Speech by

Desley Scott

MEMBER FOR WOODRIDGE

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CRIMINAL LAW (TWO STRIKE CHILD SEX OFFENDERS) AMENDMENT BILL

Mrs SCOTT (Woodridge—ALP) (4.32 pm): I rise today to contribute to the debate on the Criminal Law (Two Strike Child Sex Offenders) Amendment Bill 2012. Sexual offences perpetrated against children are deplorable and are rightly treated extremely seriously by Queensland's justice system. Childhood sexual abuse inflicts lasting damage upon victims that can negatively affect their entire lives. Every right-thinking person detests its occurrence and wishes for justice to be served. The bill before the House seeks to do just that—to ensure that people convicted of a second or subsequent child sex offence are sentenced to life imprisonment with a 20-year non-parole period. I commend the intentions of the bill and acknowledge the sincerity of the government in general, and of the Attorney-General in particular, in presenting it to the House.

However, good intentions and sincerity do not always make good laws. Therefore, it would be remiss of me not to examine the possible consequences of the bill. Firstly, I am concerned that the bill was not before the Legal Affairs and Community Safety Committee for a sufficient period of time to receive the consideration that it requires. Criminal law is complex and the effect of amendments to one offence can have consequences that are very difficult to predict. Therefore, changes to criminal law deserve a decent period of time for committee consideration and hearings.

I am pleased to see that there are 19 submissions to the committee regarding this bill, which suggests that there is significant community interest. I am worried, though, that a significant number of those submissions expressed disappointment at the narrow window of time available to properly reflect on the possible consequences of the bill. This bill was introduced to the House on 20 June and the committee report was published on 6 July—a period of only slightly more than two weeks. I do not believe that this is an appropriate length of time for busy committee members to properly consider the possible far-reaching and unintended consequences of the bill. It is certainly not an appropriate period of time for stakeholders to consider the legislation and to provide detailed submissions. A number of submissions make that point. Unfortunately, this is just another example of the Newman government sidelining the committee process. I believe that the short period of consideration is especially insulting given the fact that the vast majority of submissions oppose the bill or express serious reservations. I note that few of the issues highlighted in the submissions have been addressed in the recommendations of the committee.

I would now like to turn my attention to the current law for sentencing repeat child sex offenders. As the submission from the Queensland Bar Association states, it is already an accepted and well-understood principle that a second serious child sex offence should be taken into account when imposing a sentence. In fact, this is currently set out explicitly in the Penalties and Sentences Act 1992. Judges also have the option to sentence serious child sex offenders to indefinite periods of detention under part 10 of that same act. In the event that the Attorney-General believes that a particular sentence is inadequate, he also has the ability to make an appeal for it to be reconsidered. There are more provisions under the Dangerous Prisoners (Sexual Offenders) Act 2003 for the Attorney-General to apply for extended custody of particular

criminals. This is an existing broad suite of measures available to the criminal justice system to appropriately imprison serious child sex offenders.

I understand that sexual offences perpetrated against children are rightly the cause of significant concern in our community. Everyone wants to see these offenders appropriately punished and everyone hopes that the prospect of harsh sentences has significant deterrent effects. However, I do not believe that the Attorney-General has addressed the current provisions and why he and the government believe that they are insufficient. I would like the Attorney-General to spell out clearly where he believes the current system has not delivered appropriate sentences with reference to particular cases if possible.

Currently, individuals convicted of a second or further child sex offence are liable to life imprisonment, but a judge may elect to set a lesser sentence at his or her discretion. This bill mandates that a judge impose a life sentence and a non-parole period of no less than 20 years. This bill removes judicial discretion and means that a judge cannot lend his or her considerable expertise to a particular case. On this side of the House we abhor child sexual abuse, but we also recognise that every case is different. We harbour significant reservations about mandatory sentencing and I know that several of those on the other side, including the Premier, harbour the same reservations. In June last year, the Premier expressed his view that mandatory sentencing had serious flaws. He said—

The trouble with mandatory sentencing, and it's not well understood, is that the tougher you get on these sorts of things, and there's plenty of history and data on this, the more judges and in some cases juries do anything not to convict. So it does come with serious associated issues.

At the same time the Premier articulated the LNP's support for judicial independence and discretion. Given that this bill imposes mandatory sentencing and limits judicial discretion, I wonder what has intervened to change the Premier's mind. Like the Premier, I worry that prosecutors may choose to prosecute offenders for lesser charges if they believe the mandated life sentence is too harsh or that it may sway the jury's decision. The Labor Party believes that it is important that judges retain their discretionary powers. I understand that the Leader of the Opposition will be moving amendments to that effect during consideration in detail.

There was one particular issue raised in some of the submissions to the Legal Affairs and Community Safety Committee that caused me huge concern. It is most clearly stated in the submission from the Queensland Police Service, which asserts—

As the proposed 20 year non-parole period will apply for both murder and repeat child sex offences, an offender may consider killing the child victim to evade punishment under the rationale there is little incentive to leave a child witness alive.

This chilling observation should reinforce to every member of this place that the laws we consider and enact here can sometimes have monstrous implications for people. The Queensland Bar Association also raised the possibility that this legislation, along with other legislation before the House, may create that perverse incentive. It is, of course, a matter of conjecture and debate as to whether a sex offender will consider these factors when committing a crime. I hope beyond hope that the QPS and the Queensland Bar Association's concerns do not play out in the future. They do, however, underscore the complexity of criminal law and that knee-jerk, piecemeal approaches to its amendment do not guarantee desirable outcomes.

The Leader of the Opposition has already raised a number of other concerns with this bill, including its possible impact on court, prosecution and legal aid services and I share her concerns. Child sexual abuse is an horrific crime. It is often perpetrated by family and friends of the victim which means it is also an abuse of authority and trust. I know every member of this House comes to this debate with the best of intent. We all want to do everything in our power to eliminate sexual abuse and ensure those who do perpetrate these crimes are properly punished. This bill intends to do just that. However, it also raises the spectre of several unintended and undesirable consequences.