Speech by

Mrs LIZ CUNNINGHAM

MEMBER FOR GLADSTONE

Hansard 10 November 1999

FAMILY SERVICES AMENDMENT BILL

Mrs LIZ CUNNINGHAM (Gladstone—IND) (4.58 p.m.): In speaking to this Bill, firstly, I would like to thank the Minister for giving me the opportunity to be briefed by her staff. That occurred quite some time ago now, but I can remember that the briefing was extensive and the officers were more than prepared to discuss any of the issues that either Amanda or I had. I thank the Minister for that. In common with other speakers, I would like to acknowledge the information that has been prepared by Kelly-Anne Collins of the Parliamentary Library and the access to information from a number of reports and investigations that have been carried out not only in Queensland but also in New South Wales.

I think it is a sad indictment on our society that this type of legislation is necessary. For the majority of decent Queenslanders, the notion of intentionally harming a child or a dependent adult either physically, sexually, emotionally or psychologically is abhorrent. However, the reality is that, for a minority of people, these constraints are necessary and must be employed vigorously.

The purpose of the Bill has been described as being to ensure the protection of children and people with an intellectual disability within the department's care by providing appropriate screening procedures for departmental staff. The Wood royal commission gave an alarming indication that child sexual abuse was occurring extensively in the community. Indeed, recent investigations in Queensland have shown that significant and institutionalised abuse has occurred in this State.

Even with systemic change, effective protection of our vulnerable children and adults will require constant vigilance. The Wood royal commission indicated the absence in the New South Wales system of clear and consistent guidelines for screening those workers and volunteers who have close contact with children or possess care and protection responsibilities in relation to them. The tabling of this Bill shows that Queensland has the same deficiencies, at least at the moment. As referred to by previous speakers, the relatively recent conviction of a now ex-departmental employee in Queensland of 26 child sex offences confirms the inefficiencies of our current system. I commend the Minister and the previous Family Services Ministers who have taken steps to try to address that deficiency.

The community finds these incidents unforgivable. While people are always sensitive to a loss of rights, in this type of circumstance honest and honourable residents accept these changes without objection.

The inclusion of people with disabilities is also critical. Parents, doctors and other health care providers, teachers and all groups who regularly have contact with children are educated as identifiers of child behaviour, attitudes, emotional states or inappropriate sexual information so that they can recognise potential at-risk individuals. People with disabilities, particularly serious or profound disabilities, cannot communicate abuse in that way.

I also commend the Minister for including current departmental employees as well as potential employees in the legislation. That inclusion, and our support of the measure, is in no way intended as a slight on anyone working in the department currently. The safety of our children and all other vulnerable people demands this breadth of application.

Safeguards in the Bill cover inaccurate information, malicious allegations or admissions by third parties. The Bill also contains significant confidentiality obligations. However, those safeguards and the safeguards of individual rights must be balanced by the difficulty of convicting paedophiles, child

molesters and other offenders against children and other vulnerable people. The legislation notes recorded that, commonly, multiple offences will be committed against one victim. Often, the offenders threaten their victims to make them keep quiet, and some do for many years. Also, the court system works against successful convictions, for example, through the cross-examination and badgering of young victims; the lack of support, both physical and emotional, provided during hearings; and the superiority of the performance in court of the adult predator as compared to the child victim if, indeed, the victim is capable of conveying the details of the incidents. The list of obstacles to effective convictions continues. Therefore, it is essential that this Bill allows for a history of complaints and charges, as well as convictions for serious offences, to be taken into account.

The Bill places an obligation on the Police Service or the DPP to advise the department if a person is convicted of one of a list of offence types if either the police or the DPP is aware that the convicted person is an employee of the department. I would ask the Minister to clarify that point. The Bill places the obligation on the police and the DPP. It states that if a person is convicted and the Commissioner of Police or the DPP is aware that that person is an employee of the department, they must advise the department. Given the enormous structure of both the Police Service and the Families Department, and given the fact that the Bill includes volunteer workers, how will it be possible practically for the Commissioner of Police or the DPP to know such things? When I tried to think through that point, I wondered whether the Commissioner of Police was going to be given a confidential list of names of people who work in the department. How will the heads of quite extensive organisations actually become aware that a convicted person is an employee of the department?

There are a number of issues outlined in the draft guidelines that I want to raise with the Minister. The intention is to provide information to the director-general of the department on applicants who reach a certain level in the appointment process. At that stage, criminal history checks on those people will be furthered. An issue that came up in the briefing was the method of destruction of that information. Perhaps three or four people will get to the interview stage or beyond and one will be appointed. How will the records of those who are not appointed or, indeed, the records of the person who is appointed be destroyed? What obligation will be placed on the department to destroy those records?

I also notice that it is at the discretion of the Commissioner of Police whether or not he or she discloses information in certain circumstances, particularly where the disclosure may compromise an investigation. Given the descriptions that we have heard of the sorts of investigations that may be compromised, I can only presume that, in order not to compromise an investigation, the Commissioner of Police would not even indicate to the director-general that the person who is the subject of an inquiry is under investigation.

This may be outlined in the Bill and I have missed it, but I wonder what process would be involved if, during the course of an investigation, the person being investigated was appointed to the department. The Commissioner of Police would advise the department of the outcome of the investigation. What steps would have to be put in place for that person to be dismissed, particularly if the investigation was successful? Such things may never eventuate, but it is a very sensitive area. I know that endeavours have been made to put the greatest amount of protection in place for both the applicants and the victims.

There are two other factors that have to be considered and I wish to link them. One of the factors is the length of time since the offence or the alleged offence occurred. The second point is whether the offence or alleged offence was committed by an adult or a juvenile.

In England, an incident occurred where two young boys—and they were astoundingly young—tortured and murdered a four year old boy. That offence was committed when the boys were quite young and I am sure that it will devastate their futures. There is talk of their being released fairly soon. That crime was committed when those boys were juveniles, but it was a serious and massive offence. I certainly hope that those sorts of incidents would preclude people from being employed in any situation where they had unsupervised access to vulnerable people. A person could commit an offence as a juvenile and step into adulthood quite soon after. In such circumstances I want to ensure that the close proximity of the offence will still be considered when an application is made for access to the department.

Unfortunately, human nature has shown that the people who commit these offences are the sort of people who will, at times, take every opportunity to access vulnerable people. As I said earlier, it is because of this tendency that the Bill has been introduced.

I turn now to the consideration of whether the offence or alleged offence is still considered a crime. I can understand the sorts of circumstances in which those criteria will be applied and I understand the principle behind it. I encourage the Minister to consider—and she possibly already has—that although values may change it has to be recognised that at the time the offence was committed the person who committed it was prepared to break the law. That must be an indicator of that person's personality. Obviously, that would depend on the type of incident.

The other factor was the inclusion of provocation, peer pressure and the effect of alcohol. However, the footnote states that the effect of alcohol is not considered an extenuating factor in relation to a sexual offence. I commend the Minister for that. However, I also highlight my concern that the effect of alcohol should not be considered an extenuating factor in relation to violence against children, either, because although it may be against the rules of the work force to come to work in an inebriated condition, the fact is that most honourable members would have learnt of situations where people have gone to work drunk and have either hurt themselves or committed an offence and been dismissed, and an unlawful dismissal process has ensued. Even though it may be against work practices to come to work inebriated, those who do—and there will be some—who have violent tendencies must also be precluded from coming into contact with young and vulnerable people. I commend the Minister for this legislation. In the future, many children will be grateful for the detail that this Bill takes account of in relation to people's histories. I believe that in the future many children will be spared abuse and other forms of mistreatment because this legislation, albeit intrusive, is in effect.