Speech by

LINDA LAVARCH

STATE MEMBER FOR KURWONGBAH

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CHILD PROTECTION BILL

Mrs LAVARCH (Kurwongbah—ALP) (3.07 p.m.): In response to the previous speaker, the member for Western Downs, let me say that we are certainly not anti-family. We are not in this Parliament to regulate morals.

Having said that, it is my pleasure to support the Child Protection Bill 1998. This Bill will replace the current Children's Services Act 1965, an outdated and severely limited statute. Over the past 30 years since the enactment of the Children's Services Act, there has been a growing gap between the legislation and practice and service delivery of child protection in this State. This Bill meets contemporary standards and gives a legislative framework to ensure the State protects children in a way that recognises the interest, rights and responsibilities of all concerned.

Having practised in family law prior to my election to Parliament, I had a personal experience with the department's practices and procedures in child protection matters. Reflecting back on that time and during practice in the 1980s, it was my perception—and I may be corrected—that there was a decided shift in attitude by departmental officers with the move towards the "family support" model of prevention of abuse and child protection. Family conferencing, reviews and regular meetings increased to the stage of becoming the adopted practice and policy. But, like any practice or policy with no legislative reference point, the success depended very much on the personalities involved. It depended on the attitude of the departmental officers.

I just want to say at this point that I do recognise the very difficult position that the FSOs are in, their commitment to their work and the very hard work that they do. I do want to congratulate them on doing probably one of the toughest jobs in society. But personalities do get involved and people have different attitudes. That also goes for the natural parent or parents, extended family, the foster parents and, most important of all, the children themselves. I have no doubt that there are as many horror stories as there have been successful interventions.

The Child Protection 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 Children's Services Act. Yet, despite the antiquity of our current legislation, Queensland's system for the protection of children and the management of child protection cases is recognised in many areas as the most advanced in Australia. The Bill reflects these current standards for practice in Queensland.

One of the notable features of the Child Protection Bill is that it contains a number of underlying principles which will guide the administration of this legislation. Examples of these guiding principles are, firstly, that every child has the right of protection from harm; secondly, that the welfare and best interests of the child are paramount; thirdly, that the views of the child and their family are considered; and, fourthly, that the child and their family have the opportunity to participate in decision making about matters that affect their lives. The Child Protection Bill strengthens the participative role of clients by clearly articulating the responsibility of the Director-General of the Department of Families, Youth and Community Care to consult with clients and with client representative groups, for example, groups that represent children and young people in care.

I am most pleased that this Bill addresses some of the problems encountered by indigenous Australians caught in the welfare cycle. Until now, we have been guilty of dealing with the problems of

entrenched disadvantage and dispossession of indigenous children by removing them from their families. While there have been some advances in self-determination, social justice and equality, there is still a long way to go.

At this point I thought it might be helpful to reflect on just what is meant by the term "self-determination". Self-determination is a collective human right of peoples. It can mean many things. It can mean freedom from political and economic domination by others. It can mean self-government and the freedom to make decisions about family, community, culture and country. Self-determination for most of us is taken for granted; we do it of right as occupiers of this land. But to most indigenous Australians the struggle still continues.

It is a fact that indigenous children are more likely to be removed from their families on the grounds of neglect rather than abuse, and indigenous parenting styles are still wrongly seen as the cause. Indigenous children are six times more likely to be removed for child welfare reasons than other children. Currently in Queensland that means 24.6%, or a quarter of the children in care. Yet our indigenous population is less than 2% of the total population of Queensland. I might also add that indigenous children are 21 times more likely to be in juvenile justice detention than non-indigenous children.

It is timely that we have moved forward and embraced the need to consult with recognised Aboriginal and Torres Strait Islander child-care agencies to get the view of the community as to where the child belongs, to ensure that customs and traditions are followed. It is a welcome measure that we are legislating to ensure the Aboriginal child placement principle that is currently being practised by Aboriginal and Torres Strait Islander child-care agencies. Under the old Children's Services Act, this is only an in-principle agreement. There are a number of provisions in this Bill which recognise the role of appropriate community representatives in providing advice and information about Aboriginal and Torres Strait Islander children and families to persons exercising power under the Bill.

Clause 6 applies to the administration of the Bill in relation to Aboriginal and Torres Strait Islander children and families. If the child is an Aboriginal or Torres Strait Islander child, decisions under this Bill should be made only after consultation with a recognised Aboriginal or Torres Strait Islander agency. Clause 80 provides that placement for Aboriginal and Torres Strait Islander children must be culturally appropriate and maintain the child's cultural identity. In essence, this means that the Government of the day has a duty to ensure that a proper cultural system is followed when dealing with Aboriginal and Torres Strait Islander children. We must also ensure that we provide ongoing resources, support, education and training to those agencies.

We have all heard about the stolen generation and the devastating effects that removal and separation had on their wellbeing and self-esteem. If honourable members read the evidence from the many witnesses, they cannot help but feel moved by the suffering that they have endured at what could only be described as disastrous attempts by Europeans at assimilation. These witnesses, the majority of whom spent their time in orphanages, are still experiencing difficulties forming family relationships.

There has been broad agreement from those involved with indigenous children in care that a child who has to be removed from their family is best cared for within their own cultural environment. Yet indigenous children are still being removed from their family at a disproportionate rate to non-indigenous children and are being placed in non-indigenous environments. This gets back to self-determination or a right to self-management. We must learn from our past and break this cycle of indigenous Australians being caught in the welfare system.

Today I would also like to address child protection from another angle. In 1997 a group called Parents Who Care was established in my electorate. This group is a support group for parents who have their children in the care of the department. They help each other by understanding that they are not alone in their circumstance, that there is a place where they can go to feel respected. These parents report that they often feel they have no right to speak up. They feel like criminals. They carry a huge stigma in society and feel that they should be grateful for the small morsels that the department is prepared to offer them in knowing how their children are faring, let alone having contact with them.

This group was established by a parent whose child had been under the care of the department for many years and reported frustration in dealing with the department over that time. The group meets monthly and provides an opportunity for parents in a similar position to talk about their experiences and difficulties. They have expressed to me that these dealings have both a positive and negative aspect. They say that there seems to be a gap between the parent and the department as to what is the stated policy and what really happens in practice. They feel as though they have been sentenced and are continually punished for having their children in care.

In sharing these experiences last year, they provided me with a list of concerns and suggestions which would strengthen the rebuilding of the natural parent/child relationship, the ultimate aim being

reuniting the parent and child, which is stated departmental policy. This was done long before the Child Protection Bill was put out for public consultation. Having gone through the draft Bill and having sat down with these parents, I find that many of their concerns have been addressed and are now covered in legislation. However, I thought it was appropriate that these be placed on the record today.

They had listed under a heading "Attitudes to Clients", firstly, that parents should be informed that they are being investigated in cases which are not life threatening to the child. Of course, this is provided for in clause 15 of the Bill. Secondly, parents should be kept informed about what is going on with their children in all cases, for example, medical care, doctors' appointments and hospitalisation of the child. Assessments could be made or accessed through FOI. Under the Charter of Rights for a Child in Care, which is Schedule 1 to the Bill, it is in the child's best interests for the parent to have access to that information. I have no doubt that, if it was appropriate and did not in any way threaten the child, the parents would have access.

Thirdly, parents are often uninformed or misinformed about their rights in dealing with the department. Parents should be informed of what rights they have when first approached by the department. Parents are usually unaware of their options. For example, parents should be told that they can have a witness with them when being interviewed, what community services are available to assist them and their right to access legal advice and/or representation.

Fourthly, parents should be informed in writing of every step in the process and should be given a written explanation of what is happening and why, and what steps they can take to assist their child. Fifthly, parents often have to push to be heard as the parents' contributions are not taken notice of and not considered important. Sixthly, parents have to push for case reviews, which in practice are neither automatic nor consistent. Clause 85 of this Bill provides for review every six months.

Parents went on to state that they should be heard, that case reviews should be conducted on a regular basis and that there should be follow-up of court proposals. The parents are also concerned about who has a say in their children's lives and stated that any wish of the parent is often overruled by the foster parent. They are concerned about where their children go and about their lack of say in the matter. They are also concerned that a lot of times there is a huge difference between the home the child has come from and the home the child goes to in relation to access to resources and cultural matters. Parents hope that, when determining placement of substitute care for their child, regard would be had for the home the child has come from in relation to socioeconomic and cultural background. As the department is working with the parents to have the child placed back in their family environment, parents do not want the child to experience a huge difference—going from living in the suburbs to living in a mansion and then having to go back to somewhere with fewer resources, for example.

The other matters parents raised relate to contact visits. They state that contact is often cancelled for no apparent reason and not rescheduled. There is never an apology from the departmental officer if it was their fault that contact was not arranged as promised. Contact visits should be top priority; they should only be cancelled where absolutely necessary and should be rescheduled immediately. Where appropriate, supervised contact should always be arranged to take place on neutral ground. I ask the House to bear in mind that I am passing on the comments of others.

One of the feelings that came through strongly from this parent group was that contact visits are used by the department as a form of control. I am sure that that is not the case and that officers are doing their best in difficult circumstances, but a number of parents stated that they feel they are punished if they are outspoken, because contact is taken away and visits are granted or not arranged as the case may be. The question of whether foster children should be calling the foster carers "Mum" or "Dad" was another of the concerns of the parents. I am sure that is a matter that can be dealt with at family meetings.

As I said earlier, this Bill reflects the current standards for practice in Queensland. This practice emphasises working with the parents to involve them in decision making about the safety and care of their children, and assisting and supporting them in their role. To that end, the Child Protection Bill provides a legislative base for the family meetings which are part of departmental current practice. The aim of family meetings is to involve the family in establishing plans to address the child's protective needs and to identify the family's specific needs for support. The use of such a strategy strengthens and acknowledges the parental role by involving parents in decision making for the child. The child's views are also made known and taken into consideration.

The strength of this Bill is that it changes the focus from one of blaming parents, irrespective of circumstances, to looking solely at the needs of the child for protection. This is seen in the grounds for making a child protection order under this Bill. If a child needs protection from harm and does not have a parent able to protect them, an order for protection can be made. The focus is 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 specific circumstances under which

a child may need protection. The clarity with which this concept is expressed in the Child Protection Bill represents a first in Australian child protection legislation.

Of course, whilst the State intervenes on behalf of children to ensure that they receive adequate care and protection, it is the operation of substitute care or placement programs for children when it is not safe for them to remain with their family that effectively protects the child and provides a safe and stable living arrangement. In many cases where this occurs it is the foster parents who provide that safe and stable environment.

Today I recognise the outstanding contribution being made by the many Queenslanders who have put themselves forward as foster parents. It is often a thankless, unrewarded and exhausting task. The publications of the Foster Parents Association of Queensland give us a little insight into the responsibilities of being a foster parent. These include assisting the department and natural parents in developing the best future plans for children placed in the home. It also includes providing an atmosphere within the home conducive to each child's social, emotional and intellectual growth for the 24 hours of each day that the child is in their care.

This week I was pleased to see the Minister rewarding foster parents for excellence in caring. She presented the inaugural Foster Care Excellence Award to 13 care providers around Queensland as part of National Foster Care Day celebrations on Sunday, 7 March. The Minister initiated the awards to acknowledge the outstanding contribution foster carers have made to children placed with them. As the Minister gratefully acknowledged the generous contribution of foster carers throughout Queensland, so do I.

In conclusion, I believe this Bill is long overdue and has the ability to provide support for Government and non-Government partners in very difficult and complex areas of child protection. The children of Queensland will be all the better for this world-leading legislation in child protection. I commend the Bill to the House.