




Speech By
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MEMBER FOR COOPER

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EVIDENCE AND OTHER LEGISLATION AMENDMENT BILL

 **Ms BUSH** (Cooper—ALP) (4.33 pm): I rise to make a contribution to the Evidence and Other Legislation Amendment Bill 2021. This bill is substantively about the introduction of shield laws for journalists in Queensland and, rightly so, has been the main focus of the contribution of others. We know that the media and journalists play an important role in the fabric of Australian and Queensland democracy. I have been very fortunate throughout my career prior to coming in here to have a wonderfully positive and reciprocal relationship with the media. It is my intention that that positive and reciprocal relationship will continue while I am in this role. We know that the role they play, particularly in terms of investigating and long-form pieces, is important in unearthing some of the big issues that go on in a democracy. Ensuring that there is qualified privilege to protect the identity of those sources is something that I know we all recognise as being important.

I would like to start by speaking to another element of this bill, in particular clauses 9 and 10, which go to the issue of the viewing and examination of a deceased body in a criminal proceeding. As others have said before me, these clauses come following the coronial inquiry into the death of Daniel Morcombe. The Coroner's report was delivered on 5 April 2019 and recommended that the Queensland government amend the Criminal Code to ensure a time limit is imposed on the testing of human remains in circumstances where the prosecution and defence fail to reach agreement on the identity of the deceased.

I have worked and supported many hundreds of victims of homicide who have been in the situation where parts of their loved one's body has been retained by the Coroner for testing in anticipation of a homicide trial which may occur some years into the future. It would be impossible to put into words the experience of a person whose loved one has been murdered and what they endure throughout the criminal investigation and prosecution. I know others have spoken to the elements of the bill that deal with that issue, but I think it is important that we go a little further into why those particular clauses in this bill are important. It might be a small cohort of Queenslanders who are impacted but they are a very important cohort of Queenslanders who are impacted.

I am certainly not going to go into graphic detail, but I want to recognise that people who watch or listen to these speeches and members in this House may have a trauma background and sometimes by detailing some of the things we do in here it might be difficult for people. I start with that trigger warning for people in the chamber and outside who may need that.

In relation to homicide, the process looks a little bit like this. Firstly, the family are notified that their loved one is never coming home. Next they learn that the death of their loved one has been violent and purposeful in nature. Often the offender will be known to the family and so mentally you start replaying every conversation and interaction you have had with them and every interaction that you have witnessed between the offender and your loved one. Families try to find that moment when they feel they ought to have noticed something. The guilt for families is unbearable.

Next comes the identification of the body. The family will be asked to view the weapon used to see if they can identify its source. The family will be asked to view and identify blood soaked clothes that have been taken as evidence. For me that happened within the hour of being notified that my sister and father had died.

Funerals are always hard, but most people probably do not realise that families of homicide victims are often not able to even have an open casket because of the violent nature of the offending. Not only are you now planning a funeral prematurely, but the violent and deliberate actions of the offender have dictated the type of funeral you can give your loved one. It is the ultimate form of control.

Next is the autopsy. Your loved one is reduced to descriptors, size and weight on a coroner's report. They are no longer Joe or Barry, they are now simply referred to as the body. That is the name that they will continue to be known by throughout the prosecution and trial. The kicker comes when you are notified that in fact some parts of your loved one's body will be retained by the Coroner for testing in anticipation of the criminal trial. This is hard on anyone, but I particularly want to acknowledge the absolute trauma that some families experience at this moment, specifically our culturally and religiously diverse communities which often need burials to occur in a certain way or in a particular time frame.

This bill will fulfil the Queensland government's obligation under recommendation 2 of the coronial report into the death of Daniel. I join with the member Glass House in acknowledging the tremendous work that Bruce and Denise have done in this space, putting aside or maybe using their personal grief and horror and anguish to shine a light on a lot of issues for victims of crime. I also acknowledge that behind Bruce and Denise there are in fact many hundreds of other families who have done a lot of work in this space. This bill amends the Criminal Code to clarify the process for viewing and examining a victim's body in a criminal proceeding and ensures that consideration can be given to both the need to protect the integrity of a person's remains as well as the need to release the body by the coroner and that that not be unnecessarily delayed.

I turn now to some of the provisions in the bill that will continue reforming the domestic and family violence space, specifically in regard to the video evidence-in-chief. The bill amends the Evidence Act, the Criminal Code and the Justices Act and other related legislation to establish the legislative framework for the giving of videorecorded evidence-in-chief by adult domestic and family violence victims in criminal proceedings.

There are a number of reasons why this work is really important, and others have outlined that, including the reduction of trauma for domestic and family victims associated with the retelling of their experiences, illustrating a victim's demeanour in court and their experience and the behaviours of the offender at a time as close to the proximity of the act of violence as possible and reducing the opportunity for offenders to intimidate victims which we know obviously plays a part in the successful prosecution of these cases.

Yes, there are some significant time savings to the trial but, to be quite frank, I do not think that really matters. To me, this is the kind of work police should be doing. This is what our Police Service should be freed up to do—to be working on these types of acts of violence. Notwithstanding that, I think the reforms we are proposing in terms of what they will do for victims are particularly important.

The Women's Legal Service highlighted their concerns particularly with proposed sections 103B(a) and 103B(b), meaning that the recorded statement can only be used when there is a domestic and family violence charge and an offence against another act. They did think that this was a limitation in the existing draft and that it should be amended to reflect a wider application of the recorded statement being admissible in evidence for offences against the Domestic and Family Violence and Protection Act or an offence against another act. I believe that the Attorney may have spoken to this already. Certainly that was a question that the committee put to the department. They advised that it was the intention that both limbs separately fall under the definition and that they were looking at how they might reform that.

In the time I have left, I would like to acknowledge my colleagues who worked on this inquiry with me, particularly the member for Toohey, our chair, the secretariat and all the submitters. I think we had five submitters—so not a particularly voluminous response but a very important response. We were very glad to receive their applications and that they were able to provide timely responses to the questions that we put to them on notice. With that, I commend the bill to the House.