




Speech By  
**Hon. Jarrod Bleijie**

**MEMBER FOR KAWANA**

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**CRIMINAL LAW (CHILD EXPLOITATION AND DANGEROUS DRUGS)  
AMENDMENT BILL**

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (3.07 pm), in reply: I thank all honourable members for their contributions to debate on the Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Bill 2012. Queensland is a great state with great opportunities. We want to stick up for the families of Queensland and we want Queensland to be the safest place to raise a child. That is why in the short 12 months since this government came to office we have moved quickly to set up the toughest sex offender laws in the country in terms of the two-strikes policy. We are not only introducing the laws that we have today but also dealing with another important issue in society—that is, synthetic drugs and trying to get on top of the culture that is developing right around not only Queensland but also Australia with respect to these analogue drugs.

The Queensland government in its six-month action plan pledged to amend the laws to address the penalties for child pornography and child sex offences, create a new offence of grooming a child and address the issue of synthetic drugs. This bill gives effect to all of those commitments. The bill amends the Criminal Code to strengthen penalties for child sex related offences, in particular by aligning the maximum penalties with those for corresponding Commonwealth offences and similar offences in other Australian jurisdictions. Sections 228A and 228C of the Criminal Code provide for the offences of involving a child in the making of child exploitation material, making child exploitation material and distributing child exploitation material. These offences carry a maximum penalty of 10 years imprisonment. Section 228D prohibits possessing child exploitation material and carries a maximum penalty of five years imprisonment. The bill will increase the maximum penalties for all offences to 14 years imprisonment. Such an increase will bring Queensland's penalties more in line with the penalties for the equivalent Commonwealth offences, which carry 15 years imprisonment. A maximum of 14 years imprisonment is necessary in Queensland to maintain the present hierarchy of offences.

The penalty increase will also remove the current distinction in penalties between possessing child exploitation material and the other child exploitation material offences. Generally, criminal law offences relating to contraband distribution are regarded as objectively more serious than mere possession. However, in the case of child exploitation material offences the commodity in question is a child, who is often subject to appalling physical and sexual abuse. Therefore, it is vital that the market for such material is targeted.

Additionally, this bill will amend the definition of child exploitation material in the Criminal Code to provide certainty in respect to animated images. The interpretation of a recent Court of Appeal decision in *R v MBM* has resulted in uncertainty as to whether animated images fall within the definition of child exploitation material. This amendment will ensure that animated images are captured. In many instances, predators use cartoons to desensitise and groom children. This

amendment will ensure that these images cannot be used by paedophiles to further their abhorrent behaviour.

A procedural amendment will allow the prosecution of such offences to occur more concisely and accurately so that less serious aspects of an offender's conduct are still acknowledged. Section 568 of the Criminal Code provides an exception to the basic rule that, where an indictment contains more than one offence, each offence charged must be set out in a separate count. Section 568 of the code allows a single count to combine several instances of offending, as long as they are all of the same legal offence. The bill amends section 568 to extend the provision to the child exploitation offence, for which an offender may possess thousands of images, which will allow an indictment to more accurately reflect the extent of the offending.

The bill creates a new Criminal Code offence of grooming—that is, behaviour that is designed to facilitate the procurement of a child for sexual activity. The new offence of grooming will adopt a maximum penalty currently available for the section 218A code offence of procuring a child to engage in a sexual act using electronic communication. The maximum penalty for procuring will be increased from five to 10 years imprisonment, or from 10 to 14 years if the child is under 12 years of age. Further, a new circumstance of aggravation will be created in circumstances where the procuring conduct involves the offender meeting with the child or travelling with the intention of meeting the child.

The Criminal Code offences of unlawful sodomy and carnal knowledge carry maximum penalties of 14 years imprisonment or life imprisonment where the child is less than 12 years of age or under the guardianship or the care of the offender. The offence of indecent treatment of a child under 16 years carries a maximum penalty of 14 years imprisonment, or 20 years where the child is under 12 years of age or under the guardianship or the care of the offender. The bill amends each of these offence provisions by inserting a new circumstance of aggravation where the child has an impairment of the mind. The offences of unlawful sodomy and carnal knowledge will carry maximum penalties of life imprisonment where the child has an impairment of the mind. The offence of indecent treatment will carry a maximum penalty of 20 years imprisonment in such a case. The amendment provides appropriate sanctions for those who prey on this particularly vulnerable group.

The bill removes a loophole in the offence of incest in cases where an adult engages in consensual sex with their de facto partner's child who is over the age of consent—aged 16 or 17 years—but has not reached adulthood, or 18 years. The offence of incest in the Criminal Code includes a complete defence where the parties were lawfully married at the time the sexual intercourse took place or if the parties were entitled to be lawfully married. In a recent case the Queensland Court of Appeal set aside convictions on six counts of incest on the basis that the offender was lawfully entitled to be married to his long-term de facto wife's 17-year-old daughter when he commenced a sexual relationship with her. That is because the marriageable age in Australia is 18 unless the marriage has been consented to. But because the person is entitled to marry that particular person, who in this case was the victim, the law does not provide that protection.

I want to thank Beryl Spencer, who has been an avid advocate of this amendment. I met with Beryl on a number of occasions about her concerns. I am pleased to have her support on this particular issue. Beryl saw me early in my term as Attorney-General and raised this concern with me. She was quite surprised when I said, 'Absolutely—more than happy to look at this,' and then I received the support of my colleagues, whom I thank, to get this amendment through the cabinet process and into this bill.

Although in this particular case in Queensland there were convictions on six counts of incest, the Queensland Court of Appeal looked at the law—and from time to time the Court of Appeal does this—to ascertain whether there are loopholes that exist. This certainly is a loophole that this government is determined to close today, because we do not want situations where, just because people are either married or lawfully entitled to be married, the offence of incest does not extend to the de facto partner's child. We have to fix that, we ought fix that and I am very pleased that we are doing that today. Again, I thank Beryl Spencer for her advocacy and the distance that she travelled from out west to come to see me on a couple of occasions about this particular issue.

The bill also amends the Drugs Misuse Act 1986 to create a new offence of trafficking in precursor substances that are used to manufacture synthetic drugs. In this bill the definition of dangerous drug is broadened to better address synthetic drugs and to overcome certain evidential issues.

I also wish to bring to the attention of the House my intention to move an unrelated amendment during the consideration in detail of this bill. The unrelated amendment will amend section 364A(2) of the Crime and Misconduct Act 2001. Honourable members would recall that on 8 March 2013 the parliament passed in the early hours of the morning an amendment to the Crime and Misconduct Act 2001 inserting a new section 346A as an urgent measure to provide temporary protection to certain Fitzgerald commission inquiry documents that had been released under the Public Records Act 2002. The protection provided by section 346A operates up to 8 May 2013. The Parliamentary Crime and Misconduct Committee has finalised its inquiry into how the Fitzgerald inquiry documents came to be released and its report No. 90 was tabled in the Legislative Assembly on 5 April 2013.

The report included recommendations in relation to these publicly released documents and what should be done to afford protection to those people who are affected by the release of those documents. These recommendations need to be considered further and I understand that we will be noting the report on Thursday. The proposed amendment will provide sufficient time for the government to fully and carefully consider its responses to the recommendations. So although the date 8 May is fast approaching, the amendment that I will move will extend that period by six months. The only consequence of that amendment is that it provides protection for matters in the domain of those individuals who obtained this information from publicly or reproducing that information. This amendment has been tacked on to this bill, because parliament needs to address the issue and deal with it this week.

I will address some of the issues raised by honourable members during the course of this debate. As I understand from her contribution at the last sitting, the Leader of the Opposition—unless something has changed in the past few weeks—supports the bill, which I am very pleased about. I am not sure if it is the first time in 12 months that I have had the support of the Leader of the Opposition, but I am more than happy. I thank the opposition for supporting these vitally important amendments. If the Leader of the Opposition has any concerns about the amendment that I will move with respect to the CMC, then I would encourage her to have a discussion about it in the consideration of detail where I would be happy to elaborate further.

The opposition leader raised some issues with respect to the submission from the Queensland Law Society about constitutional validity and whether advice had been sought. Advice has been sought and I am confident that we will not have any issues. Suffice it to say, the Leader of the Opposition raised other issues in relation to which, essentially, she said to keep an eye on. We will do that. We will keep a watching brief on those issues as the government considers better ways in the future to protect our children in this state. As I have said on many occasions, children are some of the most vulnerable in our community and we have to do everything that we can to protect them. I thank the opposition for the bipartisan way in which it has supported this bill.

The member for Ipswich could not comprehend how we could not find cartoon images of child exploitation so abhorrent. That is exactly right. That is why we are moving these necessary amendments. The member for Ipswich also said that he did not necessarily agree with the Council for Civil Liberties on this issue. That is pleasing. I note that the member for Ipswich has just walked into the chamber. I will repeat my comment. The member does not necessarily agree with the Council for Civil Liberties on this issue. I say to the member for Ipswich: welcome to my world.

The Council for Civil Liberties has had a lot to say about the government's law reform issues in the past 12 months. We had a clear commitment and a clear mandate to get on with the job and make Queensland the safest place to raise a child in this country. At times when government needs these strong measures that act as deterrents you do have to trample on the perceived civil liberties of individuals. It is always the case, as I have said in this place before, that if people are worried about these tough measures, if people are worried that the government is going too tough on these sorts of matters, then they have nothing to fear if they do not commit these particular offences: they have nothing to fear if they are not marketing the precursor to synthetic drugs; they have nothing to fear if they do not have child exploitation material on their computers. The world will go on. We would love to live in a society where no-one gets convicted or accused of any of these types of offences. The reality is that we do not live in that society so we as parliamentarians have an obligation to protect the most vulnerable in our communities and they are our children.

The member for Nanango reminded everyone that she used to be a lawyer. That was nice for everyone. Most people try to forget their legal days. Her comments referred to her practice of the law, as did the comments of the member for Ipswich. I think what she was saying is that they have seen firsthand in their law practices the types of people that commit these types of offences. I completely agree. The member for Nanango is also a strong advocate for the removal of the ambiguity of the incest provisions. I understand that she met with Beryl Spencer and talked about the issues, as I did.

Beryl Spencer has also indicated that she is particularly pleased with the new offence of grooming. She said that this provision is so important given the exposure of children to the internet in modern times.

The member for Mount Ommaney spoke about the government not apologising for delivering the toughest law in Australia for child exploitation acts. I agree. I have said on many occasions that this government is unapologetic. We are not sympathetic to the offenders here; we are sympathetic to the victims. The victims here are children who could be my children, my children's children in the future, or people's grandchildren right around Queensland.

The member for Southport reminded honourable members that Queensland should be the safest place to raise a child. That is this government's goal. Quite frankly, if that means having tougher laws than our counterparts in other jurisdictions then, so be it, we will. The member for Broadwater said it was extremely important that, as members of parliament and people who are seen as leaders in the community, we stand up for the most vulnerable in our community. The vulnerability of children was one of the elements that came out of the contributions of many members. Who is to protect the children? We know that many child sex offenders are, in fact, in the family home and that the victim knows the perpetrator, so as a government we have to step in to ensure that if families cannot protect these vulnerable children then we do.

I thank the member for Mundingburra, Minister Crisafulli, for his contribution. He talked about the issue of synthetic drugs. I travelled to Townsville with the Premier on a couple of occasions. All honourable members in the North and Far North Queensland area understand the issues and that is why we are tackling it.

The member for Toowoomba North talked about protecting our children from being exploited and significantly strengthening our Criminal Code. That is what we are here for. The member for Caloundra, the honourable minister, commented on the fact that as a government we are doing this but asked where we go from here and whether we are doing enough. This is the start. The child sex offender two-strikes policy was a start. We are now tackling these important issues, and there is more to come throughout the year in this term of government.

The member for Stretton talked about Destiny Rescue. I compliment the member for raising that. I have young Jordyn Archer in my electorate. Jordyn is a part of Destiny Rescue and holds a fundraiser event every year. Destiny Rescue gets children out of child sex slavery overseas. They take children out of those environments. It is a fantastic organisation. As legislators we must look to and use examples of the plight of children overseas because unfortunately that is happening around our world. I thank Jordyn Archer and the team from Destiny Rescue for the great work they do.

The member for Coomera talked about social media in terms of technological advances. Attorneys-General around the country are battling social media. We had our Standing Council on Law and Justice in Darwin two weeks ago and again the topic came up. In fact, when we were at Government House the administrator in her opening remarks talked about Paul Everingham welcoming Attorneys-General to the first Standing Committee of Attorneys-General back in the seventies or eighties or whenever it was. The administrator pulled out the agenda for that meeting and it was about how to keep pace with technology and the law. Nothing has changed in all those years, although where they might have been debating typewriters and the law we are now dealing with Twitter, Facebook and social media and how we can try to protect the most vulnerable in our community.

To reiterate my comments in conclusion, this government is serious about tackling issues around child sex offenders in Queensland. We have the toughest two-strike laws. I hope other states and jurisdictions follow those two-strike laws. I hope other states and jurisdictions copy what we are doing today because we are making history in terms of the toughest sex offender laws to protect the most vulnerable. This government will stick up for families in this state. This is a great state with great opportunity. Let us work together so our children and our children's children can have the same great opportunities that have been afforded to us.