




Speech By
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MEMBER FOR MAIWAR

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CRIMINAL CODE (DECRIMINALISING SEX WORK) AND OTHER LEGISLATION AMENDMENT BILL

 **Mr BERKMAN** (Maiwar—Grn) (3.50 pm): I am very pleased finally to be standing here speaking in support of a bill to decriminalise sex work in Queensland. The Queensland Greens have long supported the full decriminalisation of sex work. It is the only regulatory model that ensures full industrial rights and safe working conditions. I strongly support the provisions of this bill that remove offences relating to the provision of sex work, abolish the licensing scheme and prohibit local councils from making planning regulations to treat sex work differently to any business.

It is now more than 30 years since the Fitzgerald inquiry recommended that police be removed from sex work regulation. The licensing scheme that we got in response was purportedly designed to protect sex workers from exploitation but, in reality, it criminalised basic safety strategies and worsened relations with police. Right now there are only 17 licensed brothels in Queensland, as I understand it, leaving around 90 per cent of the sex work industry in Queensland operating outside the legal framework—even more in regional areas. Sex workers in that 90 per cent cannot work together, use a driver whom another sex worker recommends, text another sex worker to check in between appointments or accurately describe their services in advertising. Repeated and unreasonable raids and police entrapment are common, and many sex workers say they find the rules practically impossible to follow.

In a survey of hundreds of sex workers conducted by Respect Inc, more than three-quarters said they would not make a police report under the current laws. One worker said—

I would be worried that I have outed myself to them, that I wouldn't be taken seriously, that I would be blamed for the way I am working. I would be more likely to make a report in NSW or the NT.

Meanwhile, the irony of these so-called 'anti-pimping' laws is that a handful of third-party brothel owners can more readily profit from sex work than individual sex workers wishing to work independently. This two-tiered approach is failing. Evidence from experts here and in other jurisdictions as well as firsthand accounts of sex workers show that the best way to protect sex workers' safety and rights is through full decriminalisation.

It is deeply disappointing that it has taken almost 4½ years to get here from the government's commitment to investigate models for decriminalisation. I genuinely hate to think how many sex workers have dealt with violence they could not report for fear of criminalisation, being targeted by police or slapped with a criminal record for using basic safety strategies at work, waiting for these laws. I support those submissions that have asked the government to adopt a commencement date of no later than 1 July this year. I strongly urge the government to take that on board. We have been umming and aching on this for long enough. Commencement should happen as soon as possible.

Stakeholders have also expressed disappointment, which I share, that police will continue to be involved in enforcing the adult entertainment code which, although in theory applies to venue permits, tends to focus on the actions of strippers themselves. The government has indicated that the Office of

Liquor and Gaming Regulation will review the regulatory scheme for adult entertainment as well as liquor licensing rules around sex work venues but, in the meantime, strippers still have to deal with disproportionate police involvement in their workplace. If we are genuinely committed to decriminalising sex work then strippers should not have to wait another 4½ years for reforms.

If we are genuinely committed to decriminalisation, we should also be expunging previous convictions for sex work. As Respect Inc points out, even after this bill is passed not only do people with a recorded conviction for sex work offences have to live with that record but their friends or family could be liable for consorting offences under the Police Powers and Responsibilities Act. A number of stakeholders expressed their support for a spent conviction scheme, including the Queensland Law Society. As Children by Choice said in their submission, a scheme like this recognises the systemic injustices inherent in criminalisation of sex work, fosters trust between sex workers and the criminal legal system to enhance cooperation and represents a step towards justice and recognition.

However, there is some progress in this bill for people with a previous conviction for sex work. The changes to the Anti-Discrimination Act are greatly needed to send a clear message that people engaged in sex work, whether now or in the past, deserve protection from discrimination. In the submissions to this bill, countless sex workers told about their experiences with discrimination. Auden wrote—

I have also experienced discrimination and have been evicted from hotels upon discovery that I am a sex worker. When visiting Mackay I was approached by hotel reception after midnight and asked to leave upon discovery that I am a sex worker, there was no other accommodation available at this time and I had to beg the staff to let me stay until morning as otherwise I would have had nowhere to go.

This illustrates just how important it is that this bill removes the exemption allowing accommodation providers to discriminate against sex workers.

The Queensland Human Rights Commission was particularly supportive of this change, saying the current exemption 'unreasonably limits the right to equality and the right to privacy of sex workers, including the right not to have a person's home arbitrarily interfered with, such as through eviction'. The Anti-Discrimination Act also currently uses the euphemism 'lawful sexual activity' to refer to a person's protected status as a legally employed sex worker. The Queensland Law Reform Commission recommended that this be replaced with a protection against discrimination on the basis of sex work activity. Unfortunately, this bill as drafted does not fully implement that recommendation. It protects 'sex work activity' but defines this as the provision by an adult person of sexual services. That means that people under the age of 18 are excluded from this protection under the Anti-Discrimination Act. In fact, they will end up with less protection than they have under the current laws. They will lose their ability to make a complaint for discrimination. A huge number of stakeholders raised this in their submissions and it is, frankly, bewildering that the committee has not dealt with it in its report.

Respect Inc, Micah, Children by Choice, the United Workers Union, the Queensland Council for LGBTI Health, the Human Rights Commission and more all said that 'adult' should be removed from the definition in order to ensure under-18s are protected. The Human Rights Commission points out that the current definition is inconsistent with other definitions of sex work throughout this bill and introduces unequal protection of the law into the Anti-Discrimination Act based on age. The commission gives an example that someone has engaged in sex work when they were 17, is now 20 years old and working in a bookstore, where their employer finds out and fires them because they become aware of their previous sex work. As this law is drafted, they would not be protected from discrimination in that instance.

Respect Inc point out that young people who engage in sex work are often disproportionately marginalised and vulnerable people. They are more likely to be queer and in unstable housing. It is crucial that they are afforded at least the same protections under our anti-discrimination laws as adults. The government should move amendments to fix this.

While the bill does fully decriminalise sex work, on the other hand it inserts new offences into the Criminal Code regarding the procuring, enabling or otherwise benefiting from sex work by a child as well as procuring sex by coercion. While obviously I support measures to prohibit such activity, I share stakeholders' concerns that these could retain a role for police in the regulation of sex work beyond that experienced by people in other industries. I agree that the government should further clarify that these provisions are not intended to increase police surveillance of young sex workers or their friends and family.

Finally, I want to reiterate calls from a huge number of stakeholders for a properly resourced and culturally appropriate education campaign to be led by Respect Inc, as the peak body representing sex workers in Queensland, to share information about the legislative changes and address the stigma that sex workers currently face. There is little doubt that the lack of accurate information about sex work in

Queensland contributes to stigma and associated harm to sex workers. The criminalisation of sex work is inextricably linked with social marginalisation, stereotyping and sensationalism. As one 29-year-old sex worker submitted to the committee, criminalisation has sent the message that—

... we are not to be trusted, we are criminals. It gives the impression we can be treated badly and there will be no reproach. It tells police they don't have to take our experiences seriously. We are vilified in the media and people have a warped idea of who we are and why we do our work.

At the end of the day, it is sex workers like those at Respect Inc who have fought for and won this landmark reform. They have spent decades navigating complex, unfair laws that were always based on archaic, stigmatising myths about sex work. They have built networks and resources to support their peers despite facing criminal sanctions for working together.

There is much work ahead to ensure that everyone benefits from these laws, but every single person who has worked on this should be proud that soon sex work will be recognised as work, not as a crime.

(Time expired)