




Speech By
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MEMBER FOR CALOUNDRA

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JUSTICE AND OTHER LEGISLATION AMENDMENT BILL

 **Mr HUNT** (Caloundra—ALP) (4.57 pm): I rise to make a contribution on the Justice and Other Legislation Amendment Bill 2023. I thank my fellow committee members: Chair Peter Russo, the member for Toohey; Jonty Bush, the member for Cooper; Sandy Bolton, the member for Noosa; Laura Gerber, the deputy chair and member for Currumbin; and the immutable Jon Krause, the member for Scenic Rim. As is always the case, the secretariat set the standard in terms of maintaining a huge workload while effectively running the process and delivering a very high standard of service to all members of the committee. The committee invited stakeholders and subscribers to make written submissions on the bill and received 12 submissions. The committee received a written briefing on the bill from the Department of Justice and Attorney-General on 13 June 2023 and a public briefing on the bill from DJAG on 13 July 2023.

Following the hearings, the committee made seven recommendations, firstly, that the bill be passed. Secondly, the committee recommended that the Queensland government prioritise the development of a guide for the media to support the responsible reporting of sexual violence in accordance with recommendation 84 of *Hear her voice* report 2. In recommendation 3 the committee recommended that the Queensland government monitor whether the naming of offenders unintentionally creates a barrier for women to report sexual offences. In recommendation 4 the committee recommended that proposed reforms introduced by the bill relating to victims are accompanied with trauma informed training for those interacting with victims in the criminal justice system, including legal services, victims' services and investigating and prosecuting bodies.

In recommendation 5 the committee recommended that the Queensland government consider the service and resourcing impacts that these reforms will have on the victim support and community legal service sectors. In recommendation 6 the committee recommended that the Queensland government consider changing 'woman' to 'pregnant person' in proposed section 319A of the bill to better reflect the diversity of modern community expectations in Queensland. In recommendation 7 the committee recommended that the Queensland government continues to undertake work in relation to improving safety for victims of domestic and family violence, noting the prevalence of systems abuse.

One of the more significant and I think extremely civilised outcomes that will come into being as a result of this bill will be to better recognise the deaths of unborn children as a result of criminal conduct. These self-same changes were informed by targeted consultation with a range of stakeholders including legal stakeholders, the judiciary, human rights organisations and families impacted by the death of an unborn child as a result of criminal conduct. Currently, Queensland law does not give an unborn child legal status as a person. This only occurs when it has completely proceeded in a living state from its mother, a legal position known as the born-alive rule. This means that offences such as murder and manslaughter do not apply in relation to an unborn child.

This bill includes changes to the sentencing principles in the Penalties and Sentences Act 1992 and the Youth Justice Act 1992 that require the court to treat the destruction of an unborn child as an aggravating factor. Further, it provides that a person is eligible for funeral expense assistance up to \$8,000 for the cost of a funeral of an unborn child who dies as a result of an act of violence. With great sensitivity, the bill also makes changes to the Criminal Code to clarify and enable the name of an unborn child or a description of an unborn child to be stated in an indictment for an offence committed in relation to a pregnant person that allegedly results in the destruction of the life of the unborn child.

Sentencing outcomes are one of the ways that victims feel validated. They feel that they matter. They feel that they have been heard. This amendment is pivotal to addressing those very human feelings. It is worth noting that there were some reservations and objections to the proposed amendments. While DVConnect was broadly supportive, Women's Legal Service Queensland strongly objected to the creation of an offence that gives legal status to a fetus, stating that 'any attempt to change the legal status of fetuses risks undermining women's rights'.

WLSQ further strongly objected to the bill's use of the term 'unborn child', stating that it 'encourages and reinforces anti-abortionist views and is unnecessarily emotive'. I believe that this concern is entirely justified in some respects. There is no doubt in my mind that some people will, either inadvertently or through being deliberately obtuse, try to equate these laws with a woman's right to choose. This of course is pure nonsense, but I sincerely thank Women's Legal Service Queensland for raising what I think is a very valid point.

The department's response did provide the necessary assurance on this very important point. It is worth repeating here but, before I do, the words of Sarah Milosevic provide a very heartfelt and poignant reminder of the motivation of the amendments. She said—

... having your child acknowledged as an unborn child and not a fetus, which is not a very nice term when you are going through what we have been through, gives a sense of healing. I talk to a lot of women who have lost children. ... having that acknowledgment of your child helps in the healing process. It helps you to heal and grieve and to know that your child mattered, just as much as they mattered to you.

I thank Sarah for her very well-chosen words and I thank the member for Lockyer for his very sensible work in this space. The department added—

The reforms in the bill to better recognise the deaths of unborn children do not create criminal culpability for the actions of the pregnant person. The bill preserves the 'born alive' rule, which means that an unborn child does not have legal personhood to conflict with the rights of the pregnant person. It also means that the pregnant person cannot commit offences such as grievous bodily harm or manslaughter in relation to their unborn child.

I believe that these assurances are both necessary and highly instructive.

I would like to move on to another aspect of the bill that I believe is of great importance and will be received as such by the people of Queensland. The bill proposes to remove restrictions in the Criminal Law (Sexual Offences) Act 1978 prohibiting the identification of an adult defendant charged with a prescribed sexual offence prior to finalising of committal proceedings. Currently, only Queensland and the Northern Territory protect the anonymity of a defendant charged with rape, attempt to commit rape, assault with intent to commit rape and sexual assault. This means that not only will we be bringing Queensland into line with every other Australian state but also, crucially, these classes of offence will be brought into line with all other criminal offences in Queensland regarding publishing information about a person accused of an offence.

The Women's Safety and Justice Taskforce *Hear her voice* report 2, quite correctly in my view, concluded that there was no justification for the law to treat these defendants differently from any other. From DVConnect we hear—

These protections are in part due to historical mistrust of sexual violence reporting. ... the ongoing application of such protections perpetrate rape myths and general community mistrust that victims of sexual violence make up complaints ...

...

Removing this protection adds supports the concept that victims must be believed.

In tandem with this support is the committee's recommendation that asks the government to prioritise the development of a guide for media on the responsible reporting of sexual violence. Recommendation 84 of the Women's Safety and Justice Taskforce *Hear her voice* report 2 specifically asks that the Queensland government develop a guide for the media to support responsible reporting of sexual violence. The development of the guide will be followed by implementation activities with media across the state to promote the guide and encourage compliance. Our government supports this recommendation and, in response, indicated that the Queensland government will develop and promote a sexual violence media guide to support responsible reporting of sexual violence. Where relevant, the

guide will be consistent with the revised domestic and family violence media guide as per recommendation 6 of report 1. This government is not just implementing this media guide; it is accelerating it, entirely consistent with the recommendations of the committee.

I commend this bill to the House both to protect the victims of sexual violence and to acknowledge the pain of parents who have lost their unborn children to criminal acts. It is, as the Attorney-General has outlined already, an unimaginable tragedy, but this government has heard the pleas of family members and acted. For that reason, I commend the bill to the House.