




Speech By
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MEMBER FOR CALOUNDRA

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RESPECT AT WORK AND OTHER MATTERS AMENDMENT BILL; CRIMINAL JUSTICE LEGISLATION (SEXUAL VIOLENCE AND OTHER MATTERS) AMENDMENT BILL

 **Mr HUNT** (Caloundra—ALP) (4.29 pm): I rise to make a contribution to the cognate debate on the respect at work bill and the sexual violence bill. I will confine my remarks to the former rather than the latter to coincide with the report handed down by my own committee. I would like to thank my committee: the ever-patient Peter Russo, member for Toohey; the ever-dynamic Jonty Bush, member for Cooper; the ever-captivating Sandy Bolton, member for Noosa; the ever-affable Mark Boothman, member for Theodore; and the ever-deliberate Jon Krause, member for Scenic Rim. The secretariat played its usual role, oscillating somewhere between being indispensable and just plain fantastic, and I thank them once again for their efforts.

The Community Safety and Legal Affairs Committee examined the Respect at Work and Other Matters Amendment Bill 2024. The primary objective of this bill is to promote respect at work and strengthen protections against vilification. The most significant changes proposed in the bill include amendments to the Anti-Discrimination Act 1991 that would: prohibit sex-based harassment in workplaces and subjecting a person to a work environment that is hostile on the basis of sex; and impose a positive duty to eliminate discrimination, sexual harassment and victimisation. To that end, the committee has made just one recommendation: that the bill be passed.

In recent times, the Australian Human Rights Commission conducted an inquiry into workplace sexual harassment in Australia. Its *Respect@Work* report, published in 2020, found that workplace sexual harassment remained prevalent and that the current system for addressing sexual harassment was complex and confusing for victims and employers to understand. More recently in Queensland, in 2021 and in early 2022, our committee conducted the inquiry into serious vilification and hate crimes, which it reported on in January 2022. Many of the committee's recommendations relating to legislative change were addressed in the Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023.

One of the primary objectives of the respect at work bill is to promote respect in workplaces across Queensland. To achieve this objective, the bill proposes to amend the Anti-Discrimination Act to: update its objectives; expand and update the attributes that it protects; clarify the kind of behaviour that it prohibits; create a new positive duty to prevent discrimination, sexual harassment and other behaviour prohibited by the Anti-Discrimination Act; provide the QHRC with strengthened powers to investigate and enforce compliance, including with the new positive duty; and make certain improvements to the complaints process, including in relation to representative complaints. The bill also proposes amendments to the Anti-Discrimination Act relating to vilification.

It should be noted in relation to this bill that, while the Anti-Discrimination Act already prohibits discrimination on the basis of sex as well as sexual harassment, despite the existence of such prohibitions, the Australian Human Rights Commission found that sexual harassment remained

widespread in workplaces across Australia. It suggested this was partly due to a disconnect between the existing prohibitions and the general public's understanding of them. To respond to this problem, the AHRC recommended the express prohibition of sex-based harassment and the creation or facilitating of an intimidating, hostile, humiliating or offensive environment on the basis of sex. In line with these recommendations, the bill proposes to amend the Anti-Discrimination Act to insert new prohibitions on such behaviour.

The bill proposes amending chapter 3 of the Anti-Discrimination Act to include a new prohibition of harassment on the basis of sex. This new prohibition would only apply in relation to work or work related areas. The bill provides that harassment on the basis of sex happens if a person: engages in unwelcome conduct of a demeaning nature in relation to another person; engages in the conduct on the basis of the sex of the person harassed; and engages in the conduct with the intention of offending, humiliating or intimidating the other person, or in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.

This will capture conduct which is done on the basis of: the other person's sex; a characteristic that a person of the other person's sex generally has; a characteristic that is often imputed to a person of the other person's sex; or the sex the other person is presumed to have, or to have had at any time, by the person engaging in the conduct—or, according to the great sage of Disney and Bambi's friend Thumper, 'If you can't say something nice, don't say nuthin' at all.' This is not to diminish this bill in any way, but it is not a bad rule of thumb in any case.

The bill also proposes inserting a new chapter 5C into the Anti-Discrimination Act which will establish a positive duty to 'eliminate, so far as possible, discrimination, sexual harassment, harassment on the basis of sex and certain other objectionable conduct'. The new positive duty would apply to 'all persons (including individuals, corporations and bodies politic, including the state) who, under chapters 2, 3, 4 and 5 of the AD Act, must not engage in discrimination, sexual harassment, harassment on the basis of sex and other objectionable conduct'. In practice, the positive duty will mean that people subject to it will be required to act proactively—and that is the key—to prevent prohibited conduct rather than merely waiting for complaints to be made. The explanatory notes state that the kinds of action that will be required will include—

- ensuring there are organisational policies in place that address the importance of respectful behaviour ...
- ensuring easily accessible information is available;
- conducting workplace surveys to measure knowledge and awareness of unlawful conduct like discrimination ...
- engaging in informal or formal disciplinary discussions with members of the organisation who are displaying conduct that may be disrespectful ... and
- managers and people in positions of leadership clearly and regularly articulating expectations of respectful behaviour.

None of those is untoward or even onerous for any organisation. While most stakeholders were supportive of the bill and its objectives, it is fair to say that some most certainly were not. Some faith-based organisations had concerns with the bill that seemed slightly out of step with the potential scope of the bill. While the Australian Muslim Advocacy Network suggested that, by improving protections against discrimination, the bill had the potential to promote freedom of religion, this was not typical of the feedback from faith-based submitters.

I will not name the individual institution concerned but one contended that the new prohibition on sex-based harassment and discrimination, as well as the new positive duty to prevent discrimination, would place a disproportionate and unreasonable burden on religious bodies, especially faith-based schools. The same submitter seemed to suggest that Christian groups would be forced underground if this bill were passed and that the very future of the Christian faith would be in jeopardy. For my part, I am very confident that Christianity in Queensland will survive this bill without having to resort to meeting in caves and drawing the shibboleth sign of the fish in the dirt to secretly identify themselves as Christian.

Mercifully, DJAG was able to advise that, in practice, the impact of the new prohibitions on workplaces, including religious schools, will be limited, given the existence of equivalent prohibitions in federal legislation already. For example, workplaces are already subject to an equivalent prohibition on hostile work environments under section 28M of the Sex Discrimination Act.

I am going to run out of time and be beaten by the clock, so I will simply say that no-one can argue that this is not a good outcome for Queensland.

Mr McDonald: You can extend the time.

Mr HUNT: Thanks, member for Lockyer, but I will give that a miss. On that basis, I commend the bill to the House.