




Speech By  
**Jennifer Howard**

**MEMBER FOR IPSWICH**

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Record of Proceedings, 1 May 2019

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

 **Ms HOWARD** (Ipswich—ALP) (12.59 pm): I rise to support the Criminal Code and Other Legislation Amendment Bill 2019. This is a bill that stands up for child homicide victims and delivers tougher penalties to offenders who, with callous disregard, recklessly take away the life of a child. I want to thank the Attorney-General for introducing this bill to parliament. I also want to thank the committee and all the people who worked to get this bill here today. It would not be here today if not for the Attorney-General's referral to the Queensland Sentencing Advisory Council to set up an inquiry to review whether sentencing for criminal offences involving the death of a child meets community expectations.

While the number of child homicide deaths in Queensland is small, the community feels deep shock and sadness at the injustice of having an innocent life taken away at such a young age. The Palaszczuk government recognises that the general public and the families of victims want to see strong sentences imposed on killers who take away the lives of children.

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 **Ms HOWARD** (Ipswich—ALP) (3.09 pm), continuing: This bill delivers on building a criminal justice system in Queensland that is just and that protects vulnerable and defenceless children. Every child has a right to feel safe in their home and not be subjected to violence by people who are responsible for caring for them. It is not justice if a child's killer escapes a murder conviction because their intention is too difficult to prove in court. Under this legislation the definition of murder will be expanded to include reckless indifference to human life. This means that killers whose callous disregard for the victims leads to their death will face life in jail if convicted.

The Queensland Sentencing Advisory Council's review found that sentencing for manslaughter was not adequate for children. Cases where children are killed by people in their care can be complex to investigate and prosecute as they mainly occur in the privacy of homes and involve very few witnesses. There can also be difficulty in establishing which injuries were the substantial cause of the child's death or when these injuries occurred and who caused them.

Furthermore, the Queensland Sentencing Advisory Council found that the average sentence for child manslaughter in Queensland was only 6.8 years compared to 8.5 years for manslaughter of an adult. This does not adequately take into account the unique vulnerabilities of children under 12 years of age. This bill will ensure that the defencelessness and vulnerability of a child under 12 must be treated by the court as an aggravating factor when it comes to sentencing an offender convicted for manslaughter.

This factor will serve the purpose of supporting the court's treatment of these offences as more serious and therefore more deserving of severe punishment, and it sends a strong, clear message to the community that violence against children is wrong and will not be tolerated. Including reckless indifference to human life as an element of murder in the Criminal Code will capture a wider range of offending as murder in Queensland. It will also extend to other vulnerable and dependent members of our community such as the elderly and the disabled.

One of the issues highlighted in the Queensland Sentencing Advisory Council's review was that 'intent' was difficult to establish in court, which led to lower sentences or the prospect of killers escaping murder convictions. This was found particularly in the case for child homicide involving long-term physical abuse. However, in other Australian jurisdictions, reckless murder exists as an aggravating factor in sentencing thus reflecting the moral equivalency between 'intention' and 'foresight of probable consequences'.

Implementing reckless murder as an element in sentencing will ensure that offenders who foresee the probability of the death of a child will be considered just as blameworthy as someone who intends to kill a child. I believe that this reflects the wishes of families who want to see justice served for the children they have lost and it reflects the community's expectations and changed attitudes towards violence and abuse of children.

A significant number of people in the community no longer view corporal punishment as an acceptable method of disciplining children, and the use of overt physical violence against children is condemned by a large part of the community as unacceptable and morally wrong. We also now have an improved understanding of the insidious long-term impacts of child abuse and neglect, and we all sense that the ongoing callous disregard of human life through systematic and ongoing abuse and neglect can lead to horrific child deaths.

As a community we are repulsed by these acts and incensed when we see killers walking away with just a manslaughter conviction. The bill's amendments to expand the definition of murder in the Criminal Code to include reckless indifference to human life provides police and prosecutors broad scope to charge killers with murder and, if convicted, issue an indefinite sentence that ensures the offender is not eligible to apply for parole for at least 20 years. This approach also retains sentencing flexibility to take into account diverse circumstances in which child homicide offences occur.

The Palaszczuk government, in line with the Queensland Sentencing Advisory Council, does not support the mandatory minimum penalties that the LNP have proposed. Their proposal to sentence all offenders convicted of child homicide to a mandatory non-parole period of 15 years would result in injustice because it would not capture tragic accidents such as parents being charged for leaving pool gates open or reversing over their own children on the driveway.

Under the LNP, a parent who forgot to secure the child fence resulting in the unfortunate drowning of their child would be sentenced to a mandatory 15 years. This is the exact same sentence that would be handed down to the parent who caused the death of their child due to long-term physical abuse and neglect. The bill's approach of sentencing flexibility ensures that judicial discretion is retained in the process of sentencing so that the diversity of circumstances in child homicide cases can be appropriately taken into account.

I am very proud to be part of a Labor government that is committed to taking a strong stance on the reckless killing of children by issuing tougher penalties that reflect community expectations. It shows that we are a government that values and protects our children and is committed to strengthening justice for its victims. I am grateful to the Attorney-General and the Premier for the work they have done in ensuring that these legislative amendments are delivered for Queensland. I wish to thank the Queensland Sentencing Advisory Council for their year-long review and consultation with the community.

I also wish to acknowledge again the contributions made to the review by members of the public including families bereaved by child homicide. Their involvement must have been very difficult and traumatic at times—in fact, I think few of us here could even comprehend how it would have been for them—but it was critical in ensuring that we never lose sight of the fact that every loss of a child is not just a number or a statistic but a valued and loved family member whose life has been cut too short. I fully support this bill for strengthening Queensland's criminal justice system. I commend the bill to the House.