

qualified podiatrists to use the title 'acupuncturist' and provide acupuncture services as part of their practice of podiatry. It is expected that the Podiatrists Registration Board will work with the Chinese Medicine Registration Board to apply a common standard for training and practise of acupuncture by practitioners granted such an endorsement.

The Victorian government is committed to implementing the COAG decisions to establish a national registration and accreditation scheme for the health professions. The Health Professions Registration Act is designed to protect both consumers and practitioners and provide the best possible regulatory environment to support the delivery of high-quality health services, for as long as it is required.

This bill is framed to provide the best response to the challenges of this period of transition to the national scheme. I look forward to working closely with all registration boards and professional bodies to make a smooth transition to the new arrangements.

I commend the bill to the house.

Debate adjourned on motion of Mr O'BRIEN (Malvern).

Debate adjourned until Wednesday, 16 May.

CRIMES AMENDMENT (DNA DATABASE) BILL

Statement of compatibility

Mr HULLS (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities 2006, I make this statement of compatibility with respect to the Crimes Amendment (DNA Database) Bill 2007.

In my opinion, the Crimes Amendment (DNA Database) Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill makes a range of largely technical amendments to the DNA provisions of the Crimes Act 1958 to enable Victoria to participate effectively in automatic national DNA data matching through the National Criminal Investigation DNA Database (NCIDD).

NCIDD has been in place since 2003. It was designed to enable jurisdictions to use a single national system to match DNA data across jurisdictions. While it was intended that the

existing legislative framework would allow for the full use of NCIDD, various procedural and legislative difficulties have arisen in relation to the sharing of DNA information between Australian jurisdictions. These difficulties have led to delays in the full operation of the NCIDD system.

Currently, Victoria is able to engage in DNA matching with other jurisdictions on a bilateral basis. For example, Victoria can approach another jurisdiction requesting that a check be made to determine if there is a match between, say, a Victorian crime scene sample and another jurisdiction's offender samples. If such a match is made, Victoria can then ask for identifying information to be provided, if available, in relation to the other jurisdiction's sample.

What NCIDD offers is a streamlined and automated system that allows checks to be made across all participating jurisdictions simultaneously. The NCIDD system offers significant efficiencies that will assist in the early identification not only of suspects in criminal matters, but also missing persons and disaster victims.

While NCIDD contains DNA information, it does not contain any other identifying information, such as a person's name. Once a match has been made through NCIDD, it is incumbent on the jurisdictions involved to provide identifying information in relation to that match to each other in accordance with each jurisdiction's legislative framework.

In summary, the bill:

provides for the legal recognition of NCIDD as a separate legal entity and distinguishes it from the Victorian (and other states') databases;

changes the matching table which governs which types of sample may be compared to other samples, to remove anomalies and broaden the range of permissible matches;

broadens the Attorney-General's powers to enter into agreements with other jurisdictions in relation to the sharing of DNA information, ensuring such agreements are broad enough to allow NCIDD to operate to its full capacity and to match samples automatically;

updates the oversight and enforcement powers;

makes a range of consequential amendments to ensure that the balance of the legislation is consistent with the new arrangements.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

Section 13(a) of the charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

While these amendments do not directly interfere with the privacy of individuals, they will allow for more efficient automatic DNA data matching with participating Australian jurisdictions. As such, these amendments are expected to result in more DNA matches being made than are made at present. Arguably, therefore, the bill engages the 'privacy' aspect of this section of the charter.

To comply with section 13(a), the charter requires that a person's privacy must not be unlawfully or arbitrarily interfered with.

Unlawful interference

This aspect of the section provides that no interference with privacy can take place except if the law permits it.

The bill will allow for more matches to be made with samples in other jurisdictions than can currently be made. The precise details of the types of samples that can be matched (eg. suspect versus a crime scene, or missing person versus a disaster victim) are set out in the legislation.

As indicated above, while NCIDD contains DNA information, it does not contain any other identifying information, such as a person's name. Accordingly, while the bill will facilitate a greater degree of matching between jurisdictions, it does not alter arrangements for what occurs once a match has taken place. Jurisdictions will still be required to exchange any identifying information in accordance with the existing legislative regime.

All of the existing safeguards in relation to the taking, storage, use and disposal of DNA samples remain unaffected by this bill.

The offence provisions in the legislation have been broadened by this bill so that they can apply to any misuse of information obtained from Victorian samples in other jurisdictions, as well as in Victoria.

Any 'interference' with privacy under this bill is therefore permitted by the law.

Arbitrary interference

This aspect of the section provides an additional requirement that no interference with privacy can take place if it is arbitrary.

This bill will assist in more efficient interjurisdictional use of DNA technology. As such, it may assist in resolving crime, in exculpating (as well as inculpating) suspects, and in identifying missing persons and disaster victims.

In providing clear parameters around the matches that can be made with other jurisdictions, with suitable safeguards in the form of offences for any breaches of what is permissible, the bill ensures that any interference with privacy will be reasonable in the particular circumstances.

Any 'interference' with privacy under this bill is therefore not arbitrary.

Conclusion

The Crimes Amendment (DNA Database) Bill 2007 is compatible with the Charter of Human Rights and Responsibilities on the basis that it does not provide for unlawful or arbitrary interference with a person's privacy, which is the only right in the charter that is potentially engaged by the bill.

ROB HULLS MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

This bill will enable Victoria to participate in national DNA data matching through the National Criminal Investigation DNA Database (NCIDD).

The NCIDD system, which enables DNA samples from participating jurisdictions to be automatically matched through a single database, has been partially operational since 2003. While it was intended that the existing legislative framework would allow for the full use of NCIDD, various procedural and legislative difficulties have arisen in relation to the sharing of DNA information between Australian jurisdictions. This bill will assist in addressing these difficulties.

In May 2006 a Standing Committee of Attorneys-General (SCAG) working group met and agreed on the amendments that needed to be made to commonwealth legislation to facilitate full interjurisdictional sharing of DNA information. The commonwealth has now passed the necessary amending legislation, the Crimes Act Amendment (Forensic Procedures) Act (No. 1) 2006. Other jurisdictions, such as New South Wales and South Australia, have also passed legislation to enable them to engage in matching through the NCIDD system.

Currently Victoria is able to engage in DNA matching with other jurisdictions on a bilateral basis. For example, Victoria can approach another jurisdiction requesting that a check be made to determine if there is a match between, say, a Victorian crime scene sample and another jurisdiction's offender samples. If such a match is made, Victoria can then ask for identifying information to be provided, if available, in relation to the other jurisdiction's sample.

What NCIDD offers is a streamlined and automated system that allows checks to be made across all participating jurisdictions simultaneously. The NCIDD system offers significant efficiencies that will assist in the early identification not only of suspects in criminal matters, but also missing persons and disaster victims.

While NCIDD contains DNA information, it does not contain any other identifying information, such as a person's name. Once a match has been made through NCIDD, it is incumbent on the jurisdictions involved to provide identifying information in relation to that match to each other in accordance with each jurisdiction's legislative framework.