




Speech By  
**Peter Russo**  
MEMBER FOR TOOHEY

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### CIVIL LIABILITY AND OTHER LEGISLATION AMENDMENT BILL

 **Mr RUSSO** (Toohey—ALP) (3.43 pm): I rise in the House to support the passing of the Civil Liability and Other Legislation Amendment Bill. I will at the conclusion of my contribution to the debate be recommending that the House supports this bill and that the bill become legislation. I want to commence by acknowledging the members of the Legal Affairs and Community Safety Committee and, on behalf of the committee, thank those individuals and organisations that made written submissions on the bill and provided further evidence to the committee and acknowledge the difficult and personal experiences which were shared during the committee's hearings. I also want to thank our Parliamentary Service staff and the Department of Justice and Attorney-General which assisted the committee at its public briefing.

The Civil Liability and Other Legislation Amendment Bill was introduced into the Legislative Assembly and referred to the committee on 15 November 2018. The committee was to report to the Legislative Assembly by 28 February 2019. On 21 November 2018 the committee invited stakeholders and subscribers to make written submissions on the bill. Eleven submissions were received. The committee received a public briefing about the bill from the Department of Justice and Attorney-General on 3 December 2018. A transcript was published on the committee's web page and I refer to the committee's report and in particular appendix B for a list of officials in attendance. The committee received written advice from the department in response to matters raised in submissions and the committee held its public hearing on 11 February 2019. The submissions, correspondence from the department and transcripts of the briefing and hearing are all available on the committee's web page.

The main objective of the bill is to amend the Civil Liability Act 2003 in response to recommendations 91 to 94 of the *Redress and civil litigation report* of the Royal Commission into Institutional Responses to Child Sexual Abuse. In the conclusion to the debate on this report I have set out what these recommendations of the *Redress and civil litigation report* are and, if time permits, may refer to them. This includes amendments to the Civil Liability Act to require an institution to prove it took reasonable steps to prevent the sexual abuse of a child in its care by a person associated with the institution to avoid legal liability for the abuse—that is, reverse onus—and introduce a framework for the nomination of a proper defendant by an unincorporated institution to meet any liability incurred by the institution. The bill also proposes amendments to section 64 of the Civil Proceedings Act 2011 to ensure that a person under legal incapacity may recover the cost of trustee management fees in the award of damages for wrongful death of a member of the person's family.

The explanatory notes state that consultation on the bill included a publicly available issues paper and targeted stakeholder consultation on the draft provisions of the bill. The government issues paper, the *Civil litigation recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse: Redress and civil litigation report—understanding the Queensland context*, was released by the department on 16 August 2016 and canvassed issues relating to the reverse onus and the proper defendant recommendations of the *Redress and civil litigation report*. Twenty-three submissions were

received from stakeholders including private citizens, a small number of legal professionals and a number of support and advocacy providers, a few religious organisations and private education institutions. The department advised the committee that the submissions had not been published.

A consultation draft of the Civil Liability Act amendments in the bill were provided to a range of stakeholders including government, legal, church, education, victims' representatives and community organisations and feedback was incorporated in the finalisation of the drafting of the bill. The department advised that draft bill provisions which would displace the operation of the Corporations Act 2001 were provided to the Legislative and Governance Forum for Corporations. The amendments proposed by the bill continue actions already begun in Queensland in acknowledging the impact of institutional child sexual abuse, providing fair access and outcomes to survivors. Queensland, unlike many jurisdictions of Australia, had a redress scheme for survivors of institutional child abuse which commenced in May 2007 following the Forde inquiry, the Commission of Inquiry into Abuse of Children in Queensland Institutions.

The Queensland government established the \$100 million Redress Scheme to acknowledge the abuse and neglect suffered by children placed in Queensland institutions and to provide ex gratia payments to those who were harmed. More recently, the Palaszczuk government delivered on its commitment to participate in the National Redress Scheme as proposed by the Royal Commission into Institutional Responses to Child Sexual Abuse with Queensland's participation commencing on 19 November 2018.

There have also been further reforms in response to the royal commission's recommendations in its *Redress and civil litigation report*. In 2017, the government removed the limitation period for commencing an action for civil damages in relation to child sexual abuse to enable people who have experienced child sexual abuse to bring actions for personal injury damages despite the length of time that has passed since the abuse occurred. The Civil Liability and Other Legislation Amendment Bill 2018 seeks to improve the capacity of the justice system to provide fair access and outcomes for people who have experienced child sexual abuse and who wish to pursue a claim for civil damages for personal injury arising from the abuse.

I will now deal briefly with the background to the amendments in this bill and touch on the Australian government's Royal Commission into Institutional Responses to Child Sexual Abuse final report. The Royal Commission into Institutional Responses to Child Sexual Abuse was announced on 12 November 2012. The royal commission was directed to inquire into and report on the institutional responses to allegations and incidents of child sexual abuse and related matters. Before publishing its final report in December 2017, the royal commission released an interim report and three other reports focusing on different aspects of its inquiry.

The *Redress and civil litigation report* was published in 2015 and it was informed by consultation conducted through private sessions, public hearings, issue papers, private round tables, expert consultation and information gained through summons. The *Redress and civil litigation report* highlighted the importance of fairness to survivors of institutional child sexual abuse, for equal treatment and access to redress processes, and acknowledged that the civil litigation system's and past and current redress processes have not provided justice for many survivors. The report made 99 recommendations, including the establishment of a national redress scheme and changes to processes for pursuing civil liability claims. These recommendations were included in the royal commission's final report, which made 409 recommendations.

As I said, this civil liability bill is in response to recommendations 91 to 94 of the *Redress and civil litigation report*. These recommendations were proposed to improve the capacity of the justice system to provide fair access and outcomes to survivors of child sexual abuse who wish to pursue a claim for civil damages for personal injury arising from that abuse. As part of my contribution, I think it is important to acknowledge the people who attended our hearings. I commend the bill to the House.