




Speech By
Michael Crandon

MEMBER FOR COOMERA

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CIVIL LIABILITY AND OTHER LEGISLATION AMENDMENT BILL

 **Mr CRANDON** (Coomera—LNP) (4.47 pm): I rise to make a contribution to the Civil Liability and Other Legislation Amendment Bill 2018. The Legal Affairs and Community Safety Committee recommended that the bill be passed. The bill implements recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse in the *Redress and civil litigation report*. The recommendations made by the commission aim to improve the capacity of the justice system to provide fair access and outcomes to survivors of child sexual abuse wishing to pursue a claim for civil damages for personal injury arising from the abuse.

There is currently no statutory duty of care for institutions regarding child sexual abuse. This means that a survivor must go through the process of proving to a court that a duty of care to prevent child sexual abuse was owed to the person by the institution. This bill adopts recommendations to resolve this by inserting a new section into the act to provide that an institution has a duty to take all reasonable steps to prevent the sexual abuse of a child by a person associated with the institution while the child is under the care, supervision, control or authority of the institution. A person associated with an institution includes an officer, representative, leader, member, employee, agent, volunteer or contractor of the institution, religious leader of the organisation, a delegated entity or delegated individual.

If the duty is breached the onus of proof will be reversed, which would require that an institution prove that it did not breach its duty to prevent child sexual abuse as recommended by the commission at recommendation 92. The reverse onus is favourable because it addresses the power imbalances and ensures that a survivor does not have to prove the wrongdoing. The reverse onus also has the effect of encouraging institutions to engage in higher standards of compliance. The statutory duty of institutions to prevent child sexual abuse will be prospective in nature—that is, to apply only in future acts. Both New South Wales and Victoria have adopted this principle to apply prospectively.

I note that today Labor has adopted the LNP position to extend the definition of abuse to include physical abuse, not just sexual abuse. This is good news and is a result of the lobbying of victims and our foreshadowing of the same amendment when the second reading debate commenced in June. The inclusion of physical abuse adopts the position of all other Australian jurisdictions that have legislated on the duty of institutions, including New South Wales and Victoria.

There were 11 stakeholders who made submissions. The stakeholders included government, legal, church, educational, victims, representatives and community organisations. This bill relates to recommendations 89 to 93 of the report made by the commission after extensive inquiry into the matter. In closing, I note that it has taken, sadly, two years for Labor to be dragged kicking and screaming to get to this point, but at least we are now here.