




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

**MEMBER FOR REDCLIFFE**

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Record of Proceedings, 13 September 2023

**JUSTICE AND OTHER LEGISLATION AMENDMENT BILL**

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence) (3.01 pm), in reply: At the outset I thank all members who have contributed to the debate of the Justice and Other Legislation Amendment Bill 2023. As indicated previously, this bill removes the restrictions that prohibit the identification of an adult defendant charged with a prescribed sexual offence prior to the finalisation of committal proceedings; enables better recognition of the deaths of unborn children as a result of criminal conduct; and clarifies, strengthens and updates legislation concerning the administration of justice, including legislation relating to the operation of courts and tribunals, the regulation of the legal profession, the conduct of civil proceedings and electoral matters.

Further, as foreshadowed during my second reading speech, I intend to introduce amendments during consideration in detail to fix a commencement date for part 9 of the bill, which amends the Criminal Law (Sexual Offences) Act 1978. This will ensure that the amendments commence in a timely way. I also intend to introduce amendments during consideration in detail of the bill relating to the Legal Profession Act 2007 to increase the abbreviated cost disclosure threshold in the bill from more than \$750 to more than \$1,500 and to clarify the meaning of 'client documents' under the new provision, allowing for the destruction of client files by law practices and its application to the Queensland Law Society.

Contrary to the rhetoric from the members for Clayfield, Currumbin and Scenic Rim, these amendments are not a backflip by the government. I remind those opposite, particularly the member for Scenic Rim, that it was not a single advocate who raised the issue of the abbreviated cost disclosure threshold, although they got lots of mention today. During the committee process, concerns were also expressed by the Queensland Law Society that the abbreviated disclosure requirement for legal costs of more than \$750 requires disclosure where none is currently required. In its response to submissions, the Department of Justice and Attorney-General indicated that the amendments would be further considered. As indicated in my second reading speech, in the intervening period my department consulted with the Legal Services Commission, which advised that the absence of a disclosure regime for matters under the current full disclosure threshold has not been an issue in practice. Accordingly, it is proposed to increase the abbreviated cost disclosure threshold to more than \$1,500, in line with these submissions.

I will now address some of the matters raised by honourable members during the course of the debate. This bill enables better recognition of the death of unborn children as a result of criminal conduct. I take this opportunity, as many have in this chamber, to acknowledge Sarah and Peter Milosevic, who are in the gallery today. Let us be clear: this bill will enact Sophie's Law. That is what this does. Because of Sarah's and Peter's advocacy, the amendments to the Criminal Code, the Penalties and Sentences Act 1992, the Youth Justice Act 1992 and the Victims of Crime Assistance Act 2009 will mean other families who experience the unimaginable tragedy of losing their unborn child because of criminal conduct can get justice. This is a bill for Sarah and Peter and, importantly, for Sophie Milosevic.

I want to thank the former member for Lockyer, Ian Rickuss; the current member for Lockyer, Jim McDonald; and the former attorney-general, Minister Fentiman, for their contributions to the bill. In particular, I acknowledge the work of the former attorney-general. I do thank her for finding a way forward on this important issue. We are all grateful that we are here today finding a way forward and finding balance in what is quite a complex issue.

I reiterate Sarah's own words and will read them into the record a second time. She said—

The loss of Sophie broke me and broke my family there truly is not a day that we don't speak her name because she mattered. Because Sophie mattered and along with all the other babies before Sophie and after Sophie that died due to a person breaking the law this is for all the babies gone to soon.

This is her legacy and it's finally done. Sophie turned 9 on the 30th of August just passed. 9 years for fighting for the rights of unborn children. This is for Sophie for the legacy she could not leave herself.

For all the heart ache and pain for the love of our child. This law reform has brought peace to myself, my husband and our children. Peace in knowing the loss of her life wasn't for nothing that she counted, that Sophie mattered and that all babies matter.

Sophie counts and Sophie matters. I acknowledge the support of honourable members for these legislative reforms and the respectful debate that we have had on this issue.

I note during the debate that the member for Maiwar highlighted concerns raised by some stakeholders during the committee inquiry regarding terminology in the amendments, specifically the use of the term 'unborn child'. I note that there were divergent views from stakeholders, with some preferring the term 'fetus' and others the term 'unborn child'. I acknowledge that these events are highly emotive and that language is important. The use of the term 'unborn child' is used in this bill as it is the existing term in the Criminal Code. 'Fetus' is not currently used in the code. The use of the term 'unborn child' promotes a consistent interpretation of the legislation. Understanding the interpretation of the Criminal Code in applying these new provisions will be important.

I also note the concern of the honourable member that the statutory aggravating factor diminishes the discretion of the court. It is important to recognise that the sentencing court may currently consider the death of an unborn child as a result of criminal conduct in its consideration of the nature and seriousness of the offence and harm caused and, in all likelihood, currently treats the death of an unborn child as a result of criminal conduct as an aggravating factor in sentencing. The bill, however, enhances the consistency and transparency of this consideration for relevant serious offences while preserving the court's discretion to weigh all relevant factors and to not treat the death of an unborn child as an aggravating factor in exceptional circumstances and, importantly, extends the recognition of the unborn child in other areas, including statements by families, when it comes to sentencing.

The reforms to better recognise the death of an unborn child as a result of criminal conduct strikes the right balance between a range of competing elements in the criminal justice system. I want to be clear: simply because these amendments sit within a broader bill does not make it any less important or any less significant. This is a moment in time that we will remember and that Sophie's parents will remember. This is when we bring in Sophie's Law.

This bill is also for every woman and man who has experienced the horrors of sexual assault. The amendments to the Criminal Law (Sexual Offences) Act 1978 remove the restrictions that prohibit the identification of an adult defendant charged with a prescribed sexual offence prior to the finalisation of committal proceedings. I thank all those who have advocated for this change. To the victim-survivors of sexual violence I say this: your resilience and courage to speak up and seek justice is why we have made this reform.

To the women and men who have marched for change, to our sexual violence support organisations and to those who appeared during the committee process, the taskforce and the commissions of inquiry: thank you for advocating for change and providing a voice for those who could not. To all those who contributed to the Women's Safety and Justice Taskforce and the commission of inquiry into Queensland Police Service responses to domestic and family violence we say thank you. To every victim of sexual violence who has not been heard or believed, I say: we have heard you and we have acted.

I acknowledge the support of honourable members for these legislative reforms. Sadly, sexual violence remains one of the most unreported crimes in Australia. As many members indicated during the debate, the current restrictions perpetuate the myth that victim-survivors make up stories about sexual assault and rape. Anyone who holds that view has never experienced the justice system and the bravery it takes to come forward. With research showing that many in the community do not understand sexual violence and accept the stereotypes that accompany this violence, appropriate reporting of these cases is critical to bring these crimes out of the shadows. We know from our sexual

violence support organisations that when sexual assault stories are reported in the media it can prompt victim-survivors to disclose a previously unreported assault and seek the extra support they need. That is why the removal of restrictions will be accompanied by a media guide to ensure appropriate reporting on matters and support journalists in telling these important stories in a trauma informed manner.

The media guide supporting the amendments will be released late next week, before the commencement of the amendments on 3 October 2023. In developing the guide my department has consulted with the sexual violence sector including the Queensland Sexual Assault Network, the Sexual Violence Prevention Roundtable and the Domestic and Family Violence Prevention Council; media outlets and organisations including journalists who regularly report on police and court matters in both metropolitan and regional areas of the state; the Media, Entertainment and Arts Alliance and Women in Media Queensland; the legal profession including the Queensland Law Society, the Bar Association of Queensland, Legal Aid Queensland, the Queensland Sentencing Advisory Council and the Office of the Director of Public Prosecutions; the First Nations Justice Officer; the interim Victims' Commissioner; key government agencies and program areas; and media organisations across the state. I am also advised by my department that a draft of the guide was provided to journalists from the ABC, Are Media, News Ltd, Nine Network, Seven News, Southern Cross Austereo, Ten News and the *Guardian* to ensure the final version of the guide is easy to understand and applicable to journalists' activities.

I note that the non-government members support these amendments; however, I would like to address comments made by some LNP members during the debate. When speaking to his support of the amendments, the member for Clayfield referenced a high-profile case currently before the courts. Let me be very clear: these amendments are not about any one single case; they are about removing current protections that perpetuate rape myths and bring Queensland into line with every other state in Australia. Also during the debate the member for Currumbin suggested that the media guide is the only check and balance on the amendments. It is not the only check and balance. The amendments do not affect the existing protections in the law that prohibit the naming of complainants. The amendments establish a non-publication regime so that the court can make an order prohibiting identifying information being published.

I note that the member for Scenic Rim spoke to concerns raised by the Queensland Law Society. The Women's Safety and Justice Taskforce noted in its report the longstanding position of the Queensland Law Society that the defendant's identity should be protected until the verdict for certain types of offences. On balance, the taskforce still recommended the lifting of the prohibition on publication. I note that the member for Gregory said that these reforms should be reviewed in the future for unintended consequences. Consistent with recommendation 186 of report 2, and as stated in my second reading speech, 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 have commenced. Consistent with the recommendations made by the taskforce, the Queensland government will continue to monitor the system-wide impacts and outcomes of the reform program.

I will now discuss the amendments to the Electoral Act 1992. I note that a number of members of the opposition, including the members for Currumbin, Scenic Rim, Surfers Paradise and Maroochydore, have raised concerns that the changes to the time frames for the finalisation of electoral redistributions by the Queensland Redistribution Commission may result in a redistribution being finalised in the 60 days leading up to an election. On this point I note that section 35 of the Electoral Act 1992 provides for the deferral of a redistribution in certain circumstances. This section is unaffected by the amendments. It is not expected that a minor change to the time frames around the Queensland Redistribution Commission finalising the redistribution will significantly affect the time frames for redistribution as a whole.

Under section 35, where the last general election was an ordinary general election and the need for a redistribution was triggered more than 28 months after the writ for that election was returned, the commencement of the redistribution must be deferred until after the writ for the next general election is returned. This deferral mechanism ensures the electoral redistribution commission has a clear period of at least approximately 20 months in which to conduct a redistribution ahead of the next ordinary general election. This time frame recognises the need for electoral boundaries to be settled well in advance of an election, particularly given the need for the preselection of and community engagement by potential candidates. This amendment is not proposed because it suits the Labor Party agenda, as suggested by the member for Scenic Rim. As I indicated in my second reading speech, this amendment reflects the reality that there is increasing participation by stakeholders and the general public in the electoral redistribution process in Queensland, which this government welcomes. It will ensure objections received and public comments thereon are meaningfully considered by the Queensland Redistribution Commission ahead of the redistribution being published.

I also note in some of the most recent debates to this bill that issues were raised by some members opposite around postal votes and the changes around postal votes. I believe the insinuation was that if these amendments had been made earlier fewer seats would have been won by Labor. There was particular mention by the member for Buderim that the results for the Bundaberg and Nicklin electorates could have been different. Let's be clear: if you are relying on changes on postal votes to win an electorate, you need to rethink your strategy. That is not the basis on which you should be hoping to win. To be clear, these changes have been recommended by the Electoral Commission. It has put these proposals together to ensure more votes are counted and are not discounted as a consequence of the mere error of putting the ballot outside the declaration envelope as opposed to inside when all other elements are met.

My last point concerns the commentary around omnibus bills. First of all, the term 'omnibus bill' is a colloquial term that we all use. It does not sit in any of the standing orders of the Legislative Assembly, the sessional orders, the Queensland Parliamentary Procedures Handbook or the Queensland Legislation Handbook—or the Australian *House of Representatives Practice*, for that matter. It is a term used to say that we have amendments to an act that often also amend other acts. It is pretty rare to be changing just one single act and to not have whatever the bill is 'and other legislation'. The more legislation that is attached to it, the more it is known as an omnibus bill.

The fact is: an omnibus bill is anything that goes beyond just the core bill and makes other amendments to other acts. This has been going on for many years. In fact, under that definition, there were 62 omnibus bills under the LNP. The member for Clayfield moved a number of those, although of course he was outdone by the member for Kawana, who introduced 20 omnibus bills in their fewer than three years. I really do not think those opposite can come in here and carry on about omnibus bills.

If we were to split amendments into single, individual bills and split each issue within the same piece of legislation into separate bills, the committee process would be so bogged down that we would not get through the work. We need to bring these amendments together, because many amendments on their own, although they are very significant, as the ones we are dealing with today are, are not so comprehensive in the physical amendments to bills to justify a standalone bill in many cases. That needs to be pointed out because of, to be honest, the rhetoric we heard at the start of this debate about this being an omnibus bill. This is an important bill. Putting aside the arguments around it being omnibus and the comments around electoral law, I really appreciate the respectful way in which the very significant issues in this bill have been dealt with.

We all feel deeply when it comes to the loss of an unborn child. None of us can put ourselves in the shoes of a parent who has lost an unborn child, particularly at the hands of a criminal act. We can sympathise, but we can never say we how they feel. What we can do is do what we are employed to do and elected to do, and that is to make good laws, make a difference and listen to the community. Although I am sorry it has taken so long, it is done. Thank you to Sarah and Peter and their beautiful daughter Sophie.

The member for Capalaba spoke about other parents as well. There are other parents who are sadly in this position. Sophie's parents, who are in the gallery, are doing this not just for Sophie but so there is justice in the future for other families. We truly hope that in the future there are not families who lose an unborn child due to a criminal act, but if there are then it's Sophie's legacy that will make sure they have justice, so thank you.

I thank all the sexual assault victims who were not believed over the years, who were ignored and dismissed, who were treated differently under the criminal justice system, particularly women coming forward and talking about sexual assault, because their trustworthiness was questioned. It is very hard for male sexual assault victims to come forward too. We hope that this makes it just that bit easier to come forward, to shine a light on sexual assault and to encourage other victims to come forward so they can heal and others can be held to account. I commend the bill to the House.