



Speech by

Andrew Powell

MEMBER FOR GLASS HOUSE

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CHILD PROTECTION AND OTHER ACTS AMENDMENT BILL

Mr POWELL (Glass House—LNP) (8.38 pm): I think it is fair to say that every time I consider a piece of legislation that impacts upon child protection I weigh up a number of factors: I weigh up the impacts on the family; I weigh up the impacts on the children who come into contact with the department; I weigh up the impacts on my former colleagues within the department of child safety; and I take into consideration our responsibility to provide good government. I suspect the drafters of this bill walked a similar fine line. It is a balancing act in child protection between the rights of the child and the rights and liberties of their parents. I will spend a bit of time addressing some of the concerns around the rights and liberties of individuals other than the children, but from the outset will acknowledge that when asked by the Scrutiny of Legislation Committee to provide some information on how this bill aligns with the UN Convention on the Rights of the Child the minister did provide substantial information. As has been mentioned by previous speakers, it is consistent with article 3 in particular, which basically puts forward that the child's best interests are paramount. It also aligns with articles 9, 19 and 20.

On the other side of the equation, the Scrutiny of Legislation Committee has drawn our attention to a number of clauses that do impinge on the individual's rights and liberties and challenge natural justice. I will spend a moment looking at just two of those. First of all, clause 31 inserts a new chapter and part that provides for temporary custody orders. The proposed new section 51AF would allow a magistrate to provide a temporary custody order for matters including authorising an officer or a police officer to take a child into, or keep a child in, the chief executive's custody; authorising a child's medical examination or treatment; directing a parent not to have contact with a child; and authorising an officer or police officers to enter and search any place to find a child. The explanatory notes do provide information indicating that clause 31 has sufficient regard to the rights and liberties of the parents of a child for whom a temporary custody order is made. It is worth reading into the *Hansard*. The explanatory notes state—

The Bill will introduce a new order, the temporary custody order, which the Court may make for up to three business days and, similar to the temporary assessment order, it may also be made by the Court after a child has been removed and without notice to the parents. The order will only be made when an authorised officer provides the Court with sufficient evidence that a child is at an unacceptable risk of harm and likely to suffer harm if the order is not made and, within the term of the order, the chief executive will decide, and begin taking, appropriate action to meet the child's care and protection needs. In these circumstances, a temporary custody order for three business days will secure the child's safety. The parents' rights will then be preserved in relation to the processes for the actions to be undertaken by the chief executive which may include applying for the child protection order which requires parents to be notified and heard by the Court.

It is a fine line between protecting the urgent needs of the child, particularly one who we know is at imminent risk of harm or has been harmed, against that of actually taking the time to speak to the parents and notify the parents.

Clause 38 amends section 51ZE to allow the chief executive to enter into an assessment care agreement with the consent of only one parent if either it would be impractical to obtain the consent of both parents or the chief executive has made reasonable attempts to obtain the consent of the other parent. During my time in child protection, we often saw issues such as family law court matters play out within the child protection sector. Whenever we see a situation where we are only offering one parent consent along these lines, I am concerned that we are opening ourselves up and making ourselves susceptible to family law matters playing out within the child protection system. I note the words 'reasonable attempts' there. I

would ask that the minister give some information in his summing-up or during the debate on the clauses as to how 'reasonable' is defined. It is possibly not clear enough in this legislation. It would be useful to get some further information on that.

Clause 31, as was also identified by the Scrutiny of Legislation Committee, impinges upon the natural justice. As I said, it is about providing for a temporary custody order to be made without notice to a child's parents. Again, it is an alarming situation that we may need to get to that point. However, I do acknowledge that in some instances it is simply necessary in order to protect the child and keep the child safe. There is no doubt that being a child safety officer is a challenging position and they walk this fine line every day. Any support that we can give them as a government to ensure that their job is made easier is a good thing. I have good friends in the department who relate that they continue to be stressed, overworked and outnumbered by bureaucratic layers. It makes us wonder if these amendments are about the rights of the child or, indeed, are just a legislative solution to workload pressures. If it is the latter, if it is a case that the government is not willing to address the inherent issues within the department itself—inherent issues such as the inability of front-line staff to perform their duties—I certainly do not support it.

I turn to what is now considered one of the minister's main priorities and that is early intervention and prevention. I can only say that I wish it had been a priority for previous ministers, particularly during the CMC review and certainly in the period afterwards. When I joined the department it quickly became evident to everyone to whom we talked that the piece that was missing from the puzzle was an equal and comparable investment in prevention and intervention at the same time as investing in the tertiary intervention and the out-of-home care services. If the two had run in parallel, I do not think we would be in the current situation where we are seeing more and more children entering out-of-home care and more and more children who are unable to be placed with foster-carers winding up in high-end residential facilities and also in temporary facilities such as motels. An investment some eight years ago or even six years ago may have produced a far different result.

Whilst I am glad to see this change, I am not sure that the proposed solution is the best response. I speak in particular of Helping Out Families and where it talks of establishing a lead Family Support Alliance organisation and a network of service providers at three pilot sites at Logan, Beenleigh and Eagleby in October 2010 and the Gold Coast in 2011. In his second reading speech, the minister said—

Under the Helping Out Families initiative, child safety service centres will refer a family, via their new regional intake service, to a Family Support Alliance organisation. To support this approach, referrals will be made from Child Safety Services to the Family Support Alliance organisation without requiring the family's consent.

I am worried that this lead Family Support Alliance organisation is potentially adding yet another layer of bureaucracy, albeit in the non-government sector. I am not questioning the concept of alliances or partnerships. All evidence internationally and certainly interstate and in our own state suggests that alliances and partnerships deliver the best outcomes not only for tertiary intervention but also for prevention and early intervention outcomes for families and children. That is established practice throughout the world and it was certainly what I was working towards both in my role as the zonal planning and partnership officer and as the program manager for that program.

A government member interjected.

Mr POWELL: It is interesting that the member says that. The solution may be that the role would better sit out in the non-government sector which may negate the need for this investment in a separate stand-alone organisation. What you could do then is put that investment that we are making into those stand-alone organisations back into the sector itself to increase the funding to alcohol, tobacco and other drug abuse services, maternity services, mental health services and housing in the area. We would only need that small administrative component within the non-government sector to drive the partnerships.

Ms Johnstone: You still need someone to take the lead.

Mr POWELL: You still do need someone to take a lead and that lead may come from one of the non-government sector organisations. I refer to the Best Start program in Victoria—and I am not going to say that Victoria has everything right or that Victoria has anything comparable to our state in terms of geographic coverage and so on. However, its Best Start program is about providing a comprehensive, coordinated family service system. Its flier states—

To achieve better outcomes for children and families, we need an integrated system of services that can respond to the emerging needs of children and families in local community settings. To become more effective, service systems need to adopt a family-centred approach to working with families, a partnership approach to working with communities, and a strength-based approach to policy and service development. Better outcomes are also achieved when services are comprehensive and inclusive.

It goes on to talk about the partnership aspect and it takes a different approach. Rather than creating an organisation to rule over those partnership arrangements, it funds local partnerships, which are basically the cornerstone of its approach. Many benefits are derived from forming broad partnerships that bring together the expertise and experience across a range of government and non-government service providers in areas such as child rearing, early years service delivery, local planning and good practice. This expertise and experience can be used to develop innovative and collaborative responses to improve

outcomes for children. It is basically about investing in the existing primary and secondary intervention services in an area and then investing a small amount in providing some form of resource to allow the partnerships to form naturally within those organisations.

We are seeing it across other sectors. We are seeing it in the homelessness sector. It is perhaps something that we could see in the child protection sector instead of setting up another layer of bureaucracy, albeit in the non-government sector. It means that what we are seeing in this approach perhaps smacks of a crisis-driven approach. Again, it does not necessarily suggest that the government is taking an evaluative approach. We have looked at the RAI. We are getting good feedback from the RAI. We are getting better feedback from some of the service provision in the tertiary sector. It would be wise to look at where models are working not only in other states but also internationally and perhaps adopt those rather than try something new.

This suggests that there has been a bit of chopping and changing of service delivery models in the state, which brings me to Indigenous services. In his second reading speech the minister was making loud noises about the \$8.5 million investment in Indigenous services. What he will not tell you is that in the process he is mixing and matching such services and confusing service delivery, perhaps in his drive to squeeze the most out of his dollar.

My understanding was that that same amount was originally set aside solely for the recognised entity function. We are now hearing that it is also providing family support services. Perhaps there is a call for that, although possibly that would stretch the REs and their ability to respond to the department's needs. I am particularly concerned that services that currently are delivering both the important RE function and family support services are having the latter ripped off them. They are being given to other services that do not have a cultural connection to a geographic community or family group. They do not have the geographic coverage of an area and they have no established service base.

I notice that the members for Mulgrave, Townsville and Cook will speak to this bill. I will be interested to know whether they have received the same feedback that we have from Indigenous services in those areas, particularly around Mornington Island, Mount Isa, Cairns, Townsville and the cape. This is not something to crow about. In fact, it is quite alarming, particularly given the inability of this government to stem Indigenous overrepresentation in the system.

As members from both this side and the government side of the House have said, my heart goes out to our front-line child protection staff. Certainly, they have the toughest job of any I know and it is a very thankless job. I thank them for everything they do. Unfortunately, I fear that this government is not helping them. I fear that it continues to shuffle the deck chairs on a sinking *Titanic*. I am not convinced that this legislation will assist them, either.