section 62A of the Restraining Orders Act 1997. This provides police with discretion as to the response to potential evidence of family violence, particularly in circumstances in which the victim is making the request to avoid alerting the perpetrator.

This bill will introduce amendments to the Evidence Act 1906 to ensure that when family violence is at issue in criminal proceedings, evidence of family violence is admissible. Amendments to the Evidence Act 1906 will make it easier for evidence, including expert evidence, of family violence to be introduced in a criminal proceeding when relevant to issues before the court, including, but not limited to, when self-defence is at issue, and will introduce jury directions that will address the stereotypes, myths and misconceptions about family violence. Admissible evidence will include information about the nature and dynamics of relationships affected by family violence, including the dangerous consequences that often flow from attempting to separate from an abuser. The new provisions will state that evidence of this nature may be relevant when determining, in circumstances in which an accused has claimed that they had acted in self-defence, whether the person believed their actions to be necessary, whether the conduct was reasonable, and whether there were reasonable grounds for those beliefs. Importantly, these provisions will also provide that this evidence can be given by those with expertise in the area, for example, researchers or family violence sector workers.

The bill also introduces jury directions about family violence, including: that family violence is not limited to physical abuse; that it may include a complex range of behaviours that keep a person subordinate, isolated, controlled, monitored, deprived of freedom, frightened, humiliated and powerless to resist violence; that it is not uncommon to stay with an abusive partner; and that it is not uncommon not to tell anyone of the abuse, including the police, and that, in fact, doing these things may lead to an increased risk of violence.

This bill is comprehensive. It puts victims of family violence first. It introduces measures to improve the safety of victims of family violence, hold perpetrators of family violence to account, and makes it easier and less traumatic for victims to obtain protection from violence. This bill will ensure that Western Australia is at the forefront of the fight against family violence in Australia. I commend the bill to the house.

Debate adjourned, on motion by **Mrs A.K. Hayden**.

ROAD TRAFFIC AMENDMENT (IMPAIRED DRIVING AND PENALTIES) BILL 2019

Second Reading

Resumed from 26 November.

MRS M.H. ROBERTS (Midland — Minister for Road Safety) [1.23 pm] — in reply: I will briefly continue my remarks from yesterday and respond to some of the contributions made by members opposite. This is important new legislation. Although it might be considered a relatively minor bill in the scheme of things, it will hopefully have important consequences in terms of road user behaviour. It is very important that the bill for the first time will introduce an increased penalty for polydrug offences because, as the member for Belmont and a range of other members commented during the second reading debate, when a person has both drugs and alcohol present, the level of impairment of their driving is significantly increased. Some members, too, have remarked on the fact that it is pretty astounding that this had not been done before now. I agree with that. Road safety authorities around Australia and potentially around the world have over time grappled with demonstrating the level of impairment. With alcohol, there are established protocols to determine the level of impairment. With drugs, determining the level of impairment is much more difficult, particularly when we are looking at a range of different drugs. We also need to take into account how long the impairment from a certain amount of alcohol or a certain amount of a particular drug lasts. How long is a person's ability to drive impaired? They are the more complex factors that I think made people hesitant about putting a regime in place previously.

As a number of members have commented during this debate, a committee chaired by the member for Girrawheen in 2015 commissioned the report titled, "Are we there yet? How WA Police determines whether traffic law enforcement is effective". The member for Armadale also commented on that report. The members for Girrawheen and Armadale were both members of that committee, as was, I think, the member for Hillarys; I am not 100 per cent sure there. Was the member for Hillarys a member of that committee?

Mr P.A. Katsambanis: Which committee?

Mrs M.H. ROBERTS: The committee with the members for Armadale and Girrawheen that produced the report, "Are we there yet?"

Mr P.A. Katsambanis: No.

Mrs M.H. ROBERTS: No. It was a bipartisan committee of the Parliament. The committee recommended that we proceed forthwith to putting in place increased penalties for polydrug use. Unfortunately, that 2015 report fell on deaf ears and nothing occurred in that space over the coming years. I am really pleased that we have been able to pick up on that and put in place a regime. I am delighted that the Liberal Party has now given its support for this bill.

The member for Hillarys made the point that he sent me a letter saying that perhaps we could do just one element of the bill and get that done rather quickly before the end of the year. I sent the member for Hillarys a response on that. I first heard about it through the media, not from his letter. His letter arrived after it was raised in the media. I do not question the member's bone fides on that, but I do question why the Liberal Party, when in government, did not respond after that report came down and the issue of someone driving under the impairment of drugs or testing positive for drugs being able to continue on the road, which is an issue that has been out there for years, was raised. It is a little rich that the former government did not respond to this issue in the last three or four years it was in office and then suddenly, after I have raised the issue—our government brought the initiative before Parliament—asks why we cannot do it straightaway.

The member for Hillarys had considerable faith in the upper house being able to perhaps deal with the bill promptly if we moved it promptly through this house. I do not have the same level of faith in the upper house, and it is always a bit vexed. Oftentimes the upper house wants to send bills to committees and so forth and examine things very thoroughly. I think that this is important, but I understand that processes take place in the upper house. What it sees as important and what I see as important is not always exactly the same. I think it is important that we get this legislation through our house before the end of the year. That was my ambition when I introduced the bill. I thank the member for Hillarys and the Liberal Party for their cooperation in that. I look forward to this bill being a priority when the upper house convenes early in the new year so that we can have this legislation in place as promptly as possible.

I need to address a couple of matters raised by members. Hopefully if I address them now in the second reading response, that may alleviate some of the need for further questioning during the consideration in detail stage, although I welcome moving to that consideration in detail stage in a short while. The member for Hillarys indicated that his primary concern is the new regulation power that will be added, and I do think that requires explanation. Firstly, in a colloquial sense, I say this to the member for Hillarys: this was not my idea or something initiated by me. It is not some great power grab so that I can hide things in regulations or inflict things on people. This legislation was suggested by the State Solicitor as a sensible thing to do. Its view was that other states have the power to make these minor changes by way of regulation. I note that regulations are always capable of being disallowed, especially given the composition of the upper house; regulations can be disallowed in the upper house relatively easily if there is not broad agreement on them. It would mean that we could save a lot of time. I think everyone here knows that the standard gestation period for a bill probably exceeds a year; that is a reality no matter which party is in government. There can be a long time from when a bill is conceptualised to putting in a cabinet submission, getting approval to draft, getting the bill drafted, getting approval to print and introducing it into Parliament. The period between a bill being introduced in one house and passing the other house can be considerable as well. Some bills end up taking two or three years—I have seen that happen. I suspect the average bill takes about a year. When there is an advance or a change in technology, or a loophole that needs to be fixed, and when there is broad agreement on both sides of the house, if there is a regulation-making power, that can be fixed rather promptly; it does not involve a long process. There is some sense in things being available in regulation.

Specifically, the member for Hillarys talked about the change to regulation-making power in section 111 of the Road Traffic Act. I note that the member for Kalgoorlie also raised this issue. As outlined in the explanatory memorandum, the change is to allow the regulation of the use of devices in vehicles in both positive and negative terms; for example, regulations could be made to prohibit the driving of a vehicle fitted with certain devices. In this context, the response to question 4090 asked by the member for Hillarys in November last year stated that the Road Safety Commission intended to introduce measures to ban radar detectors. This was to give effect to Australian Road Rules regulation 225. Since 2000, Western Australia has been the only jurisdiction to allow the use of radar detectors in vehicles. I note as an aside that, subsequently, we have banned laser jammers—a different kind of device that effectively jams the police radar—and similar devices to that.

The banning of radar detectors in Western Australia has been an issue since I was first in Parliament. People were talking about it back in 1994, 1995 and 1996. There was a lot of opposition to it back then, particularly by country members, and a walk through the members' car park, which I did in about 1995 or 1996, demonstrated that just about every country member of Parliament's vehicle had a radar detector fitted. I make it quite clear: this is not a safety device. People say that if a radar detector detects a speed camera on the side of the road and a driver slows down, surely that is a good thing. All of us know that, in effect, the driver slows down until they pass the radar, and then they put their foot down again. It is based on the same premise of people believing that they are safe drivers. A couple of the country members were my colleagues; most of them were National and Liberal Party members. When I spoke to a couple of my colleagues way back then, they considered themselves to be excellent drivers. They drove certain country roads all the time and they felt they were competent to drive at 120 or 130 kilometres per hour on a road with a 110-kay speed limit because they were experienced and competent drivers. I want to dispel that theory. The roads have a speed limit for a reason. No-one can safely continuously drive above those speed limits.

I think Eric Charlton put forward the argument that the quicker a driver gets from A to B, the shorter the time they are on the road and the less vulnerable they are. That is a pretty strange argument; it does not hold true. The argument

that a driver who drives fast is only exposed to a road crash for two hours instead of two and a half hours is complete nonsense. Just because someone has done something 10 or 20 times does not mean that at some time in the future an accident will not happen.

Whilst dispelling myths, can I just say this: the people who are killed on our country roads—we have a horrendous country road toll—are not city people or tourists driving on country roads. That is not to say that no city people or tourists are killed on country roads, but what I will say loudly and clearly is that the majority of people killed on country roads are country people. Most people killed or seriously injured on any road are in their home or a neighbouring postcode zone. When I have spoken to the families of road trauma victims, many times they say to me that their son, daughter, husband or wife had driven that road many times before—they knew the road well.

For those who think that they are safe to drive and deserve to have a device so that they know where the radar detectors are so they do not accumulate the points —

[Quorum formed.]

Mrs M.H. ROBERTS: People who think that they are superior drivers because they have driven a road many times before and have done so safely and have always come home, always come home until the time that they do not. Someone who is travelling at 110 kilometres per hour, let alone a higher speed, and is involved in a crash, quite bluntly, is highly likely to die if their car rolls over or hits a tree or an oncoming car. The driver of the oncoming car may have done nothing wrong at all; the consequences are tragic. At 110 kays per hour or more, the seatbelts and airbags stand little chance of saving them.

I have diverted a little with radar detectors, but I want to explain the logistics of it a little further. It is a shame and a scandal that we are the only state not compliant with Australian Road Rules regulation 225 and that, since 2000, Western Australia is the only jurisdiction to allow the use of radar detectors. However, I fully understand that over the last 20 years, time has moved on and there are a range of other devices that people can and do use to detect where there are speed-checking devices.

In the Australian Capital Territory, New South Wales and Victoria, the prohibition on radar detectors is contained in primary legislation. In the Northern Territory, Queensland, South Australia and Tasmania, the radar detector reforms are enacted under subsidiary legislation. In Western Australia, the enactment of any Australian Road Rules reform usually takes place by subsidiary legislation—something that the member for Hillarys noted. It takes place under the Road Traffic Code.

The member for Hillarys commented on the prohibition of the use of mobile phones and said that there is no current impediment to that, so why the change to this regulation. That is a very legitimate question. Although there are similarities between mobile phones and other items such as radar detectors, there are also some important differences. Regulating the use of mobile phones falls under the regulation-making provisions contained in section 111(2)(b) of the Road Traffic Act, which deals with regulating the conduct and behaviour of drivers of vehicles. That is important to note. The State Solicitor's advice was that a regulation to prohibit devices such as radar detectors is less clearly within the current regulation-making powers in the Road Traffic Act. As I am sure the member for Hillarys is aware, the State Solicitor's advice was given with an abundance of caution because it is not 100 per cent clear whether it would legitimately be made using those powers. That is why he has suggested this reform.

The proposed reforms in the bill do not specifically refer to radar detectors but to devices more generally. It is drafted in this way to futureproof the regulation-making ability of the Road Traffic Act and bring it more into line with legislation in other states. We do not know what future devices might come onto the market that might present challenges for the enforcement of road laws. The proposed provisions in the bill, once enacted, will enable the Road Traffic Act, and, in particular, the Road Traffic Code, to keep pace with emerging technologies and effectively, as I have pointed out, close loopholes as they occur, with the sole motivation of keeping people safe on the roads. It must also be remembered that any regulations made under the Road Traffic Act would be subject to the usual disallowance process that can take place in either house of Parliament.

The member for Kalgoorlie commented on proposed new section 110A of the Road Traffic Act. Currently, under section 67(3a)(a) of the Road Traffic Act, a person can be charged and prosecuted for a failure to comply with a requirement placed on them by a police officer when the person was the driver of a vehicle that caused grievous bodily harm, death and so forth to another person. Large provisions of section 67 of the act are being recast in clause 17 of the bill, and the existing provisions of subsection (3a) are now contained in a new subsection (3).

In consultation with the Office of the Director of Public Prosecutions during drafting, an issue was raised regarding prosecutions under the current section 67(3a) of the Road Traffic Act in which circumstances might change after the enactment of the new provisions contained in the bill. Specifically, if an incident occurs that occasions grievous bodily harm or bodily harm prior to the commencement of proposed new section 67(3), the driver will be charged under current section 67(3a). If, however, that incident ultimately results in the death of a victim after the commencement of proposed new section 67(3), the driver will not be able to be prosecuted under the old section 67(3a).

Proposed new section 110A overcomes this difficulty so that if the requirement under section 67(3a) had been made by the police officer before the new provisions took effect but the victim in question died after commencement, the offender can still be charged, prosecuted and convicted under the new provisions. It should be noted that the penalty provisions under new subsection (3) are the same as those under current subsection (3a), so the person would not be liable to a higher penalty. That was a very good question raised by the member for Kalgoorlie. Hopefully, that explanation shows that this is something that was considered during the drafting of the bill, and it will not create an anomaly. Section 11 of the Criminal Code, which deals with the effect of changes to the law concerning offences, would probably be sufficient to address this matter. However, in order to put aside any uncertainty in this area, proposed new section 110A has been drafted.

The member also queried the use of the term "second person" in proposed new section 110A. Under proposed section 110A(2)(a), "second person" refers to a person, other than the driver, who has suffered grievous bodily harm or bodily harm. If more than one person has suffered such harm, the offender would still be separately prosecuted, as is currently the case. Under the Interpretation Act 1984, words in the singular include the plural, and vice versa.

I thank every member who participated for their very worthwhile contributions to this debate. Again, I thank all members for their support of this bill and I look forward to progressing to the consideration in detail stage.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clauses 1 to 40 put and passed.

Clause 41: Section 111 amended —

Mr P.A. KATSAMBANIS: We had some discussion in the second reading debate about clause 41. I thank the minister for her quite comprehensive response to the issues that I raised. I think that will truncate the debate on this clause substantially. Right at the outset, can I get the minister to confirm, so that we are all on the same page, that the amendment in clause 41 does not alter the existing section 111's regulation-making power in any substantive way, other than by the change contained in new proposed section 111(1)(b), and that all the other changes made within the clause are required because of the numerical changes that proposed new paragraph (b) introduces?

Mrs M.H. ROBERTS: Yes, that is correct. The member for Hillarys has accurately outlined that.

Mr P.A. KATSAMBANIS: Great. It is important to get that on the record. The minister gave an explanation of both the genesis of this proposed addition to the regulation-making power and the process by which it came about. The minister indicated in her explanation that she had considered the issue around radar detectors. I think her intention to ban the use of radar detectors in Western Australia has been quite clear for some time. The minister also referred to the longstanding debate in some circles around the efficacy or otherwise of using these devices. In my second reading contribution, I said very clearly that I genuinely do not have a concluded position. If I were forced to choose one, without knowing the range of arguments that are around, I would probably fall closer to the minister's view, as she outlined, than the opposing view on it. However, it is not a matter for active consideration in this legislation so I will curtail my comments on it. What prompted a further question in my mind following the minister's comprehensive summing up was the issue that she raised around the banning of the use of laser jammers in Western Australia. The minister indicated she had done that by regulation in the recent past. I seek from the minister an explanation about which regulation-making power under section 111 that change was made.

Mrs M.H. ROBERTS: That was done under regulation 18A.

Mr P.A. KATSAMBANIS: It was regulation 18A, but under which head of power for regulations in section 111 of the Road Traffic Act? The minister mentioned earlier the consideration of section 111(2)(b). Was it under that head of regulation-making authority that the laser jammers were prohibited in Western Australia?

Mrs M.H. ROBERTS: I will provide some clarity here. The prohibition of evasive action for speed cameras through the use of jammers or breaches of other road rules for the purpose of avoiding detection is more arguably a regulation that is "necessary or convenient for giving full effect to the provisions of and for the administration of the Road Traffic Act". It is because, firstly, the regulation of speed falls within regulation of traffic; and, secondly, the use of speed cameras is necessary to enforce the speed provisions of the Road Traffic Act, and the prohibition of speed jammers and evasive action is necessary to protect the operation of those speed cameras. It is a regulation under section 18A of the Road Traffic Act and that is how that was put in place.

Mr P.A. KATSAMBANIS: Why could that same reasoning and those provisions not be used to effectively regulate radar detectors that essentially do almost the identical thing to a different device, such as a laser jammer does to a fixed speed camera or a mobile speed camera for that matter?

Mrs M.H. ROBERTS: That is a good point, and I can see the similarity that the member can see. However, the essential difference is that a laser jammer renders the device, the speed camera, useless; that is, it stops that device

from working. Police place a speed-protection camera on the side of the road or use a handheld radar and aim it at a vehicle. A laser jammer actually jams or blocks that device. That is a different action from that of a radar detector. A radar detector in a car, usually on the dashboard, serves as a warning to the driver that a device is there. It does not impede the action of the radar gun or mobile speed device that is placed on the side of the road. Under their brand name, they have been called Multanovas in the past. People understand them to be the usual tripod camera or a camera in a box, or a handheld device. That is the key difference, and the advice we had from the State Solicitor was along those lines. Those devices block our devices or impede the functionality of our devices. A radar detector is not blocking the functionality of speed-detection equipment; it is merely providing a warning to the driver that there is a device there.

Mr P.A. KATSAMBANIS: I take the distinction. I think the minister expressed a little scepticism about whether that is a material difference. If she did express that scepticism, I share it.

Mrs M.H. Roberts: You are a lawyer. You should understand state solicitors!

Mr P.A. KATSAMBANIS: I do, and I think we are splitting hairs on this issue to the point that there is no hair left! Given the minister's stated intention of what she wants to achieve, I think that has probably been a real bugbear for her in arriving at the point she wants to arrive at—I think completely and utterly unnecessarily. I heard the explanation the minister gave in the summing up and the explanation she gave today. She has attempted to make sense of something that makes no sense. If the minister is seeking my opinion, as considered or otherwise as it may be, I think it is bunkum. Existing section 111(1) reads —

> The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act, for the equipment and use of vehicles and for the regulation of traffic, generally.

That provision gives all the power that is needed to deal with the equipment and use of vehicles, specifically including equipment around radar detectors. I wonder whether the minister has given consideration to that and what legal advice she has received from the State Solicitor or others about using that basic regulation power that to me, as a layman and as a member of Parliament and as someone who is legally trained, appears to give all the power needed in relation to radar detectors. We will get to the points around new subsection (1)(b) more generally in a minute.

Mrs M.H. ROBERTS: The member has raised some very valid points. I certainly do not disagree with the points he has made. However, the State Solicitor makes it clear that there is a clear head of power to deal with laser jammers by regulation as we did, so that is good; that is done. The State Solicitor says there is a clear head of power there. The State Solicitor's Office view on this is that it is "less clearly within power". That is a phrase that the State Solicitor and lawyers use. Although the member and I could say that we think it is within power, they say it is "less clearly within power". Especially since the member and I have this discussion about it on the public record, my concern now would be that if we did not have a fresh head of power for that, someone who was prosecuted would look at this debate and see that loophole that they could home in on and challenge whether we had the head of power to do that. I do not want to open it up to that. I would prefer to go along with the cautious advice given by the State Solicitor.

The DEPUTY SPEAKER: Excuse me, members, could you please keep the chatter down? We are conducting a debate here.

Mr P.A. KATSAMBANIS: New section 111(1)(b) is couched in very broad terms. It states —

> to regulate or prohibit, or anything that is necessary or convenient to be prescribed to regulate or prohibit —
>
> (i) using a vehicle with a device attached to, or removed from, the vehicle; and
>
> (ii) using or possessing a device while a person is within or on a vehicle.

Other than radar detectors, what other devices are currently being considered to be included in this sort of regulation-making power? Is the Road Safety Commission contemplating any other devices?

Mrs M.H. ROBERTS: No other devices are being considered. I can say quite unequivocally that nothing else is under consideration, certainly that I am considering or that I am aware of.

Mr P.A. KATSAMBANIS: The intention is that as soon as practicable after this regulation comes into force, a regulation will be made to ban the use of radar detectors in Western Australia. Is that a fair summation?

Mrs M.H. ROBERTS: I would like to do that. I would love to do that with the Liberal Party's support. I would rather get some consensus about it before I bring it in, and I look forward to having a further discussion with the Liberal Party about that. Ultimately, yes, that is my desire.

Mr P.A. KATSAMBANIS: If it is regulation, under what sort of protocols would we have that proposed discussion?

Mrs M.H. Roberts: I can write you a letter, if you like. I can write the Leader of the Opposition a letter and you can consider it in your party room.

Debate adjourned, pursuant to standing orders.