Speech By

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MEMBER FOR CALOUNDRA

Record of Proceedings, 25 May 2022

EVIDENCE AND OTHER LEGISLATION AMENDMENT BILL

Mr HUNT (Caloundra—ALP) (4.19 pm): I rise to speak in support of the Evidence and Other Legislation Amendment Bill 2021. The ubiquitous vote of thanks must go to the secretariat, as ever, for their tireless work in the collation of information and the unending administration that goes into these reports. The committee, as ever, worked well, and thanks goes to the committee chair, Peter Russo, member for Toohey, and the other committee members, who all made valuable contributions to this bill: Laura Gerber, the member for Currumbin; Mr Andrew Powell, the member for Glass House, who was still on the committee at that time—and I thank him for his contributions made on the committee while I was there and he was still a member; Sandy Bolton, the member for Noosa; and the indefatigable Jonty Bush, member for Cooper.

Government members interjected.

Mr HUNT: I did not know she would be in the chair, okay? The committee has made three recommendations around this bill and they are: that the bill be passed; that in the second reading the Attorney-General provide an update on consideration of the issues raised by stakeholders around the proposed section 14ZF; and that in the second reading the Attorney-General provide an update on the consideration of the issues raised by submitters in relation to the definition of 'domestic violence offence'.

On 23 November 2021 the committee invited stakeholders and subscribers to make written submissions on the bill. Five submissions were received, from the Bar Association of Queensland, Women's Legal Service Queensland, Queensland Council for Civil Liberties, Australia's Right to Know coalition of media organisations and the Queensland Law Society.

The policy objectives of this bill are to provide: a framework to protect journalists' confidential sources from identification; a framework to provide a pilot enabling videorecorded statements to be used as an adult victim's evidence-in-chief in domestic and family violence criminal proceedings; and a specific process for the examination of the body of a deceased person in response to recommendation 2 in the findings of the inquest into the disappearance and death of Daniel Morcombe. The bill also seeks to clarify arrangements around computer warrants as they pertain to bail and to also enable service as a magistrate in Toowoomba to be counted as regional experience for the purpose of transfer decisions.

The explanatory notes open with a thought that extols the virtues of a free, independent and effective media. This is an important goal to strive for. Having watched some sections of the press in recent weeks, I cannot help but wonder if that is more aspirational in Australia; nonetheless, it is vital that we provide journalists in Queensland with the protection to refuse to reveal the identity of a confidential informant.

The shield law amendments create a qualified journalist privilege that applies when an informant has given information to a journalist with the expectation that it may be published in a medium for the dissemination of news and observations on news to the public and the journalist promises the informant not to disclose their identity as a source of the information. The amendments create a presumption that

a journalist or relevant person is not compellable to answer a question or produce a document that would disclose the identity of the informant or enable their identity to be ascertained. However, the privilege itself is rebuttable and a court may order that the identity of the informant be disclosed after weighing competing public interests.

While broadly supporting the intent of the bill, the Queensland Law Society noted that it sought further considerations as to how the bill would apply to defamation and whistleblower provisions. In response, DJAG was able to advise that the provisions in the bill will operate alongside the Defamation Act 2005 and the Public Interest Disclosure Act 2010 and, through the operation of a qualified privilege, provides mechanisms for the court to flexibly and appropriately apply the shield law framework across the range of criminal and civil matters that may come before a court, including defamation proceedings and instances where a person may seek to misuse the laws.

Further concerns were raised by a range of submitters around the amendments as to whether they should extend into the CCC. The CCC's response is worth capturing here. The CCC noted—

… CCC inquiries are inquisitorial proceedings established for particular purposes with limited statutorily defined jurisdiction and extraordinary powers that reflect the particular public purpose it performs. The body has power to compel persons to answer questions or produce a document or things that may override the privilege against self-incrimination.

Noted that most other jurisdictions do not provide an avenue for protection of journalists and their sources before their integrity/investigative agencies ...

I enthusiastically support this bill and its amendments to the Evidence Act, the Criminal Code and the Justices Act as they relate to the provision of a framework to the giving of videorecorded evidence-in-chief by adult domestic and family violence victims. It is further evidence that this government, and this Attorney-General in particular, are 100 per cent committed to doing everything possible to not just assist the victims of domestic and family violence but also reduce the trauma of their experience.

This bill includes a range of safeguards designed to limit this trauma and protect the privacy of domestic and family violence victims. In addition to requiring the complainant's informed consent and for statements to be taken by trained police officers, other safeguards include: when determining whether or not to present the complainant's evidence-in-chief in the form of a recorded statement, the prosecution must take into account certain factors including the wishes of the complainant.

Not only will this be a significant step forward for victims, but the Queensland police advised that modelling shows that there should be significant time savings for frontline police and significant benefits for domestic and family violence victims, including that police officers will no longer, in most instances, need to take domestic violence victims from their homes at all hours of the night and take them back to a police station to obtain a typed statement.

QPS also highlighted the fact that the amendments would not preclude the collection of written statements under certain circumstances if, for example, the complainant withdraws consent for a videorecorded statement. In a similar vein, the Queensland Law Society also observed—

The reality with videorecorded evidence is that we do not think you can have a one-size-fits-all approach. Evidence is complex. People are complex. With the circumstances in which they will come to give a complaint and how they will give it, there is so much variation that there is something to be said for the fact that it is not so much the mode of evidence; it is the quality of the actual evidence that matters.

Time and again we hear of not just the physical but also the emotional toll of incidents of domestic and family violence. This can be compounded by the requirement to uproot in the middle of the night, children in tow, to go to a police station and try to recall traumatic events of an hour previous with any degree of accuracy. This amendment should help alleviate some of that tension.

Lastly, everyone in this chamber will be familiar with the tragic events surrounding Daniel Morcombe. The inquest into his death recommended that the Queensland government ensure a time limit is imposed on the testing of human remains in circumstances where the prosecution and the defence fail to agree on the identity of the remains. To its credit, this government is acting on that recommendation, although it must be noted that the need must be balanced against the obligation to safeguard the accused person's right to a fair trial.

The bill contains amendments to the Criminal Code to implement the government's response and address the underlying intent of the coroner's recommendation to ensure a deceased person's remains should be returned to their family and loved ones as soon as possible for burial by inserting a new specific provision dealing with the viewing and examination of the body of a deceased person. This new provision is intended to clarify the process for testing human remains and ensure the prosecution and court can have regard to a coroner's duties under the Coroners Act as well as the need to ensure the integrity of the body is protected as is currently required.

While there was a concern with the amendment expressed by the Queensland Law Society around the definition of a human body part, DJAG was able to provide that the definition is broad and would encompass samples, including microscopic samples. If a body has already been released by the coroner and samples are retained under section 24 of the Coroners Act 2003, these would still fall under the proposed new provisions of the Criminal Code being inserted into the bill.

This is a genuinely progressive bill that provides an extra layer of protection to ensure a robust media environment, such as it is. It provides an enhanced protection to ease the journey of the victims of domestic violence and it provides an element of humanity when the judiciary is dealing with the remains of our loved ones. On that basis, I commend the bill to the House.