




Speech By
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MEMBER FOR MAIWAR

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**WORKING WITH CHILDREN (RISK MANAGEMENT AND SCREENING) AND
OTHER LEGISLATION AMENDMENT BILL**

 **Mr BERKMAN** (Maiwar—Grn) (4.30 pm): I rise to make a contribution to the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018. This bill does several things, including giving effect to the government's election commitment to introduce an automated blue card application process that implements the so-called no-card no-start election commitment. It implements recommendations from the Queensland Family and Child Commission report *Keeping Queensland's children more than safe: review of the blue card system*. The government also foreshadowed amendments to make several further changes, most significantly to add offences to the list of disqualifying offences under the working with children act, some transitional arrangements to facilitate no-card no-start, and some technical amendments.

The opposition has foreshadowed amendments to add extra disqualifying offences which we will not support. I understand that the opposition will also move amendments which attempt to address the crisis with children being held in our watch houses, proposing to ensure children are not held in watch houses for more than 72 hours. The Greens would support those amendments, but 72 hours is 72 hours too long. On Tuesday this week, I called for an emergency response to the children in watch houses crisis, a three-stage approach that would address the reasons that children are in adult lockups. Firstly, we need to raise the age of criminal responsibility—

Mr DEPUTY SPEAKER (Mr Kelly): I bring the member back to the long title of the bill.

Mr BERKMAN: Thank you, Mr Deputy Speaker. I am sure you can understand my having some reservations about whether there will be an opportunity to speak to these proposed amendments and whether or not we reach consideration in detail. Obviously, the blue card system is recognised by all stakeholders as one of Australia's toughest. Importantly, it is only one part of a successful system for protecting children. Like any system, it is imperfect and relies on complex judgements of fact based on individual circumstances. There are many examples of people who would be fantastic role models for children being denied a blue card for offences in their past or for offences against adults which do not present any risks directly to children. As some submitters raised, there is a fairly concerning lack of data about how effective this system is at actually preventing serious incidents.

I turn to the bill directly. I acknowledge that the government's no-card no-start policy is an election commitment from Labor and that both Labor and the LNP will support it, meaning it will pass today. I must register the Greens' strong reservation about this measure. It was not explicitly suggested by the Queensland Family and Children Commission in its recommendation 20. We are concerned that this change has not been thought through, that it will shut out people who have minor criminal histories from getting a foothold in social service jobs and that it will have an outsized impact on Aboriginal and Torres

Strait Islander people who already face especially high and well-recognised barriers to getting and keeping blue cards. This view is shared by Sisters Inside and by LawRight, both of which have extensive experience working with people using the blue card system. As Sisters Inside told the committee—

In our experience, many organisations are already very reluctant to employ adults with a criminal history, either on a paid or voluntary basis. Sisters Inside does not support the 'No Card' 'No Start' amendments as, in our view, it effectively establishes a presumption against employment for criminalised women and Aboriginal and Torres Strait Islander people.

They go on to say that in their experience—

... staff members with lived experience of criminalisation or imprisonment are often the most successful in building effective support relationships with criminalised women, girls and their families.

The government has said that sitting alongside this bill will be a range of initiatives to streamline the blue card process and reduce processing times which in itself is highly commendable. That is especially so since some matters can take many months to finalise if there is an appeal or any complicating circumstances. LawRight observed that—

... no guarantees are provided that these initiatives to streamline applications will be adequate for vulnerable people who may already be in tenuous employment and do not find it easy to navigate "self-help" and "stream-lined" systems. Our Blue Card Services clients include people who struggle with literacy, may not speak English as a first language, or have other impairments which reduce their capacity to engage with government services.

Expressing similar concerns, Sisters Inside said—

In our experience, many criminalised women and Aboriginal and Torres Strait Islander people lack the financial resources to apply for a WWCC before securing paid employment. Additionally, we note women and many Aboriginal and Torres Strait Islander people are discouraged from applying as they are often required to undertake an extensive application process (i.e. required to respond to 'show cause' requests and make written submissions).

We also have serious concerns about the changes proposed which would effectively strip final decision-making power from QCAT under this bill. On this point, LawRight said—

The impact of this amendment on our clients will be that, after navigating a lengthy and stressful QCAT process, which can in some cases take up to 12 months, they will be further prevented from commencing regulated employment notwithstanding that QCAT have made a decision in their favour.

There are very well recognised barriers to Aboriginal and Torres Strait Islander folks accessing the blue card system which can and does lead to some incredibly discriminatory outcomes, especially in communities where almost every government job requires a blue card. Recommendation 73 of the QFCC report proposed—

... the Department of Justice and Attorney-General develops and implements a specific strategy and action plan to provide more support for Aboriginal and Torres Strait Islander people and build cultural capability in the blue card system including: identifying ways to partner with other agencies for consistency with other Queensland government initiatives designed to improve outcomes for Aboriginal and Torres Strait Islander peoples; establishing a reference group made up of Aboriginal and Torres Strait Islander stakeholders to co-design the strategy and action plan; and considering ways to empower communities to be involved in decisions about their community.

While this bill implements some of the recommendations that QFCC made and expands on another to implement no-card no-start, it fails to create any legislative basis for action on recommendation 73. Again, referring to Sisters Inside and its submissions on the bill—

The Government Bill imposes significant new obligations for people applying for WWCC authorities. However, it does not provide for any corresponding legislative guidance to support criminalised adults or Aboriginal and Torres Strait Islander people. Recommendation 73 of the Queensland Family and Child Commission's report ... recommended developing guidelines to embed an appropriate consideration of culture in working with children check decisions, and considering ways to empower communities to be involved in decisions about their community.

I emphasise this final point—

In our submission, these mechanisms should have a legislative basis and must be implemented at the same time as amendments that significantly tighten the WWCC system.

They went further, noting that—

... we have been disappointed by Blue Card Services' decisions especially in relation to ATSI people. In our view, the decisions of which we are aware did not give sufficient consideration to the contextual factors of criminalisation, especially the over-representation of ATSI children and adults in the criminal legal system and the child protection system.

In closing, this week has laid bare for us just how concerning are the consequences and the realities of over-representation of Aboriginal and Torres Strait Islander people in our criminal justice system. While we obviously need a careful mind for protection of children—and the blue card system does in many ways a great job in doing that—we need to ensure that we are not disproportionately burdening those already disadvantaged communities and preventing them from reengaging in the workforce in ways that will help break the cycle of poverty and criminalisation that affects so many of our Aboriginal and Torres Strait Islander peoples around the state.