




Speech By
Hon. Shannon Fentiman

MEMBER FOR WATERFORD

Record of Proceedings, 29 November 2016

SERIOUS AND ORGANISED CRIME LEGISLATION AMENDMENT BILL

 **Hon. SM FENTIMAN** (Waterford—ALP) (Minister for Communities, Women and Youth, Minister for Child Safety and Minister for the Prevention of Domestic and Family Violence) (5.40 pm): I rise to add my voice in support of this government's tough new organised crime laws. Before the last election we made a commitment to Queenslanders to review the Newman-Nicholls government's bikie laws to make sure that they were workable and the right laws for this state. We gave this commitment because Queenslanders were telling us that the laws rammed through by the previous LNP government in a late-night sitting of parliament went too far. Rather than keeping us safe from criminals, Queenslanders were telling us that these laws were running roughshod over the rights of ordinary people in this state.

Many Queenslanders were shocked and dismayed, and these laws led to the arrest of, and anti-association charges against, library assistant and mum of three Sally Kuether. Ms Kuether, who went for a drink at the Dayboro tavern with two men who were wearing gang colours, faced the prospect of a mandatory six-month jail term after being accused of knowingly participating in a criminal organisation in public in 2013. After heightened media attention and public pressure the anti-association charge was eventually abandoned in court. The trio were instead handed small fines for wearing gang colours in a licensed premises. This is a clear example of the former LNP government's anti-association laws going too far and risking the rights and livelihoods of Queenslanders. More than just overreaching, however, these anti-association provisions failed to net a single conviction.

We commissioned former Supreme Court judge Alan Wilson QC to conduct a two-pronged review of the 2013 laws through the Taskforce on Organised Crime Legislation, encompassing a statutory review of the Criminal Organisation Act 2009. The task force comprised senior representatives from the Department of Justice and Attorney-General, the Queensland Police Service, the Department of Premier and Cabinet, the Queensland Police Union of Employees and Police Commissioned Officers' Union of Employees as well as the Queensland Law Society, the Bar Association and the Public Interest Monitor. This expert task force recommended sweeping changes to the LNP's suite of legislation to ensure that the laws that we have in Queensland combat not just outlaw motorcycle gangs but all organised crime in Queensland. The task force made it clear that the existing laws failed to protect Queenslanders adequately from other threats, including evolving organised crime syndicates and child exploitation rings.

We also tasked one of Queensland's most respected barristers, Michael Byrne QC, to conduct a full and careful inquiry into the extent, nature and impact of organised crime in this state. Commissioner Byrne found that the LNP's obsession with bikies meant that boiler room frauds and cold call investment scams, as well as online child pornography rings, had been allowed to proliferate. The Palaszczuk government's strong new organised crime regime is in direct response to the reviews conducted by Commissioner Byrne and Chairman Wilson, and we have taken on the ethos of those reviews to design tougher and more effective laws to keep Queenslanders safe from all forms of organised crime, not just bikies.

This includes amendments to the Criminal Code to directly address the concerns raised by Commissioner Byrne around child sexual exploitation offending. As the Minister for Child Safety it is particularly concerning to me, and I know this disturbing crime is of concern to many Queenslanders. These amendments will create new offences, each with a maximum penalty of up to 14 years imprisonment, to target persons who administer websites used to promote child exploitation material, encourage the use of, promote or advertise websites used to distribute child exploitation material and distribute information about how to avoid detection and prosecution for child exploitation offending. We are also increasing the maximum penalties for offences involving a child in the making of child exploitation material and making child exploitation material from 14 years to up to 20 years imprisonment. These laws will create a new circumstance of aggravation to apply to existing and new offences related to child exploitation material if a person uses a hidden network or an anonymising service in the commission of an offence.

We will also respond to the increasing threat of boiler room scams by increasing the maximum penalties for existing fraud offences under section 408C from 12 to 14 years imprisonment. We will create a new circumstance of aggregation for the offence of fraud to be punishable by a maximum of 20 years imprisonment where the yield to the offender is greater than \$100,000.

We are creating a new consorting offence punishable by up to three years in jail for a person who interacts with a recognised offender. A recognised offender is someone who has a conviction for an indictable offence punishable by a maximum of at least five years imprisonment or a lesser offence linked to an organised crime such as riot. Police must notify the person that the person they are consorting with has a conviction and that continued dealings with that person will constitute an offence. Queensland's Public Interest Monitor will be required to report annually on these police warnings, with the final report to be tabled in parliament. The consorting offence is modelled on the New South Wales approach, which has been found to be constitutionally valid, and has been modified to ensure that it does not capture people aged 18 years or under or other vulnerable persons such as Aboriginal and Torres Strait Islanders. Police will have the power to stop a person to give an official warning, either orally or in writing, and police will be able to search a person reasonably suspected of engaging in an act of consorting or to take identifying particulars.

This will ensure that police resources are targeted at disrupting and preventing contact between serious and/or organised criminals. Importantly, we will also be introducing a new serious organised crime circumstance of aggregation to deter and punish participants in criminal organisations and to also encourage cooperation with law enforcement. If a person is convicted of a prescribed offence with the new circumstance of aggregation, it will activate a new and targeted sentencing regime which can only be avoided if an accused significantly cooperates with law enforcement agencies. Critically, the utility of the cooperation is to be assessed and determined by a sentencing judge. Those who do not cooperate will have an organised crime control order imposed and be required to serve a further sentence of seven years actual jail time.

This bill makes vital improvements to ensure that our laws target all forms of organised crime in Queensland, to ensure they are robust and strong and to ensure they are not vulnerable to legal challenges. Chief in our commitment to deliver targeted and workable laws for Queenslanders is our belief that a person's criminality should be determined by their actual conduct. As Queensland Police Commissioner Ian Stewart said in a report by the ABC in August of this year, 'We can arguably say that we will have the strongest laws in Australia.' I commend the bill to the House.