




Speech By  
**Michael Berkman**

**MEMBER FOR MAIWAR**

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### **STRENGTHENING COMMUNITY SAFETY BILL**

 **Mr BERKMAN** (Maiwar—Grn) (4.32 pm): I will begin my contribution on the so-called Strengthening Community Safety Bill 2023 by calling that title precisely what it is: a misnomer at best and more like a bald-faced lie. Every expert, community service provider and person involved in youth justice who made a submission opposed this bill on the basis that it will lead to more crime—

**Mrs GERBER:** Mr Speaker, I rise to a point of order. I am drawing your attention to the member for Maiwar's unparliamentary language. I ask him to withdraw.

**Mr DEPUTY SPEAKER** (Mr Krause): I have been informed by the Clerk that you have used unparliamentary language. I ask you to withdraw and refrain from using that language in the future.

**Mr BERKMAN:** I withdraw. All of the people who made submissions on the bill—everyone with useful expertise—made it clear that they opposed it because it will lead to more crime and it is more expensive and harmful than the alternatives that would actually work. The government rushed this bill through the committee inquiry process, allowing just 2½ days for submissions, because they know it does not stand up to scrutiny. It is a baseless, media-driven response that suspends the Human Rights Act on four occasions to deny children their rights, including to the right to criminal proceedings that are age-appropriate and that promote rehabilitation.

It is worth noting that even the government's response to the global COVID-19 pandemic did not require the suspension of the Human Rights Act. The government justifies this on the basis that the bill addresses an urgent so-called 'youth crime crisis', but the evidence does not back this up. The submission from the Queensland Youth Policy Collective points out that the government has misinterpreted data from the Childrens Court annual report. The data indicates that the children in the 'serious repeat offender' category, who this bill purports to target, committed fewer offences than in previous years. It also shows that the vast majority of offences committed by children were minor offences.

While reported offences across all ages has trended up slightly over the last few years—not taking into account population growth, mind you—the proportion of offences committed by children has actually fallen. Why do we have a bill urgently targeting 'serious repeat offender' children? We do know that children are more likely to offend in groups, close to home and in visible public spaces. Let's face it: visible offending makes a better media story, a better beat-up.

I absolutely acknowledge that the statistics are little consolation to those who have been traumatised, frightened, injured or otherwise affected by crime. There is no doubt that the majority of people in the community want effective action, and rightly so, but this bill is not effective action. The government has acknowledged that there are other ways to improve community safety that would be less restrictive of human rights. As the Human Rights Commission pointed out in its submission, 'it may be that those options are in fact the only way to achieve the purpose of the bill'.

The government agrees that the bill will lead to more children being incarcerated, and that is really the entire point. In fact, they seem pretty proud of it. Youth prisons are already overcrowded, mostly with children who have not even been sentenced yet. Kids are regularly being locked up in their

cells for 23 hours a day or held in adult police watch houses—sometimes for weeks on end. Today the ABC was reporting that a 13-year-old Aboriginal boy was confined to his cell for 14 days straight last October and 22 days in February. He was only allowed out of his cell on five occasions during the intervening 36-day period. He spent 60 days in custody, including six days in adult watch houses in Mareeba and Cairns. All of this was inflicted on a child who was on remand and ultimately released on probation.

The committee in its inquiry on this bill heard of similarly shocking conduct in Queensland watch houses. One submission detailed adult detainees exposing themselves to children detained in watch houses, children being deprived of clothing and underwear, illegal strip searches, young girls being detained in cells with adult men, and young detainees being assaulted by individuals or groups of detainees. Rather than shining some light on this submission, the committee instead chose to bury it. I now table a copy of that submission so that it is at least on the record in this debate.

We are talking about children as young as 10 being exposed to these conditions, because the government still refuses to raise the minimum age of criminal responsibility to 14, in accordance with UN standards. The government has an answer to this, though: it is simply going to build more youth prisons. The reason youth prisons are overcrowded is that two years ago this government introduced new laws that lock more children up. Spoiler alert: it did not work!

Countless submissions on the bill pointed out that incarceration is criminogenic. The Australian Lawyers Alliance says that it affects a child's development and reintegration in society, which increases reoffending and entrenches them in the criminal legal system. We know that already. The Caxton Legal Centre says—

Imprisonment is a cycle and needs circuit breakers. Increased exposure to imprisonment is not a circuit breaker.

We know that already, too. Look at our own experience in Queensland. We imprison more children than any other Australian state, and where is it getting us? If incarceration works, why does Queensland have a so-called youth crime crisis? Why are approximately 90 per cent of children released from detention alleged to reoffend within 12 months? The reason is that we have not addressed the underlying issues. In fact, this government has made them worse.

I focus a lot on the factors contributing to young people's involvement in the criminal legal system including disengagement from school, exposure to abuse, neurological impairment, problematic substance use, homelessness and inadequate sleep or nutrition. I do not raise these issues to discount the consequences of their actions but because we need to figure out what needs to change in order to stop it happening again. We need an alternative youth justice model of prevention, early intervention and diversion with therapeutic wraparound services for those tiny number of children who continue to display seriously harmful behaviours.

Prevention includes capping rents and building more public housing, growing our public health system, fully funding state schools and expanding free meals programs to give children an incentive to come to school and get those things that might be missing in their home lives. Early intervention includes neurocognitive testing in schools and diversion to therapeutic programs before a child is charged. Diversion includes more funding for First Nations and community-led programs that operate after-hours especially, money for AOD and mental health care and disability support.

How could we afford more of all of these programs, you ask? Let us not waste the money on more new prisons. It costs around \$1,879.90 per day to keep one child in prison in Queensland, and that is excluding the capital costs of building the new prisons in the first place like this government proposes to do twice over now. The government is suspending children's human rights so that it can introduce an even worse version of the LNP's breach of bail policy with this bill. The government is making it a criminal offence for children to breach technical bail conditions like meeting an appointment or a curfew or staying at a particular address. A child whose home is unsafe or violent could be criminalised for leaving. A child who does not make an appointment could be sent back to the watch house. Where is the evidence that this will improve community safety? There is none. The government is also suspending the Human Rights Act to allow a court to declare a child a serious repeat offender. The QLS emphatically opposes this in its submission. It requires the court to determine what a child is likely to do in the future and punish them on that basis. Not only does it breach the Human Rights Act but fundamental legal principles that someone should not be punished for potential future crimes.

The government is also suspending children's human rights to send them straight to prison if they breach any of their conditions while on a community supervision order, which now lasts for up to six months rather than three. One of the fundamental principles of international human rights is that imprisonment should be reserved as a last resort, especially for children. Of course, the LNP is trying to scrap that principle entirely now that Labor has taken away its primary cudgel of breach of bail. But Labor is already chipping away at this principle with these changes to community supervision orders

and it undermines it again by expanding the application of the presumption against bail to include burglary and riding as a passenger in a stolen vehicle. Let us just think about that 11-year-old kid who is sitting in the passenger seat when their sibling steals a vehicle. There is now an assumption that that child should be locked up. Again, it is undermined by removing the requirement for police to consider alternatives to arrest if they reasonably suspect a child on bail for a prescribed indictable offence or DV offence has contravened or is contravening a bail condition.

I am at a loss to understand how the government could extend or expand the use of GPS trackers that have already been shown to be ineffective, racist and stigmatising and a waste of money. There is no evidence to expand that failed program. The Caxton Legal Centre and the QLS also point out that increased sentences for theft of a vehicle are wildly out of proportion to the actual damage caused. For example, the penalty for stealing a vehicle at night or with friends or posting about it online will now exceed penalties for unlawful wounding or most sexual assaults. They will not act as a deterrent. These penalties will not deter young children because their brains are not fully developed and they have limited capacity to understand consequences. They act primarily on impulse and opportunity, not on carefully weighed decisions. Even if you only care about community safety and do not give a damn about these kids, you know that this bill will increase offending. Queensland already locks up more kids than any other state. This is a disgraceful piece of legislation and I hope each and every one of these members of the government feel ashamed when they sit there and vote for it.

*(Time expired)*