

~~organisation to another without multiple checks. The reductions in duplicate checks will also improve efficiencies, which will no doubt benefit organisations, individuals and stakeholders. This represents a significant improvement to the existing criminal history screening systems in Queensland while, importantly, ensuring that necessary safeguards are not compromised.~~

~~I thank all those who contributed to and informed the development of the bill. I commend the bill to the House.~~

~~Debate, on motion of Mrs Menkens, adjourned.~~

TRANSPORT (RAIL SAFETY) BILL

First Reading

Hon. RG NOLAN (Ipswich—ALP) (Minister for Transport) (3.13 pm): I present a bill for an act to provide for rail safety, and for related purposes, and to amend this act, the Transport Infrastructure Act 1994, the Workplace Health and Safety Act 1995, and the acts mentioned in schedule 1, for particular purposes. I present the explanatory notes, and I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Tabled paper: Transport (Rail Safety) Bill.

Tabled paper: Transport (Rail Safety) Bill, explanatory notes.

Second Reading

Hon. RG NOLAN (Ipswich—ALP) (Minister for Transport) (3.13 pm): I move—

That the bill be now read a second time.

The Queensland government is committed to further improving the safety performance of the state's diverse and growing rail operations across 9,800 kilometres of rail corridor. That is what the Transport (Rail Safety) Bill 2010 is about. It is worth noting the diversity of the rail industry in Queensland. There are 38 accredited railways operating in the state, ranging from large commercial organisations such as Queensland Rail and Pacific National to various smaller tourist and heritage rail operations. This new bill, based on a national model bill developed by the National Transport Commission, was prepared in consultation with rail safety regulators, industry, rail unions and other stakeholders.

This bill forms part of a system of nationally consistent rail safety laws which are intended to improve rail safety performance in Australia by implementing best practice approaches to rail safety regulation and to deliver a higher degree of regulatory consistency across Australian states and territories.

To date Victoria, New South Wales, South Australia and Tasmania have implemented legislation based on the national model bill. West Australia and the Northern Territory are currently progressing bills through parliament. The co-regulatory approach used in the bill is based on principles of shared responsibility.

Under the Transport (Rail Safety) Bill, rail transport operators will continue to require accreditation before they can operate. Accreditation as an operator will demonstrate that an organisation has demonstrated the competence and capacity to manage risks to safety associated with its railway operation. This is a significant improvement on the existing requirement to demonstrate competence and capacity to comply with certain administrative standards.

The bill details the requirements for safe operation of a railway in Queensland including specific plans and programs for security management, emergency management, health and fitness management, and alcohol and drug management as well as fatigue management.

Rail transport operators will now be required to consult with any person who works on or at their railway premises and their representatives before establishing, reviewing or varying a safety management system.

The bill will also provide for related compliance codes and associated national guidelines, which will guide rail safety regulators' requirements and behaviour and provide rail transport operators with a nationally consistent set of expectations regarding the processes to be followed.

An important highlight of the bill is the inclusion of 'general safety duties' that requires all rail transport operators and contractors who undertake rail safety work, for specific prescribed railway operations, to ensure the safety of their railway operations 'so far as is reasonably practicable'.

These statutory duties of care define the required level of safety, make clear which parties have accountabilities for rail safety and are designed to increase the regulatory reach of the Rail Safety Regulator. The prescribed operations to which these duties relate primarily encompass the movement of rolling stock on a railway and activities that affect the safe operation or movement of that rolling stock.

Such prescribed operations generally take place on or within the immediate vicinity of a railway track and do not include operations which take place in workshops or other workplaces away from the immediate vicinity of the track. The general safety duties provisions have been developed to complement Queensland's other safety legislation, particularly the newly agreed national standards for workplace health and safety.

The bill further enhances the powers of Queensland's Rail Safety Regulator to audit, inspect and enforce safety. However, it will also put in place an array of checks and balances to ensure that regulatory decision-making processes continue to be timely, transparent and nationally consistent.

Level crossing accidents pose the biggest risk to safe rail operations with the possibility of catastrophic results. This new bill also addresses safety at level crossings. For the first time in Queensland, legislation will require the state, local governments and private road owners to enter into agreements with rail transport operators as to how they will jointly manage level crossing safety. I commend this bill to the House.

Debate, on motion of Mr Springborg, adjourned.

~~CRIMINAL CODE (ABUSIVE DOMESTIC RELATIONSHIP DEFENCE AND ANOTHER MATTER) AMENDMENT BILL~~

~~Second Reading~~

~~Resumed from 26 November 2009 (see p. 3669), on motion of Mr Dick~~

~~That the bill be now read a second time.~~

~~Mr SPRINGBORG (Southern Downs—LNP) (Deputy Leader of the Opposition) (3.18 pm): At the outset I can indicate that the LNP will be supporting the bill before the House. However, there are some issues of reservation which we do raise. We will be wanting an explanation or some further clarification from the Attorney with regard to the substantive application of this amendment—the major amendment we are talking about here—and that relates to the Criminal Code with regard to the defence of people who have been involved in an abusive domestic relationship if they have killed another person in that relationship.~~

027

~~At the outset I refer to the discussion paper by Bond University that notes~~

~~Victims of seriously abusive relationships (often called 'battered persons') who respond with violence against their abusers are widely considered to deserve at the very least some mitigation of punishment to reflect reduced culpability. In cases where they acted for reasons of self-preservation with a genuine belief in the necessity of the action, mitigation might be thought deserved even if the perception of the danger or of the options for escaping it was wrong.~~

~~The discussion paper further canvassed the issue by stating~~

~~If a victim of abuse kills the abuser in fear and desperation but the conditions for a defence of self-defence are not justified, a conviction of murder might still be unjust. A conviction of some lesser offence such as manslaughter might more appropriately reflect the degree of culpability.~~

~~The review found this argument could be made on the basis of the stigma attached to the offence of murder regardless of its penal liability. It could be suggested that a murder conviction would be a particularly grave injustice in jurisdictions such as Queensland where such an offence carries a mandatory sentence of life imprisonment. I would indicate that neither the government nor the LNP would have any intention of changing that particular section as it applies at the moment, which is minimum mandatory life for the crime of murder. However, I think it is very important that we do point out that within legal circles and academia, and probably also privately in the judiciary, there is concern about the lack of sentencing discretion which limits their capacity to take on board the extraordinary circumstances of a particular case and the potential disproportionate application of a particular penalty for the crime of murder when, in the minds of some people, there may be serious circumstances of mitigation.~~

~~As has been reported previously by the Australian Institute of Criminology, contrary to public perceptions that we are most at risk of being murdered by a stranger, homicides in Australia and elsewhere are most likely to involve persons who are known to each other such as friends, acquaintances and family members. The AIC also reported that, over the 13-year period covered by the analysis, on average there were 77 intimate partner homicides each year. The majority involved males killing female intimate partners—that is, 75 per cent. Females comprised only 20 per cent of offenders of intimate partner homicide, confirming prior research that males are more likely than females to kill their intimate partner.~~