Speech By

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MEMBER FOR MORAYFIELD

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CRIMINAL LAW (DOMESTIC VIOLENCE) AMENDMENT BILL (NO. 2)

Mr RYAN (Morayfield—ALP) (4.30 pm): I rise to speak in support of the Criminal Law (Domestic Violence) Amendment Bill (No. 2) 2015. In doing so I acknowledge the contribution that the Attorney-General and the Minister for the Prevention of Domestic and Family Violence have made in respect of not only this bill but also this very sad subject matter. I also acknowledge the contribution of the members of the committee in preparing the report that the parliament has had to consider in considering this bill.

I note that there are three key objectives of this bill. The first is to make provision for domestic and family violence to be an aggravating factor on sentencing by amending the Penalties and Sentences Act. The second is to create a new offence of choking, suffocation or strangulation in a domestic setting by amending the Criminal Code. The third is to allow a court to receive a submission from a party on what they consider to be the appropriate sentence or sentence range for the court to impose.

The first two objectives follow recommendations contained in the *Not now, not ever* report—the very detailed report by Dame Quentin Bryce who chaired the Special Taskforce on Domestic and Family Violence. It follows work done by many, many people over many, many years to shine a light on domestic and family violence and to take action against domestic and family violence.

Members of this House would have heard me speak about some of the work that we have been doing locally in the Morayfield state electorate not only to provide additional support for those people who might be experiencing domestic and family violence but also to actually change attitudes and instil respectful relationships in our communities. I note that when the Attorney-General introduced this bill she mentioned that the changes contained in this bill—particularly to make provision for domestic and family violence to be an aggravating factor and obviously to create a new offence of choking, suffocation and strangulation in a domestic setting—go some way to increasing perpetrator accountability.

These changes go a little further as well. They are about changing attitudes and creating greater awareness around domestic and family violence and instilling in those people who may find themselves in a situation where they are perpetrating domestic and family violence that that behaviour is never acceptable—not now, not ever. We have to create a whole suite of responses to domestic and family violence and not only ensure that perpetrators are accountable for their actions but also that we are instilling respectful, positive relationships into households all over Queensland so that in a generation's time we can look back and say, 'This was a turning point where we changed our community for the better. We took steps towards eliminating domestic and family violence.'

In the debate today many people have touched on the relevance of making the provision for domestic and family violence to be an aggravating factor on sentencing and creating the new offence of choking, suffocation or strangulation in a domestic setting. I wanted to touch quickly on the changes

which flow as a result of the third objective of the bill which is to allow a court to receive a submission from a party on what they consider to be the appropriate sentence or sentence range for a court to impose.

This change follows the High Court decision in 2014 of Barbaro & Zirilli v The Queen. This was a very interesting decision because it changed some practices that had been commonplace in courthouses all over Australia. The key thing we have to distinguish from the outset is that the submissions which were ultimately the focus of that High Court decision are not the same as victim impact statements. We have to make that very clear. Victim impact statements are provided for under the Penalties and Sentences Act and the Victims of Crime Assistance Act and apply to all victims of offences against the person.

What this particular High Court decision considered was whether or not people could make submissions to the judge at the point of sentencing about the appropriate sentencing range for particular offences and convictions. The key thing that the High Court said was that those submissions were not allowed. The High Court came to the conclusion that if the judge actually sentences incorrectly then the appropriate course is to appeal that incorrect sentence.

There have been a number of people who have commented that there is some advantage in allowing the prosecution and other parties to make submissions about sentencing ranges. In particular, the Bar Association said that there are significant practical advantages associated with that, including improving consistency in sentencing and assisting courtroom efficiency. Ultimately, there would be many in the legal profession who would say that if people can assist the court by making submissions about the available range of sentences then we can ultimately avoid appeals about sentences being incorrectly determined and ruled on by judges.

I do not think we should underestimate the importance of the third objective—that is, restoring the ability of parties to make submissions to the court about appropriate sentences. That being said, this bill goes some further way to ensuring that we send a strong message to our community that domestic and family violence is never acceptable—not now, not ever. Through making the provision for domestic and family violence to be an aggravating factor on sentencing and creating the new offence of choking, suffocation and strangulation we go some way further to holding perpetrators to account for their actions but also changing attitudes and instilling respectful relationships in our community which we all hope will save lives.