Speech By

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DOMESTIC AND FAMILY VIOLENCE PROTECTION AND OTHER LEGISLATION AMENDMENT BILL

Ms LINARD (Nudgee—ALP) (2.50 pm): I rise to speak in support of the Domestic and Family Violence Protection and Other Legislation Amendment Bill 2016. Already this term four priority bills have been debated and passed in this House to improve our current legal and justice system response to domestic and family violence. The bill before the House builds upon these reforms, further strengthening the police and justice response to domestic and family violence and demanding further accountability for perpetrators. The bill before the House, like the four that preceded it, gives effect to recommendations contained in the *Not now, not ever* report, in this case to introduce enabling legislation to allow information sharing between government and non-government agencies within integrated service responses, to require courts to consider family law orders when making a domestic violence order and to develop and implement the national domestic violence order scheme to achieve automatic mutual recognition and enforcement of domestic violence orders across jurisdictions. The bill implements the remaining recommendations of the task force, including the outcomes of the review of the Domestic and Family Violence Protection Act.

The objectives of the bill are: to provide victims of domestic and family violence with earlier and more tailored protection; to ensure victim safety is at the forefront of the justice response to domestic and family violence; to provide for the automatic mutual recognition of DVOs made in other jurisdictions; and to impose greater accountability upon perpetrators and encourage behavioural change, including through increased penalties and requirements associated with personal protection notices and release conditions.

I would like from the outset to acknowledge and thank the minister and her department for their assistance to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee during our consideration of the bill. The bill contains many technical aspects. The assistance provided by departmental officers in both written and verbal form has assisted the committee greatly to understand the content and application of the bill.

I want to deal firstly with the issue of mutual recognition of domestic violence orders. Currently, an aggrieved person must manually register an order made in another jurisdiction in Australia or in New Zealand with the Queensland Magistrates Court in order to have that order recognised and enforced in Queensland. If a victim does not register their order, they are left without protection in their new jurisdiction.

When speaking on a previous bill in relation to domestic and family violence reform I spoke of a constituent who had contacted me who was a survivor of extreme domestic violence. Her reflections on how her life and the lives of her children was daily impacted by violence and on how difficult it had been to leave with nowhere to live, no car, no money and two very young children was significantly

compounded by the fact that when she did leave the perpetrator followed them from house to house and state to state. I know this story experienced by my constituent is not an isolated one, but rather is one all too common when dealing with violent, fixated partners. I spoke then about the need to progress national model laws. I am so pleased to see this bill give effect to removing the manual registration process and provide for the automatic recognition of interstate orders.

We need to make the journey easier where possible. The bill will streamline processes and improve safeguards for victims by treating the contravention of an interstate domestic violence order as if it were a Queensland domestic violence order, recognise any disqualifications attached to an interstate domestic violence order, such as firearm or weapon licence restrictions, and allow for the exchange of information about domestic violence orders among Queensland and interstate courts and police. I understand other jurisdictions are in the process of implementing the same laws so that Queenslanders who move interstate have the same protection and that the model laws will be supported by a national information sharing system.

As cited in our committee report, the importance of information sharing between agencies to support risk identification, early intervention and integrated, holistic responses to domestic and family violence was a key theme of the task force report. Currently, the Domestic and Family Violence Prevention Act does not expressly enable information to be shared between government agencies and/or non-government organisations that provide domestic and family violence services.

The complex overlay between information privacy, privacy, child protection, corrective services acts and confidentiality requirements of professional associations, including those applied to social workers and various health professionals, creates confusion and uncertainty about what and how much information can be shared when, with whom and for what purpose. The nature and dynamics of domestic violence are often complex and information sharing is critical to assessing and managing potentially fatal risks. Confusion and uncertainty serves to delay or prevent agencies from being able to adequately assess such risk and the results can be catastrophic.

The bill enables government and non-government organisations, in defined circumstances, to share information about victims and perpetrators to assess and manage serious domestic violence threats. The bill provides that prescribed entities and specialist domestic and family violence service providers that are non-government entities funded by the state or Commonwealth may exchange information if they reasonably believe a person fears or is experiencing domestic violence, and giving the information may help the other relevant entity assess whether there is a serious threat to the person's life, health or safety because of the domestic violence. Support service providers, non-government organisations other than specialist domestic and family violence service providers, such as general practitioners, counsellors and sexual assault services, may also provide relevant information to prescribed entities and specialist domestic and family violence service providers in the same circumstances.

Information can only be shared to the extent necessary to assess the threat or take action to lessen or prevent the threat. New section 169B importantly provides that as an underlying principle a person's consent to sharing information should be obtained wherever it is safe, possible and practicable to do so. I want to recognise this as a very important principle. Information is often of a personal or highly personal nature and should be protected. However, the new section also enables information sharing without consent, recognising the safety and protection of victims and their families as the paramount concern. I believe the bill strikes the right balance and places the emphasis where it should be, which is on protecting the victim.

Stakeholders widely supported the proposed changes as critical to assessing and managing potentially fatal risks. Micah Projects, which provide invaluable specialist domestic violence support services in my electorate—having also recently opened a new wellness centre at Zillmere—commented in their submission that the current confusion over information exchange acts as a barrier to referral for support for aggrieved people and can hinder enforcement of orders. Micah Projects submitted that the proposed changes will support a more effective system response to issues of domestic and family violence. UnitingCare Queensland submitted that the amendments will enable service providers to deliver more individualised services in order to achieve better outcomes for victims and their families, the very objective of the bill.

A large component of committee questions related to safeguards to prevent the inappropriate sharing of information and to protect people's privacy. The bill contains a number of limits on the information that may be shared, by specifying circumstances in which the information may not be shared. This includes where the information is about a person's criminal history that relates to an expired conviction other than a domestic violence conviction.

The act also safeguards the confidentiality of information once obtained and specifies that police officers may use the information for threat assessment or threat management purposes only to the extent necessary to perform their functions. Officers cannot use the information for a criminal investigation or proceeding unless the use would be in the best interests of the victim. Penalties of up to two years imprisonment or 100 penalty units apply for the inappropriate use or disclosure of information.

The whole is indeed greater than the sum of its parts in this regard. Agencies, whether Health, police, the courts, counsellors and medical practitioners, often hold discrete pieces of information that when shared may form a far more dynamic and complete picture of the situation at hand. Better information sharing will provide a more integrated and complete response to those who are experiencing domestic and family violence and will no doubt save lives.

Personal protection notices were one of the reforms introduced in 2012 by the Domestic and Family Violence Protection Act to enable police officers to provide quick and effective responses for victims of domestic and family violence. A PPN is issued by a police officer at the time of an incident and is also an application for a protection order which provides short-term protection until an application can be heard by a court. The task force report found that PPNs play an important role but that they are currently underutilised by police due to the limited protection they offer and the restrictions and service requirements surrounding their use.

The bill includes reforms to provide victims with access to earlier and more tailored protection, including expanding the operation of police protection notices, streamlining administrative requirements associated with PPNs, providing more flexibility in the issuing and service of notices, and requiring police to consider how to provide victims with effective protection prior to a court determining the application for a protection order. Currently, the act states that a police officer may take any of a number of prescribed actions in such circumstances. The bill amends section 100 'Police officer must investigate domestic violence' to insert a new subsection that requires police officers to consider what action is necessary and desirable to immediately and effectively protect a person if the police officer reasonably believes, after investigation, that domestic violence has been committed. By specifying that police must consider whether to take any of the prescribed actions, the new subsection is intended to help set a clear expectation that victims will be provided with protection as quickly as possible.

The bill also expands the range of people able to be named in a PPN, which currently only allows protection for the victim but not their children or other relative or associate of the aggrieved who can now be included. The bill expands the conditions that can be included to include, in addition to the mandatory standard condition, a cool-down condition, requiring the respondent to leave stated premises and not approach or contact the aggrieved for 24 hours; a no-contact condition, prohibiting the respondent from approaching or contacting an aggrieved or attempting to locate them if their whereabouts are not known to the respondent or asking someone else to do so; an ouster condition, prohibiting the respondent entering, attempting to enter or remaining at stated premises; and a return condition, allowing the respondent to return to and remain at stated premises for the purpose of recovering or removing stated personal property.

The bill also removes the requirement that an officer must be in the same location as the respondent to issue a notice. This means that a notice can be issued where the respondent has fled the scene before police arrive. The proposed amendments provide that a police officer can issue a notice to a respondent who is not present at the same location if the police officer has made a reasonable attempt to locate and talk to the respondent, including by telephone, to afford the respondent natural justice in relation to the issuing of such a protection notice. Hence, police will still have to personally serve notices on respondents, as notices will continue to be court applications for DVOs. However, to ensure that this requirement does not delay victims being protected, respondents will commit an offence if they breach a condition that a police officer has told them about, even if personal service has not yet occurred. New subsection 113(2) clarifies that the respondent may be told by the officer about the existence of a PPN in any way, including by telephone, email, SMS, message or other electronic means. This is consistent with the approach currently adopted for DVOs and will assist with holding perpetrators to account where they actively evade and frustrate service.

The bill also increases the maximum penalty for breaching a police protection notice or release condition to a maximum three years imprisonment or 120 penalty units. This ensures the penalty for breaching a notice is consistent with the penalty for breaching court issued DVOs, penalties introduced by this Palaszczuk government last year. The bill preserves the current safeguards and court oversight that apply to police protection notices.

The bill includes a range of amendments to court processes and requirements intended to enhance victim protection. These changes include enabling courts to make protection orders that last longer and requiring courts to consider including conditions to tailor a DVO to better meet a victim's protection needs. Currently, protection orders can only last for up to two years, unless there are special reasons for courts making a longer order. The bill expands court powers so orders can be made that last for as long as necessary to protect victims. At the same time, the amendments set an expectation that orders will last for a minimum of five years unless there are reasons for making a shorter order.

In addition, courts will also have to consider whether more specific conditions should be included in DVOs in addition to the standard condition that the respondent must not commit domestic violence. Currently, the act provides that a court may also impose any other conditions that it considers are necessary in the circumstances. The amendment will require that a court must consider whether additional, more specific conditions should be included in the order, in so doing, prioritising protection of the victim and any named individuals while removing any reference to consideration of the interests of the respondent.

The bill also seeks to address the issue of DVOs and family law orders containing inconsistent terms in regard to contact between parents and children. The task force report recommended that when making a DVO the court is required to consider any existing family law order. While family law orders made in the Commonwealth jurisdiction will continue to prevail, the bill requires the court to always consider any such family law order that they are aware of and whether to exercise their powers to revive, vary, discharge or suspend the order if it conflicts with the proposed DVO.

The bill also clarifies the weight that should be given to a respondent's compliance with voluntary intervention orders. The current provisions enable courts to consider a respondent's compliance with the program in deciding whether to make a protection order and its duration. Consequently, a victim's protection can be diminished if the respondent has complied with the program even if there is no evidence of a change in their behaviour.

The bill seeks to address this issue by specifying that in making or amending a protection order courts may consider a respondent's compliance with a voluntary intervention order or behaviour change program or counselling but must consider a respondent's failure to comply with a voluntary intervention order and must not refuse to make a protection order or decide to vary a domestic violence order merely because the respondent has complied with a voluntary intervention order previously made against the respondent. The amendments seek to ensure that a victim's access to protection focuses on what is needed to keep them safe and does not depend on whether or not a respondent complied with a voluntary intervention order.

The bill also contains a number of additional amendments to enhance perpetrator accountability and encourage behavioural change including increasing the maximum penalty for breaches of personal protection notices and release conditions to achieve consistency with the penalty for breaching domestic violence orders, which I spoke of earlier, and amending the Weapons Act to provide that any weapons licence held by a respondent named in a PPN is suspended for the duration of the notice, among other amendments outlined by the minister in her introductory speech.

Submitters generally welcomed the suite of amendments intended to better hold perpetrators of violence to account and encourage them to change their behaviour, with the majority of submissions focusing on the proposed increase in the maximum penalties associated with PPNs and release conditions—which included support from Micah Projects, Protect All Children Today, the Australian Association of Social Workers, among others.

In closing, I would like to thank those stakeholders and individuals who made submissions and appeared at the committee's public hearing. Many of the groups represented make a significant ongoing commitment in the area of domestic and family violence prevention including the Queensland Domestic Violence Service Network, the Women's Legal Service, the Aboriginal and Torres Strait Islander Legal Service, Community Legal Centres Queensland, the LGBTI Legal Service, the Queensland Family and Child Commission, the Association of Social Work, Protect All Children Today, Micah Projects, UnitingCare Queensland and so many others. Thank you for the work that you do in supporting victims of domestic and family violence each day in our communities. I would also like to acknowledge the minister's continued leadership in the area of domestic and family violence prevention law and policy reform. She is a passionate advocate for victims of domestic and family violence and of the need to make their journey a safer, more integrated and responsive one.

Finally, I thank our hardworking inquiry secretary, Lucy, and my fellow committee members for their contributions in consideration of the bill. The bill strengthens the police and justice response to domestic and family violence and demands further accountability for perpetrators. They give our police the powers and flexibility they need to better protect victims and the courts the guidance and processes to do the same. They give our hardworking domestic and family violence integrated response teams and services the information they need to do their job. These reforms have the capacity to make an appreciable difference to victims of domestic and family violence. Accordingly, I commend the bill to the House.