Speech By

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ADOPTION AND OTHER LEGISLATION AMENDMENT BILL

Ms LINARD (Nudgee—ALP) (9.49 pm): I rise to speak to the Adoption and Other Legislation Amendment Bill 2016. The bill implements the key findings of the review of the operation of the Adoption Act 2009 which found that the act is operating as intended but that aspects of the legislation—such as expanding the eligibility criteria, removing the offence and associated penalty for a breach of contact statement, improving access to information, retaining a child's identity, facilitating contact during interim adoption orders and improving the process for adoption by step-parents—could enhance the act.

I would like to acknowledge from the outset that adoption is a deeply personal issue that generates often intensely held and differing views and affects people in profoundly different ways—of course, none more so than those who have lived experience of adoption. Queensland's adoption laws have changed significantly since the Adoption of Children Act 1964, which was significantly changed by the Adoption Act 2009, which introduced a contemporary framework for the adoption of children in Queensland and from overseas. The act brought Queensland's adoption laws into line with other Australian states and territories by introducing open adoption, which allowed the child, adoptive parents and birth parents to know each other and the circumstances of the adoption, along with a range of other amendments.

Given the significant changes made by the 2009 act, the amendments contained a statutory requirement to review the act five years from its commencement. In September of last year, the department commenced this review, spanning 12 months and culminating in the tabling of the final report in the House on 8 August this year. The review found, as mentioned earlier, that, while the act is continuing to work effectively, there are opportunities to enhance the legislation. The bill currently before the House is designed to ensure that the act continues to provide a contemporary legislative framework to support adoption practices in Queensland.

Adoption Services, within the department, holds responsibility for managing adoption applications, assessing the eligibility of those seeking to adopt and processing applications in accordance with the act, with final adoption orders determined by the Children's Court. In 2015-16, there were 48 final adoption orders made in Queensland of which 26 were intercountry, 13 step-parent adoptions and nine local adoptions within Queensland. The main objective of the act is to provide for the adoption of children and for access to information about parties to adoptions in Queensland in a way that promotes the wellbeing and best interests of adopted persons throughout their lives.

Section 269 of the act provides that a birth parent or an adopted person who is at least 17 years and six months old may give the chief executive a signed contact statement document setting out their wishes about being contacted by another person, or people, to the same adoption. They may not wish to be contacted at all or may wish for contact to only occur in a particular way. During the department's extended consultation the department heard strong views about contact statements, particularly from

those who had been impacted by forced adoption policies and practices. Contact statements under the act currently operate differently depending on whether the adoption order was made before or after June 1991.

The department noted that feedback received throughout the review consultation process revealed that 'people feel quite intimidated and fearful of the inclusion of such an onerous penalty provision in the legislation about contact statements'. Further, people who are parties to adoption, including adoptions that happened within that pre-June 1991 time frame, have said to the department that they respect another party's wishes in terms of a contact statement that may be in place and that they did not feel that there was the need for there to be an offence provision contained in the legislation. Stakeholders impacted by past forced adoption policies and practices have expressed particularly strong views in this regard.

Consistent with changes in other jurisdictions and community feedback, the bill retains contact statements but removes the offence and associated penalty for a breach of a contact statement. The bill also seeks to improve access to information by enabling the chief executive to consider the release of identifying information without consent from adoption or birth parents in exceptional circumstances; broadening the definition of 'relative' for the purposes of accessing or consenting to the access of information, to include future generations and persons recognised as parents and children under Aboriginal tradition and island custom; and expanding when information about a person who may be an adopted person's biological father may be provided to them.

The department noted that throughout the review process stakeholders highlighted the importance of enabling parties to adoption to access information about themselves because, as the minister said earlier, 'it tells them a story about their birth and adoption experience'. The provision of greater and more flexible access to information to support open adoption processes was also widely favoured by submitters to the inquiry.

The amendments in the bill improve support to adopted persons to enable them to learn about their birth family, history and the circumstances of their adoption by improving access to information, while continuing to acknowledge and respect people's right to privacy. It extends the definition of 'relative' as it relates to people who may access information on behalf of another person and who may consent to the release of information on behalf of another person. 'Relative' is extended to include grandparents, grandchildren and people who are recognised as parents and children under Aboriginal tradition or island custom.

The bill also makes some important changes to assist adopted people with retaining their identity by replacing section 215 to better emphasise the importance of preserving a child's birth name and provide greater guidance as to the limited circumstances in which it may be acceptable for a child's first name to be changed in the order. The bill makes it clear that the court should only consider changing a child's first name in exceptional circumstances. Submitters broadly supported the amendment as 'an important measure to ensure a child's identity—including language, cultural and religious ties—is preserved by law'.

The bill also removes any doubt that face-to-face contact between a child and their birth parents can occur during an interim adoption order through the use of an adoption plan. This will support a child's transition to adoption, while retaining oversight by the chief executive and only facilitating contact if it is in the best interests of the child. Submitters generally expressed support for the amendments and the 'removal of doubt' and 'much needed clarity they provide'.

Under section 75 of the act, the chief executive is required to keep a register of persons who have expressed interest in adopting a child. Currently, to make an expression of interest, a person must have a spouse and must make the expression of interest jointly with their spouse. The current eligibility criteria under the act does not allow single people, same-sex couples and people undergoing fertility treatment to make an expression of interest to adopt a child. The bill proposes to amend these eligibility requirements to allow single persons, same-sex couples and persons undergoing fertility treatment to express their interest and have their names entered and remain in the EOI register, and to be assessed and selected as prospective adoptive parents.

The same rigorous assessment process applied to couples will still apply to single persons. This includes considerations such as financial position, health and attitudes to children and parenting. During the review of the act, it was reported that there was broad support to improve the fairness and equity of the eligibility criteria, with the majority of respondents who commented on same-sex adoption supporting a change to allow adoption by same-sex couples.

The proposed amendments to eligibility criteria were the primary focus of the overwhelming majority of submissions to the committee's inquiry on the bill. A significant number of submissions addressed these amendments exclusively, with the core of their focus on the eligibility of same-sex

couples. Although strong views were expressed both for and against the amendments, submitters were united in their emphasis on legislation to protect the rights and best interests of children. Supporters of the amendments submitted that there is no empirical foundation for discriminatory beliefs or stereotypes about same-sex parenting, citing key research findings and reviews published by the New South Wales, Tasmanian and Victorian law reform commissions, the Australian Institute of Family Studies and the University of Melbourne that found that children raised in same-sex parented families are healthy, happy and well adjusted.

Submitters' respective positions on single-parent eligibility largely mirrored those outlined in relation to same-sex parent eligibility. Few submitters expressed views on the proposed extension of eligibility to adopt to persons undergoing fertility treatment. In response to submitters to the committee inquiry, the department stated that the amendments reflect 'the best available evidence', which indicates that meeting the best interests, needs and welfare of a child is not dependent on whether a child has a mother and father, same-sex parents or a single parent, but rather is met by the quality of the environment within which a child is raised.

I certainly appreciate how divisive conversations of this nature can be, but I have to say that, as someone who was raised in a single-parent household myself, I know personally that arguments such as those received by the committee that single-parent families lack a relationship model and complementary parent dynamic or the necessary family stability and security to provide an ideal environment for an adoptive child are incorrect. Some submitters expressed a concern for possible disruptive effects for children of single parents, echoed for same-sex parents, in relation to any short-term partner relationship their parent forms. I think this assumes much. It diminishes the stability, love and security that can be present in such relationships and overstates that which may apply in others simply by nature of their traditional form.

As is often the case where the interests and wellbeing of children and families are involved, there was impassioned commentary both in support of and against the bill's proposals, drawing on distinct research findings and personal experiences of adoption. While government members were supportive of the proposed amendments, after considering the submitted evidence, the committee was unable to reach a majority decision on the bill.

In recognition of the continuing evolution of adoption practices and community expectations, the bill contains the requirement to once again review the operation of the act in five years time. The review will enable the government to look at the effects of the changes made by the bill and ensure that they are having their intended impacts on the children and families who are party to adoptions in Queensland.

On behalf of the committee, I wish to extend my sincere thanks to those individuals and organisations who lodged written submissions and appeared at the committee's public hearing, and to those who contributed to the department's more detailed review of the act. I commend the bill to the House.