




Speech By
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CHILD PROTECTION REFORM AMENDMENT BILL; DIRECTOR OF CHILD PROTECTION LITIGATION BILL

 **Ms BATES** (Mudgeeraba—LNP) (4.17 pm): I rise to make a contribution to the debate on the Child Protection Reform Amendment Bill 2016 and the Director of Child Protection Litigation Bill 2016. As the shadow minister for communities, child safety, disability services and the prevention of family and domestic violence, I will focus my contribution on the Child Protection Reform Amendment Bill 2016 and the personal experience that I bring to this portfolio. As a former member of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, which considered these bills, I will also add some reflections on the Director of Child Protection Litigation Bill 2016.

I contribute to this debate not only as the shadow minister or as a former member of the committee but most importantly as a survivor of family violence. The Child Protection Reform Amendment Bill 2016 implements the recommendations of the Queensland Child Protection Commission of Inquiry, which confirmed that the child protection system was under enormous stress and made a series of recommendations aimed at addressing the systemic failure in this system to create a more effective system for protecting our children for the next decade. This is a significant task, but one that must be undertaken to secure a brighter future for children throughout this state.

I would like to place on record my thanks to my friend and predecessor, the member for Aspley, for her role as an advocate who fought for children throughout Queensland not only as the shadow minister in the 55th Parliament but also as the former minister for communities, child safety and disability services. It was the member for Aspley during her tenure as minister who brought the issue of child protection to the forefront of public debate through the establishment of the Child Protection Commission of Inquiry, the recommendations of which we continue to see introduced in a partisan manner under this government. I also acknowledge the minister for her effort to introduce the appropriate legislation to get the commission's recommendations passed by this parliament. As the minister said when she introduced this bill earlier this year, children need stability and security. It is my hope that we can help bring this about by implementing the commission of inquiry's recommendations.

Last year in this House I recounted Barb's story. I told her story through the eyes of a child, the eyes of the middle child, who was me. But you never actually heard Ros's story. Unfortunately child safety often goes hand in hand with domestic violence and substance abuse. In my case maybe if the services were available to help both of my parents then my and my sisters' childhoods would have been vastly different. Like all children we loved our parents. We could not understand why they hurt each other. We could not understand why we were in the middle. We could not understand why for most of the week we had a relatively normal family because we did not know any different.

In my speech last year I showed a glimpse of what our lives were like, but I left a lot out—things like as a child I learnt very quickly to pick up on the signs and when the switch would be flipped over, when no amount of reasoning with my father would make any difference. My older sister always tried

to be the peacemaker and tried to de-escalate the impending violence and was always bewildered, and still is, when it did not work. As a child I learnt that when the fighting started that the best place to be was in a confined space such as a passageway. I learnt well before I took up karate that you are less likely to be hurt if the fight is in the passageway because even if you are thrown up against a wall the momentum was not as great as if you were in the lounge room. I learnt that the worst place to end up was on the floor where it was more difficult to protect yourself from the blows and the kicks. I learnt to be aware of my surroundings and to be alert to the fact that my father would often come from one of two directions and that you literally had to watch your own back. I learnt to always have another exit so I could run if I had to. These are considerations that no child should ever have to think about.

When I was a child there seemed no way out. In my childhood, children's services were very different. I learnt that making a complaint meant that you would be taken away from your family—from your sisters, from your mother—supposedly for your own safety, and made a ward of the state. I know this from firsthand experience. I recounted in my last speech running three miles to the nearest telephone booth, bloodied and bruised, to call for help. I can still see myself: earrings ripped out of my ears, with blood matted through my hair, my favourite jumper ripped and having trouble breathing due to broken ribs, my nose streaming blood, my lips bleeding because my teeth had been smashed through them and still just running on sheer adrenalin to get away. This time though it was different. This time instead of ringing an uncle for help I rang my sister's old boyfriend who lived just up the road from the telephone booth. I can remember sitting on the concrete sobbing when he arrived and he picked me up and he said, 'No more. No more. Not ever again. This time we have to end this.' I was 14.

We went straight to the police station and for the first time in my life I made a formal complaint because I truly believed that I would never survive another attack like that one. The interview with the police is still a blur. I think now that I was concussed because I do not remember all of the beating, I just remember thinking I was going to die. They did not take me to the hospital. They asked me if he was still at home and I knew he was not because I had seen him drive past the telephone booth while I hid so he could not see me. He had driven to his mate's place to drink even more alcohol and the police picked him up outside the home and booked him. His blood alcohol was 0.25. I went home and the police brought him back and everyone just went to bed.

The next morning the police and child safety officers arrived. They interviewed my mum and me and then informed mum that they were going to take me away, that I was to become a ward of the state. I remember mum screaming at them, saying, 'Why are you punishing her? She is the victim. Why aren't you punishing him?' The rest is a blur. I do recall recanting my statement to the police and I refused to cooperate with the police or Child Safety. I remember having to go to a psychiatrist like there was something wrong with me and mum again saying, 'Why are you doing this to us? He is the one you should be taking away, not her.'

Many years later all three sisters realised that we still bear scars that we believed had been buried so deep that now as older women were coming back to haunt us. I remember telling the House that there were no family holidays or friend stayovers, but there were also no birthday parties and Christmases were horrendous. These memories that I think we had all suppressed were actually beginning to affect us all in direct ways so we did something that I would never have thought of doing: I found a regression hypnotherapist. The regression hypnotherapist sessions were startling. Suppressed memories which ensued from these sessions were brought to the surface. My older sister's earliest memory was crawling over the tea rose carpet and around overturned furniture to my mother who was sobbing behind the couch. She must have been 12-18 months old if she was crawling. My earliest memory was standing at the back door trying to open the door and I could not work out why it would not open. I remember saying, 'I'm too little. Jos will have to open it.' That was the day that we had been to the picture theatre and returned home to a locked house. I recall mum putting me through the bedroom window so I could open the door. I remember her saying, 'Open the door, love.', and me saying, 'I can't, Mum, the door has nails in it.' My father had nailed the door shut. My younger sister Cath, who we thought we had done the right thing by by protecting her, felt that her two older sisters did not like her and could not understand why we sent her down the paddock in the dark. Her memories were, 'Why do the girls leave me out? The only friends I have are my dog, my horse and the cows.'

After those sessions we realised that our parents were not the same people they were in our childhood years. I know people who contacted me after my first speech could not understand how we could forgive our parents, but the truth is as a child you love your parents and even when things were bad the alternative of being made a ward of the state was more horrendous and frightening a prospect to us than was staying. My older sister cannot stand having doors slammed behind her even to this day. I cannot stand anyone shouting in my face because I am still that seven-year-old girl who was thrown up against a wall, but I am also the 14-year-old girl who was ready to stand and fight.

I wish that services had been available back then. We stayed together because it seemed there was no way out, but we also became very strong women because of our experiences. Alcohol and drugs play a huge role in domestic violence and child safety is inextricably linked to homes where this is the norm. I often wonder if the services had been available to help my father with his drinking problem, to help with anger management and to have been able to recognise why he felt his life was not what he had wished it to be, whether all of the trauma that we endured would have been negated. I am pleased that this bill will in some way go to address some of these issues. I am proud that I am a survivor of my own childhood and I am particularly pleased that in my new role as shadow minister in such an important portfolio that my understanding, empathy and sympathy in my deliberations will also help others.

This bill aims to achieve better outcomes for families and children involved in child protection court proceedings and generally improve the functioning of the Childrens Court and the quality of applications for a child protection order. To do this, this bill implements 10 court related recommendations of the commission of inquiry and one from the Court Case Management Committee which was established as a result of recommendation 13.1 of the commission of inquiry. It reforms court processes and strengthens our ability to assist children through the courts by giving children and their families a voice in legal proceedings, improving efficiency by reducing delays and improving decision-making and evidence provisions when the court makes decisions in relation to domestic violence orders.

The bill also provides clarity in relation to various roles and entities when applying for orders, as well as facilitating the creation of the Office of the Child and Family Official Solicitor within the Department of Communities, Child Safety and Disability Services. The bill is complemented by the Director of Child Protection Litigation Bill which implements the commission of inquiry's recommendation to establish an independent statutory agency within the justice portfolio to make decisions about which matters will be the subject of an application for a child protection order and what types of child protection orders will be sought, as well as litigate the applications in the Childrens Court.

I would like to thank my colleagues on the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee for their hard work in reviewing this legislation, particularly the members for Moggill and Buderim and the chair, Leanne Linard, who does a fantastic job. I know that she personally, with her two young children, certainly has a very keen interest in child safety and I thank her for that.

I note that first and foremost the committee recommended that this bill be passed. It is wonderful to see the continuation of bipartisan support for strengthening the child protection system in Queensland. There was general support for the bill and submissions from a range of stakeholder groups, which included the Queensland Alliance for Kids, Protect All Kids Today, the Queensland Family and Child Commission, the Queensland Law Society, the Together union and the Bar Association of Queensland. However, whilst welcoming the introduction of legislation pursuant to the recommendations of the Child Protection Commission of Inquiry, some stakeholders such as the Bar Association raised some concerns, which I will allude to. I am sure that my colleague the shadow Attorney-General will cover them in more detail in his contribution.

In relation to clause 5 of the Child Protection Reform Amendment Bill, which states that the chief executive of Child Safety may decide not to review a case plan if they are satisfied that the child's circumstances have not changed significantly, the Bar Association noted that '... it seems an unnecessary impediment to the ongoing supervision of, and accountability for, a child's best interests ...'. The Bar Association noted that—

A significant change in the life of a child is a concept so protean and ambiguous as to risk being meaningless.

In essence, the Bar Association suggested that opinions can differ as to what constitutes a significant change and a significant change could be too high a threshold before the chief executive's statutory obligations can be enforced. As a result, the committee's second recommendation was that the minister consider whether the bill needs to remove the word 'significantly' and I have heard the minister's contribution on that.

The Bar Association also took issue with the use of the word 'materially' when considering the level of relevance required for a court order to disclose the evidence containing personal information in child protection proceedings. Again, I note the minister's contribution. They added that the insertion of words like 'materially relevant' adds nothing to the purpose and effect of the provision. In brief, they argued that evidence is either relevant or it is not, and that should be considered. As a result, the committee recommended the minister make those changes.

Another stakeholder, Protect All Children Today, suggested that children giving evidence in the Childrens Court should be afforded the child witness provisions of the Evidence Act 1997 as adopted by the District Court in criminal court proceedings. Protect All Children Today argued that the

government should consider enforcing legislation that affects children giving evidence to ensure a consistent approach across criminal jurisdictions. In turn, the committee made those recommendations to the minister.

As a then member of the committee, during our consideration of both this bill and the Director of Child Protection Litigation Bill I raised concerns in relation to the ability of the Director of Child Protection Litigation to engage appropriately qualified lawyers to assist them in carrying out their functions. During committee proceedings, I stated that it was unclear whether those lawyers would be regionally based or would work on a fly-in fly-out basis, whether they would be specialised and what costs would be involved in having a director who is able to commission appropriate legal assistance at his discretion. My main concern was that there was no real explanation of the cost or business model provided in relation to potential fly-in fly-out lawyers being provided for the director. I remain concerned about the costs associated when lawyers could, instead, be regionally based.

I asked those appearing before the committee—

Are you aware if these positions are to be based regionally, or will they be fly-in fly-out positions? Cause 11 also talks about procuring lawyers externally. How do you think that the director could ensure that a local lawyer would be a specialist in child protection? What costs might be involved in this model?

Ms Wilson from the Bar Association of Queensland advised me that the director is engaged in this space and that she would fully expect the director to be aware of appropriate lawyers to be able to service areas. She opined that there would not be many regions where you would not find appropriate lawyers within a stone's throw. Ms Pennisi from the Queensland Law Society added—

I believe that we have a database from which a person can find a speciality—child protection, family law matters. So I think that the accessibility component has been covered.

Similarly, Mr Dunn from the Queensland Law Society said—

Certainly, a large portion of that will be an implementation matter for the director in setting up their offices and for the department as to how the services will be delivered. There is also the opportunity to take local lawyers and train them in some of these particular areas to provide some extra experience and skills. There are a number of different things that could be done in that space, but I think that it would be very difficult for the Bar Association or the Law Society to really map out the implementation process of the director's office.

Since my concerns about how lawyers will be sourced and what the cost implications will be had not really been addressed, I clarified my concerns for the committee, saying—

Currently, the director supplies lawyers, whether they are regional based or they are fly-in fly-out. My concern is that, in this bill, there is no allocation of what cost and business model whereby locally based lawyers were provided.

Ms Wilson from the Bar Association then said—

I do not think that we can comment in terms of costs at this point in time. The interesting thing is that, in terms of appropriate qualified lawyers, in any of the courts around this state there are some matters that do not raise novel issues, but there will be matters that raise novel issues. It may be appropriate in those circumstances to go further afield to get lawyers who have that extra speciality to deal with those matters. There is a sliding scale, too, of expertise—about what you need to obtain to be able to provide a service. If you look at that provision, that is the director. So, from looking at that provision, I would think that that would be in exceptional circumstances.

While I appreciated Ms Wilson's argument for specialised lawyers to assist the director in certain circumstances where it may be required, I do remain concerned about the cost implications and the lack of a business case for this provision.

However, broadly speaking these bills are another important step forward in our effort to keep children safe and to ensure our child protection system is modernised for the coming decade. As shadow minister, I am pleased to be able to continue the good work of the member for Aspley and all that she has done to reform our child protection system and ensure that we address systemic failures in that system for the coming decade. The opposition will be supporting this bill.