Speech by

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DANGEROUS PRISONERS (SEXUAL OFFENDERS) AMENDMENT BILL

Mrs STUCKEY (Currumbin—Lib) (5.11 pm): I rise to speak to the Dangerous Prisoners (Sexual Offenders) Amendment Bill 2007. In doing so, I wish to support the comments of my colleague the honourable member for Caloundra. It must be noted that the Dangerous Prisoners (Sexual Offenders) Act 2003 was a landmark piece of legislation. It gave the Queensland Supreme Court the ability to order the continuing detention or supervised release of serious sex offenders beyond the end of their initial sentence. According to its explanatory memoranda, the initial legislation was enacted in 2003 in response to the growing concerns of the community regarding the release of convicted sex offenders, both because of the abhorrent nature of these offences and because of a lack of evidence demonstrating the rehabilitation of some offenders after they refused to participate in sexual offender treatment programs.

The proposed amendments to this legislation that is currently before the House purport to further protect the community from the threat posed by serious sexual offenders by strengthening the framework through which serious sex offenders are able to be preventatively detained. As shadow minister for child safety, I am constantly being informed of shocking cases of child abuse and neglect. Those which are most abhorrent are ones where children have been sexually abused by paedophiles after they have been released from jail. The alarming frequency of dangerous sex offenders and paedophiles coming before the courts has disturbed judges such as Patsy Wolfe and prosecutor Sal Vasta, as has the intensity of their crimes. It is clear from these statistics that more needs to be done to deter and prevent ongoing offences.

I note in a recent article in the *Courier-Mail* in August that the police commissioner, Bob Atkinson, revealed that 2,436 registered sex offenders live in Queensland, including 558 in identified jails waiting to be released. This is certainly an unpleasantly high number of offenders that we have here in Queensland.

As stated in the explanatory notes, the main objective of the Dangerous Prisoners (Sexual Offenders) Amendment Bill 2007 is to amend the Dangerous Prisoners (Sexual Offenders) Act 2003 in order to strengthen the response to a contravention of the supervision order so as to better protect the community and to act as a deterrent to contravening behaviour. Specifically, clause 4 amends section 20 of the act to allow magistrates to issue a warrant for the arrest of a released prisoner if there is sufficient grounds for suspecting the released prisoner has contravened, or is likely to contravene, a supervision order.

Clause 5 replaces section 21. The new section provides that the court is obligated to order a released prisoner brought before it under section 20 be detained pending a final determination under section 22. However, the court may order a prisoner's release if that prisoner satisfies the court that exceptional circumstances exist. Clause 6 amends section 22 to provide that, upon being satisfied of a contravention of a supervision order, the court must rescind the order and make a continuing detention order unless the released prisoner can satisfy the court that adequate continued community protection can be assured under that order. Clause 9 inserts a new section 43B creating a summary offence carrying a maximum penalty of two years imprisonment, which is applicable to a released prisoner who contravenes a condition of their supervision order.

There are numerous problems with these proposed amendments which the honourable member for Caloundra drew to the House's attention back in June. Notable among these are clauses 5 and 6, which provide that prisoners can enter or stay in the community if they satisfy the court on a balance of probabilities that exceptional circumstances exist or that adequate continued community protection can be assured under their original order. A balance of probabilities is only the civil standard of proof, not the criminal standard of beyond a reasonable doubt. Even though the initial granting of a supervision order by the Supreme Court is civil in nature, under the Dangerous Prisoners (Sexual Offenders) Act 2003 an offender is placed on such a supervision order based on a 'high degree of probability' that they pose an unacceptable risk.

I ask the minister: why is it that the onus of proof is now downgraded to a mere balance of probabilities? Why also is it that these dangerous offenders, having breached their supervision order, need only demonstrate their suitability to enter or remain in the community based on a balance of probabilities? These are dangerous criminal offenders we are talking about here with 30 to 40 conditions placed on their community release. Surely a balance of probabilities is not anywhere near strict enough.

Also of concern is the fact that the bill creates a summary offence to be dealt with in a Magistrates Court for a breach of a supervision order initially granted by a Supreme Court. The breaches that this refers to are supposedly only technical breaches, yet the bill is silent on what a technical breach actually is.

The bill also fails to provide any form of framework in order to distinguish a technical breach from a serious breach. Nor does it stipulate who can decide what constitutes one from the other. This glaring hole in the bill creates ambiguity which will no doubt lead to yet another proposed amendment to the legislation if the current bill is passed. I trust the minister will address this issue in his reply.

In addition to this bill's shortcomings, at this point I also wish to address the wider issue of preventative detention as a whole. Preventative detention such as is provided for under the Dangerous Prisoners (Sexual Offenders) Act 2003 has its supporters and also its critics. Some believe preventative detention is in the community's best interests as it provides a safeguard against known dangerous criminals who pose a serious risk of reoffending. Dangerous criminals are able to be either incarcerated beyond their initial sentence or permitted to re-enter the community under strict supervision orders. On the other hand, significant questions have been raised as to whether the legislation is consistent with Australia's international human rights obligations.

The victims of violent sex perpetrators herald such preventative detention laws. One child victim who is now an adult was quoted in a *Courier-Mail* article as saying—

The children need to be safe and the only way they are going to be safe is for everyone to stand up and get the guts to keep these predators behind bars where they belong so that they can be watched properly.

Preventative detention and community supervision orders are supposed to help keep violent sexual offenders away from our schools, parks, shopping centres and other places where the community may find itself at risk, not to mention where children may find themselves at risk.

To rely on weak sciences, as suggested in clauses 5 and 6, is unacceptable when it comes to making decisions regarding the release of serious sexual offenders. It undermines one of the objectives of the legislation which is supposed to protect the community from risks posed by these offenders. As I mentioned earlier, supervision is a very grey area. By releasing dangerous sexual offenders back into the community while there is still a high risk of recidivism the government highlights the fact that it does not know how to deal with the situation at hand.

It is virtually impossible to monitor every contact and movement outside the offender's residence, and therefore children and the public at large are still at risk. I note that the report on the Offending Persons Across Life Course found that criminals who were supposedly on supervision orders had regularly come into contact with police in their youth. If the government is serious about tackling crime, and in particular sexual offences, it needs to embark on broadscale education campaigns along with intensive rehabilitation.

Without a doubt the debate surrounding preventative detention and adequate supervision will continue to rage for some time yet as the community still feels considerable unease. However, at this point the direct question at hand is the Dangerous Prisoners (Sexual Offenders) Amendment Bill. For the reasons I have previously stated I do not believe that the proposed legislative changes will enhance the current Dangerous Prisoners (Sexual Offenders) Act 2003.