Speech By

Corrine McMillan

MEMBER FOR MANSFIELD

Record of Proceedings, 8 September 2020

PROTECTING QUEENSLANDERS FROM VIOLENT AND CHILD SEX OFFENDERS AMENDMENT BILL

Ms McMILLAN (Mansfield—ALP) (6.55 pm): I rise to speak against the Protecting Queenslanders from Violent and Child Sex Offenders Amendment Bill. Queensland's current legislative scheme concerning preventive detention and post-sentence supervision is robust and comprehensive, and we as lawmakers and the community can feel absolutely confident in the protection that it provides. The Dangerous Prisoners (Sexual Offenders) Act 2003 introduced by Labor was the first of its kind in Australia. The DP(SO) Act has successfully withstood challenges to its constitutional validity in the Queensland Court of Appeal and in the High Court of Australia. This is what we owe the victims of child sexual abuse. Other jurisdictions have used it as a model upon which to base their own legislation.

The opposition has form for bringing unconstitutional bills before this House and this is yet another example. This bill is eerily similar to the LNP's 2013 Criminal Law Amendment (Public Interest Declarations) Amendment Bill, which was ruled invalid by the Court of Appeal. The bill significantly reduces the power of the Supreme Court to make decisions and seeks to transfer those powers to the Governor in Council and to the Attorney-General of the day. The LNP does not understand the separation of powers, and this bill proves that. The constitutional validity of this bill is a very important issue. This bill would serve to substantially change the DP(SO) Act 2003 and potentially put the entire act into jeopardy if it were to be declared constitutionally invalid.

As lawmakers we do not get second chances in this area of law, particularly the importance of this area of law in keeping our children safe. In order to protect the community, the law in this area must be constitutionally robust and it must be valid. This is an area of the law where you need to know that the legislation will actually work to protect our community and to protect those most vulnerable.

Under the DP(SO) Act the Supreme Court may make a continuing detention order or supervision order for an offender convicted of a serious sexual offence when the offender enters the final six months of their sentence of imprisonment. Those orders may be made only where an offender is a serious danger to our community—that is, the prisoner is an unacceptable risk of committing a further serious sexual offence. If the Supreme Court considers that an offender is a serious danger to the community, in the absence of an order under the DP(SO) Act, the court may impose a continuing detention order or a supervision order. If in the Supreme Court's view the risk a person poses to the community cannot be reasonably and practicably managed by a supervision order, the court will make a continuing detention order. The effect of this order is that the offender remains in custody until such time that that person's risk can be reasonably and practicably managed by supervision.

If an offender is a serious danger to the community but the risk can be reasonably and practically managed, the Supreme Court may impose a supervision order. When imposed, a supervision order will contain requirements that are mandatory under the DP(SO) Act. The requirements will be those that the Supreme Court considers appropriate. Breaches are treated seriously by the court.

Debate, on motion of Ms McMillan, adjourned.