



Speech By  
**Hon. Yvette D'Ath**


**MEMBER FOR REDCLIFFE**

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Record of Proceedings, 12 September 2023

**JUSTICE AND OTHER LEGISLATION AMENDMENT BILL**

**Second Reading**

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence) (4.15 pm): I move—

That the bill be now read a second time.

On 25 May 2023, I introduced the Justice and Other Legislation Amendment Bill 2023 into this House. The bill was referred to the Legal Affairs and Safety Committee for consideration. The committee tabled its report on 28 July 2023, making seven recommendations. I table the government's response to the committee's report.

*Tabled paper:* Legal Affairs and Safety Committee: Report No. 50, 57th Parliament—Justice and Other Legislation Amendment Bill 2023, government response [1318](#).

I will address the committee's recommendations in more detail shortly, however, I can foreshadow that I propose to move some amendments to the bill to address some of the issues raised during the committee process. I would like to take this opportunity to thank the Legal Affairs and Safety Committee for its detailed consideration of the bill. A total of 12 submissions were received by the committee in the course of its inquiry. I extend my thanks to the organisations and individuals who made submissions and gave evidence before the committee.

The committee's first recommendation was that the bill be passed. I thank the committee for supporting the passage of the bill. The bill delivers a number of justice-related initiatives for Queensland. It also clarifies, strengthens and updates legislation concerning the administration of justice, including the operation of courts and tribunals, regulation of the legal profession, conduct of civil proceedings and electoral matters.

I turn firstly to those amendments in the bill which remove the restrictions which prohibit identification of an adult defendant charged with a prescribed sexual offence prior to finalisation of committal proceedings. These amendments implement recommendation 83 of the Women's Safety and Justice Taskforce, *Hear her voice—report 2: Women and girls' experiences across the criminal justice system*. These amendments bring Queensland more closely into line with other states and territories in Australia. They also bring the position for these offences into line with other offences in Queensland.

Part of the basis of this protection for accused rapists is that women maliciously make up complaints to damage reputations. These rape myths have no place in our society. Recommendation 84 of the taskforce report 2 is that the government develop a guide for the media to support responsible reporting of sexual violence. The taskforce recommended that the amendments to the Criminal Law (Sexual Offences) Act 1978 not commence until this guide has been developed.

I acknowledge that many submitters to the committee raised the critical importance of guidance for the media to support the amendments and that the committee recommended the government prioritise the development of a media guide to support responsible reporting of sexual violence. The

government supports this recommendation. I am pleased to say that the guide is being developed well ahead of schedule and will be ready for the proposed commencement date of 3 October 2023. It had been intended that the amendments commenced by proclamation to allow for the development of the media guide. I would like to foreshadow that I will be moving an amendment during consideration in detail so that these amendments to the Criminal Law (Sexual Offences) Act 1978 commence on the fixed date of 3 October 2023, rather than by proclamation.

It is anticipated that the guide will be distributed to media organisations and journalists in advance of the commencement date to assist their reporting on relevant sexual violence matters before the courts. The guide will address the topics proposed by the taskforce and will also be informed by consultation with relevant sector stakeholders including media, service providers and the legal profession. I thank them for their consultation with my department in the development of that media guide.

The committee also recommended that the government monitor whether the naming of offenders unintentionally creates barriers for women to report sexual offences. The government supports this recommendation. Consistent with recommendation 186 of taskforce report 2, the operation of taskforce related legislation will be reviewed as soon as practicable five years after the last of the relevant legislative amendments from both taskforce reports has commenced. This was the type of evaluation recommended by the taskforce. Consistent with the recommendations made by the taskforce, the government will also continue to monitor the system-wide impacts and outcomes of the reform program.

The second key area of reform in the bill is strengthening the recognition of the death of an unborn child as a result of criminal conduct and improving support available to families. I would like to again acknowledge everyone from both sides of the House who has advocated for reform to better recognise the deaths of unborn children as a result of criminal conduct. In particular I recognise the courage and advocacy of Sarah and Peter Milosevic and thank them for their contribution to the committee's inquiry. The loss of an unborn child to a criminal act is an unimaginable tragedy. The bill allows for recognition of the death of an unborn child in the criminal justice system by providing that the name or a description of an unborn child may be stated in an indictment for a relevant offence. The bill also increases the consistency and transparency in sentencing for relevant serious offences by requiring the court to treat the destruction of an unborn child's life as an aggravating factor unless there are exceptional circumstances.

I acknowledge that some submitters raised concerns that the reforms regarding indictments and statutory aggravating factors represent a recognition of fetal personhood and may have implications for the rights and criminal culpability of the pregnant person. I can assure submitters that the amendments in the bill do not displace the born-alive rule, which deems legal personhood to apply when a child is born in a living state independently of its mother, and do not extend criminal culpability to the pregnant person for acts or omissions that cause the destruction of the life of their unborn child. The bill strikes the right balance through reforms that better acknowledge the death of an unborn child as a result of criminal conduct while preserving the born-alive rule and the rights of the pregnant person. The bill also allows those who would have been a family member of the unborn child had they been born alive to make a victim impact statement and explain to the court the impact the destruction of the life of the unborn child has had on them.

Finally, the bill provides that a person responsible for the cost of a funeral for an unborn child is eligible for funeral expense assistance of up to \$8,000 to ensure families who wish to hold a funeral can do so without being financially burdened. Recommendations 4 and 5 of the committee's report relate to the assistance and support provided to victims of crime. The Palaszczuk government is committed to improving the way the justice system supports victims, and the bill progresses an important aspect of this work.

Recommendation 4 of the committee's report is that the proposed reforms introduced by the bill relating to victims are accompanied by trauma informed training for those interacting with victims in the criminal justice system including legal services, victims' services, and investigating and prosecution bodies. The government supports this recommendation in principle. The Palaszczuk government is committed to implementing and embedding trauma informed practices across government agencies. Significant work is underway to support trauma informed training within government, including work in response to recommendations of the taskforce and the Independent Commission of Inquiry into Queensland Police Service responses to domestic and family violence. The government is also committed to ensuring victims of crime have access to non-government victim support services, and \$3.4 million per annum is provided under the victim services funding program for services to provide trauma informed support to victims of crime.

Recommendation 5 of the committee's report is that the government consider the service and resourcing impacts the reforms will have on the victim support and community legal service sectors. The government supports this recommendation in principle. I can advise that potential impacts were considered in the development of the reforms and planning for implementation subject to the passage of the bill.

While devastating to the families and the community, the events are relatively rare. Consequently, the number of victims seeking support or making an application for funeral expense assistance is expected to be very small. It is also likely that victims of crimes resulting in the death of an unborn child are already seeking support or making an application for financial assistance in relation to the injury to, or death of, the pregnant person, and the reforms will therefore not result in a significant increase in the number of victims seeking support or applying for assistance. While it is not expected that the reforms will have a significant impact on victim services, the effects of the reforms will be monitored. The government has also committed to a review of legislated financial assistance. I remind all in the House of our announcement around appointing an interim Victims' Commissioner with a permanent Victims' Commissioner to be appointed next year who will be looking at that trauma informed training across government services.

I will now turn briefly to the amendments in the bill that clarify that a person providing financial assistance to enable a pregnant person to access a lawful termination does not commit an offence. I acknowledge that most submitters were generally supportive of the amendments and that the committee was pleased to note the support.

Recommendation 6 of the committee's report is that the government consider changing 'woman' to 'pregnant person' in proposed section 319A of the bill to better reflect the diversity and modern community expectations of Queensland. The government supports this recommendation and consideration will be given to changing 'woman' to 'pregnant person' in section 319A of the Criminal Code. The bill makes amendments to the Oaths Act 1874 to address issues that have arisen during implementation of the Justice and Other Legislation Amendment Act 2021, including to clarify the types of information that witnesses are required to provide in affidavits and statutory declarations.

Recommendation 7 of the committee's report is that the Queensland government continue to undertake work in relation to improving safety for victims of domestic and family violence, noting the prevalence of systems abuse. I note that this recommendation relates to the Women's Legal Service submission, which recommends that further work be undertaken separately to address safety concerns for victims of domestic and family violence due to requirements for the signatory to include their address and place where the document is made. The government response supports this recommendation and will continue to undertake work to improve safety for victims of domestic and family violence, including further considering court rules and forms as well as approaches in other jurisdictions.

In relation to amendments to the Electoral Act 1992 relating to redistributions, the LNP statement of reservation in the committee report expressed concern about the amendment to replace the 60-day time frame associated with the Queensland Redistribution Commission finalising an electoral redistribution with a requirement that the redistribution is finalised 'as soon as practicable'. As previously indicated, this change, which is consistent with arrangements in the Commonwealth and in New South Wales, reflects the reality that there is increasing participation by stakeholders and the general public in the electoral redistribution process in Queensland and will ensure objections received and public comments thereon are considered ahead of the redistribution being published. I note the various provisions in the Electoral Act 1992 already require the electoral redistribution commission to undertake various functions as soon as practicable. The proposed change is consistent with this approach and ensures that strict time frames do not stifle the commission's ability to conduct and finalise an electoral redistribution in a meaningful way. Of course, we welcome the public being more involved in that process and making sure they get heard.

I would also like to foreshadow that I will be moving amendments during consideration in detail in response to submissions to the committee in relation to the amendments in the bill to the Legal Profession Act 2007. The first amendment relates to the implementation of the government election commitment to increase the threshold for detailed disclosure of legal costs by a law practice from \$1,500 to \$3,000. In implementing this commitment, the bill also introduces an abbreviated form of cost disclosure where legal costs are likely to exceed \$750 but not the detailed disclosure threshold of more than \$3,000. The \$750 abbreviated disclosure threshold is based on that applicable in the uniform law states: New South Wales, Victoria and Western Australia. Concerns were expressed that this requires disclosure where none is required under the current threshold of \$1,500. The Legal Services Commission has been consulted and advised that the absence of a disclosure regime for matters under the current full disclosure threshold of \$1,500 has not been an issue in practice. Therefore, it is proposed to increase the threshold for abbreviated disclosure to \$1,500.

I acknowledge the Queensland Law Society's view that the detailed disclosure threshold should be set at \$5,000. This threshold amount may, of course, be varied by regulation. I would be pleased to keep the amount under review, including having regard to whether the new abbreviated disclosure is adequate for higher value matters.

The second amendment relates to proposed new section 713A of the Legal Profession Act, which also implements a government election commitment. It allows for the destruction of client documents without a client's consent if: a period of seven years has elapsed since the completion of the matter; the law practice has been unable to obtain instructions from the client, despite making reasonable efforts to do so; and it is reasonable in the circumstances, having regard to the nature and content of the document, to destroy the document. This is intended to address the increasing risk to clients' privacy and confidentiality arising from the prolonged retention of client documents and the mounting substantial costs associated with securely storing large volumes of client documents that are no longer of utility.

Further to submissions to the committee, technical amendments are proposed to clarify the meaning of 'client document' and to ensure that, for the Queensland Law Society, its application is not limited to the client documents of law practices that have gone into receivership. For example, the Queensland Law Society may hold client documents that have been abandoned where efforts to locate a responsible practitioner have been unsuccessful.

Finally, I would like to respond to concerns expressed by opposition members of the committee about the use of an omnibus bill to include many issues that are unrelated and that should, in their view, be dealt with by specific bills. They have argued that this reduces the ability of all parties—including stakeholders, committee members and members of the public—to have their say and contribute to the parliamentary process. I remind those members that the use of omnibus bills is not new and that it has been common parliamentary practice for governments on both sides of politics. Omnibus bills are an efficient and effective way of dealing with a wide range of legislative amendments in one legislative vehicle. This bill has gone through the same parliamentary processes and scrutiny as any other bill that comes before the House.

As I indicated in my introductory speech, the bill makes important amendments to justice portfolio legislation across a diverse range of subject matter. The bill also contains a number of important reforms to improve Queensland's justice system which will further protect women, mothers, victims and survivors. I commend the bill to the House.