Speech By

Hon. Mark Ryan

MEMBER FOR MORAYFIELD

Record of Proceedings, 23 August 2023

CHILD PROTECTION (OFFENDER REPORTING AND OFFENDER PROHIBITION ORDER) AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

Hon. MT RYAN (Morayfield—ALP) (Minister for Police and Corrective Services and Minister for Fire and Emergency Services) (3.29 pm): I move—

That the bill be now read a second time.

On 3 February 2023, the Community Support and Services Committee tabled its report on its examination of the Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Bill 2022. The committee made two recommendations; namely, that this bill be passed and that I encourage the Commonwealth government to continue to enhance data-sharing arrangements in relation to child sex offenders and to monitor the movements of child sex offenders across jurisdictions.

I thank the committee for its support of the bill. I also thank the agencies that submitted to the committee, namely: the eSafety Commissioner; the Queensland Law Society; the Crime and Corruption Commission; the Queensland Indigenous Family Violence Legal Service; the Queensland Family & Child Commission; the Aboriginal & Torres Strait Islander Legal Service (Qld); the Queensland Council for Civil Liberties; and Bravehearts Foundation. I would also like to thank Mr Robert Heron and Ms Eileen Clark for their submissions on this important piece of work. I also thank representatives from the Queensland Police Service who made themselves available and assisted the committee during its consideration of the bill. The government's response to the committee's recommendations was tabled on 3 May 2023.

For this government, community safety is of paramount importance. It is of particular importance to ensure the utmost protections are in place to protect the innocent and the vulnerable—our children. That is one of the primary objectives of this legislation: to enhance, expand and elevate the range of tools and strategies that will help keep children safe. As we all know from our daily experiences, technology is evolving at breakneck pace. That means the methodologies of those who wish to do harm to others are also evolving. That is what this bill does. It gives police additional detection, investigative and enforcement powers to disrupt the efforts of those who wish to do harm to others. The Queensland Police Service has a well-deserved reputation for its agility and its innovative approach to community safety. This legislation supports those capabilities.

I would like to foreshadow amendments to the bill which I will move during consideration in detail. These amendments have been provided for circulation to members. I understand that they are being circulated now. The amendments to be moved during consideration in detail address technical matters that have been recently identified and require urgent legislative amendment or address matters that have been the subject of extensive examination by a committee of the Queensland parliament, the

Women's Safety and Justice Taskforce and the Queensland Law Reform Commission. Additionally, the government has undertaken targeted consultation with key stakeholders and experts in relation to a number of the amendments.

The first proposed amendment will remove the requirement for reportable offenders to report the media access control, or MAC, address of every digital device in their possession or to which they have access. Since the amendments were proposed, several important technological changes have evolved across software and operating systems which increase the privacy provisions around MAC address identification. These provisions, referred to as MAC randomisation, enable the operating and software systems to automatically create randomly generated temporary MAC addresses when connecting to networks. The temporary address, rather than the unique MAC address of the device, is then reflected on the device. Furthermore, a new temporary MAC address is likely to exist each time a digital device moves from one network to another, or after being connected to the same network for 24 hours. These advances make the amendments originally proposed in the bill redundant.

On 31 October 2022, the Community Support and Services Committee tabled report No. 23, *Towards a healthier, safer, more just and compassionate Queensland: decriminalising the offences affecting those most vulnerable.* It made 16 recommendations. It was a key recommendation of the committee's report that offences including section 8, begging in a public place, and section 10, being intoxicated in a public place, of the Summary Offences Act 2005 be repealed. The committee identified that these offences have a disproportionate impact on First Nations peoples and those suffering from chronic ill health or disability, poverty and homelessness. This sentiment was mirrored in recommendation 101 of the Women's Safety and Justice Taskforce's *Hear her voice—report two: Women and girls' experiences across the criminal justice system*, which proposed repealing sections 8 and 10 of the Summary Offences Act as soon as possible due to the disproportionate impact on women and girls. To give effect to these recommendations, I will be moving an amendment to repeal the offences of 'begging in a public place' and 'being intoxicated in a public place' from the Summary Offences Act.

Decriminalising public intoxication will make Queensland consistent with every other Australian jurisdiction and reflect the mounting public opinion that these behaviours require a health and social welfare-based response, rather than entrenching vulnerable people in the criminal justice system through preferring criminal charges. Repealing section 10 of the Summary Offences Act will also give effect to recommendation 79 of the Royal Commission into Aboriginal Deaths in Custody 1991 final report, which recommended governments legislate to abolish the offence of public drunkenness.

Although the amendments repeal the offence of public intoxication, the Queensland Police Service must still ensure the safety of the community and the safety of the individual. Amendments to be moved will build on the existing policy by establishing an alternative legislative framework that will allow for an intoxicated person to be detained under strict criteria. The proposed amendments will authorise the detention of a person by a police officer if the officer is satisfied: the person is intoxicated and the person is disorderly, offensive, threatening or violent in a way that is likely to interfere with the enjoyment of a public place; or the person is behaving in a way likely to cause injury to themselves or another person; or the person is incapable of protecting themselves from physical harm. The purpose of this detention power is to allow, if necessary, a police officer to transport an intoxicated person to a place of safety, such as a hospital or the person's home, or hold the person in a police establishment as a last resort so that the person can safely recover from the adverse effects of the intoxicating substance.

A person detained under this framework can only be held for a maximum of eight hours or until they are no longer intoxicated, whichever is sooner. A person detained under this power may be released at any time if the police officer believes it is reasonable to do so including, for example, releasing the person into the care of an appropriate person, such as a friend or relative who consents to assume the care of that person.

The committee's report also recommended the repeal of the offence of 'urinating in a public place' in the Summary Offences Act. However, it is the position of the Palaszczuk government that, despite this recommendation, maintaining this offence is particularly important to areas such as central business districts and safe night precincts. These popular areas would be negatively impacted if this offence was repealed as police may be unable to adequately deter offending behaviour, potentially resulting in an objectionable and unhygienic environment that would act as a detriment to the business, tourism and general community enjoyment of public spaces. I therefore foreshadow that I will be moving a pragmatic response to the committee's recommendation, which strikes an appropriate balance between recognising the community concern associated with this offence and acknowledging that the offence may disproportionately impact vulnerable members of society.

The amendment will impose a requirement on a police officer to consider, before commencing a proceeding or issuing an infringement notice, whether it would be more appropriate to take no action. The circumstances to which a police officer must have regard prior to taking enforcement action include: whether the offender has any vulnerability or special health needs which have contributed to the commission of the offence; and/or whether the offender has made reasonable attempts to avoid causing offence or embarrassment to another person.

It has been reported that there have been a number of disciplinary matters within the Queensland Police Service which have been ruled invalid as a result of a Queensland Court of Appeal decision. The Police Service Administration Act 1990 provides the legislative framework for the police discipline system in Queensland. Section 7.10 of the Police Service Administration Act, `Referral of complaint to prescribed officer', requires the commissioner or their delegate to consider certain matters before referring a complaint about a police officer to a prescribed officer for determination. Once a complaint has been referred, the prescribed officer has the power to start a disciplinary proceeding.

After the commencement of the new Police Service Administration Act disciplinary provisions on 30 October 2019 the procedure within the Queensland Police Service was to refer complaints to the Office of State Discipline generically or otherwise in circumstances that did not specify the name and rank of the prescribed officer to whom the complaint was being referred. In other cases the referrals named another officer who was not ultimately the officer purporting to act as the prescribed officer. As a result of the Court of Appeal decision there are a number of disciplinary decisions that are invalid.

Public confidence in the integrity of the Queensland Police Service should not be undermined by minor noncompliance with a procedural requirement. But for the technical error in the initial referral, the disciplinary process managing the complaint was appropriate with the complaint properly investigated and assessed, resulting in a disciplinary decision that reflects the seriousness of the conduct involved. I will, therefore, move amendments to the Police Service Administration Act to validate disciplinary referrals erroneously made under part 7 of the Police Service Administration Act. The amendment will ensure the original disciplinary decision is given legal effect and the policy intent of section 7.10 of the Police Service Administration Act is upheld. Additionally, it enables the commissioner to take all necessary action to impose the original disciplinary sanction or professional development strategy, thus ensuring appropriate standards of behaviour are upheld which promote and maintain public confidence, and officer confidence, in the service.

In March 2023 the Queensland Law Reform Commission released report No. 80, *A decriminalised sex-work industry for Queensland*. The QLRC report makes 47 recommendations in relation to decriminalising sex work in Queensland and provides a framework for implementation. Relevant to the exercise of police powers, recommendations 2 and 5 were that there should be no specific move on power for police if they suspect a person is soliciting for sex work and that covert police powers relevant to sex work related offences should be repealed. Removing these powers will contribute to a more positive relationship between sex workers and police and it would enable sex workers to view police as protectors rather than prosecutors. This may in turn encourage sex workers to report harmful and criminal behaviour to police, thus supporting the safety of sex workers and providing necessary intelligence to police regarding potential criminal activity such as harassment, assault, human trafficking, slavery and child exploitation.

The Palaszczuk government has expressed its broad support for the recommendations and announced its commitment to decriminalise sex work in Queensland. The amendments I am foreshadowing are a step towards that commitment and omit provisions in the Police Powers and Responsibilities Act that authorise police to use controlled activities, controlled operations and surveillance device warrants as investigatory strategies for sex work related offences and allow police officers to give a move on direction to a person the officer reasonably suspects is soliciting for prostitution.

Another amendment I will be moving is in relation to the wording of section 244(1)(g)(iii) of the Police Powers and Responsibilities Act as it applies to the commission of a sexual offence against any person. The wording of this section is considered ambiguous as it applies to covert investigations undertaken by Task Force Argos into online child abuse. In this regard, the committee which considers all applications for controlled operations in Queensland has determined an urgent amendment is required to clarify that, for the purposes of section 244, a sexual offence does not include a child exploitation offence. The proposed amendment is essential to ensure Task Force Argos is positioned to continue its work into the future.

Police banning notices are designed to improve public safety by excluding individuals from particular places or events who have demonstrated violent, disorderly, offensive or threatening behaviour and are considered to pose an unacceptable risk of causing violence at the places stated in the police banning notice or otherwise impacting the safety or peaceful passage or reasonable

enjoyment of others at relevant places. The safety of others at the places from which a respondent is banned is reliant on the respondent having knowledge of the places they are banned from and the period for which they are banned. I foreshadowed that I will be moving an amendment to section 602G of the Police Powers and Responsibilities Act to make clear that initial police banning notices may be served personally or by electronic communication, and extended banning notices may be served in several ways including personally, by post and by electronic communication.

This government makes no apology for our tough stance on youth crime. As a result of our strong laws, more young offenders are in custody for longer periods of time and this is impacting youth detention capacity. Amendments to sections 56 and 210 of the Youth Justice Act will clarify the administrative arrangements for holding young people in police watch houses until capacity becomes available in youth detention centres. They will allow the chief executive of the Department of Youth Justice, Employment, Small Business and Training to decide the date after which the Commissioner of Police must deliver the young person as soon as reasonably practicable. In making this decision, the chief executive must consider a range of factors including the duties of the chief executive and the commissioner as employers as well as the needs of the young person such as age and sex, cultural background, and physical and mental health, among other considerations.

A human rights override declaration applies to this decision-making process, and the transfer of children between watch houses and to police holding cells until 31 December 2026 with the possibility of extension by regulation for up to one year. This is to enable effective management of capacity across the youth detention system. Following recent legal action it has emerged that in a number of cases some magistrates have not made mandatory orders under the Youth Justice Act. The amendments will also validate this custody and any good faith actions where the order was not made as an oversight. To remove the risk of future error, the amendments will also make certain arrangements automatic when the young person is remanded in custody.

Further, the amendments will override the Human Rights Act for the establishment of youth detention centres to allow a detention centre to be established at a police watch house or part of a corrective services facility. This provision is only intended to be used in extraordinary circumstances and is time limited until new purpose-built detention infrastructure becomes operational in Woodford and Far North Queensland in 2026. If necessary, it will ensure that immediate capacity issues can be addressed while young people are held safely.

Clarifying amendments will also be moved in relation to the transfer of adults from youth detention centres to corrective services facilities. This amendment builds on changes made by the Strengthening Community Safety Act 2023, ensuring adults can be transferred from youth detention centres in a timely manner. The amendments also make a minor and technical amendment to implement the original policy intent of section 105 of the Inspector of Detention Services Act 2023, as passed, so that the Inspector of Detention Services can have streamlined access to detention centres.

A statement of compatibility and a statement of exceptional circumstances will be tabled during consideration in detail. The statement of compatibility identifies that certain aspects of the amendments are incompatible. The Human Rights Act was drafted to allow for an override declaration in exceptional circumstances such as this. We are facing a particularly challenging set of circumstances that means demand for youth detention centres is far greater than capacity. Our government is committed to the welfare of children in custody and the welfare and security of detention centre staff and will continue to improve the youth detention system in this state.

I will also be moving urgent amendments to the Mineral Resources Act 1989 during consideration in detail of this bill. These amendments to the Mineral Resources Act 1989 are to expediently resolve an issue in relation to a workers camp at the Byerwen mine in the Bowen Basin. The town of Glenden is concerned about its ongoing viability as Glencore's Newlands mine comes to the end of its life.

In 2017 the Queensland government approved the Byerwen mine, which is a similar distance away from Glenden as the Newlands mine. A consideration for the approval of the Byerwen mine was a representation by the mine proponent in their environmental impact statement in terms of how they preferred to accommodate their workers. This included an assertion that a proportion of the workforce would want to reside in Glenden. With the Newlands mine winding down, the community of Glenden saw the Byerwen mine as an opportunity to support the longevity of the town.

While the assertions of the mine proponent about workforce accommodation in Glenden underpinned the government's approval, they are ultimately unenforceable. This is because the approval predates the Strong and Sustainable Resource Communities Act 2017 and the company was not required to undertake a social impact assessment. Subsequent to the EIS, the mine proponent has sought planning approval to permanently accommodate workers in a workers camp adjacent to the mine which has been established through a temporary development approval. The application to permanently establish the camp was refused by the Isaac Regional Council.

There are several complex issues surrounding the workers camp and the town of Glenden. On the one hand, we have a town, built on the back of coal, whose long-term viability is at risk. On the other hand, we have a company seeking certainty for its billion dollar investment in this mining project. The issue of accommodating the workforce of the mine ultimately came to a head as the mine proponent sought a mining lease from the state to convert the temporary workers camp to a permanent workers camp adjacent to the Byerwen mine.

The legislative obligation of the Minister for Resources is to decide this mining lease application against defined criteria in the Mineral Resources Act. This does not currently allow the Minister for Resources to impose conditions that would require Byerwen to move its workforce to Glenden which today would be a consideration of the social impact assessment under the Strong and Sustainable Resource Communities Act. As a result, it is proposed to grant the mining lease legislatively with conditions to transition the Byerwen workforce into Glenden over a five-year period. Further, of the workers accommodated in Glenden, 30 per cent will need to be housed in residential dwellings. This transitional approach has been consulted on with relevant stakeholders and supports a balanced approach.

Importantly, these amendments will ensure that Glenden benefits from the nearby Byerwen mine and that the mine can remain open and operating, supporting hundreds of jobs. It is a cornerstone of the Palaszczuk government that communities should benefit from large resource projects in their area. This is why we have the Strong and Sustainable Resource Communities Act and this is why these amendments are being progressed.

Finally, unrelated to the other amendments in this bill, I would like to foreshadow that I will be moving amendments to the Mental Health Act 2016 and the Supreme Court of Queensland Act 1991. The amendments to the Mental Health Act will retrospectively validate the appointment of, and any relevant exercise of jurisdiction by, a person who acted as a member and president of the Mental Health Court during the period 14 February 2023 to 29 June 2023 but who did not have a valid commission during that period. The amendments will provide certainty in relation to the validity of decisions by the Mental Health Court made by the person as a member and president during that period. The amendments to the Supreme Court of Queensland Act will retrospectively provide for the continuation of the expired Supreme Court of Queensland Regulation 2012 and for anything done in relation to a Supreme Court district under the regulation to be valid as if the regulation had not expired and for the expiry of the regulation to be extended to 1 September 2024.

I return to the earlier amendments in this bill. They introduce a number of firsts for Australia including: requiring reportable offenders to report the details of any anonymising software, vault or black hole applications they possess or use; increasing reporting obligations for those offenders who pose an increased risk to children; recognising the reporting obligations of child sex offenders across the globe; and legislating that a reportable offender cannot be given any personal details of children they have previously reported contact with. These firsts affirm the Palaszczuk government's commitment to the toughest reporting scheme for child sex offenders in Australia.

Since the commencement of the COVID-19 pandemic, there has been an increase in dark web accounts linked to child exploitation. The Australian Federal Police noted an additional 800,000 new accounts. This is a terrifying trend and shows the depth of predators in our society. Child sex offenders use technology to groom and offend against children. Anonymising software such as virtual private networks in conjunction with a Tor—The Onion Router—application provide access to the dark web, where evidence of their offending can be shared amongst others of their ilk. Tactics such as masquerading as a famous person allow child sex offenders to quickly gain the trust of their victims. From here, they coerce the child to take or provide revealing images that are then held for ransom by the offender as a means to acquire increasingly explicit material from the child. The level of depravity associated with this type of offending is astounding.

In addition to sharing this material on the dark web, child sex offenders can hide explicit material in plain sight on personal digital devices through the use of vault applications, which look like normal desktop items, and black hole applications, which hide both the vault and the black hole. This bill targets this type of offending and operates to ensure child sex offenders who use technology to offend against children are more closely monitored by police to prevent and disrupt future offending against children.

This bill exemplifies the government's commitment to providing our dedicated officers from the Child Protection Offender Registry and Task Force Argos with a legislative framework that is agile and responsive to technology. This bill is not just about child sex offenders; it is also about offenders who are convicted of other serious and often violent offences against children. Those offenders can also be monitored under the offender reporting legislation where a court makes an offender reporting order because of the risk those offenders pose to children. Changes to this aspect of the Child Protection

(Offender Reporting and Offender Prohibition Order) Act aim to provide the courts with comprehensive information about the relationship between the offender and the child victim as well as the offender's personal circumstances. These seemingly small changes can assist the courts to better understand the circumstances surrounding the offending and possible future risks to children.

The Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Bill 2023 is risk focused. Rather than simply imposing the same obligations on each and every reportable offender, the bill looks at the risk each offender poses to the children in the community and applies reporting obligations that may act to mitigate that risk. For example, higher risk reportable offenders may be required to report the details of any place they stay within Queensland for three or more consecutive days—this does not include their reported place of residence—and the Police Commissioner must be satisfied this course of action is necessary to protect children.

This bill marks a changed focus for the management of reportable offenders that recognises changing technology, risk predictors and the need for collaboration with our Commonwealth partners. Every element of this bill and the amendments to be moved during consideration in detail are aimed at delivering a safer community and a better society—the safety of children, the safety of the broader community and evidence-based policing.

In a rapidly changing world, we cannot sit still. We have to continually monitor and assess our capabilities to disrupt and respond to those who wish to do harm to the community. We have to be flexible and agile to meet head-on and head off new and emerging threats and challenges. This bill supports those objectives. I am proud to stand for this bill and I am proud to have introduced it. I commend the bill to the House and I encourage all other members to support it.