




Speech by

Jarrold Bleijie

MEMBER FOR KAWANA

Hansard Tuesday, 10 May 2011

FORENSIC DISABILITY BILL

 **Mr BLEIJIE** (Kawana—LNP) (9.35 pm): Tonight I will contribute to the debate on the Forensic Disability Bill before the House. At the outset I would like to endorse the shadow minister for Child Safety and shadow minister for Disabilities and Mental Health, the member for Aspley, for her second reading debate contribution and the manner in which she articulated the LNP position on the bill.

The bill amends the Disability Services Act 2006 and the Mental Health Act 2000. There are also other consequential amendments to various other acts including but not limited to the Bail Act 1980, the Crime and Misconduct Act 2001 and the Criminal Code. There is no doubt that disability services is an area which has continued to develop as governments of all political persuasions come to terms with the best ways to service the electorate in this area. Tonight I will contain my comments to the provisions of the bill that relate to our judicial system and how the government deals with people with intellectual or cognitive disabilities who commit crimes in our society.

The current system provides that these people are detained in a mental health facility by order of the Mental Health Court, an institution that does not facilitate their specific needs. The 2006 Carter report, *Challenging behaviour and disability: a targeted response*, was commissioned to deal with the restraint of people with severely challenging behaviour as a result of their disabilities. The report highlighted concerns over the past initiatives in the delivery of services, the expectations and requirements currently undertaken by families and carers and bureaucratic limitations to systematic change. The Carter report coincided with the Butler report, which reviewed the Mental Health Act and recommended 106 reform changes to existing legislation and administrative processes. As stated by the shadow minister, the implementation of recommendations contained in the Carter report has been steady at best, with particular focus in this bill on recommendation No. 22. This recommendation specifically relates to the detention of people with intellectual disabilities in a facility specifically constructed for their needs rather than simply placing them in a mental health institution. A medium security facility at Wacol will be opened that is specifically designed to contain people with an intellectual disability.

In my previous role as shadow minister for corrective services I visited a number of our correctional facilities across Queensland. Unlike the member for Beaudesert, who can only manage one facility in a day, I attended four facilities in a day. I am still no expert on correctional facilities, but I did gain an insight into many of the correctional facilities across Queensland. One of the policy focus areas I was interested in was the effectiveness of the rehabilitation programs in these facilities.

Mr Shine: Did you see any porn?

Mr BLEIJIE: I was at different correctional facilities. I note that the key focus areas of the bill relate to habilitation and rehabilitation of offenders in the new facility at Wacol. One of the best countermeasures to combat the high recidivism rates for most offenders was the process of upskilling and restoring or imparting a greater sense of self respect.

Rather than having a revolving-door system in our correctional facilities, it is beneficial for both society and the offender that the offender be rehabilitated to ensure they do not repeat their bad

behaviours of the past and do not end up back inside a correctional facility. That applies to people who will be treated in the facility at Wacol and, speaking more broadly, to correctional facilities generally.

The bill before the House amends the Mental Health Act to allow the Mental Health Court to make a new type of forensic order for offenders with a disability. Clause 16 of the bill relates to a forensic disability client who has a guardian and the need to consult that guardian about the client plan while they are in a forensic disability facility. It is absolutely critical that this plan is explained in a manner that shows appropriate regard to the client's age, culture, disability and communication ability.

Previously I have dealt with—and I am sure most members of the House have probably dealt with—issues of a constituent nature where a constituent is under the care of the guardianship program in particular. We have seen the negative impacts on people in the guardianship program. In fact, I know of a case where a memo from an occupational therapist went to the guardianship tribunal of the time and my constituent ended up having an eight- to 10-week debate to try to get the person out of the guardianship program and back with their family. That was based on the assessment of a memo from an occupational therapist. Certainly, the plan was not communicated to the constituent with an appropriate regard to her cultural background. She had to sign documents that she did not understand. The method of communication was misunderstood and this was misinterpreted as a lack in mental capacity rather than her cultural background, as was the case. Thankfully, in the end the appropriate course of action prevailed at a QCAT hearing some months later.

Part 2, division 1 of the bill prescribes the circumstances for the administration of behaviour control medication, which generally needs to be administered by a senior practitioner who is a doctor or a registered nurse. There are also provisions for this medication to be provided by a doctor or a registered nurse acting under the direction of a senior practitioner who is a doctor or a registered nurse, and if a psychiatrist prescribes the medication or medication is administered in accordance with the directions of a psychiatrist, including dosage amounts, the frequency of the medication and the restrictions, and the client is observed as appropriate to this direction.

Chapter 7 of the bill relates to the security of the Forensic Disability Service and outlines the requirements and standards for an authority to search, the process required to conduct searches, the seizure of items, the recording of a search and compensation for damage to possessions. The explanatory notes detail the bill's consistency with fundamental legislative principles and chapter 7 notes that sufficient regard should still be afforded to the rights and liberties of the individual. The security of the premises and the safety of the clients, staff and visitors within the Forensic Disability Service are obviously of paramount importance. With this in mind, appropriate safeguards are in place for the application of powers to search and seize items as necessary to maintain the security of the premises.

The bill includes consequential amendments to the Bail Act 1980, the Commissions of Inquiry Act 1950, the Coroners Act 2003 and the Crime and Misconduct Act 2001 to include the term 'forensic disability client'. The Criminal Code is also amended to enable appropriate monitoring and communication of such monitoring of a Forensic Disability Service. There are also amendments to the code to enable the use of force deemed as reasonably necessary to prevent a forensic disability client from inflicting violence on any person or property.

I conclude my remarks by supporting the reservations in their entirety, so eloquently put by the shadow minister in her speech to the House this evening, particularly in relation to the size of the facility at Wacol, which I understand will house some 10 clients, and the bureaucracy required to assist those 10 people. I ask the minister to take on board the worthwhile comments that the shadow minister has made in her speech in the second reading debate tonight.