



Speech By  
**Hon. Yvette D'Ath**

**MEMBER FOR REDCLIFFE**

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Record of Proceedings, 14 October 2015

**CRIMINAL LAW (DOMESTIC VIOLENCE) AMENDMENT BILL; CORONERS  
(DOMESTIC AND FAMILY VIOLENCE DEATH REVIEW AND ADVISORY  
BOARD) AMENDMENT BILL**

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (9.45 pm): I move—

That the bills be now read a second time.

On 15 September 2015, the Coroners (Domestic and Family Violence Death Review and Advisory Board) Amendment Bill 2015 and the Criminal Law (Domestic Violence) Amendment Bill 2015 were introduced into the Queensland parliament. Parliament referred the bills to the Communities, Disability Services and Domestic and Family Violence Prevention Committee for consideration and requested the committee to report on its consideration of the bills by Friday, 9 October 2015. I note that the committee tabled its report on 9 October 2015. The government thanks the committee for its timely and detailed consideration of the bills. I now table a copy of the Queensland government's responses to both reports.

*Tabled paper:* Communities, Disability Services and Domestic and Family Violence Prevention Committee: Report No. 5, 55th Parliament—Coroners (Domestic and Family Violence Death Review and Advisory Board) Amendment Bill 2015, government response [[1397](#)].

*Tabled paper:* Communities, Disability Services and Domestic and Family Violence Prevention Committee: Report No. 6, 55th Parliament—Criminal Law (Domestic Violence) Amendment Bill 2015, government response [[1398](#)].

Domestic and family violence is a scourge upon our community. It affects all parts of our society. Domestic violence cannot be accepted or excused. The responsibility rests with all of us to eradicate it from our community and give everyone the right to feel safe and protected. This government will do all it can to achieve the vision of a state free from domestic and family violence. The Special Taskforce on Domestic and Family Violence in Queensland, chaired by the Hon. Dame Quentin Bryce AD CVO, was established on 10 September 2014. The role of that task force was to make recommendations to inform the development of a long-term vision and strategy to rid Queensland of this insidious form of violence. On 28 February this year, the task force released its report *Not now, not ever: putting an end to domestic and family violence in Queensland* containing 140 recommendations. The Queensland government released its response to the task force's report on 18 August this year, which accepts all 121 of the recommendations directed at government.

The bills before the House contain critical reforms to the justice system as part of the government's response to the recommendations made by the task force. They are practical measures which are informed by the findings of the task force and underpinned by this government's passionate commitment to create both systemic and cultural change in relation to domestic and family violence in this state. I thank the Premier for her ongoing leadership in this area and other ministers for their important work which continues every day. This government is determined to continue to raise awareness, to foster important cultural change and to deliver practical outcomes for those whose lives are so profoundly impacted by acts of violence by their loved ones.

I will deal first with the Coroners (Domestic and Family Violence Death Review and Advisory Board) Amendment Bill 2015. The committee made four recommendations about the bill and I will address each recommendation in turn. The committee's first recommendation—that the Coroners (Domestic and Family Violence Death Review and Advisory Board) Amendment Bill 2015 be passed—is welcomed. I would like to take the opportunity to acknowledge the strong support by many who made submissions to the committee and who participated in consultations on the bill for the board's establishment. I would like in particular to recognise the contributions of Ms Diane Mangan, Ms Di Macleod, Ms Betty Taylor and other members of the Domestic Violence Death Review Action Group who have campaigned tirelessly for an independent, expert based, death review board and who have been strong and passionate advocates in promoting the role such a board can play in preventing deaths due to domestic and family violence. I appreciate their input and feedback during the development of this bill and their early work in raising the profile of domestic and family violence related deaths.

Recommendation 2 is that the Department of Justice and Attorney-General and the Department of Communities, Child Safety and Disability Services use the review of the Domestic and Family Violence Protection Act 2012 to draw on the knowledge and expertise of stakeholders to ensure that definitions are sufficiently clear and inclusive to capture the broad range of relationship contexts and circumstances in which domestic and family violence can occur. The Department of Communities, Child Safety and Disability Services is leading the review of the Domestic and Family Violence Protection Act 2012 to ensure a cohesive legislative framework for domestic and family violence in Queensland. This review was recommended by the task force and will focus on the issues identified by the task force. The Department of Communities, Child Safety and Disability Services will be undertaking consultation with stakeholders to inform this review.

Recommendation 3 is that the Department of Justice and Attorney-General, in conjunction with the Domestic and Family Violence Death Review and Advisory Board, takes steps to ensure that the distinct but complementary functions of the Domestic and Family Violence Death Review Unit and the board are clearly understood by the coroner, the board and the unit as well as by the courts, service providers, law enforcement agencies and stakeholders who work to prevent domestic and family violence. The unit and the board have quite different functions and roles. The unit sits within the Office of the State Coroner and is staffed by government employees of the Department of Justice and Attorney-General with specialist knowledge of domestic and family violence. The unit provides expert assistance to support the role of coroners in the coronial investigation of an individual domestic and family violence related death by ensuring information about the broader context of the death is gathered and examined.

The unit also maintains a database of domestic violence related deaths, including information about the perpetrators and victims. The unit assists the investigating coroner with those matters that proceed to inquest, identifies systemic shortcomings and preventive strategies. The role of the unit is to primarily assist the coroner in the investigation of individual deaths. In contrast, the board will consist of multidisciplinary experts and will be independent of the coronial process while drawing on the research and data capabilities of the unit.

An important function of the board will be to make recommendations to the minister for implementation by government and non-government entities to prevent or reduce the likelihood of those deaths into the future. The board may also supplement the information provided by the unit, for example, by commissioning its own expert reports. Once the board is established, the Department of Justice and Attorney-General through the unit will work with the board to ensure that appropriate and necessary operating arrangements and protocols are established, including written terms of reference for the board, to ensure the distinct roles of the unit and the board are clearly understood by all parties and by stakeholders and service providers.

Recommendation 4 is that the Attorney-General inform the Legislative Assembly during the second reading debate about how the Department of Justice and Attorney-General and the Domestic and Family Death Review and Advisory Board will ensure that the board's research and reports are made widely available and in an accessible format. Currently, coronial inquest findings are published on the Queensland courts' website and are publicly available and in an accessible PDF format. It is anticipated that the research and reports of the board, once tabled, will be presented in a similar manner through publication on the Department of Justice and Attorney-General's website or other suitable website. The Department of Justice and Attorney-General, through the Domestic and Family Violence Death Review Unit, will work with the board once it is established to ensure its research and reports are distributed widely and promoted through relevant websites and networks such as through the Domestic Violence Prevention Council and its membership, Australia's National Research Organisation for Women's Safety and government agencies involved in the implementation of the *Not now, not ever* task force report.

The Domestic and Family Violence Death Review Unit will work with the board and stakeholders, once the board has been established, to ensure sufficient visibility and accessibility of the board's findings and reports. More broadly, the changes occurring as a result of the bill will be promoted to the public through a range of mediums including updates to the Department of Justice and Attorney-General's website, letters to key justice and community stakeholders and social media updates.

In conclusion, this bill provides a strong framework from which to effect real change and prevent future domestic and family violence deaths by delivering quickly on the government's commitment to implement these key priority recommendations of the special task force. I am pleased that the committee and the stakeholders who made submissions to the committee are overwhelmingly in support of the key components of the bill.

I turn now to the Criminal Law (Domestic Violence) Amendment Bill 2015. This bill makes a number of amendments to increase perpetrator accountability and protections for victims further to recommendations of the Special Taskforce on Domestic and Family Violence in Queensland. Specifically, the bill will increase penalties for breaches of domestic violence orders, provide for the signposting of criminal offences and convictions that occur in a domestic and family violence context and ensure that victims of domestic violence automatically fall within the definition of special witness under the Evidence Act 1977. The committee's first recommendation that the Criminal Law (Domestic Violence) Amendment Bill 2015 be passed is welcome. Recommendation 2 is that if the bill passes, the Department of Justice and Attorney-General monitors the use of the new maximum penalties for breaches of domestic violence orders and commissions research into their effectiveness as a deterrent to offenders committing domestic violence offences. The government acknowledges the concerns raised by the committee and some stakeholders that raising the maximum penalties will not in isolation address domestic and family violence in Queensland communities. As the committee has noted in its report, these amendments are part of a broader package of legislative and non-legislative reforms. For example, work is underway to review the Domestic and Family Violence Protection Act 2012 and to complete an audit of specialist domestic and family violence services across Queensland. There are also a range of other related initiatives that form part of the government's commitment to keeping our community safe, including a referral to the Queensland Law Reform Commission to investigate alternatives to incarceration, reinstatement of diversionary processes and creation of an independent crime statistics body. The amendments to increase maximum penalties for breaches of domestic violence orders in this bill do, however, send a clear message to offenders that this type of conduct will not be tolerated. It reflects community attitudes that domestic and family violence is unacceptable and strong penalties are required to condemn and deter this behaviour.

I am also pleased to be able to advise members that the government will issue a reference to the Sentencing Advisory Council, once reinstated in 2016, to consider the impact that the maximum penalties have had on the commission of domestic violence offences. The Queensland government has committed to reinstating the Sentencing Advisory Council. This important resource was lost when the council was abolished by the previous LNP government. The council was an important means by which Queenslanders' views could be heard by the government and informs policy development thereby strengthening public confidence in the criminal justice system. It will be through this new council that the recommendation of the committee will best be identified and actually implemented by allowing the Sentencing Advisory Council to monitor and report on the sentencing that is arising as a consequence of, hopefully, the passing of these bills through this parliament.

Recommendation 3 is that the Department of Justice and Attorney-General prioritises its audit of Queensland court facilities and, based on its audit, take steps to ensure that courts in Queensland can adequately accommodate domestic and family violence victims providing evidence as special witnesses, and their families. While I understand that the amendments in the bill with respect to the special witness provisions in the Evidence Act are welcomed, some concerns were raised with the committee about the availability of videoconferencing facilities across all Queensland courts.

The Queensland government has committed to a comprehensive audit of all Queensland court and tribunal facilities. This audit has recently commenced. The first phase will be an assessment of all existing facilities with a view to having an accurate baseline of exactly what is available in each courthouse location. This audit will incorporate all aspects of court technology, including the distribution of prerecording and videoconferencing equipment and facilities such as rooms allocated to support these technologies. The next phase of the audit is expected to involve the analysis of this information to identify precisely what facilities and equipment should be present at each courthouse given the case load and case type handled at each location. The department expects to complete the audit and provide a report to me by 30 June 2016. The audit findings will inform Queensland government priorities for investment in court facilities.

The final recommendation of the committee is that I clarify what protections are afforded to victims of domestic and family violence in court proceedings which do not involve the giving of evidence; for example, when applying for a domestic violence order. Ultimately how proceedings are conducted under the Domestic and Family Violence Prevention Act is a matter for the courts. The Domestic and Family Violence Protection Act 2012 allows a person to appear in person or be represented by a lawyer. Also a police officer or Police Service legal officer or authorised person—that is an adult authorised in writing by the aggrieved or an adult whom the court believes is authorised by the aggrieved even though it is not in writing—may appear and act for an aggrieved person in a proceeding. Accordingly, a victim of domestic violence will only be required to address the court if they are self-represented or are required to give evidence. Under the Domestic and Family Violence Protection Rules 2014, there is a specific provision in rule 22 allowing the court to direct that a party to the proceeding be allowed to appear and make submissions by telephone, video link or another form of communication.

The Department of Justice and Attorney-General can confirm that in practice technical facilities, including videoconferencing for protected witnesses, are utilised in domestic violence proceedings generally and are not limited to the giving of evidence. For victims and other protected witnesses, sections 150 and 151 of the Domestic and Family Violence Protection Act contain safeguards for the giving of evidence such as by audiovisual link. There are also provisions in the Domestic and Family Violence Protection Rules 2014 for the giving of evidence by affidavit. A number of Queensland courts also have physical facilities such as safe rooms—which I have witnessed myself at the Southport court—which may be available to minimise contact between a victim of domestic violence and the alleged perpetrator. The audit of Queensland courts will identify all of the court locations where such facilities are available. Other safety measures such as the use of security officers and security cameras are also available. Court staff are conscious of victims crossing paths with perpetrators and prioritise the safe passage and accommodation within court precincts of domestic and family violence victims on court days. An aggrieved can bring to the attention of court and registry staff any safety concerns while attending court or when leaving the court building.

Some legal stakeholders have also raised concerns with the committee about the power provided in the new section 12A of the Penalties and Sentences Act 1992 inserted by the bill for a court to order that a previous offence for which the offender has been convicted be recorded on their criminal history as a domestic violence offence. I can advise members that this power is only enlivened once a person has been charged and convicted of a domestic violence offence after the amendments commence. Further, for a notation to be made in relation to past convictions an application must be made by the prosecution, and the court must be satisfied that the offence which the person has previously been convicted of did occur in a domestic and family violence context. While an offender may not have been aware at the time of the previous conviction that the particular offence may be noted to have occurred in a domestic and family violence context, a sentencing court can already have regard to a person's criminal history and must treat each previous conviction as an aggravating factor having regard to the nature of the previous conviction, its relevance to the current offence, the time that has elapsed since the conviction, and bearing in mind that the sentence imposed must not be disproportionate to the gravity of the offence in question.

The power of this provision to examine a person's past criminal convictions is its ability to flag to everyone looking at a criminal history that this is an individual with a history of domestic violence and to prompt them to make further inquiries so the issue can be properly considered. If the notation scheme only applies to convictions post commencement it will take many years before the benefits of the amendments will be realised, and I think this is a really important point. I do appreciate the views that have been raised by many parties in relation to this particular issue, but I do need to reinforce that this can occur right now. In putting forward an argument at sentencing, the prosecutor can bring to the court's attention previous offences and identify whether those offences are domestic violence related for the court to consider when weighing the sentence. This provision, if anything, seeks to ensure clarity around that provision and practice that exists now. Yes, the intention is to see that practice increase because we need to ensure that, if we are going to increase sentences, the court has all the information before it that it considers necessary when there is a history or a pattern of domestic violence in considering whether stronger penalties need to be imposed.

It is also the case that the benefit of a court considering such an application for a notation in relation to past convictions is not necessarily for the benefit of the magistrate at the time. The magistrate at the time will already be aware of it as a consequence of the application before it. This is about the next magistrate after that. That next magistrate and that prosecutor will not have to go back and have a look at all that history; it will be there and readily available. That is why it is so important that these applications can be made. It is not automatic; an application has to be made. The court has to be satisfied that those previous convictions relate to domestic and family violence. But if we do not allow that to happen, the next magistrate will not know and the magistrate after that will not know, and it could

be years before we see the effect of these provisions. We have a responsibility not just to change the laws, but to make sure that the laws are working. That is why we are pursuing the amendments in the way that we are.

I again would like to thank the Communities, Disability Services and Domestic and Family Violence Prevention Committee for its consideration of these bills and acknowledge the very valuable contribution of all those who have made submissions on the bills and assisted the committee during its deliberations. I am pleased that the committee and the expert stakeholders are overwhelmingly in support of the key components of the bill.

I once again acknowledge all of those individuals who started this by coming forward during the task force to tell their tragic and heartbreaking stories. It was very difficult for those individuals to come forward, and I am sure many of them were concerned about their safety. We thank them for their bravery in coming forward to tell their stories so we could end up with such a comprehensive task force report. With the recommendations that we now have before us, we can move forward as a community, as a state, and start taking real action in relation to domestic and family violence.

Finally, I foreshadow that I will be seeking to make some minor and clarifying amendments to the Criminal Law (Domestic Violence) Amendment Bill 2015 during consideration in detail. These amendments relate to clarifying matters in the scheme for noting offences as domestic violence offences and also facilitating a smooth implementation of the reforms. These amendments have been circulated in my name.

These bills represent the government's continued commitment to delivering on the recommendations of the Special Taskforce on Domestic and Family Violence in Queensland. Learning from domestic and family violence deaths and improving the accountability of perpetrators takes us one step further along the road to a Queensland free from domestic and family violence. I commend the bills to the House.