




Speech By
Hon. Mark Ryan

MEMBER FOR MORAYFIELD

Record of Proceedings, 29 November 2016

**CHILD PROTECTION (OFFENDER REPORTING) AND OTHER LEGISLATION
AMENDMENT BILL**

Introduction

 **Hon. MT RYAN** (Morayfield—ALP) (Minister for Police, Fire and Emergency Services and Minister for Corrective Services) (2.55 pm): I present a bill for an act to amend the Child Protection (Offender Reporting) Act 2004, the Police Powers and Responsibilities Act 2000 and the acts mentioned in schedule 1 for particular purposes, and to repeal the Child Protection (Offender Prohibition Order) Act 2008. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2016 [\[2158\]](#).

Tabled paper: Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2016, explanatory notes [\[2159\]](#).

I am very pleased to be able to introduce the Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2016. This bill confirms the Palaszczuk government's commitment to protecting the most vulnerable people in our society—our children—and it reinforces my commitment as Minister for Police to keep Queenslanders safe. The bill will provide that protection by strengthening the existing legislative framework that manages the activities of reportable offenders and providing police with the powers they need to prevent recidivist sexual offending against children.

The impetus for the bill grew from a statutory review of the Child Protection (Offender Prohibition Order) Act 2008 undertaken by the Crime and Corruption Commission in 2013. The recommendations from the Crime and Corruption Commission's review have been supported by the Palaszczuk government, including amalgamating the Child Protection (Offender Reporting) Act 2004 with the Child Protection (Offender Prohibition Order) Act 2008. A combined regulatory regime will remove the areas of discord identified in the Crime and Corruption Commission's review and will ensure Queensland's legislation provides a cohesive and holistic response to the management of reportable offenders.

Early intervention, disruption and prevention are some of the key themes of this bill. The capacity for police to intervene prior to offending and act quickly when there is a suspicion an offence has been committed has the dual benefit of supporting offenders who are at risk of reoffending and protecting children in our community. The bill achieves this by giving police the authority to inspect electronic devices and to require access information to those devices. These new powers align with the recommendations made by the Crime and Corruption Commission and its narrative, which recognises that police have limited powers to manage the in-home behaviours of reportable offenders. The inspection provision provides police officers with the power to inspect electronic devices in the possession of those reportable offenders who have been released from government detention or sentenced to a supervision order in the preceding three months, or convicted of a prescribed offence using the internet, or assessed as posing an increased risk of reoffending.

The inspection process uses specialised software which provides police with vital information about the websites, the social media sites, the instant messaging or chat rooms a reportable offender is or has been accessing as well as the software and hardware on the device. The software used during

the inspection process is also capable of identifying image files on the computer, including child exploitation material. The inspection power is in keeping with the purpose of the offender reporting legislation and is in line with contemporary policing strategies to prevent crime. This is a significant change and does require adequate protections. In this regard, only those police who are authorised by the Police Commissioner may exercise the inspection power. Other protective mechanisms include restricting the number of times police can inspect a device in the possession of a reportable offender who has been convicted of a prescribed internet offence to four times in each 12-month period. Any further inspections would require approval by a magistrate and must be based on increased risk. All inspections based on increased risk are required to be approved by a magistrate. Every inspection will be recorded in the enforcement acts register and a report detailing the number of inspections undertaken, the outcomes of those inspections and any action taken by police as a result of each inspection will need to be tabled in parliament each year.

The new power allowing police to require access information to electronic devices gives effect to recommendation 13 of the Crime and Corruption Commission review. The use of the new power is limited to circumstances where there is a reasonable suspicion that an offence has been committed under the offender reporting legislation. Again, the requirement for access information can only be made by those officers who are authorised by the Police Commissioner to manage reportable offenders in the community. An offender who fails to provide access information will commit an offence and will be liable to a penalty of up to 300 penalty units or five years imprisonment. This is consistent with other penalties under the offender reporting legislation. While there is no provision for self-incrimination for failing to comply with a requirement to give access information, police must apply to a magistrate for a post approval order after a requirement has been made. A reportable offender will not commit an offence for failing to comply with a requirement for access information where a magistrate does not make a post approval order.

The bill also provides police with additional opportunities to take fingerprints and photographs. Fingerprints will be taken to allow reportable offenders to be enrolled in any future electronic automated reporting system and photographs will be taken of anything that is required to be reported in a location other than a police station. These amendments not only ensure that the legislation keeps pace with emerging technology; they allow police to structure the operational components of their compliance management functions more effectively. Another key feature of the bill extends the concept of 'reportable offender'. There are occasions where a person escapes this classification simply because of the manner in which an indictment is presented to the court or because the person pleads to a lesser offence. To this the Palaszczuk government says, 'No more.' Anyone who intends, attempts or commits a sexual or particular other serious offence against a child will be liable to an offender reporting order where the court is satisfied that the facts and circumstances of the indicted offence contain elements of a reportable offence.

The bill also strengthens the obligations placed on reportable offenders in relation to travel, contact with children and reporting information. In this regard, reportable offenders will be required to report any contact with children who reside outside of Queensland where that contact is beyond the incidental contact of daily life. This includes online contact, telephone contact, written contact and physical contact. Reportable offenders will also be required to report the details of any children they travel with or intend or expect to have contact with outside of Queensland. The time frames associated with reporting travel have been reduced from seven days to 48 hours, minimising the opportunity for reportable offenders to leave Queensland undetected for short periods of time. The bill will also require reportable offenders to report the cessation of any personal particulars which are required to be reported—for example, the sale of a car or a house. This will ensure that the information held on the National Child Offender System is accurate and relevant.

An alignment of all suspension provisions under the offender reporting legislation will require reportable offenders who are subject to an order under the Dangerous Prisoners (Sexual Offenders) Act 2003 to make an initial report of their personal particulars prior to a suspension of their reporting obligations. Conversely, those reportable offenders who have a significant mental illness will have the opportunity to seek a suspension of their reporting obligations similar to offenders with significant cognitive disorders or physical impairments. Changes to reporting obligations will require reportable offenders who are also subject to an offender prohibition order to continue to report to police until all processes which make the person a reportable offender have ended. This may result in some reportable offenders reporting for a longer period. The length of time a reportable offender may be required to continue to report will vary depending on their offending behaviour.

The bill also addresses a number of legislative impediments hindering the effectiveness of the offender reporting legislation. For example, the term 'recent' as it applies to concerning conduct will no longer be a predeterminer of an offender prohibition order. Rather, the court will be required to consider

the timing of the conduct when deciding whether an offender prohibition order should be made. The bill also clarifies the civil aspects of the offender prohibition order process, including the application of the Uniform Civil Procedure Rules 1999 and allowing civil applications to be heard concurrent with any associated criminal matter. Additional protections have been included in the bill for those respondents who consent to the making of an offender prohibition order. In this regard, a court will be required to conduct a hearing for an offender prohibition order where the court is satisfied that it is in the interests of justice to do so. Where a hearing is not required, the court will have the opportunity to consider additional information about a respondent—for example, whether the respondent has a mental illness or a drug or alcohol addiction. Evidentiary provisions applying to child witnesses have been extended in the bill to prohibit a self-represented respondent or a reportable offender personally cross-examining a child witness. The amendment recognises the additional trauma that may be caused when a child witness is cross-examined by a person who may be their perpetrator.

Information sharing has also been extended in the bill to allow the Police Commissioner to require information from, and give information to, government and non-government entities and members of the public. The bill recognises that offender information is confidential information and places limitations on the type of information the Police Commissioner can give. It also extends the penalty provisions where a person releases information about a respondent in an offender prohibition order process or a child witness for the purposes of harassing or intimidating the respondent. However, a person will be protected from liability where information about a reportable offender is given honestly to the Police Commissioner. The bill also allows a person acting on behalf of a reportable offender to receive, review and appeal information held on the National Child Offender System.

Finally, the bill makes a number of minor amendments which reduce the administrative impost on the Queensland Police Service. These amendments include removing the requirement for the name and signature of a person taking a report from an offender and the length of the reporting period to be included on each receipt issued after a report has been made; allowing a notice advising a reportable offender of any change to the length of their reporting period to be given as soon as reasonably practicable after the change has occurred; and allowing the period of an assumed identity for an authorised civilian to mirror that of a police officer in the same circumstances.

These laws are tough new laws, but I make no apologies for the tough stance that the Palaszczuk government has taken and will continue to take to keep our kids safe and protect our children. Sexual abuse and trauma is estimated to cost the Australian community \$6.8 billion annually, but the cost to individual victims is far greater. The negative mental health impacts associated with child sexual abuse are immeasurable—post-traumatic symptoms, depression, suicidal thoughts, substance abuse, eating disorders as well as psychotic and personality disorders. This bill recognises that it is the right of all children to feel safe and to be safe from sexual offending. This bill establishes a tough, strong and robust framework that will help keep Queensland children safe. I commend the bill to the House.

First Reading

Hon. MT RYAN (Morayfield—ALP) (Minister for Police, Fire and Emergency Services and Minister for Corrective Services) (3.09 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Legal Affairs and Community Safety Committee

Mr DEPUTY SPEAKER (Mr Elmes): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.