




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

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YOUTH JUSTICE AND OTHER LEGISLATION (INCLUSION OF 17-YEAR-OLD PERSONS) AMENDMENT BILL

Second Reading

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (12.53 pm): I move—

That the bill be now read a second time.

The Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Bill 2016, introduced into parliament on 15 September 2016, brings 17-year-olds into the youth justice system. However, the bill does more than simply include 17-year-olds in the youth justice system. It is a catalyst for change in the way we respond to young people who offend and for open and honest discussion about this important matter. Importantly, this bill will commence on proclamation 12 months after its passing to ensure a measured approach to the transition of 17-year-olds from the adult prison system to the youth justice system.

This bill is not a debate about whether young people who commit crimes should face the criminal justice system. Of course, young people who commit offences must be held accountable by the police, the courts and more broadly by society. Any decision of the courts in relation to an offence by a young person must weigh up the punishment for the offence, the deterrence against reoffending and to those who may consider committing similar offences, rehabilitation and of course community safety. This will occur whether the young person is tried as an adult or as a youth.

What this bill is about is how we treat those young people who find themselves in the criminal justice system. In applying a justice reinvestment model, what we achieve in the long term is a reduction in offending, recidivism and an increase in community safety. How we respond to young people speaks to our values as a community, and our obligations to care for and protect young people and to take the necessary steps to ensure our community's safety. The depth of concern expressed by community members about the inappropriateness of imprisoning 17-year-old young people in adult prisons confirms the importance of these values in our society.

The bill was referred to the Education, Tourism, Innovation and Small Business Committee, with the committee tabling their report on 27 October 2016. I would like to thank the committee for their work in considering this bill. I would also like to acknowledge the efforts of those stakeholders who made submissions on the bill to the committee. The committee received 15 submissions. It is telling that the views presented by every submitter to the committee indicated overwhelming support for the objectives and policy intent of the bill. The support was so encouraging, I would like to share some of that sentiment with parliament now.

Associate Professor Terry Hutchinson, a member of the Crime and Justice Research Centre in Queensland University of Technology's Faculty of Law, welcomes the introduction of this bill as does the UQ Pro Bono Centre at the TC Beirne School of Law, University of Queensland, where 14 individual


lecturers personally endorsed the submission. The Queensland Family and Child Commission 'welcomes the objective to include 17-year-olds in the youth justice system and has consistently recommended this occur in previous submissions to parliamentary committees and Queensland government'.

The Anti-Discrimination Commission Queensland wrote that it has 'long advocated for the removal of 17-year-olds from the adult criminal justice system to the youth justice system and supports the objectives of the bill'. The Anglican Church of Southern Queensland's Social Responsibilities Committee 'offers its support to the bill, and welcomes the commitment of this government to ensuring the safety of 17-year-olds in detention by removing them from adult prisons'. The Salvation Army also supports the objectives of the bill. The Queensland Law Society wrote that they have 'consistently advocated for the inclusion of 17-year-olds in the youth justice system and welcomes this important legislative reform'. Community Legal Centres Queensland 'congratulates the Queensland government on progressing a 30-year-old issue to actual legislative amendment'. Professor Kerry Carrington, Head of School of Justice, Faculty of Law, QUT wrote—

... I congratulate the Government and the Minister Yvette D'Ath for proposing this historical amendment which will bring Qld into line with all other Australian Jurisdictions. It is long overdue.

There is strong, unequivocal community support for the policy intent of this bill. The non-government members of the committee did not support the bill's passage. However, a number of statements made by these members relied on inaccuracies. I am hopeful that the opposition understands the necessity for such a bill and that the views expressed by stakeholders have been listened to by the LNP in formulating their response to this debate. This is an issue too important to play politics with. This is an essential reform that will bring Queensland into line with every other Australian state and territory and will ensure we meet our obligations under international law.

The bill provides for the making of a time limited, transitional regulation to allow, upon proclamation, for the safe and orderly transfer of 17-year-olds who are in the adult criminal justice system, into the youth justice system. The transitional regulation will contain technical and operational detail, such as how a 17-year-old is to be relocated and when, and under what circumstances that individual's planned transfer might be delayed. It may be that their release from adult custody is imminent, so relocating them from Capricornia to Brisbane would not be in anyone's interests. They may be nearing completion of a course or program that is not available through youth justice. They may be sick on the day of transfer, or an emergency or natural disaster may occur that prevents the transfer. This is what we expect the regulation to contain and the bill's explanatory memorandum clearly provides such examples. This is part of the reason why 12 months is required to work with key stakeholders to ensure each young person can be transitioned safely and with minimal disruption.

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (3.00 pm), continuing: As I was saying before the break, it is important that our regulation will outline the types of transition examples that will need to be dealt with in 12 months time with the passing of the bill. It is neither appropriate nor responsible to seek to provide for the issues that will arise through the transition in the bill itself. Such provisions are best prescribed in regulation through the development and identification of these issues through consultation with extensive stakeholders and relevant agencies over the coming months in the lead-up to the proclamation of the bill.

The complexity of young people's needs in the youth justice system means that a multiagency response is required. Youth justice has been preparing for many years for the inclusion of 17-year-olds. However, this bill, and the governance arrangements being established for the accompanying reform, will empower other government departments to prioritise the needs of this small but very complex cohort. The government has a clear plan for making this happen. The plan involves moving to an evidence based developmentally appropriate system which acknowledges the risks and needs of the different aged cohorts within youth justice. The plan is premised on careful assessment of each child and young person's development, cognitive ability, health, welfare and education needs. The plan is clear. What is yet to be bedded down is the operational detail of the plan which logically is best settled as close as possible to implementation to ensure its currency. This multifaceted response must also involve non-government organisations which is why the consultative arrangements to oversee the inclusion of 17-year-olds into the youth justice system are central to the transition process.

The intention to undertake a consultative process means that the plan to transition 17-year-olds into the youth justice system will be open and transparent and the transitional regulation will be developed in consultation with key stakeholders and agencies. The plan involves a comprehensive multiagency approach and youth justice will negotiate the implementation details and costs with other government departments over the coming months. Costs cannot be fully identified now as the whole-of-government process and implementation of new models of early intervention will influence important cost variables into the future. Some may seek to argue that this bill should not be passed until

all of these practices are implemented and any savings can be quantified. However, this approach has been used as an excuse for not taking action for too long. The time has come to act and at some point we must stop putting this issue in the too-hard basket. This bill is the first step to address a long outstanding anomaly that has left Queensland out of step with the rest of the nation.

The LNP's call for a single dollar figure are indicative of its approach to governing: no consultation, no planning and ignoring the advice of its departments. It wasted millions of dollars on a youth justice system that, contrary to expert advice, completely failed to deliver the outcomes it promised. The issue of 17-year-olds straddling the youth justice system and the adult corrections system was one that the LNP had the opportunity to address. In fact, it did. However, instead of taking the opportunity to finally address this historic anomaly by moving all 17-year-olds into the youth justice system, it sought to push more 17-year-olds out into the adult system by amending legislation to have 17-year-olds automatically transferred to the adult prison system upon turning 17 if they had six months left to serve. This was a lost opportunity.

In contrast, the Palaszczuk government is a progressive government with a strong reform agenda. We listen to the people: to experts, to stakeholders and to our departments. We are a government that plans. Our approach ensures changes are carefully developed and implemented across government departments. This approach assures the community and the parliament that the reforms make the most of existing investments in government services and that they achieve the best outcomes in the most efficient way possible. Without change to existing policy, practice and service delivery across government for young people in youth justice, the need to build a new detention facility at an approximate cost of \$400 million is inevitable in the near term based on population growth alone. Similarly, a straightforward transfer of 17-year-olds into the system would require this expansion immediately. That is why we do not intend to progress in this way. Our government is taking a multifaceted approach to this reform because we believe in justice reinvestment. This is why we are developing and delivering transitional arrangements through a whole-of-government focus and in consultation with stakeholders. This approach will address costs over the long term by investing in programs that will have a real and positive effect on the rates of youth offending and recidivism. Addressing the underlying causes of offending and reoffending will not only create capacity within our existing resources, it will make our communities safer.

Youth justice is already implementing a range of multiagency interventions that will be expanded and enhanced in the context of the integration of 17-year-olds in the youth justice system. Early results from these initiatives point to less offending by these particular young people and re-engagement with education and training. Each of these initiatives has the potential to reduce the number of young people held in remand and those returning to the detention population. These initiatives include Transition to Success; trauma informed practice, which is a strengths based framework that recognises the impact trauma can have on the developing brain; the reinstatement of court ordered youth justice conferencing, which is a restorative justice response to youth offending; conditional bail programs that are delivered to young people at high risk of being remanded in custody; intensive case management with chronic violent offenders and their families in a program that assists young people and their families with multiple and complex needs by providing individualised intensive support and rehabilitation programs.

Members should be aware that youth justice already has 17- and 18-year-olds in detention as a result of sentence orders imposed for offences committed whilst those young people were under 17. Youth justice already manages the risk of having older teenagers in the same facility as younger children. Current practices exist to ensure the safety of all young people in detention. Separation as a way of safely managing young people is not a new practice. Young people are separated based on age, gender, legal status and nature of offending, as well as risk to self and others. Youth justice also operates a low operational-staff-to-detainee ratio of four to one, resulting in close supervision.

All of these strategies are aimed at minimising the risk of young people being adversely affected by older cohorts. The transition of 17-year-olds into the youth justice system will, of course, change the profile of the cohort, but will not introduce new risks to detention centres. As part of the government's broader reforms, youth justice will be presenting options relating to 10- to 13-year-olds in the youth justice system for the consideration of the key agencies group and the cabinet subcommittee. The first meetings of the key agencies group and cabinet subcommittee are planned for November and December respectively should the bill pass. These fora will ensure the relevant government departments are empowered to reconfigure service delivery policies and practices as necessary to ensure the safe transfer of 17-year-olds from the adult system into the youth justice system.

Providing vocational education opportunities in youth detention is a high priority for this government because the evidence shows that participation in education and training is fundamental to reducing recidivism. One strategy that will assist with this is the expansion of youth justice's successful

Transition to Success vocational program. This program provides an alternative education and training pathway that also assists young people to develop the social and life skills they need to sustain employment.

In 2017, this will form part of the transition process from Queensland's detention centres to support young people's reintegration into their community. The Transition to Success program is supporting young offenders to engage in further training, study and employment. The program is generating positive early results in reduced recidivism and will benefit 17-year-olds when they are transitioned into the youth justice system. Bringing 17-year-old offenders into the youth justice system is the right thing to do.

This bill presents an historic opportunity for each of us in this parliament. As put so well by the Anglican Church Southern Queensland Social Responsibilities Committee in its submission to the committee—

It is critical therefore that support for this Bill is not derailed by a preoccupation with possible short term budget implications. Youth Justice is a complex issue, requiring multi-pronged responses from diverse parts of the system, and a holistic view of where our fiscal investments should be made. We use the word 'investment' advisedly, because choosing how Government dollars are spent on behalf of Queenslanders reflects both the need for good stewardship of resources, informed by sound evidence of what works; and the priorities and values we hold as a community—whether we choose to invest in communities and the lives of young people, or in more prison beds.

I am proud to be part of a government that is delivering such an historic and overdue reform to the youth justice system in Queensland. I commend the bill to this House.