




Speech By
Hon. Jarrod Bleijie

MEMBER FOR KAWANA

Record of Proceedings, 5 August 2014

CRIMINAL LAW AMENDMENT BILL

Second Reading

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (12.03 pm): I move—

That the bill be now read a second time.

On 8 May 2014, the Criminal Law Amendment Bill was introduced into the Queensland parliament. Parliament referred the bill to the Legal Affairs and Community Safety Committee for consideration and requested the committee table its report on its consideration of the bill by 28 July 2014. I note the committee tabled its report on 28 July 2014. The only recommendation made by the committee is that the bill be passed. The government thanks the committee for its timely and detailed consideration and notes its recommendation. At the time the opposition notified the committee that it had reservations about aspects of the report but that it would detail the reasons for its concern during debate on the bill.

As I outlined at the time of the introduction of the bill into the Legislative Assembly, this bill is yet another demonstration of this government's ongoing commitment to get tough on the criminal element of society in terms of where victim and community sentiment is at the moment and to make this state the safest place to live, work and raise a family. The bill makes miscellaneous amendments to a number of criminal law and criminal law related statutes. I will briefly touch on some of the more significant amendments and the issues that have drawn comment during the committee process.

The retrospective application of Queensland's double jeopardy exception regime raised comment from some legal stakeholders in their submissions to the committee. Current exceptions to the rules against double jeopardy can only be applied to acquittals that occur after October 2007—a point in time when forensic and scientific technology was already significantly advanced. It also means that Queensland is the only state that does not apply its double jeopardy exception regime retrospectively. I acknowledge and recognise that the ability to challenge the finality of concluded proceedings is an infringement of fundamental legislative principles. However, in the context of certain serious offending this must be viewed against powerful factors to counter that position: in particular the significant advances in forensic and scientific technology, the high quality and reliability of this subsequent evidence and the very strong public interest in pursuing convictions for Queensland's most heinous unsolved crimes where the prime suspect was acquitted. There are a number of safeguards provided in chapter 68 of the Criminal Code, and the bill's amendments do not weaken or remove any of these.

I would like to thank RSPCA Queensland, Brisbane Lawyers Educating and Advocating for Tougher Sentences (BLEATS) and others in the community for the support expressed for the new offence of serious animal cruelty that the bill will introduce into the Criminal Code. This new offence will target those persons who intentionally inflict severe pain and suffering on an animal. This type of

offending is abhorrent and cruel, and this new offence sends a very strong message that such behaviour will not be tolerated. Some concerns were expressed to the committee by the Queensland Law Society about the impact that the new offence may have on legitimate farming and veterinary activities and also the appropriateness of RSPCA Queensland's role in enforcing the new serious animal cruelty offence.

I can confirm that the new offence is directed at a narrow cohort of offenders who intentionally torture animals. A person will not be liable if their conduct is authorised, justified or excused under the Animal Care and Protection Act 2001 or another law other than section 458 of the Criminal Code. For example, part 6 of the Animal Care and Protection Act provides a number of exceptions to offences. Submissions made by the RSPCA Queensland and BLEATS contain detailed information about the expertise and experience of RSPCA inspectors and the representation provided in prosecutions and appeals by a pro bono panel, including a number of prominent Queen's Counsel.

The government is of the view that RSPCA Queensland has in recent years established itself as a credible prosecutorial body and has over 200 barristers and solicitors throughout Queensland on its pro bono panel. While RSPCA officers will be able to commence proceedings and have carriage of the committal hearing for a new indictable offence, the Director of Public Prosecutions will continue to have the sole responsibility of preparing, instituting and conducting animal cruelty proceedings on indictment on behalf of the state. This is consistent with all other types of offences charged by the Queensland Police Service under the Criminal Code once they reach the higher courts.

To protect the integrity of sports betting and protect the wagering market from those who try to corrupt sport for their own profit, the bill introduces six new offences into the Criminal Code that target match-fixing conduct. These new offences support the government's commitment to the National Policy on Match-Fixing in Sport. As observed by the committee, Queensland will benefit from the introduction of these laws and have the support of the Australian Wagering Council.

To ensure looters are adequately punished if they steal property from a declared area under the Disaster Management Act 2003, the bill amends the existing offence of stealing by looting in the Criminal Code to ensure that an increased penalty applies in these circumstances. This amendment implements the Legal Affairs and Community Safety Committee's recommendation No. 2 in its *Report No. 40 on the Criminal Code (Looting in Declared Areas) Amendment Bill 2013*.

The bill amends the Bail Act 1980 to insert a new condition for a court or police officer to consider when determining if bail should be granted to a nonresident, that is, a person who is not an Australian citizen or permanent resident. The amendment provides that the bail granting authority must consider imposing a condition for the surrender of an accused person's passport and a prohibition on applying for a new passport. The bill also inserts a new section to mandate that where a surrender passport condition is imposed on any defendant, the person must be detained in custody until the passport is surrendered. The amendments to the Bail Act will help ensure that defendants who pose a flight risk are not inadvertently released from custody and able to use their passports to abscond from the jurisdiction before their court matter has been dealt with. Where an offender has fled the jurisdiction and is able to be located overseas, extradition proceedings may be lengthy and costly. I am advised that since 1 July 2011, warrants have been issued for 47 international tourists who have been granted bail but failed to appear in court for offences including: serious assault, fraud, drug and good order offences.

The bill increases the maximum penalty for the offence of procuring engagement in prostitution in section 229G(2) of the Criminal Code where the person procured is a child or a person with an impairment of the mind. The increase in the maximum penalty from 14 to 20 years imprisonment and the inclusion of this offence in the schedule of serious violent offences in the Penalties and Sentences Act 1992 will ensure the adequate punishment of offenders who prey and exploit the young and vulnerable in our community.

I note the support for these amendments from Protect All Children Today. I also note that Family Voice Australia expressed some concerns about the legalisation of prostitution generally to the committee. However, I can confirm that the amendments in the bill do not seek to significantly or fundamentally alter the current law governing prostitution and are simply about ensuring consistency in the overall approach in the Criminal Code to protecting the young and vulnerable from sexual depravity.

To strengthen the community protection regime provided by the Dangerous Prisoners (Sexual Offenders) Act 2003, the bill amends the offence provision under the act to bolster the offence and insert a new circumstance of aggravation to target dangerous prisoners who tamper or interfere with their monitoring device for the purpose of avoiding their location being monitored. The new aggravated offence carries a maximum penalty of five years imprisonment with a mandatory minimum penalty of one year imprisonment to be served in actual jail. I note the comments made by some legal

stakeholders to the committee regarding this mandatory punishment requirement. However, this type of behaviour by the prisoner strikes at the very heart of the community protection regime and requires harsh sanctions to deter and condemn such behaviour against our children.

The bill amends the Evidence Act 1977 to establish a rebuttable presumption that an expert witness is to give their testimony in a court proceeding by audio or audiovisual link. This amendment aims to encourage greater participation in the justice system by skilled witnesses and may reduce the cost and disruption to them as a result of having to give evidence in court. As has been seen in a number of high-profile trials this year alone, expert witnesses play an important role in assisting court proceedings.

Further, the bill contains amendments to complement introduction of a new system for electronic pleas of guilty in Queensland magistrates courts. While the Justices Act 1886 already allows written pleas of guilty in certain circumstances and the amendments in the bill do not contain any substantive changes to existing provisions, the new electronic system is an important initiative to further improve the efficiency of our state's courts and provide a more professional and user-friendly interface as well as provide more standardised and consistent information to all parties. I note that the legal profession has expressed some concerns about the need to ensure the new system does not lead to potential injustices and can confirm that all existing safeguards, including provisions for a reopening and withdrawal of a plea of guilty, will continue to apply to the new e-pleas system.

This government is committed to a fundamental reform of the Queensland youth justice system and the bill provides several amendments to the Youth Justice Act 1992. I note that comment was made on the amendments to increase boot camp safety and security by providing a head of power to enable youth detention centre employees to be engaged at a sentenced youth boot camp to use, if necessary, practices such as force, restraint, separation and personal searches. It is important to note that the use of these practices will be subject to strict regulatory and operational limitations. Clear regulatory guidelines—similar to those currently governing the use of these practices in detention centres—will be inserted in the Youth Justice Regulation 2003, including the requirement to record details of each instance of the practices' use.

I again thank the Legal Affairs and Community Safety Committee for its consideration of this bill and acknowledge the very valuable contribution of those who have made submissions to the committee.

Finally, I would like to foreshadow that I will be seeking to amend the bill during the consideration in detail stage of the debate to include amendments to the Crime and Corruption Act 2001. This government has listened to the people of Queensland and, in response to the concerns raised, the proposed amendments will reintroduce the requirement of bipartisan parliamentary committee support for the appointment of the Crime and Corruption Commission chairman, deputy chairman and ordinary commissioners. This was the appointment process that existed prior to the provisions of the amendment act commencing. As no new permanent commissioner appointments have been made to the CCC, the bipartisan parliamentary committee support requirement will apply to any new permanent appointments made to these positions. The amendment will not apply to the chief executive officer, given this is a new, separate position created by the amendment act and the bipartisan parliamentary committee support requirement therefore did not previously apply to the chief executive officer.

Since the election of this government we have seen crime reduce by 10 per cent across the whole state. The reforms contained in this bill are part of this government's strong plan to make Queensland the safest place to work, live and raise a family. It is only under this government that Queenslanders can look forward to that bright future that awaits. I commend the bill to the House.