

**CRIMINAL CODE AMENDMENT BILL
(Serial 69)**

Ms FYLES (Attorney-General): We referred this bill to the Social Policy Scrutiny Committee, who tabled their report in December 2018. I thank the committee for their work. The committee made the following recommendation to pass the bill with the following amendment: that the bill be amended to provide that upon indictment of charging a person with murder pursuant to section 316(1), the person may alternatively be found guilty of manslaughter or an offence against section 161A. As I introduced in the second reading, this amendment will be made during the committee stage.

When the Department of the Attorney-General and Justice undertook a review of section 161A of the Criminal Code, it was recommended that it be made an alternative verdict to manslaughter and murder. Following the initial review, subsequent discussions with the Office of the Director of Public Prosecutions indicated a preference to apply the alternative verdict to manslaughter only.

It was considered that making section 161A of an alternative verdict to manslaughter was a minor technical amendment intended to remove an inadvertent disadvantage to the prosecution in those rare cases like J A, which I spoke about in my closing speech.

So the amendment was confined to addressing that issue, however there is no practical reason why the alternative cannot apply to both manslaughter and murder, and further discussions took place between the Department of the Attorney-General and Justice and the Director of Public Prosecutions during the preparations to respond to the Social Policy Scrutiny Committee's written questions.

The Director of Public Prosecutions does not oppose an amendment to the bill to provide that section 161A is an alternative verdict to both manslaughter and murder. It is noted that in New South Wales and Western Australia, the equivalent offence is an alternative verdict to murder as well as manslaughter. In Victoria, the equivalent offence is a type of manslaughter, so it is an alternative verdict to murder. This also mirrors the position in England and Wales.

This bill has been considered in detail, and I acknowledge the staff not only in the Department of the Attorney-General and Justice and the Office of the Parliamentary Counsel, but also the Director of Public Prosecutions' team. It has been considered through the work of the Social Policy Scrutiny Committee.

It is intended that the bill will commence the day after the Administrator's assent to the act is declared. Notification will be provided to key stakeholders: the judiciary and legal organisations on commencement of the act.

This is an important amendment to legislation in two very different areas but two very important aspects—so we can support our emergency service workers and ensure prosecutions can be carried out effectively.

In closing, I acknowledge those emergency service workers across the Territory, and particularly the union movement. The Deputy Chief Minister summed it up nicely, but we often get criticised, union thugs is thrown about. Unions are just representing workers. They are there to advocate for you as a group. To make sure you have safer working conditions, penalty rates, holidays, eight hour working day, things like that.

It is really important for Territorians to know that unions work for those workers and Bills such as this are the outcome of that work. I commend the Bill to the Assembly and look forward to the committee stage with the amendment that has been circulated to Members.

Motion agreed to; bill read a second time.

Consideration in Detail

Clauses 1 to 7, by leave, taken together and agreed to.

Clause 8:

Ms FYLES (Attorney-General): Mr Deputy Speaker, I move an amendment to clause 8, which amends section 316(2) of the Criminal Code, so that it also makes an amendment to section 316(1) of the Criminal Code.

The new clause 8 amends both section 316(1) and 316(2) of the Criminal Code, to be considered as an alternative verdict to murder in section 316(1) and to manslaughter in section 316(2). The opportunity has also been taken to modernise the drafting of section 316(1) and redraft it in terms that reflect contemporary language but otherwise do not alter the operation of this section.

As I said in my explanatory speech, this amendment is intended to assist the Director of Public Prosecutions. Without this alternative verdict the Director of Public Prosecutions may be forced to elect whether to proceed to trial on manslaughter or murder or accept a plea to an offence under section 161A. An acquittal on a murder or manslaughter indictment would mean that the prosecution would fail entirely, even when the evidence showed that the accused had committed a violent act causing death.

This amendment was brought about in response to a report in to the review of section 161 and was conducted by the Department of Attorney-General and Justice. During the Social Policy Scrutiny Committee's consideration of the bill it was noted that the department's report recommended that section 161A be available as an alternative verdict to both murder and manslaughter, however the bill implemented section 161A only as an alternative verdict to manslaughter.

This occurred because discussions held between the department and the Director of Public Prosecutions focused on ensuring that section 161 would be an alternative verdict to manslaughter and consequently during the development of the bill the amendment was drafted in those limited terms. In practical terms there is no issue with section 161A also being an alternative verdict to murder. This would bring the Northern Territory in line with New South Wales and Western Australia where the equivalent offence is an alternative verdict to murder and Victoria where the equivalent offence is also a type of manslaughter, and so is an alternative verdict to murder. It also mirrors petitions overseas.

The committee's report has recommended this change, I have accepted their report and this amendment will give effect to their recommendation.

Amendment agreed to.

Clause 8, as amended, agreed to.

Remainder of the bill, by leave, taken as a whole and agreed to.

Ms FYLES (Attorney-General and Justice): Mr Deputy Speaker, I move that the bill be now read a third time.

Motion agreed to; bill read a third time.