



Our ref: 22-015827

ATTORNEY GENERAL

MINISTER FOR HEALTH, ELECTORAL AFFAIRS

FOR WESTERN AUSTRALIA

Senator Trish Crossin
Committee Chair
Senate Standing Committee on Legal and Constitutional Affairs
Parliament House
CANBERRA ACT 2600

by email: LegCon.Sen@aph.gov.au

Dear Senator Crossin

Thank you for your email of 1 July 2008.

I have noted the matters in your email and, in particular, your invitation to make a submission to your Senate Committee regarding the Evidence Amendment Bill 2008 (Clth).

As you may be aware, this Evidence Amendment Bill 2008 (Clth) is part of the continuing work being undertaken by the Standing Committee of Attorneys General (SCAG) to build upon its development and implementation of model uniform evidence laws. In that regard, the Commonwealth Attorney General, the Hon R McClelland MP, indicated in the second reading speech on 28 May 2008 that:

"In developing this bill, the Commonwealth has worked constructively with the states and territories through the Standing Committee of Attorneys-General. The standing committee established a working group which considered the report's recommendations and developed a model bill that implemented many of the commissions' recommendations. The model was also considered by an expert reference group. The standing committee endorsed the final model bill at its meeting in July 2007.

The Evidence Amendment Bill varies from the Standing Committee of Attorneys-General model in only two regards—it does not introduce a professional confidential relationship privilege and does not extend existing client legal privilege and public interest immunity to pre-trial proceedings. These are matters that have been canvassed in the media extensively. The government notes they are significant issues and we will be considering these matters separately."

Western Australia has not, as yet, implemented the model uniform evidence legislation (or the proposed amendments to that legislation). However, WA officers have participated in the SCAG evidence working group which has developed the legislation and amendments approved by SCAG.

4th Floor London House
216 St George's Terrace Perth WA 6000
Tel: +61 8 9422 3000 Fax: +61 8 9422 3001

ABN: 61313082730

For your information, the WA Government is giving consideration to the implementation of the model uniform legislation and amendments approved by SCAG. Of course, if Western Australian legislation implements the SCAG approved Bills, the WA legislation will retain WA evidence laws (for example, in relation to children and vulnerable witnesses) which are more advanced of other evidence laws in Australia. I also understand that the SCAG working group is giving consideration, in the context of continuing work on model evidence laws, to these WA laws.

Thank you for informing me of your Committee's consideration of this Bill.

Yours sincerely

A handwritten signature in black ink, appearing to read "J. McGinty". The signature is written in a cursive, somewhat stylized font.

JIM MCGINTY MLA
ATTORNEY GENERAL

cc: Mr George Tannin SC, WA State Solicitor's Office

21 JUL 2008