



Speech by

Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Thursday, 3 September 2009

VICTIMS OF CRIME ASSISTANCE BILL

Hon. CR DICK (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (4.27 pm), in reply: Firstly, can I thank all honourable members for their contributions to this debate on the Victims of Crime Assistance Bill 2009. I would like to recognise particularly the support given by all members on both sides of the House for this bill. At the outset, I would also like to table the erratum to the explanatory notes circulated in my name.

Tabled paper: Victims of Crime Assistance Bill, erratum to explanatory notes [\[846\]](#).

This erratum goes to clause 61 on page 74 of the explanatory notes—the last sentence. There are two errata. One is the removal of a full stop and the other one appears in clause 80 on page 58 in the fourth paragraph. That erratum better describes an example that is in the explanatory notes. Just out of an abundance of caution and to give greater clarity, we have reworded the example set out there in clause 80. It does not change in any substantive way the explanatory notes but just makes them clearer for honourable members.

The debate on this bill today is the culmination of the most substantial review of the criminal injury compensation scheme in this state since the introduction of the soon-to-be-repealed Criminal Offence Victims Act 1995. The review, announced in November 2007 by the Premier and the then Attorney-General, the member for Toowoomba North, whose presence in the chamber I acknowledge today, and undertaken by the Department of Justice and Attorney-General involved extensive consultation with an external community reference group formed specifically for the review.

The review recommended that the existing scheme be repealed and replaced with a new scheme. The key findings of the review which underpin this bill were that the new scheme should provide financial assistance to a more comprehensive range of victims through interim and final payments for specific needs related to their recovery from the effects of the crime; the new scheme should be simpler and easier to access and reduce victims' costs and contact with the court and offender; and services available to victims should be more coordinated to provide a continuum of care that will assist victims to recover quickly and get on with their lives sooner.

Consistent with the review's recommendations the government has made a definite decision in this bill to focus on financial support and services for victims. Specifically, the assistance scheme under the bill provides for the payment or reimbursement of the costs of goods and services that the victim requires to help them recover from the physical and psychological effects of the crime. When the new scheme commences victims of crime will have access to faster, more effective financial assistance as well as coordinated support services. Waiting times and costs will be reduced because victims will no longer be required to apply for compensation through the court system. A team of assessors will ensure applications are finalised in a timely manner as well as making the process easier and less daunting than the current criminal compensation scheme.

I mentioned before the consultation with an external reference group as part of the review. This reference group comprised a range of victim support groups. Before turning to some of the matters raised

by honourable members, I place on record my appreciation of the work and input of this reference group, in particular the victim support groups, the members of which gave their valuable time so willingly and contributed so much to the development of this bill. Their tireless effort and input into the review has ensured a new and more efficient scheme to assist victims.

I will now address some of the matters raised by members in the course of this debate. The member for Southern Downs raised the issue of funding to the State Penalties Enforcement Registry to support the changes brought about by this bill. I concur that this is an issue that we need to remain cognisant of and would note that since 2001 the State Penalties Enforcement Registry, known as SPER, has increased its clearance rates and the value of debts collected. In the 2008-09 financial year SPER finalised 116,949 court orders to the value of \$61.58 million.

The member for Burdekin raised the issue of payment of legal costs. The new scheme will replace a complex and overly legalistic victims' compensation scheme with an assistance scheme focusing on the needs of the victim for goods and service to support recovery from their injuries. Unlike the current scheme, victims will not be required to lodge an application to the District or Supreme courts. The Victim Assistance Unit and Victims LinkUp service within the new scheme will assist victims in applying for assistance and will gather most information required to make a decision to provide assistance to the victim on their behalf. However, clients of the new service may have high support needs and may be very distressed from their experience. Therefore, the government has provided for \$500 in excess of any financial assistance granted to most categories of victims under the bill. This will assist victims of crime who are injured to seek independent legal advice where necessary.

The member for Coomera asked whether the payment of funds under the victims scheme would affect Centrelink or other payments and whether it would be assessable for taxation purposes. I am given to understand that this has not been an issue that has arisen under the current scheme due to the payments having no income component. I would note that persons concerned at any time about their taxation or Centrelink obligations should discuss such matters with the Australian Taxation Office and Centrelink respectively and take independent advice. An interim indication from Victoria is that special assistance payments in that jurisdiction may not be taxable. I am not in a position to provide definitive advice on behalf of the Australian Taxation Office or Centrelink and reiterate the need for independent advice on the subject.

The member for Gladstone asked whether victims would need to go to court in order to access further compensation amounts. It should be noted that neither the current compensation model nor the new victims assistance model are intended to reflect the common law approach or amounts of compensation. The new scheme, in contrast, is not about a lump sum payment to a victim but rather about providing victims with the funding they need to access services and get them back on their feet as soon as possible. The government's responsibility under this scheme is a clear one to the needs of the victims, demonstrating a clear responsibility to the people of Queensland to ensure the scheme is just and equitable for all who access it.

The member for Currumbin raised the issue of victims of the individual who was recently convicted of rape and sexual assaults on Brisbane bikeways. It is not appropriate for me to comment on the entitlements of individual cases yet to be determined under the current or new scheme. Each matter needs to be considered on its individual circumstances to determine the best interests of the victim. Also, the victim's wishes need to be taken into account.

Both the current and new scheme provide for a maximum amount of assistance of \$75,000. There are significant differences in timeliness between the two schemes. A victim who applies under the current scheme will need to wait for a court order against the offender and if the offender does not satisfy the order the victim can then apply to the state for an ex gratia payment. This can take years. Under the new scheme a victim will receive assistance quickly, including interim assistance as necessary of up to \$6,000. The assistance will be tailored to their needs at the time they most need it, for example, counselling and medical expenses, special assistance up to \$10,000 and assistance to cover loss of earnings of up to \$20,000.

Under the current scheme, a victim will not necessarily receive the maximum; it will depend upon the nature of the injuries they have sustained. Compensation is determined having regard to the compensation table set out in schedule 1 of the current act. The table lists the injuries and the percentage of the maximum that can be awarded for each injury. It is not necessarily the case that a victim will receive less under the new scheme. It will depend upon their individual needs and out-of-pocket expenses, including loss of earnings. The new scheme gives victims the greatest chance of recovery rather than a lump sum years after the incident. Also, the victim does not have to go to court with the prospect of having to face the offender again but applies to the government instead. There are tangible and intangible benefits to the victim, government and society of early intervention under the new scheme. It will be the victim's choice which scheme they wish to access assistance under. Victims groups that were involved in developing this

change in focus to early treatment rather than lump sums years after the event support the proposed scheme.

The member for Burnett raised the question of whether persons who became victims before the bill becomes law would be able to apply under the new scheme. The bill repeals the current scheme. The transitional provisions ensure that victims who have an act of violence committed against them prior to its repeal do not lose a right to apply for assistance. If a victim applies under the current scheme before commencement of the bill, that application will continue to be heard under the current scheme. For court applications, a victim has until two months after commencement of the bill in law to make the application. This is due to the complexity of court applications, the need to file documents and to engage a lawyer. For non-court applications, the victim must make the application before commencement of the bill on 1 December 2009.

A victim who would have had a right under the current scheme except for its repeal but who has not made an application under the current scheme will be able to apply for financial assistance under the new scheme within the time limits set out in the bill. Some victims who are ineligible under the current scheme will have rights to apply for financial assistance under the new scheme—for example, primary victims whose offenders are dealt with in the Magistrates Court and secondary victims. These victims are only eligible for financial assistance for acts of violence that occur after commencement of the act. The act will be prospective, not retrospective.

The bill also transitions applications by family members and dependants—that is, related victims. If one or more related victims has made an application under the current scheme, they must be made within the current pool—that is, \$39,000 for dependants and \$9,000 for related victims. If none of the related victims have made a claim under the current scheme before commencement of the bill, then the related victims can put in a claim under the new scheme for the \$100,000 pool of assistance. My department has prepared a communications strategy to alert victims to these issues, including newspaper advertisements and radio announcements.

The member for Burnett also raised issues in relation to persons affected by events at the Bundaberg public hospital and whether they would be able to apply under the new scheme. I would encourage any victims to contact the Victim Assistance Unit, once it is established under the act, where they can receive advice as to their rights and the processes available to them.

In conclusion, I again thank honourable members for their contributions to this debate. I particularly acknowledge the work of my predecessor, the member for Toowoomba North, the honourable Kerry Shine, for his work in championing this bill. He has been a relentless champion in this House for the rights of victims in Queensland and this bill is a testament to his hard work and legal acumen. I also take this opportunity to thank once more the members of the external reference group and publicly acknowledge the role they have played. I wish to acknowledge them individually by name. The members of the group were the Queensland Homicide Victims Support Group, the Aboriginal and Torres Strait Islander Legal Service, Relationships Australia, Bravehearts, the Gold Coast Centre Against Sexual Violence Inc., the Australian Lawyers Alliance, the Queensland Law Society, the Working Against Abuse Service, Protect All Children Today Inc., the Immigrant Women's Support Service, the Elder Abuse Prevention Unit, the Women's Legal Service Queensland, the Domestic Violence Court Assistance Network, the Queensland Domestic Violence Services Network, Women Working with Women with Intellectual and Learning Disabilities, Queensland Advocacy Inc., Caxton Legal Centre and the Court Network.

These groups and the hardworking Queenslanders who give their time, often voluntarily, to keep the process going are valued members of the broader justice community and this new scheme has benefited greatly from their input and advice. I also thank the officers from the Department of Justice and Attorney-General who have been integral in working on both the review of the criminal injuries compensation scheme and the preparation of this bill. From the review team, I particularly acknowledge Natalie Parker, Farina Khan, Liza Windle, Gail Hartridge, Susan Kerr, Anna Rickard and Tricia Matthias. In particular, for their further work on this bill I thank Tricia Matthias, Kerry Bichel, Natalie Parker and Nicola Doumany, as well as Mark Biddulph from my office. I commend the bill to the parliament.