




Speech By  
**Joan Pease**

**MEMBER FOR LYTTON**

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Record of Proceedings, 25 May 2022

### **EVIDENCE AND OTHER LEGISLATION AMENDMENT BILL**

 **Ms PEASE** (Lytton—ALP) (6.38 pm): I rise to speak to the Evidence and Other Legislation Amendment Bill 2021. I begin by acknowledging the work of the Legal Affairs and Safety Committee in its consideration of this bill. I would also like to acknowledge the work of the committee secretariat. The report made three recommendations, one of which was that the bill be passed. There are two other recommendations that I will discuss further in my contribution.

Madam Deputy Speaker, may I acknowledge you, my parliamentary colleague, member for Cooper. I really want to thank you for your contribution in the House today and your great and valuable work in supporting victims of crime which you have done over the years. I know you have done an outstanding job. I would also like to acknowledge the great bravery you showed today by standing up and speaking so openly and honestly about your own experiences. I really acknowledge that. I know that it would have been difficult, so thank you for sharing your lived experiences with us.

The bill amends the Evidence Act 1977 to establish a statutory framework for shield laws. Queensland is currently the only jurisdiction in Australia without a statutory framework to protect against the disclosure of the identity of journalists' confidential informants. These are known as shield laws. This bill introduces shield laws to afford better protection for the confidential informants. The framework in the bill has been informed by public consultation, the review of laws in other jurisdictions and an examination of case law. The bill creates a qualified journalist privilege, meaning that a journalist or relevant person, such as a journalist's employer, producer or editor, is not compellable to answer a question or produce a document that would disclose the identity of a confidential informant or enable their identity to be ascertained unless ordered by a court.

The bill provides that the privilege applies in any proceeding before a court of record—known as a relevant proceeding—except proceedings under the Crime and Corruption Act 2001. A journalist or relevant person may claim the privilege when giving evidence in a trial or hearing. If a claim is established, the court may make an order that the evidence must be given despite the privilege if satisfied the public interest in disclosing the informant's identity is outweighed. The bill provides that a journalist or relevant person may also object to complying with a disclosure requirement, such as a summons or a subpoena, in relation to a relevant proceeding.

Further, the bill provides that a journalist or relevant person may object to a document being dealt with as authorised under a search warrant on the grounds it would disclose the identity of the informant. If an objection is made, the document must be sealed or stored in a safe and secure way until the objection is determined. The bill contains safeguards to protect the privacy of the informant and other confidential information that may be disclosed by providing that the court may make an order restricting access to information or documents or make any other orders it considers appropriate.

The bill will also amend the Evidence Act and other related legislation to implement a framework for the use of videorecorded statements taken by trained police officers as an adult victim's evidence-in-chief in domestic and family violence related criminal proceedings. Enabling the giving of

evidence-in-chief via a videorecorded statement by victims of domestic and family violence offers potential benefits to victims, such as reducing the trauma for victims associated with having to retell their stories on multiple occasions and reducing the capacity of the defendant to intimidate the victim.

In Queensland, the use of out-of-court statements taken by police is currently limited to children and persons with an impairment of the mind under section 93A of the Evidence Act. Whilst other Australian jurisdictions allow the use of police recorded interviews as the evidence-in-chief of victims in domestic and family violence criminal proceedings, evaluations and research to date are not conclusive about the impact on victims, case outcomes, plea rates and unintended consequences.

The bill contains amendments establishing a framework for a pilot allowing the use of videorecorded evidence-in-chief taken by police for adult DFV victims. The bill creates a broad legislative framework for a pilot, based on similar provisions in Victoria, enabling videorecorded statements taken by trained police officers to be used as an adult victim's evidence-in-chief in criminal proceedings for a DFV offence. A DFV offence includes breaches of domestic violence orders and criminal offences, such as assault, committed in a DFV context.

The bill requires recorded statements to be made as soon as practicable after the alleged incident. In practice, this will usually occur via a police body worn camera placed on a tripod at the scene. To be admissible, the recorded statement must also be made with the informed consent of the complainant and include acknowledgements as to the statement's truth and complainant's liability for providing false information and disclosure requirements to be complied with, and the complainant must be available for cross-examination and re-examination. Safeguards are also included to limit the trauma and protect the privacy of DFV victims, such as requiring the complainant's wishes to be considered by prosecution when determining whether to use a recorded statement and preventing statements from being provided to accused persons.

A regulation is required to give effect to the amendments. However, it is proposed the pilot will operate in the Ipswich and Southport Magistrates Courts for a period of 12 months. Any ongoing or expanded use of the provisions will be subject to consideration of the results of a proposed independent evaluation, funding considerations and any other relevant recommendations of the Women's Safety and Justice Taskforce. Targeted consultation during drafting of the bill highlighted the importance of adequate police training. We heard the police minister, the member for Morayfield, discuss that during this debate. These amendments in the bill will commence on proclamation to allow sufficient time for implementation activities to occur, including police training and further consultation.

The bill will also amend the Criminal Code to insert a new provision dealing with the process for viewing and examining the body of a deceased person. On 5 April 2019 the State Coroner delivered his findings of the inquest into the disappearance and death of Daniel Morcombe. Recommendation 2 of the report is that the Queensland government amend the Criminal Code to ensure a time limit is imposed on testing human remains where the prosecution and defence fail to reach agreement on the identity of the deceased. The government has agreed to this recommendation in principle and committed to undertaking further analysis, research and consultation with key stakeholders about how to best implement the underlying intent of the Coroner's recommendation. The amendments in the bill will deliver on this commitment.

A new specific provision dealing with the viewing and examination of the body of a deceased person is contained in the bill to clarify the process for testing human remains and ensure that the prosecution and court may have regard to a coroner's duties under the Coroners Act 2003, as well as the need to ensure the integrity of the body is protected as currently required. The new provision seeks to balance an accused's right to have a fair trial with the rights of the family to have the remains of their loved one returned for burial as soon as possible.

May I also acknowledge the tireless work of the Morcombe family. I acknowledge that no family should have to go through the trauma they have had to go through. However, they have worked tirelessly to deliver change and education throughout Queensland and I thank them for that. I commend the bill to the House.