circumstance of aggravation. This allows the defendant to consider whether the allegation is correct and challenge it where it is not. Whilst certainly not common, it is not unheard of for police to allege a prior conviction where charges were dropped before trial or where it has been entered against someone with the same name.

In the case of Miers v Blewett (2013) QCA 23, a person was charged with breaching a domestic violence order. Under the domestic violence act, if a person has been convicted twice in the past three years the penalty is increased. As I have said, under the Justices Act if the prosecution seeks to rely on a prior conviction as evidence of a circumstance of aggravation they must serve notice on the defendant. In this case, the defendant was not served notice and the Court of Appeal held that the two prior convictions could not be relied on in sentencing, either to increase the maximum penalty applicable or under the provisions of the Penalties and Sentences Act which require a court to take into account prior convictions. Prior convictions for other offences were able to be taken into account, however.

The Court of Criminal Appeal overturned a prior decision of Washband v Queensland Police Service, which held that the entire criminal history could not be relied upon in sentencing because notice had not been given. The Court of Criminal Appeal in Miers v Blewett relied on the 1981 High Court decision of the Queen v De Simoni. These amendments seek to amend the law so that, where prior convictions are not alleged in the charge or indictment, they may not be relied upon to increase the maximum penalty as a circumstance of aggravation, but they can be relied upon to be considered by the sentencing judge or magistrate in considering whether higher penalties should be imposed, provided they are not higher than the maximum. The explanatory notes and the committee report both state that the amendment reinstates the understanding of the position prior to the judgement in Miers v Blewett. However, my understanding is that the position prior to Miers v Blewett was the decision of the High Court in Di Simoni, and Washband which was overturned by the Court of Appeal went even wider.

Debate, on motion of Mrs D'Ath, adjourned.

Sitting suspended from 12.59 pm to 2.30 pm

022

FAMILY RESPONSIBILITIES COMMISSION AMENDMENT BILL

Introduction

Hon. GW ELMES (Noosa—LNP) (Minister for Aboriginal and Torres Strait Islander and Multicultural Affairs and Minister Assisting the Premier) (2.30 pm): <I present a bill for an act to amend >the Family Responsibilities Commission Act 2008 for particular purposes. I table the bill and the explanatory notes. I nominate the Health and Community Services Committee to consider the bill.

Tabled paper: Family Responsibilities Commission Amendment Bill 2014.

Tabled paper: Family Responsibilities Commission Amendment Bill 2014, explanatory notes.

I am pleased to introduce the Family Responsibilities Commission Amendment Bill 2014 to ensure that welfare reform and the operations of the Family Responsibilities Commission are extended into the future for Aboriginal and Torres Strait Islander communities. The Family Responsibilities Commission is established under the Family Responsibilities Commission Act 2008. The main objects of the act are: to support the restoration of socially responsible standards of behaviour and local authority in welfare reform community areas; and to help people in welfare reform community areas to resume primary responsibility for the wellbeing of their community and the individuals and families of the community. The proposed amendments are: removing the sunset clause, with the act currently due to expire on 1 January 2015; adding further justice triggers to notifications to the commission from district, supreme and children's courts; and moving from the act to the Family Responsibilities Commission Regulation the description of welfare reform communities.

The need for an integrated government framework to address disadvantage in discrete communities is clear. All have poorer outcomes than the rest of Queensland on most measures of social and economic development. The challenges facing these communities are significant, and it must be recognised that resolving disadvantage will take time.

Welfare reform efforts in Hope Vale, Aurukun, Coen, and Mossman Gorge commenced in 2008 as the Cape York Welfare Reform Trial—a tripartite initiative of the Queensland and Australian governments and the Cape York Institute. The legislative changes, if passed, will allow us to build on the benefits achieved by Cape York Welfare Reform. They will provide flexibility to extend welfare

reform to other Aboriginal and Torres Strait Islander communities to address dysfunction and disadvantage. The community of Doomadgee is under active consideration as the first new community to join welfare reform. It is anticipated that other communities will be considered for inclusion once the new legislation comes into force. Which communities might be included and when will be based on regular assessment of need.

Likewise, the amendments also provide for communities to move out from under the FRC umbrella should it be assessed that social norms have been re-established to a level to make that an option. The independent evaluation of Cape York Welfare Reform released in April 2013 noted there have been positive outcomes to date. Fundamental behavioural changes in money management were detected, and positive changes were noted around the responsibility for children, school attendance, educational attainment and attitudes to work.

Within the welfare reform framework, the commission works with communities to reduce levels of dysfunction by focusing on individual responsibility to engage in socially responsible behaviours. The commission is constituted by a commissioner, deputy commissioner and, currently, 19 local commissioners who play a key role in the acceptance and success of the initiative. Local commissioners are respected persons in their communities who have demonstrated leadership and conviction to the visions of the commission.

The 2013 evaluation mentioned previously also noted the success of the local commissioners in rebuilding Indigenous authority to tackle antisocial behaviour. The commissioners will continue to be a valuable resource of support and leadership in their communities as they transition through welfare reform in the future.

The success of the Family Responsibilities Commission model was highlighted in the Forrest report into Indigenous employment which was released last week. Mr Forrest praised the FRC on the work it had done, particularly in helping to restore local leadership and authority in communities. He said lessons learned from and innovation shown by the commission could be adopted for a national model to restore function and social cohesion in communities where it had broken down. Underlying the FRC model is the belief that communities can take responsibility for addressing social dysfunction and are best placed to do so.

People living in the nominated communities who receive a welfare payment are currently referred to the commission through a notification due to: failing to enrol or send a child to school; conviction of an offence in the Magistrate's Court; receiving a child safety notification; or breaching a social housing tenancy agreement or use of premises for an illegal purpose. Once referred, the commission works with clients through a combination of case conferencing and referrals to services either by voluntary agreement or through an order of the commission.

Complementing the commission are referral services and economic development, education, employment and housing initiatives to build individual and family capabilities and promote self-reliance and responsibility. The operation of wellbeing centres, parenting programs, drug, alcohol and antiviolence services, and the creation of school attendance case manager roles are important in achieving successful outcomes for clients. If a client fails to attend conferencing or referral services, the commission can order that 60, 75 or 90 per cent of that person's welfare support payment be income managed.

Between 1 July 2012 and 30 June 2013 the Commission held 1,686 conferences. That resulted in 12½ per cent of clients on case plans, 304 orders issued and 339 referrals to community support services. The act, the commission's operations, family responsibility plans and orders for income management will expire on 1 January 2015 without the proposed amendments. The program and the initiative's momentum, in that case, would be lost.

The Queensland government approved funding of $8 million in this year's state budget to continue welfare reform to 31 December 2015. If the bill is passed and the proposed extension to Doomadgee approved, the costs of the expanded program will be met through to the end of 2015 within the current funding allocation.

It is also proposed to add more justice triggers to the commission's notifications—namely, convictions in the district, supreme and children's courts, in addition to the current provision for convictions in the Magistrate's Court. In extending the triggers to include the Children's Court, it will be the parents or carers of the young person who will be required to attend conferencing. This will enable referral of the young person and family to support services and case planning.

If the government is to make a real difference to the level of dysfunction and disadvantage experienced by Aboriginal and Torres Strait Islander communities in Queensland, new approaches are needed to ensure welfare reform aims are achieved in as many communities as possible. In considering the extension of welfare reform, my department undertook consultations with state and Australian government agencies, stakeholders and communities in Coen, Mossman Gorge, Hope Vale and Aurukun earlier this year. We also consulted with Doomadgee, as the community area was identified as having the potential to benefit significantly from joining welfare reform. The results were positive, with all communities indicating their support for welfare reform in their community areas. It was regarded by many as important for improving school attendance and restoring local order.

Many people in this year's consultations and in the 2013 consultations opposed the annual extensions of Cape York Welfare Reform, preferring a long-term strategy instead. Work remains to consolidate the welfare reform gains we have made so far and to progress other aims.

The 2013 evaluation report noted that genuine economic opportunities need to be available and further work is needed to remove barriers to homeownership. I am pleased to report that the Queensland government has made significant improvements with land tenure and town planning. We will continue to work with Minister Cripps and his department to support the implementation of proposals under the Aboriginal and Torres Strait Islander Land Legislation (Providing Freehold) Amendment Bill 2014.

In a practical sense, the community survey project has commenced and we will see implementation of greatly enhanced land survey networks and individually described lots registered over the 34 discrete communities, including Aurukun and Hope Vale. Additionally, town planning schemes for Aurukun and Hope Vale should be completed shortly. The schemes have captured community aspirations for desired development and future growth, and will improve the economic independence of Indigenous communities.

023 I will also continue to work with my federal colleagues to roll out the FRC model where necessary to support Aboriginal and Torres Strait Islander communities to be positive places where people can feel safe and children can look forward to receiving the care and education to which they are entitled. The feeling I get as I move around the communities is a belief that better living conditions and a more normalised lifestyle are within reach. I meet young community leaders and community elders who have had enough of the 'bad old days' of dysfunction, neglect and abuse, and are prepared to work with governments and non-government service providers to put those days and that reputation behind them.

Under welfare reform, this government has also supported a number of economic development opportunities including: funding Myuma in the state's north west to provide accredited, industry based training and employment support in mining and construction to young people in Cape York and the gulf; development of the Coen cultural centre to a visitor information centre; completion of a new retail centre for Hope Vale; construction of an arts workshop in Mossman Gorge to supply the gateway centre with local art; providing business development officers and a women's enterprise facilitator; and funding for viability assessment and business planning for projects such as tourism trails and quarrying.

Another Cape York Welfare Reform project—the Hope Vale Banana Farm—was established in 2012 and supports 17 local jobs. The first commercial harvest of 28,000 cartons of bananas took place in 2013. While Tropical Cyclone Ita caused major destruction to the farm in April this year, the Queensland and Australian and local governments are working with the banana farm and other partners to ensure the project recovers quickly.

The legislative amendments in this bill align with the Queensland Plan, which includes the following aims: education is highly valued by all Queenslanders; we celebrate, embrace and respect diversity; localised and more flexible decision making; and more effective and efficient government. By restoring social norms in welfare reform communities, we are reducing dependency on welfare income and supporting real improvements in school attendance and retention and employment opportunities.

Removal of the act's sunset clause will allow the significant resources and effort spent every year since 2011—developing submissions, undertaking consultations and seeking parliamentary approval to extend the time frame of the act—to be focused instead on innovation and strengthening of the welfare reform initiative. This will be a much more cost-effective use of our investment in departmental resources.

To ensure the continued operation of the commission and the validity of its agreements and orders currently in force, amendments to the act need to be passed and given assent or proclaimed prior to its current expiry date of 1 January 2015. The reappointments of the FRC commissioner, deputy commissioner and local commissioners must also be approved by Governor-in-Council before 1 January 2015.

I look forward to continuing to work with the commission, the welfare reform communities and our partners to ensure Aboriginal and Torres Strait Islander people have the same opportunities as other Queenslanders to fulfil their aspirations and reach their full potential. The Families Responsibilities Commission Amendment Bill 2014 is a necessary pre-condition for extending the act to support welfare reform. I commend the bill to the House.

First Reading

Hon. GW ELMES (Noosa—LNP) (Minister for Aboriginal and Torres Strait Islander and Multicultural Affairs and Minister Assisting the Premier) (2.43 pm): 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.

Referral to the Health and Community Services Committee

Madam DEPUTY SPEAKER (Mrs Cunningham): Order! In accordance with standing order 131, the bill is now referred to the Health and Community Services Committee.

~~CRIMINAL LAW AMENDMENT BILL~~

~~Second Reading~~

~~Resumed from p. 2363, on motion of Mr Bleijie—~~

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

~~**Ms D'ATH** (Redcliffe—ALP) (2.44 pm), continuing: Before the debate was adjourned, I was taking the House to amendments to the Criminal Law Amendment Bill and particularly the explanatory notes and the committee report, both stating that the amendment reinstates the understanding of the position prior to the judgement in Miers v Blewett. However, my understanding is that the position prior to Miers v Blewett was that of the decision of the High Court and De Simoni. Washband, which was overturned by the Court of Appeal, went even wider and did not allow any prior convictions to be taken into account.~~

~~I would ask the Attorney-General to please explain whether these amendments change the law as enunciated by the High Court in De Simoni in 1981. If they do, then the statement in the explanatory notes that the amendment reinstates the understanding of the position prior to the judgement in Miers v Blewett cannot be accurate. The opposition does not necessarily oppose the amendments, but we do have some considerable concern about the accuracy of the explanatory notes.~~

~~It is imperative that explanatory notes accurately reflect the content of legislation because explanatory notes are referred to by the courts as an aid to statutory interpretation. This is perfectly illustrated in the Washband decision that I have referred to earlier. The District Court, in hearing the appeal from the magistrate, referred extensively to the explanatory notes to the amendments moved to the Justices Act in 1997 and 2003. Those explanatory notes assisted the court in discerning the intention of the legislature.~~

~~These explanatory notes would not be able to assist a court in interpreting these amendments because they are not an accurate reflection of the effect of the amendments. They also do not provide any assistance to persons seeking to make a submission to the committee on the effect of the legislation. This is not the first time the opposition has had to raise inaccuracies in the explanatory notes as a significant issue. During debate on the Child Protection (Offender Reporting) Act, the member for Rockhampton raised the issue that the description of the effect of the amendments contained in the explanatory notes was misleading.~~