

## HOUSE OF ASSEMBLY

WEDNESDAY 03<sup>RD</sup> JUNE 2015

### INTERVENTION ORDERS (PREVENTION OF ABUSE) (MICELLANEOUS) AMENDMENT BILL

**Mr PEDERICK ( Hammond ) ( 16:42 ):** I rise to speak to the Intervention Orders (Prevention of Abuse) (Miscellaneous) Amendment Bill 2015, and I will assure the parliament that I have no notes on the Magna Carta, which is a shame.

**The DEPUTY SPEAKER:** Give him something quickly!

**Mr PEDERICK:** The original Intervention Orders (Prevention of Abuse) Act 2009 came into operation on 9 December 2011. This was about reforming issues around domestic and personal violence restraining orders by creating intervention orders and broadening the range of people who would be protected by these orders. Obviously, these orders can be made to protect people from violence and from threatening and controlling behaviour. The act recognises not only physical forms of violence but also emotional and psychological harm and unreasonable and non-consensual denial of financial, social or personal autonomy.

As we have just heard from the deputy leader, this bill is about facilitating the electronic transfer of information between the South Australian police, the courts and other relevant public sector agencies, by allowing the provision of the prescribed details of an order rather than a copy of the order itself.

As the deputy leader said in her contribution, there is still so much work to be done in regard to courthouses, and not just in the city. We are waiting for an upgrade of the courthouse at Murray Bridge. The site is right next to the new police station. The sooner we can get a new courthouse, which will facilitate the fact that we do not need to transfer prisoners from Swanport Road through to the main street in Murray Bridge, the better off we will be in Murray Bridge in dealing with any court matters.

Section 31 of the act is also amended to give courts the sentencing power to require perpetrators of domestic violence to bear the financial burden of an intervention program. These programs, sadly, are only available in metropolitan Adelaide and are fully funded by the government. The amendment to the act that is currently in use will give the court a discretionary power to order a defendant, upon conviction of a breach of an intervention order involving physical violence or a threat of physical violence, to make a payment of not more than the prescribed amount towards the cost of any treatment program ordered as a term of their

intervention order. It is supposed that this cost recovery service will allow perpetrator programs to be expanded to regional areas.

I am a member of the Social Development Committee and we are currently conducting an inquiry into domestic violence, and we are hearing some terrible stories and some intriguing evidence at times. Domestic violence is a terrible scourge in our society. I think a big part of the issue is not only that we do not have women's shelters in many regional areas where women experiencing domestic violence can go—they are usually put up in motel rooms—but also that there are no perpetrator programs so that we can talk to the perpetrators of domestic violence and stop this cycle of events going on and on and on. If we do not get these perpetrator programs in place right across the state, we will never even get close to ending the cycle of domestic violence.

In regard to having to pay for treatment, the amendment has been drafted to include a requirement that the court inform a defendant that there is a possibility that the court can order them to pay for their court-mandated treatment if they breach the intervention order by an act or a threat of physical violence. As I said earlier, it is hoped that that will act as a deterrent for a breach of an intervention order.

Section 21 is being amended so that, in court proceedings for the making of an interim intervention order where the applicant is a police officer, the court is not bound by the rules of evidence but may inform itself as it thinks fit. In doing so, the court must act according to equity, good conscience and the substantial merits of the case, without regard to technicalities and legal form. I am told that there is a precedence for this approach in South Australia. When determining whether to make a problem gambling family protection order under the Problem Gambling Family Protection Orders Act 2004, the Independent Gambling Authority is not bound by the rules of evidence.

Another change to section 34 of the act will assist police with serving intervention orders, in that this section provides powers for police to facilitate service of unserved intervention orders. The situation at the moment is that a police officer may require a person to remain at a particular place for so long as may be necessary for an intervention order to be served. In some cases, this may be impractical. Again, this can happen in small regional and remote areas.

For greater protection for victims, the amendment to section 34 would work so that a police officer may also require a person to accompany them to the nearest police station for the purpose of service of an intervention order. If this occurs, police have an obligation to ensure that the person is returned to the place at which the request was made or taken to a place that is near to that place unless to do so would be against the person's wishes or there is good reason for not doing so.

The amendments to section 23 of the act require the court, when determining whether to confirm, vary or revoke an interim intervention order, to make inquiries about the existence of any relevant Family Law Act orders or Children's Protection Act orders and consider how the final intervention order and that existing order would interact. The court is also required to take such steps as it considers necessary to avoid inconsistency between the orders.

In cases where a parenting order is made under the Family Law Act, to the extent that it provides for a child to spend time with a person, or requires or authorises a person to spend time with the child, or it will be inconsistent with the terms of the intervention order, South Australian magistrates have the power, under section 68R of the Family Law Act, to revive, vary, discharge or suspend the parenting order to remove any inconsistencies related to contact with children. If there are no concurrent proceedings in the Family Court, the exercise of this power by a magistrate would remove the need for the applicant to commence new proceedings in the Family Court to vary the parenting orders.

I think this is an issue which is central to a lot of cases, whether I have heard it in regard to the committee or whether I have heard it just through life or as a member of parliament, and that is children in custody battles, custody issues, parenting issues. Sadly, this is sometimes the trigger for people to commit violent acts. There is no excuse for any of this domestic violence, especially when victims are mainly women and children; it is disgraceful. People are sometimes restricted from their access for various reasons and, sadly, they take out their anger on their former partner and loved ones. It is totally wrong, but as I have said before we have to get perpetrator programs in place as well because the cycle will just go on and on. We are all human beings and everyone can get angry, but people need to restrain themselves, and people need to know that they have the right support and that they do not have to commit these violent acts.

Section 21B of the Bail Act 1985 is being amended to give the court the power to order attendance at a treatment program as a condition of bail. Again, we would need to make sure that funds are in place for these programs for perpetrators. In regard to the cross-examination of certain witnesses, this is dealt with in section 13B of the Evidence Act 1929, which will be amended to include an aggravated assault where the form of the aggravation is as set out in the Criminal Law Consolidation Act; that is, the offender committed the offence knowing that the victim of the offence was a spouse or former spouse of the offender, or a domestic partner or former domestic partner of the offender, or, as I indicated earlier, it could be a child who normally or regularly resides with the offender or spouse or domestic partner, or a former spouse or domestic partner of the offender.

In regard to another amendment, which was requested by the chief magistrate, it reinstates a provision that was deleted in 2013 to make it clear that a court may treat a defendant's participation and achievements in an intervention order program as relevant to sentence. Again, appropriate programs need to be introduced right across the state so that we can stop this cycle of violence. Certainly in regard to sentencing, it will be made clear to a court as well as to a defendant that successful participation in an intervention program is a relevant consideration in determining a sentence.

Just going through a bit of a summary of some of the amendments that are being made with this bill, it does allow the courts and relevant public sector agencies to provide prescribed details of a court order rather than a copy of the order itself. It requires perpetrators of DVOs (domestic violence orders) to bear the financial cost of an intervention program and with discretionary powers of the court if they fail to attend or breach the obligation. It also requires a person subject to a police interim intervention order to notify the Commissioner of Police in writing of an address for service and other amendments to assist in the serving of intervention orders, and also the Commissioner of Police to be notified of all applications for variation or revocation of intervention orders.

Also, in regard to that, an intervention order will be allowed to contain the term 'in the vicinity of' of certain premises or localities and there will be a transitional provision to provide for concerns requiring the court to make inquiries about the existence of a family or youth court order before dealing with an interim intervention order. It is for the court to further avoid inconsistency, and magistrates will continue obviously to have power to vary the orders. There will be an amendment around the provision for the police to issue an interim intervention order where the defendant is not present or in custody. As I indicated earlier, this will allow the court not to be bound by the rules of evidence, and this, as I said, follows the precedent in regard to the problem gambling family protection order process.

As I indicated earlier, I am a member of the Social Development Committee, and we are doing an inquiry at the minute on the prevention of domestic and family violence. We have had several hearings in Adelaide. We have had some regional hearings and we will be having more hearings as the year unfolds. There certainly is some disturbing information that comes to us, but there has also been some very interesting information, such as the fact that one regional service provider had a percentage of their victims in regard to domestic violence and men and then in regard to another low percentage where there are both male and female partners in a domestic situation who are both perpetrator and victim. So, I certainly do not believe, from the initial information that has been presented to the committee, that it is just a single gender-based issue. Mind you, women are well and truly over-represented as victims in

regard to domestic violence, but there is no excuse for anyone in a domestic situation to beat up on their loved ones.

We must also make sure that all the programs can be extended across the state. I was talking to one of the senior police in the region about what is needed for domestic violence in relation to managing cases where men may be victims, and he indicated to me (and he was aware of the fact) and said, 'Let's try to get ahead of all the dramas we have with managing the issues around women and children being victims,' and he had a fair case there.

There is so much work to do, and you hear from the non-government agencies that work in this field that everything is at crisis point. Everything is at the sharp end of looking after or trying to assist victims of domestic violence. Sadly, it is all that crisis-end work that needs to happen, whether it is providing emergency care in motels because the shelters are not available or just trying to essentially keep people alive in the case of a lot of these domestic violence cases.

There has to be a lot more work done, a lot more investment, and we certainly have to break the cycle. A lot of that is in regard to working with perpetrators so that we can stop the circle of violence. I commend the bill and wish it speedy progress through the house. Let's get this into law so that we can do some good for the people of this state.