




Speech By  
**Brent Mickelberg**

**MEMBER FOR BUDERIM**

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**CRIMINAL CODE AND OTHER LEGISLATION AMENDMENT BILL; CRIMINAL CODE AND OTHER LEGISLATION (MASON JETT LEE) AMENDMENT BILL**

 **Mr MICKELBERG** (Buderim—LNP) (4.47 pm): I rise to contribute to the cognate debate on the Criminal Code and Other Legislation Amendment Bill 2019, the Labor government's proposal to address current weak sentencing practices around child homicide, along with the Criminal Code and Other Legislation (Mason Jett Lee) Amendment Bill 2019, the LNP's proposal to enforce stronger penalties for homicide offences involving the death of a child.

In my contribution today I hope to give voice to the deep concerns of my community who feel that our criminal justice system is failing the vulnerable and the defenceless. I will outline why I believe that stronger penalties are needed in relation to homicide offences involving children. I quote—

... crimes against children are treated so softly in this state, it's just unbelievable. We need to start again.

I just don't understand how you can deliberately torture, sadistically torture a child and get away with less than four years.

Anybody that would do what this man did to that child deserves to get life, to never get out.

Those are the words of child protection advocate Hetty Johnston in response to the pathetically out-of-touch sentencing of William Andrew O'Sullivan who tortured and abused a vulnerable, defenceless 22-month-old boy, Mason Jett Lee.

After years of seeing the worst of humanity, there are few news stories that move me like that of poor little Mason Jett Lee. Hearing of the abuse and the lack of love and care that that little boy, the same age as my own son, had to endure brings me to tears. I, like many Queenslanders, feel so desperately sad that we as a community failed an innocent boy when we had an obligation to protect him. It makes me not only sad; it makes me angry. It makes me angry because we can do more. It makes me angry because that little boy suffered because we failed him. It is not about politics. It is about us as community representatives doing everything that we can to protect the vulnerable. Surely that is our first obligation?

I understand that when deciding on a sentence judges must consider the principles of punishment, rehabilitation, deterrence, denunciation and community protection. It is my view that the current sentences do not adequately consider the impact of offending on victims and the broader community. It is clear that sentencing weighs the impact of proposed imprisonment on the offender, but in my opinion too much weight is given to this consideration.

In the case of Mason Jett Lee, the man who killed him was sentenced to nine years by the Chief Justice, but he will be eligible for parole in July 2022. He was not even sentenced as a serious violent offender. I understand that the Chief Justice decided to not make a declaration because of the offender's guilty plea, lack of a history of violent offending and he had suffered from a 'savage assault' during pre-trial custody. At least he had the chance to defend himself, which is more than can be said for Mason Jett Lee. The fact that the life of a man who killed a 22-month-old boy is going to be tough in jail should

not come into it. In my opinion, Mason Jett Lee's killer, William Andrew O'Sullivan, deserves to rot in jail for the rest of his life. Based on what they have told me, I am confident that the majority of my constituents agree with my position.

The judiciary often cite that the community is not in possession of all of the facts in relation to a particular instance of offending and, therefore, is not in a position to develop an informed opinion as to the appropriateness of any particular sentence. Such a view disrespects the public. A recent study known as the Tasmanian Jury Sentencing Study sought to remove this consideration by gauging public opinion on sentencing through questioning jurors in criminal trials about the appropriateness of sentences for that trial. The study found that, in relation to many offences, jurors' sentencing expectations were either in line with or, indeed, in many cases, softer than those imposed by judges. However, notably in the case of violent offences 66 per cent of respondents thought that sentences delivered by judges were too weak. In the case of sex offences 70 per cent thought that sentences were too weak. To be clear, those are the results from a study that aims to ensure that all expressing an opinion were in possession of all of the facts.

For me, it is pretty clear that sentencing in relation to serious violent offences and offences against children are not reflective of community expectation. Given the failure of the judiciary to sentence in line with community expectation, I feel that it is appropriate to impose mandatory sentences in such instances. I note that the Queensland Law Society and the Bar Association consider that mandatory sentencing is not an appropriate restriction to impose upon the criminal justice system and that it raises inefficiencies and results in an erosion of judicial independence. For me, the need for appropriate sentences in relation to the worst offending far outweighs any such issues.

We know that, as a consequence of the difficulties in prosecuting cases involving children, offenders are often able to plead down to lesser charges such as manslaughter. Killing a child in any circumstance is a tragedy and doing so either deliberately or by neglect goes against everything that a civilised society should accept. Those who do so should be punished adequately.

Because of this, the LNP's bill proposes to create a new child homicide offence that will mean offenders convicted of child manslaughter will serve a mandatory minimum sentence of 15 years. Our bill seeks to recognise and protect the vulnerable and the defenceless who, as a consequence of their age or due to their capacity, are often at increased risk. Our laws will not apply to accidental deaths such as where a child drowns in a dam or is accidentally run over. Our laws will also ensure that those of unsound mind, such as those suffering from postnatal depression, will have a defence and that is an appropriate safeguard.

I support stronger penalties for offences against children because such offences are a blight on our community. Any step that we as community representatives can take to protect the vulnerable needs to be considered. I will be supporting the government's bill because any action that we can take to improve the current situation should be supported. However, I call on the government to hear the community's voice on this issue and support the LNP's proposal for stronger sentences to ensure that those who commit these terrible offences are dealt with appropriately.