




Speech By
Amanda Camm

MEMBER FOR WHITSUNDAY

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**CRIMINAL CODE (CONSENT AND MISTAKE OF FACT) AND OTHER
LEGISLATION AMENDMENT BILL**

 **Ms CAMM** (Whitsunday—LNP) (11.54 am): The ABS Personal Safety Survey 2016 states that one in five Queensland women have experienced sexual violence since the age of 15; one in four experienced sexual violence at the hands of their partner; one in 20 men have been sexually assaulted since the age of 15; and one in four men aged over 18 years have experienced sexual harassment since the age of 15. The same statistics apply—that of intimate partner violence and that of heterosexual couples—in that 25 per cent of sexual assault occurs in same-sex intimate partner relationships. Aboriginal and Torres Strait Islanders are three times more likely to experience sexual assault than Anglo-Saxons.

From Grace Tame's own personal experience with the legal system, legislation and her leadership on the matter of consent, her advocacy for a national approach and consistent approach to consent is a conversation that we need to have as a nation and as individual states. However, it is complex as each jurisdiction is governed differently and the approach to consent that each state takes is somewhat different. I am encouraged by the conversation she has started nationally and how that conversation will be distilled and continued locally. It is clear through the submissions we received from a number of advocacy groups and services—those submissions contributed to this bill and are outlined in the parliamentary committee report—that many are unhappy with the amendments to date.

I acknowledge the work of the committee, the members, the chair and the secretariat in what has been a heavy and hard summary and, in particular, the evidence from victim support groups where it has been highlighted by the chair that reporting of sexual assaults is well under-reported. I, too, am concerned that the amendments to the Criminal Code on consent and mistake of fact will not go far enough in encouraging women and victims of sexual violence, inclusive of men or members of the LGBTIQ community.

The report highlights the advocacy by many submitters and the support for an affirmative consent model. I have heard firsthand from survivors, support services and legal support organisations across this state who deal with the challenges of the legal system every day—and we hear your frustration. I share your frustration. I know the challenges that you have expressed in achieving real justice. I know the frustration of the time that it has taken to bring this forward, and the time frames around consultation and further change do not suffice.

It has already been outlined in this debate that the referral of the amendments to the Queensland Law Reform Commission were not broad and did not include scope for reviewing an affirmative model of consent. However, the amendment bill does address the definitions of consent laws and mistake of fact by amending the Criminal Code and will implement all five recommendations of the Queensland Law Reform Commission as detailed in its report. These four legal principles can be distilled from current case law. I acknowledge the transcripts of 135 rape and sexual assault trials during 2018. I also acknowledge each of the stories that sit behind those transcripts—the pain and the need for justice. I also acknowledge the 40 appellant decisions and a further 76 trials that were referred to it at its invitation.

The principles have been outlined by many who have spoken before me in this House, and I will not repeat them. However, I do endorse the member for Nanango, who described these amendments as fixing a loophole in the context of mistake of fact. That will be welcomed. These amendments to the code are intended to strengthen and clarify the operation of the law, ensuring consistent and correct application by judges, juries and legal practitioners. I believe that that is a very important point that we need to make known to advocacy groups. It is very important that we note and we recognise on both sides of the House that there is much more to do.

As outlined by the Queensland Domestic Violence Services Network, the bill in its current form makes no significant changes towards seeking justice for survivors of sexual violence, holding perpetrators accountable for their actions or increasing safety for the Queensland community and that the recommendations on which the bill is based do not reflect the views of survivors or survivor advocates. The network calls for a product based review of the experience of survivors following sexual assault and recommends that the review should report on the barriers, process for reporting, police and the criminal justice system all the way from complaint through to trial.

I am very pleased to recognise the government's commitment of the appointment of Margaret McMurdo AC to the Women's Safety and Justice Taskforce and the assurance that consultation will occur widely. I believe that both sides of this House can assure advocacy groups they will be engaged significantly throughout that process. I do hope that, as a result of the consultation widely undertaken by the task force, there is consideration of: the experience of victims/survivors from their initial complaint with the Queensland Police Service; the way in which evidence is gathered; the way in which interviews are conducted; discussion and disclosure that needs to occur; relived trauma and trauma support; preparation for trial and cross-examination; court support structures; time frames and processes; and the education of the judicial system. I hope that these are considered as part of the work of the task force. I also look forward to seeing any comments the task force makes in relation to an affirmative model and therefore any legislative reform or changes that are to be recommended and come before this House.

I would like to conclude with a statement by a former Queensland District Court judge's associate, Bri Lee, who is also the author of the most incredible book *Eggshell Skull*. I urge all members of the House to read it. Bri witnessed sexual offence trials across this state and highlights how difficult it is for victims of sexual assault to navigate the system. She also deals with her own journey and I commend her for her courage to come forward with her own sexual assault story. I share a quote which I think validates many of the frustrations of women and other victims of sexual assault and violence who feel this amendment today does not go far enough. She said—

Judges tell juries: if a defendant lies, it doesn't necessarily mean he's guilty, but if a woman is crying as she dials triple zero after being raped, she might just be putting on a show.

I echo my colleague, the member for Clayfield and shadow Attorney. We, too, are open to further evidence based law changes that would deliver better outcomes. In Queensland in 2019 there were 4,859 victims of sexual assault. That number has been increasing over the last eight years. It is estimated that 75 per cent of sexual assaults are never reported. One thing we all agree on is that there is more work to do. The LNP is committed to greater protections and punishment and a system that delivers for survivors and complainants that is fair and just.