Speech by

GEOFF WILSON

MEMBER FOR FERNY GROVE

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CHILD PROTECTION BILL

Mr WILSON (Ferny Grove—ALP) (5.35 p.m.): It is with great pleasure that I stand and speak in support of this Bill. I commend the Minister for the hard work that she and her officers have brought to bear on this Bill in bringing it into this House. This Bill addresses the rights of children to be brought up in a safe environment and protected from harm and the responsibility of Government to intervene when necessary to ensure that children are adequately protected. The focus of the work of the Department of Families, Youth and Community Care in protecting children is not on intervention, but on prevention by helping and supporting families experiencing difficulties in their parenting role and on helping them to gain access to the appropriate services.

The objectives of the Bill are, in summary: to provide for the protection of children who are at risk of harm, to provide children with safe alternative care if they are unable to live at home safely, to recognise the family of the child as being primarily responsible for the upbringing, development and protection of their children and to strengthen and support families in carrying out that responsibility—in other words, acknowledging what the community expects us to acknowledge, that is, that the primary responsibility for children lies with the family and, secondly, to place the State in a position where it may intervene in appropriately defined circumstances to provide protection for children that is otherwise not available.

The chief executive's functions are described in the Bill as follows—and, again, these are in summary—to support the promotion of partnerships between Government, non-Government agencies and communities in developing coordinated services to deal with child abuse and neglect, to promote education for parents and other members of the community, to address the developmental and safety requirements of children, to promote research into the causes and effect of harm to children and to provide services for the protection of children and responses to allegations of harm to children.

Where statutory intervention is required to protect a child, the emphasis is on the least intrusive approach. By making a child protection order, the Childrens Court is required to be satisfied that the child's protection is unlikely to be ensured by a less intrusive order. The new legislation recognises that the best interests of the child are served by the preservation of their family and by providing a range of options to the department to assist families to protect their children. The Bill's emphasis on family participation in decision making and the availability of review and external appeal to the Children's Services Appeals Tribunal increases—and increases significantly—the accountability and recognises the rights of persons subject to statutory intervention.

Specific provisions in the Bill authorise officers of the department and police officers to investigate allegations of child abuse and neglect without the necessity to commence an application for a care and protection order, as occurs at present. Where it is not possible to obtain the parent's consent to act to protect the child and the child is continuing to be exposed to risk of significant harm as defined by the legislation, a temporary assessment order can be applied for. The temporary assessment order is for a period of three days and allows for an initial assessment of a child's protective needs without locking the family into an unnecessary court process associated with delay and with cost. These orders can be obtained by phone or fax from a magistrate and apply the principle that any action to protect the child should not include any action which is unwarranted in all of the circumstances.

A court assessment order is another new type of order available in the Bill. It can be issued for the purpose of completing an initial assessment of the child's protective needs. This is a longer

assessment order—for up to four weeks. Because these orders are for a longer period they must be made by the Childrens Court. This allows parents to make submissions to the court about the application. When it is decided that a child is in need of protection and the use of voluntary options to work with the family is not possible or appropriate, a child protection order may be required. Child protection orders can be ordered by the Childrens Court for one or two years, or a longer-term order can be made— up to 18 years.

As I said before, the Child Protection Bill recognises the principle that parents are responsible for the upbringing and protection of their children. It also recognises the State's responsibility to protect children from harm where parents cannot or will not do so. The Bill provides a framework for intervention which emphasises the least intrusive response. Natural justice and appropriate judicial and administrative accountability are thereby acknowledging the role of parents while promoting children's need for security and stability of care.

Having made those more general remarks, I now focus more particularly on the area of the regulation of alternative care. The Bill provides for licensing of care services and the approving of care providers to care for children who are in the custody or guardianship of the Director-General of the Department of Families, Youth and Community Care.

When children are removed from their own family because of protective concerns, they have the right to alternative care of a standard that meets community expectations, the statutory responsibilities of the State and their individual needs. The term "alternative care" refers to the out-of-home care of children who are subject to protective intervention by the department. The children may be in the custody or guardianship of the director-general due to their protective needs. Alternative care also includes the care of children temporarily removed from their families, children in short-term foster care and those who are unable to return to their family and require long-term alternative care.

Other children subject to departmental action for protective reasons may be placed in alternative care with the consent of their parents to keep them safe while work is done to assist the family to care for the child—again affirming one of the key principles of the Act, that the primary responsibility for the protection and wellbeing of the child lies with the family and that the department's role is to support that role being undertaken by the family wherever possible.

Children who are in the custody or guardianship of the department and need to live apart from their family are often placed in the care of their extended family. However, for many children this is not possible and these children are cared for by approved care providers, known in the past as foster-parents. They provide care for children in their own homes. The approved care providers act under the supervision of a licensed care service or of a departmental area office.

The Bill includes a statement of standards for alternative care which clearly articulates the Government's expectations for the provision of alternative care services. This statement of standards requires the chief executive to meet, as far as possible, the needs of children placed in out-of-home care by the department. By making a legislative statement about the standards to be met by organisations and individuals who provide care, the Bill also ensures a higher level of accountability than if these standards were set administratively.

The statement of standards for alternative care contained in the Bill refers in part to respecting the child's dignity and rights; meeting the child's physical and emotional needs, including providing necessary medical and therapeutic care; providing the child with educational, training and employment opportunities, according to their age and level of development; acknowledging a child's cultural and ethnic background and meeting a child's needs in relation to their background; providing special care and support for children with disabilities; providing opportunities to participate in social and recreational activities appropriate to the child's age and level of development; and using behaviour management methods to assist and guide the child. Corporal punishment or any other punishment that frightens or threatens the child is prohibited. In particular, the statement of standards recognises the importance of developing and maintaining family relationships when children are placed outside of home.

The Bill provides for licensing of care services, such as the existing shared family care services funded by the department and licensed to provide alternative care to children who need to live apart from their families. The licence will be valid for three years. The approval and licensing of an alternative care service will depend upon a number of matters: the suitability of the organisation applying for a licence; the suitability of the people who will be responsible for the management of the service or agency; the standards of care provided to the children; and the selection and training of staff working in the care service.

The approval of persons who wish to become care providers will be dependent upon their suitability to care for children in their own home, the suitability of other members of their household to be involved in the care of children, conformity with the statement of standards of care as outlined in the legislation, and the ability of the care provider to work with the child's family and the department towards

identified goals—for example, helping children to maintain relationships with their families. All care providers are issued with certificates of approval which will be valid for 12 months to begin with, and then for two years.

I will now address the charter of rights for a child in care. This is a matter about which a number of other speakers from the other side have spoken with grave concern, particularly the member for Caboolture. They have been concerned about this being set out in terms of the rights of the child. I draw to the attention of the member for Caboolture the fundamental philosophical basis for this Bill, which is to identify in a piece of legislation the statutory obligations the State willingly assumes for substituting itself as the parent of children who are exposed to harm and need protection. We are not talking about the rights of children in the sense that some people might understand it—for example, the right to vote or the right to be enrolled on the electoral roll. The charter easily could have been alternatively described as a charter of standards of care for the child. The preamble to the charter clearly acknowledges that it is this Parliament that is recognising that the State has various responsibilities for children in need of protection, who are in the custody or under the guardianship of the chief executive of this Act. It then goes on to describe a whole range of these so-called rights.

Each of them could just as readily have been described as the various responsibilities that the State assumes, standing in loco parentis in relation to the child. We as the Parliament of Queensland are saying that we, through our agency the department, have the responsibility to provide the child with a safe living environment, to ensure that a child is placed in care that best meets their needs and is most culturally appropriate and to maintain the relationship between a child and the child's family.

I could go on to deal with each of the so-called rights, which might more accurately be described as responsibilities—responsibilities which, I suggest, no-one in this House would deny that we, as the Parliament of Queensland, should willingly and readily assume for children in this State. So it is a distraction to be concerned about the rights of the child in some narrow way as if they were individually actionable or legally enforceable by the child, or on behalf of the child, against the parent. We are not talking about the rights of the child vis-a-vis the parent in some sort of litigation or some sort of court process. We are talking about the fundamental—dare I say basic—rights of a social, political and cultural nature that this Parliament acknowledges should be afforded to children generally and, in particular, children who are in need of protection from harm and which, by corollary, we the Parliament of Queensland accept responsibility to provide.

I also address the issue of international conventions, which I understand are a favourite preoccupation of the One Nation Party. It would be really helpful in the debate about this legislation, just as it would have been remarkably helpful in the debate about the intercountry adoption legislation, if the One Nation Party could bring itself to examine the merits of the legislation undistracted by anything to do with international treaties or international obligations. Because after all, this piece of legislation does not seek to implement any international treaty. I understand that the explanatory memorandum says that this legislation is consistent with the relevant international convention or treaty. But would it not be helpful for members of the One Nation Party, having identified the weaknesses in the very merits of this legislation itself, to then come into this House—as concerned equally, as I am sure they are, about the rights of children and the protection of those in great need—to put forward alternative views and, indeed, amendments?

Would it be too brazen to ask that an amendment could be put forward by the One Nation Party? I am talking about an amendment that might actually improve this legislation; to pursue the objective that members of the One Nation Party say is so worth while—and, of course, it is—that is, the protection of children. But no, no amendment is forthcoming. I believe that it is inappropriate—highly inappropriate—that politics for some is put ahead of the rights of children and the welfare and the wellbeing of children, just as it was by them—the One Nation Party—in their contribution to the intercountry adoption legislation. We ought to be above that. We ought to be able to put to one side our party politics, our particular preoccupations with international conspiracies and international treaties and the United Nations running what goes on in George Street, and actually address the facts. After all, that is a fairly handy starting point. We should then be able to address those facts on the basis of the merits of the matters.

In conclusion, I commend this Bill to the House. I congratulate the Minister and all of those who have been associated with the finalisation of this legislation and commend it heartily to the House for its speedy and wholehearted passage.