

1980-1981

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

EPIDEMIOLOGICAL STUDIES (CONFIDENTIALITY) BILL 1981

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Health  
the Honourable M.J.R. MacKellar).



### OUTLINE

The purpose of this Bill is to provide for the confidentiality of information collected in epidemiological studies of Vietnam veterans and any other prescribed epidemiological studies conducted by, or on behalf of the Commonwealth.

### Clause 1: Short title

This clause would cite the Act as the Epidemiological Studies (Confidentiality) Act 1981.

### Clause 2: Commencement

This clause would provide for the commencement of the Act on the day on which it receives the Royal Assent.

### Clause 3: Interpretation

Clause 3 is an interpretative provision.

Sub-clause 3(1) would define certain terms for the purposes of the Act.

"Commonwealth epidemiological study" is defined as an epidemiological study conducted by, or on behalf of the Commonwealth.

"Court" is defined to include a tribunal, authority or person having power to require the production of documents or the answering of questions, but does not include the Commonwealth Ombudsman.

"Document" is widely defined to include any record of information however recorded or stored and would include x-rays.

"Epidemiological study" is defined as a study of the distribution of physical, mental and social conditions in the community. It is not restricted to studies of disease.

"Prescribed study" is defined to mean the Vietnam Veterans Study or a Commonwealth epidemiological study declared by regulation to be a study to which the provisions of the Act are to apply.

"Vietnam Veterans Study" is defined to mean the Commonwealth epidemiological study commenced in 1980 in relation to persons who were members of the Defence Force at any time between 1962 and 1972, whether or not they served in Vietnam and members of the Australian Public Service who served in Vietnam at any time between 1962 and 1972.

Sub-clause 3(2) would extend the provisions of the Act relating to secrecy of documents etc. to persons who have assisted, conducted or supervised, or who are assisting, conducting or supervising an epidemiological study. The provisions do not extend to assistance by persons who assist solely by being subjects in a study or by providing information, such as that contained in hospital records, about subjects in a study.

Sub-clause 3(3) would extend the restriction on the divulgence of information concerning the affairs of a person to the disclosure of the existence or non-existence of a document concerning the affairs of a person and to the whereabouts of such a document.

#### Clause 4: Secrecy relating to prescribed studies

This clause would create an offence with a penalty of \$1,000 or imprisonment for 6 months for unauthorized disclosure of information concerning the affairs of a person collected in the course of the study.

#### Clause 5: Authorization of use of documents

Clause 5 would provide for the Minister's authorization to allow for access to information collected in a study should a new use for the information, not necessarily the use for which the information was first collated, be discovered. This further use would have to be declared by regulation to be a study to which the provisions of the Act were to apply.

#### Clause 6: Secrecy relating to certain documents

This clause would provide for the confidentiality of the documents made available in accordance with an authorization under proposed section 5.

The maximum penalty for a breach of this provision would be \$1,000 or imprisonment for 6 months.

Clause 7: Certain persons may be given information

This clause would allow a person who has assisted, or is assisting, in the conduct of a prescribed study to give information concerning the affairs of another person to the supplier of the information or to the person to whom the information relates. Where the information concerns the relationship between persons the consent of the other person or persons will be necessary.

Clause 8: Documents not to be produced in courts, &c.

This clause would provide that any document prepared or obtained in the course of a study containing personal information should not be subject to compulsory disclosure in court proceedings. The clause would also provide that a person who has acquired personal information in the conduct of a study or by access granted under proposed section 5 shall not be required to divulge or communicate such information to a court. However, the Commonwealth Ombudsman would have power to require these documents or information.

Clause 9: Extension

This clause would extend the confidentiality provisions of the Act to persons who have assisted, or are assisting, in the conduct of an epidemiological study:

- . as officers of the Public Service of a State or of the Northern Territory;
- . as employees of a body corporate, or of another person, involved in the conduct of the study; or
- . in accordance with a contract.

The clause would also extend the confidentiality provisions to such persons whether they are paid or unpaid for their assistance.

Clause 10: Oaths and declarations of secrecy

This clause would provide for the taking of oaths, or the making of affirmations or declarations, of secrecy by persons involved in studies or granted access to personal information collected in studies. A similar procedure is used in the Australian Bureau of Statistics.

The maximum penalty for a breach of this provision would be \$1,000 or imprisonment for 6 months.

Clause 11: Publication of results of surveys, &c.

Clause 11 would permit the publication or divulgence to a court of conclusions based on, statistics derived from, or procedures used in, a study where such information would not identify any individual.

Clause 12: Application

Clause 12 would provide that in the case of the Vietnam Veterans Study, the new Act would extend to information acquired, and documents prepared or obtained, before the commencement of the Act.

In the case of later epidemiological studies the new Act would extend to information acquired and documents prepared or obtained before the commencement of the regulations declaring the study to be a study to which the Act applies.

Clause 13: Regulations

This clause would provide for the making of regulations by the Governor-General.

