Speech By

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MEMBER FOR MAIWAR

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YOUTH JUSTICE AND OTHER LEGISLATION AMENDMENT BILL

Mr BERKMAN (Maiwar—Grn) (4.13 pm): I rise to make a contribution on the Youth Justice and Other Legislation Amendment Bill 2019. Kids do not belong in watch houses and it is nice to at least hear ferocious agreement on that point in this place. I welcome that agreement and I also welcome this bill, which acknowledges that simple fact. However, I do not think it does enough to address the youth justice crisis in Queensland. In the first instance, and this almost seems too obvious, the bill does not actually set a limit on the time children can be remanded in watch houses. I support the recommendation of the Public Guardian that a limit be set at 72 consecutive hours without an order of the court and that the fundamental principle be that the period of remand be for as short a time as practicable.

A number of provisions in the bill are counterintuitive in that they could actually restrict young people's fundamental rights and liberties. It is concerning to see new laws being introduced in this state that steadily erode some of our justice system's basic principles, one of which is that children should not be treated in the same way as adults by the justice system. That seems to be repeatedly ignored by the government. We saw that in the recent passage of the links to terrorist activity bill, which, despite numerous warnings from experts and advocacy groups, was supported by everyone in this chamber bar me.

Similarly, this bill seeks to apply to children the recent amendments to the Penalties and Sentences Act regarding mandatory sentencing provisions for the manslaughter of children under 12, including applying mandatory sentencing provisions to children under 12. The original amendments and expansion of the mandatory sentencing regime were problematic enough, but they were almost certainly not intended to apply to children as defendants. This could give rise to anomalous situations, such as applying the sentencing provisions to a 10-year-old convicted of the manslaughter of an 11-year-old, where the power dynamic of defencelessness and vulnerability may be completely reversed. As Sisters Inside noted in its submission, it is also particularly ironic to recognise the defencelessness and vulnerability of those under 12 while continuing to criminalise and imprison them.

In relation to the provisions to facilitate information sharing across government departments, there are real concerns about how this might impact children's rights over their confidential information. If it is decided by an advocate that it is in the child's best interests to release their information without consent, the reasons for the decision should be given to the child. The government should also pay careful attention to how we prevent this information sharing from actually increasing involvement with the justice system, for example, if a child's school decides to suspend or exclude them on the basis of a conviction or charge, given that we know that disengagement from education and training is a key risk factor for recidivism in young people.

Numerous community organisations have commented that, before rolling out body worn cameras and new provisions for the use of audio from CCTV in youth detention centres, the government must develop clear guidelines for the use and disposal of that footage and consider any unintended consequences that may arise. The government needs to seriously consider how it will provide adequate

resources and training to implement the changes proposed in the bill. For example, while I support the requirement for police to attempt to notify Legal Aid before beginning the questioning of a child, the government will need to allocate additional resources to legal aid organisations for that to actually work. I also support the point raised in a number of submissions that this requirement should apply not only to indictable offences but in all cases. Along with the provisions regarding police attempts to contact a parent or guardian, the police should be required to record their attempts to contact legal aid services before beginning questioning.

Furthermore, we want to get kids out of detention, but we also need to make sure that they have a safe home to go to. These reforms should be accompanied by appropriate housing for children who are homeless or without an able or willing guardian. We need accompanying additional investment in mental health, disability and other support services. We need proper investment in education, housing, health, employment and other support services. The Queensland Council for Civil Liberties made the point very well in its submission. It said, 'Money should be diverted from building more detention centres, the High Schools of crime, to providing children on bail with suitable accommodation.' That is a principle that I fundamentally support, especially while there are about 12½ thousand children on the social housing waiting list in Queensland. The government continues to spend billions of dollars to build prisons while the proportion of social housing continues to decline.

We need to address the shocking overrepresentation of Indigenous kids in Queensland prisons. That should have been the key objective of these reforms. We need a moratorium on new youth prisons. As I have said so many times before—and I am sure I will say it here again until we get it done—we need to raise the age of criminal responsibility in Queensland to at least 14. It is incredible that, despite the overwhelming and repeated evidence from health experts, social workers, Indigenous leaders, legal experts and human rights organisations, the Queensland government will not raise the age.

In response to this bill, there were calls to raise the age from Sisters Inside, the Office of the Public Guardian, Anglicare, the Youth Affairs Network Queensland, the Queensland Human Rights Commission, the Australian Lawyers Alliance, Queensland Advocacy Inc. and the list goes on. Every time I raise this, the response from government is the same. They say, 'We're waiting for a coordinated federal approach', despite the fact that this is clearly and squarely a state responsibility.

The omission of this essential reform from this bill is glaring and irresponsible. This reform has now been recommended by the Family and Child Commission, the Office of the Public Guardian and the Royal Australian and New Zealand College of Psychiatrists, so why are we still waiting?

My eldest child, Noah, will turn 10 in only a couple of weeks.

Ms Jones: Happy birthday!

Mr BERKMAN: Happy birthday to him indeed. It makes me sick to think that under Queensland's current laws he could be charged with criminal offences, brought before a court, sentenced and locked up behind bars. It is disgraceful. We all agree—kids do not belong in cages. The reports that prompted these reforms were sickening and enraging. I welcome an urgent response to this crisis which is why, despite its shortcomings, I will be supporting this bill today, but I will also say that the need for a proper overhaul of our youth justice system cannot be ignored. I truly hope that this bill is just the start of a proper plan to keep young people, especially vulnerable, marginalised and Indigenous young people, out of cages and to bring them into safe, supported and meaningful community environments.

In the moments I have remaining I will quickly address the amendments proposed by the shadow Attorney-General. As I have said already, I would, in principle, support the imposition of a strict limit on the amount of time that kids could be kept in watch houses. As the Public Guardian suggested, a limit of 72 hours does not seem inappropriate, but this amendment is proposed alongside and linked to this proposed new breach of bail offence which I absolutely cannot support. It strikes me as not only a fairly fundamental misapprehension of what bail is supposed to do—it is a double penalisation for the same transgression of the kid involved—but it is also just another way to criminalise kids. On that basis I will not be supporting the amendments proposed by the shadow Attorney-General.