help and support, one that is not best done through the criminal justice system but instead through support services with age-appropriate services.

The evidence tells us that this approach works. This is because very young children typically lack the maturity to form criminal intent, and their charges end up being withdraw or not proven. If we do not focus on helping these children get on the right path now, we end up paying for it, with our criminal justice system needing more resources put into policing their behaviour as adults to keep the community safe. Raising the minimum age does not mean the child escapes consequences. It is entirely appropriate and expected that children will be held accountable for their behaviour, particularly where it leads to serious harm. What raising the age does is recognise that the criminal justice system as it stands is not the most appropriate way to hold a young child to account.

Our education, child protection and youth justice systems have a number of programs and supports in place to support young people struggling with trauma, challenging behaviours and complex issues. This includes Victoria Police as frontline responders, who have existing outreach and diversionary programs to engage informally with children without the need for criminal charges. The role of Victoria Police in protecting our communities cannot be understated, and we have engaged with VicPol closely in the development of this legislation as police will still respond to protect community safety as they currently are able to with children below the age of criminal responsibility.

As part of raising the age of criminal responsibility, the bill provides police with a specific set of additional powers for Victoria Police to transport children to a suitable person, such as a parent, or to an appropriate health or welfare agency where the 10- or 11-year-old child is determined to pose a serious risk to the safety of themselves or the community. Transporting might involve taking the child to another location, or it may involve police remaining with the child until a suitable person or agency arrives. If a suitable person or agency cannot be identified and there is continuing risk of serious harm, children can be taken into a police station, where efforts will continue to locate a suitable person. This is what the public rightly expects, and it utilises a commonsense approach to dealing with very young and vulnerable 10- and 11-year-olds in a way that ensures both their and the community's safety.

These powers will operate alongside common-law and statutory powers that might otherwise be available depending on the circumstances. For example, police will still be able to utilise breach of peace powers and powers under relevant mental health, control of weapons or drugs legislation. While the powers themselves are new, they are not about prolonging contact between police and the young people aged 10 and 11. These powers are intended to be a last-resort option to give police the tools they need to keep the child and the community safe after the minimum age is raised. These will exist alongside operational strategies, such as de-escalation techniques such as asking the child to leave the place and go home.

In situations that cannot be de-escalated and where there continues to be a risk that a 10- or 11-year-old child will cause serious harm to themselves or another person, these new powers ensure police have the legislative coverage they need to respond to serious risk as the community would expect. In this situation the child will be taken into the care and control of police until a suitable person can be located who can then take care of the child. A suitable person is a person who a police officer believes on reasonable grounds is capable of caring for the child and consents to taking care of the child. The legislation provides examples of a parent, a relative or an adult known to the child, and police are able to get the views of the child on who they see as the most appropriate person and can also speak with

parents, relatives or service providers to help determine who the most suitable person is in the circumstances. Where the 10- or 11-year-old is Aboriginal police must contact an Aboriginal organisation to help determine who is a suitable person unless it is not reasonably practical in the circumstances.

In situations where a suitable person cannot be located the bill enables police to transport a child to a police station where the officer reasonably believes if the child were released from the station, the child's behaviour would be likely to cause a risk of serious harm to themselves or another person. Again, this is a power to enforce protection not interrogation. Children taken to a police station cannot be held in a police cell and must not be questioned about possible offences committed by others. From there police will continue to try and contact suitable persons or appropriate health or welfare agencies who can take care of the child. Alternatively, if a suitable person cannot be located and police consider there is no longer a risk of serious harm to the child, they will be required to release the child from their care and control. If police consider there are child protection concerns, they may take the necessary steps to make a report.

There will be safeguards for the use of these powers, including training for police in their exercise of them, recognising the young age and vulnerabilities of this cohort of children, to ensure that police practices are informed by an understanding of child-specific development factors and support culturally safe engagement. The bill also includes a robust monitoring and reporting framework for when these powers are used, including reporting to the Commission for Children and Young People, who will have new functions to monitor the exercise of the transport power and to prepare annual reports for Parliament about the exercise of the power. This complements the existing oversight mechanisms that apply, including the role of IBAC, in relation to police and Victoria Police's internal review processes.

Raising the age of criminal responsibility must be done in a way that prevents the exploitation of young people in criminal activity. This is why the bill proposes to make a series of changes to the charging framework for recruitment offences involving young children. This includes amending the definition of criminal activity for the offence of recruiting a child to make it clear that this includes conduct by a child who is under the minimum age or is presumed incapable of committing an offence because of the doli incapax principles. In practice this means that recruiting or inciting a child under 14 to commit an offence, or even conspiring to, will still constitute criminal activity for the purpose of prosecuting an adult charged with a recruitment offence. Add to this that we are also lowering the age at which an offence of recruiting a child to offend applies, from 21 to 18. Together these changes make it blatantly clear that involving young children in offending schemes offers no protection and that there are clear and far-reaching consequences for this conduct.

While the bill raises the age of criminal responsibility to 12, the bill also codifies the existing common-law doctrine of doli for 12- and 13-year-olds. Doli means a 12- or 13-year-old child can only be found to have criminal capacity if the prosecution can prove beyond reasonable doubt that the child knew that their conduct was seriously wrong in a moral sense as opposed to merely naughty or mischievous. This doctrine is a longstanding and fundamental common-law principle that acknowledges that a child under the age of 14 lacks the mental capacity to form criminal intent by virtue of their age and relative development. This presumption exists in every jurisdiction in Australia and in common-law countries overseas. While this already exists in practice, stakeholders across the legal sector have fed back that doli is not well understood in the system and is often applied inconsistently. The bill seeks to remedy this by setting out a new procedural requirement for police officers when deciding whether to charge a child aged 12 or 13 years when the alleged offence was committed. Specifically police must have regard to whether it appears there is admissible evidence to rebut the doli presumption beyond reasonable doubt prior to commencing criminal proceedings against a 12- or 13-year-old.

Things police may consider when making the determination include the child's age, maturity and stage of development, the history of offending, whether the child has any disability or mental illness and any other matter relevant to making the determination of their criminal capacity, as well as evidence

from witnesses about what the child may have said or done in the lead-up to the offending. This then leads to more efficient outcomes for children so that those 12- or 13-year-old children who do not, or are unlikely to, have criminal capacity avoid unnecessary contact with the criminal justice system.

It also means we avoid wasting police and court time on lengthy criminal proceedings that have no reasonable prospects of conviction. Nothing in the bill, including the new police requirement, limits a police officer's ability to arrest a 12- or 13-year-old child where they are permitted to do so by law. For example, if police believe on reasonable grounds the child has committed an indictable offence, such as an aggravated burglary or theft, police will also retain their discretion to charge 12- or 13-year-olds by arresting and charging or charging on summons. It is important, however, that charges are only laid against a 12- or 13-year-old child where there is evidence and reasonable prospects of a conviction. In some circumstances this may mean it is inappropriate for police to charge a child after investigating and obtaining the necessary evidence to support a charge, including evidence to rebut doli.

This again builds on the overarching objective of this bill to ensure the system is more attuned to and cognisant of responding to youth offending in a developmentally appropriate way for the children that it is dealing with. Victims are at the heart of the Youth Justice Bill, and this reform adopts a victim-inclusive approach. We know the profound effect that crime can have on victims. The Youth Justice Bill will ensure that the impact on victims is considered in all decisions and that victims have a voice. I am out of time, so I will leave my contribution there.

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (14:55): Thank you to all members who have contributed this week on the Youth Justice Bill 2024. I would like to acknowledge the number of sincere contributions that have been made by members in this chamber and in the other place. We have had over 20 speakers in this chamber, along with the majority of the house having contributed to this debate earlier. I think the depth of debate here is a testament to the complexity of justice reform and to the care needed when dealing with children.

As has been well stated throughout the debate, the bill creates a new standalone youth justice act, a modern framework which responds to the evolving landscape of youth offending in Victoria. It enhances the best aspects of the current system while providing a broader spectrum and more effective responses at both ends of offending. This includes diverting young people away from the criminal justice system before their behaviour becomes dangerous and enforcing more serious and tailored consequences for serious and repeat offenders. At their core, the reforms in this bill are about improving community safety. Keeping the community safe is a top priority of our government. Victoria already gets a lot of things right when it comes to youth justice, and this legislation will do more of what we know works.

I would like to acknowledge and thank the stakeholders and partners who engaged so productively with the government on the development of this reform. We know that this bill does not adopt every position of every stakeholder or partner. With criminal justice reform and the need to balance competing interests and risks, it never can. I acknowledge the large number of amendments that have been prepared, and I thank members from all sides for how constructively they have engaged with the government. While we have disagreed on some technical aspects of the bill, I am confident that we all share the desire to divert young people away from the criminal justice system and improve community safety for all Victorians. That is what this bill is about, and I invite everyone in this chamber to join the government in passing this bill.

Before finishing, I might add that I may circulate further amendments in due course during the committee-of-the-whole stage.

The ACTING PRESIDENT (Bev McArthur): Do you have a point of order, Mr Davis?

David Davis: No, but just as a courtesy to the house, it is the first we have heard of new amendments. I have got the government's initial sheet, which is down here, but there is another tranche

of amendments. I have gone to some effort – as I think others in the chamber have, at the earliest possible opportunity, working with parliamentary counsel and Vivienne – to bring forward those various amendments. I am just curious about when they might come and what they might be about.

Enver ERDOGAN: Thank you, Mr Davis. You should have been informed. We have had some productive discussions with the shadow ministers and the minister's office. They are just reforms that are in some regard about adjustments on matters that have been proposed by some of the parties in this chamber already around the Youth Parole Board, victim issues and a number of other issues that have been brought to our attention that we feel need minor adjustment. So they are not too dissimilar from some of the amendments already here and improvements that we propose to bring.

Council divided on motion:

Ayes (22): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Gayle Tierney, Sheena Watt

Noes (15): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 (15:07)

Jaclyn SYMES: Just at the outset, as people would appreciate, this is an extremely large bill predominantly in the remit of the Minister for Youth Justice. However, as there are Attorney-General policy responsibilities we are proposing to have a bit of a team approach today that will facilitate clearer answers and a more timely response to the committee stage.

As members will appreciate, there are a number of amendments that have been put forward by the government, in house amendments, the coalition and the Greens, and there are a couple of different sets. Some of them are at odds with one another. There are consequential amendments, and the last set of amendments from the government are currently working their way through the table office and will be tabled shortly. They are developed in good faith by the Minister for Youth Justice in response to other amendments. These are not new issues; they are effectively negotiated-type outcomes to help facilitate the intention of some of the amendments predominately put by the coalition, so it is with apologies that the run sheet is not quite ready.

I do want to extend our gratitude to those in the table office. We have not made their job easy. Of course everyone is entitled to put up amendments, but with that is the full understanding that for the operation of a committee stage we cannot do what we need to do without the very hard work of the table office and the clerks to facilitate the smooth running of a committee stage.

We are in a position to commence clause 1. When Mr Erdogan's further amendments are checked, they can be circulated, but because they directly interact with the run sheet, that is holding up the final run sheet. We do not propose to move off clause 1, not that I am optimistic that we will get off clause 1 particularly quickly anyway, but we will make sure that all of that is before members.

Probably the other thing I would say is the benefit of having both of us here is that if anybody needs to have quiet conversations offline, if you get a bit lost or if you have got questions – this is predominantly Minister Erdogan's bill, apart from a couple of my topics – I will spend most of my

time helping to keep everyone aware of what we are doing. We might do a lot more explaining about what the effects of each vote might mean, because I think there might be situations where members might be confused about what their vote means. I will do my very best in my assistant, copilot role to try and make sure the house is very clear on what we are doing at each step. For that purpose I will stay and make myself available for any of those offline conversations so that we do not end up with unintended consequences or any mistakes, hopefully. With those introductory remarks, Deputy President, I will hand back to you.

The DEPUTY PRESIDENT: As the Attorney has just outlined, we do not have a run sheet as yet due to the government's late amendments, but we can start with clause 1. Any questions on clause 1? I imagine there will be quite a few, which we will try to get through.

David DAVIS: Can I just, first, join with the Attorney in thanking the clerks, the papers office and in particular Vivienne for the complex process and the assistance that has been involved in that. I do not know if it is the record, but it is some sort of record, and certainly a very complex and very methodical process has been required to deal with it, so thank you. If I can perhaps just start with some background questions on the purposes clause, clause 1. The Armytage–Ogloff report is a significant report referred to indeed in the second-reading speech and pointed to as significant in the rationale for the proposed reform. The report states:

> The review provides an opportunity to redesign the system to create an evidence-based response to youth offending and youth crime that is reflective of the needs and attitudes of young people and the broader community.

I therefore ask: can you confirm the date the report was given by the authors to your government?

Enver ERDOGAN: Obviously the report was published well before my time in Parliament. I understand that it was published in 2017, the Armytage–Ogloff report, so I expect that it would have been handed to our government around the time that it was published.

David DAVIS: It is a long time ago. When did consultation with stakeholders for these various reforms commence?

Jaclyn SYMES: Which reforms?

David DAVIS: The overall package of reforms that are in this, and it might be that there are different dates for the different tranches.

Enver ERDOGAN: I thank Mr Davis for a really important question, because from the outset it has been a significant journey for this bill's introduction to the Parliament, and from the outset I want to acknowledge previous justice ministers that contributed to this bill's development. But in terms of stakeholders, when they were consulted, obviously many of our stakeholders – and I will say partners, because many of them are partners – were involved in the Armytage–Ogloff review, but from that point on, when the department and the government set out to prepare the bill, there has been really ongoing engagement, so it has been a continuous process. The engagement really has never ceased since the Armytage–Ogloff report was handed to the government. We have worked closely – and the Attorney-General is next to me; she can confirm, she has worked very closely – with the Children's Court of Victoria over this time for sections of the bill, the commissioner for children and young people and the Aboriginal Justice Caucus. In Victoria we have an Aboriginal justice agreement – over 20 years, a longstanding agreement – with our Aboriginal partners. And that engagement has been ongoing; it was not just after Armytage and Ogloff. It did not just start there – it was before that, it preceded that – but since then Armytage and Ogloff have been pivotal in ensuring there are improvements, and we have the bill before us. Obviously Victoria Legal Aid, the Victorian Aboriginal Legal Service, the Office of Public Prosecutions, Victoria Police, the Department of Families, Fairness and Housing (DFFH), the Sentencing Advisory Council and the victims of crime commissioner are just some examples of the people that have been very involved in the development of this bill. But it

really has been a continual process. When I took on this role – there has been various iterations to get to this point, and we have the package and bill as it stands today, as it was introduced last month.

Katherine COPSEY: That is a good point for me to pick up on, because I also had a question around consultation on the bill. Many stakeholder organisations and their experts, as you say, have contributed significant time and resources to helping shape this bill. I believe for the most part many of those organisations would have done so on the understanding that the government had promised a two-stage process of raising the age to 12 in this bill and to 14 by 2027. I am wondering at what stage these stakeholders were informed that the government had reneged on its commitment to 14 by 2027.

Jaclyn SYMES: Thanks, Ms Copsey, for your question. As you have correctly identified, there have been a range of stakeholders in the development of this bill, whether it is from my responsibilities of raising the age right through to many of the operational amendments that are in the remit of Mr Erdogan. The decision for cabinet to confirm that our policy is to raise the age to 12 and no further was made at cabinet this Monday and was communicated directly after that. What I would say is that the previous position in the two-step approach was always raising the age to 14 subject to an alternative service model, with the exception of serious crime. You would be all too familiar with the fact that there are many stakeholders who did not support the commitment that was given at the time and always supported moving to 14 in this bill without exceptions and not in advance of an alternative service model. So I think that that is an important clarification when you are talking about the government's previous commitment under the former Premier to raise the age to 14. It was not in line with the advocacy of many of our stakeholder groups – very valued stakeholder groups, I must say. They are really important to the work that I do as Attorney, and I have spoken to many of them in recent days and can confirm that they are all very supportive of the Youth Justice Bill, notwithstanding their disappointment at the change in government policy in relation to the age.

Katherine COPSEY: Thank you very much for that answer. On the alternative service model that you referred to just then, given the change in policy, that work is still obviously needed. Given the presumption for doli incapax in the bill for 12- and 13-year-olds, how do you foresee that that cohort is going to be served, and can you give some insight into the fate of the alternative service model – how that work will progress or otherwise – given the change in government policy?

Jaclyn SYMES: Ms Copsey, at the outset, I thank you for your question, but it is a matter for the Minister for Children, Minister Blandthorn. As you would appreciate, an alternative service model is all about not involving the justice system. It is about ensuring that other services of government are stepping in to ensure that children are not being unnecessarily caught up in the justice system. Some of the issues you raised are still to be determined, but I think I will go back to my previous comments made numerous times on the record: this is a very important investment, and this is a very important endeavour. If you get the alternative service model right, the age of a child becomes largely irrelevant because you indeed have the services required to ensure that you do not need the criminal justice system to pick up the slack.

Katherine COPSEY: I may have missed it. I have heard you refer to the alternative service model many times when I have asked about the pathway towards raising the age to 14, but that is the first time it has clicked for me that it is not actually with you, it is with the Minister for Children. I wanted to ask about the services in that model to help children. I take it from your answer that it is going to involve increased service provision from organisations, that it is going to be a material increase in services and support provided to children, and I wondered if there are discussions ongoing about the funding and resources required to support those services.

Enver ERDOGAN: Notwithstanding that it is envisaged that the alternative service model will be with the Minister for Children, what I can say is that we have a panel of experts that are working towards making recommendations for how an alternative service model should work. I do not want to pre-empt that work because as the Minister for Youth Justice I have not received that final expert panel

report on how it should proceed. But I think you do raise important points about having those supports in place to support young children.

Katherine COPSEY: Will the implementation of this bill include a rollout of the alternative service model?

Jaclyn SYMES: The alternative service model work and the $5 million that was provided in the most recent budget support the development of the alternative service model for 10- and 11-year-olds, and we want that work to inform further work to support older age cohorts.

Katherine COPSEY: So the funded work only covers 10- and 11-year-olds, and the work for 12- and 13-year-olds is currently unfunded?

Jaclyn SYMES: Ms Copsey, there are a range of government services that would already link in to what could be deemed an alternative service model, whether it is crime prevention or indeed free TAFE and programs and such, so to say that there is no funding allocated to an alternative service model is not a true reflection. It has not got a line item for an alternative service model for children other than 10 and 11 because that is what we are starting with in this bill, but there is a panel that is being assembled, chaired by Patricia Faulkner, which is informing government on such matters. As you would appreciate, again that is outside the remit of this bill. Having said that, it is certainly government policy in relation to continued efforts to ensure that young people are given opportunities so that they move more into the responsibilities of ministers other than the Minister for Youth Justice and me.

David DAVIS: I have got some further questions on clause 1. I would ask the ministers – and they will take it in their tag team style no doubt – is it correct that when the bill discusses diversion this is only once a young person has committed a crime and is really a diversion from custody?

Enver ERDOGAN: Mr Davis, I think the whole model and what we have tried to achieve in the principles underlying this bill is that it is not necessary to have committed the crime. Police have a lot of discretion in relation to their interactions with people in the community, in particular young people, and what we do is provide guidance in a sense to our law enforcement agencies to ensure that they can give formal warnings or in some instances cautions. That does not necessarily mean guilt of a commission of an offence per se –

David DAVIS: But an offence has occurred.

Enver ERDOGAN: It may not have occurred – not necessarily. They might see some wrong –

Members interjecting.

Enver ERDOGAN: An incident, or the police may have seen something that gets their attention, but let us not assume guilt. I think that is the important principle.

Jaclyn SYMES: They do not charge for under-age drinking.

Enver ERDOGAN: That, I think, is an important distinction to make.

David DAVIS: For example, a violent action may have occurred. Somebody may have been bashed or hurt. A younger person has been picked up and is perhaps about to be charged. Of course guilt at that point cannot be presumed. I accept your point on that. This is not happening in the abstract, this diversion, it is happening after a serious incident has occurred.

Enver ERDOGAN: I would not characterise every incident as serious. Many young people come into contact with the justice system, some of them for relatively low-level offending. I think police have the discretion whether they choose to charge, and they have discretionary decisions about giving –

David DAVIS: So a low-level incident and then a diversion?

Enver ERDOGAN: Potentially, yes. You do give that discretion to law enforcement. That is what is envisaged in the bill – that the police have the discretion to take into account the level of offending.

David DAVIS: Does the minister believe that this will adequately address the Armytage–Ogloff review recommendation to address community concerns about youth crime? Does it adequately respond to the report?

Enver ERDOGAN: I think that the objective of this bill first and foremost is to ensure we have community safety and to do that informed by the report of Armytage and Ogloff and our consultation with stakeholders and partners. It is about understanding that you do need appropriate responses to children, depending on their development, and that is what this bill tries to incorporate, because we know if we can address their behavioural issues at a young age, then that will make us all safer in the long term.

David DAVIS: Why are there no carve-outs for serious offences, such as murder committed by those under 12?

Jaclyn SYMES: It is a policy decision of the government.

David DAVIS: I thank the Attorney for indicating it was a policy decision of the government. On what basis was that policy decision made? Why was that decision taken, and what was the information behind it?

Jaclyn SYMES: It was based on medical evidence of no capacity to form intent, in much the same way as what would currently apply to a 9-year-old now applies to 10- and 11-year-olds.

David DAVIS: I am noting that I have a large number of questions here, so I am just going to accept certain points even if they are very controversial and others might dispute them. I am just going to make that point.

Jaclyn SYMES: I will do the same.

David DAVIS: I am trying to be expeditious. Do police currently have powers to deal with young people under the age of criminal responsibility? If so, what are they?

Jaclyn SYMES: What you have touched on is what ended up being quite complicated in landing the policy and the legislative response to this reform. I will be up-front. When we originally looked at this my position was, 'Why can't we just go from 10 to 12 and that it just be that what's been applying to under-10s now applies to this cohort?' The cohort under 10 at the moment relies on common law, and police were of the view that they would seek further clarity. Upon consideration of those issues, it was determined that clarity for the community, clarity for the police through all of our consultations, having that down in legislation is what we think will facilitate the implementation of this change. It was very much informed by the police position that they needed it legislated and did not seek to have a situation where the common law would carry over to this cohort as it does for the very little kids now.

David DAVIS: Is what you are saying that the police currently do have powers to deal with young people under the current age of criminal responsibility?

Jaclyn SYMES: Common law.

David DAVIS: They are common law, but they actually do have those powers. I should ask the question, then: if so, what are those powers?

Jaclyn SYMES: The reason that it became apparent that we should legislate in this space was that there are common-law powers that they can rely on but there was a lack of certainty around those. Common-law principles extended for the right to protect peace and property. There are also some general welfare-type provisions. But to apply to this cohort, the request was that we legislate police powers to put it beyond doubt for the protection of police and the ability for them to operate in a known environment.

David DAVIS: I thank the Attorney. Perhaps what would help the chamber is a list of those powers. Do you have a list of those powers that are currently in existence, I accept, through common law? Is there a list of those powers that is available? Somebody must have compiled them as part of this process.

Jaclyn SYMES: What was determined, Mr Davis, was that it was inadequate to be able to apply. I guess what turned out was that there are probably currently gaps in dealing with nine- and 10-year-olds. That was what we found. So rather than relying on the common law for the next cohort or to add the 10s and 11s effectively to anyone under that age, common law was not sufficient and lacked clarity. Police sought certainty, so that is what we have done through this legislation.

David DAVIS: Thank you, Attorney. I understand your point that you think that the powers are not adequate, but what I am asking for is a list of those powers. You must have that list. It must be available. You must have compiled it. You must have compiled it to form the view that they are inadequate.

Jaclyn SYMES: As I indicated before, Mr Davis, the broad principle across the case law is that the protection of life and property has enabled police to deal with under-10s. However – and a lot of this advice is subject to legal privilege – in determining whether that was adequate to cover situations that we started to think about, the advice was no. For any suggestion – and I think this is where you are coming from – that the common law is adequate to cover 10s and 11s, the firm answer is no. It would have been a lot easier if the common law was suitable and appropriate, because we would not have had the numerous backwards and forwards of trying to land an appropriate set of police powers. If I could have relied on the common law, that would have been an easier way home to raise the age. It was not appropriate. The police were concerned about it. That is why we are legislating police powers in this bill.

David DAVIS: I thank the Attorney, and I understand her point. I do not necessarily agree with it. She has formed a view, or the government in its policy sense has formed a view, that the common-law powers are not adequate. But you must have from that process – and this is not about secret legal things – a simple list of what those powers are as they are commonly exercised by police. I mean, this has happened every day of every week for 1000 years in common-law countries, so I just want to know what powers in your list are held currently and exercised currently in this circumstance.

Jaclyn SYMES: Mr Davis, what we are seeking to do is list the powers for 10s and 11s and maintain the flexibility for nine and under. It became apparent that the common-law principles of supporting or protecting life and property that police rely on in relation to their interactions for nine-year-olds and under were not sufficient to give police clear guidance on how to deal with concerning behaviour of 10- and 11-year-olds. In that instance, it is not an exhaustive list of what is present in the common law; it was more about what is not obvious in the common law.

David DAVIS: I am happy with that list too. I want both lists, if possible.

Jaclyn SYMES: There were existing concerns potentially for nine and under, which we did not want to replicate in raising the age for 10s and 11s.

David DAVIS: As I would understand it, those powers are currently being exercised for 10- and 11-year-olds. That is the basis of these decisions. In the common law now an 11-year-old –

Enver ERDOGAN: Eight- or nine-year-olds.

David DAVIS: Eight or nine.

Enver ERDOGAN: Ten-year-olds are subject to the criminal justice system.

David DAVIS: Yes. But they still have powers under common law to –

Enver ERDOGAN: Yes, of course, for everyone – an adult as well.

David DAVIS: Those powers are not removed because they are 11. They do not disappear.

Enver ERDOGAN: No.

David DAVIS: What would be helpful is that list. I just detect there is a certain resistance to providing that list. It would assist in debating many of these exact points. If you want to provide the commensurate list of where you think it is inadequate, I am happy to have that list too.

Jaclyn SYMES: Mr Davis, the obvious point of reference is what is in the bill. What is in the bill in provision of the powers was what was concerning – that if they did not exist, police would have a lack of certainty about what they could do if they came across a 10- or 11-year-old that was no longer criminally responsible. They wanted clarity about what they could do. I can assure you that this legislation, this guidance, that has been proposed in the laws is based exactly on the experience of police officers on the ground, police who utilise these powers every day. It is on rare occasions that it is kids under 12 that they are interacting with, but they are the ones that have informed us what they need to perform their duties on the ground. That is the basis of these reforms.

David DAVIS: I thank the Attorney, and I understand the point she has made. I am not going to labour the point, but I am just going to state that I would have preferred if the Attorney had provided that list, and the parallel list if she thought that was appropriate too. Let me just go a little bit further: how do these powers differ to the powers police have for dealing with children aged 10 and 11 if the new laws pass? How do they differ – the two?

Jaclyn SYMES: Which two?

David DAVIS: The powers that are provided in this bill – how do these powers differ to the powers police have for dealing with children? The powers now – how do they differ if the bill is passed? I just want a general response.

Jaclyn SYMES: I am a little confused by the way you have phrased your question, Mr Davis. Because it is predominantly around transport powers – the limited ability to search and a limited ability to detain – it is based on when there is a serious risk to the child or the community. Let me put it this way: without these powers it is unclear whether a police officer who comes across an 11-year-old in a dangerous situation where they may be about to start a fire but have not yet started a fire – can they intervene and use their police powers in that regard? Without these police powers, would they have to just walk away and leave the child? That is what they were concerned about. They were concerned about not having legislative guidance and protection for acting when there was serious risk to the child or indeed to the community, whether it is stopping a kid from running across the road or jumping into a car and driving it. When they are 10 and 11, the police advice was they needed specified powers to ensure that their members could act in the protection of the child or the community.

David DAVIS: Thank you, Attorney. I thank you for your attempts on this. It seems to me that actually you have again provided where you think there are weaknesses rather than listing points where powers do exist. Certainly in my understanding of common law, and from the discussions that I have had with lawyers – a relatively small number of them, I accept – on some of these matters in recent weeks, they would believe that in fact there are significant common-law powers to prevent the commissioning of a crime or the commissioning –

Jaclyn SYMES: The police told us they could not do it. That is why we are here.

David DAVIS: Well, is there written correspondence that we could have on that matter?

Jaclyn SYMES: If you would like me to confirm that Victoria Police have given advice to the government that they absolutely need these powers, I will get you that before the end of the debate.

David DAVIS: A further question is: if a police officer exercised the power under the new regulations and it turns out that the child is under the age of 10, will the police officer be immune from court action initiated by the child's parents or guardians?

Jaclyn SYMES: Yes. Police are expected to exercise reasonable judgement. Of course, we recognise that it is extremely difficult to determine the age of a child. I have a 12-year-old who looks 15. There is no way that kid has looked under 10 since he was seven. I am living that – fortunately, I do not think my kid is going to be caught up in the situation that I am trying to look after for other kids. It is incredibly difficult to determine the age of a child, whether they are nine, whether they are going to be criminally responsible or not. Reasonable judgement in police –

David DAVIS: So will the police officer be immune?

Jaclyn SYMES: Yes. If they can exercise reasonable judgement, that is fine.

David DAVIS: So the answer is yes.

Jaclyn SYMES: There are significant protections.

David DAVIS: What specific sections of this bill practically deliver on one of the purposes which is to promote community safety?

Enver ERDOGAN: I appreciate that question. I think it is a really important question because in terms of community safety we need to look at the whole youth justice system, not only for the young person and for the broader community, but also the dedicated staff that work in our system. One such example within the youth justice setting is the increase to the transfer powers that the bill provides. Where there is someone who is in a youth justice custodial setting and they display a dangerous behaviour and cause harm to people, whether it be other young people or to staff, increasing those transfer powers into the adult system is one example where we create greater safety within the youth justice system.

I think more broadly this bill promotes community safety expressly in the way it is designed. It is the fact that we are having graduated responses and age-appropriate behaviour responses tailored to the young person. We believe – and we have seen it already to some degree in the work that is being done in this space – that those responses will address the behaviour of young people. I know in our discussions with Victoria Police, we have looked at the chart of the number of young people who come in contact. Many of those young people, through diversion and early intervention, have their behaviours addressed and you will not see them reoffending. There are a lot of statistics in this space that prove the science that early intervention and diversion, which this bill focuses on, will address those behavioural issues in most of the young people. Of course, not all, and for some of those young people that will end up being in a custodial setting, and that is an example of the increased safety settings of the transfer powers within the custodial settings.

David DAVIS: In the world that you have described, it will all improve and the crime rate will come down. I wonder if you could give me some targets for that. How much will it come down over the next two, four, six years? Are there targets for that or is it more nebulous?

Enver ERDOGAN: I think you would appreciate that the reasons why people display offending behaviour, whether they be young people or adults – there are multiple factors in that. Some of it is not necessarily determined by the justice settings, because a lot of those behavioural issues happen long before. In many regards the justice system is at the end when something has gone wrong.

David DAVIS: It is mainly in community safety that we will see a fall?

Enver ERDOGAN: For these young people that come in contact, we are committed to try and reduce the recidivism rate within youth justice. In a youth justice setting, I can say specifically my portfolio, we have recidivism rates and it has been to a point where I would like to see them fall. The most recent report on government statistics was showing 70 per cent recidivism rates within our youth justice system, so I am very hopeful that that will fall. I am hopeful that it falls below the national average. Our youth offending, I might add, in Victoria is below the national average. But what we are

doing, and what this bill tries to address, is those more complex behaviours we are seeing in young people.

David DAVIS: Will it fall below half? Will it fall below 50 per cent?

Enver ERDOGAN: Like I said, there are a number of reasons why people turn to offending. Usually by the time they are in the criminal justice system those issues are very obvious and things have gone wrong in their lives. We are aiming as a whole of government to address those issues and address those issues when the signs are there, before the offending behaviour takes place – within the school environment, within the health environment, and mental health in particular for young people – so they do not end up offending. We would like to see a reduction, of course we would. That is why we are implementing this bill. As the youth justice minister, I would like to see a reduction in recidivism in young people. For me, I would say the *Report on Government Services* is a good indicator. It does not explain it all, because obviously there are a lot of outside factors. Economic conditions can impact the level of crime in our community. You know that, Mr Davis.

David DAVIS: When do you expect the recidivism rate to fall below 50 per cent?

Enver ERDOGAN: I would like to see a reduction in recidivism in youth justice straightaway, of course. That is what this bill is all about. It is about designing and making sure we have a range of appropriate responses to change people's behaviour before they get into custody. But when they are in custody, it is the same effort. We want to make sure that when they are released that they are living healthy, happy lives. Some of the changes we are making, such as electronic monitoring (EM) and other elements of this bill, are designed to have those wraparound services to address their behaviour – making sure these kids are at school or seeking employment opportunities, making sure that their health issues are addressed so they live happier lives and we are all safer. Like I said, in terms of how we get there, I think the way we get there is by implementing these changes and hopefully we do see a change. It takes time. There are multiple factors for crime: by the time they are in the criminal justice system, something has gone wrong before that.

David DAVIS: There is no chance that the flaws in the bill might lead to a rise in the recidivism rate above 70 per cent?

Enver ERDOGAN: As I said, Mr Davis, to my earlier answer, the reasons why people commit offences are complex. It is not necessarily because of the criminal justice settings. Criminal justice settings are where they end up when other things have gone wrong in their lives and there has been significant harm caused to the community. I would at least like to see that decrease. That is an endeavour of the whole of government. That is why we are making investments in early childhood education, in primary and secondary school education and in our TAFE system. That it is why we are investing in the health system. These are all the protective factors. This bill is about building upon that. I do want to see a reduction in youth offending. That is the goal.

David DAVIS: I ask a different question. What specific sections of the bill practically deliver on the purpose to divert young people from the youth justice system and police system before they commit a crime?

Enver ERDOGAN: Chapter 4 is about diverting children from the justice system. I will point to that, and that has the graduated hierarchy of options able to divert young people away from the criminal justice system and in particular respond to alleged offending behaviour. Chapter 4 summarises some of those earlier options, such as group conferencing and warnings. I might add: it is the first time we are going to have a formal process for some of these. Some of these practices Victoria Police and other agencies already do, and I want to thank them for that work. But this will formalise that structure, and obviously the goal is to see better results.

David DAVIS: I ask a different question: are all elements of this bill costed and funded?

Enver ERDOGAN: There are different commencement dates for sections of this bill. Some of it is costed, some of it is going to be implemented within 24 months and some will be announcements in the upcoming budget. There are different timelines for different aspects of the bill, and understand that not all of it has a financial cost – some of them are just changes in practice that should be cost neutral.

David DAVIS: I get that some of it may come in a future budget –

Jaclyn SYMES: We have got to pass it first.

David DAVIS: But presumably in passing this you have actually already had some idea of the costing of this. I am in no doubt of that. In that context, Minister, I wonder whether you might provide the committee with the costing of those parts that you actually have costed and made an allocation for and separately those parts that you have costed that are awaiting an allocation.

Enver ERDOGAN: I think we need to pass the bill first. We have already made announcements on some of the costings where it is clear, such as the electronic monitoring. Through the budget process we announced $34 million has been allocated, for example, to that aspect. As I said, some aspects are cost neutral, but there will be a budget process if the bill is passed. I do not take that for granted.

David DAVIS: I think the answer you are giving me there is no. You will not give me a list of those parts that are costed and funded. Is there an overall costing for the bill? How much is the bill intended to cost? You must have done that costing on the presumption that it passes, and you obviously may need to adjust it if it is different from the intended bill. But you must have done that costing, so what is the cost of the implementation of the bill?

Enver ERDOGAN: There will be the usual government funding process and a budget process with this bill. Some elements are clearly defined, like electronic monitoring for 50 children over the forward estimates. It is clear; it was in the budget – $34 million. Other aspects will go through the usual budget process.

David DAVIS: I think it is very legitimate for members of the committee to ask about the parallel costing and the parallel funding of the bill. There must be an overall estimated cost. Is that $80 million or is it $100 million over four years? Is it more than that? How much is it? You must know.

Enver ERDOGAN: Like I said, all the costs that are required to implement elements of this bill will go through the normal budget process that our government has. The electronic monitoring we know is $34 million. Some of our elements are cost neutral, but they will go through that budget process in the coming years.

David DAVIS: The government must know the costing of this bill. I would ask the minister again: what is the government's estimated cost of implementing this bill? Please give us a figure. I understand it may not be the final number, because obviously the bill is subject to change. But you must have costed the implementation of this bill: to not do so would be extraordinary.

Enver ERDOGAN: I think, as I stated in my previous answers, Mr Davis, there will be a budget process for implementation of sections of the bill. Some sections have already been costed and announced, but others will go through a budget process.

David DAVIS: The minister is being resistant in answering the costs here. He must have those costs. I will ask him in a different way: is the government seeking to pass this bill without having costed the implementation of the bill?

Enver ERDOGAN: I think in the drafting of the bill what we would like to see is less young people coming into contact with the criminal justice system. There are cost elements, and some of the costs have been outlined, like the electronic monitoring. Other aspects will be cost neutral. There will be changes in practice, but through our budget process we will have an opportunity to make those announcements.

David DAVIS: I am listening closely to the minister here. I think what he said is that the implementation of the bill is cost neutral. Is that what you are saying, Minister?

Enver ERDOGAN: No. I think, Mr Davis, what I will say is this is transformative across the youth justice system, and some of it falls within my portfolio, some within the Attorney-General's and some within police. There are many elements to our justice system, and there are different costs at different stages. Some of the parts of this bill will be implemented in 24 months and there will be a budget process to secure funding where needed. Not everything in this bill needs funding.

David DAVIS: I am deeply troubled by what I am hearing here. My simple question is: is the minister telling me that the cost of this bill has not been examined and budgeted? Is that what he is telling me?

Jaclyn SYMES: No, he is not.

David DAVIS: What is it then? Tell us.

Enver ERDOGAN: Mr Davis, I am telling you that there are many parts of this bill that are across government not just in the Department of Justice and Community Safety. There is some of it that is in DFFH and other departments of government and in VicPol. There are different parts that have different costs to them. I am not taking for granted that the bill will pass, but the elements that we are looking to implement straightaway, such as electronic monitoring, we have announced the cost of those.

David DAVIS: I am coming back the other way on this to ask the minister: is it then a fact that you do not know what the overall cost of this package is likely to be?

Jaclyn SYMES: I might just jump up. I am not going to pre-empt any budget processes, but –

David DAVIS: You must have costed it.

Jaclyn SYMES: Of course we have got costing estimates to implement the measures in the bill. It is multifaceted, it is scalable. It has got different implementation dates. We can bring things forward. We can move things around. We can respond appropriately. We are not in a position to give you a blunt figure that underpins this bill. We have estimates that will then be subject to budget processes, and we are not going to provide you a guess for each section. If you pass this bill today, you will save the Victorian community significant funds, because it is very expensive to put an individual child into custody.

David DAVIS: So you do have some costings, but you will not share them with the committee.

Jaclyn SYMES: Of course we have done the modelling that underpins this legislation. I am not going to pre-empt formal budget processes. As the minister has indicated, those measures that we would like to bring forward as quickly as possible, that we are hoping to seek your support for – we have been out there with the figures. When we go through each budget process there are budget line items that underpin justice initiatives. As the minister has outlined, we would anticipate that DFFH, Children's Court, the Office of Public Prosecutions and Victoria Legal Aid – everybody who receives an element of taxpayer money and who was committed to the endeavours of this bill will be supported to achieve its outcomes.

David DAVIS: To whichever minister seeks to answer, it sounds to me like there is actually quite a bit of cost in the bill. I just put on record my concern that the government is not being honest and up-front about the fact that there is a cost here and we should see that. I am not going to labour the point, as I said; I am just making that point. Further, if I may ask the minister: what specific practical measures in this bill demonstrate a commitment to promoting community safety, minimising reoffending and supporting rehabilitation of young people?

Jaclyn SYMES: Have you not read the bill?

David DAVIS: Yes, I have. Not every single clause, but a fair bit of it.

Enver ERDOGAN: That is the main purpose of this bill. The practical examples are those pre-charge methods of engaging with young people – the warnings, the formal cautions, restorative justice practices, group conferencing. They are all focused on ensuring that young people address their behavioural issues. Our electronic monitoring proposal is about that. It is about making sure that those young people not only are monitored but that they also have intensive supervision and that they are complying, for example, with their bail conditions for engagement in employment and structured learning and, more importantly, getting the help that is required to ensure that they address their behaviour. At many levels there are practical examples of how the community will be made safer. We say that the best way is to make sure we address those behavioural issues when they come into custody. There are practical ways we do that. That is through obviously giving them structured learning within the youth justice facilities, but for those that continue to offend, transferring them to the adult system as well to keep our staff and the other young people in the youth justice system safe.

Rachel PAYNE: My question is in relation to electronic monitoring devices. Plans for electronic monitoring of youth parolees was first proposed by this government in 2018, but it was shelved amid significant criticism. Then as recently as January 2024 Deputy Premier Ben Carroll, on the government having given up on the tracking policy, also further said that the 'youth justice system of today is not what it was five years ago' and that 'I firmly believe we have the settings right'. Yet this government is now set to introduce a $34.4 million two-year electronic monitoring trial for 14- to 18-year-olds charged with serious offences as part of their bail conditions. What has changed?

Jaclyn SYMES: I certainly understand the sentiment that you bring to your question. I really want to emphasise that my goal here, the government's goal, in agreeing to try electronic monitoring for bail is to really help kids not reoffend whilst on bail. We are seeing a concerning pattern of behaviour from a cohort of young people who, once on bail, if they were complying with their bail conditions, would not put themselves in the situation where they hurt themselves or someone else. If you ignore bail, you are at risk of that harm – or not that harm but to a lesser degree putting yourself in a situation where the courts have no other option but to put you in custody. I really want to hope that EM can be used to keep kids on track for a short amount of time, to capture them, to keep them supervised, so that we know where they are and who they are hanging out with and that they are complying with their conditions.

Unlike other forms of electronic monitoring, the principles that underpin our trial and what sets it apart from some of those failed models – and I am very aware of some of the failed models – is it is not about being punitive. This is not about tracking in real time. We know that electronic monitoring in itself will not prevent a crime. It is not as though you have got real-time action to respond to it, but you will have an idea that kids are doing what they should or should not be doing, and that is when the red flags can go up. We often know from examples that a young person who has been placed on bail has accumulated several breaches of curfew that we did not know about. You have got to rely on a parent to dob their kids in, and some do. With electronic monitoring we will see that pattern. The youth worker can go and sit down with them. 'What are you doing?' 'I was just at my girlfriend's place.' You can have a conversation about why they are breaching. Or 'My mates pulled up out the front in a stolen car, and I thought I'd get in.' You can have the conversations before we see that crisis point where we know about breaches because the police are rearresting them for reoffending. I want to prevent that. I know that there are concerns about it. I am concerned about stigma; I am also concerned about badge of honour. We know that there are certain kids that like to brag to their friends about the fact that they have been in Parkville. This is not just about stigmatisation. It can actually go the other way. I am aware of all of the things that could be problematic in an electronic monitoring situation, but that is why it is a trial. It is being brought in by this government for the right purposes, and it is about trying to help these kids, not penalise these kids unnecessarily.

Rachel PAYNE: $34.4 million – from my understanding that is to cover 50 young people as part of this trial. Does that figure also include the review process, and would it be possible for us to have a discussion on what that actually entails?

Enver ERDOGAN: Ms Payne, it is a really good question. I think it is important to say that, yes, in that $34 million a significant part is in fact to monitor the intensive bail conditions that will be required on those young people in making sure they get those wraparound services. The actual physical cost of the electronic monitors themselves is a small part of that $34 million. The majority is for those wraparound supports. At the end of the third budget cycle there is an amount for an evaluation to take place, but there will be a very strong and robust evaluation.

Rachel PAYNE: I thank the minister for his response. I would like to ask a question now just on review and reporting procedures. The reforms in this bill span the whole of Victoria's youth justice system from prevention, diversion and early intervention through to sentencing, custodial facilities and transitioning children and young people from the system. Given the scale of these reforms and the sensitivities surrounding several measures, including new police powers and electronic monitoring, what does this bill do to ensure that there are adequate review and reporting procedures in place to assess the effectiveness of these reforms?

Jaclyn SYMES: We might do a tag team on the answer here. Obviously we have gone through the fact that electronic monitoring is a trial. I will put on record I am going to watch this very closely. I have already been out to the department of justice electronic monitoring centre just to understand the role of the workforce, what they are looking for, what they are capable of and the like. There is emerging technology all the time as well. Do not get me wrong, if we can find a smaller, less invasive type of device that becomes available then it is something I would be keen to look at. It is something that we will keep a really close eye on. Obviously the house amendments which we will get to later on in relation to bail, the reaffirming amendments that clarify some of our changes and the like, will slot into the current review of the Bail Act 1977 which is scheduled for two years after commencement. They will be ongoing, and I know that Minister Erdogan has already got some formal reviews in line for his. In relation to police powers we have got reporting mechanisms for notification to Aboriginal organisations, and there will be a range of measures available to the change of practices in terms of IBAC oversight and the like. The ability to make complaints about any type of police misconduct or concerns about the way they have dealt with young people, whether they are aged under 12 or not, still remains the remit of IBAC.

Rachel PAYNE: I thank the Attorney for her response. Just on community stakeholders, this bill embeds health and welfare agencies in several of its reforms. Recognising the need to have community stakeholders involved in this restorative justice is really important, but stakeholders in this space do not always receive the support they need. An example that I can give is, for instance, the Living Free project. They supported young people aged 10 to 30 who were at risk of involvement in or in early contact with the justice system, and this was an initiative that was born out of advocacy by the local Frankston police that saw a service gap and wanted that alternative provision. Unfortunately, a project like this no longer exists because there was no funding received in the last budget. I guess my question is: what has been done to ensure that these organisations are effectively resourced to take up the responsibilities they have been given in this bill?

Enver ERDOGAN: What I will say is that – part of our announcement, and probably a section that not everyone picked up – we are committed to doing an audit of the existing youth justice programs to make sure that the programs are properly tailored. We will see what works, and of course on the back of that make sure that all these programs are appropriately judged on their merits come budget time. I think that is the outcome we want to see. Thank you for sharing a local example of yours.

Katherine COPSEY: While we were close to the topic of the electronic monitoring trial, I had some questions in relation to that. Going back to the evaluation and the timeline and process for the evaluation of that trial, will there be independence in relation to that – an independent panel to conduct the evaluation? Who is going to be conducting the evaluation of the effectiveness of the electronic monitoring trial?

Jaclyn SYMES: Ms Copsey, both the minister and I were conferring, and no decision has been made exactly in relation to the remit or the individuals for a review. What I would be interested in and what would be a commitment from me is that we would want to hear from the experiences of people directly – in terms of anybody that has received an electronic monitoring order, for example, and the youth justice workers and the like – so that the real-life, lived experiences would form part of any such review. But it is still to be determined in relation to the evaluation scope that would be informed by our department.

Katherine COPSEY: Would it be desirable from the government's perspective to have some independence and expertise in the persons conducting that evaluation – for example, researchers, sector representatives or a retired judge? Obviously the voices of lived experience are very important, but who is going to be assessing it against the objectives it has sought to achieve and best practice?

Jaclyn SYMES: Look, I appreciate your suggestions, Ms Copsey. That is yet to be determined, but of course we want to determine whether the policy is effective. I have been pretty up-front. I am aware of other electronic monitoring trials in other jurisdictions that have not achieved the outcomes that I want to achieve here in Victoria, so as I said, we will be exploring, hopefully, to see whether the trial meets the objectives I am on record as wanting to achieve. Therefore it will be a very thorough review, and lived experience would certainly be something that I would be prepared to commit to.

Katherine COPSEY: Do you plan to make the evaluation of the trial public, the report?

Jaclyn SYMES: As I said, Ms Copsey, it is yet to be determined, but it is not something that I would intend to shy away from being particularly transparent about, so it would be my intention to share absolutely as much as possible in relation to a review. I am not stubborn in this policy. I know it is an extreme measure we are taking. I want it to work, but if it does not, that is not something that I am going to hide.

Katherine COPSEY: In evaluating the trial, you have both spoken about how you want that to commence soon, and it is obviously one of the headline elements of this bill. Before the trial commences are the evaluation criteria going to be built into the design of the project, which is best practice – I am sure you are aware – not only for conducting evaluations but for actually designing interventions? Is that going to happen so that you can know whether or not it has been successful?

Jaclyn SYMES: Yes, Ms Copsey, the evaluation scope and model is currently being prepared by the Department of Justice and Community Safety, so concurrently.

Katherine COPSEY: I understand that children with significant trauma are not going to be eligible for treatment under this trial. Could you please outline how trauma is going to be defined in relation to eligibility and, given the cohort that we are going to be talking about, how you think you are going to find the 50 participants?

Jaclyn SYMES: Again, probably a little bit of a double act between the minister and me. But you and I have had conversations about eligibility and the fact that it is not the government's intention for electronic monitoring to cause trauma, particularly on children who have experienced trauma. The trial is confined to metropolitan Melbourne, and the eligibility criteria will be determined. But YJ, so Minister Erdogan's area of the department, already do suitability assessments for a range of youth justice settings. Whilst trauma in and by itself is unlikely to be a standalone exclusion, it is certainly a matter that youth justice are very used to assessing. They will do that in their suitability report, and Minister Erdogan might want to supplement my deviation into his lane.

Enver ERDOGAN: That is right. As per the proposal in the bill, our youth justice department will make an assessment, and trauma in itself is not going to exclude people obviously. There are a range of factors they will look at before making recommendations to courts. There is a lot of discretion in that, and the Attorney-General has outlined that it is limited to metropolitan Melbourne and limited to 50. As with other similar trials, whether all 50 are utilised is yet to be seen.

Katherine COPSEY: I know that the Aboriginal Justice Caucus has been central to consultation in preparation for this bill. What did the Aboriginal Justice Caucus tell you about the electronic monitoring trial and their position on it?

Jaclyn SYMES: Ms Copsey, I have had direct conversations with members of the Aboriginal Justice Caucus, and I actually do not think it is appropriate for me to, without consent, detail the conversation that I have had. I just do not think that that is good practice.

Katherine COPSEY: I might be going fishing with my next question, which is: when you consulted the Aboriginal Justice Caucus on this bill, what was their position on raising the age? I am happy if you want to refer to public comments in relation to either.

Jaclyn SYMES: Where an organisation has made a public comment, then that is fair game. But with respect, it was only recently that the Greens political party quoted some Aboriginal organisations and they raised direct concerns with me about that having been done in this chamber. So I do not want to wear that wrath that you recently have.

Katherine COPSEY: I will say for the record that I am not personally aware of any of those issues, so if that has been the case, I would welcome stakeholders contacting me. It is certainly not my intent to misrepresent those views. If I could go now to the government's house amendments in relation to bail, the government is yet again seeking to amend its own legislation with regard to bail at the last minute, having a bit of a repeat of what happened last year with the Bail Amendment Bill 2023, when the youth bail provisions were withdrawn very close to the time of debate. Can you please explain why you are coming back and amending bail laws again, given, as you have said, there is already a review scheduled of that act?

Jaclyn SYMES: I appreciate your question, Ms Copsey. As you would appreciate, this is the Youth Justice Bill. This is not the bail bill. It would be open to me to move the house amendments in a standalone bill. However, as per the commitment that I gave to the community through numerous media conferences, there were conversations going on with courts, police, justice department experts, the Minister for Police, the Minister for Youth Justice and Minister for Victim Support – same person – and me in relation to just doing a check in on bail, how it was operating and concerns from the community about how people on bail committing serious subsequent offences were being treated through bail decisions, whether that was police, bail justices or the courts. Those conversations were really productive. What they went to was a joined-up commitment to wanting to ensure that the justice system was best placed in responding to those concerns. Those concerns predominantly were around youth offenders committing multiple serious offences, particularly those committing serious offences whilst on bail. Those conversations, as I said, were productive and have produced a set of amendments that are largely around clarifying the existing practices, making sure that it is beyond doubt in relation to how serious crime is to be treated in the mind of a bail decision maker, and that is what the intention of these amendments is. Because those discussions very much centred around the actions of young offenders it was deemed appropriate and indeed convenient for speedy passage to use the Youth Justice Bill as the vehicle to bring in those further amendments that I circulated earlier in the week.

Katherine COPSEY: Can you explain the government's objective in effectively reintroducing a new offence, section 30A of the Bail Act, that you only removed 12 months ago? Do you seriously think that this will have any effect on reducing offending while on bail, or is it purely about signalling that you are being tough on crime?

Jaclyn SYMES: At the outset your question contains an error in that we are not seeking to reintroduce an offence that was removed from the Bail Act. The offence that was removed from the Bail Act was committing an indictable offence whilst on bail. What we have done is introduce through house amendments a new standalone offence of committing a schedule 1 or 2 offence whilst on bail. It applies in a different context to the previous Bail Act in that we now no longer have uplift, which means that there is no platform for this offence to be used to have the same effect as previously in

capturing nonviolent low-level offending that was not a major concern to community safety. This amendment will not do that. You are right, and I am on the record in how I explained why committing an indictable offence whilst on bail was not an offence that did particularly much. Will this offence do a lot? No, you are right. It is the substantive offence that should always be front and centre, but this does send a very strong message that we consider committing multiple offences, being a repeat offender, as something that we need to take seriously. It is something that the community is concerned about. It is a summary offence. It has a three-month maximum. It is more about ensuring that it is recognised that this behaviour is inappropriate. This behaviour deserves to be called out. That is why we have brought back the amendment, and it has the added benefit of ensuring that the Liberal Party's nonsense that removing committing an indictable offence whilst on bail had any impact on weakening bail laws. Bringing back this offence negates that.

Katherine COPSEY: Good to hear. Has the government done the modelling therefore around this small number of people who will be affected by the likely impact of the reintroduction of proposed offence 30A? In this answer I am of course referring both to young people and to adults, which as I understand it the offence will also apply to.

Jaclyn SYMES: Ms Copsey, I might have misunderstood your question. Let me just get advice from the box.

Ms Copsey, you asked about the impact of this new offence that we are introducing, and had we considered –

Katherine COPSEY: Just to clarify and repeat: any modelling on the likely impacts or numbers.

Jaclyn SYMES: Ms Copsey, we anticipate, through information both from the courts and from police, that there will be minimal impact apart from the fact that it will be very clear that it is considered inappropriate behaviour – it is criminal behaviour – to commit a further offence whilst on bail. The practical implications will be largely administrative in that it is an additional offence that will be attributed to an offender, and it will come into play more so when there are repeat and multiple offences on multiple occasions. It will indicate that this is a concerning behaviour pattern of an individual offender. As you have correctly identified, these amendments are not child specific, they are changes to the Bail Act which do not distinguish, for the purposes of this offence, between ages.

Katherine COPSEY: I am going to ask with a little bit more specificity now because I think I may have misspoken. Have you done any modelling on the likely impact of the reintroduction of the proposed offence 30A and the changes to the unacceptable risk test on remand levels?

Jaclyn SYMES: Ms Copsey, I think I have answered the question in relation to the new offence, meaning schedule 1 or schedule 2. Where I would point you to in relation to your question around remand numbers and the unacceptable risk test – we do consider that there may be increases in remand as a result of this change. That is not to suggest that this is making a significant policy shift. This is reaffirming our commitment to the Victorian public that the government's intention is to ensure that there is an appropriate response to serious crime, to crimes that cause serious harm and community concern – that they are dealt with appropriately – as opposed to low-level offending, which was being captured by the broader tests prior. The new offences that are outlined in the examples will draw attention to bail decision makers in relation to the fact that those are serious crimes that need to be held in high regard when you are considering unacceptable risk. I will draw your attention to comments from the police commissioner – it is his view that the changes will see increases in remand.

Evan MULHOLLAND: I have just got a couple of quick questions. Attorney, on 18 June – so around eight weeks ago – I asked whether there was any change in the timeline to raise the age of criminal responsibility by 2027, and you replied there was no change. It has been eight weeks. What has changed in the government's response?

Jaclyn SYMES: Cabinet made a decision on Monday to change their position.

Evan MULHOLLAND: Interesting. I want to ask about the independent review panel that is chaired by Patricia Faulkner.

Jaclyn SYMES: The Minister for Children, actually.

Evan MULHOLLAND: Yes. I am just sort of responding to one of her contributions. Obviously some of that had to do with the planning for raising the age to 14 by 2027. Has the panel's role been limited now that cabinet has made a different decision?

Enver ERDOGAN: Thank you, Mr Mulholland, for the question; it is really good question. As the Attorney earlier outlined, we have allocated $5 million for that panel to do their work. They are still going away and doing that work, and I want to thank everyone – Patricia Faulkner is the chair, but all the members of that panel are doing fantastic work there. In terms of that work, the whole purpose was to focus on this initial 10- and 11-year-old cohort and then based on the findings have a model in place that was scalable if we were to go to 14. So that work should continue as per normal.

Evan MULHOLLAND: I understand that, but was the original $5 million allocated to look at to 14, and will the full $5 million still be required for the panel's work given the government is only raising the age to 12?

Enver ERDOGAN: Yes, the full allocation will be required by the panel to set up that model, even if it is just for the 10- and 11-year-olds.

Evan MULHOLLAND: In terms of the timeframe of the panel's work, has that changed?

Enver ERDOGAN: No. Minister Blandthorn and I are awaiting a report later this year from that panel.

Evan MULHOLLAND: What communication has there been with the independent panel, given the government's position and the initial task of the panel having significantly changed in the last week?

Enver ERDOGAN: Mr Mulholland, from my perspective the work of the panel is unchanged. They were initially planning a model that worked for 10- and 11-year-olds, and that would have been scalable if or as required. I recently met with the chair and Minister Blandthorn to discuss their work, and I am still awaiting their report later this year.

I wish to circulate my amendments. With this opportunity I want to thank the chamber for their indulgence and acknowledge the work done by the opposition, the minister's office and Mr Brad Battin's office for some of these amendments. We have had the chance to work together. I also want to thank members of the Greens – Ms Copsey's office as well – for their work on these amendments. Many of these amendments should be familiar to both parties as these are amendments that I found could make improvements to the Youth Justice Bill. Although we disagree on many aspects of the Youth Justice Bill, where there has been an opportunity to at least make minor adjustments, I think it has been worthwhile, and in that spirit I wish to have them circulated.

Evan MULHOLLAND: I appreciate your answers on this. Just in regard to the panel, the Minister for Children has previously advised that the service model that they will be looking at also relates to the cohort which is no longer captured by government policy. Again, have the panel been formally notified of this and advised that their work will be now limited to 10 to 12?

Enver ERDOGAN: Mr Mulholland, as I stated in my previous answer, the whole purpose was for them to design a system that would work for 10- and 11-year-olds and would be scalable if required or as required, because even in our initial commitment, as the Attorney-General outlined earlier, we were always saying it was subject to this alternative service model working for 10- and 11-year-olds, rolling that out. So on that proposal, that model that they will come forward with to the Minister for Children, I look forward to that, and I think we will be able to obviously take that to the 10- and 11-year-olds. In a future government – Mr Mulholland, you have had views on raising the age to 14

in the past, as have some other members in the opposition – you may wish to do so and you may wish to scale that model higher.

Richard WELCH: Ministers, I have got a range of questions around clauses 23, 24 and 25, and I will be guided by you as to whether you want to deal with those now or later in the process.

Enver ERDOGAN: Which clauses, sorry?

Richard WELCH: 23, 24 and 25 under division 3. It starts on page 52 of the bill.

Jaclyn SYMES: Mr Welch, both Minister Erdogan and I are happy to take questions in clause 1 because we recognise that the run sheet is going to be best to facilitate amendments. So we are certainly happy to answer questions in clause 1 on any clause if they do not have amendments. Let us bat on.

Richard WELCH: In 23(4), it says:

> This Act recognises, respects and supports the distinct cultural rights of Aboriginal people and their right to self-determination.

What are these cultural rights, and are they above and beyond the rights of all Australian citizens?

Enver ERDOGAN: I thank you for the really good question. It is important to understand that our reforms are about making sure we hold all young people to account and that they get back on the right track regardless of their background. That is the premise with which we have approached this bill. I have talked about in this chamber many times the over-representation of Aboriginal young people in our youth justice system. Aboriginal people, although I feel in Victoria we are on the right path, still remain overwhelmingly over-represented, and they are one of the largest over-represented cohorts in not only the youth system but also the adult system. The bill does take a flexible approach and does not close off future opportunities, but I might seek some clarification for that last point in your question.

Richard WELCH: In the same clause, in that last phrase 'their right to self-determination', what does 'self-determination' mean?

Enver ERDOGAN: I think it is a very good question. We have talked about a longstanding commitment to self-determination. In many regards it was a bipartisan commitment to self-determination. It is a question that is probably best answered by the Aboriginal community, but what I will say is it is about empowering Aboriginal people to have a say in better outcomes for their communities, especially in this context, in the justice space. That is the way I would view it – in that prism. In the bill, in clause 24, you will see a more comprehensive list of the self-determination principles more broadly.

Jaclyn Symes: In the ex mem.

Richard WELCH: In clause 24(1)(b)(ii) is:

> equitable partnerships between public service bodies, public entities, Victoria Police, non-government organisations and Aboriginal communities …

That is how I am taking the syntax of that. Does this mean that Aboriginal communities will have the right of veto over defining the application of such principles?

Enver ERDOGAN: No.

Richard WELCH: Further, in clause 24(1)(b)(v) and clause 24(3)(c) there are a number of provisions that are generally around the same principles, probably best represented by clause 24(3)(c):

> Aboriginal children and young persons who have committed or are alleged to have committed offences should be dealt with in a way that –
>
> > upholds their cultural rights …

And there is also 'respect for cultural diversity and customary lore'. The question is: where cultural diversity and customary lore and Victorian law and/or public expectations of justice and safety are in conflict, which prevails?

Enver ERDOGAN: I think that is an important premise, and I think I know where your question is headed. It is not about creating two different youth justice systems. The laws, broadly in our state, are meant to apply equally. This is about getting positive outcomes for Aboriginal children and young people to reduce the over-representation.

Richard WELCH: That does not really answer the question in the sense that they must be considered. Therefore they will be considered alongside Victorian law and public expectations. Are they considered on an equal footing? You could just do the comparison of state to federal law – one prevails. Is there a sense that one prevails?

Enver ERDOGAN: Some of these questions I think the Attorney-General will have a good response to. What we will say is: the laws are the same for everybody. Already in our existing legal system, in making decisions or in sentencing, there are principles at play where other factors are considered, in terms of disadvantage. Like we consider people who are suffering from – it is probably not a good example, but where someone may have a disability or someone –

Jaclyn Symes: Drug courts.

Enver ERDOGAN: Drug courts – that is what I was going to say. If they have mental health issues or drug issues, these are all considered as a part of the principles of engaging with people – and obviously their age as well. The courts consider all these factors. On Aboriginality, understanding the starting point and the effects of colonisation on our Aboriginal community, I think, is a factor that decision-makers will take into account, and rightfully so.

Richard WELCH: Division 3, page 52, clause 23(2) says:

> Inequality, and structural and institutional racism, caused by colonisation and laws, policies and systems which explicitly excluded and harmed Aboriginal people and culture, have led to this over-representation and the continuation of systemic injustice.

Which Victorian institutions are institutionally racist?

Enver ERDOGAN: I had the privilege of appearing before the Yoorrook commission, and I think what we mean when we say 'institutionally racist' is that Melbourne, where we stand, was built on the land of the Wurundjeri people. When we say 'institutional racism', it plays out through outcomes. When you look at the outcomes for employment and for education, Aboriginal people continue to be disadvantaged. Those outcomes are there because of the historical injustices that Aboriginal people have faced and, some would say, that are even ongoing in regard to the discretionary biases at play. They do play out across our system.

Richard WELCH: Just to clarify that, are you saying there are Victorian institutions that are institutionally racist?

Enver ERDOGAN: We are trying to combat those biases – or racism, to put it frankly. But it still exists, and I think in many regards it might be conscious or subconscious.

Richard WELCH: Which public servants or officers of the youth justice system are currently perpetuating racism?

Jaclyn SYMES: Mr Welch, you would appreciate that the questions you are asking are not about specific clauses of the bill. What I would refer you to is testimony at the Yoorrook Justice Commission. All ministers that have appeared before that commission have addressed and acknowledged the years of systemic racism present in Victoria and perpetuated through the public service. I would also commend the public servants that have appeared before the Yoorrook commission in terms of acknowledging past practices and current practices and committing to work with Aboriginal

communities and Aboriginal advocates to ensure that we do our very best to undo past wrongs and walk together towards treaty. That is what the truth and justice commission is a good basis for – acknowledging past wrongs, acknowledging that there is still systemic racism and moving forward. What you are specifically asking about is if there are instances of individual inappropriate behaviour in a racist sense now, and there are individual actions for that. As a system, as departments and as a government we have acknowledged that we can do better, and we are committed to doing that. I hope that answers your question, but it is straying outside the specifics of the bill.

Richard WELCH: Final question: clause 25 makes reference to an Aboriginal-controlled justice system. What is an Aboriginal-controlled justice system, and what are its limits?

Enver ERDOGAN: I think an Aboriginal-controlled justice system is where Aboriginal people get an opportunity to take control of their own affairs, because we know that we see better outcomes when Aboriginal people have a say. But let us be clear: this bill does not pre-empt the outcomes. It is about embedding self-determination. But it does foresee a future where there may be a treaty between the First Peoples' Assembly and this Parliament, with Aboriginal people. As part of that, there is a potential for Aboriginal people to control their outcomes, even in justice settings.

Richard WELCH: That is a confusing answer given your previous answers. Are you saying that an Aboriginal-controlled justice system would have its own laws or not? Would they be determining their own affairs, creating their own laws and having separate outcomes? It is confusing.

Enver ERDOGAN: It is a good question. I will say for clarity: the principles we are embedding in the bill are principles of self-determination. There is a treaty process going on in this state at the moment. If the treaty process was to decide to go down that path, then yes, that would be an option for the Aboriginal community. Right now it is not. This bill leaves that future open, but that is up to this government or future governments to decide.

Katherine COPSEY: If I could go to some of the provisions around isolation in the bill, I want to get some clarity on the circumstances in which isolation will be permitted under the provisions of the bill. I have had lengthy discussions with both of your offices, so thank you very much for engaging on this topic. There was a lot of discussion around the safeguards already in the bill and in regulation that will protect children in the youth justice system from isolation unless absolutely necessary. Could you give an outline at a summary level of what those protections are?

Enver ERDOGAN: In relation to the use of isolation, as it is now – and this bill enshrines it – isolation is never used as a form of punishment. When a young person is put into isolation it is important that they are supported and they get an opportunity to have regular contact, making sure that they have their educational needs or health needs as required met, and there is of course recording of that isolation. In relation to Aboriginal young people in particular, there is an Aboriginal liaison officer as well that would be present.

Katherine COPSEY: This bill will allow isolation to routinely continue in youth justice settings. Is that correct?

Enver ERDOGAN: I would not say 'routinely', but yes, it will continue the practice as required in the legislation.

Katherine COPSEY: Minister, under the provisions of this bill, can you rule out the use of isolation to manage a youth justice centre, for example, when there is a staff training session?

Enver ERDOGAN: In terms of the use of isolation, it is important to understand that it is used for the safety of everyone in the custodial setting, not only staff but also the other young people. If the safety and security of the facility requires isolation, then it will continue to be used.

Katherine COPSEY: Minister, in the youth justice system as it is currently staffed, what is the rostering system used and does it have leeway to account for staff shortages? I just want to make a

comparison perhaps with, for example, other public facilities that have a rostered staffing situation, such as public hospitals. If their staff get sick or have a group training session, they have ways of managing that so that they can continue to provide care for patients. Why is it not possible to rule out the use of isolation to cover for staff training sessions in the youth justice system?

Enver ERDOGAN: We do have rosters, and every effort is made to make sure that we have got a full base of staff available at all times. Obviously there are unforeseen circumstances as well, like any other workforce, where you might have illnesses et cetera. But let me be clear: the use of isolation for safety and security reasons can happen in a variety of ways. If there is a behavioural issue that risks the safety of other young people, it may be required. But they are not decisions that are made lightly, and the welfare of children is always a paramount consideration.

David LIMBRICK: I only have a few questions, and I will acquit them all in clause 1, even though they relate to many clauses, if that suits the ministers. My first question is relating to clause 70. This is regarding children being held at a police station. Is there any time limit that a child can be held at a police station for under clause 70?

Jaclyn SYMES: I thank Mr Limbrick for his question. I can assure you this was a topic that involved a lot of consultation, on whether it would be appropriate to bring in a time limit or not, and we determined on balance that, no, it would not be appropriate to bring in any legislative time limit, bearing in mind that it is very much embedded in the legislation that police's role is not front and centre in dealing with 10- and 11-year-olds. They may obviously be the first responder. They are required to seek to transfer that child or have someone collect that child as soon as possible, preferably at the site of the incident. In the instances where a child would have to be taken to a station, that is literally because they have not been able to locate a parent or family member or an appropriate place to take that child. It is envisaged that it would be minimal time, as short as possible, but we did not want to legislate a situation that could be quite dynamic depending on where in the state and the availability. But rest assured that it is in police's interest to ensure that they keep kids in their care for the shortest possible time and get them to the appropriate people under the changes.

David LIMBRICK: With that explanation in mind and with regard to reporting requirements, will the police be required to report on how long a child is kept under care and control at a police station and provide reasons for why they were required to be held for that period of time?

Jaclyn SYMES: Mr Limbrick, there are reporting obligations under the bill, and I was just seeking to locate them for you. But they are the types of questions that stakeholders have certainly raised with us in relation to wanting to be confident that children aged 10 and 11 would spend minimal time in a police station. Obviously there are provisions to prevent any use of cells and the like, and it is a requirement of the bill to report these types of things.

David LIMBRICK: In clause 69(5), regarding transport powers for an Aboriginal child, the police are required to contact the child's parent, is my understanding. But there are other provisions in the bill that say that they must not notify a parent if doing so would pose an unacceptable risk of harm to the safety or wellbeing of the child. If the police believe that there are grounds that contacting a parent under this section would pose an unacceptable risk of harm to the safety or wellbeing of the child, are they still required to contact them as per clause 69(5)?

Jaclyn SYMES: Sorry, Mr Limbrick, the first part of your question referred to instances of where it would be a concern for the notification of parents when the child's welfare or safety is a concern, and that would be potentially in instances of family violence and the like. I am sorry, I did not hear the second part of your question.

David LIMBRICK: The police are required to contact a child's parent, if they are an Aboriginal child, under clause 72(3)(a) but other provisions in the bill say that a parent must not be contacted if there are concerns about safety. Are they still required to contact them, as per clause 72(3)(a) if they believe that there may be a concern about contacting them?

Jaclyn SYMES: Not if it exists that it can cause harm, so it is a caveat and a reason that you would not have to comply with the notification.

David LIMBRICK: Why are police not required to contact a parent when using the transport powers in situations where the child is not Aboriginal?

Jaclyn SYMES: The obligation is to, as soon as practical after taking the child into care and control, indeed find an appropriate person for that child to be placed in the care of, which includes a parent – so that would include notification of a parent. In practice that would be the first port of call for officers on the ground.

David LIMBRICK: Regarding the search functions under clause 75(4), can I get some guidance on how the police would actually determine the gender identity of a child when performing these functions?

Jaclyn SYMES: A reasonable belief.

Rachel PAYNE: My question is in relation to the Youth Parole Board. This bill continues the exemption of the Youth Parole Board from the rules of natural justice. This includes things like unbiased adjudication, knowledge of the case against a person, the provision of reasons for an adverse decision and the right to a review of a decision. This exemption risks decisions being unfair and inconsistent. According to the explanatory memorandum and the conversations that we have had with government, this exclusion in part exists to allow the board to make timely and efficient decisions, but this contradicts what we have heard from former board members and is something that could be easily overcome with additional support and funding. So my question is: what then justifies the continued exclusion of the Youth Parole Board from the rules of natural justice?

Enver ERDOGAN: I think it is a really good question, because as a lawyer myself I think the natural justice principles are very obviously a fundamental right, broadly speaking. But there are always exceptions to that broad rule. I think this is a situation where applying the natural justice rules would add procedural requirements which could have a negative impact on the board's flexible and responsive decision-making. So you are right – the timely decision-making. But also we know that the current legal system, the structured legal system, would make the whole process more adversarial, especially in a youth parole setting. It really is not an adversarial process. The way it has been explained to me is that there is a more therapeutic, collaborative approach taken. So introducing those kinds of natural justice principles would make it adversarial, and it would increase the complexity of parole meetings, delaying these decisions. Reflecting the strength of the current parole system, I think, is the fact that Armytage and Ogloff did not make any recommendations. They reviewed the whole system, and they did not recommend introducing those natural justice principles to the Youth Parole Board.

Katherine COPSEY: I wanted to ask some questions around protections for kids subject to the transport power and the new police powers relating to 10- and 11-year-olds, particularly around the use of body-worn cameras, which is a topic that I have an amendment relating to and have had discussions with your officers regarding. Attorney or Minister, your staff have spoken around the current use of body-worn cameras by police. Would I be correct in understanding that in all interactions with children it would be standard for a police officer to activate their body-worn camera under existing legislation?

Jaclyn SYMES: Ms Copsey, yes. I do want to start by being clear that in practice body-worn cameras are already required to be turned on when police exercise legislative or common-law powers – for example, when exercising any arrest or detention powers and when exercising family violence holding powers. This means that once the bill passes, body-worn cameras will be activated when police use transport powers.

In relation to your amendment, I am sure we can go through this in greater detail, or I can probably repeat some of the points that I want to make now. The intention of your amendment is to solidify the practice in the legislation. The concern that we have is that it raises complex technical and operational issues for police. This is not necessarily to say that anyone is in disagreement with the intention of what you are trying to achieve. It is just that when we put it to police, it can sound good in theory, but they are concerned about unintended consequences. For example, it does not provide enough operational clarity to account for things such as the scope of any interaction with a young person once age is determined or once the power is enlivened. What are the consequences if it is not able to be used for technical failure reasons? What are the consequences for not recording interactions? They are matters which existing policies cover and which, given the operational nature of the use of cameras, are best addressed in this manner – through practice guidance – so they can continue to be flexible, responsive and adjustable to the dynamic nature of policing.

I would point you to body-worn camera regulations that are contained in the Surveillance Devices Act 1999 as well as the Victoria Police manual. There is currently no legislative precedent for prescribing when body-worn cameras should be turned on in Victoria, and as I said, there is a concern that there would be unintended consequences of legislating body-worn cameras for any single specific context given that they are used in a range of other contexts by police, for instance, for taking statements and the like. So, whilst on the face of it your proposition is that their use should be mandated, we would say that in practice this is occurring. But to put it in legislation is not something that we are in a position to support, because of the reasons I have outlined.

Katherine COPSEY: I would just say, by way of comment, that I would hope, given the extensive instructions and guidance provided by this bill, that police will be very conscious when they are exercising powers under the chapter and when they are exercising the transport power. Therefore in my view it would be a pretty simple matter for them to determine that it was appropriate to turn on their camera. So I hope that that continues to be the practice. Thank you, Attorney, for a very comprehensive answer. I want to understand if some of the guidance that you were reading from before was from the documentation around the requirements for the use of body-worn cameras in the police manual.

Jaclyn SYMES: Ms Copsey, I can assure you that I pre-empted your question, and it was informed by consultation with the police minister's office. Whether it is word for word is probably unlikely, but that is the advice that was given after consultation with VicPol directly as well. So that answer came through the police minister's office. Like you, when you first proposed it, I said, 'That sounds good,' but for the reasons explained in terms of an operational sense I accept their position that it would not be appropriate to legislate. That is not disagreeing with anyone disagreeing with the principle of using body-worn cameras for interactions in this cohort.

Katherine COPSEY: If I may, what are the consequences if a police officer fails to activate a camera as required in the manual and in the Surveillance Devices Act?

Jaclyn SYMES: Ms Copsey, there is no legislative penalty, but I understand disciplinary action can be taken for such matters.

Katherine COPSEY: I am getting to the end of my questions, just as a heads-up to everyone. If others have some more, we may extend clause 1 a little further. I want to go to another topic in relation to isolation, and that is around meaningful human contact for children in youth justice settings. It is probably best for you, Minister. How do you ensure that children in custody do have human contact, particularly if they are subject to isolation and lockdown, that is more than fleeting, that is empathetic and that is face to face?

Enver ERDOGAN: That is a really important question. The bill does require the secretary to prepare and publish some minimum requirements for meaningful human contact with children and young people placed in isolation. Of course, in regard to best practice, it would be to understand the

psychology of adolescent development and also promote transparency by making the minimum requirements easily accessible to the public. There is no universal definition. I do understand there is some work in relation to this. Children in custody are subject to structured days which support their rehabilitation. But it is intended to capture genuine human contact, and that is a point made by you and many others to me as minister – that face-to-face, direct, close physical proximity, such as by having one of our youth justice workers immediately outside their room providing empathetic and supportive interpersonal communication. It cannot be seen as just incidental contact; I think that is the key that we need to get across. But the department secretary will publish that and make it public.

Katherine COPSEY: Sorry, Minister. I just missed the last sentence. I think you may have answered my next one, which was: are those requirements currently contained within regulations, or are the regulations to be developed?

Enver ERDOGAN: The regulations are to be developed, but they will be made public.

David DAVIS: Can I just take the opportunity, Deputy President, to circulate a further tranche of amendments, DD144C, which is responsive to the government's matters and replacing in part amendment 59 on the earlier sheet DD141C. It is then at least available to others.

The DEPUTY PRESIDENT: Are there any further questions on clause 1?

Katherine COPSEY: I have an amendment that relates to the isolation register. In discussion with the minister's officers, we have discussed that the isolation register will be in part governed by regulation. That is my understanding. I want to take the opportunity, if I can, to ask Minister Erdogan if he can commit to consultation on the development of the regulations governing isolation.

Enver ERDOGAN: There are current laws about how this operates, and practices, but we are committed to consulting. Our youth justice team is committed to consulting in the development of those.

David DAVIS: I am going to ask questions. I will let clause 1, per se, be exhausted, which is I think now. Clause 15, the interaction of guiding youth justice principles with this act, notes the principles should apply when exercising any requirement of the act unless the context requires otherwise. What are examples of where the context of a situation means the principles should not be applied?

Enver ERDOGAN: It is always a challenge to answer hypotheticals. What we have tried to do with the principles is insert what we believe is the best way to respond to the young person and work from there. Of course with the way the system operates there are always challenging circumstances, but those principles are the principles that will guide the way the youth justice system responds. It allows that flexibility that these are principles and that is the way that we expect people to work with young people, but that may not necessarily always be practical.

David DAVIS: I understand what the minister has said, but I was looking for some examples that might move beyond a theoretical framework and some actual examples of where that might apply.

Enver ERDOGAN: I think this is more about doing what we know works in an evidence-based process, but there are times when there are security measures that need to be taken for the safety of the community or of those people in our youth justice system. There is always a balance there. And where safety will take precedence over what might not necessarily be ultimately the best outcome for that individual young person, we will balance it out with what is best for the other young people and the whole system. Isolation is probably the easiest example.

David DAVIS: I thank the minister for providing an example. In clause 20(a), 'Guiding youth justice principle – rights of victims', the subclause talks about the rights of victims to restoration. What elements of the bill are practically demonstrating and upholding these principles?

Enver ERDOGAN: I think group conferencing is the best example, where victims will get an opportunity to have a say and be involved in the process. But obviously this bill goes beyond just

group conferencing and introduces a victims register and a voice for victims within the parole process also.

David DAVIS: To clause 25, and there is some overlap with these, 25 and 26 – which I will ask some questions on as well – with what Mr Welch asked. It is not quite the same but it is similar. In clause 25, the obligation on the secretary to develop strategic partnerships, it says:

> … the Secretary must seek to develop … partnerships with Aboriginal organisations …

If Aboriginal organisations are not keen on that, what is the secretary's response there?

Enver ERDOGAN: I think the development of this clause was in close collaboration with the Aboriginal Justice Caucus – I know, another hypothetical, Mr Davis.

Jaclyn SYMES: He is worried about it.

David DAVIS: Aboriginal justice –

Enver ERDOGAN: Caucus.

Jaclyn SYMES: A 25-year organisation partnership with government.

Enver ERDOGAN: Yes, we have a long-term partnership with them, and their input was sought on the development of this principle. I know a hypothetical scenario where they may not want to is what you are putting. But I feel as though it is not the current situation, and I do not envisage it to be the situation. I think the Aboriginal community have always been pretty forthright in their engagement to get better outcomes for their people.

David DAVIS: Is this section dependent on treaty being agreed?

Enver ERDOGAN: I think it is designed with treaty in mind. If treaty were not to proceed, the principles there would still apply, but it is envisaged to allow for a treaty to take place.

David DAVIS: If it is intended that treaty be there, why is it in the bill before the treaty has been agreed?

Enver ERDOGAN: I think it is about futureproofing the youth justice system so that if treaty proceeds then we will not need to make subsequent amendments. In the youth justice context those powers will already be there.

David DAVIS: Subclause (d) denotes the progressive transfer of authority – Mr Welch referred to this – from the secretary to Aboriginal organisations. I wonder what specific powers that refers to.

Enver ERDOGAN: The goal of this was about self-determination principles. It is not intended to pre-empt the treaty process but to complement it, noting that that process to commence the transfer of functions will only occur if the Aboriginal organisation chooses to be registered as an Aboriginal youth justice agency. The secretary will work with them, and it might be a transfer of functions. But I do not want to pre-empt that process.

Jaclyn SYMES: They might run a parole program.

Enver ERDOGAN: As the Attorney suggests, there might be a future under the treaty where Aboriginal people want to have their own justice system in that sense or process over the young people in the justice system. It could be the parole process; it could be their supervision.

David DAVIS: Would they appoint judges?

Enver ERDOGAN: We already have a Koori Court in place, so some of these systems are already in place. But that is right, it gives the flexibility. It does not pre-empt it, it gives the flexibility down the track, if government wants to proceed down that path, that they would have that option.

Jaclyn SYMES: I just might present an example that comes to my mind. As the clause outlines, it is to enable progressive transfer of authority, resources and responsibilities to an Aboriginal-controlled justice system in consultation with representatives of the Aboriginal community on justice-related issues in Aboriginal communities. There are a lot of examples of where Aboriginal young people get better outcomes when programs are designed specifically for them, whether it is a bail program that involves going back to being on country, whether it is a parole supervision or whether it is another supportive program that is run by an Aboriginal-controlled organisation for Aboriginal kids. We are recognising that in culturally safe, culturally informed programs you get better outcomes because kids are going to respond better in many instances to people who understand their background, their challenges and their cultural sensitivities. I think there are a range of examples where we are already supporting Aboriginal organisations to run programs for Aboriginal people, and this is just building on the evidence base that we know is how you get good outcomes in the justice system.

David DAVIS: I understand the description that you have now painted, and I note that clause (e) talks about accountability mechanisms. How will such transfer powers be accountable to the community? How will such transfer powers be measured? Will there be KPIs, for example?

Enver ERDOGAN: Those accountability measures will be obviously worked on, and I do not want to pre-empt that work between the department, represented by the secretary, and Aboriginal community controlled organisations that undertake that work. I can think of some –

David DAVIS: Victims, for example.

Enver ERDOGAN: I think all stakeholders' views. But when we talk about accountability measures to improve outcomes, I think many of these organisations already exist and are doing some of this work, and I come to think of programs of which the easiest examples are probably in the adult system, where we have the Wadamba prison-to-work program.

David DAVIS: This is progressive transfer that we are talking about?

Enver ERDOGAN: Yes. And, I mean, in terms of transferring those powers, we need to understand the Aboriginal community will have a say if it really will determine what they see as their goal and what they want to see. You talk about KPIs, but that is what the Aboriginal community will say they want for their young people.

David DAVIS: What say will victims have in this? Will they –

Jaclyn SYMES: It is yet to be determined.

David DAVIS: Well, I am interested to hear. We are voting on a clause that gives these powers. I am interested to understand how that will work for victims.

Enver ERDOGAN: As I said, I do not want to pre-empt the treaty process, but this bill does foresee a future where a treaty process may take place, and that will all be discussed as part of those potential transfers of power.

David DAVIS: I am just curious as to how those powers will be measured, and I have not heard anything that makes me comfortable that victims' rights will be heard, will be adhered to, and that the system will be responsive to their rights.

Jaclyn SYMES: What excludes them?

David DAVIS: I am wanting to hear this.

Jaclyn SYMES: Well, it is not – this is a facilitating clause.

David DAVIS: Yes, and that is precisely why I want to hear these points about the role of victims and that their concerns are heard in this clause. It is not mentioned here anywhere.

Enver ERDOGAN: In everything in this bill there is a lens for victims of crime. This bill has been informed from their perspectives; that is why we are setting up the first ever victims register. This clause that you are referring to is not about limiting victims' rights; it is about giving Aboriginal communities greater involvement and control over outcomes for young people. Of course it does allow a future potential transfer of power, and in part of those treaty negotiations they will be matters that will be discussed. But the bill as it stands does not do anything to limit victims' voices. In fact it strengthens victims' voices throughout the process in youth justice.

David DAVIS: All right. I have said enough. My view clearly is that this transfer is intended to occur on this clause but that there are no clear accountability mechanisms and there is also no specific way –

Jaclyn SYMES: It is developing accountability.

David DAVIS: That is right. And in terms in particular of the rights of victims.

Enver ERDOGAN: It is developing. It has not occurred yet.

David DAVIS: In clause 26, the minister or secretary will consult with representatives. What is the prescribed manner in which this consultation work is to take place?

Enver ERDOGAN: I think this work already takes place. In Victoria we have an Aboriginal justice agreement. The department works with Aboriginal partners to get the best possible outcomes across the justice department. So this work is already taking place, and the department does it. We do it, obviously, as ministers as well directly. Most recently I was at the Aboriginal Justice Forum, where I heard from a number of Aboriginal partners about the work that they are doing in justice-related issues that the Aboriginal community faces. But I think the department has direct dialogue and partnership with organisations, and the Aboriginal Justice Caucus is the main organisation that we work with. I know the Attorney-General might have a bit to add on this one as well if she wishes to do so.

David DAVIS: What is the prescribed matter?

Enver ERDOGAN: I think the matter is a partnership.

Jaclyn SYMES: Mr Davis, consultation with representatives of the Aboriginal community on justice-related issues is something that the Allan Labor government is very committed to. We actively participate in the Aboriginal Justice Forum, which is underpinned by members of the Aboriginal Justice Caucus, which has representatives from the regional Aboriginal justice advisory committees (RAJACs) and representatives from other Aboriginal organisations that have connections to or representation with the justice system, such as the Victorian Aboriginal Legal Service as a community legal centre, for example. This clause is merely indicating that when you are developing further justice matters that impact on Aboriginal people, we want to make it explicit in legislation that you do not do that in the absence of consulting with Aboriginal people and Aboriginal leaders.

We have been non-descriptive. We could have outlined 'Aboriginal Justice Caucus'. And I want to be on record that this clause is intended to apply to them, but specifically detailing organisations or current consultative bodies is not best practice in writing laws in case you have name changes or different make-ups of evolving groups and the like. But for the purposes of this clause I can certainly point to the Aboriginal Justice Caucus and the forum that we participate in, which is held four times a year. It is an incredibly valuable use of time, and they are the types of examples of consultation that we do as ministers, but this clause is specific to the secretary. The secretary has attended every Aboriginal Justice Forum in recent times that I am aware of, but there are always representatives. We also have not had one where a minister has not been available, so between the ministers for victim support, corrections, youth justice and police, and me, we have standing invitations to those forums, and other ministers are indeed invited from time to time. This is a clause that cements that commitment from our government.

David DAVIS: Will non-prescribed members of the Aboriginal community be consulted?

Enver ERDOGAN: I think the Aboriginal community have quite considerable institutions that represent them, such as the First Peoples' Assembly –

Jaclyn Symes interjected.

Enver ERDOGAN: It is democratically elected, as the Attorney reminds me. The First Peoples' Assembly obviously give their feedback. But even the representatives at the Aboriginal Justice Forums are representative of Aboriginal community controlled organisations, such as RAJACs and many others, that are reflective of Victoria's Aboriginal community.

David DAVIS: If we move to clause 34, 'Report by Secretary', what are examples of adverse events the secretary would have to report under this section?

Enver ERDOGAN: Mr Davis, examples would be category 1 type matters where there is significant harm. By way of example, it would be a staff assault which results in hospitalisation.

David DAVIS: Moving to clause 35 and subclause (3), 'Commissioner for Youth Justice', what are the specific qualifications referred to in subclause (3) that are required to be possessed by the Commissioner for Youth Justice?

Enver ERDOGAN: I think it is a well-written section. It says:

> … if the person is suitably qualified and experienced …
>
> significant experience in youth justice; and
>
> a qualification or experience in child and adolescent development.

Many of the professionals who work in our youth justice system – I might take this opportunity to thank them – do have the background, whether it be in social work, education or psychology, but most importantly they have experience in child and adolescent development.

David DAVIS: On clause 36, 'Functions and powers of Commissioner for Youth Justice', subclause (1) lists the things the youth justice commissioner is responsible for. Which paragraph of subclause (1) covers safety and welfare of staff and ensuring they have a safe workplace, and how is this practically catered for in the bill?

Enver ERDOGAN: I think clause 36 paragraph (d) specifically writes of the responsibility to ensure:

> … the safe, stable and secure operation of youth justice custodial centres and the supervision of children and young persons in those centres …

I think that is a very clear function and power of the commissioner.

David DAVIS: That relates to staff too?

Enver ERDOGAN: Yes, that applies to everyone in the custodial setting.

David DAVIS: Can we move to clause 59, 'Secretary may authorise principal officer of registered Aboriginal youth justice agency to perform functions or exercise powers'. What are the specified prescribed functions of the secretary that the secretary may delegate to an Aboriginal youth justice agency to perform?

Enver ERDOGAN: Mr Davis, the secretary would have discretion to give those specified functions and exercise the powers as they see fit to tailor the response for the young person. That may be a community supervision order. That might be the work of Aboriginal liaison officers within custody. It is what the secretary believes is an appropriate response for the young Aboriginal child.

David DAVIS: Further on that, the secretary may authorise a principal officer or registered Aboriginal youth justice agency to perform functions or exercise powers. Will a relevant organisation perform the role of the court?

Enver ERDOGAN: No.

David DAVIS: Will a relevant organisation perform the role of the parole board?

Enver ERDOGAN: No.

David DAVIS: Moving to clause 96, 'Eligibility of child for youth warning', how many youth warnings can a child receive before they are ineligible for further cautions?

Enver ERDOGAN: There is no limit.

David DAVIS: No limit at all is the answer?

Enver ERDOGAN: Yes. No limit at all.

David DAVIS: Now, moving to clause 101(2)(a), 'Record of youth warning', what is the form approved by the Chief Commissioner of Police of the youth warning?

Enver ERDOGAN: It is a form that the chief commissioner decides. It is intended to ensure that there can be appropriate oversight of decision-making by police officers. But the commissioner will decide that form in line with that principle.

David DAVIS: Has work commenced on that? Is there an existing mock-up?

Enver ERDOGAN: Mr Davis, I am advised that there are existing systems, but of course with this graduated approach and hierarchy we are creating it is envisaged for some of this to be further developed, because we are formalising a process that currently is relatively informal.

David DAVIS: What is the prescribed information required to be recorded? Do we know what will be required?

Enver ERDOGAN: Mr Davis, my understanding is that it will have the characteristics of the caution – so who was there, how the young person presented, the type of offending. Those are the broad principles.

David DAVIS: Will a copy of the youth warning be required to be given to the child, and if not, why not?

Enver ERDOGAN: It will not be required to be provided to the young person, because it is relatively informal. The caution will need to be provided, but a warning, being the first level, will not be required. It can be verbal.

David DAVIS: Asking further on clause 102, 'Youth cautions', what has changed here in part 4.3 compared to the current operation? Can we get a sense of what is there now and what will be the comparison?

Enver ERDOGAN: It is important to understand when we are talking about youth warnings or cautions that the intention is for police to have discretion about the appropriate action taken and if there is sufficient evidence to charge a child with an offence. In exercising those powers police will obviously consider a number of factors, including the nature and seriousness of the alleged offending, obviously any findings or conduct and the seriousness of the harm caused to any victim. That is the best practice approach. Currently it is relatively informal, so it is not necessarily a legislated process, and now there will be a hierarchy that they can follow, so it creates better guidance to police.

David DAVIS: There is nothing that they could not have done now though, it seems to me. Clause 104, 'Eligibility of child for youth caution', how many youth cautions can a child receive before they become ineligible for further cautions?

Enver ERDOGAN: Victoria Police will have discretion whether to warn or caution someone or refer someone to some sort of diversionary practice. If you are asking about a limit – similar to warnings – there will be no limit on the amount of cautions. I am sure with cautions being one tier above a warning police will take into consideration previous cautions they have given a young person, but there is no set limit.

David DAVIS: So there is not a three strikes and you are out for more cautions? Or 20 strikes or 100 strikes?

Enver ERDOGAN: No, Mr Davis, but caution being higher than a warning, I am sure that police will take into consideration the past behaviour of the young person and the level of harm caused to the community or to individuals in our community.

David DAVIS: Clause 108, 'Persons who may give a youth caution other than a cautioning police officer', do the provisions of subclause (1) mean a police officer does not have to offer the option to a child to have someone else – from the child's cultural or religious community – give the caution?

Enver ERDOGAN: It may. An example could be an Aboriginal elder may have that responsibility, for example, or those powers, so it may.

David DAVIS: It does not have to be?

Enver ERDOGAN: It does not have to be, no.

David DAVIS: Why are Aboriginal children given the choice to have someone of their own choosing give the caution and non-Aboriginal children are not being given the same flexibility?

Enver ERDOGAN: In terms of Aboriginal children, I think it is taking into consideration intergenerational disadvantage and practices towards Aboriginal people's interactions with the justice system. And in our Victorian Aboriginal community there are established organisations that can take on that responsibility and provide that support, whereas maybe for other groups in our community we do not have such established groupings or frameworks.

David DAVIS: Further to that, the government obviously considers the needs of Aboriginal children here are somehow more sensitive I think than a young Muslim or a young Hindu or a young Sikh. There is a difference, isn't there?

Enver ERDOGAN: I give the example of the Aboriginal community because I think their structures in Victoria are more well established, but this bill does also allow similar for culturally and linguistically diverse backgrounds if there are respected leaders. If organisations are ready for that and if the young person agrees, there is a framework to allow that to occur. Obviously, as I said, for the Aboriginal community those organisations already exist.

David DAVIS: Minister, on clause 118, 'Eligibility of child for early diversion group conference', how many service providers are there currently, and will there be more coming on board?

Enver ERDOGAN: Mr Davis, currently the main provider is Jesuit Social Services. There would need to be more work to build up that capacity with the rollout of group conferencing for others to be able to do that work.

David DAVIS: My question to the minister, then, is: how will the service providers be assessed, if there are new service providers?

Enver ERDOGAN: Mr Davis, that would be developed. Obviously we have an example that works at Jesuits, but we will need to develop that work as new providers come on board.

David DAVIS: Just moving to clause 121, the 'Form of referral by police officer', what is the 'prescribed form' for referrals referenced in subclause (1)(b)?

Enver ERDOGAN: Mr Davis, it states what must be contained in that referral, such as the child's name, the child's date of birth and residential address, the name of the referring police officer, the contact details of the referring officer and details of the alleged offence of course.

David DAVIS: It will be a hard copy form – is it that sort of thing or is it an electronic thing?

Enver ERDOGAN: Mr Davis, my understanding is that that form could be in paper or electronic form. It is agnostic to either of those factors as long as it contains that information about the children's details, the type of offending, contact details, what has occurred and any other prescribed information they need.

David DAVIS: Moving to clause 125, 'Convener may refer matter back', I ask: if the matter is referred back and the convener says it is not appropriate to conduct a group conference, how does the matter proceed? Does it have to progress to the next option under the hierarchy?

Enver ERDOGAN: Police can take whatever action they see fit in those circumstances, so they could escalate it if they believe that is appropriate.

David DAVIS: And if they say no, then they must escalate it?

Enver ERDOGAN: No, there is no 'must'. It is at police discretion. They will make a judgement if that is what they see appropriate, but obviously that would be unlikely usually. It is more likely to go up. But that is at police discretion, so they would make an assessment on the alleged offences.

David DAVIS: Clause 127, 'Persons to attend early diversion group conference', subclause (3): who decides if a person listed at subclause (3) of clause 127 can attend the group conference?

Enver ERDOGAN: The objectives of the early diversion group are to assist the child to take responsibility and make amends for their actions, support the child's positive development, but also reduce the likelihood of the child having further contact with the criminal justice system. They will make a plan. I think the convener would have a strong say in who attends those conferences.

David DAVIS: I jumped over clause 126 – I am sorry about that:

> **Legal representation**
>
> An early diversion group conference for a child must not proceed unless the child has legal representation.

That is an absolute stopper for the conference, is it?

Enver ERDOGAN: Yes.

David DAVIS: In that circumstance, who will fund the legal representatives?

Enver ERDOGAN: Mr Davis, you would appreciate that there are a range of options for legal support for young people. It is not a common issue, but for some young people it may be Legal Aid, for others it might be community legal centres (CLCs) or Victorian Aboriginal Legal Service. There are a range of organisations that already do this work.

David DAVIS: That is pretty much as I understood it. It seems to me there will be a very significant increase in the requirement for legal support, legal representation, in that circumstance. Has the government costed that – how much that is going to be? And there is a workforce question as well, which you might want to address.

Enver ERDOGAN: The CLCs do great work, and there are a range of organisations that contribute. I suspect this may increase demand. I guess as a government, once the system is in place, we are going to take time to have this group conferencing in place. Then depending on the demand,

like any other service provision, there will be a budget process to support those additional services if required. I do not have a crystal ball now to tell me what the demand will be, say, in 24 months time, but there may be additional legal resources needed.

David DAVIS: I would suggest to you that you are creating a whole new range of legal work, and that may be justified – that will be for the chamber to decide – but it will not be free. These lawyers do not come cheap. I am asking here: how many of these lawyers does the government expect to employ, and what will the cost be? Is this another 50 lawyers, 20 lawyers or 100 lawyers? Or is it a million dollars a year? I am genuinely asking. You must have some understanding.

Enver ERDOGAN: Obviously we do not have the early diversion group conferencing system, as envisaged in this bill, in place, so it is always difficult to predict demand in these situations. There are organisations that do this work and are funded by our government. I suspect that the police will have criteria for the range of matters they seek to take to these forums as they see appropriate. It is very difficult to assess the level of demand before the system has been implemented.

David DAVIS: Can anyone veto the attendance at a group conference of any person linked to subclause (3)? And if so, who?

Enver ERDOGAN: I think in the drafting of the legislation you will note that it says 'may'. So it may be that the convener of the group conferencing may feel that is not appropriate. Lawyers for the young person may make representations also on behalf of their client about who should or should not participate. Because obviously the goal of these conferences is to get the best outcome and see the young person address their behavioural issues, but I think the convener who runs the conference will have a large say.

David DAVIS: Minister, is the convener then thereby, just responding to your point there, the sole decision-maker about who at subclause (3) can attend?

Enver ERDOGAN: There is obviously legislative guidance as to who could attend. In light of that, the convener would have a say in who participates in the conference. Ultimately, they are responsible for holding the conference.

David DAVIS: But are they the only person who can do that in the –

Jaclyn SYMES: They can take representations from other people.

Enver ERDOGAN: I am sure they will hear from people.

David DAVIS: Make representations, but they are the decision-maker.

Enver ERDOGAN: Yes, they will be the decision-maker because in the end if the convener does not want to proceed with the conference or does not believe it is appropriate, then it probably will not go ahead.

David DAVIS: I should ask the minister, thereby, if someone listed at subclause (3) is denied permission to attend, can they appeal that decision, and if so, to whom do they appeal?

Enver ERDOGAN: Mr Davis, we have not obviously legislated any appeal rights, so there will be no appeal rights to that decision that the convener makes.

David DAVIS: No appeal.

Enver ERDOGAN: No.

David DAVIS: Is there a section 85 that denies an appeal to the Supreme Court or something on that? To VCAT? An administrative law seems to me to cover these sorts of decisions.

Enver ERDOGAN: Mr Davis, we have not shut it off, so theoretically you could potentially go to the Supreme Court. So, yes, we have not shut it off.

David DAVIS: Further on clause 127, if a victim attends the group conference, will they be able to read out a written impact statement?

Enver ERDOGAN: I probably should have stated that earlier. That is what is envisaged with these conferences – to give victims a voice and an opportunity to read a statement. Obviously the convener will have to – and that is why it says 'may' – make sure that that statement is productive and assists the process.

David DAVIS: Will they have some right to do that?

Enver ERDOGAN: Well, the act does allow them and lists them as people to be participating in this conference. There is an amendment, I may add, that we are supporting to strengthen that pathway, and it was a suggestion by the opposition. There is an amendment I have moved in regard to strengthening the voice. We have an amendment that deals with that issue.

David DAVIS: To clause 141, 'Leave of court required', in what circumstances could a proceeding start before a conversion to warning, caution or diversion? I am just trying to understand that.

Enver ERDOGAN: As would happen in many other matters, if the police were to decide that another course of action would be better, they would have that option and could seek that leave.

David DAVIS: On clause 230, page 209 of the second volume, concerning pre-sentence group conferences, what if the child refuses to attend the conference? The legislation says the child must participate but does not say what will happen if they do not.

Enver ERDOGAN: Mr Davis, it is my understanding that it would be a consideration for the court in sentencing. The young people that participate in good faith in these pre-sentence group conferences are eligible for a discount with consideration that the judge can make, and now I guess they will miss out on that opportunity. So in any regard it would be to their detriment if they did not participate.

David DAVIS: And if they attend the conferences without sincere engagement, what is the consequence of that?

Enver ERDOGAN: I think participation is not defined in the legislation. Obviously when I say 'participation', I envisage that is people taking part in the process.

Jaclyn SYMES: They've got to agree as well.

Enver ERDOGAN: Yes, the young person must agree, and all parties must agree to participate. But it is important to understand that if a child has participated in a group conference and agreed to an outcome plan, then the court would impose a less severe sentence than would be imposed had the child not participated. So you assume if the child participated, then they have agreed to an outcome plan. If they have not done that work and got to an outcome plan, they will not be eligible for the discount.

David DAVIS: Clause 231, 'Pre-sentence outcome plan' – does the child have to agree to the plan for it to be valid? What happens if they do not agree?

Enver ERDOGAN: Mr Davis, yes, they would need to agree to the plan. If they did not agree to the plan, then they would not be eligible for the sentence discount.

David DAVIS: On clause 233, 'Confidentiality' and group conferences – does this prevent the victim from telling their story? Does this in effect gag the victim – dare I say, a non-disclosure agreement?

Enver ERDOGAN: There will be victim impact statements that obviously can be shared and are free for the victim to share, but what takes place in the conference must be confidential for all parties.

David DAVIS: Even if the victim is treated disrespectfully in the conference?

Enver ERDOGAN: The purpose of these conferences is so the parties can come together, but to get the participation of all participants we must ensure that what is said in the conference is confidential. Those are the provisions in the act. So you could not refer to what happened in the conference – that would not be allowed for anybody – or share it publicly.

David DAVIS: Again, I am conscious of time. I will just make a point that I am concerned that victims may have their rights curtailed in this way. They may make a statement to that group conference, and in fact they could be treated quite harshly at such a conference.

Jaclyn SYMES: It could go both ways, though.

David DAVIS: Well, I am interested in victims at this point specifically – to understand what can happen to them. They have not done anything wrong; they are the victim, and I am interested in protections for the victims. But I am just making a statement here that I am concerned about that aspect of the bill.

If I move to clause 238 – this is the 'Sentence discount for participation in pre-sentence group conference' – if a child had agreed to a pre-sentence group conference outcome plan and was given a reduced sentence for doing so and does not adhere to that plan, can the full sentence be reimposed?

Enver ERDOGAN: Mr Davis, that person would end up back before the court. It would be a matter for the court to consider.

David DAVIS: In this circumstance, what is the definition of 'participation'? How is that defined? Do they have to engage or just sit there and not say or agree to anything at all? How will that operate?

Enver ERDOGAN: 'Participation' is not defined in the Youth Justice Bill. The fact is to get an outcome the young person must participate to have the outcome plan. It is not defined, what we would say participation is, but from the way it is constructed, without the young person's or child's participation you cannot have an outcome plan. We have not defined it. I guess a bit of a commonsense approach would be that they involve themselves to agree to a plan.

David DAVIS: Moving to clause 240, 'Hierarchy of options for sentencing', there are a series of questions that come from this. One is: what is the impetus for this exact change? Previously it was a menu of options. Now it is a sharp batting order. Why are we trying to direct the courts on what they must do and bind the courts in some strict hierarchy?

Enver ERDOGAN: I think this is not about binding courts, it is about understanding that the best outcome for young people is when we minimise their interaction with the criminal justice system. That is not just me saying it; there is a lot of evidence to support that proposition. By creating this hierarchy it makes it more straightforward in fact to create consistency of –

Jaclyn Symes interjected.

Enver ERDOGAN: Predictability, consistency of outcomes, so in similar circumstances we do get similar outcomes. I know it is a matter that there is great public interest in. I think by having this structure instead of just options and even having that hierarchy might provide greater guidance not only for the judiciary but, more importantly, more guidance for the community.

David DAVIS: Will courts then be sharply bound? Will they be able to choose? How does this operate? If they have not done X, will they be able to do Y? Let me just illustrate the sharpness of this for the community and the chamber.

Jaclyn SYMES: The word 'may' implies that it is not sharp.

David DAVIS: It says:

> dismiss the charge without a formal warning under section 243; or

> if satisfied that paragraph (a) is inappropriate in the circumstances, dismiss the charge with a formal warning under section 244 …

'If satisfied under (b)' – it is very hierarchical in a very sharp way.

Jaclyn SYMES: It is not sharp.

David DAVIS: I would argue that it is.

Jaclyn SYMES: That would be 'must'.

David DAVIS: Well, 'may or', but it is tight. It seems to me if (d) is not appropriate, they must do the next one. Am I correct in understanding that?

Enver ERDOGAN: I think it is important to understand that these principles are intended to enhance the court's ability to tailor the sentence to each child's risks and needs. That is why in the drafting it says – as the Attorney would agree – at clause 240(1):

> In sentencing a child for an indictable offence or a summary offence, the Children's Court may …

So it gives options. Obviously there is a graduated approach where you go from formal warnings to fines to good behaviour bonds, and it continues to increase to the point where subclause (1)(h) says:

> if satisfied that paragraph (g) is inappropriate in the circumstances, make a youth justice custodial order.

There are a whole bunch of options there which it lists, but the key here is that the courts will have the ability to tailor sentences to the child's individual risks and needs, in order to keep the community safe. Community safety is still at the heart of these principles, but they have options to tailor it to the child, because every child is different.

David DAVIS: I will move to clause 242, 'Conviction not to be recorded when making an unsupervised order'. Why is a conviction not to be recorded when there is a finding of guilt and the penalty is an order imposing a fine or good behaviour bond?

Enver ERDOGAN: I think especially for young children, the purpose is so that the young person does not experience stigma, because we know that if there is a conviction, that follows this young person. It may limit their rehabilitation prospects. We want to make the community safer, and that is why we are not recording the conviction in these circumstances as may be appropriate. Of course in a custodial setting a conviction probably will be recorded appropriately, understanding the seriousness of those offences.

David DAVIS: I should thereby ask what those offences would be for a conviction not to be recorded, making an unsupervised order.

Enver ERDOGAN: These would be matters that the court would have discretion in determining. Obviously it is envisaged that you would expect lower level offending such as shoplifting of a sort for young people; that does not necessarily have to have a conviction attached to it, but high-level offending would be something –

David DAVIS: Violence, for example? Would this include violence?

Enver ERDOGAN: The court would have that discretion for violent matters.

David DAVIS: For home invasions?

Enver ERDOGAN: The court would have that discretion. We are not prescribing the list; it is more guidance. That is why a lot of it is drafted –

David Davis interjected.

Enver ERDOGAN: That is why we have drafted it as 'may'. The sentencing principles may apply, but the courts and the judges would have that decision-making power – what they see as appropriate in the circumstances, taking a holistic approach.

David DAVIS: Could a knife crime apply in this circumstance?

Enver ERDOGAN: Like I said, there are different types of crime and different types of violent crime. But the decision would be up to the courts because we are not prescribing it here, we are giving some guidance. The courts may choose what they think is appropriate in the circumstances. Like a lot of this sentencing, you would see that they do take into consideration a number of factors. Obviously the young person and their prospects for rehabilitation but also the level of harm caused to victims are considerations in court matters. We have a victims charter that enshrines that in Victoria.

David DAVIS: Would they get a fine in the case of rape or would clause 242 be exercised?

Enver ERDOGAN: Mr Davis, I think offences of that level, what we call category 1 or schedule 1 offences, the courts take very seriously, and you would expect someone to get a conviction.

David DAVIS: This doesn't guarantee it, does it?

Enver ERDOGAN: With all sentencing, there is judicial –

David DAVIS: Discretion.

Enver ERDOGAN: discretion. There is, and they would have an option.

Jaclyn SYMES: There is also the option to appeal.

Enver ERDOGAN: And there are obviously, yes, options to appeal as well by police.

David DAVIS: In part 7.7, why are divisions 1 to 4 and most of 5 under 'unsupervised community-based orders' when they do not relate to community orders?

Enver ERDOGAN: In terms of the differences with the supervised orders, our youth justice team proactively engage and supervise the young person, but in some instances the court may let a young person out, say, on a good behaviour bond and there may be no additional supervision as part of that decision. In those cases, those young people will be on a good behaviour bond. I guess if they reoffend, that will be taken into consideration by the courts.

Sitting suspended 6:35 pm until 7:35 pm.

David DAVIS: On clause 355, 'Court may order pre-sentence report', my question is: how does this compare with part 5.4, subdivision 1, of the Children, Youth and Families Act 2005, which is the equivalent section? It appears to be a substantial change.

Enver ERDOGAN: In terms of key differences in sentencing considerations, I guess compared to the Children, Youth and Families Act this bill articulates a more comprehensive range of sentencing principles that must be taken into account when determining which sentence to impose on a child. A key difference is, for example, a new community safety principle that recognises rehabilitation as the most effective way to reduce reoffending. The bill broadens the notion of community safety in consideration of all cases and incorporates a longer term view that is a bit different from the Children, Youth and Families Act, which requires only that the courts consider the need to protect the community in cases of serious offending, which arguably applies to a narrower, shorter term focus. Obviously there are new victim-focused principles as well that recognise the impact of children's offending. An express principle that prioritises rehabilitation and positive development codifies the common-law position and aligns with the courts currently sentencing children.

David DAVIS: In a similar vein, how does clause 364 about pre-sentence group conferences compare with part 5.4, subdivision 2, of the same act?

Enver ERDOGAN: The bill mirrors the current approach that exists in the Children, Youth and Families Act – namely, if during the period of sentence deferral a child has participated in a group conference and agreed to an outcome plan, then the court must impose a less severe sentence than would otherwise be imposed, so it is consistent with the current practice and act.

David DAVIS: On clause 469, which says 'Commissioner for Youth Justice may refuse or terminate visits for security reasons', my question is: is a staff shortage on the permissible list of reasons that may cause the commissioner to pause visits to inmates in youth detention?

Enver ERDOGAN: The bill is pretty specific in terms of if 'on reasonable grounds' they believe that security or stability is of concern or is threatened, so that could be a whole range of reasons. If the safety of the facility is compromised, then they would use those grounds.

David DAVIS: So yes or no?

Enver ERDOGAN: In terms of staffing or if there were not enough staff available, then that may be a security concern to any facility, but that is not the grounds. The grounds are if there is a reasonable belief that the security or stability of the facility is at risk, and there could be a whole bunch of reasons for that, not necessarily staffing reasons. It might be the behaviour of the young people; there may be another reason such as that, like a pandemic, like health concerns – there could be a whole range of reasons for that.

David DAVIS: So a staff shortage could trigger it?

Enver ERDOGAN: It is not limiting the reasons. They could have a few staff off that day with illnesses.

David DAVIS: On clause 656, which is 'Application to be included on the Youth Justice Victims Register': why is the eligibility criteria for the justice victims register different to the adult register? Can I give you an example, Minister, would that help?

Enver ERDOGAN: Yes, that might help.

David DAVIS: For example, the adult register includes 'a person with a strong connection to the offence, such as a witness for the prosecution', and also family members, whereas the youth justice register does not appear to.

Enver ERDOGAN: I think it does apply to victims and their families, so just to clarify. But what it does do is limit sometimes other parties that are eligible in the adult system. For example, the youth justice victims register allows a person to be included if they have been a victim of a criminal act. The adult system has similar eligibility, but the specified serious offences are not linked to the offender being in custody. The youth justice register intentionally will only allow victims of an offence to receive information, as releasing information about a child can cause stigma. They will get that information, but there are some limits in place compared to the adult system.

Jaclyn SYMES: Bearing in mind it is new as well.

Enver ERDOGAN: Yes. It is a new system, but I think it is more so taking into perspective the confidentiality of the young person as well.

David DAVIS: So my summation there is correct that it is different and that there are some people who are not on it, who are on the adult register in the equivalent circumstance. Just moving along to clause 719, which is 'Publication of prescribed information', under the 'System planning, performance, collaboration and accountability' chapter. What is the definition of 'prescribed information'? Can we get a list of that?

Enver ERDOGAN: Mr Davis, I guess it is in subclause (2): 'The prescribed information must include details of the performance of the youth justice system in achieving the outcomes specified in

the performance management framework set out in the strategic plan'. It is envisaged that it will be published annually.

David DAVIS: I think we were looking for a bit more detail than that; that is a bare minimum – what performance information, for example, and how will the outcomes be measured?

Enver ERDOGAN: Information about recidivism is a good example of the type of information you would want published and expect to be published, and information of that nature. Consistent with my previous example, Mr Davis, I think it is the kind of information that would be consistent with what would be publicised in the *Report on Government Services* – so the amount of use of isolations, the amount of children under supervision or in custody and similar information of that nature, so you can compare, I guess, systems across the country.

David DAVIS: Just moving to clause 720 – this is 'Obligations in delivery of services in youth justice system' – what are the checks, balances and oversights that are in place to ensure adherence with this clause and in particular with subclause 1(a)?

Enver ERDOGAN: There are a number of oversight mechanisms that operate in our youth justice system. Obviously, we have internal systems, and the department always evaluates its own performance, but of course we have a children and youth commissioner as well. We have external bodies as well that come in and have a look at how we are performing. There are assessments – the *Report on Government Services* is another good one. That assesses some of the outcomes from our youth justice system. So there are existing mechanisms in place that do track the performance of youth justice systems across the country.

David DAVIS: At clause 750, page 640, 'Development of cultural support plan', what specifically is intended to be or is to be included in a cultural support plan?

Enver ERDOGAN: Mr Davis, I believe the intention is to have a comprehensive record of the young Aboriginal child's history, his kinship, his connection to his community and family, and try to strengthen those relationships and I guess find his self-identity. For many Aboriginal kids we do find that there is that disconnect for a whole range of reasons, and sometimes the youth justice system is the first time they get to experience their culture, which they have been, unfortunately, removed from.

David DAVIS: Clause 753, 'Use of cultural support plan' – I would ask, Minister: what are examples of the ways in which it is anticipated an Aboriginal person may use and can use their cultural support plan?

Enver ERDOGAN: Mr Davis, it is to make sure that the provision of services to assist the young person is done in a culturally appropriate way. It has been explained to me that they are already in place, these kinds of cultural support plans, in DFFH, so this will be taking that similar approach to these young people.

David DAVIS: I would ask the minister: could a young person request to use their cultural support plan to petition the court to include sentencing conditions not available to those without a support plan, such as greater freedoms to fulfil the aims of the plan?

Enver ERDOGAN: No.

David DAVIS: If you move to clause 1130, 'Sentences to be concurrent' – why concurrent? What is the rationale for this?

Enver ERDOGAN: It is quite consistent with existing practice for young people.

Jaclyn Symes interjected.

Enver ERDOGAN: And for some adults as well, obviously not in all circumstances, I might add. For example, in a recent case where there was an assault on staff, a cumulative sentence was applied.

Courts have discretion, but it is consistent with the principles in the bill about custody as a last resort for young people. But having said that, courts do have discretion in the way it is applied.

David DAVIS: That concludes the list of straight questions. All of the others relate to individual clauses and amendments to those clauses as we go through. I move:

1. Clause 1, lines 5 to 11, omit all words and expressions on these lines.

With the committee's indulgence, I am not going to labour a lot of the points that we have in debate covered repeatedly. I am just going to simply explain that this relates to the criminal age, and we propose the 10-year age remains. The government's proposal is 12 years. This tick-tacks directly with the amendment that Ms Copsey is proposing, which is a 14-year age, but this amendment 1 relates to the age of criminal responsibility. I do not think that anything I have heard in the debate or in the committee stage changes my view or the opposition's view about the need for the safety of the community to be at the forefront. For that reason, we believe the 10-year age point is the right one.

Jaclyn SYMES: I anticipate that the Greens' counter-amendment speaks for itself in opposition to the coalition's amendment. Mr Davis, the government is strongly of the view that raising the age to 12 is appropriate given our experiences of dealing with young people, whether that is from the perspective of police, youth justice or the courts. We strongly believe that raising the age to 12 will have a positive impact on community safety. We know that regular interaction with the criminal justice system in a young person's life is often a precursor to a life of crime. We think that – and this is well supported by many stakeholders – there is very little opposition to raising the age to 12. There is a lot of protesting from those opposite, but there are very few people with experience on the ground that are overly opposed to raising the age to 12.

Very small numbers of young people come into contact with the tail end of the justice system in this cohort. There is a little more at the front end, and we think that having these measures in place and having the opportunity to use what is the criminal justice system perhaps as the entry in terms of that front-on interaction with police and being able to just bounce back into a support service, to be brought to the attention of the DFFH or to be brought to the attention of a school, where people are well placed to provide support for a young person to deal with the causes of their offending behaviour is going to be (1) much better for these young people and (2) will ultimately ensure that they are best placed to be supported, directed and diverted into a pathway that is productive and helps them identify that the behaviour is inappropriate and the behaviour is something that can be addressed through alternative measures, whether that is health, education, support services or the like. We are incredibly proud to be a government that is recognising the benefits of raising the age to 12. This is something that I am proud to deliver. I hope that this passes the Parliament. As I said, I think this is going to be a great outcome for young people but, indeed, really promote community safety.

Katherine COPSEY: The Greens will not be supporting the amendment.

Council divided on amendment:

Ayes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendment negatived.

Katherine COPSEY: I move:

1. Clause 1, line 7, omit "12" and insert "14".
2. Clause 1, line 10, omit "10 or 11" and insert "10, 11, 12 or 13".

Likewise, having canvassed all of the Greens' amendments during my second-reading speech, I will keep my comments relatively brief throughout the committee stage in the hope that we might move through. Following a longstanding Greens policy and consistent with the recommendation of the Yoorrook Justice Commission, we strongly recommend that the bill raise the minimum age of criminal responsibility to 14 immediately. The evidence is clear that contact with the criminal legal system in any form harms children. Consistent with international human rights standards, medical science and criminological evidence, raising the age to 14 years old is the absolute bare minimum reform required to achieve the goal of supporting children to thrive in the community rather than being locked away in police and prison cells. Failing to do so immediately will see many more 12- and 13-year-olds criminalised and dragged through the criminal justice system in the coming years. I commend the amendments.

David LIMBRICK: The Libertarian Party will not be supporting these amendments. As I stated earlier, without the proper systems in place I think that what the Greens are proposing here is utterly irresponsible and will result in tragic outcomes. I would urge all members to not support these amendments.

Jaclyn SYMES: Just briefly, I think that the government's position has been well canvassed in relation to this matter. We are very proud that we are proposing to raise the age of criminal responsibility from 10 to 12. We are not in a position to support the Greens' amendments, but I do take issue with the constant characterisation that there are 10-, 11- and 12-year-olds locked away. The Greens have no factual evidence to support the fact that there are a number of little kids that are locked away, purely by the fact that you could be held criminally responsible in being the age of 12 to 13. Our government stands proud that we have done a very good job in keeping those little kids out of custody environments. When you use language like that, it implies that this system supports custodial sentences or custodial arrangements for that cohort, and the Youth Justice Bill proves and demonstrates that that is the opposite of our intentions.

David DAVIS: The Liberals and Nationals will not support the Greens' amendments. Obviously they are at the opposite end of the equation of where we have sought to amend. We think, for the same reasons that we are opposed to the government's extension, that the Greens' amendments will go further and will put the community at even further risk. So we think both proposals – 12 and 14 – put the community at further risk.

Katherine COPSEY: Just to respond to those comments from the Attorney-General, in my comments just now I spoke about contact with the criminal justice system, not purely about incarceration. We are very conscious of the fact that contact at any point, including court appearances and interactions with police, can have negative impacts on children.

Council divided on amendments:

Ayes (7): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam

Noes (32): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Amendments negatived.

Jaclyn SYMES: I move:

1. Clause 1, page 3, line 8, omit "**1977** to provide" and insert "**1977**, including by providing".

This will take some time – which is a cue to anyone who does not want to hang around – because this is a test for all of my remaining amendments. I will take the opportunity to take the chamber through my amendments in high-level detail, but there is a bit here. In addition to my contribution to the second-reading debate, it would be useful for me to outline these amendments to the chamber.

These are in the form of house amendments. They are making a change to the unacceptable risk test in the Bail Act 1977 and providing clarifying examples to that test. I confirm that these changes apply to both adults and children. Currently our bail laws require that bail must not be granted where a person poses an unacceptable risk to the safety of others, including a risk of committing offences which could harm another person, failing to come to court or of interfering with the administration of justice, such as by influencing witnesses. What we are seeking to do here is to make it clear that a bail decision maker – and I do remind people that a bail decision maker could include a police officer, a bail justice or a member of the judiciary – must specifically consider whether there is an unacceptable risk that the person may commit a high-harm offence. Specifically, as we are outlining in our amendments, high-harm offences are those set out in schedule 1 and schedule 2 of the Bail Act. These include schedule 1 offences, such as aggravated home invasion, aggravated carjacking, serious drug offences, murder and terrorism, as well as schedule 2 offences, such as aggravated burglary, home invasion, carjacking, rape and other serious offences, and serious family violence and stalking offences. We are also seeking to provide further clarity by including examples in the act to make very clear the unacceptable risk test and risk of harms through driving dangerously and other high-harm risk crimes – conduct we know Victoria Police and the community are concerned about. The examples included are aggravated burglary, armed robbery, carjacking and home invasion.

Further, my amendments are proposing to bring some guidance around revocation into the Bail Act. Once a person has been granted bail, if there is an escalation to the risk that they pose, police are able to apply to the court to have the person's conditions of bail altered or their bail revoked. What these amendments do is make it clearer when and how revocation can be sought, by adding non-exhaustive grounds for applying for revocation into the Bail Act. These are breach of bail by allegedly committing an offence and breach of bail by noncompliance with any other condition of bail. The onus will be on police or the DPP to demonstrate that the accused person presents an unacceptable risk and must therefore be remanded in custody.

We are introducing a new bail offence. The amendments introduce a new offence of committing a schedule 1 or schedule 2 offence whilst on bail, as it refers to the schedules in the Bail Act that set out the offences that reverse onuses apply to and contain offences that are widely recognised as causing potential harm in community safety. For example, schedule 1 offences include aggravated home invasion, aggravated carjacking, serious drug offences, murder and terrorism. Schedule 2 offences include armed robbery, aggravated burglary, home invasion, carjacking, rape and other serious sex offences, and serious family violence and stalking offences. Police will be able to charge the offence where a person commits one of these schedule offences whilst on bail for a previous offence. It is not the same as the previous Bail Act offence of committing an indictable offence whilst on bail; it is specifically targeted to offences already recognised within the Bail Act as inherently harmful to the community. It does not include the low-level nonviolent offences that are classified as indictable which were included in the previous offence. This aligns with the key purposes of our 2023 bail reforms, which came into effect in March this year, which are about ensuring appropriate distinction between low-level nonviolent offending and offending that does potentially risk community safety.

I do want to confirm also that these amendments, if passed, will be included in the Bail Act, and we have a pre-existing statutory requirement for the Bail Act to be reviewed, commencing in 2026. It is the intention that any amendments to the Bail Act will form part of that review. I hope that outlines with sufficient detail for the chamber my amendments to the Bail Act.

David DAVIS: I am just seeking the support of those who understand the flow better than I on this. It is at this point that I think I need to move the amendment to that –

A member interjected.

David DAVIS: Okay, later – the sequence is complex. The Liberals and the Nationals are concerned about some of these points. We are worried about the number of people who are committing offences on bail. We are worried that people who have committed quite serious offences are out on bail and continuing to offend. The government's amendments here are narrow and not wide enough, and we would seek to restore a stronger balance there so that for those who commit indictable offences, all of those indictable offences are captured. We do not think that the government's proposals are clear and strong enough, and we do not think that the situation in the community over the recent period has been strong enough to ensure that the outcomes for our citizens have been satisfactory.

Jaclyn SYMES: But you have to support my amendments to move your amendments.

David DAVIS: I see. I am just trying to get the sequence there, so I am flagging that. I will move it at the exact point when I am instructed to do so.

Katherine COPSEY: The Victorian Greens will not be supporting the government's house amendments relating to bail. The last-minute announcement on Tuesday represents another backwards step by the government in relation to matters relating to bail. We saw with the Bail Amendment Act 2023 just a year ago the excision at the last minute of the government's own reforms to youth bail. I will pre-empt now that the Greens amendments would insert the government's own youth bail provisions that they removed from the Bail Amendment Act 2023. For that reason we will not be supporting the government's house amendments in relation to this matter. At a practical level it is not desirable to see more people, either young people or adults, funnelled into our criminal justice system on remand, and it is extremely disappointing to see bail offences re-emerging when we had made some progress towards Poccum's law in the Bail Amendment Act so recently. For those reasons the Greens will not be supporting these house amendments.

David LIMBRICK: Libertarian philosophy dictates that we oppose all forms of initiation of aggression against other people. These offences listed in here are clearly offences against other people that initiate aggression and therefore are extremely serious, and I welcome the inclusion by the government of these amendments.

Council divided on amendment:

Ayes (34): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Rachel Payne, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Noes (5): Katherine Copsey, Sarah Mansfield, Aiv Puglielli, Georgie Purcell, Samantha Ratnam

Amendment agreed to.

Katherine COPSEY: I move:

1. Clause 1, page 3, lines 8 to 12, omit all words and expressions on these lines.

I will be brief so that we can have short divisions if necessary. This amendment removes the electronic monitoring trial that 50 children will be subject to as a result of the government's plans in this bill. Together with backflipping on youth bail, the Victorian Labor government has announced a trial of electronic monitoring devices together with curfews and exclusion zones on children. The government has committed $34 million to this trial, and the Victorian Greens simply note what that amount of

money could mean to support services for young children, like the YSAS program, which was cut by the government in the recent budget. The effect of this amendment is to remove the electronic monitoring trial provisions. We believe that this trial will have negative impacts. We welcome the evaluation that will be completed. We presume that that is going to result in a similar evaluation to what has occurred where other jurisdictions have trialled this. We are concerned that it can further stigmatise children and not lead to good outcomes, so we will not be supporting its inclusion in the bill.

David LIMBRICK: The Libertarian Party will not be supporting this amendment, as I stated in my speech on the second reading. Although I do have concerns about this trial and its potential effectiveness, I note that it is a trial, and the alternative in many of these cases will be that children will be held in remand because they will be higher risk. It is exactly these people who may be able to not be held in remand and have electronic monitoring as an alternative. I think that it is worth trying. I urge the government to do their best to collect good quality data that can be used for academic research to determine whether or not this is effective. I will not support removing this trial from the bill.

Jaclyn SYMES: Just briefly, I have gone through the government's desires and intention in relation to a trial of electronic monitoring. I think, much to the sentiment of Mr Limbrick, let us give it a go. I will be watching very closely for the anticipated benefits, and I just do pick up on a couple of points that Ms Copsey raised. She referenced in addition 'curfews and exclusion zones'. I would put on record that curfews and exclusion zones are already very often features of bail conditions. The purpose of electronic monitoring would be to add an incentive for young people to comply with those set conditions, because if they are not breaching those conditions, they are very unlikely to be committing further offences and getting themselves into more trouble. The electronic monitoring is also a way of helping to facilitate and encourage children to participate in the very programs that Ms Copsey has championed.

The DEPUTY PRESIDENT: The question is that Ms Copsey's amendment 1 on her sheet KC23C, which tests her amendments 3 to 13 on that sheet, be agreed to.

Council divided on amendment:

Ayes (7): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam

Noes (32): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Amendment negatived.

Katherine COPSEY: I move:

2. Clause 1, page 3, after line 12 insert –

"(ba) to amend the **Bail Act 1977** to provide that 2 step tests apply to children in fewer circumstances; and".

As mentioned briefly in my previous statement on the government's house amendments on bail, the effect of this amendment is actually to insert into the bill the government's own set of original youth bail provisions in division 4 of the Bail Amendment Bill 2023, as it was before the chamber before the government amended its own legislation last year. We are moving this set of amendments because I believe, frankly, that had the government proceeded with those amendments, there would have been a great likelihood that it would have secured the support of the crossbench to pass. The government postponed its changes to youth bail laws in very similar circumstances I feel to the ones we have found

ourselves in this week, so I think we are just repeating the same pattern over and over again, which is why we keep coming back to the issue of youth justice, frankly. But where we actually need to end up is Poccum's law. We need to remove all reverse onus provisions and we need to see all bail offences removed. The government's own bail reforms as part of its Bail Amendment Bill last year were a step towards that. We think that if they were solid enough for the government back then, they should be solid enough now. I will leave my comments there, but for additional reasons to support this I refer the chamber to the Attorney's second-reading speech to the Bail Amendment Bill 2023.

Jaclyn SYMES: We will not be supporting Ms Copsey's amendment. Given the increase in serious alleged offending by certain young people on bail, it is appropriate for reverse onuses to continue to apply for serious alleged offending. These amendments are very familiar to me because it was me who originally had them drafted, and it was a very clear and considered reason that the government did not proceed with those reforms. Having said that, Ms Copsey, I think you would agree with the advice that I have had from those within the justice system, the evidence from those who interact with the youth justice system, that confirms that the practical effect of the model that you are proposing would be minimal in any event. That is because the reverse onus tests that apply to children and adults for serious offending mean that exceptional circumstances and compelling reasons are the considerations for bail decision makers. These additional reverse onus tests are very, very often if not always satisfied when you are a child. The test as to whether they ultimately get bail falls appropriately to whether they pose an unacceptable risk, which is the test that we believe is appropriate and what Victorians expect.

David DAVIS: The Liberals and Nationals will not support this amendment. In common with the government we think that it is not the right signal. We would disagree with the government on the 'alleged' offences out there – there are not just alleged offences, there are serious youth offences that are out there that are really impacting many members of the community. Anything that would weaken these measures would concern us.

The DEPUTY PRESIDENT: The question is that Ms Copsey's amendment 2 on sheet KC23C be agreed to. It tests her amendment 14.

Council divided on amendment:

Ayes (7): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam

Noes (32): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Amendment negatived.

Amended clause agreed to.

Clause 2 (20:46)

Jaclyn SYMES: I move:

2. Clause 2, after line 16 insert –

"(1AA) The following provisions come into operation on the day after the day on which this Act receives the Royal Assent –

(a) this section; and

(b) Division 3 of Part 22.1; and

(c) section 904.".

3. Clause 2, line 17, after "subsections" insert "(1A),".

4. Clause 2, line 17, after "and (3)," insert "the remaining provisions of".
5. Clause 2, line 17, omit "comes" and insert "come".
6. Clause 2, after line 18 insert –

   "(1A) If Division 2 of Part 22.1 does not come into operation before 2 December 2024, it comes into operation on that day.".
7. Clause 2, line 19, after "If" insert "the remaining provisions of".
8. Clause 2, line 20, after "Chapter 20," insert "the remaining provisions of".

I spoke to these amendments when I moved my bail amendments as a package.

Katherine COPSEY: For the reasons outlined previously, the Greens will not be supporting these house amendments.

Amendments agreed to; amended clause agreed to.

Clause 3 (20:47)

The DEPUTY PRESIDENT: I invite Ms Copsey to move her amendment 1 on sheet KC27C, which tests her amendments 27 to 41 and 55 to 58.

Katherine COPSEY: I move:

1. Clause 3, page 16, lines 22 and 23, omit all words and expressions on those lines.

The effect of this amendment is to ban the use of isolation in youth justice facilities. I have a further amendment in relation to isolation, which I will move later on, but the effect of this amendment is to ban the use of isolation. We have heard from multiple stakeholders that isolation, which means locking kids up by themselves in rooms alone, is too regularly used, not because a child is posing a risk to other children in detention or a risk to staff but because it is necessary when there are staffing shortages or when training is taking place or when staff just need to have a meeting. Many other state institutions such as public hospitals that run highly technical services 24/7 and have shiftworkers manage to continue providing high-quality services to patients even while performing administrative duties, and they do this all at the same time as managing when staff are sick, when it is time for staff training and even when staff are attending union meetings. We believe that the use of isolation has negative impacts on young people that are unnecessary over and above the experience of incarceration, which is punishment enough in itself. I commend the amendment.

Enver ERDOGAN: The government will not be supporting this amendment by Ms Copsey. I think it has been very clearly articulated in the debate and in this chamber before that our youth justice system is designed to help address the issues that are causing young people to offend and return them back into the community in a better position so they can lead happy, productive lives. I want to make it very clear at the outset that isolation can only be used as a last resort, not as a form of punishment. The new Youth Justice Bill strengthens the legislative framework around the use of isolation, which protects both people in custody and our staff. It is a necessary measure, an operational tool that is required.

David LIMBRICK: Although I do have concerns about the use of isolation for some of the reasons put forward by Ms Copsey, such as staffing shortages and this sort of thing, and I do think that in those situations it is inappropriate to use isolation, nonetheless I am convinced there are scenarios where isolation is a necessary tool. Therefore I will not be supporting this amendment.

David DAVIS: The Liberals and Nationals will not be supporting this amendment.

Council divided on amendment:

Ayes (7): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam

Noes (32): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Amendment negatived.

Katherine COPSEY: I move:

2. Clause 3, page 22, line 13, after "law" insert "(other than a spit hood)".
3. Clause 3, page 22, line 14, after "restraint" insert "(other than a spit hood)".

The effect of this set of amendments is to ban the use of spit hoods in youth justice facilities in Victoria. I thank the minister and the Attorney's office for their constructive engagement on this matter. It is my understanding that operationally spit hoods are not presently used in youth justice facilities. Therefore, by incorporating this into legislation, we can have clarity that spit hoods are not a permitted instrument of restraint in Victorian youth justice facilities and we can ensure that that remains the case into the future. I thank the drafters for their assistance in helping us make sure that this is functional in the bill.

Jeff BOURMAN: I will not be supporting this. As someone who has been the recipient of someone spitting on them in the course of my duties, I think there is a time and a place for them. They should be used sparingly, particularly with minors, but they most definitely should be an option.

Enver ERDOGAN: The government will accept these amendments. Under existing policies and practices spit hoods are not used in our youth justice settings. It was always the government's intention for them to continue to be prohibited. The structure of the bill means that instruments of restraint cannot be used in youth justice unless they are specifically permitted, ensuring that there are no doubts for youth justice operational staff and they can be confident in their important work. It is already the practice, so we are happy to accept the amendments. Taking the point made by Mr Bourman, I think that is an important point. I know especially in our adult corrections system it is an unacceptable and ongoing issue. These issues are less prevalent in youth justice and at the moment they are being managed by PPE equipment because there are so few of these types of incidents, but in the adult system it is a serious issue, Mr Bourman, so I respect your experience in this field. But we accept the Greens' amendments.

David LIMBRICK: I am willing to accept the government's advice that this is not currently something that is used in the youth justice system and therefore these amendments will merely entrench the status quo, so I do not have a problem with them.

David DAVIS: The Liberals and Nationals will oppose these amendments.

Council divided on amendments:

Ayes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Noes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Amendments agreed to.

David DAVIS: I move:

5. Clause 3, page 23, lines 27 to 32, omit all words and expressions on these lines.
6. Clause 3, page 30, lines 3 to 6, omit all words and expressions on these lines.

These amendments 5 and 6 on my sheet are tests for a raft of amendments. I do not need to read all of them out. They are on the running sheet, for those who wish to see. These relate to pre-sentence reports and others.

Enver ERDOGAN: The government will not support these amendments. The reason why we are not supporting them is because we want to ensure that our courts are as efficient as possible and that they have the tools to deal with matters quickly and efficiently. Allowing courts to use previous pre-sentence reports or have them supplemented is appropriate because it avoids unnecessary delays and supports swifter sentencing outcomes. There are ample safeguards within the bill allowing for the court to seek an updated pre-sentence report when it considers it is warranted. This is a reasonable approach. We believe that allows flexibility with the courts.

Katherine COPSEY: The Greens will not be supporting these amendments.

Council divided on amendments:

Ayes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendments negatived.

Amended clause agreed to; clauses 4 to 14 agreed to.

Clause 15 (21:07)

Katherine COPSEY: I move:

4. Clause 15, lines 6 to 9, omit all words and expressions on those lines and insert –

> "The guiding youth justice principles apply subject to any express requirements in this Act or any other Act.".

Clause 15, 'Interaction of guiding youth justice principles with this Act', reads:

> The guiding youth justice principles apply –
>
> (a) subject to any express requirements in this Act or any other Act; or
>
> (b) unless the context otherwise requires.

The concern that the Greens hold about this, which has been raised by stakeholders, is that the guiding youth justice principles outlined in division 2 of part 1.3 are comprehensive and one of the best features of the bill in that they enumerate very clearly a rights-centred, child-centred rehabilitation and restorative justice approach to youth justice. The concern that we hold is that in considering that exemption in clause 15 that context could be applied too broadly and undermine the application of the guiding principles. That is the effect of this amendment, and I commend it to the house.

Enver ERDOGAN: The government will not be supporting the amendment.

Amendment negatived; clause agreed to; clause 16 agreed to.

Clause 17 (21:09)

David DAVIS: I move:

12. Clause 17, page 47, line 3, after "person" insert "other than as provided for by section 202".

Katherine COPSEY: The Greens will not be supporting the amendment.

Enver ERDOGAN: The government will not be supporting this amendment. The bill is deliberately designed to include general guiding youth justice principles, sentencing principles and guiding custodial principles. The sentencing principles were specifically developed to apply to the sentencing stage as a complete set. We believe that we have struck the right balance here.

The DEPUTY PRESIDENT: The question is that Mr Davis's amendment 12, which tests his amendments 67 to 71, on sheet DD141C be agreed to.

Council divided on amendment:

Ayes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendment negatived.

Clause agreed to; clause 18 agreed to.

Clause 19 (21:13)

Katherine COPSEY: I move:

5. Clause 19, after line 26 insert –

> "**Note**
>
> Section 92(1) establishes the hierarchy of options for alleged offending behaviour by a child. The hierarchy requires a police officer to apply the least restrictive option that is appropriate in the circumstances.".

The effect of this amendment is to strengthen and clarify the provision by making clear the legislative presumption in favour of youth warnings, cautions, youth justice conferencing and diversions. We understand from discussions with the government that this presumption is detailed in clause 92. However, we believe that the principles and the bill overall are strengthened and clarified by reiteration of this in the guiding principles section. The effect of the amendment is to add a note after line 26, which simply specifies:

> Section 92(1) establishes the hierarchy of options for alleged offending behaviour by a child. The hierarchy requires a police officer to apply the least restrictive option that is appropriate in the circumstances.

I thank the government for the productive discussions, which I understand have led to a draft that is acceptable and clarifies the intent of the bill in this important guiding principles section.

Enver ERDOGAN: I thank Ms Copsey for that amendment. It clarifies and is consistent with the principles of the bill, so the government will be supporting this amendment.

David DAVIS: Whilst I understand the similarity with the phraseology elsewhere in the bill, we think it reiterates an unfortunate shape of the hierarchy, and in that sense we will not support it.

Council divided on amendment:

Ayes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Noes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Amendment agreed to.

Amended clause agreed to; clauses 20 to 46 agreed to.

Clause 47 (21:19)

David DAVIS: I move:

13. Clause 47, line 20, omit ", from time to time, may" and insert "must".

I might, by leave, speak to two amendments at once, because they do very similar things with respect to clauses 47 and 48. Our amendment in the case of clause 47 replaces 'time to time, may determine performance standards', and this is in relation to performance standards for registered Aboriginal youth justice agencies, with 'must' – 'the minister must'. In the case of clause 48, in a similar way – this is the subject matter for performance standards – 'The Minister may make performance standards in respect of any matter relating to the operation of registered Aboriginal youth justice agencies'. We would argue that it should read 'must'. So we will seek to put 'must' in in both cases.

Enver ERDOGAN: The government thanks Mr Davis. The government is prepared to accept this amendment. I think the intention of the clause is clear and this clarifies it, so thank you for that. We will be supporting this amendment.

Katherine COPSEY: The Greens will not support this amendment. We believe that the original drafting is clear on its face.

Amendment agreed to; amended clause agreed to.

Clause 48 (21:20)

David DAVIS: I move:

14. Clause 48, line 2, omit "may" and insert "must".

Amendment agreed to; amended clause agreed to; clauses 49 to 56 agreed to.

Clause 57 (21:22)

David DAVIS: I move:

15. Clause 57, line 20, omit "**may**" and insert "**must**".
16. Clause 57, line 22, omit ", at any time, may" and insert ", once every 3 months, must".
17. Clause 57, page 75, after line 25 insert –

    "(4) The Secretary must publish a report about each visit to a registered Aboriginal youth justice agency that addresses each of the purposes for which that visit was conducted.".

These amendments relate to Aboriginal agencies, youth justice agencies and the secretary's visits.

Enver ERDOGAN: The government will not be supporting this amendment. We feel the approach that is proposed is unnecessary. Mandating quarterly visits – the bill already allows the secretary to revoke the registration of an Aboriginal youth justice agency in the event the secretary considers that

the organisation's ability to reasonably care for and supervise a young person has been affected, so we believe there is no practical need for this. In fact it is impractical, so we will be opposing it.

Katherine COPSEY: The Greens will not be supporting this amendment.

Amendments negatived; clause agreed to; clauses 58 to 70 agreed to.

New clause (21:23)

Katherine COPSEY: I move:

6. Insert the following New Clause to follow clause 70 –

"**70A Body-worn camera must be activated when exercising transport power**

A police officer must have their body-worn camera (within the meaning of section 3(1) of the **Surveillance Devices Act 1999**) turned on and recording when exercising the transport power or the related powers under this Part.".

The effect of this amendment is to require that body-worn cameras be switched on when police are exercising new powers in relation to 10- or 11-year-old children. From what I understand from our exchange in committee, again this is already done in practice. I think that the clarity that would be provided by including this in legislation would be very welcome. The bill is quite prescriptive in terms of the police's exercise of these powers, and for that reason I maintain that it would be advisable to make it very clear in the bill that this is required.

In regard to the powers that are given to the police in relation to 10- and 11-year-olds, I might take the opportunity to mention that the Greens are opposed to the expansion of police powers in relation to this very young cohort of children. We want to draw a comparison. We have talked about how police are often first responders, but it was very admirable in the decriminalisation of public drunkenness that the government recognised that in those scenarios the attendance of police is actually not the best way to respond to issues relating to public drunkenness, given the vulnerability of the cohort being addressed. I would argue that the same kinds of principles absolutely are in practice applicable to interactions with 10- and 11-year-old children.

If these powers are to form part of the bill, I think this is a very sensible check and balance on the exercise of those and in fact could lead to disputes being minimised if police are conscious and have evidence in their interactions with children that they are exercising these powers correctly. I will leave it at that. I think that this would be a very strong inclusion in the bill.

Jaclyn SYMES: Ms Copsey and I had a reasonably thorough exchange on this earlier. We do understand and accept the sentiment of the amendment, but I do point out that there is no legislative precedent for prescribing when body-worn cameras should be turned on in Victoria. There is a high risk of unintended consequences with legislating their use in a single specific context given they are used in a range of other contexts by police, and this is not the bill to start regulating their use across the board. Again, it is practice for them to be used in these instances, but being prescriptive in legislation is not something that the government will be supporting.

David LIMBRICK: The Libertarian Party will be supporting this amendment. I think that it is very important that if police are going to be exercising these powers, which I expressed concern about earlier, notwithstanding that I do support the bill, there need to be as many eyes as possible on what is happening, and a body-worn camera prescribed in legislation is appropriate in my view. In case something goes wrong we have evidence rather than the word of a policeman against a child.

David DAVIS: The Liberals and Nationals will not support this amendment.

Council divided on new clause:

Ayes (9): Katherine Copsey, Moira Deeming, David Ettershank, David Limbrick, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam

Noes (30): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

New clause negatived.

Clauses 71 and 72 agreed to.

Clause 73 (21:33)

Katherine COPSEY: I move:

7. Clause 73, page 88, line 12, after "restraint" insert "(other than a spit hood)".

Amendment agreed to; amended clause agreed to; clauses 74 to 92 agreed to.

Clause 93 (21:34)

David DAVIS: I move:

52. Clause 93, lines 19 and 20, omit "any of the following decisions under the hierarchy of options," and insert "a decision to exercise an option under section 92(1)(a), (b), (c) or (d),".
53. Clause 93, line 22, omit "decision –" and insert "decision.".
54. Clause 93, lines 23 to 32, omit all words and expressions on these lines.

These are amendments 52 to 54 on DD141C sheet. If members look at pages 104 and 105 – this is clause 92 and 93 – specifically in clause 93 the effect of the amendment is to require a police officer who has made a series of decisions under the hierarchy of options to record the details of that for what is in effect 92(a) to (d). So if they choose a lesser option, there is a track or a record of what has happened. We think this is very important. At the moment the record keeping around this is not clear, and we strongly believe that there should be proper and clear record keeping for the reasons for these decisions. They must record the reasons for the decisions made under the hierarchy of needs between what is 92(1)(a) and (d). The lesser options the police officer may choose as appropriate, but they need to explain those reasons.

Jaclyn SYMES: Just a question for Mr Davis. Mr Davis, have you consulted with Victoria Police on these amendments?

David DAVIS: Attorney, I have not personally, but I understand people within the coalition have certainly talked to Victoria Police about our sweep of different amendments. I do not have the precise response, but I know given the scale of the consultation and the work that has been done on many of these that this would not have been developed without thought. And I note our shadow minister Brad Battin is also a former policeman.

Enver ERDOGAN: The government will not be supporting these amendments. I think the Attorney-General has made our point. I think this would present an unreasonable and unnecessary paperwork burden and administrative burden on Victoria Police, and we want our police out in the community keeping the community safe, doing what they do best.

Katherine COPSEY: The Greens will not be supporting these amendments.

David DAVIS: We think these are very important amendments. We think that where there is not a proper document trail, as in this case, decisions will be made and there will be no record of cautions and in some cases very soft interventions. That is a concern.

Council divided on amendments:

Ayes (16): Melina Bath, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Jeff Bourman, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendments negatived.

Clause agreed to; clauses 94 to 112 agreed to.

Clause 113 (21:44)

David DAVIS: I move:

57. Clause 113, line 30, omit "child." and insert "child and to each victim (if any) of the alleged offence.".

My amendment 57 relates to clause 113 in the bill. Clause 113(3) refers to the form of youth caution and states:

> As soon as practicable after a youth caution is given to a child, the cautioning police officer who gives or attends the giving of the youth caution to the child must give a written copy of the youth caution to the child.

Our amendment seeks to insert:

> … child and to each victim (if any) of the alleged offence.

One person seems to have been cut out some of these points, and that is the victim. They deserve to understand that a caution has been delivered, or some sort of engagement with a potential offender or a presumed offender, and we believe that it is very reasonable to ensure that the victim knows.

Enver ERDOGAN: The government will not be supporting this amendment. I think legislated cautions are an important part of the system, designed to divert young people away from the criminal justice system at an early stage. They are typically issued for lower level offending. Our bill does have significant strengthening and formalising of the role of victims in the justice system with our new youth justice victims register and the greater information sharing with victims, but I do not believe at this stage this change is warranted or needed.

Katherine COPSEY: The Greens will not be supporting this amendment.

Council divided on amendment:

Ayes (17): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (22): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendment negatived.

Clause agreed to; clauses 114 to 116 agreed to.

Clause 117 (21:53)

Katherine COPSEY: I move:

8. Clause 117, lines 10 to 17, omit all words and expressions on those lines and insert "in the circumstances must refer the child to an early diversion group conference in respect of the alleged offence.".
9. Clause 117, lines 24 to 35 and page 121, lines 1 and 2, omit all words and expressions on those lines.
10. Clause 117, page 121, line 3, omit "decide to".

I do not intend to call a division on these, so it is up to the will of the chamber what happens. In relation to these two amendments, which I will speak to together actually – 117 and 118 – it is commendable the focus on diversion that the bill executes and implements, and the intention of these amendments is simply to strengthen the diversion pathways. They will strengthen the referral of children to early diversion group conferencing, effectively making it a requirement to have conferencing as a first step rather than proceeding directly to other avenues. We believe that that is in line with the least restrictive option hierarchy that is outlined elsewhere in the bill.

Enver ERDOGAN: I just want to express that I do not deny the importance, obviously, of the conferences and your intention, but I believe that we have struck the appropriate balance and therefore we will not be able to support your amendments.

Amendments negatived; clause agreed to.

Clause 118 (21:54)

Katherine COPSEY: I move:

11. Clause 118, line 13, omit "or" and insert "and".
12. Clause 118, line 14, omit all words and expressions on that line.
13. Clause 118, lines 15 and 16, omit "referral; or" and insert "referral.".
14. Clause 118, lines 17 to 32 and page 122, lines 1 to 23, omit all words and expressions on those lines.

Amendments negatived; clause agreed to; clauses 119 to 128 agreed to.

New clause (21:55)

David DAVIS: This inserts a new clause in lieu of amendment 59 circulated on sheet 141C. It inserts the following new clause. There are further qualifications and directions for the convenor. But the essential point here is this gives the victim the capacity to ensure that a victim statement is read aloud in the appropriate early diversion group conference. I move:

Insert the following New Clause to follow clause 128 –

"**128A Reading aloud of victim statement**

(1) A person who provides a written communication under section 128 may request that any part of that communication is read aloud, in the course of the early diversion group conference, by –

(a) the convenor; or

(b) a person chosen by the person making the request and who is approved by the convenor for that purpose.

(2) If a request is made under subsection (1), the convenor must determine if the reading aloud of each requested part of the communication is appropriate, having regard to –

(a) the objects of the early diversion group conference; and

(b) the circumstances of the particular case.

Example

The convenor may determine that it is not appropriate to read any part of a communication that is offensive, would breach another person's privacy or could jeopardise the safety of any person.

(3) If the convenor determines that the reading aloud of any part of the communication is appropriate, the convenor must ensure that, in the course of the early diversion group conference, that part of the communication is read aloud by the person who was requested to do so.

(4) The convenor may direct a person who is reading aloud any part of the communication as to –

(a) which parts of the communication are determined appropriate to be read aloud; and

(b) the time available, which must be reasonable, for reading aloud those parts of the communication.".

Enver ERDOGAN: The government is happy to support the updated amendment. The intention was always to give the convenor this discretion about how to conduct these conferences. We know how empowering it can be for victims to speak on these matters. In that regard I want to thank those opposite for working constructively to come up with this amendment, which is acceptable to both parties. The government will accept this amendment.

David LIMBRICK: The Libertarians will also be supporting this amendment. I think if we are going to have some sort of restorative justice, the voice of the victims in this process is absolutely paramount, and this provides a mechanism for that. And in that way I commend Mr Davis for bringing forward this amendment.

David DAVIS: Can I just put on record my thanks to the government for supporting this amendment and to the other parties who are supporting the amendment.

New clause agreed to; clauses 129 to 141 agreed to.

Business interrupted pursuant to standing orders.

Jaclyn SYMES: Pursuant to standing order 4.08, I declare the sitting to be extended by up to 1 hour.

Clause 142 (21:58)

David DAVIS: I am going to speak to amendments 60 to 63 and 64 to 65 as a sort of job lot, as it were, because they touch on similar matters. This is fundamentally about the admissibility or the inadmissibility of evidence. For those who want to read it, pages 139 through to 142 in your large book – it is volume 1 – show you there are a series of decisions the government has made in terms of the admissibility of evidence of youth warning and/or caution, admissibility where a child is referred by a police officer, admissibility where a child is referred by the Children's Court and admissibility of evidence in certain circumstances at 145, and at 146, 'Participation does not rebut presumption'. Although we in part tested the age matters at 12 and 14 and so forth, we think in these cases that the clause dealt with by amendment 64 and particularly by amendment 65 falls into the category where it should be retested in this context – so the admissibility of evidence for those earlier clauses dealt with by amendments 60 to 63 and then for the clause dealt with by amendments 64 and 65.

Enver ERDOGAN: The government does not support these amendments, so I would just speak to all of them at the one time. I think it is a fact that these admissibility provisions are an appropriate protection in the circumstances. We know the importance of the early diversion group conferences, and we do not want a child that is referred to a conference and that has not been found guilty of an offence at that stage – to I guess compromise them in that way. The effectiveness of this diversionary process, as well as the ability for police to deliver a timely response, would be undermined if a child refused to engage because their involvement could be used later in court. We are concerned with the effectiveness of these conferences if this were to be the case. We will not be supporting these amendments.

Katherine COPSEY: The Greens will not be supporting this set of amendments.

David LIMBRICK: The Libertarians will also not be supporting these amendments for similar reasons to the government, in that I fear that it will undermine some of these processes.

The DEPUTY PRESIDENT: Mr Davis is seeking to omit a clause, so if you support Mr Davis's proposal, you should vote no. If you are supporting the government maintaining the clause in the bill, you should vote yes.

Council divided on clause:

Ayes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Noes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Clause agreed to.

Clause 143 (22:09)

The DEPUTY PRESIDENT: Mr Davis is seeking to omit clause 143, so if you support his proposal, vote no.

Council divided on clause:

Ayes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Noes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Clause agreed to.

Clauses 144 to 192 agreed to.

Clause 193 (22:12)

Katherine COPSEY: I move:

15. Clause 193, page 179, lines 11 to 15, omit all words and expressions on those lines and insert "program if the child does not consent to the adjournment in accordance with section 194.".

I will speak to both amendments 15 and 16 now. Following a child's rights framework, which the bill sets out, the Greens believe that a child has the right to not consent to a diversion program and that they should have access to legal advice. If we are arguing under this bill that children need to take responsibility and recognise their actions, then equally they have the right and capacity for decision-making in relation to those processes and particularly to have legal support. That is the effect of these amendments. I commend them to the house.

Enver ERDOGAN: I will be brief, and I will speak to both as well. The government will be opposing both of these amendments. We believe the current approach is balanced. Prosecutors make sensible decisions, and we believe that if we mandate the legal advice at this stage, it unnecessarily risks making it more formal than it needs to be.

David DAVIS: The Liberals and Nationals will also oppose these amendments.

Amendment negatived; clause agreed to.

Clause 194 (22:14)

Katherine COPSEY: I move:

16. Clause 194, after line 9 insert –

"(1A) The Children's Court must be satisfied that the child obtained legal advice before giving consent under subsection (1).

(1B) If the Children's Court is not satisfied that the child obtained legal advice before giving consent under subsection (1), it must adjourn the proceeding to enable the child to obtain that legal advice.".

Amendment negatived; clause agreed to; clauses 195 to 207 agreed to.

Clause 208 (22:16)

Katherine COPSEY: I move:

17. Clause 208, lines 22 to 28, omit all words and expressions on those lines and insert –

"Section 324 prevents the Children's Court from imposing a sentence of detention on a child who was under 16 years of age at the time of the offending.".

The effect of this amendment is to raise the minimum sentencing age so that no child under 16 should be in detention. The amendment removes the ability of the Children's Court to impose sentences of detention on children under 16 years of age. This is in line with stakeholder concerns that have been raised with the Greens, and we note that all expert international standards, including our obligations under various United Nations charters, say that the minimum sentencing age for detention should be 16. That is the effect of this amendment. I commend it to the house.

David LIMBRICK: I have a question. I will direct it to Ms Copsey. Is the effect of this amendment that – this is my understanding from my team – if a 15-year-old child has committed a serious crime such as murder and is aware of their criminal responsibility, it would be impossible to incarcerate them? Is that the effect of this?

Katherine COPSEY: The intent of this amendment is to ensure that children under 16 are not subjected to carceral responses by the state.

David LIMBRICK: I do not think that answered my question, although maybe it did indirectly. If it is the case that the Greens believe that 15-year-olds that have committed murder, rape and terrorism offences and have the mental capacity to understand that they have committed criminal offences should not be incarcerated, I see that as insane. The Libertarian Party will be strongly opposing this.

Amendment negatived; clause agreed to; clauses 209 to 251 agreed to.

Clause 252 (22:19)

David DAVIS: I move:

73. Clause 252, line 22, omit "5" and insert "10".

74. Clause 252, line 26, omit "10" and insert "20".

These amendments lift the maximum fines in clause 252 from 5 penalty units to 10 and from 10 penalty units to 20.

David LIMBRICK: My question to Mr Davis is: what is the rationale for the lifting of these penalty units, and what sort of effect does Mr Davis believe that this will have?

David DAVIS: The rationale, Mr Limbrick, is the consultation undertaken by the shadow minister Mr Battin. As I said earlier, he is a former policeman, but he has spoken very widely and is clear that stronger penalties will assist.

Enver ERDOGAN: The government will not be supporting this amendment. The current bill as drafted replicates what exists in the existing act, and we think that represents an appropriate balance.

David LIMBRICK: I think I would prefer to wait and see how this bill goes in action before changing any of these penalty units, so let us look at it during the review in the future. Therefore I will not be supporting this amendment.

Katherine COPSEY: The Greens will not be supporting this amendment.

Council divided on amendments:

Ayes (15): Melina Bath, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (24): Ryan Batchelor, John Berger, Lizzie Blandthorn, Jeff Bourman, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendments negatived.

Clause agreed to; clauses 253 to 274 agreed to.

Clause 275 (22:27)

David DAVIS: I move:

78. Clause 275, line 25, omit "The" and insert "Subject to subsection (2), the".
79. Clause 275, line 25, omit "may" and insert "must".

Enver ERDOGAN: The government will not be supporting these amendments. We believe they are unnecessary and reduce flexibility in the system.

Katherine COPSEY: The Greens will not be supporting these amendments.

Council divided on amendments:

Ayes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendments negatived.

Clause agreed to; clauses 276 and 277 agreed to.

Clause 278 (22:31)

David DAVIS: I move:

80. Clause 278, line 19, omit "6" and insert "12".
81. Clause 278, line 20, omit "12" and insert "18".

Amendments 80 and 81 relate to clause 278, which sets the maximum period for youth supervision and support orders. Under the bill that is six months, and that is increased to 12 months. Twelve months in the circumstances is exceptional, and that is increased to 18 months. We believe a strong

signal should be sent, given the very significant youth crime that we are facing, a significant signal, and that is why those penalties are there.

Enver ERDOGAN: The government will not be supporting these amendments. The current bill as drafted replicates what exists, and we believe it is an appropriate and sensible balance.

David DAVIS: What is occurring now in the community with youth crime is not working.

Katherine COPSEY: The Greens will not be supporting these amendments.

Council divided on amendments:

Ayes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendments negatived.

Clause agreed to; clauses 279 to 282 agreed to.

Clause 283(22:39)

David DAVIS: I move:

84. Clause 283, after line 33 insert –

"(1A) The Children's Court must attach to a youth control order the developmental conditions set out in section 296(a), (c) and (f).".

85. Clause 283, page 246, line 3, after "more" insert "of the other".

This adds additional control for the Children's Court.

Enver ERDOGAN: The government will not be supporting these amendments. I guess an important part of this bill is about providing police and courts the flexibility and tools to be able to tailor their approaches. Again, similar to some of the other amendments that we have rejected, we believe removing the flexibility and discretion is not appropriate, so that courts can tailor the appropriate responses themselves.

Council divided on amendments:

Ayes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendments negatived.

Clause agreed to; clauses 284 to 323 agreed to.

Clause 324 (22:43)

David DAVIS: I move:

87. Clause 324, line 15, omit "and" and insert "or".

Amendment 87 amends clause 324, which deals with the court not imposing a sentence of detention on a child who is under 14 years of age at the time of the offence except in certain circumstances. The circumstances are laid out in category A and category B offences. The clause has an 'and' – 'and the court is reasonably satisfied that the child presents a serious risk' to the community. We want a stronger arrangement where 'or' is inserted there so that the court has the ability, where it does believe that the child presents a serious risk to the community, to impose a sentence of detention on that child.

Enver ERDOGAN: The government will not be supporting this amendment. We think that the current bill reflects a considered approach focused on the most serious and high-harm offences.

David DAVIS: This is a very important point in the difference between the government and the opposition. We believe that the government's approach with just a small number of very serious offences is too weak and has resulted in too much youth crime in the community.

Council divided on amendment:

Ayes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendment negatived.

Clause agreed to; clauses 325 and 326 agreed to.

Clause 327 (22:48)

David DAVIS: I move:

89. Clause 327, line 31, omit "child –" and insert "child".
90. Clause 327, line 32, omit all words and expressions on this line.
91. Clause 327, line 33, omit "of age on the day of sentencing –".
92. Clause 327, page 287, line 2, omit "one year; and" and insert "3 years.".
93. Clause 327, page 287, lines 3 to 8, omit all words and expressions on these lines.
94. Clause 327, page 287, line 21, omit "exceed –" and insert "exceed".
95. Clause 327, page 287, lines 22 to 26, omit all words and expressions on these lines.
96. Clause 327, page 287, line 27, omit "on the day of sentencing –".

Amendments 89 to 96 relate to clause 327, which deals over a series of different aspects with the maximum period of a youth justice custodial order. This strengthens the provision.

Enver ERDOGAN: The current bill is consistent with the principle of taking age-appropriate responses. As such, we will not be supporting these amendments.

Council divided on amendments:

Ayes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendments negatived.

Clause agreed to; clauses 328 to 358 agreed to.

Clause 359 (22:52)

The DEPUTY PRESIDENT: Mr Davis, I invite you to move your amendments 103 and 104, which test your amendments 110 and 111 on sheet DD141C.

David DAVIS: I move:

103. Clause 359, line 27, omit "may" and insert "must".

104. Clause 359, line 28, omit "or any".

These relate to pre-sentence reports.

Enver ERDOGAN: Similar to the previous similar amendment moved, we do not believe this is necessary as the bill stands. These can be requested by courts and decision-makers as is.

Council divided on amendments:

Ayes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendments negatived.

Clause agreed to; clauses 360 to 438 agreed to.

Clause 439 (22:56)

Katherine COPSEY: I move:

1. Clause 439, line 29, before "recreational" insert "exercise and other".

2. Clause 439, after line 33 insert –

"**Example**

An example of meaningful exercise and recreational activities is a child or young person having the opportunity to spend a target of 2 hours exercising or playing sport.".

This amendment replaces the amendment in set KC28C to clause 439, and I ask the indulgence of the house. The effect is similar; we just had a minor issue with wording, and so that was the reason for circulating this alternate set of amendments. This amendment seeks to set out higher expectations for the daily amount of exercise and recreation available to each child in detention. There is a minimum standard of 1 hour of exercise per day in the bill as it stands, and I thank the government for productive discussions. We were aiming to get to 3 hours a day, but we were able to negotiate with the government that what would be operationally possible as an example of meaningful exercise and recreational activities is a child or young person having the opportunity to spend a target of 2 hours exercising or playing sport. Essentially, this means that kids in detention will have a higher expectation around their physical needs being met during the day, and I commend the amendments to the house.

Enver ERDOGAN: I wish to say that the government is happy to support these amendments. It is good to clarify and confirm that exercise and recreation can be an important part of a young person's personal positive development. I thank Ms Copsey for her work in getting the wording of this, and I am sure it will help her in the operations of her youth justice facilities.

David LIMBRICK: I am very pleased to hear that the Greens have changed their views on fresh air and exercise for detainees. If you recall, back in the last term of Parliament when I attempted to insert a guarantee of fresh air and exercise for detainees in housing tower lockdowns the Greens voted against it because they did not believe in fresh air and exercise. They have changed their views, and I am glad that they have done that.

Amendments agreed to; amended clause agreed to; clauses 440 to 446 agreed to.

Clause 447 (22:59)

David DAVIS: I move:

120. Clause 447, after line 16 insert –

"(1A) The program must be completed and agreed to within 2 weeks of the child or young person being received into a youth justice custodial centre.".

With the indulgence of the chamber, I will talk about amendments 120 and 121 together, although they will be moved separately. Amendment 120 inserts, after line 16:

> The program must be completed and agreed to within 2 weeks of the child or young person being received into a youth justice custodial centre.

We think this strengthens the decision-making. In amendment 121 we add the words:

> If a program does not include any particular matter referred to in subsection (2), a report explaining why must be attached to the program.

Business interrupted pursuant to standing orders.

Jaclyn SYMES: Pursuant to standing order 4.08, I declare the sitting be extended by up to 1 further hour.

The DEPUTY PRESIDENT: I might leave the Chair for 10 minutes and we will have a break.

Sitting suspended 11:00 pm until 11:19 pm.

Enver ERDOGAN: I am happy to speak to both amendments at the one time, just to say these reflect existing practices. I understand Mr Davis has some amendments in terms of timeframes, and we are happy to accept those amendments.

Amendment agreed to.

David DAVIS: I move:

121. Clause 447, after line 30 insert –

"(3) If a program does not include any particular matter referred to in subsection (2), a report explaining why must be attached to the program.".

Amendment agreed to; amended clause agreed to; clauses 448 to 476 agreed to.

Clause 477 (23:21)

Katherine COPSEY: I move:

25. Clause 477, page 410, line 4, after "restraint" insert "(other than a spit hood)".
26. Clause 477, page 410, line 15, after "restraint" insert "(other than a spit hood)".

Amendments agreed to; amended clause agreed to; clauses 478 to 480 agreed to.

Clause 481 (23:22)

Katherine COPSEY: I move:

1. Clause 481, page 413, after line 15 insert –

"**Example**

The Commissioner for Youth Justice may decide that the use of isolation is necessary and appropriate in the circumstances if there is an immediate or serious risk of or threat to the safety of a person. This would not include the use of isolation to manage staffing shortages or for any other administrative purpose.".

I spoke very early in the piece about an amendment relating to the use of isolation, and the earlier amendment was to ban the use of isolation in youth justice settings, which failed. This is an alternative amendment. It is on the single sheet, KC31C. We had some discussion during committee as well about the use of isolation to cover operational issues at youth justice centres, such as staffing shortages, staff meetings and the like. The Victorian Greens believe it is completely unacceptable that the possibility remains that isolation can be used on children in these custodial settings simply to cover operational staff shortages. That should not be the case. Where children are being deprived of their liberty, that is the punishment in and of itself. Isolation is not to be used as punishment under this bill, and I would argue it is not to be imposed on children simply because we have got operational issues affecting the ability of the staff to staff that centre. So this is a more limited restriction on the use of isolation, which we think is sensible, and I commend the amendment to the house.

Enver ERDOGAN: The government will be opposing this amendment. I do understand Ms Copsey's motivation behind it; however, we believe that as it is drafted it does not align entirely with the provision of the bill. As I said earlier in the previous discussion about isolation, we believe there are appropriate, strong safeguards in place.

David DAVIS: The Liberals and Nationals understand what Ms Copsey is trying to achieve here, but in this circumstance on balance we will not support it.

Amendment negatived; clause agreed to; clauses 482 to 490 agreed to.

Clause 491 (23:24)

David DAVIS: After discussions and negotiation with the government, we have withdrawn two amendments, amendments 122 and 123.

Clause agreed to; clauses 492 to 496 agreed to.

Clause 497 (23:25)

Katherine COPSEY: I move:

42. Clause 497, lines 5 to 7, omit "unless it has been authorised by the Commissioner for Youth Justice in accordance with this section".
43. Clause 497, lines 8 to 34, and page 424, lines 1 to 11, omit all words and expressions on those lines.

The effect of these amendments is quite simple. It is to ban stripsearching of children in youth justice facilities.

Enver ERDOGAN: The government will be opposing these amendments. I think it is rarely used but necessary in those rare circumstances for the safety of the young person. We normally use technology like airport scanners and the equivalent, meaning the vast majority of searches can be done like this. But on the odd occasion unclothed searches have to be done. There are only a handful of them every month, but that is a safety requirement of custodial settings.

David LIMBRICK: I actually appreciate Ms Copsey's concerns about this. I share her concerns about searching children in this manner. However, I would appreciate it if the minister could maybe

outline some of the potential consequences if this amendment were to pass. The minister spoke about safety concerns. What exactly are you referring to in that context?

Enver ERDOGAN: Obviously, we know that scanning technology is available, but there are times when people can unfortunately hide stuff that may not be detected by the existing technology and scanners, or the scanners may not always be available, and that could lead to a dangerous situation. So there does sometimes need to be an unclothed search.

David LIMBRICK: As I said, I do share Ms Copsey's concerns. However, I am also concerned about a security situation where someone smuggles a weapon into a facility and has the potential to harm other children or staff. Therefore in this instance I will be opposing these amendments. However, it is my hope that this is a very rare thing and that technological means can be used in most cases to avoid this happening altogether.

Enver ERDOGAN: Mr Limbrick makes a good point that I was alluding to, but yes, it is about weapons being smuggled or illegal contraband being brought into the premises, which can obviously risk the safety of not only that young person but others onsite. It is a rare occurrence. I am talking about a handful of times a month – we do get statistics on those. But technology has improved, and obviously with technological improvement we might even see less need for that to happen. But it is still needed.

Amendments negatived; clause agreed to; clauses 498 to 504 agreed to.

New clause (23:29)

Katherine COPSEY: I move:

2. Insert the following New Clause to follow clause 504 –

"**504A Publication of information – unclothed searches**

The Commissioner for Youth Justice must cause to be published on the Department's Internet site at the end of every 12 month period the number of unclothed searches carried out under this Division during that 12 month period.".

Again we go to the single sheet, which contains the alternate amendment. This amendment also relates to stripsearching. I acknowledge the discussions that we have had with the minister's office regarding this topic and the information provided that this is indeed a very rare occurrence. The effect of this amendment is to require public reporting on the number of strip searches so that we can validate that that is in fact the case. I think I will leave it at that; that is what it does.

Enver ERDOGAN: The government is happy to support this amendment. We support and have a proven track record of transparency in our youth justice system. Unclothed searches are a rare exception and are only done when absolutely necessary for the safety of all those on site. The government has invested in technology across both our sites – we have got our brand new Cherry Creek facility and obviously our Parkville custodial facility. But there are rare exceptions, and I want to thank Ms Copsey and her team. If this assists in enshrining additional transparency, I am all for it.

David LIMBRICK: Subsequent to my earlier remarks, my concerns are that this would be overused. Clearly a reporting mechanism will help monitor that, and therefore I will be supporting this amendment and I look forward to reading these reports and checking that it is in fact rare.

New clause agreed to; clauses 505 to 523 agreed to.

Clause 524 (23:31)

David DAVIS: Amendment 124 is one of those we have discussed with the government, and there is an agreed way forward there, so it will not be moved.

Enver ERDOGAN: I move:

1. Clause 524, page 447, after line 12 insert –

"(3) If –

(a) a parent or legal representative of a child or young person requests that the Commissioner for Youth Justice give a report of the information included on the Isolations Register in relation to the use of isolation in relation to that child or young person; and

(b) the child or young person consents to the Commissioner for Youth Justice giving that report –

the Commissioner for Youth Justice must give that report as soon as reasonably practicable.

(4) Despite subsection (3), the Commissioner for Youth Justice is not required to give a report to a parent if the giving of the report would not be appropriate in the circumstances.

Example

There is a history of family violence and the giving of the report jeopardises the safety of any person.".

I thank the opposition for their constructive engagement on this amendment and acknowledge these were circulated and received late, and I thank everyone in this chamber for their assistance in being able to bring this amendment to the chamber under those circumstances. The government's house amendment is to confirm existing practice – that is, that lawyers can request information from the register with the consent of the client, and I think that is important. This supports the agency of the child and allows the youth justice team to extract information only related to that child to preserve the privacy of other young people. I commend it to the house.

David DAVIS: Again, both amendments 124 and 125 we will not move, and the government has moved an agreed amendment.

Katherine COPSEY: I just want to acknowledge this is responding to concerns that have been raised by a number of stakeholders, and I congratulate the opposition and the government on reaching an agreement on this. The Greens will not be opposing this amendment.

Amendment agreed to; amended clause agreed to.

New clause (23:34)

Katherine COPSEY: I move:

3. Insert the following New Clause to follow clause 524 –

"**524A Publication of information from Isolations Register**

The Commissioner for Youth Justice must cause to be published on the Department's Internet site the following information from the Isolations Register at the end of every 3 month period –

(a) the number of times isolation was used in the preceding 3 months; and

(b) for each use of isolation in the preceding 3 months –

(i) the reasons for the use of isolation, including the purpose for which it was authorised; and

(ii) prescribed information about the duration of the isolation.".

The bar on use of isolation that I moved earlier having failed, what we are seeking to achieve with this amendment is – there is already some reporting of isolation incidents done through the isolation register. What this amendment will do is increase the level of information that is publicly available regarding the isolation register. The main effect of it is that we will see information disaggregated by time periods. Through discussions – again I acknowledge the productive discussions that we have had with the minister's office and the Attorney-General's office – I understand that in practice, we are told, most isolation incidents are quite fleeting, in the nature of a timeout. What everyone wants to see is

that isolation is not imposed on kids in detention for long periods of time, and so this reporting will provide a little bit more insight into whether isolation periods are for longer than 30 minutes, for example, or longer than an hour. A bit of disaggregated data will, again, give a bit of a better picture around how isolation is being used in youth justice settings and I hope provide comfort that this is indeed rare and fleeting.

Enver ERDOGAN: The government can accept this amendment. Our youth justice team, as Ms Copsey pointed to, already publish data quarterly in relation to isolations, but this will provide an additional level of detail. I think when we reflect on isolations it is important that many isolations are not necessarily for the long 5- or 10-hour blocks that people seem to imagine. Many of the isolations are for much, much shorter periods than that. Hopefully some of the data will be meaningful information that stakeholders and partners can rely on.

New clause agreed to; clauses 525 to 559 agreed to.

Clause 560 (23:37)

Katherine COPSEY: I move:

60. Clause 560, lines 28 to 31, omit all words and expressions on those lines and insert "purpose.".

There are provisions in the bill that allow a child in youth detention to alter their record of sex if that suits their gender identity. There is a limitation on that if it would be reasonably likely to be regarded as offensive by a victim of crime or an appreciable sector of the community. We believe that this is such a rare and remote circumstance and also such a subjective test that inclusion of this limitation is contrary to the other good guiding principles of this bill, which are centred very much around the rights of the child and children's rights within detention, so for that reason we are moving to have that limitation deleted.

Enver ERDOGAN: I thank Ms Copsey for the amendment. The government will not be able to accept it. I do understand the intent behind the amendment. The bill, I believe, strikes a balance between recognising the genuine identity of young people in custody while also maintaining safety, security and the rights of victims. The reality is, as Ms Copsey has acknowledged, it is an extremely rare issue and may never be used. I am not aware of a case where this has been an issue, but we do need provisions in place to deal with what someone has described as 'edge cases'. The policies are clear around supporting genuine cases of acknowledgement of sex, but the provisions are there to deal with the rare case where the process is being taken advantage of for reasons that are not genuine.

Amendment negatived; clause agreed to; clauses 561 to 579 agreed to.

Clause 580 (23:39)

Katherine COPSEY: I move:

61. Clause 580, page 490, line 14, after "restraint" insert "(other than a spit hood)".
62. Clause 580, page 490, line 25, after "restraint" insert "(other than a spit hood)".

These amendments have been previously tested.

Amendments agreed to; amended clause agreed to; clauses 581 to 605 agreed to.

Clause 606 (23:40)

Rachel PAYNE: I move:

1. Clause 606, line 4, omit "(1)".
2. Clause 606, lines 7 and 8, omit all words and expressions on these lines.

I will keep my contribution brief as I and my colleague David Ettershank from Legalise Cannabis Victoria have spoken on this in our second-reading contributions. We, as Legalise Cannabis Victoria,

have moved amendments to ensure that the Youth Parole Board is bound by the rules of natural justice. After consultation with many stakeholders, including former members of the parole board, we feel that the rules of natural justice are a fundamental part of the justice system, particularly in the context of decisions by the parole board that directly affect the right to liberty. Young people need appropriate oversight when it comes to parole, and this would instil appropriate checks and balances and additional oversight.

Enver ERDOGAN: I thank Ms Payne for her amendments. As outlined in the discussion on clause 1, the government will not be supporting these amendments. I think it is important to note that the Armytage and Ogloff review, which looked at the youth parole system, did not make any recommendations regarding parole decision-making, reflecting the strength of the current system in the way that it operates. We believe that applying natural justice rules would add procedural requirements which could have a negative impact on the board's flexible and responsive decision-making. In fact it would make the process more adversarial and could delay parole decisions, which is not in the interest of the young person and could actually result in the young person spending more time in custody. People need to realise that many of the young people that come into our system are only there for a few days at a time or a few weeks at a time, so adding this additional legal process would be to the detriment of the child.

Having said that, there are some changes more broadly in this bill that I do believe provide greater guidance to the parole board, such as new youth justice guiding principles and exercising powers and functions that will be applied to the board as well to clearly explain the purpose and effect of parole orders, breach consequences and decision-making criteria to children and young people and report on its decision-making process in its annual report, including a statement on the purpose of parole, general factors that the board takes into account and the types of special conditions imposed by the board. So the greater transparency there I think is important in understanding their decisions. But we believe that the natural justice provisions in that regard would disadvantage children overall.

Katherine COPSEY: The Greens will be supporting these amendments. We thank Legalise Cannabis for bringing it forward. The decisions of the Youth Parole Board have serious impacts on young people's lives and wellbeing, and it is entirely appropriate that principles of natural justice apply to those proceedings.

Council divided on amendments:

Ayes (7): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam

Noes (32): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Amendments negatived.

Clause agreed to; clauses 607 to 621 agreed to.

Clause 622 (23:50)

The DEPUTY PRESIDENT: I invite the minister to move his amendments 2 to 11 on his sheet EE03C. These are a test for his amendments 12 to 29.

Enver ERDOGAN: I move:

2. Clause 622, after line 2, insert –

"(1AA) This section applies if the Youth Parole Board receives information about a child or young person from a person included on the Youth Justice Victims Register in relation to that child or young person.".

3. Clause 622, lines 3 to 5, omit "If the Youth Parole Board receives information from a person on the Youth Justice Victims Register, the" and insert "The".

4. Clause 622, line 5, omit "not".

5. Clause 622, line 7, omit "whether –" and insert "any of the following –".

6. Clause 622, line 8, omit "a child" and insert "whether the child".

7. Clause 622, line 10, after "(b)" insert "whether".

8. Clause 622, line 10, omit "a" and insert "the".

9. Clause 622, line 10, omit "person." and insert "person; or".

10. Clause 622, after line 10 insert –

"(c) conditions of the child's or young person's parole under section 632, 633 or 634.".

11. Clause 622, lines 11 to 17, omit all words and expressions on these lines and insert –

"(2) In having regard to the information, the Youth Parole Board may, in its absolute discretion, give the information such weight as the Board sees fit.".

These amendments are intended to ensure that the bill reflects the original intent of the government to strengthen and provide more voices for victims within our youth justice system. We have a new youth justice victim register. This is an obvious example of how we do that, and this just clarifies some clauses that appeared on face value were not including victims' voices as we would have intended to them to do. I also want to acknowledge the engagement from the opposition on this. These amendments are about reflecting and creating a voice for victims so that the Youth Parole Board can take into account victims' voices in their decision-making and they can decide the appropriate weight to be given to those victim impact statements and the voices of victims if they wish to do so. I think it is important that in all their decision-making they take into consideration the view of victims. This will allow that to happen, which was the original intent of government, but obviously when you are drafting such large legislation stuff can get missed. This has been corrected appropriately with these amendments, and they are very similar to what the opposition had proposed.

David DAVIS: There has been engagement between the shadow minister's office and the minister's office on this, and there are improvements being made in the minister's set of amendments. In that circumstance we will not proceed with ours.

Amendments agreed to; amended clause agreed to.

Clause 623 (23:53)

Enver ERDOGAN: I move:

12. Clause 623, after line 18 insert –

"(1AA) This section applies if the Youth Parole Board receives a victim impact statement in relation to a particular child or young person.".

13. Clause 623, lines 19 and 20, omit "If the Youth Parole Board receives a victim impact statement, the" and insert "The".

14. Clause 623, line 21, omit "not".

15. Clause 623, line 22, omit "whether –" and insert "any of the following –".

16. Clause 623, line 23, omit "a child" and insert "whether the child".

17. Clause 623, line 25, after "(b)" insert "whether".

18. Clause 623, line 25, omit "a" and insert "the".

19. Clause 623, line 25, omit "person." and insert "person; or".
20. Clause 623, after line 25 insert –
    "(c) conditions of the child's or young person's parole under section 632, 633 or 634.".
21. Clause 623, lines 26 to 31, omit all words and expressions on these lines and insert –
    "(2) In having regard to the victim impact statement, the Youth Parole Board may, in its absolute discretion, give the statement such weight as the Board sees fit.".

Amendments agreed to.

David DAVIS: Clauses 623 and 624 and our amendments 128, 129, 130 and 131 fall into the same category. Conversations between the shadow minister's office and the minister's office have led to a better way forward.

Amended clause agreed to.

Clause 624 (23:54)

Enver ERDOGAN: I move:

22. Clause 624, line 5, omit "not".
23. Clause 624, line 7, omit "whether –" and insert "any of the following –".
24. Clause 624, line 8, omit "a child" and insert "whether the child".
25. Clause 624, line 10, after "(b)" insert "whether".
26. Clause 624, line 10, omit "a" and insert "the".
27. Clause 624, line 10, omit "person." and insert "person; or".
28. Clause 624, after line 10 insert –
    "(c) conditions of the child's or young person's parole under section 632, 633 or 634.".
29. Clause 624, lines 11 to 17, omit all words and expressions on these lines and insert –
    "(3) In having regard to the parole stage group conference report, the Youth Parole Board may, in its absolute discretion, give the report such weight as the Board sees fit.".

Amendments agreed to; amended clause agreed to.

Clause 625 (23:54)

David DAVIS: We are concerned about aspects of this clause and for that reason we seek to omit it. Specifically, we think it does not deal appropriately with terrorism risk.

Enver ERDOGAN: The government does not support this amendment. The current provisions reflect what is in the Children, Youth and Families Act. It is an approach that is similar to that system, and we believe it should be retained as is.

David LIMBRICK: I wonder if Mr Davis could elaborate further on the rationale behind this amendment.

David DAVIS: Well, let me just go to some length. People can read this on page 530 of volume 2. This is 'Limitation on Youth Parole Board's consideration of terrorism risk information'. They will find that it says:

> In considering whether to make any determination or order under this Part, the Youth Parole Board must not have regard to terrorism risk information regarding a child or young person having, or having had, an association with another person …

It then talks about:

(a) that the other person or group had expressed support for –
    (i) the doing of a terrorist act; or
    (ii) a terrorist organisation; or

(iii) the provision of resources to a terrorist organisation; or …

It goes on, but you will get the sense of what I am saying here. We think it is entirely appropriate.

David LIMBRICK: I thank Mr Davis for his explanation. I wonder if the government could explain the rationale for having this in the bill in the first place, because Mr Davis's explanation does seem to have some merit.

Enver ERDOGAN: I think clause 625 is quite self-explanatory. It is the fact that the board needs to be satisfied that the child knew. If the child knew that the other person or group had expressed support for terrorism, then of course it is a consideration. But otherwise it should not be. That is usually the approach in the adult system as well.

David DAVIS: We do not think this limitation is wise. We think that the capacity should be there. The clause should be omitted.

The DEPUTY PRESIDENT: Mr Davis is seeking to omit this clause. The question will be that the clause stand part of the bill. If you want to support Mr Davis, you need to vote no.

Council divided on clause:

Ayes (22): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Noes (17): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Clause agreed to.

Business interrupted pursuant to standing orders.

Jaclyn SYMES: According to standing order 4.08, I move:

That the sitting be extended.

David DAVIS: I am in one sense happy for an extension. This has been a long committee. People are very tired, as we see. We are all tired. I understand the importance of this bill, but actually this bill has not been declared an urgent bill, whereas there is another bill that sits on the notice paper, and I think this is an important point to make. The State Civil Liability (Police Informants) Bill 2024 was guillotined on Wednesday in the Assembly on the claim that it was a bill that had to be passed this week. The opposition was told it was urgent and had to be passed this week. Now the government has done everything it can to park that. The opposition have indicated we will be prepared to come back tomorrow if necessary. We have also indicated we would be prepared to keep working tonight. But I think a key point here is that the government has decided to prioritise this bill over the bill that it itself had declared urgent. We are very concerned about the misuse of that bill sitting on the notice paper and the fact that in a number of legal situations – live cases – the government may well be using this as a device to leverage and pressure –

Members interjecting.

David DAVIS: You could have briefed us earlier.

Jaclyn Symes: I was sitting at my mother's hospital bed, Mr Davis.

David DAVIS: I understand that, and that is fair enough. I know the opposition was determined to support you in that. But the reality is we could have dealt with this tomorrow or we could have dealt

with this later tonight if necessary. We could do it now if it is actually as urgent as people in the Assembly were told.

Jaclyn Symes: If people have got more questions, I will brief them tomorrow.

David DAVIS: We are very concerned and that has not been conveyed to –

Georgie Crozier: On a point of order, Deputy President, there is a conversation going on with the Leader of the Government. I do not know what she was saying. If the Leader of the Government is going to make any comments in relation to Mr Davis's commentary around this, then can the entire house please hear what is going on.

The DEPUTY PRESIDENT: It is not a point of order.

David DAVIS: I had concluded, Deputy President. My point is a very simple one: that the government has got these back the wrong way and they have not communicated any reason why it should be different. The opposition and others in the chamber have been prepared to work with people, but I am conscious of the hour and in that sense I am not going to keep speaking.

David LIMBRICK: I actually think Mr Davis raises a very important point. Whether or not it is the intention of the government to cause consequences, I think that there will be consequences from leaving that bill on the notice paper for a fortnight. I do not know exactly how that will play out, but I am very concerned about the consequences and the incentives that that will create within the legal system from leaving that on the notice paper for the next two weeks. Therefore I would also like to put my concern on the record about doing this.

Motion agreed to.

Clauses 626 to 628 agreed to.

Clause 629 (00:10)

David DAVIS: I move:

133. Clause 629, page 533, lines 1 to 5, omit all words and expressions on these lines.

That relates to clause 629, 'Determination of parole where terrorism risk information provided'. In one sense this is a similar topic, but the actual points are different:

> If the Secretary provides the Youth Parole Board with terrorism risk information under section 626 in respect of a child or young person, the Youth Parole Board must not determine whether to release the child or young person …

We seek to omit subclause (3), which is the section over there:

> This section applies subject to section 625 –

which is the earlier section we dealt with.

Amendment negatived; clause agreed to; clauses 630 and 631 agreed to.

Clause 632 (00:12)

David DAVIS: I move:

134. Clause 632, lines 31 to 33, omit all words and expressions on these lines.

Amendment 134 is in relation to clause 632, 'Standard conditions of youth parole order'. Subclause (2) at the bottom of page 534 says:

> The Youth Parole Board may decide not to impose a standard parole condition on a child's or young person's youth parole order.

We believe that subclause should be omitted.

Enver ERDOGAN: Similar to a number of other amendments that have been moved by the opposition, I think it reduces the flexibility within the system. Therefore we will not be supporting it.

David LIMBRICK: The Libertarian Party also will not be supporting this amendment. I do agree with the government that the parole board for children needs to have flexibility in these matters, so I will not be supporting this amendment.

Amendment negatived; clause agreed to; clauses 633 to 635 agreed to.

Clause 636 (00:13)

Katherine COPSEY: I move:

71. Clause 636, page 538, line 24, omit "child's or".

One of the things that the Greens were most disturbed to see in this bill was the ability for children of the age of 16 and over, so 16- and 17-year-olds, to be transferred to adult prisons. This is very alarming. We think that it is inconsistent with the guiding principles of the bill. We think it is also probably inconsistent with the protections afforded to children by the Convention on the Rights of the Child. Children who are being deprived of their liberty in detention facilities ought to be separated from adults and provided with appropriate accommodation during that time. They should never be locked away in adult prisons. Additionally, given all of the commentary that has been made around the severity of consequences for children who come into contact with the criminal justice system and the fear that children will be institutionalised and also exposed to people who have been involved in offending behaviour for longer, we think that there is serious risk of this undermining the purpose of the bill – to improve overall community safety – through an increased risk of recidivism later on. So we would oppose this. The effect of our amendment is to disable the transfer of 16- and 17-year-olds to adult prison.

David LIMBRICK: Upon analysing this bill my team also shared Ms Copsey's concerns about this. I did consult with the government's advisers on this, and it was explained to me the very unusual circumstances under which this would happen. I wonder if the minister would explain to the house the types of scenarios and the frequency of those scenarios under which that would happen and why it is necessary. I am barely convinced that it is necessary, but I wonder if the minister would not mind getting on the record the types of situations that we are referring to here.

Enver ERDOGAN: This issue is an important one, the ability to transfer young people from the youth justice system to the adult system. Obviously there are existing provisions where this is allowed. This passes off on the previous legislation and makes to clarify some sections, I must add. What we are seeing is that the most common use of this is where there is an issue of safety of premises. During my time as a minister, I recall one instance where there was a person that was 17, approaching 18, that had to be transferred from the youth justice system into the adult system. That was a situation where there was significant violence involved, violence against other young people and towards staff, because the settings in our youth justice facilities are very different to the adult system. The approach and engagement levels are very different – deliberately so, understanding these are young people.

Where there are young people that are unfortunately being very aggressive and dangerous to people at these facilities the only other option is to move them to an adult environment where the security features are more advanced, to be frank, because the approach that we take with adult offenders is different to what we take with young offenders. This is something that came out of a lot of consultation with staff, and we have done quite a bit of consultation with staff and the Community and Public Sector Union on what the issues are. Of the staff assaults we have seen in our youth justice facilities, the majority have been by 18- and 19-year-olds that are in the youth justice system. Making it more straightforward for them to be able to transfer to the adult system I think would increase the safety for all the other young people in the youth justice system that are doing the right thing and trying to turn their lives around, and it would provide a safer environment for our hardworking staff.

David LIMBRICK: I thank the minister for the explanation. I do accept the explanation that it may be necessary to move them to another prison to protect the safety of staff and other children in the children's prison, but it begs the question to me – and I wonder if the minister could answer this: why aren't there facilities available in the children's prison to be able to handle children that are prisoners that are violent and have these characteristics? Why can't the children's prison system handle these children? Why don't we have those facilities to be able to handle that, and why is it necessary to transfer to an adult prison?

Enver ERDOGAN: I think it has to do with the fact that we have two facilities in our youth justice system, and the model is different. Like I said, that is the fundamental difference between the adult and youth system. The youth system is all focused on the rehabilitation of the young person, whereas in the adult system, like I said, there are enhanced security features that can deal with some of these complex young people. I have seen in my time one under-18 that was transferred to the adult system. I do see a lot more 18- and 19-year-olds that are transferred to the adult system when they are violent. I would say that our youth justice system is designed for the welfare of the child or the young person, and for that reason the security features and those kinds of defensive security features are not at the same level as they are in the adult system, especially not in our medium- and maximum-security prisons in our adult system.

David LIMBRICK: I thank the minister for that explanation. Could the minister maybe provide some information to the house on what sort of protections there are for these 16- and 17-year-olds that may be transferred in this manner? Presumably they are at extreme risk in an adult prison and would require some sort of special protection. Could the minister provide some sort of guidance on what sorts of protections would be provided to these children?

Enver ERDOGAN: These are very rare occurrences, but there are placement positions that Corrections Victoria look at. There is a unit at Ravenhall that is focused more on young offenders. People – usually men under 25 – are all in the same unit, so you have a similar cohort usually of 18- to 25-year-olds there together. But for placement positions, Corrections Victoria takes all those factors into consideration in placing people. Obviously people could be placed in medium- or maximum-security premises accordingly, in different units appropriately. Like I said, it is a high threshold to transfer someone into the adult system, especially for the under-18 cohort – very, very high. I have seen one in my time. But like I said, I have seen a larger number of 18-, 19- and 20-year-olds that are transferred to the adult system.

Council divided on amendment:

Ayes (7): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam

Noes (31): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Amendment negatived.

Clause agreed to; clauses 637 to 653 agreed to.

Clause 654 (00:28)

Enver ERDOGAN: I move:

30. Clause 654, line 9, after "parole" insert "determinations and".

These amendments are similar to the previous amendments made to the Youth Parole Board, but this is about the victims register and the information that they can get from the parole board. Again I just want to thank the opposition and the Greens for working constructively to get something that is an improvement for victims in our system.

Amendment agreed to; amended clause agreed to; clauses 655 to 658 agreed to.

Clause 659 (00:29)

David DAVIS: I move:

136. Clause 659, lines 32 and 33, omit "as soon as practicable" and insert "at least 14 days".

137. Clause 659, page 554, line 1, omit "may" and insert "must".

138. Clause 659, page 554, line 2, omit "some or".

139. Clause 659, page 554, line 22, omit "(2) or".

There are changes made here which seek to take out 'as soon as practicable' to put in '14 days' to ensure that a person on the youth justice victims register is to be given certain information, and the secretary 'must' rather than 'may'. There are also some parallel changes that seek to improve the operation. This is a modest set of changes but worthy.

Enver ERDOGAN: The government will not be supporting this amendment.

David LIMBRICK: I also will not be supporting this amendment. I was briefed by the minister's advisers earlier, and I would like to get on the record, if possible, by the minister the reasons for this not being feasible. My understanding is that the 14-day requirement is not workable because of how the Youth Parole Board works. It is my understanding that they meet in a much more ad hoc manner, unlike the Adult Parole Board of Victoria, where they have set schedules. Therefore this type of arrangement would be unworkable. That is the explanation I was given. Could the minister please confirm that my understanding is correct and that that is the case, please?

Enver ERDOGAN: Mr Limbrick, you are correct. I think it is a practical issue more than anything else, that the Youth Parole Board works very differently to the adult parole board – obviously a lot less people coming through the system – and the Youth Parole Board kind of conducts itself in a series of meetings rather than a one-off decision. So it is a bit ongoing, because for a lot of young offenders there is not necessarily a parole period as there is for an adult offender. Therefore, the decision point is a constant series of meetings. It is not just one meeting where they just make a decision. So it is not as practical to come into effect, and it would be contrary to what we are trying to achieve with this bill, because it might mean that the young person is in custody for 14 additional days after the final decision, because there is effectively a series of meetings that the Youth Parole Board might have so it might not be the first meeting where they make a decision; it is more an ongoing dialogue to work through the issues.

Amendments negatived.

Enver ERDOGAN: I move:

31. Clause 659, page 554, after line 3 insert –

"(aa) details of the custodial sentence being served by the child or young person, including the period of detention under that sentence;

(aab) details of an escape of the child or young person from custody that occurs while the custodial sentence is being served;".

This is similar to some of the other improvements we are trying to make to the victims register in terms of providing information to assist victims. It was informed through discussions with the opposition and other parties, so in that regard I think I might just leave it there.

David DAVIS: I thank the minister for that commentary. There was discussion between his office and the shadow minister's office, and there have been improvements brought forward by the minister, and for that reason we will not move our amendment 140.

David LIMBRICK: May I ask the minister how these communications will take place with people on the victims register? As the minister would well know, I have had some experience with the victims register and some of its failings in the adult system, and I am quite concerned about the method of communication and how that actually works, and I would be interested to hear how this communication is intended to happen.

Enver ERDOGAN: I will seek some clarification, Mr Limbrick.

Mr Limbrick, I think the approach taken to inform victims will be in a trauma-informed way, and in many regards when people register with the victims register for youth crime in the youth justice system, there will be an opportunity for them to outline how they want to be communicated with, whether that be electronically or by telephone. But more importantly, depending on the level of offending and the type of need, we might need intermediaries, professional social workers, to engage with the victims, especially for the high-end offending. I think that would be appropriate. And I guess that is an assessment that the professionals will make at the time. Being a new register, I will be eagerly awaiting to see how it operates. You have had an unfortunate experience with the adult register, and we do not want those issues coming to the youth register.

Amendment agreed to; amended clause agreed to; clauses 660 to 663 agreed to.

Clause 664 (00:37)

Enver ERDOGAN: I move:

32. Clause 664, line 6, omit "parole conditions under section 632, 633 or 634." and insert –

"any of the following –

(a) whether a child or young person is eligible for release on parole;

(b) whether to grant parole to a child or young person;

(c) conditions of a child's or young person's parole under section 632, 633 or 634.".

Amendment agreed to; amended clause agreed to; clause 665 agreed to.

Clause 666 (00:38)

The DEPUTY PRESIDENT: Mr Davis, you want to omit clause 666. Do you want to speak to that?

David DAVIS: No, Deputy President. This is one of those amendments that have been dealt with between the minister's office and the shadow minister's office. I seek leave to withdraw my amendment.

Clause agreed to.

Clause 667 (00:38)

Katherine COPSEY: I will just signal, as I indicated, the Greens oppose the transfer of 16- and 17-year-olds to adult prison, and we will be voting against this clause on that basis.

Council divided on clause:

Ayes (31): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn

Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Noes (7): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam

Clause agreed to.

Clauses 668 to 717 agreed to.

Clause 718 (00:45)

David DAVIS: I move:

143. Clause 718, after line 21 insert –

"(5) The Secretary and the Minister must ensure that, before the first anniversary of the commencement of this section, the first approved strategic plan has been published.".

Amendment 143, on the publication of a strategic plan, relates to chapter 16, 'System planning, performance, collaboration and accountability'. There are all sorts of ideas about the strategic plan, but we say that it should be produced within 12 months. We think that is a reasonable time period. If somebody has a different time period, I am happy to hear that amendment. The idea that it could drift on endlessly without the strategic plan being produced is problematic. So let us put a time period on that of 12 months.

Enver ERDOGAN: The government supports this amendment.

Amendment agreed to; amended clause agreed to.

New clause (00:47)

Katherine COPSEY: I move:

81. Insert the following New Clause to follow clause 718 –

"**718A Record of information – operation of youth justice system**

(1) The Secretary must keep a record of the following information in relation to the operation of the youth justice system from the date of commencement of this section –

(a) the number of youth warnings and youth cautions issued to children;

(b) the number of proceedings commenced against children;

(c) the number of children prosecuted for offences.

(2) The record must include the following details in relation to each youth warning, youth caution, proceeding commenced and prosecution –

(a) the child's age;

(b) the child's gender or gender identity;

(c) the child's Aboriginal identity;

(d) whether the child has been involved with child protection services.".

My amendment is to create a better reporting system around the new diversion elements of the Youth Justice Bill. Under this record of information this would be cause for it to be recorded. We think that the new system of diversions and diversion pathways is a really positive step forward. What we believe would strengthen this even further is to understand and have a record kept from the get-go of how this is being utilised by police and the interactions that youth are having under this new system with the diversion pathways. I commend the amendment.

Enver ERDOGAN: I understand the intention of Ms Copsey; I appreciate that. But we do not support this amendment, and I will foreshadow the next amendment as well that you will be moving; we consider them to be overly prescriptive and an excessive administrative burden on the department.

New clause negatived.

Clause 719 (00:49)

Katherine COPSEY: I move:

82. Clause 719, line 22, omit "**prescribed**".
83. Clause 719, line 25, omit "prescribed" and insert "following".
84. Clause 719, line 27, omit "system." and insert –

"system at the end of every 12 month period –

(a) the number of youth warnings and youth cautions issued in the preceding 12 months, including –

(i) the total number issued in that period; and

(ii) the number issued for each age; and

(iii) the average number of days elapsing between the alleged commission of an offence and the issue of a youth warning or youth caution; and

(b) the number of proceedings commenced against children in the preceding 12 months; and

(c) the number of children prosecuted for offences in the preceding 12 months; and

(d) the prescribed information relating to the operation of the youth justice system.".

85. Clause 719, page 602, lines 1 and 2, omit all words and expressions on those lines.

This would relate to the collection of the previous information. I will still move it. This would relate to that information being published every 12-month period.

Amendments negatived; clause agreed to; clauses 720 to 745 agreed to.

Clause 746 (00:50)

Enver ERDOGAN: I move:

33. Clause 746, line 11, omit "**devised**" and insert "**derived**".

I think these changes speak for themselves. They are a drafting correction, and they are similar to some of the previous amendments to make sure that the clause effectively aligns with the equivalent approach that we are aiming for with the youth justice register.

Amendment agreed to; amended clause agreed to; clauses 747 to 854 agreed to.

Clause 855 (00:51)

Enver ERDOGAN: I move:

34. Clause 855, page 735, line 13, omit "**devised**" and insert "**derived**".

Similar to the previous amendment, this is correcting a drafting error, I might say, or more so clarifying the intention of the bill in regard to the youth justice register.

Amendment agreed to; amended clause agreed to; clauses 856 to 898 agreed to.

Heading to chapter 22 (00:52)

Jaclyn SYMES: I move:

9. Chapter heading before clause 899, omit "**Trial of electronic monitoring of children on bail in certain circumstances**" and insert "**Bail amendments**".

I have spoken to this amendment, Deputy President.

Katherine COPSEY: Because these are subsequent, I just want to clarify that the Greens oppose the principal amendment and will oppose this amendment.

Amendment agreed to; amended heading agreed to.

New division heading (00:53)

Jaclyn SYMES: I move:

10. Insert the following Division heading before clause 899 –

"**Division 1 – Trial of electronic monitoring of children on bail in certain circumstances**".

New division heading agreed to; clauses 899 to 902 agreed to.

Clause 903 (00:53)

Katherine COPSEY: I intend to call a division on this clause. This clause enables the electronic monitoring trial, the ankle bracelet trial, on children in Victoria. The Greens intend to oppose this clause.

Council divided on clause:

Ayes (31): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Noes (7): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam

Clause agreed to.

New clauses (01:00)

Jaclyn SYMES: I move:

11. Insert the following Division heading and New Clauses to follow clause 903 –

'**Division 2 – Scheduled offences, unacceptable risk and conduct conditions**

903A All offences – unacceptable risk test

(1) Before section 4E(1)(a)(i) of the **Bail Act 1977 insert** –

"(iaa) commit a Schedule 1 offence or a Schedule 2 offence; or".

(2) In section 4E(1)(a)(i) of the **Bail Act 1977**, after "(i)" **insert** "otherwise".

903B Conduct conditions

(1) Before section 5AAA(1)(a) of the **Bail Act 1977** insert –

"(aa) commit a Schedule 1 offence or a Schedule 2 offence; or".

(2) In section 5AAA(1)(a) of the **Bail Act 1977**, after "(a)" **insert** "otherwise".

903C New section 30A inserted

After section 30 of the **Bail Act 1977** insert –

"30A Offence to commit Schedule 1 offence or Schedule 2 offence while on bail

An accused on bail must not commit a Schedule 1 offence or Schedule 2 offence while on bail.

Penalty: 30 penalty units or 3 months imprisonment.

Note

See sections 16 and 33 of the **Sentencing Act 1991** and sections 411 and 413 of the **Children, Youth and Families Act 2005**.".

Division 3 – Examples, revocation and review

903D All offences – unacceptable risk test

For the example at the foot of section 4E(1) of the **Bail Act 1977 substitute** –

"Example

An unacceptable risk that the accused, if released on bail, would –

(a) drive dangerously; or

(b) commit a family violence offence; or

(c) commit an aggravated burglary; or

(d) commit an armed robbery; or

(e) commit a carjacking; or

(f) commit a home invasion.".

903E All offences – unacceptable risk test

For the example at the foot of section 5AAA(1) of the **Bail Act 1977 substitute** –

"Example

A bail decision maker may impose a condition in order to reduce the likelihood that the accused may –

(a) drive dangerously; or

(b) commit a family violence offence; or

(c) commit an aggravated burglary; or

(d) commit an armed robbery; or

(e) commit a carjacking; or

(f) commit a home invasion.".

903F Application for revocation of bail

After section 18AE(1) of the **Bail Act 1977 insert** –

"(1A) Without limiting subsection (1), an application under that subsection may be made because the applicant believes on reasonable grounds that the person –

(a) has committed an offence since bail was granted; or

(b) is likely to commit an offence whilst on bail; or

(c) has breached a condition of bail; or

(d) is likely to breach a condition of bail or the bail undertaking.".

903G Section 32C amended

(1) In the heading to section 32C of the **Bail Act 1977**, for "**amendments made by Bail Amendment Act 2023**" **substitute** "**certain amendments**".

(2) In section 32C(1) of the **Bail Act 1977**, for "by the **Bail Amendment Act 2023**." **substitute** "by –

(a) the **Bail Amendment Act 2023**; and

(b) Part 22.1 of the **Youth Justice Act 2024** (other than Division 1 of that Part).".'.

I have spoken at length in relation to the purpose of the amendments that I am moving. But just for clarity, my amendment 11 does pick up several amendments to the Bail Act, including the decoupling and clarification of schedule 1 and 2 offences being directly relevant for the unacceptable risk test. It also inserts the new offence of committing a schedule 1 offence or schedule 2 offence whilst on bail. It also inserts the specific examples of offences that are relevant for bail decision makers when assessing unacceptable risk, and I have gone through those examples previously. It also brings in the guidance around a revocation of bail. I will respond to Mr Davis's amendments once he puts them.

Katherine COPSEY: I just wanted to state again for the record: the Greens oppose the changes to bail that were announced by the government on Tuesday. We believe this is a retrograde step. Reintroducing bail offences takes us further away from Poccum's law.

David DAVIS: I move:

1. In proposed clause 903A(1), in proposed new section 4E(1)(a)(iaa) of the **Bail Act 1977**, omit "a Schedule 1 offence or a Schedule 2" and insert "an indictable".
2. In proposed clause 903B(1), in proposed new section 5AAA(1)(aa) of the **Bail Act 1977**, omit "a Schedule 1 offence or a Schedule 2" and insert "an indictable".
3. In the heading to proposed clause 903C, omit "**section 30A**" and insert "**sections 30A and 30B**".
4. In proposed clause 903C, in the heading to proposed new section 30A of the **Bail Act 1977**, omit "**Schedule 1 offence or Schedule 2**" and insert "**indictable**".
5. In proposed clause 903C, in proposed new section 30A of the **Bail Act 1977**, omit "a Schedule 1 offence or Schedule 2" and insert "an indictable".
6. In proposed clause 903C, in the note at the foot of proposed new section 30A of the **Bail Act 1977**, omit '**2005**."' and insert "**2005**.".
7. In proposed clause 903C, after proposed new section 30A of the **Bail Act 1977** insert –

'30B Offence to contravene certain conduct conditions

(1) Subject to subsections (2) and (3), an accused on bail in respect of whom any conduct condition is imposed must not, without reasonable excuse, contravene any conduct condition imposed on him or her.

Penalty: 30 penalty units or 3 months imprisonment.

(2) Subsection (1) does not apply to contravention of a conduct condition requiring the accused to attend and participate in bail support services.

(3) Subsection (1) does not apply to a child."'.

I will just make some comments there. Picking up Ms Copsey's point, some say that this was Jacqui Felgate's achievement, but that is another point. We actually support the government's step, but we do not believe it goes far enough. It is a step that they have taken under pressure. It is a step that they have taken to reintroduce some of the points that were there previously. They have made this a slightly tougher Bail Act but still not as tough as it should be and as it was not very long ago. We say that if an indictable offence is involved – not just a schedule 1 or schedule 2 offence but an indictable offence – that this should alter the terms or the arrangement for bail.

A member interjected.

David DAVIS: Well, that is what we are talking about here. This is to be tougher, and the reality is that there is a problem in the community. There is a serious youth crime issue, and there are people who have actually really suffered. It is unfortunate that some on the government side have not recognised that. It is unfortunate that they do not seem to care about those victims of crime, and it is unfortunate that they are not prepared to look at tougher bail arrangements. The idea of an offence on bail is something that we also believe is important, and we are responding with some of the material that is very similar to what we moved at an earlier point because this bill is coming forward. The government has taken steps here, and we say that those steps are wholly inadequate.

Jaclyn SYMES: As a little bit of an exchange on this particular amendment that Mr Davis has put, first of all, I would put on record that once again the opposition are in contravention of standing order 7.06. No question is to be proposed again in the same substantive way it has been in the last six months. You are again in contravention of this provision. This is the third time you have sought to put this provision to the Parliament. I think at this hour I will not seek to knock out the clause because I can presuppose where this will go. My question to you in the first instance, Mr Davis, is: what is the penalty for committing an indictable offence whilst on bail under your proposal?

David DAVIS: There is a penalty for it; that is the point.

Jaclyn SYMES: What is it?

David DAVIS: I will have to get advice on the exact –

Jaclyn SYMES: Mr Davis, I can answer the question that I asked you.

David DAVIS: I am informed it is three months.

Jaclyn SYMES: It is. The answer is three months, and I was interested in making sure that you were aware of that.

David DAVIS: Just in an excess of caution, I wanted to check.

Jaclyn SYMES: That is fine.

David DAVIS: Three months is the answer to that part of your contribution. The other part of your contribution with respect to the same question rule – this is a different circumstance, and that is a –

Jaclyn SYMES: The question is substantially the same.

David DAVIS: No, this is actually a different circumstance, is my point, and the circumstance –

Jaclyn SYMES: The standing order does not talk about circumstances.

David DAVIS: I am talking about circumstances. I am actually making a point that the circumstance is different. The fact is that there is a battery of different amendments coming forward on exactly this area of law, and a proposal is being put in the context of that. So the context is important, and for that reason the same question rule does not normally apply in this circumstance.

Jaclyn SYMES: Mr Davis, I am not going to go back and forth on the standing orders. I think that that would be not a good use of people's time. However, I maintain that you are in breach of standing order 7.06, but I am not proposing to press that point. In terms of the question, I was interested in ensuring that you were aware of the penalty for being charged with committing an indictable offence on bail. You would probably also be aware that there is very little evidence to suggest that there is a substantive impact of deterrence on offending in having such an offence. That has certainly been borne out in the experiences on the ground. But I do want to be clear that we are obviously open to taking steps to address repeat offending whilst on bail, which is why we have included our house amendment, which is about schedule 1 and schedule 2 offences, because we are responding to community concern about serious offences being committed whilst on bail. But as you appreciate, in the conversation that I was having with Ms Copsey, there is agreement between the courts and the police that there is minimal impact in having an offence that is applied which is a subsequent offence to the primary offence. However, for community confidence we are keen to progress our amendment in the way that we have.

I want to put on record that the Bail Amendment Act that passed the Parliament last year and came into effect in March of this year received bipartisan support, except for the clause of committing an indictable offence whilst on bail, and the opposition like to use this specific clause that you opposed as your argument for why the government weakened bail. It is the only thing that you have to differentiate yourself from us in relation to the bail amendments in 2025. I can assure you that bringing back our offence of committing a schedule 1 or schedule 2 offence whilst on bail negates any such argument that you can put that we have weakened bail in the future.

David DAVIS: Well, there we are. The problem for the government is that they are trying to lecture the community and the Parliament on these matters when they have an appalling record with rising youth crime. I make a very simple point. I held a forum in Mount Waverley the other day, and there were people in that area who had had home invasions, had had neighbour home invasions and had lived in the area for 50 years. This is a rising and worsening situation in the local area. I held another forum in Ashburton and Glen Iris the other day too, and there were a series of people who related specific incidents of nasty home invasions and crimes in their local area. This is a recent and rising phenomenon, and it is happening under your government.

The fact is that the opposition did bring that bill back, I think in March, and you voted it down. That is what occurred. The government has been weak on a whole range of matters around youth crime, and you may not think that that is important. But we do, and the community does too. Wherever you go in the community people will regale people with the reality that they are actually facing threats and really very serious incidents that should not be dismissed. As to your idea that having clear signals and penalties does not have any effect, that is not the view of some with whom our shadow police spokesperson and the Shadow Attorney-General have consulted widely on these matters – both of them, and others within the opposition. There are different views in the community. There is an academic view, if I can put it that way, a sector view, and the reality of course is that the sector view has not really been going very well in the community just now. The community has formed a view.

Jaclyn SYMES: What sector?

David DAVIS: This is the sector that you are referring to here – certain people that are involved with managing some of these issues – and they have not always got it right. At the moment, frankly, they have not got it right.

Jaclyn SYMES: You are reflecting on the courts; is that what you are trying to say?

David DAVIS: No, I am saying that whatever overall system has been put in place is not doing well. You have been in power for 10 years now, and the situation is getting worse. Youth crime is rising, and people are very, very unhappy and worried by it and scared. Further, I have had people in my office talking about a number of issues that have occurred in their area, in their homes, to their families and to their friends. I mean, it is fine to dismiss these things. It might be a nice academic exercise, but this is not an academic exercise. This is actually about dealing with crime in the real world and the impact on the Victorian community.

Jaclyn SYMES: I think I just got accused of lecturing you before you stood up and gave me that. At least the government understands what the laws actually do. Mr Davis, I appreciate your advice and your interactions with the community. That is completely fine. But you cannot come in here and say that your particular amendment is going to change people's experience on the ground when it is actually not. What I would also put on record – and it is not a stat that I am particularly proud of – is that the remand numbers of young offenders have gone up since the bail changes in March of this year.

Katherine Copsey: Shame.

Jaclyn SYMES: And I take up the interjection, Ms Copsey. It is not a stat to be proud of, but it is a reality. The reality is that our bail decision makers are remanding more young people since our bail changes than before, and that is a fact. It is in direct response to concerning behaviour. This bill is a direct response to concerning behaviour. We are concerned about a particular cohort of young offenders committing repeat offences that are causing harm to the community, and the community are obviously concerned. We have people in the community that are scared. That is what these laws are about. We have made sure that our bail amendments are reaffirming our commitment to cracking down on serious crime, crimes that cause harm to the community. We also have, on the other hand, a comprehensive bill that Mr Erdogan has taken through the Parliament today, which is all about ensuring that we can prevent crime before it happens.

Mr Davis, I do have another question in relation to your amendments. You have an amendment to bring in an offence to contravene certain conduct conditions. I am curious as to why you are bringing this amendment to the Parliament in the Youth Justice Bill when you are providing a new offence that does not apply to children.

Katherine COPSEY: While Mr Davis attends to this matter, I will just put on the record that the Victorian Greens will be opposing Mr Davis's amendment to the Attorney's amendment for reasons similar to those I outlined in our opposition to the Attorney's amendment.

David DAVIS: I am informed that these provisions we thought were appropriate to be in this bill, and in that sense we put them in.

Jaclyn SYMES: Thank you, Mr Davis, but I just confirm it is a bit confusing to the government why you would bring in a new offence in a youth justice bill about contravening certain conditions whilst on bail and specifically exclude it from applying to a child. We certainly do not support this amendment, whether it applies to children or adults. Creating an offence to contravene certain conduct conditions was something that was knocked out of the Bail Act through our last amendments, and you did not oppose it at the time.

David DAVIS: As I understand it, we brought a bill back to Parliament to deal with some of those exact points.

Council divided on David Davis's amendments:

Ayes (14): Melina Bath, Gaelle Broad, Georgie Crozier, David Davis, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendments negatived.

New clauses agreed to.

New division heading (01:27)

Jaclyn SYMES: I move:

12. Insert the following Division heading before clause 904 –

"**Division 4 – Transitional provisions and technical amendments**".

We have discussed this previously.

Katherine COPSEY: For the record, the Greens will oppose this amendment.

New division heading agreed to.

Clause 904 (01:28)

Jaclyn SYMES: I move:

13. Clause 904, line 10, omit 'committed.".'. and insert "committed.".
14. Clause 904, after line 10 insert –

'(24A) Section 30A applies in respect of an offence alleged to have been committed on or after the commencement of section 903C of the **Youth Justice Act 2024**.".'.

Amendments agreed to; amended clause agreed to; clauses 905 to 913 agreed to.

New clause (01:30)

Jaclyn SYMES: I move:

15. Insert the following New Clause to follow clause 913 –

'913A Offence to commit Schedule 1 offence or Schedule 2 offence while on bail

In the Note at the foot of section 30A of the **Bail Act 1977**, for "sections 411 and 413 of the **Children, Youth and Families Act 2005**." substitute "section 327 of the **Youth Justice Act 2024**.".'.

This is my last amendment. We have spoken at length about the offence to commit schedule 1 or schedule 2 offences whilst on bail. That is what this amendment seeks to do.

Katherine COPSEY: Is this another scenario over the page where Mr Davis has an amendment that affects this amendment, or have I read the running sheet wrong?

The DEPUTY PRESIDENT: If you look at note 2, it says only if Mr Davis's amendments 1 to 7 were agreed to, which they were not.

New clause agreed to; clauses 914 to 1176 agreed to; schedule 1 agreed to.

Reported to house with amendments.

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (01:32): I move:

That the report be now adopted.

Motion agreed to.

Report adopted.

Third reading

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (01:32): I move:

That the bill be now read a third time.

The PRESIDENT: I am of the opinion that this bill requires to be passed by an absolute majority.

Council divided on motion:

Ayes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, David Limbrick, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Noes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Motion agreed to by absolute majority.

Read third time.

The PRESIDENT: Pursuant to standing order 14.28, the bill will be returned to the Assembly with a message informing them that the Council have agreed to the bill with amendment.

Business of the house

Adjournment

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (01:40): I move:

That the Council, at its rising, adjourn until Tuesday 27 August 2024.

Council divided on motion:

Ayes (23): Ryan Batchelor, John Berger, Lizzie Blandthorn, Jeff Bourman, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Noes (16): Melina Bath, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Motion agreed to.

Bills

Prahran Mechanics' Institute Repeal Bill 2024

Introduction and first reading

The PRESIDENT (01:44): I have a message from the Assembly on the Prahran Mechanics' Institute Repeal Bill 2024:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to repeal the **Prahran Mechanics' Institute Act 1899**, to dissolve the Prahran Mechanics' Institution and Circulating Library incorporated and to provide for the transfer of property, rights and liabilities of that entity to the PMI Victorian History Library Inc., and for other purposes.'

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (01:45): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Harriet SHING: I move, by leave:

> That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (01:45): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

> **Opening paragraphs**
>
> In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006*, (the Charter), I make this Statement of Compatibility with respect to the Prahran Mechanics' Institute Repeal Bill 2024 (the Bill).
>
> In my opinion, the Bill, as introduced to the Legislative Council, is compatible with human rights as set out in the Charter. I base my opinion on the reasons outlined in this statement.
>
> **Overview**
>
> The purpose of the Bill is to repeal the *Prahran Mechanics' Institute Act 1899*, dissolve the Prahran Mechanics' Institution and Circulating Library (PMI Circulating Library) incorporated established by the *Prahran Mechanics' Institute Act 1899* and provide for the transfer of property, rights and liabilities to the Prahran Mechanics' Institute's successor body, the PMI Victorian History Library Inc, which is an incorporated association under the *Associations Incorporation Reform Act 2012*.
>
> **Human Rights Issues**
>
> Human rights protected by the Charter that are relevant to the Bill
>
> *Right to property*
>
> The Bill provides for the repeal of the *Prahran Mechanics' Institute Act 1899* and all property, rights and liabilities held, by the Prahran Mechanics' institute are to be transferred to the PMI Victorian History Library Inc as the successor body.
>
> Additionally, clause 7 of the Bill provides for the employment of persons employed by the PMI Circulating Library, including any accrued entitlements, to be transferred to the PMI Victorian History Library Inc, on

the same terms and conditions immediately before the repeal. This transfer does not prevent any of the terms and conditions of a transferred employee from being altered by or under any law, award or agreement after the repeal of the Act.

In this regard, the Bill acts to preserve all existing property, right and liabilities, including the entitlements of employees transferred from the Prahran Mechanics' Institute to its successor body.

I consider that the Bill is compatible with the Charter because it does not limit any rights under the Charter.

Hon Lizzie Blandthorn MP
Minister for Children
Minister for Disability

Second reading

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (01:45): I move:

That the bill be now read a second time.

Ordered that second-reading speech be incorporated into *Hansard*:

The Prahran Mechanics' Institute Repeal Bill 2024 will repeal the *Prahran Mechanics' Institute Act 1899*, dissolve the Prahran Mechanics' Institution and Circulating Library incorporated and transfer the property, rights and liabilities held by the Prahran Mechanics' Institute to its successor body, the PMI Victorian History Library Inc.

The Prahran Mechanics' Institute is a community owned and run library, specialising in Victorian history. It is a place for learning, research, knowledge-sharing and community engagement and is a vital source of research materials and education for historians and those with a passion for learning more about our State.

To engage with the local and wider community, the library runs talks, lectures and workshops and holds exhibitions to showcase the remarkable collection and facilitate the study of Victorian history.

The Prahran Mechanics' Institute is also where the collections of the Mechanics' Institutes of Victoria, the Cinema and Theatre Historical Society and the Victorian Railway History Library are housed.

The Prahran Mechanics' Institute is Victoria's second oldest library, celebrating 170 years in February 2024. It is also the only mechanics' institute in Victoria governed by its own Act of Parliament.

The decision was taken in 1899 to transfer Prahran Mechanics' Institute from the previous trustees to a body established for its proper administration due to concerns about mismanagement, the poor state of the library and buildings and the reduction in membership to only 10 members.

As a result of this history, the *Prahran Mechanics' Institute Act 1899* does not provide the governing committee with the powers to make financial decisions in the best interests of their members. The Act has required amendment each time the committee has sought to purchase or sell land or change the composition of the committee.

A lot has changed since the Act was introduced, and I am pleased to say that the current PMI Library Board has strong ties to the community and robust governance arrangements in place. Last year, over 4,000 people visited the library and over 500 people attended the events or programs the Prahran Mechanics' Institute runs.

What is clear is that it is no longer appropriate or necessary for the Prahran Mechanics' Institute to be bound by legislation that restricts its activities.

Its successor body, the PMI Victorian History Library Inc is an incorporated association under the *Associations Incorporation Reform Act 2012* and has a constitution in place to guide the board going forward.

I would like to take this opportunity to acknowledge and thank the current PMI Library Board for the work they are doing:

- Ms Judith Ellis (President)
- Mr Denys Correll (Vice President)
- Mr Michael Tonta (Secretary)
- Mr Ben Quin, CPA
- Dr Michelle Cleary
- Ms Carmel O'Keeffe

I would also like to acknowledge the contribution of previous committee members, as well as the staff and volunteers who have worked tirelessly to restore the Prahran Mechanics' Institute to its former glory and ensure that it has an enduring place in our community.

This Bill will ensure that the Prahran Mechanics' Institute can continue to operate as an incorporated association and can continue to fund its operations, modernise and adapt to meet the needs of the community and the historical associations that call the Prahran Mechanics' Institute home.

I commend the Bill to the house.

Georgie CROZIER (Southern Metropolitan) (01:45): I move:

That debate on this bill be adjourned for one week.

Motion agreed to and debate adjourned for one week.

Subordinate Legislation and Administrative Arrangements Amendment Bill 2024

Introduction and first reading

The PRESIDENT (01:46): I have a further message from the Legislative Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to make miscellaneous amendments to the **Subordinate Legislation Act 1994** and to consequentially amend the **Monetary Units Act 2004**, to make miscellaneous amendments to the **Administrative Arrangements Act 1983** and for other purposes.'

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (01:46): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Harriet SHING: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (01:46): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

Opening paragraphs

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006*, (the Charter), I make this Statement of Compatibility with respect to the Subordinate Legislation and Administrative Arrangements Amendment Bill 2024 (Bill).

In my opinion, the Bill, as introduced to the Legislative Council, is compatible with human rights as set out in the Charter. I base my opinion on the reasons outlined in this statement.

Overview

The Bill makes minor and technical changes to improve the operation and clarity of the *Subordinate Legislation Act 1994* (SL Act) and the *Administrative Arrangements Act 1983* (AA Act).

The objective of the proposed Bill is to:

- clarify and improve the operation of the SL Act in its governance of the development of subordinate legislation by the Executive Government; and
- clarify and improve the operation of the AA Act by improving the usability of Orders in Council made under the AA Act and providing greater certainty and clarity as to their effect.

The reforms proposed address issues identified by the Department of Premier and Cabinet and other government departments in the administration of the two Acts.

Specifically, the Bill will amend the SL Act to:

- add provisions to assist with the interpretation of key definitions in the SL Act, including clarifying the definitions of 'legislative character' and 'administrative character'. The definitions are applied to determine whether the SL Act applies to subordinate instruments;
- expressly provide for departmental consultation in the development of statutory rules or legislative instruments, to reflect the departmental consultation process that occurs in practice. The SL Act currently only requires consultation with impacted Ministers whose area of responsibility may be affected by the proposed statutory rule or legislative instrument;
- extend the application of an exemption from regulatory impact statement processes so that it is available for statutory rules, as well as legislative instruments, where the instrument is responding to a public emergency, urgent public health or safety issue or damage to the environment, resource sustainability or the economy. The SL Act currently only provides for such exemptions for legislative instruments; and
- update the requirements for how statutory rules are made available to reduce the current administrative burden and reflect that the public is likely to seek to purchase or inspect a statutory rule online. The Bill allows a physical copy of a statutory rule to be purchased online or at an approved bookshop, and requires that the responsible Minister ensures that a copy of a statutory rule is available for inspection without charge. The Government Printer is currently required to ensure that copies of statutory rules can be purchased from a prescribed bookshop, with no obligation to publish them online.

The Bill will amend the AA Act to:

- enable a consolidated Administrative Arrangements Order (AAO) version to be made by the Secretary and published online. This reform will address departmental and agency feedback that it is complicated to search for information on administrative changes and arrangements, such as changes to Ministerial responsibility without a consolidated AAO; and
- clarify the definition and scope of key terms in the AA Act, to assist departments and agencies in interpreting the AA Act.

Human Rights Issues

The Bill engages the following rights under the Charter:

- right to freedom of expression (section 15); and
- right to take part in public life (section 18).

For the following reasons, having taken into account all relevant factors, I am satisfied that the Bill is compatible with the Charter and, if any rights are limited, the limitation is reasonable and justified in a free and democratic society based on human dignity, equality and freedom in accordance with section 7(2) of the Charter.

Right to freedom of expression (section 15)

Section 15(1) of the Charter provides that every person has the right to hold an opinion without interference, including the freedom to seek, receive and impart information and ideas of all kinds orally, in writing, in print, by way or art or in another medium chosen by that person.

Clauses 3 and 28 of the Bill clarify key definition provisions of the SL Act and AA Act. The clarifications will make it easier for departments and agencies to understand their responsibilities, including, for example, being able to identify where subordinate legislation requires community consultation through a regulatory impact statement process. As a result, the Bill may enhance the right to freedom of expression by clarifying the circumstances in which community consultation should occur, thereby enabling people to more easily seek to enforce that right if consultation does not occur.

Accordingly, I consider that the Bill is consistent with the right to freedom of expression in section 15 of the Charter.

Right to take part in public life (section 18)

Section 18(1) of the Charter provides that every person in Victoria has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives.

The right applies to a wide range of activities such as state and local politics and public administration. It might include a person being involved in politics or sharing their opinion in an election or referendum. Every eligible person has the right to vote in state and local council elections.

Clauses 3 and 28 of the Bill clarify key definition provisions of the SL Act and AA Act. These provisions make it easier for departments and agencies to understand their responsibilities, including for example being

able to identify whether an instrument is a legislative instrument or, specifically, whether it is of a legislative or purely administrative character for the purposes of the SL Act. The incorrect characterisation of an instrument may lead to a lack of appropriate community scrutiny, especially as instruments characterised as administrative in character are not subject to a regulatory impact statement process. As such, the Bill may enhance the right to take part in public life by clarifying definitions and the circumstances in which community consultation should occur. This ensures the community can express their views about issues that affect them, and more easily seek to enforce that right if consultation does not occur.

Clause 9 provides for the exemption of statutory rules or legislative instruments from the application with all or any of the provisions of the SL Act, including from public consultation requirements. This has an impact on the right to take part in public life by limiting the public's ability to be consulted on the making of statutory rules and legislative instruments. However, this is justified because the new exemption grounds only apply in specific circumstances that help to maintain the status quo and allow the government to act quickly during periods of a declared emergency.

Clause 18 requires statutory rules to be available online. The Government Printer is currently required to ensure that copies of statutory rules can be purchased from a prescribed bookshop but there is no requirement that they be made available online. Clause 18 modernises the SL Act by requiring statutory rules to be made available online or at an approved bookshop. Given current technology, much of the public is likely to seek information online, so requiring statutory rules to also be available in this way rather than at specific physical locations will make statutory rules more accessible to a broader portion of the public. Improved access to statutory rules will enhance the right to take part in public life by ensuring that people are aware of their rights and obligations under those rules.

Similarly, clause 30 provides for the electronic publication of AAO consolidated versions to be published online. In addition to ensuring information on administrative changes and arrangements is easier for departments and agents to access, it will also ensure that members of the public can more easily access this information and be made aware of changes such as changes to Ministerial responsibility. Improved access to AAO consolidated versions will enhance the right to take part in public life by ensuring that people are more clearly aware of administrative changes and arrangements.

Accordingly, I consider that the Bill is consistent with the right to take part in public life in section 18 of the Charter.

Conclusion

The Bill promotes and protects Charter rights. To the extent that the Bill affects or limits Charter rights, I consider that these limitations as reasonable and demonstrably justifiable.

Hon Jaclyn Symes MP
Attorney-General
Minister for Emergency Services

Second reading

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (01:47): I move:

That the bill be now read a second time.

Ordered that second-reading speech be incorporated into *Hansard*:

The Subordinate Legislation and Administrative Arrangements Amendment Bill 2024 (Bill) aims to improve the operation and clarity of the *Subordinate Legislation Act 1994* (SL Act) and the *Administrative Arrangements Act 1983* (AA Act).

The reforms are all minor and technical in nature and address issues identified by the Department of Premier and Cabinet and other government departments in the administration of the SL Act and AA Act.

Key SL Act reforms

Clarification of definitions

The Bill will add provisions to the SL Act to assist with the interpretation of 'legislative character' and 'administrative character', which are definitions that are applied to determine whether the SL Act applies to subordinate instruments. Departments and agencies have indicated that, at times, interpreting and applying these definitions presents challenges, so the Bill aims to make these definitions clearer.

Departmental consultation

The SL Act requires that the Minister must, in the preparation of statutory rules and legislative instruments and where the Subordinate Legislation Act 1994 Guidelines require consultation, ensure that consultation occurs with any other Minister whose area of responsibility may be affected by the proposed statutory rule or legislative instrument. The Bill will permit consultation to also occur with impacted public sector body Heads, to reflect the departmental consultation that occurs in practice. The Bill provides that a failure to undertake this consultation will not affect the operation of the statutory rule or legislative instrument.

Public emergency exemption

Currently, legislative instruments can be exempt from regulatory impact statement processes where the instrument is responding to a public emergency, urgent public health or safety issue or damage to the environment, resource sustainability or the economy. The Bill will extend this emergency exemption ground to apply to statutory rules that have not already been extended under section 9 of the SL Act.

Online access to statutory rules

The Government Printer is currently required to ensure that copies of statutory rules can be purchased from a prescribed bookshop. This means that statutory rules are, at present, not required to be made available for purchase online. To modernise the SL Act, the Bill will require that the Government Printer makes every effort to ensure a physical copy of a statutory rule can be purchased online or an approved bookshop. The Minister can recommend to the Governor in Council that it declare by order published in the Government Gazette an approved bookshop. Ministers must also ensure that a copy of a statutory rule is available for inspection without charge.

Key AA Act reforms

Consolidated Administrative Arrangements Order

The Bill will allow for a consolidated Administrative Arrangements Order (AAO) version to be made. This reform will address departmental and agency feedback that it is complicated to search for information on administrative changes and arrangements, such as changes to Ministerial responsibility. An AAO consolidated version published in accordance with the Bill will be admissible as evidence thereof before all courts and, unless the contrary is proved, a document purporting to be an AAO consolidated version will be what it purports to be.

Other amendments to the AA Act

Further amendments are proposed to clarify the definition and scope of key terms in the AA Act, to assist departments and agencies in interpreting the AA Act.

Conclusion

These minor and technical changes will improve the operation and clarity of the SL Act and the AA Act.

I commend the Bill to the House.

Evan MULHOLLAND (Northern Metropolitan) (01:47): I move:

That debate on this bill be adjourned for one week.

Motion agreed to and debate adjourned for one week.

Victorian Institute of Forensic Medicine Bill 2024

Introduction and first reading

The PRESIDENT (01:47): I have a further message from the Legislative Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to establish the Victorian Institute of Forensic Medicine, to repeal the **Victorian Institute of Forensic Medicine Act 1985**, to consequentially amend other Acts and for other purposes.'

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (01:47): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Harriet SHING: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (01:48): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006*, (the Charter), I make this Statement of Compatibility with respect to the Victorian Institute of Forensic Medicine Bill 2024.

In my opinion, the Victorian Institute of Forensic Medicine Bill 2024, as introduced to the Legislative Council, is compatible with human rights as set out in the Charter. I base my opinion on the reasons outlined in this statement.

Overview

The Bill seeks to repeal and replace the *Victorian Institute of Forensic Medicine Act 1985* (VIFM Act) to establish the Victorian Institute of Forensic Medicine (VIFM) as a public sector entity that provides high-quality forensic and human tissue services, teaching and training in the field of forensic services, and undertakes and supports research. In 2023, the Government conducted a review of the VIFM Act to ensure that VIFM remains well positioned to continue to provide best-practice services. The Bill addresses the findings of the review.

Human Rights Issues

The Bill engages the following human rights:

- privacy and reputation (section 13)
- freedom of thought, conscience, religion and belief (section 14)
- cultural rights of Aboriginal communities (section 19)
- protection of families and children (section 17)
- right to a fair hearing (section 24)
- rights in criminal proceedings (section 25)

The right to privacy and reputation

Section 13 of the Charter provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with, and not to have their reputation unlawfully attacked. An interference with the right to privacy and reputation does not amount to a limitation on that right if it is lawful and not arbitrary. An interference will be lawful if it is permitted by a law which is precise and appropriately circumscribed.

The Bill authorises VIFM to use any information it holds about an individual when conducting teaching and training, for the purposes of conducting its own research, or to support other entities' research or policy development where this aligns with VIFM's objects. This may include information obtained, for example, during forensic medical investigations or clinical forensic medical examinations.

To safeguard the right to privacy, VIFM will only be authorised to use information in its research, or to disclose information to other entities, if doing so is not likely to prejudice a coronial investigation, criminal investigation, or a criminal proceeding. Before VIFM uses or discloses information for these purposes, if the information relates to a coronial investigation, VIFM will be required to notify the State Coroner of the proposed use or disclosure. Similarly, if the information relates to a criminal investigation or criminal proceeding, VIFM must notify the Chief Commissioner of Police. The Bill requires VIFM to provide the State Coroner and/or the Chief Commissioner with 21 days to provide advice about whether they reasonably consider that the use or disclosure of information is likely to prejudice an investigation or proceeding, and VIFM must have regard to any advice received. In addition to these requirements, if VIFM is seeking to disclose information to another entity, VIFM must enter into a written agreement with the entity it is sharing the information with to limit the other entity's use of the information to the purposes specified in the agreement, and require that these purposes be consistent with VIFM's objects as established by the Bill. The agreement must also provide that the entity's use of the information must not likely prejudice any coronial or criminal investigation or any criminal proceeding that has been or may be commenced.

Further, the Bill does not limit the application of the *Health Records Act 2001, Privacy and Data Protection Act 2014, Victorian Data Sharing Act 2017* or other relevant legislation, which will continue to apply.

For these reasons, I consider that any interference with privacy is both lawful and not arbitrary, and therefore does not limit the right.

The right to freedom of thought, conscience, religion and belief

Section 14 of the Charter provides that a person has the right to freedom of thought, conscience, religion and belief. This includes the ability to have or adopt a belief and the freedom to demonstrate that person's religion or belief in worship, observance, practice and teaching, whether that be individually or as part of a community, in public or in private.

The Bill's principles promote this right, by providing that in performing a function or exercising a power, a person should have regard, as far as possible in the circumstances, to the cultural beliefs of persons affected by events to which VIFM's work relates, and the diverse cultural needs of Aboriginal communities, including the importance of self-determination for Aboriginal people, and their connection to culture, family community and Country.

The inclusion of the phrase 'as far as possible in the circumstances' recognises that in delivering its services, VIFM may not always be able to take into account a person's cultural beliefs, nor is this always appropriate, for example, where a person claims that a roadside toxicology test should not be conducted due to their cultural beliefs. For this reason, I consider that the Bill does not limit this right.

The protection of families and children

Section 17(1) of the Charter provides that families are the fundamental group unit of society and are entitled to be protected by society and the State. Section 17(2) provides that every child has the right, without discrimination, to such protection as in the child's best interests and is needed by the child by reason of being a child. Despite the Charter not defining the term 'family', the term is given a broad interpretation to reflect the diversity of families living in Victoria, as raised in the Charter's explanatory memorandum.

The Bill promotes the protection of families and children. It provides that in performing a function or exercising a power, a person should have regard, as far as possible in the circumstances, to the importance of recognising the significant nature of the events to which the Institute's services relate and the need to be sensitive and responsive to persons affected by those events. This principle promotes the protection of families and children by recognising the sensitive nature of the work VIFM conducts and the need to be responsive to persons affected, including family members.

The Bill provides that one of VIFM's functions is to investigate, assess and initiate responses in respect of the health of a parent, or the health and safety of a living sibling, of a deceased child whose death is a reviewable death. In performing this function, VIFM will have the power to consult families of deceased children and other persons, including health service providers, to assess whether a family requires health and support services. VIFM will also have the power to refer the family of the deceased child to health and support services. These functions and powers promote the protection of families and children, as the communication of any discoveries relating to genetic diseases, for example, would protect the wellbeing of living siblings and/or parents of the deceased child.

The Bill also authorises VIFM to assess whether a report under section 183 of the *Children, Youth and Families Act 2005* should be made in relation to any living siblings of a deceased child, make such a report and advise the State Coroner that a report has been made. These powers ensure VIFM can comply with its obligations to report to a 'protective intervener' if VIFM considers on reasonable grounds that a child is in need of protection.

Cultural rights

Section 19(1) of the Charter provides that all persons with a particular cultural, religious, racial, or linguistic background must not be denied the right, in community with others of the same background, to enjoy their culture, to declare and practise their religion, and to use their language.

Section 19(2) extends this protection by recognising the distinct cultural rights held by Aboriginal people. This includes not being denied the right to right to enjoy their identity and culture, the right to maintain language and kinship ties, and the right to maintain their spiritual, material and economic relationship with the land, waters and other resources which they have a connection under traditional laws and customs.

The Bill promotes cultural rights by providing that in performing a function or exercising a power, a person should have regard, as far as possible in the circumstances, to respecting the cultural beliefs of persons affected by the events to which the Institute's services relate, and to recognising the diverse needs of Aboriginal communities, including the importance of self-determination and connection to culture, family, community and Country.

The right to a fair hearing

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to a fair and public hearing. A fair hearing includes a right of unimpeded access to courts, an expeditious hearing, rights to legal advice and representation, and the privilege against self-incrimination. The right to a public hearing originates from the principle of open justice, to allow for public scrutiny of courts and tribunals, maintaining impartiality, and safeguarding against abuses of power.

The Bill authorises VIFM to use information during teaching and training, use information for its own research, and disclose information to another entity in certain circumstances. Some of the information VIFM may seek to use or disclose will relate to coronial or criminal investigations, or criminal proceedings.

The Bill's safeguards around information use and disclosure limit any potential impact on the right to a fair hearing. The Bill provides that VIFM may only use information for its own research, or disclose information to another entity for the purposes of research or policy development, if such use or disclosure is not likely to prejudice a coronial investigation, criminal investigation, or criminal proceeding that has been or may be commenced. Where VIFM proposes to use or disclose information related to a coronial investigation, VIFM must notify the State Coroner of the proposed use or disclosure. Similarly, where VIFM proposes to use or disclose information related to a criminal investigation or criminal proceeding, the Bill requires VIFM to notify the Chief Commissioner of Police of the proposed use or disclosure.

VIFM must allow the State Coroner and/or the Chief Commissioner 21 days to advise VIFM if they reasonably consider that the proposed use or disclosure is likely to prejudice a coronial investigation, criminal investigation or criminal proceeding. When determining whether the use or disclosure is likely to prejudice an investigation or proceeding, VIFM must have regard to any such advice.

In addition, if VIFM is seeking to disclose information to another entity, the Bill requires VIFM to enter into an agreement with the other entity, which limits the entity's use of the information to the purposes specified in the agreement, and requires that these purposes be consistent with VIFM's objects as established by the Bill. The agreement must also provide that the entity's use of the information must not likely prejudice any coronial or criminal investigation or any criminal proceeding that has been or may be commenced.

Rights in criminal proceedings

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty, according to law.

As outlined above, the Bill establishes stringent safeguards around VIFM's information use and disclosure. Further, VIFM is subject to Victoria's information privacy framework. These safeguards minimise any risk of prejudice to a criminal investigation, or a criminal proceeding that has been or may be commenced, thereby protecting rights in criminal proceedings.

Hon Jaclyn Symes MP
Attorney-General
Minister for Emergency Services

Second reading

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (01:48): I move:

That the bill be now read a second time.

Ordered that second-reading speech be incorporated into *Hansard*:

The Victorian Institute of Forensic Medicine Bill 2024 (the Bill) replaces the *Victorian Institute of Forensic Medicine Act 1985* (VIFM Act) as the Victorian Institute of Forensic Medicine's (VIFM's) enabling legislation. The Bill will support VIFM to maintain its status as a world-leading forensic medical institution.

In 2021, VIFM was provided $93.1 million to build its capability and essential service delivery, including the addition of magnetic resonance imaging (MRI) capability, lab equipment, infrastructure improvements, and new case management systems.

In 2023, the government granted VIFM $19.47 million to transition to a new clinical forensic medicine (CFM) service delivery model that meets victim-survivor needs and expectations and ensures a sustainable and efficient service. Government also conducted a review of the VIFM Act to ensure it remains well positioned to continue to provide best-practice forensic services.

The Bill implements key findings from the review and is the final plank of reform for this vital service.

VIFM was established in legislation in 1985 to provide forensic pathology and scientific services to the State Coroner and Victorian justice system. Since VIFM's establishment, significant scientific and medical advancements have shaped and grown the services VIFM provides to the community. Today, VIFM is a world class forensic medical institute that supports coronial, criminal, and other legal processes. VIFM oversees the Donor Tissue Bank of Victoria and engages in teaching and research to improve public health and safety.

I would like to highlight some of VIFM's significant achievements, which so often go under the radar. The diversity of these services reflects the breadth of expertise at VIFM, which we are lucky to have representing Victoria as the knowledge state.

In addition to its work for the Victorian Coroners Court and Victoria Police, VIFM is partnering with the Australian Sports Brain Bank to investigate chronic traumatic encephalopathy, or CTE, through post-mortem examination of people who have participated in sports with risks of repetitive head injury. It is also undertaking research into technology facilitated sexual assault, to help us better protect the community from this new means of offending.

Not to be limited to work of great benefit to this state, VIFM is also engaged nationally and internationally. It has recently been directly involved in capability building in death investigation and mortuary services in Bhutan, and for the International Committee of the Red Cross (ICRC) in Ukraine, Lebanon, and Armenia, and provided expert evidence for the Special Commission of Inquiry into LGBTIQ hate crimes for the New South Wales parliament. VIFM also coordinates national and international disaster victim identification forensic medical team deployments for the Federal Government.

Key features of the Bill include the introduction of principles to guide VIFM's work, a new governance structure, clarification of VIFM's objects and functions, and an information sharing framework.

The new legislation will commence no later than 1 July 2025, giving VIFM around 12 months after this bill's passage to prepare for the transition to its new structure.

The Bill establishes overarching principles to guide the exercise of functions and powers

The Bill introduces principles that aim to guide VIFM in a people-centred approach to service delivery, commitment to excellence in clinical and research governance, and to improving public health while serving the justice system. Importantly, the principles require a person to have regard, as far as possible in the circumstances, to respecting the cultural beliefs of those affected by the events to which the Institute's services relate, and recognising the diverse needs of Aboriginal communities, including the importance of self-determination and connection to culture, family, community and Country. It also requires regard to the significant nature of the events to which the Institute's services relate and the need to be sensitive and responsive to persons affected by those events. These principles highlight that although VIFM's work is focused on serving the justice system, it often engages with people who have experienced challenging events, and responding respectfully is a part of VIFM's ethos.

The Bill introduces a new governance structure

The Bill establishes a new governance structure for VIFM, which is designed to meet best practice standards for public entities. Key reforms in this structure include moving to a skills-based governing board and introducing two key leadership roles: a Chief Executive Officer and a Director of Forensic Medicine. The Bill enables concurrent occupation of both the Chief Executive Officer role and Director of Forensic Medicine, to maintain flexibility for the Board in determining VIFM's leadership. The move to a skills-based board reflects contemporary entity governance structures, but also incorporates the findings of the Commission of Inquiry into Forensic DNA Testing in Queensland that it is necessary to preserve forensic medical and scientific expertise in the leadership of forensic entities to ensure organisational decisions do not impact the integrity of forensic services.

The Bill requires the Board to establish a stakeholder advisory group to assist in its decision-making and performance of its functions. The establishment of a stakeholder advisory group reflects the transition from the current representative VIFM Council and will ensure that key stakeholders relevant to the principles, objects and functions of the Bill can advise VIFM's Board.

The Bill clarifies VIFM's objects, functions, and powers

The Bill streamlines VIFM's statutory objects, functions, and powers to reflect its growth in service delivery over time. Since its establishment, VIFM has grown significantly and now provides forensic medical and scientific services on a much larger scale. VIFM also provides related training and research to its staff, universities, public agencies, including Victoria Police and the Coroners Court, and private entities. The Bill reflects VIFM's growth by clearly describing VIFM's objects, functions, and powers to better reflect the Institute's responsibilities and priorities.

The Bill outlines several objects that create a framework within which VIFM will deliver its functions. The objects are drafted to allow for the evolution of VIFM's services over time. They are intended to be flexible enough to support VIFM in expanding its scope of services, keeping pace with scientific and medical advancements while also making sure VIFM's services align with government service priorities and expectations. The Bill does not remove any of the objects that were set out in the VIFM Act.

The Bill establishes VIFM's functions to clarify the coverage of services provided by VIFM, ensure VIFM is in a position to support the Coroners Court, Victoria Police and other public entities through its services and clarify VIFM's role in conducting research, teaching and training and supporting other entities in policy development and research. The functions are designed to align with VIFM's objects and capture the full suite of services delivered by VIFM. Similar to the objects, the functions are drafted with a degree of flexibility to support VIFM's scope of services as it evolves over time.

The Bill establishes the powers available to VIFM to perform its functions. In addition to a general power to do all things necessary or convenient in order to perform its functions under the Bill, it provides for specific powers related to particular functions.

The Bill introduces an information sharing framework

Importantly, the Bill sets out clear processes for how VIFM may use and share information. VIFM collects and creates information through its support of the coronial process as directed by the Coroners Court, police investigations as requested by Victoria Police, and through the carrying out of other functions. The new information sharing powers will allow VIFM to use or disclose information it holds about an individual for teaching, training and research, and to support other entities in developing policy and conducting research, with appropriate safeguards. By clarifying VIFM's information sharing abilities, VIFM will be better placed to support other entities in the development of public health policy and research.

The Bill authorises VIFM to provide teaching and training for purposes consistent with its objects. The Bill provides that when performing this function, VIFM has the power to collect, use and disclose information it holds about an individual. Teaching and training is embedded in VIFM's day-to-day work. Existing legislative frameworks, including the *Health Records Act 2001* and the *Privacy and Data Protection Act 2014* will apply to the use of information in the context of teaching and training to ensure privacy is adequately protected when case studies are used as part of teaching and training. Any relevant court orders, for example, from the Coroners Court, must also be complied with.

The Bill also authorises VIFM to use information for the purpose of conducting research, and to disclose information to other entities to support them in developing policy or conducting research for purposes consistent with VIFM's objects. In recognition of the sensitive nature of the information VIFM holds, the Bill establishes clear safeguards to ensure the sharing of information is tightly controlled.

VIFM will only be authorised to use information in its research, or to disclose information to other entities, if doing so is not likely to prejudice a coronial investigation, criminal investigation, or a criminal proceeding that has been or may be commenced. VIFM will be required to notify the State Coroner and/or Chief Commissioner of Police of the proposed use or disclosure and seek advice about whether they reasonably consider that the use or disclosure of information is likely to prejudice an investigation or proceeding. VIFM will be required to have regard to any advice received. In addition to these requirements, if VIFM is seeking to disclose information to another entity, VIFM must enter into a written agreement with the entity it is sharing the information with to limit the entity's use of the information appropriately.

The changes contained in the Bill complete a series of recent reforms to VIFM's infrastructure and services. The Bill will place VIFM in the best possible position to maintain its status as a world class provider of forensic services, teaching, training and research.

I commend the Bill to the house.

Evan MULHOLLAND (Northern Metropolitan) (01:48): I move:

That debate on this bill be adjourned for one week.

Motion agreed to and debate adjourned for one week.

Adjournment

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (01:48): I move:

That the house do now adjourn.

COVID-19 vaccination

Georgie CROZIER (Southern Metropolitan) (01:48): (1062) My matter is for the attention of the Minister for Emergency Services, and it is in relation to an issue that I have raised on a number of occasions around vaccinations for firefighters. Victoria is the state in Australia that enforces vaccination mandates for firefighters, and it is well reported that there are around 50 that are unvaccinated. They can go anywhere in this state – they can go into a hospital and visit their dying loved one and they can go into any social area – but they cannot go to work. It is absolutely ludicrous that this group of people have been barred by the government and are not able to return to their workplace. The pandemic is well and truly behind us, thank goodness. Yes, there is COVID circulating in the community, but there are a whole lot of other viruses that are also circulating and people are not being barred from their workplaces because they are not vaccinated for them. It is just extraordinary that this group of people have not been able to return to their rightful place. There is very often a shortage of firefighters. There are messages that go out to say that there are vacancies or difficulties filling shifts. These people are well trained, they are well experienced and they could actually fill those shifts and assist in keeping the community safe. There is a question around whether there has been a possible breach of the human rights of these individuals. I am not sure if the emergency services minister in her capacity as Attorney-General has even sought advice from the Victorian Government Solicitor's Office about that very question. I hope she would have. I was hoping to ask that in question time on Friday – meaning today, now that it is 10 minutes to 2 –

Tom McIntosh interjected.

Georgie CROZIER: Well, Mr McIntosh, because we were supposed to be debating an urgent bill and you brought an urgent bill into this Parliament on Wednesday, it is now Friday at 10 to 2 in the morning. The issue I am raising is a very important one for these individuals. I want to know, as I said, as she is also the Attorney-General, whether that information has even been sought. I would also like to ask –

Tom McIntosh: On a point of order, President, my understanding is an adjournment can only be made to one minister.

Georgie CROZIER: On the point of order, President, I am saying in her capacity – she is also the Attorney-General. It is to the emergency services minister. My adjournment is to the emergency services minister –

The PRESIDENT: That is all right. We have clarified that, Ms Crozier.

Georgie CROZIER: My adjournment is to the emergency services minister, as I stated, but she is also the Attorney-General, so this issue is around her capacity in both responsibilities. The matter I am asking about is: will these firefighters who were stood down because they are unvaccinated be paid out, or will they be reinstated as they have been stood down?

Housing

Katherine COPSEY (Southern Metropolitan) (01:52): (1063) My adjournment tonight is for the Minister for Housing, and the action I seek is that she stop the demolition of public housing and the fire sale of public land to private developers. We are in the midst of the worst housing crisis in living memory, with 120,000 people on the public housing waitlist. We should be building more public housing on public land, yet it seems that all this government wants to do is tear down our existing public housing and sell off the land to private developers. The recent revelations that Labor have signed a $100 million contract with John Holland to demolish public housing towers in North Melbourne and Flemington, towers with residents still living in them and with a class action lawsuit underway, show Labor's utter contempt for those public housing residents and exposes their intention to use the contracts being signed as legal grounds to force evictions – to force vulnerable people from their homes. Many of these people have lived in the towers for decades and have built communities and

support networks there. I was at a community barbecue at another public housing tower in my electorate of Southern Metro and residents there told a similar story. As I understand it, they wrote to you, Minister, in an open letter and said:

> These high-rise buildings are not just structures; they are the heart of our lives where we have forged friendships, built support networks, and cultivated a sense of belonging.

This is a common experience across Melbourne's public housing towers, and it is a common message we hear when we speak to residents. They have got no certainty now about their future, where they will go or whether they will be separated from the neighbours they have formed that community with. Labor's approach is steamrolling ahead and selling off public land to private developers for massive profits, and it is completely heartless. Minister, the action I seek is that you stop the demolition of public housing and the sale of public land to private developers and instead urgently build more public housing for the people of Victoria.

Donnybrook Road, Kalkallo

Evan MULHOLLAND (Northern Metropolitan) (01:54): (1064) My adjournment matter is for the Minister for Transport Infrastructure, and I seek the action of the minister to provide an update on the duplication of Donnybrook Road. We have seen it noted by the member for Yan Yean that early planning works are underway for the duplication of Donnybrook Road, so I seek the action of the minister to provide my constituents with some detail on this. Is there any funding for it, or are they putting all their eggs in one basket for the $216 billion Suburban Rail Loop? Over 2000 locals have signed a petition to duplicate Donnybrook Road and are being neglected because Labor are putting all of their eggs in one basket. The member for Yan Yean should take note of petitions. Almost 11,000 people signed a recent petition of mine on the Lord's Prayer, hundreds of whom were from the Yan Yean electorate. I was shocked to hear the member for –

Members interjecting.

Melina Bath: On a point of order, President, it is 2 o'clock in the morning, and I cannot hear the adjournment being debated. Everyone has the right to be able to make their adjournment without people interjecting.

The PRESIDENT: I uphold the point of order, and I also uphold that it is 2 in the morning.

Evan MULHOLLAND: The member for Yan Yean should take note of petitions. Almost 11,000 people signed my recent petition on the Lord's Prayer, hundreds of whom were from the Yan Yean electorate. I was shocked to hear the member for Yan Yean this morning mocking faith communities that came into Parliament, including some that live in her electorate. I was also shocked to hear her claim that that petition was fake and it was not an actual thing that the government was doing when in fact it was an election commitment of the government, a Labor government, to get rid of the prayer. In fact many of her own colleagues were supporting me and encouraging me along so they could force the government to change their commitment. The member for Yan Yean should consider other issues that are important to people in the Yan Yean electorate, like the fact that she was completely silent on the Labor-led committee that recommended a ban on duck hunting. 2600 people in the Yan Yean electorate are licensed duck hunters. That is almost double the margin in the seat of Yan Yean. She will be gone at the next election. Last November the ABC reported that MRPV had said early planning had begun on Donnybrook Road and:

> I'm confident … next year we'll be looking at what we can do with the future improvements of Donnybrook Road.

Given it has been almost a year since that report, what progress has been made?

Recreational fishing

Melina BATH (Eastern Victoria) (01:57): (1065) My adjournment matter this evening is for the Minister for Agriculture, and it relates to the threat to fishing competitions under the exposure draft of

the animal care and protection bill. The action I seek from the minister is to publicly guarantee that fishing competitions will be exempt in these new laws. A simple drafting change by you, Minister, will exempt fishing events and ensure that these fishing competitions will continue on as they have in the past. Victoria has over 300 angling clubs, and they could be caught up in these proposed fines if this anomaly is not fixed. There are over 300,000 Victorians that seek fishing licences annually, and fishing is a universal practice that families of all ages and all abilities enjoy. What part 5, division 8, of this exposure draft does not have is an exemption for these fishing events, as the Prevention of Cruelty to Animals Act 1986 does. Furthermore, the people who will be implementing and overseeing these prosecutions are the RSPCA, a known anti-fishing organisation.

Fishing is a traditional pursuit that has been around since the dawn of time, and it represents very few barriers. You can fish from a jetty, you can go out on charters and you can go boat fishing. It is very much something that happens in my electorate, to the great enjoyment of many people. It could well be that anyone who organises a fishing competition or promotes or participates in one could be up for these prosecutions under this particular law. I am assuming, Minister, that your department has either been ignorant or innocent in its blunder or has intentionally put those restrictions on people's rights. As I have said, recreational fishing is well used and well loved in this community and this state. So I call on the minister to back our recreational anglers, like the Nationals do, to ensure that this clause that is not in there at the minute – the exemption – is put into this bill moving forward and to tell people straightaway.

The PRESIDENT: Sorry, you cannot call for legislation in an adjournment matter, but if you want a different action –

Melina BATH: President, what I am calling for is the minister to guarantee that fishing competitions will continue.

The PRESIDENT: We will send it to a minister to make sure that that action goes to the appropriate minister.

Wild dog control

Bev McARTHUR (Western Victoria) (02:01): (1066) My adjournment matter for the Minister for Environment concerns the dingo unprotection order 2023, due to expire on 1 October 2024. The order is the cornerstone of Victoria's wild dog and dingo control program. It states that in the year following its gazettal substantial and informed consultation and further research, including population surveys, will be carried out. Despite this and with a regrettable and disrespectful lack of consultation, the order was revoked in north-west Victoria on 14 March this year. The action I seek from the minister is a statement on the progress of that year of substantial and informed consultation and a full public release of the further research and population studies conducted. The wild dog control program (WDCP) has successfully reduced livestock attacks by 71 per cent since 2012 and successfully managed, without entirely exterminating, wild dog populations. Professional Department of Energy, Environment and Climate Action (DEECA) controllers work with farmers on private land and a small portion of public land – just 1.6 million of the 4.7 million hectares. The other 3 million hectares of national parks and state forests are uncontrolled. It remains an essential program. If abandoned, the mental and financial anguish of stock attacks for local farmers and indeed domestic pets as the wild dog population expands would be immense.

The north-east wild dog action group recently sent an impressive letter to you, Minister, and while lengthy, I would urge you and your department staff to read it with an open mind. It puts a reasonable case for sensible control measures and outlines how important they are for livestock farmers, as well as the trauma which would result from ending the WDCP. The expense and inadequacy of nonlethal control measures were raised too, despite farmers spending sometimes tens of thousands of dollars to try to make them work. Finally, they ask for a longer extension. Farmers are busy people who do not have time and finances to be lobbying just so they can be heard. We ask the government to reinstate a five-year wild dog control program so that we are not put through this stress annually and there is

stability and continuity of DEECA staff, who are so essential to this program. I was also interested to read the supportive letter provided to the group by the Duduroa Dhargal traditional owners, who praised the WDCP, saying it offers a balance between limiting the impacts of wild dogs on livestock production while allowing dingoes to remain undisturbed across much of our country. Minister, I urge you to listen to these groups.

Responses

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (02:04): This evening there have been five matters raised in the adjournment. I note that there was some ambiguity around the matter raised by Ms Bath for, variously, the Minister for Agriculture and/or the Minister for Outdoor Recreation and that we will seek an answer from the relevant minister to the extent that it does not contemplate legislation or call for it. There was a matter that was raised for the Minister for Housing – me – by Ms Copsey in relation to the development of tower sites across Melbourne, and I will provide an answer to Ms Copsey in writing, if I may, because she is not here this evening. All other matters will be referred to the relevant ministers for responses.

Before we do finish for this evening, I just want to say very happy birthday to Anne Sargent, who has in fact spent the very best day of the year in her very favourite place. We owe you, Ms Sargent, a gift, because in fact you are our gift, and we are better for everything that you do and bring to this place. Many happy returns.

Rulings from the Chair

Questions without notice

The PRESIDENT (02:05): Ms Crozier made a point of order about an answer from Minister Blandthorn. I have reviewed it and believe the minister acquitted the answer.

The house stands adjourned.

House adjourned 2:06 am (Friday).