



Speech by

Hon. R. WELFORD

MEMBER FOR EVERTON

Hansard 6 November 2002

DISCRIMINATION LAW AMENDMENT BILL
Second Reading

Hon. R. J. WELFORD (Everton—ALP) (Attorney-General and Minister for Justice) (12.37 p.m.): I move—

That the bill be now read a second time.

Queensland has always prided itself on its cultural and social diversity. International visitors acknowledge Queenslanders are the friendliest people in the world. As a result, we have a thriving tourism industry that attracts a wide variety of people from different cultures and social groupings. Respecting our neighbours and tolerating peoples' differences has contributed to a better quality of life for all of us. To maintain the lifestyle we value so highly, we must ensure our laws keep pace with changing attitudes.

While the Anti-Discrimination Act was groundbreaking legislation when introduced by the Goss government in 1991, it is time to modernise some of its provisions. The Discrimination Law Amendment Bill, being introduced now, implements a range of reforms to ensure our state remains a fair and tolerant place to live. It protects the fundamental human rights of all Queenslanders, no matter who they are. Some of the key reforms of the bill include—

- prohibiting discrimination on the basis of family responsibilities under the Anti-Discrimination Act;
- prohibiting discrimination against women who are breastfeeding;
- introducing sexuality vilification laws; and
- inserting a new uniform definition of 'spouse' in all Queensland legislation which incorporates de facto partners, regardless of their gender or sexual orientation.

I will now explain some of those changes in detail. The first part of this bill updates Queensland laws to ensure all de facto partners have similar legal rights and obligations as married spouses. Over the past decade, the Queensland parliament has recognised de facto relationships in over 20 acts. Nine of these acts currently recognise de factos in same-sex relationships. This reform is about updating the remainder of Queensland's laws to ensure that they recognise de facto relationships.

The bill achieves this by inserting a new uniform definition of 'spouse' which includes a de facto partner, regardless of sexual orientation, into the Acts Interpretation Act 1954. This uniform definition will now apply generally to all existing and future legislation across Queensland where the term 'spouse' is used, unless expressly stated otherwise. Existing definitions of 'spouse' and 'de facto' in legislation will be repealed, except for a handful of acts which will retain the married spouse definition. These outstanding acts retain their definition for extraordinary technical reasons or because they are being considered as part of other legislative reviews in the near future. Over 60 acts will be affected by this amendment.

Some legislation in Queensland confers a large financial benefit on the death of a partner. In this type of legislation, a cohabitation period for de factos is desirable to emphasise the importance of a genuine and enduring relationship to any entitlement to such benefits. The WorkCover Queensland Act 1996, the Supreme Court Act 1995 (which deal with dependency claims on death of person) and the state superannuation schemes will generally require a cohabitation period for de factos of two years. In

individual cases, there will be some discretion under these schemes to accept a lesser period where the circumstances of the relationship evidence a clear intention by the couple that their relationship is to be a long-term, committed relationship. A two-year cohabitation period already exists in other acts which confer financial benefits on one or both of the partners in a de facto relationship; for example, the Property Law Act 1974, the Duties Act 2001 and the First Home Owner Grant Act 2000.

The Succession Act will have its current five-year cohabitation period for de factos reduced to two years to ensure consistency. The Land Tax Act will also include a two-year cohabitation period for de factos to ensure consistency with the Duties Act and the First Home Owner Grant Act. New South Wales, Victoria and Western Australia have already enacted similar laws. Tasmania, South Australia and the Australian Capital Territory have recently announced similar reforms.

As I mentioned, since the introduction of the Anti-Discrimination Act more than 10 years ago, there has been significant social change in our state. In many areas, the protection provided by the act no longer meets community expectations about the type of society in which we want to live and the reasonable level of respect which responsible adults should accord to their neighbours. This bill will make much needed reforms to ensure the act can continue to fulfil its functions of protecting the human rights of all Queenslanders, securing and enhancing Queensland's reputation as a tolerant and fair community. One of the key new reforms is prohibiting discrimination on the basis of a person's family responsibilities. The attribute of 'family responsibilities' will apply when a person has a responsibility to care for or support members of their immediate family beyond those covered by the existing attributes of 'parental status' and 'pregnancy'. For example, it will now be unlawful for an employer to treat someone less favourably because of their 'family responsibilities' to care for their aged parents.

The bill will also extend the attribute of breastfeeding to all areas in the act, including the workplace. Currently, breastfeeding mothers are only protected in the course of the provision of goods and services. Our government recognises that new mums who need to breastfeed their children deserve the protection of our laws so that they can appropriately do so, whenever and wherever they need to. Significantly, the reforms will also include new vilification laws prohibiting threats of violence on the grounds of one's perceived sexual orientation. These laws will mirror the racial and religious vilification laws introduced by our government last year. No-one should have to tolerate abuse of any form because of who they are. The sexuality of a person cannot justify their being victimised by any form of harassment, assault or other hate crime of violence. Our government believes that these laws are vital to ensuring that verbal violence does not escalate into physical violence against someone because of their sexuality, as evidenced by a number of horrific crimes recently brought before our courts.

The bill prohibits discrimination on the basis of a number of new attributes, namely, 'family responsibilities', 'sexuality' and 'gender identity'. While these will not greatly widen the scope of the act, they will fill important gaps in the existing framework of protection. The ground of 'sexuality' will cover 'heterosexuality, homosexuality and bisexuality'. In particular, it will provide much clearer protection for the gay and lesbian community, which has previously had to rely on the attribute of 'lawful sexual activity' to make a complaint or seek a mediated resolution of an ill-founded conflict or unfair treatment. This has been unsatisfactory because it has been interpreted to mean that a person has to demonstrate actual activity to gain protection such that, for example, it would be lawful to discriminate against a celibate homosexual. The attribute of 'lawful sexual activity' will remain but will be defined to mean a person's status as a lawfully employed sex worker.

The new attribute of 'gender identity' will, for the first time, protect transgender people. All other states prohibit discrimination against transgenders. The anti-vilification provisions will also extend to 'gender identity'. The bill also amends the Registration of Births, Deaths and Marriages Act to enable transgenders over 18 who have undergone reassignment surgery to have their gender altered on their birth certificate. All other states allow transgender people to rectify their birth certificates in a similar way.

The existing attribute of 'religion' will also be clarified to ensure that people who choose no religious belief at all, for example humanists, cannot be discriminated against solely on this ground. No-one should suffer discrimination solely on the ground of the source or system of their spiritual beliefs. This bill also introduces a number of procedural reforms designed to increase the efficiency of the Anti-Discrimination Commission and the Anti-Discrimination Tribunal. Early intervention, fair mediation, education and just settlement of disputes are the hallmarks of our government's approach to protecting the human rights of all Queenslanders. We should treat every member of our community as if they were our neighbour and friend. These reforms are not about endorsing, condoning or encouraging any particular lifestyle. On the contrary, they are about respecting the human dignity of every individual and rejecting the fundamental unfairness of actions which deal out ill-treatment and offensive harm in denial of the inherent social diversity of any vibrant, contemporary and just society. I commend the bill to the House.

Debate, on motion of Mr Springborg, adjourned.