



Speech by

Hon. ANNA BLIGH

MEMBER FOR SOUTH BRISBANE

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DOMESTIC VIOLENCE (FAMILY PROTECTION) AMENDMENT BILL

Hon. A. M. BLIGH (South Brisbane—ALP) (Minister for Families, Youth and Community Care and Minister for Disability Services) (2.46 p.m.): I move—

"That the Bill be now read a second time."

This Bill is designed to amend the Domestic Violence (Family Protection) Act 1989 in order that it will more effectively fulfil the functions for which it was intended, that is, to protect victims of domestic violence. For 10 years, Queensland has had a civil response to domestic violence between spouses. In those 10 years, 64,221 domestic violence orders have been made. This figure is unequivocal evidence of the importance of this legislation.

As a previous worker in the domestic violence sector, I am all too aware of the need for effective legislation that enables police and workers to protect victims of domestic violence. Domestic violence is a significant issue which affects many Queenslanders, either directly or indirectly. While both men and women are affected by domestic violence, statistics indicate undeniably that the overwhelming majority of victims continue to be women. Whilst both men and women have the right to seek protection under the Domestic Violence (Family Protection) Act, 87% of domestic violence orders in that 10 years have been made in favour of women and only 13% have been made in favour of men.

Given the sheer number of applications for protection orders each year, it is disappointing that these amendments, first identified as urgent in late 1995, have—like other crucial pieces of legislation under my portfolio—collected dust under the stewardship of members opposite. In Opposition I gave a commitment to introduce these long overdue amendments as a matter of priority. I am now pleased to be standing here today—two weeks shy of the Beattie Government's first year in office—introducing these important amendments.

This Bill fundamentally seeks to: make the Act more workable in the hands of the police and domestic violence workers; clarify questions of law for the courts; and enhance the Act's enforcement and thus the protection of victims of domestic violence. Violence is abhorrent in all its forms, but it is particularly so when it occurs in personal relationships that should be characterised by love, respect and trust. Violence of this nature tends to develop over time, growing in frequency and severity, and presenting increasing risks of physical injury and even death.

In the 10 years since the Act came into force, 95 people in Queensland have been victims of spousal homicide. Those include victims, offenders, their children and other family members or friends. This figure dramatically illustrates the impact that domestic violence has, not just on the immediate victim but on the whole family and our community. While the Criminal Code provides sanctions against violence and abuse, it has its limitations in protecting people from being abused in their spousal relationships. The civil response provided by the Domestic Violence (Family Protection) Act 1989 to violence in spousal relationships can, in many ways, overcome these barriers, providing early intervention and protection from further abuse. The domestic violence legislation also acknowledges that many people do not want the relationship to end, but they want the violence to stop.

This Bill is the result of a comprehensive review of the Act undertaken by my department, in conjunction with the Queensland Domestic Violence Council, over the last four years. Extensive community consultation has been a significant part of the review process and has shown that there is

strong community support for strengthening and improving the current Act. Broadly speaking, this Bill seeks to: improve the enforcement of the Act; clarify existing provisions; eliminate unnecessary burdens on police and courts; improve the security and protection of women escaping domestic violence; and reflect amendments to the Family Law Act 1975.

A breach of a domestic violence order is a criminal offence. Currently, the prosecution must prove that the offender "knowingly" breached the order. The word "knowingly" has caused problems of legal interpretation. One respondent successfully appealed a breach conviction before the court by arguing a lack of knowledge of the domestic violence order, despite being served with it by police. This case has obvious ramifications for the ability of police to prosecute breaches. Under the proposed amendments, a respondent will be in breach of an order where the breach occurs after the respondent was in court when the order was made, has been served with the order or has otherwise been made aware of the existence of the order by a police officer.

Another case that has had harmful implications concerned a young woman who was refused an order because she was under the age of 18, despite the fact that she was suffering domestic violence in a de facto relationship and had a child in that relationship. While I have demonstrated my firm belief that the protection of children is the responsibility of the State, through the introduction and passage of the Child Protection Act 1999 and the tabling of the report of the Forde inquiry here today, the issue of young people who are abused by a partner or the parent of their child is a different matter. This Bill will ensure that such young people also receive protection by altering the definition of "spouse" from the words "man and woman" to "male and female" to clarify that protection is available to young people in these circumstances.

Another amendment which will improve the protections available relates to the detention of perpetrators. The amendment will ensure that police can detain perpetrators for a full four hours to ensure the safety of the victim. This is an essential amendment that will be particularly important in rural and remote communities, where it takes time for arrangements to be made to safeguard the victim.

Much has been reported in the media about issues of violence in indigenous communities. This Bill will support Aboriginal and Torres Strait Islander local justice initiatives, which are successful strategies to encourage community involvement in the protection of families from domestic violence. Justices of the peace, including those appointed in Aboriginal and Torres Strait Islander communities, will now be able to make domestic violence orders where a person pleads guilty to a criminal offence involving domestic violence. In addition, in explaining domestic violence orders to the parties, the court may be assisted by local community justice groups, elders and other important people in the community.

A recent example of this initiative at work was highlighted last month during Domestic Violence Prevention Week, when I and my colleague the Minister for Aboriginal and Torres Strait Islander Policy had the privilege of awarding the Kowanyama Local Justice Group with a domestic violence prevention award for their effective and integrated community responses to domestic violence. People escaping domestic violence are often forced to enter refuges or go into hiding. Now respondents will be prohibited from attempting to locate or from being assisted to locate people in refuge or hiding. The provisions of the Family Law Act 1975 will be excluded from the operation of this prohibition to enable parents to seek contact with their children. It will therefore be important that courts are fully apprised of all of the relevant facts. Parties will be required to inform the court about any Family Court orders or pending applications. The court must take those orders and applications into account when making a domestic violence order.

Many working in the domestic violence field will be familiar with situations where people are required to respond to applications for revocation of protection orders where they are still at risk of violence. In considering an application for revocation, these amendments will require courts to have regard to safety as their paramount consideration.

Another initiative of this Bill is the ability of courts to notify employers of the existence of a domestic violence order where their employee is a respondent to an order and has access to weapons in their employment. I am aware that this amendment may have the potential to adversely impact on individuals. However, I have carefully considered these issues and ensured that the principles of natural justice are preserved and safeguards built in.

Firstly, the magistrate will consider whether the provision of such information is appropriate and the respondent will have the opportunity to be heard on the issue. Secondly, where the employer discloses the information more widely than is necessary, the employer can be liable for a penalty of up to \$3,000. Similarly, where a respondent is no longer permitted to possess a weapon, new arrangements will allow the weapon to be stored with or sold to a licensed gun dealer or armourer. Strict controls on the storage or sale of weapons will ensure that weapons do not remain in the hands of respondents.

There can be little doubt that being in court in relation to a domestic violence matter is a stressful and traumatic experience. This stress and trauma is amplified when the applicant is suddenly

faced with a cross-application against them. I understand that many victims of domestic violence in these situations have felt pressured to consent to an order against them. The principles of natural justice have been incorporated into amendments and all parties will be required to have notice of applications and an opportunity to respond.

When domestic violence occurs, people often need to flee the home they shared with their partner. In some cases, however, they may wish to continue to reside in the home. Where that home is a rental property, there will be issues which need to be resolved. This Bill will allow a Magistrates Court to resolve tenancy issues after hearing a domestic violence application. By not making people go through two forums and two applications, this amendment will go some way to assisting them to get their life back on track.

Where an aggrieved spouse wishes to remain in the home, the court can make an ouster order prohibiting the respondent from residing at the home. The process and timing of these orders have now been clarified by these amendments. In addition, where the court considers it necessary for the safety of the aggrieved spouse, it will now have the power to direct the supervision of police when the respondent returns to the home to collect personal belongings.

I am proud to introduce this Bill. Queenslanders have waited long enough. This Bill will improve the way that legal protection is provided to victims of domestic violence and the way that orders are enforced against those who perpetrate such violence. With this Bill, we send a clear message that this Government will not tolerate domestic violence and that we are serious about working towards its prevention. I commend the Bill to the House.
