



Speech by

**JULIE ATTWOOD**

**Member for MOUNT OMMANEY**

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### **EVIDENCE [PROTECTION OF CHILDREN] AMENDMENT BILL**

**Mrs ATTWOOD** (Mount Ommaney—ALP) (12.28 p.m.): The Evidence (Protection of Children) Amendment Bill 2003 amends, among other statutes, the Criminal Code and the Evidence Act 1977. The first stage of the Beattie government's reforms to improve the treatment of child witnesses by the criminal justice system was the Sexual Offences (Protection of Children) Amendment Act. This bill represents the second stage.

This bill essentially implements significant recommendations made in reports by the Queensland Law Reform Commission, the Australian Law Reform Commission and the Human Rights and Equal Opportunity Commission on providing evidence from vulnerable children about sexual and physical crimes against them. About nine drafts of this bill were released to various government and non-government agencies, including the Department of the Premier and Cabinet, the Department of Families, the Department of Aboriginal and Torres Strait Islander Policy, the Commission for Children and Young People, Education Queensland and Queensland Health. As a result of the submissions received on the various drafts, further drafts of the bill, or excerpts of it, were provided to the Chief Judge of the District Court, the Bar Association of Queensland, Legal Aid Queensland, the Director of Public Prosecutions and the Queensland Police Service for comment. The extensive consultation and desire to protect our children are evident in the final product.

The predicament of children who are victims of sexual and physical abuse is an important issue of concern to all Queenslanders. They often put up with abuse for years, and some believe that it is their own fault for being bad. Nothing could be further from the truth. No-one has the right to force themselves on another, and this is particularly so in the case of minors, people with a disability and those who are intellectually impaired.

The real and undefinable costs of this despicable abuse to the victim and to our community are significant. It cannot be swept under the carpet nor dismissed as something that was acceptable at the time. In order to protect our community, it is vital that perpetrators of child sexual and physical abuse are brought to justice by our criminal justice system. This can occur only if children report the abuse and participate in the court process. Can members imagine what the world would be like if the paedophilia that existed 20, 30 or 40 years ago was reported then? It was not reported because children did not feel safe in reporting it, and look at the mess it has made of so many of their lives. If children do not feel safe and supported by our criminal justice system, they will not participate in these processes and there is a very real risk that alleged offenders or perpetrators will not be brought before the courts for their actions.

The criminal justice system's treatment of child witnesses, particularly child victims of sexual assault, will be improved by this bill. The Project Axis inquiry found that about 50 per cent of the victims of child sexual abuse never report the abuse. Less than one-fifth of those who report to police at all do so within a month of the incident, and many will not disclose information about the incident until they reach adulthood.

Children who are the victims of abuse from family members or other trusted adults are even less likely than adults to complain at the first reasonable opportunity. It is therefore of vital importance that children are treated with dignity, respect, care and humanity by our criminal justice system so that they will report abuse and participate as witnesses in the court process. I have been told that some children's experiences in the criminal justice system deter them from making further reports of sexual or other abuse.

These amendments are designed to meet specific objectives, and I believe that they do it well. The objectives are: that a child should not have to give evidence more than once; to preserve, to the greatest extent possible, the integrity of the evidence of a child witness; that measures to reduce stress when evidence is required should be used where possible; to limit, to the greatest extent possible, the distress or trauma experienced by a child witness as a result of giving evidence; to ensure that in a criminal matter an accused person receives a fair trial; and that trials should be resolved as quickly as possible.

These reforms do not compromise the right of an accused to a fair trial, nor do they diminish the high standard of proof required to secure a conviction. These reforms recognise that any witness giving evidence in court, but particularly a child witness, is entitled to be treated with dignity and respect. The mandatory use of audiovisual links is catered for through the use of CCTV and prerecording the evidence. This is seen to be fair to both the accused and the witness. The real advantage is that some child abuse cases proceed that might not otherwise proceed and distress to the witness is minimised.

The amendments provide that once a committal has occurred and an indictment is presented, the child's evidence can actually be taken and recorded well prior to the trial in a pretrial hearing. The prerecorded tape of the evidence from the preliminary hearing is used at the trial before the jury so that, ordinarily, the child need not appear in the court for the trial.

If a child is traumatised by cross-examination at committal, he or she may refuse to testify at trial or the prosecution may discontinue in the interests of the child's emotional wellbeing. Perpetrators therefore evade justice, not through legitimate issues relating to the child's evidence but through the intimidation of that child.

The bill also recognises that in some cases it may be necessary in the interests of justice to permit cross-examination at the committal. These proposed reforms will ensure that flawed prosecutions are discarded at an early stage and also will reduce unnecessary delays in the criminal justice process and reduce the trauma to vulnerable witnesses. The bill also makes a range of procedural changes to the criminal justice processes to ensure the efficient and effective operation of trials and appeals.

This bill is part of a comprehensive reform package directed at improving the way the criminal justice system treats child witnesses and ensuring that those who offend against children are detected and punished for their crimes. It is a significant initiative that delivers on one of this government's priorities of looking after our children. I commend the bill to the House.