



Speech by

Hon. JUDY SPENCE

MEMBER FOR MOUNT GRAVATT

Hansard 1 November 2001

DOMESTIC VIOLENCE LEGISLATION AMENDMENT BILL

Hon. J. C. SPENCE (Mount Gravatt—ALP) (Minister for Families and Minister for Aboriginal and Torres Strait Islander Policy and Minister for Disability Services) (11.31 a.m.): I move—

That the bill be now read a second time.

I rise today to introduce the beginning of a new era in the community's fight against domestic violence with the introduction of the Domestic Violence Legislation Amendment Bill 2001. This is an important piece of legislation, which recognises that all Queenslanders are entitled to live free of the fear of domestic and family violence and abuse. It is legislation that was developed after wide and lengthy consultation and for the first time provides legislative protection for a wide range of people not covered by the previous legislation. The expansion of the legislation to cover family members, people with disabilities, the elderly and people in dating relationships is one of this government's election commitments. The new legislation acknowledges not only that our communities have changed but also that it is critical for the health of our communities that these changes are reflected in the evolving nature of our laws.

In the past 12 years since the inception of the Domestic Violence (Family Protection) Act 1989 and 30 September 2001, Queensland courts recorded 130,920 applications for protection orders. In this same period, 91,035 protection orders were made. In 2000-01 alone, 14,191 applications were made, of which only 33 were refused. The people who received these orders were able to find protection from the violence they suffered in spousal and spouse-like relationships under the current domestic violence act.

The Domestic Violence Legislation Amendment Bill recognises that our communities have changed, that the structure of the homes we live in has changed and that the relationships that exist within them have changed. It acknowledges that Queenslanders in all relationships should be able to seek the protection of the law rather than face the trauma and pain of abuse.

I am proud to introduce the Domestic Violence Legislation Amendment Bill 2001. These amendments are about creating a less violent world through safer communities, safer homes and safer relationships. They propose to extend the coverage of the domestic violence act to include people who are abused in family relationships, informal care relationships and intimate personal relationships. This will allow a wider range of people to apply for protection orders. The expansion of domestic violence legislation will cover—

- abuse between family members;
- abuse of older people and people with disabilities by their informal carers; and
- abuse in dating relationships.

The core provisions of the domestic violence act 1989 are retained and have not been amended. The very heart of the act, which is to provide a civil legislative protection against violence between one or more persons, will remain unchanged. The significant changes to the legislation include the insertion of new provisions that explain the expansion of the legislation to cover non-spousal domestic and family violence. Other changes reflect policy decisions, such as the relocation of weapons provisions to the Weapons Act 1990 and the Police Powers and Responsibilities Act 2000.

The bill also changes the title of the act to the Domestic and Family Violence Protection Act. Most importantly, the bill introduces the concept of domestic relationships and defines these as—

- a spousal or spouse-like relationship;
- an intimate personal relationship;
- a family relationship; or
- an informal care relationship.

In doing this, the bill enables people who are abused in these common types of domestic relationships to obtain domestic violence orders.

The bill defines an intimate personal relationship as being one in which two people are engaged or betrothed according to cultural or religious tradition, or where two people are dating or have dated each other and their lives are enmeshed. The relationship does not have to be one of a sexual nature, and same-sex relationships are included. An intimate personal relationship does not exist if two people have dated only once or twice.

The bill also lists several indicia to provide guidance about what is involved in an intimate personal relationship, such as length of time, frequency of contact and extent of trust and personal commitment to one another. Family relationship is defined as the relationship between relatives. A wide definition of 'relative' has been used in the bill, particularly considering that people from Aboriginal and Torres Strait Islander and non-English-speaking backgrounds have a wide concept of the term. The bill defines 'relative' as someone who would ordinarily be considered to be connected to another person because of blood or marriage, or someone whom it is reasonable to regard as a relative.

An informal care relationship is defined in the bill as a relationship where a person is dependent on someone else for help with activities of daily living, such as dressing, preparing meals or shopping. The help must be needed because of a disability, illness or impairment and must be provided in an informal way. This means that care provided under an arrangement, for example, by Meals on Wheels or through Blue Care, is not covered by the bill. A care relationship that involves the payment of a fee is also excluded, as is care provided in an institution or a nursing home.

It is important to note that the bill allows children under 18 to be applicants or respondents for protection orders if they are in a spousal or spouse-like relationship, intimate personal relationship or informal care relationship. But I stress that children in family relationships are not covered by the act. This means that children under 18 cannot bring an application against their parent or guardian. This is considered to be a child protection issue and is covered under the Child Protection Act 1999. It also means that a parent or guardian cannot obtain an order against a child in an attempt to inappropriately manage the child's behaviour. However, because children are covered by the current act and the bill, there are a number of provisions included to safeguard the interests of the child, as well as the rights of parents to be informed of the welfare of their children and the legal processes. These provisions concern representation of children, the service of documents, ensuring children understand the nature and consequences of an order, and children as witnesses.

In recognition of the types of people who would be able to obtain orders under the amended act, the bill also seeks to extend of the range of people who can apply for a protection order on behalf of an individual. Under the amendments, the following persons would be able to make an application on behalf of another person—

- a guardian or administrator appointed under the Guardianship and Administration Act 2000;
- a person who is acting as an attorney under an enduring power of attorney;
- or, if the aggrieved does not have the capacity to make the application themselves, the Adult Guardian.

As mentioned previously, the bill relocates sections about weapons from the Domestic Violence (Family Protection) Act 1989 to the Weapons Act 1990 and the Police Powers and Responsibilities Act 2000. Inconsistencies between the Weapons Act 1990 and the Domestic Violence (Family Protection) Act 1989 were raised by a District Court appeal decision in 1998. The relocation of weapons provisions resolves these inconsistencies and creates uniformity between national firearms policy and state legislation.

This bill is the result of extensive community consultation. Broadly speaking, it seeks to improve and extend the coverage of the existing act so that equitable access to protection is available to a greater range of people affected by domestic and family violence. In practice, it will make our homes, our communities—and this part of our world—a safer place to live. I commend the bill to the House.