




Speech By
Stephen Bennett

MEMBER FOR BURNETT

Record of Proceedings, 30 April 2019

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

 **Mr BENNETT** (Burnett—LNP) (5.04 pm): As reflected in the final report handed down by the Queensland Sentencing Advisory Council, and in the issues considered in its review, proving intent in the death of a child can be challenging. It is important to recognise, as outlined in the council's consultation paper, three of the major issues impacting on prosecuting child homicide offences include the complexity of determining the cause of death; the common involvement of the parents, carers or other family members; and establishing intent.

Many Queenslanders note that the proposed changes will expand the definition of murder to include reckless indifference to human life, incorporate the defencelessness and vulnerability of victims under the age of 12 as an aggravating factor, and increase the maximum penalty for failure to supply necessaries from three years to seven years imprisonment. It is acknowledged that many submitters to the committee fully support these proposed changes.

It is clear through the work of the Queensland Sentencing Advisory Council that current penalties for causing the death of a child do not meet community expectations nor properly reflect the nature of these crimes and the defencelessness and vulnerability of the child victims. Many submitters agree with the Queensland Sentencing Advisory Council consultation which found that sentencing for manslaughter cases involving the direct use of violence against a young child is not viewed by the community as adequate as the sentences do not reflect the unique and significant vulnerabilities of these children. The introduction of the new aggravating factor will support the court's treatment of these offences as more serious and therefore deserving of greater punishment. This would also send a positive message to the broader community and to potential offenders that this behaviour is unacceptable and will incur lengthier prison sentences.

The killing of a child is a despicable crime that is not tolerated by the LNP, the Queensland or Australian communities, particularly when the crime involved violence and neglect. Court data tells us that offenders convicted of the manslaughter of a child are sentenced to less time in prison than offenders convicted of the manslaughter of an adult. The LNP believes that there is a need for stronger penalties for cases that involve the murder or manslaughter of a child.

National and international research indicates that between eight and 19 per cent of all homicides involve child victims. While overall the crime of homicide involves more adult victims than child victims, when a child death is recorded it is five times more likely to be due to a homicide than is the case with a death in the adult population. A child is at greatest risk of homicide in their first year of life. Risk of homicide significantly decreases as a child matures and increases again in the later teenage years. This is confirmed by the council's research findings which identified the highest proportion of child homicides involved those under one year of age. The next highest proportion were children aged between 15 and 17 years. Family members are the most common perpetrators of child homicide, with parents or parent equivalents representing the highest proportion of perpetrators. This pattern is somewhat different for older child victims who are more likely to be killed by a person unknown to them.

The council's research confirms that child homicide is a diverse offence category and occurs in a broad range of circumstances, making it difficult to identify a typical child homicide case. That is why we propose to increase the sentence for those who murder a child from 20 to 25 years to bring Queensland law in line with other states and territories and to create a new child homicide offence which will mean offenders convicted of child manslaughter will serve a mandatory minimum sentence of 15 years, the maximum penalty for manslaughter. The proposed child homicide offence would apply to any person who kills a child by an act or omission, including an act of violence, a sexual offence or a breach of the duty of the Criminal Code. Violence includes vigorous shaking, punching, kicking, stamping, throwing, squeezing, suffocating, strangling or engagement in any violent act that causes the child's death. The intent of our debate today is to recognise and protect vulnerable and defenceless children, whether it is their age or capacity that increases their vulnerability. We must send a stronger message on sentencing.

Today we are also debating the areas of diminished responsibility, killing on provocation and killing for preservation in an abusive domestic relationship. These defences, such as the defence of diminished responsibility, will offer protection to women who are of unsound mind by reasons of not having fully recovered from childbirth. This will ensure judicial discretion in sentencing is maintained in cases such as where a person is of unsound mind.

The child homicide offence will not apply to accidental deaths such as where a child drowns or is run over. The LNP believes that mandatory sentencing is necessary because courts are bound by low sentences and Queensland does not have decades to wait for precedents to change. Unlike those opposite, we can guarantee that a person convicted of child murder will spend a minimum of 25 years in prison. I think that from the debate that is a reasonable expectation. We can also guarantee that a person convicted of child manslaughter will spend a minimum of 15 years in prison. This is double the average sentence that offenders are currently getting.

The LNP have a track record of introducing a number of criminal law reforms aimed at protecting children. We are committed to ensuring that the length of sentences imposed on child killers reflects the gravity of their crimes. It is disturbing to hear time and time again from the judicial system that every case is different and that judges need discretion et cetera. It makes sense that submitters to the committee's inquiry asked for explanations as to why convictions in cases basically have the same sentence. There are some examples that are difficult to read, but I will do so in the interests of the debate.

In 2012 Michael Humphreys was sentenced to nine years for the death of a 31-day-old girl, Paige, who died from a fractured skull. Rick Cataldo was sentenced to eight years but paroled after three years and nine months for the death of a 57-day-old girl, Lily,. Nicholas Baxter was sentenced to nine years for the death of a six-week-old boy, Matthew, in 2011. Heidi Strbak was sentenced to nine years but paroled after four years for the death of a four-year-old boy—and we all remember Tyrell—in 2009. Matthew Williamson was sentenced to nine years but paroled after seven years for killing a three-year-old girl, Kyhesha-Lee, in 2013.

Colin Randall was sentenced to nine years but paroled after five years for killing a 10-week-old boy, Kye, in 2014. Matthew Ireland was sentenced to eight years and six months but is due for parole in June this year for killing 18-month-old Hemi—and we acknowledge the family in the gallery today: thanks for your strength. Ry Smith was sentenced to nine years for killing a four-month-old boy, Lennox, in 2013. Anne Maree Lee was sentenced to nine years but is due for parole in July 2019 for killing a 22-month-old boy. We all know Mason Jett Lee's tragic story.

The death of any child is a tragedy and the death of a child at the hands of another is even more insidious. This highly emotional circumstance deserves the full attention of this House in the debate this afternoon. We must respect the parents, the families and the communities who have lost some of the most vulnerable young lives in our community.

It has been articulated well by many in this House that there is a lot more to be done, particularly in child protection and child safety. We welcome reforms as they challenge us on our journey in this House. Sometimes we debate things in this House that are very difficult to comprehend, but one thing we can do is to make sure that this House sends a message to all of those people who are considering or get caught up in the homicide of a child or have violent behaviours towards children. There are consequences from the Queensland government—and that is from all sides. I reflect that we do consider, as the LNP's private member's bill does, that strong laws should reflect community expectations, particularly around sentencing.