Speech By

# Amanda Camm

## MEMBER FOR WHITSUNDAY

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## CHILD PROTECTION AND OTHER LEGISLATION AMENDMENT BILL

**Ms CAMM** (Whitsunday—LNP) (11.58 am): Every child has rights and the United Nations Convention on the Rights of the Child sets out these rights and government responsibilities. Governments must protect children from violence, abuse and being neglected by anyone who looks after them. Every child who cannot be looked after by their own family has the right to be looked after properly by people who respect the child's culture, religion, language and other aspects of their life.

The main principle of the Queensland Child Protection Act 1999 is that the safety, wellbeing and best interests of a child, both during childhood and for the rest of the child's life, are paramount. Since the death of 22-month-old Mason Jett Lee and the subsequent coronial inquiry that highlighted the staggering failures by the Palaszczuk Labor government and the department of child safety stating that they 'failed Mason in every possible way', the community has demanded that more be done to protect children and that accountability and transparency be core to decisions that impact a child's safety and wellbeing.

On 2 June 2020 Deputy State Coroner Bentley of the Coroners Court of Queensland delivered her findings from the inquiry which resulted in six recommendations. All six were accepted by the state government and today this amendment bill we are discussing responds solely to recommendation 6(b), which provides that the government consider whether the Adoption Act 2009 should similarly reflect the 2018 amendments to the New South Wales Adoption Act 2000, expecting children to be permanently placed in out-of-home adoptions within 24 months of entering the department's care.

This bill was examined previously by the former Legal Affairs and Safety Committee in the 56th Parliament, which tabled its report on 28 August 2020. I note that this bill is exactly the same as the previous one and also that their report is part of the latest report dated February 2021. I acknowledge and thank both committees and their respective secretariats. I also thank the deputy chairs of both the current committee and the former committee: the member for Currumbin, the member for Southern Downs, the member for Scenic Rim and also the member for Burnett from the opposition.

The objectives of this bill are to: enhance the approach to permanency under the Child Protection Act 1999; to clarify that adoption is an option for achieving permanency for children in care as part of the suite of alternative long-term options available; and clarify the importance of and promote alternative permanency options for children subject to a long-term guardian order to the chief executive.

The principles for achieving permanency for a child already exist and are outlined in section 5BA of the Child Protection Act. It states—

(1) The principles stated in this section are relevant to making decisions about actions to be taken, or orders to be made, under this Act.

(2) For ensuring the wellbeing and best interests of a child, the action or order that should be preferred, having regard to the principles mentioned in sections 5B and 5C, is the action or order that best ensures the child experiences or has—

(a) ongoing positive, trusting and nurturing relationships with persons of significance to the child, including the child's parents, siblings, extended family members and carers; and

(b) stable living arrangements, with connections to the child's community, that meet the child's developmental, educational, emotional, health, intellectual and physical needs; and

...

(c) legal arrangements for the child's care that provide the child with a sense of permanence and long-term stability, including, for example, a long-term guardianship order, a permanent care order or an adoption order for the child.

...

(3) For this Act, permanency, for a child, means the experience by the child of having the things mentioned in subsection (2)(a) to (c).

(4) For deciding whether an action or order best achieves permanency for a child, the following principles also apply, in order of priority—

(a) the first preference is for the child to be cared for by the child's family;

(b) the second preference is for the child to be cared for under the guardianship of a person who is a member of the child's family, other than a parent of the child, or another suitable person;

(c) the third preference is for the child to be cared for under the guardianship of the chief executive.

The reason it is so important to reiterate the permanency that already exists and is outlined in the Child Protection Act—and I will point to it later—is the sad poor performance we have seen of placing children in permanency over the course of the last five years.

Clause 8 of this bill clarifies that adoption as an option for achieving permanency for children in care is the third preference in the order of priority. As such, the principle that the child be cared for under the guardianship of the chief executive becomes the last preference in deciding whether an action or order best achieves permanency for a child. The exception, as outlined, is in the case where a child is Aboriginal or Torres Strait Islander when the preference for the child to be adopted is the last preference. The principle that the child be cared for under the guardianship of the chief executive becomes the last preference in deciding whether an action or order best achieves permanency for a child.

The key principle will change to (1) that the child be cared for by the child's family; (2) that the child be cared for under the guardianship of a person who is a member of the child's family other than a parent of the child or another suitable person; (3) if the child is not an Aboriginal or Torres Strait Islander child, that the preference is for the child to be adopted under the Adoption Act 2009; (4) that the child be cared for under the guardianship of the chief executive; and (5) if the child is an Aboriginal or Torres Strait Islander child, that the last preference is for the child to be adopted under the Adoption Act 2009. In cases where a child is Aboriginal or Torres Strait Islander, the preference for the child to be adopted is the last preference.

In 2013 the Carmody commission of inquiry was established under an LNP government following growing public concern over the increasing number of children and young people taken into care. A question taken on notice during the public briefing on the bill revealed that since the recommendation was made, only 10 children were adopted from Child Safety. Only six of these adoptions have taken place over a five-year period under the Palaszczuk Labor government when there was already existing legislation to allow for this. Yet under this government, over three times that number of children who were known to Child Safety have lost their lives since 2015.

In a joint submission led by the Queensland Family and Child Commission, Australian Human Rights Commission, the Queensland Human Rights Commission, the Queensland Aboriginal and Torres Strait Islander Child Protection Peak, PeakCare Queensland, Queensland Council of Social Service, the Office of the Public Guardian and SNAICC stated that the concept of permanency is multidimensional and must always balance the physical, relational and legal elements, and we in the opposition agree. While submitters raised concerns about the risk of a system-led approach that could see emergency process dominating decisions, the child's interests must be paramount when the department is assessing needs, support and decisions pertaining to the child and long-term care arrangements. Too many children right now are being displaced by a system that is clearly failing.

I note the committee report outlined the department's response to reinforce that the best option for achieving permanency for an individual must be based on their individual circumstances and needs. The number of children who were subject to child protection orders increased by 8.4 per cent, from 10,296 as at 30 June 2019 to 11,164 as at 30 June 2020. Since 30 June 2016, the number of children subject to child protection orders has increased by 17.3 per cent.

Over this period the number of Aboriginal and Torres Strait Islander children subject to child protection orders increased by 23.5 per cent and the number of non-Aboriginal and Torres Strait Islander children subject to these orders increased by 12.8 per cent. The committee noted that of these children, 6,802 were subject to long-term orders. In the case of only 1,657, or 24.4 per cent of these children, the guardian was a relative or other suitable person. These children deserve to be assessed on an individual basis.

The submission raised concerns pertaining to the impact of adoption on Aboriginal and Torres Strait Islander children, noting that Indigenous children are 9.7 times more likely to be in care than non-Indigenous children, and there is a significant overrepresentation. There are additional principles outlined in section 5C of the CPA that provide a level of assurance that Aboriginal and Torres Strait Islander people have the right to self-determination and that their culture and heritage, traditions, family, community and language are rights that are outlined in principles of prevention, partnership, placement, participation and connection. I note that the minister outlined those principles in detail and there will be no change to those principles as part of this amendment.

In addition, the proposed amendment is consistent with section 7 of the Adoption Act. The committee report outlines that adoption is not part of Aboriginal or Torres Strait Islander culture or tradition and custom and that adoption of an Aboriginal or Torres Strait Islander child should only be considered as a way of meeting the child's need for long-term care when there is no better option available. All children require the individual assessment to ensure that the best option for that particular child and their circumstances is explored.

I acknowledge in October 2020 the appointment of the chief practitioner, whose role will have a focus on permanency, practice improvement and ensuring that reviews of serious injury and child death translate into improvements to practice. I note that the department has been reviewing the case plans for children under three years of age in care to ensure that the most appropriate long-term outcomes are being pursued and that the development of an internal permanency strategy to place long-term decision-making and stability for children is front and centre in child protection practice. I look forward to seeing improved outcomes for children as a result of these measures and will be monitoring it closely.

I also note the audit of case plans for children under three years of age to assess whether another legal or placement option would be better to meet their permanent needs. Our state's most vulnerable children deserve nothing less. The opposition will monitor closely the outcomes of the measures to ensure that the government is held to account and that we never see a child failed in the way that Mason was failed. The Act for Kids submission stated—

> Act for Kids believes that in order to protect human rights, a less restrictive manner of achieving the aim of increasing permanency planning for children could be achieved without amending the Child Protection Act …
>
> We believe the proposed amendment does not promote the rights of children to have a voice in decisions about their future.

I note its submission. Queensland Foster and Kinship Care raised concerns, stating—

> QFKC does not believe the introduction of Adoption as a third option (which was already available under the current act) … will make any difference to the lived experience of children and young people's sense of permanency.

The government and our community must never forget the interests, rights and voice of a child as their basic human right. It is more importantly so for a vulnerable child who has no voice—a child, we have come to know, whose interests, rights and voice were failed. Let this amendment not just be a box ticked to meet the recommendations of a coronial inquiry. The culture that exists within parts of Child Safety that has driven 75 per cent of longer term orders to be granted to the chief executive, despite this being the least preferred option, is what needs to change. Children deserve a safe, nurturing environment.

Stakeholders in support of the bill include Adopt Change Ltd, Jigsaw Queensland Inc. and the Queensland Alliance for Kids, who advocate for prioritisation over long-term guardianship by the chief executive officer. Children will be offered stability with a family so they have the opportunity to not just survive but also thrive. A statement of reservation prepared by LNP members of the committee outlined the inaction by the Palaszczuk Labor government on the Carmody inquiry's recommendation of permanency through adoption. The statement of reservation highlighted that the department of child safety's website states—

> To grow up happy and healthy, children need permanency in their lives. For children to feel a sense of permanency, they need to know where they will be living from one day to the next, and from one year to the next.

The Auditor-General's report tabled on 4 August 2020 found that almost 25 per cent of children in care have had at least six placements, with six per cent—equating to 626 children—having had between 11 and 20 placements. Having engaged with many foster carers across the state, I can confirm that many have become a revolving door over long periods of time and have seen the impacts firsthand of these decisions and the impact on children—from mental health to displacement and a sense of loss. There needs to be significant transparency moving forward, and the government must not treat this amendment as a tick and flick to meet the recommendations of a coronial inquiry. A holistic view of the child—their rights, the support of the family in the community, a child's identity and culture—needs to be respected, responded to and adequately resourced.

It is important to note that the Queensland Law Society and the Queensland Family and Child Commission raised issues in relation to the truncated time frame that was given to provide submissions. In doing so, they queried the unintentional consequences that could arise from the lack of time allowed

to publicly comment on and analyse the bill. Given the time frame of the bill's lapsing and the concerns raised by stakeholders, I believe that a key accountability of the government's report card in child protection is ensuring that any legislative reform, resourcing and review is undertaken with priority and transparency.

I now turn to the paramount principle of the Child Protection Act. As I stated earlier, the paramount principle enshrined in section 5A of the Child Protection Act is that the safety, wellbeing and best interests of the child, both through childhood and for the rest of the child's life, are paramount. This is a principle that we have seen the Labor government fail to achieve time and time again. Just last week it was revealed that 53 children known to the child protection system died in 2019-20. Let me say that again: 53 children known to Child Safety were failed by the system. Nine died as a result of assault or neglect and eight died from suicide. The mortality rate for children known to child protection was almost twice the Queensland child mortality rate. Even more alarming, between 2015-16 and 2019-20, 71 per cent of deaths by fatal assault and neglect were of children known to child protection compared to only 29 per cent not known to child protection.

Sure, this is an important reform. It is one that will hopefully create more options for a safer, more supportive environment and provide permanency options for children, but with 53 children known to a government department dying in one year, the child protection system as a whole is broken and there is much more to do. The extremely high proportion of deaths from fatal assault and neglect speaks volumes. The death of one child is one too many, but the death of nine children, all who died in appalling circumstances under the watch of Child Safety, is appalling. Those opposite need to think hard about what more can be done to protect our most vulnerable. The LNP is committed to protecting those children who cannot speak for themselves, no matter their economic background, ethnicity, sex or where they live geographically across our state. The LNP is also committed to ensuring that the government, through its department, is protecting children and that tragedies like Mason Jett Lee are never repeated.

As no public apology for the failings will ever suffice, it is only through policy, cultural reform, structural reform and the resourcing of place based community and family support services that will prevent children being lost in a system that has failed. It is about an holistic view of the child and family, with the child's rights and needs at the centre. The amendment proposed in the bill is merely one tool, when all principles have been thoroughly worked through, to ensure that a child has a safe, permanent family structure when all other avenues have been exhausted. Given that the goal is to provide clarity and enhance options in the approach to permanency for children and in the interests of children, the LNP will not be opposing the bill.