




Speech By
Dr Christian Rowan

MEMBER FOR MOGGILL

Record of Proceedings, 5 March 2024

**CRIMINAL LAW (COERCIVE CONTROL AND AFFIRMATIVE CONSENT) AND
OTHER LEGISLATION AMENDMENT BILL; CRIMINAL CODE AND OTHER
LEGISLATION (DOUBLE JEOPARDY EXCEPTION AND SUBSEQUENT
APPEALS) AMENDMENT BILL**

 **Dr ROWAN** (Moggill—LNP) (6.20 pm): I rise to address the cognate debate on the Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Bill 2023 and the Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals) Amendment Bill 2023. The Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Bill was introduced into the Queensland parliament on 11 October 2023 by the Minister for Health, Mental Health and Ambulance Services and Minister for Women. Subsequently, it was referred to the Legal Affairs and Safety Committee for detailed consideration. This legislation seeks to implement a number of recommendations that have arisen from multiple inquiries, including the *Hear her voice* report from the Women's Safety and Justice Taskforce, the commission of inquiry into the Queensland Police Service and the Royal Commission into Institutional Responses to Child Sexual Abuse.

Turning to one of the key aspects of the legislation, for which it is named, importantly, the legislation will amend the Criminal Code to establish the criminal offence of coercive control. With the enacting of this legislation, the offence of coercive control will apply when a person commits domestic violence against a person they are in a relationship with on more than one occasion with the intention of coercing or controlling that person and the conduct would be reasonably likely to cause that person harm. I note that the offence will be limited to those in a domestic relationship, which refers to and uses the 'relevant relationship' definition from the Domestic and Family Violence Protection Act—that is, those in a domestic relationship that encompasses past and present intimate partner relationships, wider family relationships and informal care relationships. I note that the legislation will also utilise definitions of 'domestic violence', 'economic abuse' and 'emotional or psychological abuse' that are broadly consistent with the Domestic and Family Violence Protection Act.

Coercive control is simply abhorrent and has no place in a civil society. We have heard members from across the chamber speak to that today. It is a set of behaviours and a form of domestic violence that, at its very core, destroys victims through fear and intimidation and leaves victims feeling alone, powerless and utterly trapped. I acknowledge comments by the Legal Affairs and Safety Committee that there was general support for the new offence of coercive control. However, I also acknowledge that there have been significant concerns raised in relation to how this offence has been drafted by the state Labor government and what that will mean in practice for prosecuting the offence of coercive control.

I turn to another substantial change within the legislation, which is the amendment of the Criminal Code to insert an affirmative model of consent and the subsequent expansion of situations where consent is invalidated, withdrawn or not agreed to. Whilst the Liberal National Party shadow

Attorney-General has canvassed at length the substance of the issues that have arisen through the Legal Affairs and Safety Committee's consultation and examination of this proposed change, as the LNP shadow minister for education there is a specific aspect I wish to address.

I note that the Legal Affairs and Safety Committee made the specific acknowledgement that 'education and collaboration are the key to effective implementation of these systemic changes to Queensland's consent laws'. Accordingly, in its report, the Legal Affairs and Safety Committee stated—

The committee recommends the Queensland Government, in collaboration with the Department of Justice and Attorney-General, Department of Education, Queensland Police Service, Queensland Health, peak bodies from the DFV and sexual violence support sector, and First Nations and multicultural organisations, develop and implement an education campaign that includes material that is age appropriate, culturally sensitive and suitable for persons with impaired capacity, to support the proposed reforms. This campaign should increase awareness about the abusive nature and legal implications of technology-facilitated abuse and develop resources for online safety and digital literacy.

This is an important recommendation and one that the Labor state government must diligently implement. Such a substantive change to the Criminal Code deserves a well-resourced and appropriate community education campaign. I know Queenslanders would appreciate the Minister for Education further outlining—and I heard the contribution of the member for Bulimba—how these matters will be communicated, particularly through schools to students.

I acknowledge the proposed amendments within the legislation that will update the consent framework for the distribution of intimate images and prohibited visual recordings, which are also addressed in the committee's second recommendation. This is a serious matter and one that continues to be raised with me as the shadow minister for education. It involves online bullying by and of students, including the doctoring of images as well as the unauthorised distribution of images and recordings. I know that many students, parents, teachers and school staff have seen the work that has been undertaken by the government in this space with respect to students and schools, but certainly more needs to be done. From a personal perspective, recently I have seen a family member become a victim of cyberbullying and stalking. I am very concerned about the risk to young people and particularly school-age Queenslanders.

In my remaining time I wish to address the Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals) Amendment Bill 2023. In relation to the specific legislation, amendments will be made to both the Criminal Code Act 1899 and the Appeal Costs Fund Act 1973 in order to enhance criminal justice system responses to possible wrongful convictions and unjust acquittals. The explanatory notes state that this will be done by—

- establishing a statutory framework to allow a person convicted on indictment or of a summary offence under section 651 of the Criminal Code to make, with the leave of the Court of Appeal, a subsequent appeal against the conviction; and
- expanding the fresh and compelling evidence double jeopardy exception to 10 prescribed offences in addition to murder.

Specifically in relation to the double jeopardy exception and, again, as extensively canvassed by the LNP shadow Attorney-General, many within the Queensland legal community expressed concerns in relation to these changes and what it means for one of our legal system's most fundamental principles. However, what this does underscore is that the Queensland legal and judicial system must endure such changes due to the absolute chaos and heartbreak caused by the failures of the state Labor government, particularly when we refer to the forensic DNA testing processes and laboratory in Queensland. It must not be forgotten that this legislation is being debated because of the systemic failures of the forensic services DNA lab and the state Labor government.

It is shameful that the state Labor government, at virtually every turn and in the face of growing and insurmountable evidence, continually resisted and argued against the need for a fundamental review and investigation of the failings of the DNA lab. For the Labor government, this issue was more about managing the media perception rather than addressing the serious matters raised at the time and, in particular, providing support to Queensland victims and their families. In stark contrast, from the very start the Liberal National Party stood by Queensland victims, their families and the brave scientists who never wavered in their fight for justice. The failures of Queensland's forensic DNA testing lab and the denials, inaction and claims of playing politics that were levelled by the state Labor government mark a dark chapter in Queensland's history. It is in that context that this legislation is being debated in the Queensland parliament today.

It is unfathomable but, in the interests of justice for victims, fundamental legislative principles are having to be set aside to cover for the failures of the state Labor government and the devastating and ongoing consequences that have come from the forensic DNA testing debacle. These are the consequences of a state Labor government that has given up on working for the best interests of Queenslanders and, at times, has cared more about how things look than how they really are. There is no doubt that Queenslanders deserve better.