



Speech by

Hon. R. WELFORD

MEMBER FOR EVERTON

Hansard 7 August 2001

PENALTIES AND SENTENCES (NON-CONTACT ORDERS) AMENDMENT BILL

Hon. R. J. WELFORD (Everton—ALP) (Attorney-General and Minister for Justice) (12.45 p.m.): I move—

That the bill be now read a second time.

This bill was introduced into the parliament last year by my predecessor. Some changes have been made to the bill as introduced last year because of further consultation.

On occasion, victims of crime fear that an offender, even though convicted, may injure them or harm them in some other way. This bill seeks to address this by allowing the sentencing court in certain situations to make orders prohibiting the offender from contacting the victim or from going to a stated place.

The courts have arguably always had the power to make orders of a similar type as a condition of probation. However, the bill takes this one step further. Under this bill the courts can make such an order as part of any sentence imposed upon an adult offender convicted of an indictable offence against the person. Such an order can be made for the benefit of the victim of the offence and an associate of the victim. An associate of the victim is defined as a person who was with the victim when the offence was committed.

The court may make the order if satisfied of certain matters set out in the bill. For example, the court can make an order if satisfied there is a risk the offender will injure or harass the victim or associate. The court may also make an order if satisfied there is a risk the offender will damage the victim's or associate's property. The court, in deciding whether or not to make the order, is to have regard to all of the circumstances of the case.

The bill makes it an offence for the offender to breach the order. Such an offence is punishable by imprisonment of up to one year. An application for amendment or revocation of a non-contact order can be made by the victim or associate, as well as the offender or prosecutor. This is because the original order is made for the benefit of the victim and/or associate. An offender cannot make an application for amendment or revocation of the order until at least six months after the date of the original order. This will prevent offenders making repeated vexatious claims for amendment immediately after the original order was made.

The Scrutiny of Legislation Committee was concerned with this aspect of last year's bill. I have considered the committee's arguments on this matter. I remain convinced that for the reasons I have just expressed the six-month prerequisite should remain. This prerequisite does not in any way affect the offender's rights to appeal against the order as an appeal against sentence.

The bill provides that an order cannot be made where an order may be made under section 30 of the Domestic Violence (Family Protection) Act 1989. This is because there is power in section 30 of the Domestic Violence (Family Protection) Act 1989 for the sentencing court to make a domestic violence order against the offender. This exception should avoid any potential for inconsistency.

I shall now briefly outline some of the changes to the bill since it was introduced last year. Firstly, the bill provides the sentencing court with a further sentencing option where the court believes there is a need to protect the victim or associate. The new legislation will be monitored closely to ensure that its

intended effect is being achieved. As my predecessor indicated last year, the bill is a further example of this government's ongoing commitment to protect victims of crime.

Out of an abundance of caution, the bill also contains an amendment to section 132C of the Evidence Act 1977. This makes it clear that the judge or magistrate has to be satisfied on the balance of probabilities about evidence given in relation to an order. Honourable members will recall that section 132C was inserted into the Evidence Act 1977 last year. This was done in response to the decision of the Court of Appeal in *R v. Morrison* [1999] 1 Queensland Reports at page 397. The amendments to the Evidence Act 1977 in this bill make it absolutely clear that section 132C applies to this bill.

As I indicated, this bill evidences our government's ongoing commitment to protect victims of crime. I commend the bill to the House.
