COMMUNITY PROTECTION (OFFENDER REPORTING) AMENDMENT BILL 2024 (No. 56)

Second Reading

[4.31 p.m.]

Mr ELLIS (Braddon - Minister for Police, Fire and Emergency Management) - Honourable Speaker, I move -

That the bill be now read a second time.

The Community Protection (Offender Reporting) Amendment Bill 2024, known as Daniel's Law, will strengthen community safety by tightening reporting and monitoring requirements for known sex offenders, and significantly improving the collection and sharing of information under the *Community Protection (Offender Reporting) Act 2005* to better prevent sexual harm.

Sexual offending is a devastating crime that shatters the lives of victims, with far-reaching impacts that ripple through families, communities and society. For children, the trauma is especially profound as they are uniquely vulnerable due to their dependence, limited understanding of consent, and emotional immaturity. The damage extends beyond the survivor, eroding trust, safety, and justice in our communities. These harms can span generations, impacting loved ones, caregivers, and even professionals. As a society, we have a responsibility to support and listen to victim-survivors and take decisive action to prevent further harm.

In December 2003, 13-year-old Daniel Morcombe, who was living with his parents and brothers in the town of Palmwoods on the Sunshine Coast in Queensland, was abducted and murdered by a twice convicted paedophile. Since 2014, the Morcombe family have advocated for increased access to sex offender registers across Australia. I acknowledge their advocacy and the resilience of the Morcombe family through the Daniel Morcombe Foundation, and its supporters, which is now in its 20th year.

Queensland has released a sex offender registration scheme bill this week on the 20th anniversary of the foundation. The bill in Queensland is to be known as Daniel's Law, in honour of the Morcombes' son, Daniel. In Tasmania, we hope to stand with them and other states and territories in the future who will act in Daniel's name to keep children safe.

By way of background, the *Community Protection Offender Reporting Act* was introduced to implement sex offender registration in Tasmania as part of a framework of statutory registration schemes of sex offenders across Australia. The act requires the Commissioner of Police to establish and maintain a Community Protection Offender Reporting Register and to appoint a registrar for this purpose. The register is a confidential record of personal information reported by people who have been convicted of a reportable offence under the act who at the time of sentencing had been ordered by the court to be registered.

The act requires a reportable offender to keep the registrar informed of their whereabouts and other personal details for the duration of the registration order made by the court. In Tasmania, there are just over 400 reportable offenders currently recorded on the register. As part of the national approach, no matter where in Australia a person is recorded on a register, persons with court-imposed reporting obligations cannot avoid or circumvent these obligations

by moving interstate. Instead, they become a corresponding reportable offender and are monitored in their new state of residence under corresponding legislation.

The act's inception in the early 2000s was offender-centric, written in such a way as to be highly protective of the information recorded on the register, making the circumstances in which information can be disclosed highly restricted. The current limitations of disclosure prompted Judge Turnbull of the Federal Circuit of Family Court of Australia to make a referral in January 2023 to the Commission of Inquiry into the Tasmanian Government's Response to Child Sexual Abuse in Institutional Settings about the restrictive operation of the confidentiality and release of information clauses in the act. Judge Turnbull requested the legislation be reviewed to ensure it is properly protecting children by allowing for information on reportable offenders to be readily accessible by child safety services to determine whether children coming to notice were at risk of sexual abuse.

Although the act has been amended on two previous occasions, once to include the provision to make Community Protection Orders under section 10A and on another occasion to recognise corresponding orders, no significant review of the act has been undertaken since it commenced. Issues and limitations with the practical operation of the act to effectively monitor offenders and to prevent the further offending given technological and other advances, have become evident. Additionally, our understanding of how sexual offences are committed has changed significantly.

We now have a better understanding of the complexity of these matters, and we need to have legislation that can be used effectively to prevent known sex offenders from committing these heinous crimes. We need legislation that can be used to actively protect children and the community from the devastating consequences of sexual harm.

In developing this bill, the government looked in particular to the disclosure model that was introduced in Western Australia. Since the bill has been introduced, it is encouraging to see equivalent reforms more recently being implemented in South Australia and also announced in Queensland. These jurisdictions have followed a three tier disclosure model that is based closely on Western Australia's successful approach.

The bill seeks to achieve a shift away from the offender-centric legislation to the act that upholds and strengthens protection for our children and our community. The long title of the act is being amended to reflect this reframing and will add an express objective of protecting children and allowing information on the register to be disclosed for the safety and protection of children and the community. This will ensure that the court will consider the protection and safety of our community as a priority and will ensure the act is consistent with contemporary national and international principles of child protection.

An order of the registration of a reportable offender is currently not mandatory at the time of sentencing. The bill will make changes to Section 6 of the act by removing the court's discretionary power to make an order for registration and replacing it with a new requirement to cause a person who has been sentenced to a reportable offence to be registered and comply with their obligations under the act. This requirement will be balanced with new provisions that give the court discretionary powers when deciding to make a person a reportable offender if the person is sentenced for a class 1 offence and the court is satisfied that they do not pose an unreasonable risk to the community, or if the person is sentenced for a class 2 or 3 offence

and the court is satisfied that exceptional circumstances exist that indicate the person does not pose a risk to the community.

In deciding when exceptional circumstances exist, the bill will insert a new provision that requires the court to give paramount consideration to the safety and protection of children and the community. Currently, the courts can consider a number of factors in making an order for the registration of an offender. These considerations will be expanded to allow the courts to consider an offender's prior convictions and previous reporting orders and any pattern in the commission of offences indicated by that history.

This is an important amendment that addresses contemporary understandings of how offenders perpetrate sexual and other serious offences, particularly in recognising patterns in behaviour that provide vital clues to the potential for future offending. Section 10A of the act enables the commissioner to make an application to a magistrate for a community protection order in circumstances where the commissioner is satisfied that a reportable offender poses a risk to the safety and wellbeing of any child.

A community protection order prohibits or restricts the movement or conduct of reportable offenders. The bill includes new provisions that expand the conditions that the court may impose on a reportable offender under a community protection order that has been applied for by the Commissioner of Police. Currently, the conditions that can be imposed include limiting the reportable offender from consuming intoxicating liquor or restricting the offender from making contact with specified person or persons among others.

These conditions will be expanded to include restricting the reportable offender from accessing the internet. We know that heinous crimes are committed online, such as the grooming of children and young people. That is why restricting a reportable offender's access to the internet is paramount to protecting the safety of our children and young people online. The new provisions will also allow the court to impose tougher conditions such as requiring an offender to submit to electronic monitoring and to surrender their passport to Tasmania Police. The ability for the court to impose these conditions is important to limiting the movements of reportable offenders within and outside Tasmania.

In recognising the need to take a therapeutic approach for young offenders, the bill makes several changes to the registration of children and young people who have committed reportable offences. Section 6 will be amended to allow the court to omit making a child a reportable offender where the court is satisfied that the child does not pose an unreasonable risk or of committing another reportable offence. Section 23b of the act, which deals with the variation of reporting obligations of young reportable offenders, will also be amended to include the considerations of whether the young offender poses an unreasonable risk to the community.

Further, the class 1, 2 and 3 offences will be amended to recognise the difference in children being involved in the production of child exploitation material in circumstances where they are taking selfies or consensual pictures, as opposed to adults who make, possess or produce child exploitation material. Currently, a reportable offender under the act is not prevented from applying for or engaging in child-related work. In light of the commission of inquiry, this lack of restriction on reportable offenders poses an unacceptable risk to Tasmanian children and is out of step with community expectations.

Other jurisdictions, including South Australia, the Australian Capital Territory, Northern Territory and Victoria have provisions that prohibit reportable offenders engaging in child-related work. To bring the act in line with these jurisdictions and with our own community expectations, the bill will introduce a new part 2A, which deals with child-related services and the disclosure of information in relation to the charges. The new section 15B will automatically exclude reportable offenders from working in child-related services. The provision will only apply to a reportable offender who is not a child or who is not a child at the time of the relevant offending. This is an offence-creating provision. It will be a defence if the defendant can prove that they did not know that it was a child-related service.

The new part will also provide for the commissioner to require a charged person to provide information about whether they are engaged in any child-related services and whether they have any reportable contact with a child. The commissioner will also have the ability to advise an employer or prospective employer of a charged person that the person has been charged with a reportable offence and to provide the details of that offence. The commissioner will have the same ability in relation to any parent, guardian or carer of a child with whom the person has reportable contact.

Under the new part, a person who is charged with a reportable offence and who also engages in the provision of child-related services will be required to disclose to their employer that they have been charged with a reportable offence within seven days of being charged with that offence. Anyone who receives an information disclosure under the new part will not be permitted to disclose the information to any other person other than in certain circumstances, including court proceedings, obtaining legal advice or for the management of the person who is the subject of the disclosure. It will be an offence to disclose that information for any reason other than the prescribed purposes.

The bill will provide for new reporting obligations for offenders. Section 17 of the act, which deals with the personal details that a reportable offender must provide to the registrar, will be expanded to provide that a reportable offender must share their relationship status and details of their partner, as well as details of any electronic monitoring that they are subject to.

The amendment will also require that a reportable offender is to present to the registrar any working with vulnerable people card issued to them. I want to make it clear at this point that we are taking as many precautions as possible to ensure the protection of children. Whilst we have processes in place to restrict reportable offenders for gaining a working with vulnerable people card, we are adding these extra protections to ensure that in the event that a card is issued it must be disclosed by the offender.

Section 18 of the act will be substituted so that, in addition to the requirement to report annually to the registrar, reportable offenders will be required to report at such other times as directed by the registrar. Additionally, reportable offenders will be required to report on any intended absences from Tasmania, which would include details of their travel, reasons for travel, and details of location and travel companions, among other things.

We are taking a tougher approach to tracking reportable offenders' whereabouts to ensure that they are fully scrutinised in their movements and to restrict their opportunities to reoffend. The bill will also amend the length of reporting periods as prescribed under Section 24 of the act. With regard to reporting periods, the court will have some discretion to shape an order depending on the scale of offending and reflecting the severity of the offences.

If a reportable offender commits a single class 1 offence, the court will be able to impose a reporting period between three years and eight years. Where the offender commits one class 2 or one class 3 offence or more than one class 1 offence, the reportable period will be a period between eight years and 15 years as determined by the court. For serious offences outlined in section 24 (3)(a) or (b), or for the offence of persistent sexual abuse of a child under Section 125A of the Criminal Code, the order length will be between 15 years and life as determined by the court.

The amendment will also clarify that the court may consider previous convictions in determining the length of the reporting period. These changes will effectively impose a minimum reporting period on offenders depending on the offences they commit. This is an important step in recognising the real risk that offenders pose to children and to the wider community through potential for them to reoffend.

In recognition of the fact that a reportable offender's circumstances can change throughout their reporting period, the bill will insert a new section, 27A, to provide that the commissioner can suspend or revoke reporting obligations under certain circumstances. These circumstances include where the offender was a child for the last offence that made them a reportable offender, where they have cognitive or physical impairment, or where they have a mental illness. These conditions will not be qualified by the commissioner's satisfaction that the offender does not pose an unreasonable risk of offending again. The commissioner will be required to give written notice of a suspension or revocation, and the revocation or suspension will take effect when the notice is served.

The bill will introduce a new disclosure scheme that will allow concerned parents and carers to apply for information on the register about people who have unsupervised contact with their children. Necessary amendments are also made to ensure that the commissioner can disclose information on the register for this purpose. It will empower parents, guardians and caregivers to ensure that they can access the information they need to make informed decisions to protect their children.

The bill will also allow the commissioner to release the personal details of a reportable offender to the community when the whereabouts or location of that offender is not known. This is to ensure the safety of our children and our community and that that safety is paramount.

The bill will balance this disclosure scheme with a new offence that prevents anyone from publishing, distributing or displaying information from the register without the written approval of the minister. It will also introduce a new offence against public conduct that intends to cause harassment of a reportable offender whose information is disclosed under the act.

We received a large amount of community feedback on this particular issue. I would like to thank all those who raised concerns with the proposed offence, and I want to assure you that we have listened. As a result, we have removed the word 'animosity' and altered the wording of the provision so that it clearly reflects the intended purpose that is only to apply to information recorded and disclosed under the act, and not to apply in any way to victim-survivors who wish to make public comment about the abuse that they have suffered.

The feedback on this provision and subsequent amendments of the bill demonstrates the powerful value of public consultation in legislation drafting processes. Again, I thank all those who provided feedback on this bill. I assure the community that the intent of the provision is

to balance the right to privacy and safety of reportable offenders with the new disclosure scheme established under the bill that creates a free flow of information for the purposes of child protection. It is in no way designed to silence the voice of victim-survivors.

As it is currently drafted, the act restricts the exchange of information on the register for law enforcement and child protection purposes, including between other government agencies. This bill therefore includes changes that will make it easier for Tasmania Police to share information on the register for law enforcement and child safety purposes. Section 44 of the act will be amended to define relevant agencies for the purposes of information disclosure. That will include the commissioners of the Australian Federal Police and the police forces of another state or territory.

The new definition of relevant agency is expanded to include other government authorities of the Commonwealth or of the state or territory, including government agencies within Tasmania which are responsible for the protection of children or reportable offender management. These changes are necessary and important for strengthening our capability to support national objectives to enhancing child safety.

The bill will amend a number of offence provisions to provide for tougher penalties. If a reportable offender fails to comply with their obligations under the act, they will be liable to a fine of not exceeding 200 penalty units or imprisonment for a term not exceeding three years, or both. The same increase in penalty will apply to the offences of failing to comply with a community protection order or interim community protection order, and the offence of providing false or misleading information. The offence of failing to comply with the act will attract the same increased penalty.

The bill also introduces new powers for Tasmania Police to monitor and ensure compliance with reporting requirements under the act. The amendment will provide a police officer the power to search a reportable offender in certain circumstances. The new section 45B will be inserted to provide for a general power of arrest without warrant where a police officer suspects on reasonable grounds that a person has committed an offence under the act. Additionally, a new section 45C will be inserted to clarify and consolidate the current powers to enter and search places, premises, conveyances and containers and to verify personal details, which are currently written across two sections. The new section will also add a power for police to search the devices of reportable offenders. The clarification and strengthening of police powers under the act is an important step in increasing the ability of Tasmania Police to monitor reportable offenders and enforce their obligations under the act.

A reportable offence is generally one of three classes of offence under the act, and is prescribed in corresponding schedules of the act. The class of the offence determines the maximum amount of time that a reporting period can be imposed on a person by the court. The schedule of offences, as they are currently constructed, do not align with community expectations. The bill therefore repeals these schedules and replaces them with three new schedules.

The new schedules move offences across classes for consistency with offences contained in other Tasmanian statutes, as well as recognising the seriousness of those offences. The schedules will also include new relevant offences, including Commonwealth Criminal Code offences such as the crime of persistent sexual abuse.

Our government is committed to providing opportunities for community involvement in the development and review of government policy and legislation. As part of the development of this bill, we invited feedback from the community through an extensive consultation process across three months from December 2023 to March 2024. We not only received written submissions, but we reached out to community through in-person consultation feedback sessions.

Over the year, we have continued to listen and to hear what the community had to say about the proposed amendments. I would like to thank everyone who provided feedback in relation to this bill, especially victim-survivors. Your courage and strength is extremely powerful in making changes that will assist to protect our community. We have taken your feedback on board and we have redrafted this bill to ensure that it is strengthened to protect our children and our community from sexual predators.

Some in our community will say that these amendments impinge on the rights of offenders. To that, our government says that we need to protect our community, and that the need to protect our children far outweighs the need to protect the civil liberties of those in society who would commit horrific crimes against children. It is acknowledged that the bill is not a cure-all for addressing recidivist offending. As we know, reasons for offending can be complex and heinous and, unfortunately, no single approach can eliminate such a scourge from our community. However, our government is committed to protecting Tasmanian children, adults and the community from harm.

By imposing tougher obligations on reportable offenders and increasing the capability of Tasmania Police to ensure compliance with reporting requirements, we are sending a strong message to offenders that their activities are always subject to scrutiny. We are also making a promise to our children and our community that we will do everything we can to protect you with the additional safety net of these new laws.

Honourable Speaker, I commend the bill to the House.

I move -

That the debate be adjourned.

Debate adjourned.