Speech By

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## MEMBER FOR MAIWAR

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## COMMUNITY PROTECTION AND PUBLIC CHILD SEX OFFENDER REGISTER (DANIEL'S LAW) BILL

**Mr BERKMAN** (Maiwar—Grn) (8.24 pm): I rise to contribute on the Community Protection and Public Child Sex Offender Register (Daniel's Law) Bill. As pretty much every speaker has noted, this bill is named in memory of Daniel Morcombe, the son of Bruce and Denise Morcombe. Also, like pretty much every other member, at the outset I want to acknowledge the relentless advocacy of Bruce and Denise and thank them for their work over decades, recognising this is work they did despite dealing with the unimaginable loss of their son in truly unspeakable circumstances. The Daniel Morcombe Foundation is an incredible resource that provides free education and resources on child safety and direct counselling support to children who are victims of crime.

The purpose of this bill is said to be to increase general community awareness of and vigilance around child safety and to reduce the risk of harm to children. Of course, I, like everyone here, wholeheartedly support that intent, but we as legislators have to be clear-eyed about the reality that there is next to no evidence that a publicly accessible register of reportable offenders reduces offending against children. There is a risk that these schemes may even increase recidivism. All children deserve safety, and any child safety being compromised is devastating and unacceptable. That is why the intensive resources required to implement and maintain the public registers could be better used and diverted to interventions that we know actually work.

I will not go over it in too much detail because so many others have, but this bill sets up a three-tier public register of reportable offenders who are adults convicted of sexual offences against children, including both contact and non-contact offences. People included on the register will not be notified of their inclusion or provided with an opportunity to make submissions in relation to their registration, nor will the victims of their offences.

Tier 1 is intended to be a public website listing identifying details for offenders who are noncompliant with supervisory orders and whose whereabouts are unknown to police. It is accessible to any member of the public. Tier 2 enables Queensland residents to request a search of their locality. That search would return photographs of offenders whom the Police Commissioner has deemed a serious risk as well as offenders covered by other relevant supervision orders who are in their area. Importantly with tier 2, locality is not defined or limited, so it is within the commissioner's discretion to widen or narrow the area subject to a search. The third tier provides a scheme for parents and guardians to request disclosure of a person's reportable offender status where they have had or will have unsupervised contact with their child.

Several well-respected stakeholders raised concerns about the implementation of this scheme. To be clear, this is not a case of arguing in favour of offenders' rights at the expense of the protection of children. There are genuine concerns about whether these reforms are capable of achieving their purpose and whether there is a real risk of increasing recidivism rates and vigilantism. Perhaps the most common thread throughout the submissions and during the committee hearings was in relation to the scheme creating a false sense of security. Other members have spoken of this. We know that most

childhood sexual abuse is perpetrated by someone known to the child, with 88 per cent of women and 82 per cent of men who experienced childhood sexual abuse knowing their perpetrators, the most common perpetrators being members of their family.

The trope of a monster who lurks in the shadows is counterproductive in terms of the community's understanding, and it fails to recognise the reality of offending. Moreover, a majority of people who disclose experiences of childhood sexual abuse do so as adults, with the average time to disclosing being almost 24 years, during which time the offender clearly cannot be included on this register. ABS data suggests that 84 per cent of offending against girls is never reported to police and 99 per cent of offending against boys is never reported to police. For those who do report, even fewer result in convictions. Again, the vast majority of offenders could never be included on any public register like the one proposed in this bill. As a result, the registers are not capable of responding to or preventing the vast majority of child sexual offending. There is a real concern that relying on the registers and perpetuating stereotypes about people who commit sexual offences against children as being strangers may actually result in decreased vigilance—

**Madam DEPUTY SPEAKER** (Dr O'Shea): One moment, member for Maiwar. The background noise in the chamber is too loud and I cannot hear the member's speech.

**Mr BERKMAN:** As I was saying, perpetuation of these false stereotypes, these myths, may actually result in decreased vigilance to the more likely threats as they exist. We have heard from a number of members in this debate about the false sense of security, but it really struck me just how little attention that issue, among others, got in the committee's report. As a member of this committee, I cannot overemphasise how important the work is. I think the least we owe Queenslanders and the least we owe this parliament is for the committee's interrogation of legislation like this to really drill down, identify the issues and report back honestly about what we find. A single dot point mention of the risk around a false sense of security falls well short of what parliament and Queenslanders should expect of us in committees.

Another point along these lines is the very limited evidence of effectiveness and the risk that it undermines rehabilitation. Queensland already has legislative mechanisms in place to exert significant control over the lives of registered offenders, especially those deemed dangerous prisoners, and to restrict any chance of contact with children. Similarly, there are circumstances in which information on the existing public register can be released to relevant people. I have heard other members refer to this being evidence-based reform, but it is true to say that there is no evidence that public sex offender registers reduce offending—not in the United States where they have been in effect since 1994 and not here. The Western Australian scheme, on which this bill is partly modelled, has driven no demonstrable reduction in offending rates.

On the other hand, there is some evidence to suggest that public registers may actually increase recidivism. This is consistent with the evidence of those who work closely with offenders. For example, the Prisoners' Legal Service foreshadows that registrants 'will face significant challenges relating to employment, housing, harassment, stigma, fear and vigilantism, which can cause behavioural dysregulation and increase risk'. Similarly, registrants may face increased barriers to accessing critical support services.

Other submitters detailed concerns about basic principles of natural justice and procedural fairness not being followed. This is particularly significant in circumstances where the commissioner is tasked with deciding what level of risk a person presents in the community and will be asked to do this without any input from the person themselves, including how registration may impact their prospects of rehabilitation through access to services. The idea of procedural fairness here is not about giving offenders a chance to evade consequences; it is about ensuring that decision-makers have the information they need to make good decisions for the benefit of the community.

Importantly, this scheme may also have significant unintended but predictable consequences, particularly by creating a real risk that the identity of victims could be inadvertently disclosed, noting that the majority of offenders are known to the victims or may be family members. There is no provision in the bill for victims to share their views with the commissioner on any part of the public register or their decision-making under the scheme.

Others have spoken on vigilantism. I will not go into detail here, but I want to note that, while there are new specific offences for harassment, intimidation and incitement and for misuse of information on the register, these only relate to the offender and not people associated with the offender. Again, those people close to offenders on the register, and potentially victims of offenders on the register, are not offered the protections as they relate to vigilantism.

Finally, as many submitters pointed out, the register will require significant resourcing. The $10 million set aside to implement the register could instead be diverted towards evidence-based prevention strategies. In its submissions, PeakCare advocated for increased investment in and support for preventive education to assist families and communities to identify, prevent and respond to the risks of harm. We also clearly need to see increased investment in trauma informed and culturally safe rehabilitation programs, as well as access to sexual offending treatment programs in prison and by expanding throughcare programs.