




Speech By
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MEMBER FOR COOPER

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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**

 **Ms BUSH** (Cooper—ALP) (4.17 pm): I rise today to make a contribution to the cognate debate on the Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Bill and the Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals) Amendment Bill. It is great to be debating legislative reform like this in Queensland Women's Week. I think many of us would agree that it would be nice to keep the focus on aspirational things and high standards and hopes for all Queensland women and girls. We should be talking about things like economic prosperity, the gender pay gap, cultural contributions to Queensland that Queensland women have made and the great work that women are doing in STEM in Queensland.

The position of women in Queensland should always be coming from one of strength, hope and pride but, regrettably, we cannot ignore the evidence that every week a woman is killed in Australia through domestic and family violence and that women are usually the victims and men often the perpetrators. To be debating a bill that criminalises coercive control here in Queensland in Women's Week is symbolic. It is only happening because we have a Labor government in Queensland—a government that cares about women and, importantly, a government that backs up that care with legislative protections like this bill.

Of course, the issue of domestic and family violence is of great significance to me. As everyone in the House knows, my sister lost her life through an act of domestic and family violence when she was just 19 years old. I have said here before that grief is unique and it should not be compared. One of the complicating factors in a homicide that is not always present in other losses is the very public nature of that loss. After Jacinta died, a common reaction I received from friends, colleagues and random people in the street was, of course, 'Didn't you see anything?' Over the years I have thought so much about this because, yes, of course I saw things. I saw everything. I lived with him, too. I saw that he would not let her leave the house without him. I saw the love bombing followed by periods of silence. I saw that he was controlling finances and I saw that she stopped seeing her friends, so the question is not, 'Didn't you see anything?'; it should be, 'What could you have done with the stuff that you saw?' and the answer at that time was, 'Nothing,' because back then we were brought up on a diet of DV posters in bathrooms and at bus stops with images of women with black eyes and broken arms, and this formed our definition of what domestic and family violence was.

If you ask any copper from 20 years ago—10 years ago even—the response would be, 'Until someone has laid a hand on you, there's nothing we can do.' This bill—against a backdrop of many years of advocacy by the community, by victims, by survivors and by groups and the education and reform piece that has gone into this—will capture that pattern of behaviour that is, by definition, coercive

control and it will recognise that as a crime in and of itself. Like others, I want to commend all of the work of the victim-survivors, the agencies and the department. Many people, including in this House, have been involved in that and I celebrate us all in this.

The bill amends the Criminal Code to introduce a new offence of coercive control which will carry a maximum penalty of 14 years imprisonment. While I do appreciate that there will be prosecutorial challenges as the system adapts to that, it does send a really clear message to the community that there is no place for violence against women. The bill also amends chapter 32 of the Criminal Code to implement an affirmative model of consent. We know that the greatest challenge that comes up in a rape or sexual assault trial is not whether a sexual act occurred but rather whether consent was agreed to. This bill provides that consent means a free and voluntary agreement entered into between the parties and acknowledges that consent can be withdrawn at times. The bill further clarifies the circumstances in which consent is not given—for example, if the person does not say or do anything to communicate consent, if the person does not have cognitive capacity to give consent, if they are affected by alcohol or drugs to a point that they are incapable of consenting or withdrawing that consent, if they are unconscious or asleep or if they participate in an act out of fear or force of harm to themselves or others. The bill also ensures that stealthing is a crime. The act of removing a condom during intercourse without consent is a practice that unfortunately has been happening to people for too long.

The committee recommended that the bill be passed. We also made a couple of recommendations. One of them was around section 103ZZN(3) around the publishing of identifying material. The issue of cultural considerations was raised by some of the submitters. I acknowledge knowmore and others who raised that in committee hearings. I welcome the minister's proposed amendments to include a new section in the Evidence Act—a provision stating that the court may have regard to any cultural considerations relevant to the complainant or the applicant in considering whether to make a complainant privacy order.

The Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals) Amendment Bill is also being debated today. This was a bill that, again, our committee scrutinised and recommended be passed. The rule against double jeopardy is one that is central to our justice system. However, on rare occasions fresh and compelling evidence will arise that was simply not put in front of the jury during trial. Queensland has had an exception to the double jeopardy rule for murder for some years. I am aware that sexual violence support groups have put a strong case forward to expand those exceptions to crimes of sexual violence and this bill will expand the exception for the double jeopardy rule to an additional 10 serious crimes including manslaughter and attempted murder, rape and some aggravated sexual assault charges. I want to commend the department. It has done a lot of work on this bill. We often recognise the submitters, as we ought to, in this House, but the departments also do a lot of work in bringing this together and leading the consultation piece with relevant stakeholders, so I do really want to recognise it. Both of these bills will really strengthen our legal framework and I commend them to the House.