




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 23 May 2017

CORRECTIVE SERVICES (NO BODY, NO PAROLE) AMENDMENT BILL

Introduction

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (12.28 pm): I present a bill for an act to amend the Corrective Services Act 2006 for particular purposes. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Corrective Services (No Body, No Parole) Amendment Bill 2017 [740].

Tabled paper: Corrective Services (No Body, No Parole) Amendment Bill 2017, explanatory notes [741].

I am pleased to introduce the Corrective Services (No Body, No Parole) Amendment Bill 2017. This bill reinforces the government's commitment to victims of crime. The loss of a loved one through the criminal act of another is distressing enough, but often this heartache and loss is further compounded when the body or remains of loved ones are unable to be recovered by investigating authorities.

Generally speaking, the term 'no-body no-parole' refers to the principle that a prisoner convicted of murder or manslaughter who refuses to adequately assist police in locating the victim should not be granted parole. As such, a primary focus of the principle is to encourage cooperation by these prisoners by denying them parole release until such time as the parole board is satisfied the prisoner has satisfactorily cooperated in locating the body or remains, or the last known location of the body or remains, of the victim.

I would like to acknowledge the efforts of Mrs Fiona Splitt in presenting two petitions advocating for this scheme to be implemented in Queensland. Mrs Splitt's husband, Mr Bruce Schuler, disappeared in 2012 while prospecting at Palmerville Station north-west of Cairns. Stephen Struber and Dianne Wilson-Struber were convicted in July 2015 of his murder. In sentencing the couple to mandatory life imprisonment, Justice Henry remarked on their failure to disclose the whereabouts of Mr Schuler's body. I share my sympathy with Mrs Splitt and her family, and to all other families who find themselves in the distressing position of enduring the unknown. I hope the reforms contained within this bill will provide some comfort to these families.

This proposal was also expressly addressed in the Queensland Parole System Review report which was tabled in parliament by the Premier and Minister for the Arts on 16 February 2017. Recommendation 87 of the report specifically suggested the implementation of a no-body no-parole scheme in Queensland. As indicated in the government's response to the report, which was also tabled in parliament on 16 February 2017, this government committed to introducing legislation in 2017 to give effect to the no-body no-parole policy which prevents a murderer from being granted parole where he or she has not revealed where the victim's body is located.

In committing to legislative reform in 2017, the government noted that there are a number of models which exist and could be adopted in Queensland. The best model to introduce in Queensland would be determined to give effect to the recommendation and the policy goals of the reforms. Despite

this very clear public commitment, the member for Everton circulated amendments on 9 May 2017 to be moved during the consideration in detail stage of the debate of the Corrective Services (Parole Board) and Other Legislation Amendment Bill 2017 which purported to introduce a no-cooperation no-parole framework in Queensland. As I noted in my public statement on 12 May 2017, this government has serious concerns about the framing of the amendments flagged by the opposition and we are especially concerned about their rushed nature, denying the families of victims the chance to participate in this process. Ideally, such an important reform would be implemented after consultation with key stakeholders including victims' rights groups, in particular the Queensland Homicide Victims' Support Group, and legal bodies. The introduction of the government bill provides a robust and better considered no-body no-parole framework in Queensland.

During the development of the bill, the government has been informed by the approaches taken in other jurisdictions that have implemented a no-body no-parole framework. We have considered the positive aspects of each model, the series of development of schemes over time and, ultimately, the approach included in the bill was most significantly informed by the effective approach taken in Victoria. The bill applies to prisoners serving a prison sentence for certain serious offences in circumstances where the body or remains of the victim have not been located or, because of an act or omission of the prisoner or another person, part of the body or remains of the victim has not been located. The bill captures prisoners convicted of the Criminal Code offences of murder, manslaughter, accessory after the fact to murder, conspiring to murder, or who counselled, procured or conspired to commit these offences.

Unlike the approach taken under the opposition's proposed amendments, the relevant homicide offences in this bill are clearly articulated and lack ambiguity. I am concerned that in the opposition's proposed amendments the drafting of the very definition of murder poses significant risk. In particular, the way the term 'offence of murder' has been drafted forgets to include the actual Criminal Code offence of murder, an oversight that risks the offence of murder being incorporated into the definition which strikes at the heart of the scheme. Remembering, of course, that this bill, and the opposition amendments, are reforms to the Corrective Services Act and does not sit in the Criminal Code itself. It is reflective of the sloppy and lazy approach of those opposite that in a model apparently about no-body no-parole they forgot to include the offence of murder in their definition or, in fact, link the model to finding a body.

In contrast, under the government's bill the prisoner will not be granted parole unless the Parole Board is satisfied they have satisfactorily cooperated in the investigation of the offence to identify the location, or the last known location, of every part of the body or remains of the victim and the place where every part of the body or remains of the victim may be found. Importantly, this is designed to address those horrendous cases where some remains have been found but some parts of the body continue to be hidden or missing. Again, the approach taken in this bill implements the government's commitment to deliver a comprehensive and effective regime.

In contrast, the proposed opposition model requires the Parole Board to assess the general level of cooperation provided by the prisoner in the investigation of the offence. While I acknowledge this approach is consistent with South Australia, this is an extremely broad approach that misses this central point. It is not anchored to locating the body or remains of the victim of the offence. The opposition proposal does not refer to the body or remains of the victim at all. This is out of step with the fundamental policy underpinning the no-body no-parole policy and why the South Australian model has become known as the no-cooperation no-parole model. The foundation of this policy is to incentivise prisoner cooperation in locating the victim and to hopefully offer some comfort and assistance to the victim's families in locating their loved ones.

In terms of assessing whether the prisoner has satisfactorily cooperated, the government bill provides that the Parole Board is required to take into account a range of matters, including a report of the Commissioner of Police which evaluates the prisoner's cooperation in the investigation of the offence to identify the victim's location; the capacity of the prisoner to give cooperation; the record of the court in relation to the offending, including any sentencing remarks or comments made by the sentencing judge during sentencing submissions; and any other relevant information it considers appropriate. The report of the Commissioner of Police will include information relating to the nature, extent and timeliness of the prisoner's cooperation; the truthfulness, completeness and reliability of information provided; and the significance and usefulness of the cooperation.

The South Australian, Victorian and Northern Territory models all provide that the Police Commissioner is to give a detailed report regarding the level of cooperation provided by the prisoner. The model circulated by the opposition, however, expects the Parole Board to inform itself of the details of the prisoner's cooperation without assistance. It does not include any mechanism by which the Parole Board can seek a report from the Police Commissioner as to whether the prisoner has cooperated and,

if so, an evaluation of that cooperation. It appears a prisoner could submit their version of what cooperation they apparently gave without the mechanism for that information to be verified by the police. The Police Commissioner is in the best position to provide this advice and to give a thorough evaluation that assists the Parole Board in determining the calibre of the cooperation provided. The bill rightfully provides for his input in the Parole Board's decision-making process.

Where the body may have decomposed to the point where it is no longer recoverable or the body, as part of the offence, may have been completely disposed of or has since been interfered with by animals or environmental interference, the framework in the bill seeks to determine from the prisoner the last known location and place of the victim's remains. That is, the bill contemplates those cases where it is an impossibility for the body to, in fact, be recovered.

Importantly, the bill includes clear transitional provisions to ensure the full cohort of prisoners intended to be captured are, in fact, caught by the new policy. The no-body no-parole provisions will apply to the following: a parole application from a prisoner convicted and sentenced for the relevant offence after commencement of the bill; a parole application from a prisoner convicted before commencement but sentenced after commencement; a prisoner who was convicted and sentenced prior to commencement and the parole application is to be made after commencement or was made before commencement but is not yet determined at the time of commencement; and a parole application from a prisoner convicted, sentenced and released on parole but then returned to prison before or after commencement and the parole order is subsequently cancelled.

It is not proposed to capture those prisoners who have already been released on parole into the community at the time of commencement. However, if one of these prisoners has their parole order cancelled and they return to prison, the no-body no-parole provisions will apply to their subsequent application for release. The approach in the government bill regarding the transitional application is in stark contrast to the approach taken in the proposed opposition amendments. The opposition amendments do not provide any transitional provisions to ensure that existing prisoners who are yet to apply for parole are captured under the framework.

Failure to provide for this process retrospectively would mean that high-profile murderers currently serving their sentences awaiting a parole eligibility date and who know where the body or remains of their victims lie but have so far refused to satisfactorily cooperate will not fall within the scope of the LNP's no-body no-parole regime. Despite the opposition's explanatory notes referring to this being retrospective, their amendment introducing a no-cooperation no-parole model is not retrospective. This is a significant failure of the LNP's amendment. It means that, under the LNP's model, families currently suffering the anguish of still waiting to find the remains of their murdered loved ones would continue to suffer.

Mr Mander: Rubbish.

Mrs D'ATH: I take that interjection. These amendments have been thrown together without any consultation. Their explanatory notes state that. In fact, fundamentally, they fail at law.

An opposition member interjected.

Mrs D'ATH: I take the opposition interjection that the government has allegedly been brought kicking and screaming to this. In February we announced that we would introduce this bill. We have been working on this legislation—

Opposition members interjected.

Mr DEPUTY SPEAKER (Mr Crawford): Order! We will have plenty of time to debate this in the second reading of the bill.

Mrs D'ATH: This government has been looking at the models of all jurisdictions to come up with the best proposed model. We are introducing the bill this week because, as we have had to do in the past 2½ years, the government has to fix up the absolute mess that the opposition keeps creating with its cheap stunts in bringing before this House private members' bills that are half baked and that have not been adequately put together. The government has to fix up those mistakes every single time. As a stakeholder said to me during consultation, they would rather wait and take some time to get this right. How can you have a proposed amendment—

Mr Mander interjected.

Mr DEPUTY SPEAKER: Order! Member for Everton, you have had a good go. As I said before, we will have plenty of opportunity to debate this in the second reading of the bill. If you persist, I will warn you.

Mrs D'ATH: How can you propose an amendment that does not take the best model available, that does not link it to finding a body or remains, that does not put in place a proper mechanism for the Parole Board to satisfy itself that there has been cooperation, that does not define the most significant

offence, being murder, and that fails to have any transitional provisions so that it will not apply to any prisoners currently serving time? That is a very quick summary of what those opposite have put together. The government's bill better delivers a no-body no-parole policy for Queensland, just as this government committed to doing. Unlike the opposition approach, the government wants to ensure that a bill of this importance and seriousness is referred to the relevant parliamentary committee for its detailed consideration and analysis, and to enable the full consultation process to occur.

Mr Ryan: That's what the stakeholders want.

Mrs D'ATH: I take the interjection from the Minister for Police: that is what the stakeholders want. It is also the view of key stakeholders that the government has consulted. The opposition should support the views of stakeholders and acknowledge the significant failing of their proposed amendments. They should give a commitment that they will no longer introduce their amendments. They should allow victims of families, homicide victims' groups and the legal profession to be part of the parliamentary process and have input into a no-body no-parole model that delivers for the people of Queensland, because that is what they want. Importantly, the process can now include the families of victims, that is, the very people whom this bill and the opposition's proposed amendments specifically target for support. Surely, they deserve a voice in this process. I commend the bill to the House.

First Reading

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (12.44 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 Crawford): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.