



Speech by

Hon. M. FOLEY

MEMBER FOR YERONGA

Hansard 25 August 1999

CRIMINAL LAW AMENDMENT BILL

Hon. M. J. FOLEY (Yeronga—ALP) (Attorney-General and Minister for Justice and Minister for The Arts) (11.30 a.m.): I move—

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

On 20 July this year I informed the House that the Queensland Cabinet had authorised the preparation of legislation amending the Criminal Law Amendment Act 1945 and the Corrective Services Act 1988. I am pleased to say that the Bill now before the House will present a fair and balanced reform of the law with respect to the disclosure of all sex offences committed by certain persons convicted of sex offences against children aged under 16 years. This reform adopts the scheme of the existing legislation but puts it on a more effective professional basis in the interests of protecting the community.

The Bill will amend section 19, that is, the section under which certain offenders can now be ordered to report their address and change of address where the court forms the view that the offender presents a substantial risk of re-offending. The amendment will give the court an added power to order the offender to report his or her change of name. This amendment is designed in response to the fact that paedophiles sometimes change their names to avoid detection or scrutiny and to enable them to get close to children even after having been convicted.

Also, subsection (5) will be repealed so that if a rehabilitation period is capable of running under the Criminal Law (Rehabilitation of Offenders) Act 1986 in relation to a conviction for which a reporting order is made under section 19(1), then the expiration of that period will no longer override the reporting order. This is not to deny the importance of rehabilitation. Rather it is to ensure that the sentencing court's intention will be given effect to.

The court is uniquely placed to give due weight both to the rehabilitation of the offender and to the protection of the community and thereupon to make the appropriate reporting period under section 19. If a court orders an offender to report for a lengthy period, it will not be cut short by the rehabilitation period.

It is also our intention that the new laws will apply to all orders made under section 19, whether made before or after the commencement of the amending Act, and the Bill says so. The fact that an existing reporting order was made against an offender some years ago will not of itself prevent the release of information about that offender.

Section 20 of the Criminal Law Amendment Act 1945 is the section under which people can now seek the release of information about an offender against whom a reporting order under section 19(1) is made. We will amend section 20 by replacing the Attorney-General with the Queensland Community Corrections Board as the body which can release information under that section.

As I said in this House on 20 July, this change will ensure the administration of criminal justice in Queensland occurs at arm's length from the political process. The board will be able release the information on application only. The applicant will be either a police officer or a corrective services officer or a person claiming to have a legitimate and sufficient interest in having the information.

As well as information about any offence of a sexual nature of which the person subject to a reporting order under section 19 has been convicted, as the law currently stands, the section will allow the board to release other relevant information such as the address of the offender, any change of name of an offender and his or her modus operandi.

The board will be able to release the information to either a person nominated in the application if the person has a legitimate and sufficient interest in having it or to any other person who the board, on considering the application, considers has a legitimate and sufficient interest in having the information. The board may decide, for example, that a school principal should have the information released to him or her, but it will also retain the power to release the information subject to terms and conditions, breach of which will remain a summary offence.

Therefore, a school principal, or anyone else, to whom the board releases the information will be able to make management arrangements as they see fit to deal with the consequences of receiving the information, but they will not have a power or duty to pass it on without the express approval of the board. Also, to remove any doubt about the interpretation of the section, it will state that when a convicted child sex offender is ordered to report, all sex offences committed by that person become relevant for the purpose of deciding what information, if any, should be released.

Section 139 of the Corrective Services Act 1988 will be amended by this Bill to extend the power of the Minister to issue guidelines for the exercise of functions conferred on the board by another Act. This will enable ministerial guidelines, similar to those issued in respect of parole decisions, to be issued by the Minister for Police and Corrective Services, the Honourable Tom Barton.

A new section 22 will be inserted to declare that the expiration of a rehabilitation period under the Criminal Law (Rehabilitation of Offenders) Act 1986 in relation to a conviction mentioned in section 19(1) has no effect on the power to make an order, the effect of an order, the obligation of an offender to comply with an order or the provision of information under section 20. Also, the clause will ensure that a rehabilitation period will not prevent the release of information under section 20 about offences other than the offence that triggers a section 19(1) reporting order to be made.

As stated in the Explanatory Notes, it is intended that the board should be able to release information about other sex offences, irrespective of whether a rehabilitation period has expired for that offence. Otherwise, the board would be restricted to releasing information about only those other sex offences for which a rehabilitation period has not expired.

As I undertook on 20 July, the amendments will provide a fair, reasoned and balanced way of collecting and releasing such information, without letting people take the law into their own hands and without whipping up the hysteria we have seen in recent time in other places. I commend the Bill to the House.
