




Speech By
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MEMBER FOR NINDERRY

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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

 **Mr PURDIE** (Ninderry—LNP) (4.10 pm): I rise to contribute to the cognate debate on the Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals) Amendment Bill 2023 and the Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Bill 2023.

At the outset, I would like to pay tribute to the work of Sue and Lloyd Clarke and the Small Steps 4 Hannah Foundation for their tireless work to raise awareness of coercive control. The rate at which we see women and children die or suffer at the hands of domestic and family violence is far too high, and we are not seeing the progress we need to keep them safe.

An independent taskforce was established in March 2021 which recommended a systemic shift from focusing on responding to single incidents of violence to focusing on the patterns of abusive behaviours that occur over time. This government has been too slow and has failed to follow through on some 400 recommendations since 2015 to prevent DV and improve responses to it. Astonishingly, close to a decade later we are still covering the basics, skirting around the edges and cleaning up disasters like the DNA lab failure.

The objective of the Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals) Amendment Bill 2023 is to enhance criminal justice responses to possible wrongful convictions and unjust acquittals. It is clear that this bill is being introduced due to the failures in the Queensland DNA lab and the expected retrials needed. The bill seeks to expand the fresh and compelling evidence double jeopardy exception to 10 prescribed offences in addition to murder, all punishable by life imprisonment.

Legal stakeholders have pointed out how this legislative change as it relates to double jeopardy goes against fundamental legal principles. These new laws are seen to go to extraordinary lengths to overcome the devastating repercussions of the forensic lab debacle. At last update we heard that over 103,000 samples in 37,000 cases are possibly up for retesting as well. As well as impacts on cases, we have seen coronial investigations delayed and bodies unable to be identified and sent interstate.

The Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Bill 2023 amends over 10 pieces of legislation including the Criminal Code, the Evidence Act, the Domestic and Family Violence Protection Act, the Penalties and Sentences Act and the Youth Justice Act. I thank the Legal Affairs and Safety Committee for its examination of the bill. It describes the somewhat cumbersome bill in the report's foreword, which states—

This Bill is about change. Changing how we think about and treat consent. Changing how the criminal justice system responds to coercive or controlling behaviour. Changing how juries are to be directed, how first-time domestic violence offenders can be channelled towards rehabilitation, and what considerations exist when deciding bail and sentencing.

The bill introduces a new standalone criminal offence for coercive control and creates an affirmative model of consent in Queensland, meaning free and voluntary agreement can be withdrawn at any time. The bill also aims to abolish or reform particular jury directions and implement recommendations from the Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence report. The bill also allows a court to make an order to extend a police protection notice in exceptional circumstances.

I would like to quote the committee chair and Labor member for Toorak and challenge his inference that this government is the beacon of consultation and engagement. He refers to a government that has sat down with stakeholders, listened to the experts, heard the stories of victim-survivors and examined the facts, and claims this Labor government is making things happen so that no-one is left behind. As always, the government's rhetoric does not align with the truth. The Women's Safety and Justice Taskforce strongly recommended—

The Bill including the new diversion scheme should be released as a consultation draft for a period of at least three months before it is introduced into Parliament. This consultation should include legal, domestic and family violence, and Aboriginal and Torres Strait Islander stakeholders, and people with lived experience of domestic and family violence.

Instead, the bill's consultation draft was released on 18 July 2023 and feedback closed on 4 August 2023. Rather than the recommended three months, the consultation period was just 14 business days—14 days. This is not genuine consultation. This is not indicative of a government that is concerned with anything but lip-service and is further proof of a government that is more concerned about how things look than how they are. As the bill is drafted, the Queensland Law Society submitted that it would be too difficult for juries to understand and it will produce unjust outcomes. A government that continues with legislation that may produce unjust outcomes is far from a government committed to ensuring no-one is left behind.

The LNP members of the committee were of the belief that the committee's report did not adequately deal with issues raised by stakeholders. This is a worrying finding, especially when the bill introduces novel concepts to Queensland's legal framework and alters some well-established laws that have been subject to intense scrutiny by both the Queensland Law Reform Commission and this parliament. Not only did the government ignore the independent taskforce it proudly set up; it cut the consultation short, minimised those who participated, cherry-picked the feedback to suit its timeframes and left lawmakers scratching their heads.

Key themes in the discussion about the bill included legal definition of 'domestic violence', the protection of victims from being cross-examined by offenders, prevention of cross-applications which are used to further control and intimidate victims, and sexual offence terminology which sees a change from 'carnal knowledge' throughout the Criminal Code to 'penile intercourse'. That was the most contested issue by stakeholders. Legal Aid Queensland and the Queensland Police Union expressed concern about resourcing. The QPU anticipate an average of 10,000 cases per year, which will generate a minimum of 880,000 additional police hours—11 police officer days per file.

The *Hear her voice* report 1 raised concerns about the exclusion of the common law requirements. The Queensland Law Society stated that the new provision does not require specific intent at the time of each act alleged to constitute the course of conduct. This will result in protracted trials. This is not justice for victims, they said. Legal Aid Queensland states that for a major change to a serious criminal offence it would have been helpful to see further examination of the issue. Numerous stakeholders raised concerns regarding the broad criteria of harm constituting a lack of consent. For the public to have confidence in these new laws and to ensure injustice is not perpetrated, these issues must be addressed.

As has been repeatedly called for by the sector, a strong community education campaign, training and extra resources must occur prior to the proclamation of this bill and not later, when the government finds itself again in crisis and facing public outcry like we are seeing with the failed youth justice reforms. The Queensland Police Union indicated that in order to service necessary new domestic and family violence laws an additional 500 senior and specially trained police officers will be required. For a government that repeatedly ignores resourcing issues, this is a red flag. While there have been repeated calls to focus on prevention to ease enforcement requirements, the government has only spent four per cent of the \$7.1 million expenditure on domestic and family violence prevention initiatives.

The government should constantly have one thing at the top of mind—that is, 'How can we make our citizens feel safer in their homes, their workplaces and their neighbourhoods?' We have heard way too many times from victims that the barriers they face to reporting abuse can include the treacherous road they must take through the justice system. We must remove these barriers, not increase them.

While there are major deficits in drafting and challenges to common law principles, I concur with the committee's recommendations to make improvements where possible. The proposed changes in both bills will only be as good as the ability of the government to carry them out and monitor them effectively. I commend the bills to the House.