




Speech By  
**Laura Gerber**

**MEMBER FOR CURRUMBIN**

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Record of Proceedings, 21 April 2021

### **YOUTH JUSTICE AND OTHER LEGISLATION AMENDMENT BILL**

 **Mrs GERBER** (Currumbin—LNP) (2.00 pm): Break and enters, property damage, stabbing, hooning and stolen vehicles, tragically resulting in the loss of lives—these are just some of the crimes perpetrated by a small cohort of repeat youth offenders between the ages of 10 and 17. These are crimes that are plaguing this state from Far North Queensland to the southern border of my beautiful electorate of Currumbin. Prosecutors and police are trying to do their job, but there is a small cohort of youth offenders—around 340 to 400 kids—who are serious recidivist offenders and know that under the current state of play they are untouchable. This bill is targeted towards them. Something must be done.

I will not be opposing this bill. However, it is my sincere belief that the measures in this bill fall well short of what is required to keep the community safe from these repeat offenders. It is my duty as a member of this House and as the deputy chair of the Legal Affairs and Safety Committee, to which this bill was referred, to critically analyse the proposed legislation. What became patently clear from the public hearings which our committee held in Mount Isa, Cairns, Townsville, Brisbane and the Gold Coast, where we heard from numerous stakeholders and everyday Queenslanders affected by crime, is that this bill does not go far enough and it is not targeted enough at the young cohort of repeat offenders which it needs to target.

On the Gold Coast the committee heard from Mr Ricardo Parata, a youth support and advocacy worker from the Gold Coast Youth Service. Mr Parata informed the committee that he does not believe the measures in this bill will fix the problem because in his experience the problem for these kids on the Gold Coast is that they have no support at home, are homeless or have no safe place to be. Mr Parata stated—

It all goes hand in hand: homelessness, carrying knives. What are they going to do when they have nowhere to go?

We take them to court and we sit there and someone from the education system or Youth Justice says, 'Do you want to look at getting back into school?' or 'Do you want to go to a job employment agency?' They are not worried about that. They do not care about that. They want to know: 'Where am I sleeping tonight? Do I need to carry a knife ... Do I need to go and steal a car so I can sleep somewhere safe for the night?' ... It always comes back to housing for us—crisis accommodation.

The youth service informed me that on the Gold Coast there are only eight emergency crisis beds for young people, and this has not increased since 1983. This is heartbreaking and not good enough. Ultimately, the very real concern is that the proposed amendments in this bill are unlikely to result in any significant changes in behaviour by the small number of recidivist juvenile offenders who are at the centre of the current lawlessness outbreaks in Queensland.

The government must do more to uphold its word and keep Queenslanders safe because large parts of my community currently do not feel safe from youth crime and do not have the confidence that this government can protect them from it. The government should be listening to Queenslanders on this front. So many stakeholders submitted to our committee that breach of bail must be included in this bill, yet their concerns and submissions have been brushed aside by this government.

In 2012 the LNP amended the Youth Justice Act so that juveniles could be charged with a separate offence of breach of bail. This allowed youth, who are found guilty of committing another offence while on bail, to be brought before the courts to face a charge of breach of bail. The Labor government removed that provision from the act in 2016. Since then we have seen a steady rise in youth crime and recidivist offending. In fact, between 2018 and 2020 the number of offences by youth whilst on bail went up 17 per cent.

The statistics are damning and those on the other side of the House know it. The statistics unequivocally demonstrate that Labor's current bail provisions in the Youth Justice Act have not been effective in reducing reoffending among children. I implore all members in this chamber to support the LNP's proposed amendments to this bill to reinstate breach of bail as an offence. Even the mayor of Townsville, a Labor Party life member, submitted to the legal affairs committee that the Labor government should consider a trial reintroducing breach of bail.

In addition to the bill lacking in relation to breach of bail, as a former prosecutor I fear the measures in this bill will not achieve the key purpose of addressing serious recidivist youth offending because this bill does nothing to address the injunction in the Youth Justice Act that detention is to be regarded as a sentence of last resort, only to be imposed when the court is positively satisfied that there is no other possible alternative. This language is very strong and although at first glance it might sound reasonable because we are dealing with children, in practice it has proven to pose serious problems for prosecutors when trying to see that very serious repeat youth offenders are removed from the community, as they should be. We are talking about hardcore offenders who know the law, who thumb their nose at it—the cohort this bill is meant to target; the cohort the community deserve to be protected from.

The flow-on effect of principle 18 and section 150 of the Youth Justice Act is that time and time again the courts are releasing very serious repeat youth offenders back into the community under conditional release orders or restorative justice processes because, in practice, it is near impossible for prosecutors to meet the test in the Youth Justice Act for such repeat offenders to be removed from the community. Whilst I will not stand in the way of this bill, as a former prosecutor I genuinely believe that this bill will not achieve the purpose for which it is intended. That puts all of our communities at risk.

There are six key elements introduced by this bill. The bill proposes a 12-month trial use of electronic monitoring devices as a condition of bail for 16- and 17-year-old repeat offenders in certain, and might I say, very limited circumstances. Many submitters to the committee, including the mayor of Townsville and Senior Sergeant Gary Hunter from Cairns, urged the government to consider extending the age group so that it actually covers the recidivist offenders who are terrorising the community—the 15-year-olds. Given the many restrictions around the application of GPS monitoring devices, including family support, that they are limited to certain geographical locations, that the youth must have facilities and an ability to charge the monitoring device and that a court report is required before they can be given as a condition of bail, all of the submitters to the committee who supported this measure also expressed concern that it is doomed to fail because its application is too restrictive.

The bill proposes that in granting bail the court or police can take into account whether a parent or guardian has indicated a willingness to support the child. Mr Vincent Knox, a regional manager of ATSILS in North Queensland, submitted to the committee that this may do very little because, he said—

I think the courts are actually stuck, because all they can do is objectively assess that situation. There is not much more they can do. If they get an answer from a parent, then that is the answer. It is not always a truthful answer, though; that is the problem.

The bill creates a presumption against bail for youth offenders arrested for committing further serious indictable offences while on bail. Many submitters to the committee agreed that having to show cause as to why they should get bail is a necessary step in the right direction, but they stated that it does not go far enough. Mr Knox from ATSILS added that the real concern in relation to bail is that parents or guardians come to court and make a promise in order to get the child bail. They might be asked by the court, 'Do you promise to contact police if they are not there?' and they say yes, but invariably it does not happen at all.

The bill codifies what is already in existence at common law, being that at sentence it is an aggravating factor that an offence was committed whilst subject to bail—so nothing will change in relation to this amendment. The bill enhances the enforcement regime around hooning by strengthening the existing onus on the owner of the vehicle involved in a hooning offence in that they must make a statutory declaration about who was driving the vehicle to assist police in catching the offender. There has been a noticeable rise in hooning in my electorate of Currumbin and across the whole of the Gold Coast. Robust legislation in this area is warranted.

Lastly, the bill commences a trial allowing police to search people for knives in the safe night precincts of Surfers Paradise and Broadbeach. However, some of the criticisms of this is that it does not extend to those parts of the Gold Coast where knife crime starts such as the Helensvale train station. My fear is that it will not produce the data that is needed to consider whether this legislation should be implemented more widely.

I think everyone in this chamber can agree that Queensland families have the right to feel safe in their homes with no threat to their vehicles, their property, their families or themselves. It is this government's fundamental job to do just that: to put in place mechanisms that curb this scourge of youth crime and see that perpetrators are held accountable and rehabilitated so as to break the cycle of recidivist offending.

Most of the amendments proposed in this bill have feet of clay, the foundations are weak and sure to crumble. It is my regretful view that these provisions will do very little to prevent the scourge of youth crime affecting Queensland.

*(Time expired)*