




Speech By
Andrew Powell

MEMBER FOR GLASS HOUSE

Record of Proceedings, 11 October 2016

**DOMESTIC AND FAMILY VIOLENCE PROTECTION AND OTHER LEGISLATION
AMENDMENT BILL**

 **Mr POWELL** (Glass House—LNP) (4.27 pm): I too rise to speak in support of this important piece of legislation that is before the House this afternoon. Like colleagues who have spoken before me, I acknowledge the bipartisan efforts that are being made in this area, starting with the commissioning of Quentin Bryce to undertake the *Not now, not ever* report. As a number of colleagues have pointed out, there are six main components of the bill. I want to focus my comments on those components that enhance the requirements for a court's consideration, the imposition of domestic violence orders to support stronger and more tailored protections for victims and other named person and to clarify that victim safety must be at the forefront of all decision-making.

It was my intent to refer to some particular work that I have been doing with a number of constituents in my electorate. However, given that matters pertinent to that work remain within the Family Court, I do not want to prejudice the case and, therefore, will not be referring to specific details. Fortunately, the key aspects that those discussions and efforts have focused on are well reflected in the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee's report No. 27. They get to the nub of it on page 30, where there is some discussion on the ability to provide protection for longer durations. The committee reports that there was widespread support from submitters for increasing the duration of protection orders and for requiring that the safety, protection and wellbeing of people who fear or experience domestic violence must be the principle of paramount importance in deciding the length of time for which the order is to continue in force.

I will quote from the report rather than use personal examples. The report states—

Submitters emphasised that for many women who endure an ongoing cycle of abuse and coercive control, two years is not adequate, and results in victims having to repeatedly seek extensions for their POs—

that is, protection orders—

or to seek a new order after the previous order expires.

That is at the heart of the contribution I want to make this afternoon. I understand the importance of not unfairly burdening an individual with an order that is onerous, but if a perpetrator is found to have undertaken the acts that we have all discussed this afternoon and the court is able to put in place a protection order for the benefit of the woman and potentially children then there really needs to be the flexibility to provide longer term protection orders. This would save the women in these relationships—and I note that there are instances where it is men—from having to constantly go through the cycle of seeking extensions to protection orders or gaining new protection orders. The committee goes on to acknowledge—

Despite the broad support for the extension of a default PO duration from two years to five years, however, it was also acknowledged that there was some uncertainty around the proposed amendments and what they will mean in application.

On one hand there were those who support the breadth of the discretion afforded to the courts within the proposed amendments to determine an appropriate length of protection order. I guess it is fair to say that those submitters would fall into the part of the community that believes judges and the courts can best determine the penalty or order to apply. There is equally another side of the community and another group of submitters—and probably some very significant ones at that—who cited concerns around the lack of an explicit minimum period for the duration of orders and that by so doing we may actually defeat the purpose and intent of extending the order to five years. One such submitter was Micah Projects. They stated—

... we hold the opinion that magistrates will use 97(2) (b) to reduce the time they are in force, in negotiation with the parties involved.

Importantly, the committee picked up on a confidential submission that stated a couple of things. Firstly, it stated—

If the above is not specifically written in the Act, then it is unlikely that terms beyond 5 years will be requested or considered. Just as under the present Act of 2012, periods beyond 2 years are rarely, if ever, requested or considered.

What we have heard from members, most recently from the member for Mansfield, the shadow Attorney-General, is the requirement that the court must give reasons if an order is to be made for a period of less than five years.

I acknowledge that others wanted more and indeed called for the inclusion of explicit provisions for orders of longer than five years duration. The same confidential submitter stated—

It has become very clear ... that our Daughter's ex-partner (the perpetrator and respondent to the DVOs) has no intention of ever, even attempting, to change his behaviour. Thus our daughter will likely have to continue to apply for DVO protection for many years to come and possibly the remainder of her life. This will come at considerable expense, both financial and emotional ...

It must be reasonably common and highly likely that perpetrators of domestic violence who are recalcitrant and reluctant to change their behaviour will continue the same behaviour for many years after separation, even after moving on to any new unsuspecting partner. Therefore I think that s97 of the Act should specifically mention terms of 10 years or beyond for a Protection Order to alert the court that such terms are acceptable where there is justification.

Resound, another submitter, took a slightly different approach, and stated—

... if a child is involved then a DVO should last by default until the time that the youngest child turns 18 ...

What we are hearing from those submitters is a concern in the community around not only the impact on the victims of domestic violence and their families when it comes to the need to go through the cycle of constant reapplication for DVOs but also the impact on the courts themselves and their ability to process these in an orderly fashion to allow that ongoing level of safety that the victim and the children in particular require.

I accept where we have landed in terms of some specific clauses around extending that period from two to five years. I understand that the amendment that was foreshadowed by the shadow minister, the member for Mudgeeraba, will be accepted by the government or potentially moved by the government. That is a great step forward. Again I place on the record that for some victims of domestic violence that is still not enough. Allowing the courts the flexibility may not necessarily result in the outcome that these victims need.

I again stress that I understand the need for checks and balances. I know that some perpetrators are, through appropriate intervention and assistance, able to change their behaviour and therefore change their interactions with their previous partner. It should be on the perpetrator to prove that to a court rather than the victim constantly having to prove the contrary in ongoing DVO applications.

As we move forward with further tranches of legislative change around domestic and family violence prevention legislation, we need to keep in mind that if we put in a five-year limitation this time we need to have a look at how it is progressing. If we are still having instances of women victims going through this court churn every time they have to apply for a DVO, we will again need to look at possibly giving some direction to the courts through legislation that allows them to consider far longer term DVO applications, perhaps as Resound suggests until the youngest child in the family turns 18. I would ask that as a parliament we keep that in mind as we move forward and address this scourge in our society, but particularly as we move forward in terms of protecting victims of domestic violence and their loved ones.