




Speech By
Peter Russo
MEMBER FOR TOOHEY

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MAKING QUEENSLAND SAFER BILL

 **Mr RUSSO** (Toohey—ALP) (4.56 pm): I rise to speak to the Making Queensland Safer Bill 2024. The bill, when enacted, will dispense with the principle of detention as a last resort for children and give the same minimum, mandatory and maximum sentences that currently apply to adult offenders. At this stage of my contribution I want to acknowledge that the LNP took this policy to the Queensland public during the recent election.

The German word *verschlimmbesserung* sums up what this legislation will do. The meaning of that word is an intended improvement that makes things worse. While there is no doubt that the commission of serious crimes by anyone of any age is serious, it needs to be met with appropriate penalties. The proposed legislation does not provide a proper moral basis for a penalty. The bill goes too far.

The situation in Queensland is not exceptional; it is undoubtedly not so phenomenal as to make it desirable to act outside the Human Rights Act's protective mechanisms. The situation in Queensland is the same as it is in every other state in Australia. It is not principled or intellectually refined to take the government's proposed measures which place Queensland squarely outside international best practice. As a lawyer with over 30 years experience working in the criminal justice system, I believe that any reform to criminal law should be evidence based. I am concerned that we are in a position where we are acting against the weight of evidence and not listening to the experts in the field. I am worried that if we let this removal of human rights go through this time, how easy will it be for others to use the same exceptional claim?

While contributing to the debate, I will try to summarise what I believe I heard from stakeholders involved in the Making Queensland Safer Bill 2024. I have expanded on some of the aspects of what stakeholders told the hearing and the written submissions we received. It was sad that the hearing was cut short and we did not hear from the Victims' Commissioner, whose role it is to anticipate the needs of victims. However, it was not important enough to contribute to the bill. The government pays lip-service to putting victims first.

We heard from victims in both Brisbane and Townsville, including individuals and families affected by crime, who, in summary, were looking for better support and justice. Seeking justice is quite complicated and seeking justice in the current climate may not be achievable. However, I am sure the Victims' Commissioner would have been able to provide valuable insight into how to meet the expectations, but an invitation was not extended to the commission. Legal and social services organisations were concerned about the lack of evidence supporting the changes the bill seeks to achieve. Both these organisations were concerned about the negative consequences, which I will expand on in more detail later in the debate on this bill. Stakeholders expressed various concerns and interests about how the bill will be implemented, the effectiveness these changes will bring and the unforeseen consequences outlined by stakeholders at the coalface when dealing with youth and

supporting services in this space. The Australian Human Rights Commission in its submission to the committee on this bill said—

... article 40 of the CRC—

the Convention on the Rights of the Child—

... requires Australia to ensure its criminal justice responses for children are age-appropriate, proportionate, and rehabilitative.

The principle of proportionality means that mandatory sentences of any kind, and particularly of detention, contravene the CRC. They also have a disproportionate impact on First Nations peoples.

Imprisoning children for disproportionate periods has never been shown to make communities safer or reduce crime rates. What it does do is disadvantage the marginalised, including First Nations people, disproportionately.

Let me first speak about the United Nations Convention on the Rights of the Child. The Attorney-General has said that the provisions in the bill are incompatible with human rights and, therefore, in this 'exceptional case' the Human Rights Act is overridden. I want to let everyone know how many rights the government thinks it is okay to ignore: the child's right to the protection that they need because they are a child and that is in their best interests; the child's right not to have their home or family unlawfully or arbitrarily interfered with; Aboriginal and Torres Strait Islander children's right to enjoy and maintain their identity, cultural heritage, kinship ties and land connection; the child's right to be treated with humanity and respect for human dignity when detained; the child's right to rehabilitation; the child's right to a speedy trial; and the child's right to be treated in a way that is appropriate to their age. Professor Tamara Walsh from the University of Queensland in her submission said—

Protecting children's rights is not inconsistent with the goal of community safety, nor does it mean that children should not be held accountable for their actions. We must ask why children offend in the first place, and recognise that children who commit offences have high and complex needs. If we want them to stop offending, we need to meet their basic needs and address the underlying causes of their offending behaviour.

Mr Hunt interjected.

Mr RUSSO: I am also concerned that the maximum penalties and the imposition of mandatory periods of imprisonment will lead to more youth offenders being less likely to plead guilty.

Mr Hunt interjected.

Mr RUSSO: They may instead take their chance to have a jury acquit them.

Mr Hunt interjected.

Mr RUSSO: This then will have a flow-on effect of increasing the number of trials as opposed to sentencing, which will also delay the victims and their families getting an outcome and closure.

Mr Hunt interjected.

Mr RUSSO: When you made your contribution I did not interrupt you—

Mr DEPUTY SPEAKER (Mr Martin): Pause the clock. Member for—

Mr RUSSO:—so show the respect that you should in this House.

Mr DEPUTY SPEAKER: Member for Toohey—

Mrs Gerber: Jesus!

Mr DEPUTY SPEAKER: You will stand up and withdraw that.

Mrs GERBER: I withdraw.

Mr DEPUTY SPEAKER: I understand that there is a lot of passion in the debate. Member for Toohey, I would ask that you keep directing your comments through the chair. Member for Nicklin, there will be no more interjections from you or you will be warned.

Mr RUSSO: Sentencing will also—

An opposition member interjected.

Mr Hunt interjected.

Mr DEPUTY SPEAKER: Pause the clock. Member for Nicklin, I just brought it to your attention that you would be warned. You did not give it any more than five seconds, so you are warned, but you can leave the chamber for one hour.

Whereupon the honourable member for Nicklin withdrew from the chamber at 5.04 pm.

Mr RUSSO: The current law already provides for severe penalties for juvenile offenders. For example, a child who commits an offence of murder can be sentenced to a detention order for up to 10 years or life detention if the offence is considered particularly heinous. If sentenced to life detention, the child is not eligible for release for 20 years. This means that, under the current law, a 10-year-old who commits certain types of murder will not be eligible for parole until they are at least 30 years of age.

I do not believe this bill reflects an understanding of the juvenile justice system, the causes of juvenile offending or the evidence concerning the impact of incarcerating young offenders. This bill does not correctly consider factors leading to youth offending—for example, exposure to domestic violence and poor access to health, education and housing—and nor does it consider the high number of youth offenders who have high levels of physical, cognitive and neurological disabilities or those who have ADHD, autism spectrum disorder, traumatic brain injuries, learning difficulties and mental health issues.

Programs that aim to prevent young people from entering the youth justice system or to divert them from a path of crime are essential for the protection of the community and for the rehabilitation of young people. The government has talked about gold standard early intervention, but on my view of this they are empty words and we are yet to hear details on how this will work and what it will be. It is not only my view but also the view of many people who made submissions that the punishments imposed under this bill will not work.