




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 8 September 2020

**PROTECTING QUEENSLANDERS FROM VIOLENT AND CHILD SEX
OFFENDERS AMENDMENT BILL**

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice) (5.40 pm): I rise to oppose the bill before the House. On 19 September 2018, the member for Toowoomba South introduced the Protecting Queenslanders from Violent and Child Sex Offenders Amendment Bill 2018. On 19 March 2019, the Legal Affairs and Community Safety Committee tabled report No. 32 recommending that the private member's bill not be passed. I thank the members of the committee for their consideration of the bill and for their report. I advise the House that the government adopts the recommendation of the majority view of the committee and will oppose the private member's bill.

Before I address the effect of the amendments proposed in this private member's bill, I would like to remind the House of some history of previous legislative activity undertaken by the LNP in this area that is fundamental to the bill before the House. In 2013, the Newman government passed the Criminal Law Amendment (Public Interest Declarations) Amendment Bill 2013. At the time, the LNP trumpeted those amendments as 'another layer of protection' for the community. This proved to be a false promise from the LNP because the Queensland Court of Appeal unanimously declared the LNP's effort to be unconstitutional. That was a rather embarrassing legacy for the member for Kawana. Not a single offender was subject to that legislation. Not for one single moment was the Queensland community any safer as a result of these invalid LNP efforts.

Before I address the practical difficulties presented by the proposals in the bill, I would like to make the current operation of the Dangerous Prisoners (Sexual Offenders) Act, known as DP(SO)A, and the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 clear to this House. It is offensive and misleading for those opposite every time they speak on this bill and refer to what is known as the CP(OROPO) Act, the Child Protection (Offender Reporting and Offend Prohibition Order) Act 2004—our act—as a self-reporting scheme like it is a voluntary scheme. That is like saying complying with road rules is voluntary—if someone wants to speed, that is okay; if someone wants to drink and drive, that is okay. There is nothing voluntary about this legislation and its obligations. It is mandatory under the act that people report and it is an offence if they do not report. That comes with serious consequences which we in government strengthened.

Mr Ryan: When they were in government they reduced the reporting period.

Mrs D'ATH: I will take the interjection from the police minister. When the LNP were in government they reduced the reporting period for those under the CPOROPO legislation.

Queensland's current legislative scheme is robust and comprehensive, and we as lawmakers, and the community, can feel confident in the protection it provides. Before the introduction of the DP(SO)A, Queensland's legislation did not provide any mechanism for supervising offenders whose crimes and offending profile did not warrant indefinite detention under the Criminal Law Amendment Act 1945, but who were otherwise considered to pose an unacceptable risk of reoffending upon release.

The DP(SO)A has withstood challenges to its constitutional validity in the Queensland Court of Appeal and the High Court of Australia. The DP(SO)A stands as the foundation upon which other Australian jurisdictions have modelled their own legislation because of its constitutional fortitude.

Under the DP(SO)A, the Supreme Court may make a continuing detention order or supervision order for an offender convicted of a serious sexual offence if the offender is a serious danger to the community. The court is assisted by expert psychiatric evidence when determining these issues. If a court makes a continuing detention order, the offender is detained in custody pending a review or alternatively if a supervision order is made, an offender is released subject to numerous and extensive strict conditions governing every aspect of the offender's day-to-day life. When an order is coming to an end, a further application can be made for another supervision order. Again, this determination is made with the assistance of expert psychiatric evidence.

If an offender were to contravene the requirements of a supervision order, they could be returned to prison, charged with an offence under the DP(SO)A and face a continuing detention order under the DP(SO)A. An offender's supervision order may be extended if that extension is warranted by evidence relating to the offender's risk of committing a further serious sexual offence. It is the Palaszczuk government that has a record of acting appropriately to further ensure community protection.

Under amendments we passed in September 2018 to the CPOROPO legislation, a prisoner who was sentenced for a reportable offence as defined in the CP(OROPO) Act and who was subject to the DP(SO)A becomes a post-DP(SO)A reportable offender and remains a post-DP(SO)A reportable offender for the rest of their life. They are required—it is not voluntary; it is not self-reporting—at law to report their name, age, date of birth, the type of car they drive, their address, contact details, reportable contact with children including the details of those children, their employment and their employer's name and address of their place of employment, the details of any club or association they belong to, and any devices they own and the passwords to those devices. Those things are all required at law. If they seek to travel outside Queensland they must inform Corrective Services. A failure to report these matters to the Commissioner of Police is an offence punishable by up to five years imprisonment.

Everyone in this House and everyone in society wants to keep our children safe and keep them away from predators in our community. Every single one of us wants that. When those opposite want to try to play the tough on law and order card and play the fear card and introduce laws into the parliament that are not constitutionally robust and could be found to be constitutionally invalid, they cannot pick out the amendments that make it so and the rest continue.

This bill seeks to fundamentally change the structure of the DPSO legislation that has been tried and tested in the High Court. It fundamentally changes it.

An honourable member: Hear, hear!

Mrs D'ATH: I hear the interjection, 'Hear, hear!'. If it is overthrown constitutionally the DPSO legislation will not exist and those on continuing detention orders and supervision orders in our community will no longer be bound by those orders.

An opposition member: Rubbish.

Mrs D'ATH: I take that interjection. I say to whoever on the other side said that, 'Talk to a lawyer, please.' I do not recommend the shadow Attorney-General when I say talk to lawyer.

Opposition members interjected.

Madam DEPUTY SPEAKER (Ms Pugh): Order! Member for Nicklin, you are on the speaking list. You will get your turn. Member for Southern Downs, I note you are interjecting when you are already on the warnings list. If you want to make it to your turn to speak, I suggest you cease interjecting.

Mr LISTER: I rise to a point of order, Madam Deputy Speaker. I understood that I was on the warnings list this morning.

Madam DEPUTY SPEAKER: I have you down for both morning and afternoon, member for Southern Downs.

Mr LISTER: My understanding is that I am not currently on the warning list.

Madam DEPUTY SPEAKER: I can only go by the list in front of me, member for Southern Downs. Feel free to take it up with Speaker's office. I have actually got you down for both. I can only go by the list in front of me.

Mrs D'ATH: I will take the interjection. I have spoken to victims. I know exactly what the consequences are in this community of offending against children. It is what I have to read every single day in this job so I do not need to be lectured to by those on the other side about the consequences. I also understand the risks and that is why I am passionate about this. That is why I oppose this bill.

If DPSO legislation that has stood the test of time, become the framework for every other jurisdiction in country and is the framework on which the terrorism laws in this country are based—adopted by the Commonwealth and every jurisdiction in Australia—so if it is undermined and dismantled because of what is in this bill, because of the risk that those on the other side put this legislation under, we put everything at risk. Most importantly, we put the children of Queensland at risk because we tear up the DPSO legislation that is fundamental to protecting our community. That is what the legislation does.

When the shadow Attorney-General was asked at the parliamentary committee hearing, 'Did you get legal advice? Who did you seek advice from?' he could not answer that question. He would not answer that question. He kept saying, 'I've consulted lawyers.' When asked, 'Who?' he said, 'I couldn't tell you.' When asked, 'Do you have written advice?' he said, 'No, I couldn't really tell you that.' When asked, 'Are they constitutional lawyers?' he said, 'Oh, I really don't know what their titles are.' He did say, 'But he's a lawyer.' He also said, 'He practised commercial law previously.'

I take no issue with that, but this is constitutional law and criminal law. You have to get this right because, if you get this wrong, people's lives are at risk—children's lives are at risk. It scares me that, if those on the other side were to get into government after 31 October, they would bring these laws in, because you would fundamentally put the people of Queensland, the children of Queensland, at risk with these constitutionally flawed laws.

I beg those opposite: this crusade of law and order and tough on crime and fear is irresponsible. It is reckless. The community deserves more. We will be opposing this bill. I encourage the crossbench to also oppose this bill because this is not about protecting children; this is about political stunts by the LNP.