Speech by

Mr JIM PEARCE

MEMBER FOR FITZROY

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CHILD PROTECTION BILL

Mr PEARCE (Fitzroy—ALP) (4.58 p.m.): The Bill before the House replaces what the community considers to be outdated, inadequate child abuse legislation. To the credit of the Minister, she has been prepared to make the decisions that count most. From my dealings and experience with the Minister and her relationship with the community, I think that it is very common knowledge that this Minister is in tune with the community and community needs.

As we go into the new millennium, there is a need to bring on changes to legislation that are strong and effective. There are many aspects of this legislation that should be discussed in this debate. However, I want to touch on only one of those aspects of the Bill, and that is the charter of rights. The Bill before the House is the only child protection legislation in Australia to have incorporated a charter of rights for children in care. That charter reflects the commitment and special obligation the State has to those children who are unable to live with their families because of concerns about their wellbeing. Unlike some members in this place, I want to say that there is nothing sinister about the rights of these children. There is no conspiracy to stop foster-parents or carers from doing what they consider to be fair and reasonable in the raising of a child in their care.

The charter sets the standards that are in the best interests of the child. Every child under child protection orders has a right to expect that the State cares about them and their right to be able to access a loving environment, receive quality care and be free of abuse—no less or no more than every member in this House believes that they have such a right. The provisions in the Bill require the department to provide information to children in care about the charter and their rights under the charter. The information must be provided in a way in which the child can understand, which will depend on their age and level of maturity.

This Bill is a significant departure from the Children's Services Act 1965, which it replaces. The department's current practice standards are not reflected in the 1965 legislation. However, despite the antiquity of Queensland's current legislation, our system for the protection of children and the management of child protection cases in many areas is recognised as the most advanced in Australia. The Bill reflects these current standards of practice in Queensland. Best practice emphasises working with parents to involve them in decision making about the safety and care of their children and assisting and supporting them in their role. The current practice of family meetings will be incorporated into the legislation. The family meeting delivers several positive outcomes: the family has respect and confidence in the process because they are involved and they have input into the safety of the child and identify personally the family's specific support needs. This involvement brings with it a partnership of ownership in the planning and management of a child's future. If we want anything to work or anything to be successful, the best way to achieve that is for all the people who are involved in the process to have ownership and to have involvement.

Of course, it is also important that the views of the child are known and taken into consideration not only until they are placed in a safe environment but also in the interim. Families can fall apart for many and varied reasons. Unfortunately, it is the children who suffer many of the consequences of family breakdown or parental failure. It should not be the aim of the department to look for someone to blame when a child is not being provided with fair and reasonable care. The department's role is to focus on the child's needs, not what the parent did or did not do.

The grounds for making child protection orders recognise parental inability without focusing on blame and do not attempt to define all of the specific circumstances when a child may need protection. The clarity with which this concept is expressed in this Bill is a first in Australian child protection legislation. The concept of a child being in need of protection from harm as the key reason for protective action enables the inclusion of all circumstances where State intervention is required to protect a child. Other States have definitions that attempt to define a range of circumstances when court applications may occur. This approach can mean that some circumstances can be overlooked, there is a tendency to be focused on parental actions, and measures are prone to become outdated. The Queensland concept of a child needing protection from harm irrespective of the causes of harm is being looked at favourably by other States. That highlights the work that has been put into formulating this legislation and the impact that it will have on the protection of children in this State.

Another example of the Child Protection Bill being at the cutting edge of child protection legislation is the statement of standards as the linchpin statement for the regulation of alternative care. The statement of standards sets out expectations for the provision of alternative care services and reflects both community expectations and statutory responsibilities. Today, everything we do must be accountable to the community and the people affected by our actions. We must ensure accountability to both the community and the persons subject to intervention under the legislation.

Key administrative decisions in the management of a child's case are appealable to the Children's Services Tribunal. Accountability is further extended by requiring regular reviews of the arrangements for a child's care, involvement of the families and children in case planning and the provision of written information to both children and parents whenever key decisions are made or actions occur. For example, when officers are investigating an allegation that a child has been harmed, they must tell the child's parents what the allegations are and tell them the outcome of their investigations. This information can be provided in writing if requested. Whenever a child protection order is made, the terms and effects of that order must be explained to both the child and the parents. When a child is unable to live at home because of concerns for its safety and is placed in alternative care, the child's parents must be told where the child is living and with whom.

The confidentiality provisions of the legislation are among the most stringent of any jurisdiction in Australia. The Bill prohibits the publication of identifying information about a child living in Queensland who has been harmed or is at risk of harm by a parent, step-parent or member of the child's family unless the chief executive officer gives written approval. The maximum penalty for a breach of this provision by a corporation is $75,000, and so it should be. That is in line with similar provisions in other jurisdictions. For example, in the Northern Territory the penalty is $20,000 for the publishing of information about a child with respect to any impending investigation relating to that child. No-one would disagree that the public has a right to know about the incidence of child abuse and about particular instances of abuse to children. However, the first priority must be the right of privacy for individual children concerning sensitive matters involving personal aspects of their lives. These two rights can be reconciled by the publication of information about occurrences of child abuse in a way that does not lead to the identification of a child.

The legislation before the House is good legislation. A lot of work has been put into it; there has been a lot of dedication shown by the staff and determination by the Minister. Although I do not really want to get away from the importance of this Bill, I have an issue that I wish to raise as it is a concern to my constituents and to me as a member. I know that parents and guardians who have experienced the trauma and stress of this particular issue would insist that I take this opportunity to raise it in this place. The issue relates to what happens when there is notification of child abuse, in particular, where parents or guardians are reported to the department for child abuse for reasons other than for the genuine concern of a child or children. It may be with the intent of causing damage to the parents, because of a fallout among friends, a family disagreement, or simply mischief-making.

As a parent and a representative of the people, I understand the need to provide protection for a person or persons who notify the department of possible child abuse. If we do not provide that protection, people with a genuine concern about a child's health and safety will not come forward for fear of retribution or prosecution. No-one in this place, including myself, would be prepared to take that risk. However, there is a real concern where a notification is proven, after investigation, to be malicious. In the region that I represent, central Queensland, up to 36% of child abuse reports are actually found to be malicious or untrue. The damage done to the child or children and the parents or guardians is immeasurable. One would have to experience it to understand it. I would not like to go through it. A couple of families in my electorate have gone through it and I have witnessed the heartbreak and pain that they have suffered.

The seriousness of this issue can be seen from the department's information sheet, which states—

"If you do notify, you are not required to prove the case. You need only notify of the suspicion and the reasons for it. If done in good faith no civil liability is incurred."

I believe that this freedom means that there is no fear of being sued or being required to substantiate the claims made.

As I said, I have made representations on behalf of two families from my electorate that have been jointly accused of child abuse. Documentation obtained under the Freedom of Information Act shows that serious and detailed allegations were made. I have read those allegations and some of the things that were said are quite damaging and heartbreaking to the families. After investigation, all the claims were entered in the documentation as "unsubstantiated", which was a relief for everybody, including me. However, the parents have been left in an emotional mess.

A child of one of the families was pulled out of their classroom and interviewed by departmental officers in the presence of police. The school principal and staff knew about the allegations before the parents did. The two families live in a small community, and it is very important that members take note of that point. Their reputation as parents has now been questioned by the community, even though the community does not know the facts. The families are being talked about, fingers are being pointed at them and people generally are commenting on the allegations of child abuse. The situation has affected them emotionally and it has affected their children emotionally. It has put unnecessary strains on their relationships. Those people feel let down, abandoned and accused. Although they have been found not guilty, they feel that they have been sentenced to a life of shame. While all this has been happening, the notifier hides behind the protection offered by this system, and nothing is done. That person goes free, with only their sick mind to act as their conscience.

I have spoken to the Minister and two departmental officers about this issue. I know that it is a very difficult issue to deal with. There is no easy solution, because our first priority is to protect an abused child. As the departmental information sheet states—

"Remember that by notifying any suspected child abuse you are taking the first step in helping the abused child and the person who is not coping."

That is reasonable. We all accept that and we expect it. While I commend those words, we have an obligation to ensure that it is not the first step in destroying a family unit.

The legislation before the House is important. It brings outdated legislation into a new era and incorporates changes that the community has been calling for. I commend the Minister for the dedication that she has shown in bringing this legislation to the Parliament. On behalf of the people whom I represent, I am more than happy to support the legislation.
