




Speech By
Leanne Linard

MEMBER FOR NUDGE

Record of Proceedings, 14 September 2016

**CHILD PROTECTION (MANDATORY REPORTING—MASON'S LAW)
AMENDMENT BILL**

 **Ms LINARD** (Nudgee—ALP) (8.47 pm): I rise to speak to the Child Protection (Mandatory Reporting—Mason's Law) Amendment Bill 2016. The objective of the bill is to extend mandatory reporting obligations to the early childhood education and care sector, giving effect to recommendations contained in the Queensland Law Reform Commission's report, *Review of child protection mandatory reporting laws for the early childhood education and care sector*, which was tabled in parliament on 25 February 2016.

Mandatory reporting is a legislative requirement to report a suspected case of child abuse to a relevant authority. Currently in Queensland, the Child Protection Act provides that any person may report if they reasonably suspect a child may be in need of protection, having formed a reasonable suspicion that a child has or is suffering significant harm or is at an unacceptable risk of suffering such harm. In Queensland, as we have heard, a range of professionals who work and interact with children—including doctors, registered nurses and teachers—are mandated by law to report child safety concerns to the Department of Communities, Child Safety and Disability Services. ECEC professionals—those who work in long day care, family day care, out-of-hours care and kindergarten services—are not subject to such mandatory reporting requirements, and it is this dichotomy that the Queensland Law Reform Commission recommendations and subsequently the bill go to.

The Queensland Law Reform Commission report recommended that the mandatory reporting requirements under the act be expanded to apply to approved ECEC services and, within them, an approved provider, nominated supervisor, family day care coordinator or a person employed by an approved ECEC service who holds at least an approved certificate III level education and care qualification. The government's response to the Law Reform Commission's report supported expansion of mandatory reporting provisions to apply to the ECEC sector, making it clear that children's health, safety and wellbeing are the government's key consideration, that the government would support all educators who work with children and their families to appropriately report a child protection concern to the department and that the department of child safety, along with the Department of Education and Training, would partner with the ECEC sector in the development of targeted training and resources to support professionals in understanding reporting obligations under any new laws.

While accepting the intent of recommendation 9-1 and 9-2, the government response noted that given the diversity of service types in the ECEC sector, it is critical that individual professionals are appropriately captured under any new legislative provisions. The private member's Child Protection (Mandatory Reporting—Mason's Law) Amendment Bill essentially seeks to give effect to recommendations as contained in the Queensland Law Reform Commission report.

The committee sought written submissions on the bill, held a public briefing and a public and a private hearing. The committee received 12 submissions including from the Queensland Family and Child Commission; the Creche and Kindergarten Association Limited; Queensland Law Society;

Queensland Catholic Education Commission, Queensland College of Teachers; and Mr John and Mrs Susan Sandeman, grandparents of Mason John Parker, the bill's namesake, who have a deeply personal investment in the bill before the House. I understand that Mr and Mrs Sandeman, as has been mentioned already, are in the public gallery tonight. I respectfully acknowledge their presence here this evening and the memory of Mason Parker.

In their briefing to the committee, the Department of Communities, Child Safety and Disability Services acknowledged that parents have the primary responsibility for the care, wellbeing and development of their children. However, when cases of significant harm, as defined under the Child Protection Act, take place they often do so in private and children, particularly younger children, may be unable to ask for help. ECEC services are uniquely placed to identify vulnerable and high-risk families and to assist the department to perform its statutory obligation to investigate, assess and take action in cases of harm.

All states and territories, except Queensland and WA, have extended legislative mandatory reporting laws to the ECEC sector. The majority of submissions to the Queensland Law Reform Commission supported extending mandatory reporting obligations to this sector. This was similarly the case for submissions received by the committee during our bill inquiry. One of the key questions in my mind during the committee's deliberations was: does mandatory reporting help to uncover child abuse? Various Australian inquiries have concluded that mandatory reporting increases the number of reports made, both substantiated and unsubstantiated, but the evidence considered by the Queensland Law Reform Commission was mixed.

In 2014-15 Queensland already had the second highest number of investigations resulting from notifications by childcare personnel in Australia, but should and can more be done? The QLRC review noted the work of Professor Benjamin Matthews which concluded that mandatory reporting identifies most cases of severe child maltreatment and cited several sources of data from the US which found that mandatory reporting may contribute to long-term declines in abuse. Concerns were raised in submissions, however, that mandatory reporting may lead to overreporting and that this could be an unintended and undesirable consequence of the bill. The Queensland Law Reform Commission review notes, however, an academic's conclusion that overreporting in Australia and the US is not sustained by the evidence.

The vast majority of evidence received by the committee supported the expansion of mandatory reporting to the ECEC sector. However, many stakeholders identified issues affecting implementation of the bill, most particularly who would be covered and from when. While agreeing that the bill should be passed subject to an amended commencement date, the committee was unable to agree on which individuals should be captured by the mandatory reporting provisions, whether role or qualification based, given the diversity of service types in the sector.

Divergent views were provided to the committee regarding which staff in the ECEC sector should be mandated to report. Some stakeholders were of the view that reporting should be linked to a qualification, as is currently provided by the bill, whilst others considered mandatory reporting should be tied to the role undertaken by ECEC staff. Some thought the level of qualification provided by the bill is too low and should be increased. Others raised that the bill does not capture those who are currently studying for their qualification and are in direct contact with children.

The key distinction was made by a number of submitters that it should be about the contact that the educators have with children rather than a qualification that could be held by a person within an approved centre who is potentially removed from direct contact with children. This alternate and simplified approach proposed by the original bill would ensure the legislation captures educators in frequent contact with children who are best placed to identify child protection concerns as well as more experienced professionals in a supervisory or management role.

It was proposed that the bill as introduced would commence on 1 January 2017. Explanatory notes to the bill stated that this commencement date would allow sufficient time for the department of education to prepare a comprehensive training and education program about the scope of the reporting obligation prior to the legislation taking effect. This view was not shared by many submitters, who felt that the two to three months provided for between possible assent and 1 January 2017, which includes the Christmas period and the period before many staff are hired in time to commence the kindy term, was insufficient. The Queensland Catholic Education Commission put it well when they advised the committee—

... it depends on whether you want it done well or not. Can it be done? Yes. People will meet their mandated requirements. Will it be done well? I think there would be doubt around that.

Surely there is no question that it should be done properly. The committee felt so and unanimously agreed that the bill should be passed subject to amendment of the commencement date from 1 January to 1 July 2017. We listened to stakeholders' concerns.

The member for Aspley was forthright and comprehensive in her briefing to the committee on the bill and I acknowledge and thank her for that assistance. The committee diligently considered the bill before us and the issues raised by submitters. We worked together to ensure a positive outcome for vulnerable children and families in our community and across Queensland. It is heartening to see this House do likewise this evening.

I take this opportunity to acknowledge both the past deputy chair, the member for Moggill, and the current deputy chair, the member for Caloundra and my fellow committee members, the members for Greenslopes, Thuringowa, Mudgeeraba, Gaven, Mount Ommaney and Buderim, who contributed to this inquiry.

I note from the amendments to be moved during consideration in detail distributed this evening that the member for Aspley has accepted the comments and recommendations of the committee. I thank the member for Aspley for responding positively to the recommendations of the committee and listening to the views of stakeholders. I know these amendments, if passed, will support a successful transition to the new legislative requirements.

At the public hearing all stakeholders highlighted the importance of training for effective implementation of legislation and in reducing the potential for overreporting. This is an important consideration should the bill pass, and I am confident the department of education in conjunction with the department of child safety and the ECEC sector will manage with the sufficient time proposed by the amendment prior to commencement of the bill on 1 July 2017.

I would like to conclude where I began, and that is by acknowledging Mr John and Mrs Susan Sandeman. John and Susan provided a submission to the inquiry and spoke to the committee via videoconference. The loss of their grandson Mason could have been nothing less than profound. I admire the courage and fortitude they have shown in persevering through their personal loss and grief to see reform take place. I commend the bill and amendments to the House.