




Speech By
Hon. Mark Ryan

MEMBER FOR MORAYFIELD

Record of Proceedings, 25 March 2021

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

 **Hon. MT RYAN** (Morayfield—ALP) (Minister for Police and Corrective Services and Minister for Fire and Emergency Services) (4.34 pm): I rise to speak in support of the Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Bill. I would first like to acknowledge the Legal Affairs and Safety Committee for their detailed consideration of the bill in their report tabled on 12 February this year. I would also like to acknowledge the work of the Queensland Law Reform Commission in reviewing the laws of consent and the excuse of mistake of fact. Finally, I would like to acknowledge all the stakeholders and community members. This is a very important bill for them and it is also a very important debate—a debate, as many speakers have already mentioned, that is not yet over and will continue. This government supports that further consideration and debate around how we can improve community safety, particularly when it comes to protecting women from vicious and heinous crimes.

While there is always more to do, these amendments will certainly improve the operation and accessibility of the law. The recommendations in the Queensland Law Reform Commission's report are based on a rigorous examination of the operation of the laws on consent and the excuse of mistake of fact in Queensland. The Queensland Law Reform Commission's analysis should be recognised as an extensive and forensic examination of the current operation of the relevant laws in Queensland.

The Queensland Law Reform Commission concluded that some aspects of the existing law of Queensland would benefit from being made more explicit in the Criminal Code. The Queensland Law Reform Commission report made the following key recommendations: (1) that silence alone does not amount to consent; (2) that consent initially given can be withdrawn; (3) that regard may be had to anything the defendant said or did or did not say or did not do to ascertain consent when considering whether the defendant was mistaken about whether the other person gave consent; and (4) that a defendant's voluntary intoxication is not relevant to the reasonableness aspect of the excuse of mistake of fact.

The government understands that some people, including some key stakeholders, are disappointed with the recommendations made by the Queensland Law Reform Commission as their recommendations do not go far enough. That is why earlier this month the Premier and Attorney-General announced that the Women's Safety and Justice Taskforce, to be chaired by the Hon. Margaret McMurdo, will examine women's experiences in the criminal justice system in a holistic fashion and will make recommendations to the government. It is important that we allow the task force to do its work and not rush further amendments to our code that may have detrimental and unintended consequences.

There is no doubt we are at a turning point. As a society, we want to see a defining change made in the way women are treated. The amendments we are debating today will contribute to that goal, but there will always be more to do—not just in this parliament but in the community and as a society as a whole.

I wish to move to another aspect of the bill. We are also amending the Police Powers and Responsibilities Act—a piece of legislation which I have responsibility for.

Ms Fentiman: Your favourite piece of legislation.

Mr RYAN: I take that interjection from the Attorney-General. In particular, the bill will enhance the operation of police banning notices. This will keep people whose behaviour is unacceptable, and who pose a risk to others, out of our licensed premises, events and safe night precincts. The bill increases the duration of an initial police banning notice from 10 days to up to one month. I note some stakeholders raised some concerns to the committee about this extension. This increase is based on the findings of an independent evaluation. The current 10-day period, effectively covering only one weekend, is not of sufficient duration in response to the antisocial and unsafe behaviour the notices aim to address.

It is also important to note the banning notice scheme is underpinned by legislative safeguards to ensure that they are only issued in appropriate circumstances. This includes a requirement for approval from a senior police officer of at least the rank of sergeant to issue an initial banning notice.

I want to be clear about the purpose of the banning notice regime. It is not intended to be a punishment but, rather, an immediate and preventative response to remove a person from a licensed venue, event or safe night precinct to protect other community members from any behaviour that might be violent, threatening, offensive or disorderly. The bill will insert broad examples into the Police Powers and Responsibilities Act of the types of behaviour for which an initial police banning notice might be issued. This will aid police when determining whether to issue a notice and promote consistency in decision-making. This ensures obviously that the community can continue to have faith in the police banning scheme framework.

The examples include damaging property, assaulting or threatening to assault a person, photographing a person using a toilet facility from under a cubicle door, and there are many other instances where it may be appropriate for one of these banning notices to be issued. The improvements to the police banning notice scheme made by these amendments are based on both evidence and common sense.

This bill improves community safety. It continues a really important debate in the community. I encourage all members of the House to support this bill.