Speech By

Hon. Jarrod Bleijie

MEMBER FOR KAWANA

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PUBLIC GUARDIAN BILL; FAMILY AND CHILD COMMISSION BILL; CHILD PROTECTION REFORM AMENDMENT BILL

Second Reading (Cognate Debate)

Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (12.14 pm): I move—

That the bills be now read a second time.

I thank the Health and Community Services Committee for its timely consideration of the Public Guardian Bill 2014, the Family and Child Commission Bill 2014 and the Child Protection Reform Amendment Bill 204, a suite of bills that comprises the initial stage of the government's reforms to revitalise and refocus the child protection system in Queensland. The committee tabled its report on each of these bills on 13 May 2014. I now table the government's responses to the committee report on the Public Guardian Bill 2014.

Tabled paper: Health and Community Services Committee: Report No. 46—Public Guardian Bill 2014, government response [5129].

I take the opportunity to thank those people and organisations that assisted the committee in its consideration of the bills by appearing at the public hearings or making written submissions. The committee has made two recommendations in relation to the Public Guardian Bill and sought clarification on one issue. The government welcomes the committee's first recommendation that the bill be passed and the government, of course, accepts its recommendation.

The committee's second recommendation is that during my second reading speech I provide an outline of the expected timing of the main components of reforms to implement the Queensland Child Protection Commission of Inquiry recommendations and, further, that I ensure that detailed information about the expected sequence and timing of the child protection reforms is provided to child protection stakeholders to assist them in responding to proposals and planning for change. As I stated in my explanatory speech when introducing the bills, the reforms in the Public Guardian Bill represent an important first step in overhauling the child protection system in Queensland. The government is committed to implementing the next stages of the reform over future years, which will include legislative and non-legislative reforms to comprehensively change the way Queensland protects, cares for and supports its most vulnerable Queenslanders and children.

In chapter 15 of its report, the commission outlined its road map towards building a sustainable child protection system. The road map has three tracks: of course, to reduce the number of children and young people in the child protection system; to revitalise child protection front-line services and family support, breaking the intergenerational cycle of abuse and neglect; and to refocus oversight on learning, improving and taking responsibility. The government is committed to implementing the commission's reforms and supports a three-phased approach to implementation that reflects the three tracks of the road map. Implementation has commenced with planning, preparation and legislative

reform, as reflected by the three bills currently before the House, in the first year. The amendments in the Public Guardian Bill, the Child Protection Reform Amendment Bill and the Family and Child Commission Bill were identified as matters that needed to be progressed as a priority to implement the commission recommendations. The Office of the Public Guardian and the Family and Child Commission will commence from 1 July 2014.

Other non-legislative reforms required to implement the commission recommendations have also been prioritised, including the establishment of government structures, such as the Child Protection Reform Leaders Group, that will support a coordinated approach to child protection across government agencies and with child protection stakeholders. Individual agencies have also implemented some early reforms. For example, the Courts Case Management Committee has been established by the Queensland courts to assist in developing a court case management framework and other changes to court processes as recommended by the commission. The next stage of the implementation will involve a gradual rollout of the key reforms, focused on reducing demand on the system and establishing a community based referral system, followed by revitalisation of front-line services and improvements in oversight. A program management plan to direct the long-term implementation of other aspects of the program is currently being prepared.

The government is committed to forging a strong partnership with stakeholders. A stakeholder advisory committee has been established to facilitate the co-design of the project responses as recommended by the commission and a stakeholder engagement strategy is being prepared as part of the project management plan. Individual agencies, including the new Office of the Public Guardian and Family and Child Commission, will also work closely with stakeholders in designing programs and policies.

The committee has also requested clarification in relation to the expected operation of clause 97(4) of the bill. Clause 97(4) allows the minister to suspend the Public Guardian for up 60 days if there is an allegation of misconduct or if the minister considers there may be grounds for removal of the Public Guardian under clause 97. The provision ensures the minister can take immediate action when an issue related to the Public Guardian's appropriateness to hold this office is in question. It ensures the office remains accountable and focused on protecting the rights and the interests of adults with impaired capacity and vulnerable children.

A decision to suspend the Public Guardian would be very rare and would be expected to be highly scrutinised. The minister will not make a decision to suspend the Public Guardian lightly and will ensure that the protection of the interests and rights of adults with impaired capacity and vulnerable children is at the forefront of any such decision.

The Public Guardian will be afforded natural justice if a decision is made to suspend them. Clause 97(4) also requires that the minister advise the Public Guardian of the suspension by signed notice. This notice will be in writing and will accord with natural justice principles—for example, providing reasons for the decision.

I foreshadow at this time that I intend proposing amendments during the consideration in detail stage. These amendments are technical in nature and either correct minor drafting errors and unintentional omissions or provide clarification on clauses of the bill. They include: amendments to ensure consistency of powers, rights and obligations of community visitors and child advocacy officers across the bill; an amendment to include the Family Responsibilities Commission as a prescribed entity that the Public Guardian can request information from and disclose information to in relation to its child advocacy functions; a clarifying amendment to clause 201 of the bill to ensure the Public Guardian can access documents filed in the Children's Court and make copies of these documents; a clarifying amendment that for an authorised mental health service to be defined as a visitable site for the adult community visitor program it must provide inpatient services, which is consistent with the current definition in subordinate legislation; an amendment to ensure that the definition of 'power of attorney' is consistent across the bill; consequential amendments to the Disability Services (Restrictive Practices) and Other Legislation Amendment Act 2013 to reflect the establishment of the Office of Public Guardian; and consequential amendments to the Queensland Civil and Administrative Tribunal Act 2009 to reflect changes to the Disability Services (Restrictive Practices) and Other Legislation Amendment Act 2013.

The final minor amendment to the bill that is proposed to be moved during the consideration in detail stage is to remove the application of the information exchange provisions in the bill to separate representatives to avoid inconsistent application across separate representatives in Queensland, an issue that was raised by the Queensland Law Society in its submission to the committee. These amendments have been circulated in my name and are accompanied by the explanatory notes.

I turn now to the Family and Child Commission Bill 2014. The committee has made only one recommendation in relation to this bill—that is, that the bill be passed. The government accepts the recommendation. The committee has sought clarification on two issues. The first issue is in relation to the steps that will be taken to ensure that Aboriginal and Torres Strait Islander children in care maintain adequate and appropriate cultural connection and how this will be monitored and reported.

In responding to this issue, I would like to highlight that a key plank of the child protection reforms arising from the government response to the commission recommendations is to provide support services to families earlier, to help children stay safely at home and to reduce the number of children we currently see being separated from their families and placed in out-of-home care. The commission emphasised the need to address the overrepresentation of Aboriginal and Torres Strait Islander children and there are a number of related reform initiatives aimed at strengthening family support services and improving outcomes for Aboriginal and Torres Strait Islander children and their families.

Existing arrangements for placing Aboriginal and Torres Strait Islander children in care under section 83 of the Child Protection Act 1999—which recognises the importance of placing children with extended family members and where this is not possible with a member of the child's community or language group or another Aboriginal or Torres Strait Islander person—will continue to apply. The Department of Communities, Child Safety and Disability Services will also continue to be required to provide a cultural support plan for each Aboriginal or Torres Strait Islander child in care to maintain connections to family, community and culture.

The new Family and Child Commission will evaluate and report on the overall performance of the child protection system and specifically Queensland's progress on reducing the number of and improving the outcomes for Aboriginal and Torres Strait Islander children as child protection reforms are implemented. When established, the Queensland Family and Child Commission, in consultation with its key stakeholders, will develop a detailed evaluation framework consistent with legislative requirements.

Secondly, the committee has requested clarification in relation to the expected operation of clause 15(4) of the bill. Clause 15(4) allows the minister to suspend a commissioner for up to 60 days if there is an allegation of misconduct against the commissioner or if the minister considers that there may be grounds for removal under clause 15(3). This provision ensures the minister can take immediate action when an issue related to the appropriateness of a commissioner to hold office is in question, which is necessary to ensure that the office remains accountable and there is public confidence in the commission. A decision to suspend a commissioner would be rare and if made a commissioner would be afforded natural justice.

I would like to foreshadow at this time that I intend proposing a minor amendment during the consideration in detail stage of the Family and Child Commission Bill. This amendment is technical in nature and corrects a minor drafting error. The amendment is to the schedule 2 dictionary to replace the Health and Quality Complaints Commission under the Health and Quality Complaints Commission Act 2006 with the Health Ombudsman under the Health Ombudsman Act 2013 in the definition of 'complaints entity', as the former will cease on 30 June 2014. This amendment has been circulated in my name and is accompanied by the explanatory notes.

Finally, I table the government's response to the committee report on the Child Protection Reform Amendment Bill 2014. The committee has made six recommendations in relation to the Child Protection Reform Amendment Bill 2014. The first recommendation is that the Child Protection Reform Amendment Bill be passed. Of course, the government appreciates and accepts that recommendation.

Tabled paper: Health and Community Services Committee: Report No. 48—Child Protection Reform Amendment Bill 2014, government response [5130].

The second recommendation is that I or the Minister for Communities, Child Safety and Disability Services provide an outline of the expected timing of the main components of reforms to implement the commission of inquiry recommendations during the second reading debate and further that the detailed information about the expected sequence and timing of the child protection reforms is provided to child protection stakeholders to assist them in responding to proposals and planning for change. I have addressed this recommendation in my response to the committee's similar recommendation about the Public Guardian Bill.

The amendments contained in the bills being considered today were identified as urgent amendments, to be progressed as a matter of priority, and will lay the groundwork for further reforms in the future. They represent the first stage of an ongoing program of legislative reform and, as I have

noted, a program management plan to direct the long-term implementation of other aspects of the program is currently being prepared.

As I stated in my explanatory speech when introducing the Public Guardian Bill 2014, implementing the commission of inquiry reforms will require a fundamental shift in the way government agencies, child safety professionals and community organisations work with vulnerable families and with each other. Accordingly, a stakeholder engagement strategy is being prepared.

Recommendation 3 from the committee is that the Minister for Communities, Child Safety and Disability Services inform the Legislative Assembly of the type and timing for delivery of training, guides and tools to support mandatory reporters to understand their obligations and make appropriate decisions about the reporting of significant harm to ensure implementation of the changed reporting requirements in January 2015 or alternatively when the information will be available. The commission of inquiry recommended that a whole-of-government process be developed to provide training to mandatory reporters who must decide when they make a report to Child Safety.

Child Safety has commenced discussions with relevant partner organisations about how best to support the cultural change required to implement the new mandatory reporting provisions. For example, Child Safety participates in the Child Protection Reform Implementation Committee that has been established by the Department of Education, Training and Employment. The committee includes representatives from the Queensland Catholic Education Commission and Independent Schools Queensland.

One of the issues being considered by this committee is the training and communication needs resulting from the Child Protection Reform Amendment Bill. Child Safety will continue to work with all relevant partner agencies until the commencement of the mandatory reporting period in 2015. In addition, Child Safety will review and update the published Queensland child protection guide which assists professionals to report their concerns to an appropriate agency or to refer families to the service best placed to meet their needs. The guide is the primary tool to assist each time they need to make a decision and is currently available on the Child Safety website, along with the training package, procedures manual and fact sheet.

The next recommendation of the committee is that during the second reading debate I or the Minister for Communities, Child Safety and Disability Services clarify the intended operation of the reporting obligations of teachers and other mandatory reporters proposed by proposed section 13E. In particular, what is expected in forming a reasonable suspicion that a child may not have a parent willing and able to protect the child from harm, illustrated by practical examples of how it may work in practice.

The wording of proposed section 13E will not require a reporter to undertake a determination of whether a child has a parent who is willing and able to protect them from harm, but merely to turn their mind to whether there is some indication harm arises in the context of the child's family. The use of the words 'reasonable suspicion' establishes an objective test which is whether a reasonable person, having all the information available to the mandatory reporter in the circumstances of the particular case, would form a suspicion the child is in need of protection—that is, they have suffered, are suffering or are at risk of significant harm and do not have a parent willing and able to protect them from that harm.

As stated in the commission of inquiry's report, the consideration of these two elements is required so that reports to Child Safety align with the threshold that allows Child Safety to take action to protect a child so that 'over-reporting' is reduced. At present, matters are sometimes reported to Child Safety where a parent is acting protectively or unaware of concerns about their child. The commission of inquiry noted that this type of reporting is unnecessary because it does not meet Child Safety's threshold to take action and results in a family's personal details being permanently recorded, often with the family unaware that the information exists.

In terms of the element of whether the child has a protective parent, this is further clarified by the use of the word 'may'. The end result will be that a reportable suspicion is a reasonable suspicion of significant harm in circumstances where a child may not have a parent to protect them from that harm. The bill provides that, if a mandatory reporter is trying to determine if they have a reasonable suspicion that a child is in need of protection, they can confer with a colleague to assist them with this determination and these communications are protected under the bill. The following practical example

is included in proposed section 13I of the bill to illustrate how forming a 'reasonable suspicion' by a mandatory reporter may work in practice—

After observing injuries on a child's body, a doctor or teacher considers it possible that the parent of the child has physically abused the child or failed to protect the child from physical abuse. After obtaining further information about the family's circumstances, the doctor or teacher forms a reportable suspicion about the child under section 13E.

The committee also recommended that the Minister for Communities, Child Safety and Disability Services and the Minister for Education, Training and Employment ensure that their departments work with non-state school organisations to improve policies about child protection and reporting so that they accord with the requirements of the Child Protection Act 1999, as required by section 10 of the Education (Accreditation of Non-State Schools) Regulation 2001.

The Department of Education, Training and Employment is considering the best approach to amending section 10 of the Education (Accreditation of Non-State Schools) Regulation 2001 to ensure that reporting requirements for harm to children in non-state schools align with both the reporting requirements detailed in the bill and the reporting requirements under state school policy. Preliminary discussions have been held between the Department of Education, Training and Employment and the non-state school sector. It is anticipated, or expected, that the amendment regulation will commence operation at the same time that the mandatory reporting requirements for teachers will commence in early 2015.

The committee's final recommendation regarding the Child Protection Reform Amendment Bill is that the Minister for Communities, Child Safety and Disability Services consider whether, in relation to proposed section 13E, an editorial note or other amendment would assist in understanding the distinction between the respective obligations in the Education (General Provisions) Act 2006 and proposed section 13E of the Child Protection Act 1999. The Minister for Communities, Child Safety and Disability Services has considered this recommendation and is determined that it would not be appropriate to include such an amendment in the bill. The provisions in the Education (General Provisions) Act 2006 that require staff members at schools to report cases of sexual abuse and likely sexual abuse of students will not be amended by this bill because the reporting provisions in the act relate to suspected criminal offences that must be investigated by the Queensland police.

Child Safety has a distinct role, and that is to assess whether a child is in need of protection and to take appropriate action to respond to the child's protective needs. The threshold for whether or not a criminal offence may or may not have been committed is quite different to the threshold for taking action under the Child Protection Act 1999 to intervene in a child's family. In many circumstances, parents and families act protectively to care for their children when they have been unfortunate enough to experience the horrendous effects of sexual abuse. There is no reason for Child Safety to intervene in these cases. Given the serious nature of sexual offences committed against children, including by employees at school, it is important that these matters continue to be reported directly to the Queensland Police Service, as required by the Education (General Provisions) Act 2006.

In circumstances where a child is the victim of sexual abuse and also does not have a parent to protect them, a report may have to be made to both the police and Child Safety. Inserting a note or cross-reference in proposed section 13E, as recommended, is not supported. Proposed section 13 will apply to all mandatory reporters, not only approved teachers, and therefore accepting the recommendation may have the unintended consequence of adding to rather than alleviating confusion for reporters. It is more appropriate to address any confusion by teachers by covering this issue in the training materials that will be developed in collaboration with non-state schools and the Department of Education and Training.

I would like to foreshadow some amendments that I intend to move during the consideration in detail stage of the Child Protection Reform Amendment Bill 2014. These include: an amendment to reword clause 32 to confirm that the current requirements of the Child Protection Act for a review of a child's death to be undertaken within six months after the chief executive becomes aware of the death will continue; an amendment to clarify in clause 55 that references to the 'chief executive' do not replace references to 'commissioner' in the Commission for Children and Young People and Child Guardian Act 2000 where that term is referring to the Commissioner of Police rather than the Commissioner for Children and Young People and Child Guardian; an amendment to replace one additional reference to the Commissioner for Children and Young People and Child Guardian in section 180 of the commission's act with the words 'chief executive' to reflect the transfer of the blue

card scheme from the commission to the Public Safety Business Agency; and an amendment to remove the headings for chapter 8, part 1, divisions 1 and 2 of the commission's act which will no longer be required. These amendments have also been circulated in my name, accompanied by the explanatory notes.

In closing, I note that the bills will deliver key reforms that were recommended by the Queensland Child Protection Commission of Inquiry and will provide the foundation to build a new child and family support system in Queensland over the next 10 years to improve the lives and futures of our most vulnerable children. This government went to the election with a commitment to improve front-line services for families and make Queensland the safest place to raise a child. These reforms contribute significantly to these commitments and are an important part of the government's strong plan for the future.

I also pay particular tribute to the work undertaken by the commission of inquiry, led by, at the time, Commissioner Carmody, and the great effort that all the departmental staff from across government played in making sure that we had a road map to the future. That is essentially the legislative amendments of what we are setting out to achieve today. I thank all honourable members in anticipation of their contribution to the debate today. I look forward to the debate.