



**THE LAW SOCIETY
OF SOUTH AUSTRALIA**

THE VOICE OF THE SOUTH AUSTRALIAN LEGAL PROFESSION

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14 December 2010

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The Honourable Stephen Wade MLC
Shadow Attorney-General
Parliament House
North Terrace
ADELAIDE SA 5000

Dear Mr Shadow Attorney

Coroners (Recommendations) Amendment Bill 2010

Further to our letter dated 15 November 2010, I have received a representation from one of the Society's Committees asking me to make a further submission to you in relation to this draft legislation.

As I said in my letter, we have significant concerns with the breadth of the proposed wording of paragraph 25(2)(b).

However, it has been pointed out to the writer that the Royal Commission into Aboriginal Deaths in Custody Report makes a number of recommendations concerning possible amendments to the Coroner's Act. In particular, recommendation 12 recommends:

"That a Coroner enquiring into a death in custody be required by law to investigate not only the cause and circumstances of the death but also the quality of the care, treatment and supervision of the deceased prior to death."

It is possible that this recommendation can be incorporated in the proposed amendment, not only in relation to a death in custody but in respect of any death such as to enable the Coroner to make recommendations relating not only to the cause and circumstances of the death but also as to the quality of the care, treatment and supervision of the deceased prior to death. In other words, the proposed section 25(2)(b) could be reworded to read:

"is appropriate in the circumstances having regard to the quality of the care, treatment of and supervision of the deceased prior to death."

This should be sufficient to not only deal with medical cases but also other matters, for instance if the deceased was in the custody of the police and issues such as treatment and supervision arise. It could also be extended to industrial accidents where the issue of "supervision" may arise.

I recommend this proposal to you for your consideration. Should you have any queries please do not hesitate to contact me.

Yours sincerely

Ralph Bönig
PRESIDENT