Read 1° 13 March 1991

(Brought in by Mr Kennan and Mr Roper)

A BILL

to amend the **Community Protection Act 1990** and for other purposes.

Community Protection (Amendment) Act 1991

The Parliament of Victoria enacts as follows:

1. *Purpose*

The purpose of this Act is to make certain amendments to the **Community Protection Act 1990**.

5 ### 2. *Commencement*

This Act comes into operation on the day on which it receives the Royal Assent.

3. *Principal Act*

No. 10/1990.

In this Act, the **Community Protection Act 1990** is called
10 the Principal Act.

Section headings appear in bold italics and are not part of the Act
(see **Interpretation of Legislation Act 1984**).

4. *Application for Order*

For section 4 (2) of the Principal Act, **substitute—**

"(2) An application under sub-section (1)—

    (*a*) must be commenced by originating motion served on Garry David and may proceed in his absence; and   5

    (*b*) must be heard by a Judge of the Supreme Court."

5. *Interim orders*

In section 6 of the Principal Act, after "section 4" **insert** "or 9".   10

6. *Provisions applying to determining an application*

(1) In section 7 (1) of the Principal Act, for paragraphs (*b*) and (*c*) **substitute—**

"(*b*) may order that Garry David be examined by a legally qualified medical practitioner, psychiatrist or psychologist who consents to do so; and   15

(*c*) may order that the medical practitioner, psychiatrist or psychologist who examines Garry David in accordance with an order under paragraph (*b*), or any other person whom the Court believes might be able to do so, furnish a report as to the matters set out in section 15; and".   20

(2) In section 7 of the Principal Act—

    (*a*) in sub-section (1) (*d*) for "may receive or require" **substitute** "must receive, if tendered, or may order"; and   25

    (*b*) in sub-section (1) (*e*), for "may" **substitute** "must"; and

    (*c*) in sub-section (2) for "tendered" **substitute** "received or produced".   30

7. *Amendment of section 8*

After section 8 (2) of the Principal Act **insert**—

"(3) For the purposes of an Order under this section, Her Majesty's Metropolitan Reception Prison and Her Majesty's Prison, Pentridge shall be taken to be one prison and a reference in the Order to either of them includes a reference to the other."

8. *Period for which order may be made*

In the Principal Act—

(*a*) in section 8 (2) (*b*) for "6 months" **substitute** "12 months"; and

(*b*) in section 9 (*a*) for "6 months" **substitute** "12 months".

9. *Application by Garry David*

(1) In section 9 of the Principal Act—

(*a*) after "9." **insert** "(1)"; and

(*b*) after "Minister" **insert** "by summons".

(2) At the end of section 9 of the Principal Act **insert**—

"(2) The Supreme Court, on the application of Garry David by summons, may vary or revoke an Order under section 8.

(3) An application under this section—

(*a*) may be made ex parte; and

(*b*) must be heard by a Judge of the Supreme Court.".

10. *New sections 9A and 9B inserted*

After section 9 of the Principal Act **insert**—

"9A. *Provisions applying to applications under Act*

(1) Where an application is made to the Supreme Court under this Act, the Court—

   (*a*) may order that a copy of a summons or other document specified in the Order be served on a person so specified;

   (*b*) may order that the whole or any part of the proceeding be heard in private;   5

   (*c*) may order that Garry David attend, or not attend, such part of the proceeding as the Court determines—

and may make such other Order as to the conduct of the proceeding as it determines.   10

 (2) Sub-section (1) is in addition to all other powers of the Supreme Court.

9B. *Appeal to Full Court*

An appeal lies to the Full Court from any determination of a single Judge of the Supreme Court   15 under this Act.".

11. *Temporary absence from preventive detention*

In section 13 (1) (*b*) of the Principal Act for "medical necessity" **substitute** "medical or any other necessity".

12. *Expiry of Act*   20

In section 16 of the Principal Act, for "first anniversary" **substitute** "fourth anniversary".