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Fines Reform – Too Little, Too Late

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Mr MORRIS (Mornington) (18:11): It is a pleasure to join this discussion on the Justice Legislation Amendment (Fines Reform and Other Matters) Bill 2022.

I guess, picking up from the previous speaker, the issue is not so much about whether we have a fines system or not. I am sure we would all prefer that people do not break the law. I think equally we need to be very much aware of whether the penalties are appropriate to the offence, whether the offences themselves are appropriate.

That has been most of the discussion this afternoon—about the appropriateness, the level, the manner in which those fines have been enforced.

Of course the bill before us this afternoon is not so much about that, which is really a matter of principles. It is about a discrete set of amendments.

If you look at the explanatory memorandum, clause 1 of the EM, sometimes that is pretty helpful in terms of telling you exactly what a bill does. But when you look at this one, it talks about amending the Fines Reform Act 2014, the Infringements Act 2006, the Sentencing Act 1991, the Sheriff Act 2009, a range of project acts—EastLink, North East Link, West Gate Tunnel—the Magistrates' Court Act 1989, the Road Safety Act 1986, the Taxation Administration Act 1997 and the Transfer of Land Act 1958, none of which really tells us what the bill is in fact doing.

I guess the key issues addressed by the bill are about implementing recommendations from the Fines Reform Advisory Board, which was established following an Ombudsman's report in 2019, which I will come back to and talk about in a minute.

The bill really seeks to implement recommendations 1, 5, 12, 18 and 20, and if time permits, I will come back and talk about some of those. In general principle, as the member for Malvern has indicated, the opposition does not have a problem with those.

Also there are some changes to support ease of enforcement. The information collected is relatively scarce, and the bill will allow additional data, contact details, to be collected—email addresses, mobile phone numbers, those sorts of things.

The bill also determines that the internal reviews that participating agencies conduct cannot be contracted out. Of course we know about the Ombudsman's report on that, with a

number of councils. What on earth possessed them to think they could contract out those functions? I really do not know what the councils were thinking, what the CEOs were thinking. It was just silly stuff as far as I am concerned, but it happened. That practice, thankfully, has been pretty much done away with, but the bill will clarify that and provide a legislative basis for it.

The bill also begins the process for the development of an electronic service of fines process—begins rather than ends. That is obviously a complex matter. It is very much a cultural shift, and I imagine it will take some years to proceed. It also provides a stronger information-gathering basis for that.

It is interesting, the way in which the government has engaged with fines reform, or failed to engage, because the Fines Reform Act of course was passed in the 57th Parliament under the coalition government.

Royal assent was on 1 September 2014 and the default date for proclamation was set as 30 June 2016, yet the government failed to get on and do the work that was necessary to implement the new act, so they had to come into this place and have that date extended. They extended the date to 31 May 2018. So instead of taking basically 18 months to implement the new set-up, the government took the best part of three years.

In fact they sought to—well, not 'sought to', they did—commence operation of the act on 31 December 2017. What happened? It was a monumental failure, and of course what came out of that was the Ombudsman's report of April 2019. So effectively the act started at the start of 2018; by April 2019 the Ombudsman had to report on the comprehensive failures.

In the report from that time the Ombudsman noted that Fines Victoria—and this is not a bad reputation to achieve in just 15 months—was the third-most complained about agency in the state of Victoria. The Ombudsman noted that she had oversight of over 1000 public bodies and Fines Victoria was the third most complained about.

During that first year of operation the Ombudsman had meetings with Fines Victoria and alerted them, and she noted that people had their licences wrongly suspended. They were treated as being liable for substantial fines when they had not committed an offence. She went on to talk about the worry and frustration because people who were affected by this could not get through to the agency, and rightly she said in the vast majority of those cases the Ombudsman should not have had to intervene for Fines Victoria to have, in her words, 'simply done the right thing'. She then went on to talk about IT and other things, which others have touched on, but the fact is this implementation was completely botched.

It was effectively three years late—2½ years late—and when it went live it was an absolute disaster. It is not just, 'Oh, it didn't work'. Literally thousands of people's lives were adversely affected because of those sorts of issues. It was a monumental mess.

So part of what we are engaged in today is cleaning up those failures. We are implementing—well, the government is seeking to implement through this legislation—another five of the recommendations from the Fines Reform Advisory Board.

What interests me about this, though, is that we are still a fair way from having that process finalised. Again it has been a very, very long journey.

We still have three recommendations that were supported in full by the government—recommendation 8, recommendation 14 and recommendation 15—not yet implemented. There are another two that were accepted in principle and have not yet been

implemented, recommendation 16 and recommendation 21. I do not have time to go into the details of those recommendations, but I have read the report, I know the details involved and I really cannot for the life of me see why they have not been done, particularly when you there are three that were accepted in full and have yet to be implemented.

As I mentioned, I will not probably have time to go through the five that are being implemented in detail, but I do want to refer to recommendations 12.1 and 12.3, which the minister referred to in her second-reading speech, which are about the time-served scheme for prisoners.

The theory behind that of course is that if a prisoner does not pay the fines that are due, they simply serve additional time. What is being done with this legislation is people who elect to serve time are effectively given a discount of any cost and fees that have been added.

If people elect to pay in full, they do not get the discount. It seems to me that we are in fact setting up a disincentive and encouraging people to stay in prison. So I have a problem with the implementation of that recommendation.

With regard to the rest of the bill, I think it is a reasonable approach, but it needs to be hurried up very, very much.