




Speech By  
**James Lister**

**MEMBER FOR SOUTHERN DOWNS**

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Record of Proceedings, 30 April 2019

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

 **Mr LISTER** (Southern Downs—LNP) (3.49 pm): I rise to speak on the cognate debate of the Criminal Code and Other Legislation (Mason Jett Lee) Amendment Bill 2019 and the Criminal Code and Other Legislation Amendment Bill 2019. I will confine most of my speech to the aspects of the private member's bill introduced by the member for Toowoomba South. We do support both bills, but it is most important in my view and the view of those on this side of the House that they both be passed.

The objectives of the private member's bill are to enforce stronger penalties for unlawful homicide offences involving the death of a child and to ensure sentencing for homicide offences involving children reflects the broader community expectations. These objectives will be achieved by introducing a mandatory minimum non-parole period of 25 years imprisonment for the murder of a child under 18 years of age and by introducing a new offence of child homicide, which will include a mandatory minimum non-parole period of 15 years.

The bill strengthens the punishment imposed for the murder of a child under the age of 18 years by requiring the court sentencing the person to make an order that the person must not be released from imprisonment until the person has served a minimum of 25 years or more specified years of imprisonment. In relation to the child homicide offence, the bill creates the new offence intended to apply to a person who unlawfully kills a child in circumstances where the person killed was a child at the time the act or omission that caused the death was done or made, and the act or omission that caused the person's death involved violence or was an offence of a sexual nature or a breach of duty stated in sections 285 and 286 of the Criminal Code.

I am the deputy chair of the Legal Affairs and Community Safety Committee. For both of these bills we were fortunate to have a great number of submissions and people and bodies who came to appear before us, and I thank them. While I do so, I acknowledge my fellow committee members and the staff of the committee for allowing that process to take place.

The killing of a child is a shameful crime and it is not one that is tolerated by Australians. It is particularly the case where the death of a child involves neglect of that child. Unfortunately, we see from court data and from the Australian Sentencing Advisory Council's report that offenders convicted of manslaughter of children are often sentenced to less time in prison than offenders convicted for the manslaughter of an adult. I think that says that we need stronger penalties. This is why we propose to increase the sentence for those who murder a child from 20 to 25 years to bring Queensland law in line with other states and territories and to create a new child homicide offence.

The bill also provides defences for diminished responsibility, killing on provocation and killing for preservation in an abusive domestic relationship, and I think that is very important. These defences, such as the defence of diminished responsibility, will offer protection to women who are of unsound mind by reasons of not having fully recovered from childbirth. This will ensure judicial discretion in sentencing is maintained in cases where the person is of unsound mind.

The child homicide offence will not apply to accidental deaths such as where a child drowns in a dam or is accidentally run over. I think that is an important point to make because I did hear about the place that this bill would effectively make someone who accidentally kills their child or allows it to happen in tragic and largely blameless circumstances able to be convicted of manslaughter. That is not the intent or the case with this bill.

I believe that mandatory sentencing is necessary because the courts are bound to low sentences and Queensland does not have decades to wait for precedents to change. The LNP's bill can guarantee that a person convicted of a child murder will spend a minimum of 25 years in prison. The LNP's bill can guarantee that a person convicted of child manslaughter will spend a minimum of 15 years in prison. This is double the average that offenders are currently getting.

I have heard others speak—and correctly so to some extent—about the importance of judicial discretion and of having evidence brought to the fore in sentencing people. I agree with that, but I think we ought to temper that with some of the evidence of lived experience and real life. One of the submitters to the committee on this bill was Stacey Brakenridge. She made the point—

What exactly is a child's life worth? What will we take from this report to ensure that innocent young lives matter? Enough talking, we need change or more children are going to die and more offenders will be free to live out their lives unlike their victims. According to Queensland Government statistics—Mason's average life expectancy was 80.1 years. You do the maths on the life he has been robbed off, and all the experiences in between.

I think that was a very profound contribution. I also refer to the case of Matthew James Ireland, who was the carer who killed Hemi Burke. He was sentenced to 8½ years imprisonment. However, with time served he became eligible for parole just recently. I want to acknowledge the presence in the gallery of Hemi's parents, Shane and Kerri-Ann; his grandparents, Kris and Richard; and his sister, 'Tee', who was a lovely, polite young lady who said hello to me this morning in the corridor. I would like to thank them for having the courage to come before the committee and give their story. I would like to read into the record what Richard had said before the committee, which I found quite moving. He said—

... we are just normal people. We found that the court system is cold and dispassionate, non-responsive to the family and their victims, and the sentences that are handed out are inadequate. It is not because the legal system is flawed; the judges and the lawyers are working with the system we have. We felt there was a need to add an extra limb, as the government has now added reckless indifference. In those cases where people used to be charged with manslaughter, they will now be ... charged with murder. It has been pointed out that this may capture the parent who ran over the kid or the person who left the kids on the forklift. That is not the intent. What the police and the DPP will do is look at the facts and circumstances of the case and charge them accordingly. We feel they are not going to go to court and run with the case of, 'I ran over the kid,' because it will just get thrown out on appeal. They are not going to waste the court's time and money.

I absolutely agree with what Richard Goodwin said there because I believe in the effectiveness of the discretion whether or not to prosecute, which is a fundamental part of our criminal system. I believe that our prosecutors and the police will not proceed with prosecutions where the case does not meet community expectations.

Regarding reckless indifference, as the member for Toowoomba South has said, we have seen in New South Wales where they have reckless indifference to human life perpetrators plea bargain down to manslaughter, and that offends ordinary Queenslanders. It offends particularly the families of the victims. I will spare the House the details of some of the circumstances in which these defenceless children have died. They are quite disgraceful and shocking. It is the community's expectation that we will make sure that the sentences handed down to those who kill children fit the crime. As a representative of the people—I represent the people of Southern Downs—I can say that it is the very strong expectation of my constituents that we do just that. They want to see that the life of a child—and most of us are parents and understand how sacrosanct that is—is recognised with a proportional sentencing outcome for those convicted of murder. I think that Mr Janetzi's, the member for Toowoomba South, private member's bill goes some way to achieve that. I say that the government's bill is a step in the right direction but it does not go far enough, so I urge the House to pass both bills.