




Speech By
James Martin

MEMBER FOR STRETTON

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JUSTICE AND OTHER LEGISLATION AMENDMENT BILL

 **Mr MARTIN** (Stretton—ALP) (2.00 pm): I rise to support the Justice and Other Legislation Amendment Bill 2023 which encompasses a range of crucial reforms aimed at enhancing Queensland's justice system. The bill proposes a wide range of amendments to over 30 pieces of legislation across various areas. The primary objective of the bill is to provide legal clarity and modernise existing legislation pertaining to the administration of justice. This encompasses statutes related to the functioning of courts and tribunals, the regulation of the legal profession, the conduct of civil proceedings and electoral matters. Additionally, the bill incorporates numerous initiatives aimed at advancing the cause of justice. I would like to address some of the most noteworthy amendments contained within the bill.

Firstly, the bill amends the Criminal Code, the Penalties and Sentences Act, the Youth Justice Act and the Victims of Crime Assistance Act to enhance the recognition of the death of an unborn child as a result of criminal offending in relation to a pregnant mother. In Queensland, the born-alive rule, which is a common law legal principle, is the legal standard that determines the recognition of individuals. It means that an unborn child does not hold legal personhood until birth. Consequently, offences such as murder and manslaughter do not apply in relation to an unborn child. However, the proposed bill seeks to address this by better acknowledging the deaths of unborn children resulting from offences committed in relation to expectant mothers. As echoed by other members of this House, the loss of an unborn child is devastating, and to lose an unborn child as a result of another person's criminal conduct is profoundly distressing for parents, their families and the wider community.

Tragically, several families in Queensland have suffered this horrendous loss. In some cases the criminal conduct has also resulted in the death of the pregnant mother and others. I want to acknowledge, along with other members of this place, the contribution of Sarah and Peter Milosevic to this legislation. As we have heard, they support the recognition of an unborn child who has been killed due to criminal conduct. I acknowledge their submission, reflecting on the devastating loss of their daughter, Sophie. I also want to acknowledge the earlier contribution from the member for Lockyer. I was unaware of his role in this. The Milosevics told the committee—

The impact on a family that loses a child because of someone else's actions adds another layer of grief, there was no justice for us ... This law reform while it doesn't bring your child back at least you know that your baby counted. She received a birth Certificate, death certificate and was counted as a death on the road toll, the only place she wasn't counted was in a court.

Addressing concerns expressed by various stakeholders about the potential implication of establishing a legal status for unborn children, the department has offered the following guidance. The bill does not introduce a new offence or create a circumstance of aggravation. Instead, it introduces an aggravating factor which only becomes relevant after an individual has been convicted of the offence. This amendment enables the recognition of the unborn child on an indictment at the discretion of the parents. This recognition, as we know, can play a valuable role in the healing process for numerous parents and families.

The amendments in the bill strike the right balance by recognising and implementing changes that better acknowledge the death of an unborn child as a result of criminal conduct without abrogating the born-alive rule or conflicting with the rights of the pregnant woman. I am proud to be part of a Palaszczuk government that is committed to improving the way the justice system supports victims, and these amendments progress an important aspect of this work.

Secondly, the bill also amends the Criminal Law (Sexual Offences) Act 1978 to remove restrictions which prohibit the identification of an adult defendant charged with a prescribed sexual offence prior to finalisation of committal proceedings. The bill also includes amendments to the Criminal Code which remove the prohibition on the identification of an adult defendant. These amendments are made in response to the government's commitment to implement recommendation 83 of the second report of the Women's Safety and Justice Taskforce. The taskforce concluded that there was no justification for the law to treat defendants who are charged with a prescribed sexual offence differently to those who are charged with another criminal offence. Under the current law, only defendants charged with rape, attempted rape, assault with intent to rape or sexual assault have their identity protected before committal. Other accused—even alleged murderers, defendants accused of indecently assaulting a child and accused drug traffickers—do not have this protection.

The amendments in the bill mean that there will no longer be a distinction between prescribed sexual offences and other offences. The amendments mean that a defendant charged with rape, attempted rape, assault with intent to rape or sexual assault will be able to be identified before committal and complainants treated with the same dignity as complainants for other offences. It is also worth noting that, other than the Northern Territory, Queensland is the only state or territory that currently maintains a defendant's anonymity in these cases. I also note that a media guide is to be developed and distributed to media organisations and journalists prior to the commencement date of 3 October to assist their reporting on relevant matters before the courts.

Thirdly, the bill amends the Electoral Act 1992 to improve voter enfranchisement and administrative efficiency ahead of the 2024 state election. The proposed amendments in the bill respond to requests from the ECQ and aim to streamline the electoral process. Firstly, it allows for the counting of ballot papers sent in a reply paid envelope to the ECQ, even if the postal vote is not inside the declaration envelope. This change aligns with federal legislation and it safeguards votes while also maintaining electoral integrity.

To reduce voter confusion and align with federal election practices, the bill broadens the definition of a 'special postal voter' to include hospital patients, individuals who are unable to travel to a polling place due to illness or infirmity and those caring for the ill or infirm. These electors will receive mail-in ballot papers, although they can still choose alternative voting methods.

The bill also revises the requirement for an audit of the electronically assisted voting system—the telephone voting system—which is now necessary only in cases of significant information technology changes. Additionally, it replaces the 60-day time frame for the Queensland Redistribution Commission's electoral redistribution finalisation with a more flexible 'as soon as practicable' approach.

Finally, the bill establishes a 6 pm cut-off time for the close of electoral rolls on a specific day, providing clarity for both voters and the ECQ and allowing the ECQ more time to update the electoral roll. These changes all support voter enfranchisement. I note the submissions from the ECQ which estimate that the amendment to the postal voting rules will save up to 30 per cent of the 57,000 rejected postal votes which are deemed invalid. That is over 17,000 Queenslanders whose vote will now be counted. That is certainly something we all support. Postal voting in elections is crucial as it enables citizens who are unable to visit polling stations in person to exercise their democratic right. It is great that we could change this in this bill.