




Speech By
Lance McCallum

MEMBER FOR BUNDAMBA

Record of Proceedings, 12 September 2023

JUSTICE AND OTHER LEGISLATION AMENDMENT BILL

 **Mr McCALLUM** (Bundamba—ALP) (6.40 pm): I rise to speak in support of the Justice and Other Legislation Amendment Bill. 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 person. Apart than the Northern Territory, Queensland is the only state or territory that currently maintains a defendant's anonymity in certain cases. It is time to change that. In terms of the offences that are covered by the provisions in this bill, the prescribed sexual offences are defined as rape, attempt to commit rape, assault with intent to commit rape and sexual assault. The amendments that form part of this bill will promote open justice in relation to those prescribed sexual offences. They bring this class of offences into line with all of the other types of criminal offences in Queensland with respect to publishing information about a person who is accused of an offence. It brings alignment and it brings consistency. The provisions that are contained within this bill will promote freedom of speech. They have the potential to greatly improve media reporting in relation to these prescribed offences.

Importantly, we should acknowledge that these amendments are putting into effect recommendation 83 of the Women's Safety and Justice Taskforce report *Hear her voice*. As the government has responded to that report, it is now getting about delivering and implementing the changes demanded of us by that landmark report. It is great to see the provisions in this bill that respond to and enact recommendation 83.

Legal Aid Queensland did submit that the Queensland government should develop a guide for the media to support the responsible reporting of sexual violence. Specifically, Legal Aid Queensland recommended the development of such a guide before these amendments occur to protect against inadvertent identification of victims and decrease the risk of trial by media, retribution in some communities, and reporting that perpetuates harmful stereotypes about sexual violence. This position was supported by the committee as part of its inquiry and forms part of the committee report recommendations. Indeed, this has been accepted by government, as indicated by the Attorney.

Turning to some other elements of the bill, the bill removes restrictions which prohibit the identification of an adult charged with a prescribed sexual offence prior to finalisation of committal proceedings. The bill proposes to better recognise the deaths of unborn children that have occurred due to criminal conduct. In these absolutely horrific and tragic circumstances, Queensland law currently does not give an unborn child recognition. It is important to recognise that our 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. What this means and the consequence of that is that offences such as murder and manslaughter do not apply to unborn children. Changes to the sentencing provisions require the court to treat the destruction of an unborn child as an aggravating factor for relevant serious offences including murder, manslaughter, grievous bodily harm, wounding, dangerous operation of a vehicle, assault occasioning bodily harm and careless driving.

Importantly, the bill also expands the definition of victim to include a person who would, if an unborn child had been born alive, have been a family member of the child. I join with many of the other members who have contributed to debate on this bill in paying tribute to Sarah and Peter Milosevic and their daughter Sophie Ella. I extend my personal sincere condolences and those of the Bundamba community.

Some submitters did raise concerns around the aggravating factor provisions that are contained in this bill. In response to those concerns that were raised throughout the committee process, it was made clear that the bill does not introduce a new offence and does not introduce a circumstance of aggravation in terms of the legal definition of a circumstance of aggravation. The bill introduces an aggravating factor. An aggravating factor only comes into play after a person has been convicted of an offence. After conviction, the provisions in the bill require the court to consider the fact that the offence for which the person had been convicted in relation to the pregnant person also resulted in the death of an unborn child.

The amendments in the bill relating to the Electoral Act will allow for completed postal votes that are not inside reply-paid envelopes supplied by the Electoral Commission of Queensland to be counted and expand the definition of 'special postal voter' to include electors who are patients in a hospital—which is obviously not a polling place—voters who are ill or infirm or, indeed, those who are choosing to care for them and unable to travel to a polling place. This is really practical. I think every member in this place has needed to assist constituents in their communities who face difficulties and challenges in exercising their democratic right to vote due to these circumstances.

I note that the Electoral Commission of Queensland is particularly supportive of these amendments to save postal votes that are not enclosed in ECQ envelopes. They estimated that, based on figures from the 2020 state election, up to 30 per cent of the 57,000 rejected postal votes could have been saved. The provisions in this bill are important and they will strengthen our democratic process in Queensland. I thank the minister and the committee and I commend the bill to the House.