




Speech By
Jennifer Howard

MEMBER FOR IPSWICH

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**GUARDIAN AND ADMINISTRATION AND OTHER LEGISLATION AMENDMENT
BILL**

 **Ms HOWARD** (Ipswich—ALP) (3.15 pm): I rise to speak in support of the Guardianship and Administration and Other Legislation Amendment Bill. We are a government that is committed to making sure adults with impaired capacity are protected by the law and that they have the right to live their lives without being subjected to abuse, neglect or exploitation. Although Queensland's guardianship legislation is working well, the amendments presented in this bill will make the law clearer and easier to understand. It will strengthen safeguards for adults with impaired capacity and better align with contemporary practice and human rights as expressed in the UN Convention on the Rights of Persons with Disabilities.

Almost everyone will know of someone in their life who has needed some form of guardianship because they are no longer able to make decisions regarding health, personal or financial matters. We too may find ourselves in a position one day where we may need it. The Palaszczuk government is reforming the legislation because we are committed to delivering a stronger, safer and simpler guardianship system that protects the rights of the most vulnerable Queenslanders. We are also committed to safeguarding the dignity of adults with impaired capacity and making sure they never have to suffer abuse, neglect or exploitation.

A number of the reforms in this bill have been informed by recommendations made by the Queensland Law Reform Commission's report *A review of Queensland's guardianship laws*. The bill has also been informed by the parliamentary inquiry into the adequacy of existing financial protections for Queensland seniors undertaken by the Communities, Disability Services and Domestic and Family Violence Prevention Committee in 2015. In fact, financial abuse accounts for a large proportion of the abuse experienced by older people and its impacts are terrible. People lose their assets, their financial security, their property, and much of it may never be fully recovered. There is also the loss of independence and lifestyle, as well as health impacts such as psychological distress and depression. In my electorate, I have heard of families being torn apart due to the financial abuse of elderly relatives carried out by family members who have abused their power of attorney privilege.

The issue of abuse against seniors is an increasingly urgent one and one which will become more pressing with an ageing demographic in Queensland. According to the Public Trustee's report to the inquiry, the number of Queenslanders over the age of 65 is expected to increase to 1.4 million people by 2036 and the number of Queenslanders aged 80 years or older will triple to 454,000.

Stakeholders informed the 2015 parliamentary inquiry of instances where attorneys and administrators had overreached their power of guardianship or had adopted an overly restrictive approach to substituted decision-making, leaving older people with little to no access to their own money and excluding them from all decision-making without basic regards for their rights, interests and wishes. The Queensland Aged and Disability Advocacy service told the inquiry about a senior who suffered

financial abuse by an administrator who had been appointed by QCAT. The administrator took almost all of the senior's assets and failed to pay fees that accrued significantly over time, leaving the senior with a huge debt which he could not pay off.

Undertaking a guardianship role such as an enduring power of attorney is a tremendous responsibility and one that requires an understanding of the role and its duties. We want to ensure that when an older relative has to be placed under an enduring power of attorney our laws have the necessary safeguards in place to make sure that the attorney is someone who understands their roles and duties and is not there to take advantage of our loved ones. I know during my many years of being a justice of the peace and working with the public we had to oversee a lot of those. We really felt the gravity of each enduring power of attorney.

This bill will strengthen eligibility requirements under an enduring power of attorney and will require that attorneys have capacity for a matter, and must not have been a paid carer for the adult in the previous three years. The bill also clarifies the capacity needed for a person to execute an advance health directive or an enduring power of attorney. Protection of whistleblowers who report abuse of adults with impaired capacity is another reform that will strengthen safeguards for the most vulnerable. From now on it will be a criminal offence to seek reprisals against whistleblowers who disclose confidential information when they make a disclosure about contact that they believe to be abusive.

Strengthening our public institutions which provide guardianship and administration services is crucial if we want to protect the most vulnerable. The Public Guardian will now be given increased power to investigate complaints of abuse against an adult with impaired capacity after the adult's death. QCAT will also be allowed to appoint an administrator to exercise financial decision-making powers on behalf of the missing person. I am pleased to see that this bill provides QCAT the same jurisdiction as courts to provide financial remedies to adults whose administrators, guardians or attorneys have failed to comply with their duties.

With the increasing number of aged people in our community and with more people and organisations taking on roles caring for the elderly and people with disabilities, these reforms are urgently needed and welcomed. I do want to place on the record my support for all the people in Ipswich who work in the Public Trustee office with whom I deal regularly on these issues. I want to thank them for their work. I know their workload is often quite dense and also very difficult. I do want to thank them for their work. I commend this bill to the House.