

## **SECOND READING SPEECH**

### *COMMUNITY PROTECTION (OFFENDER REPORTING) AMENDMENT*

*BILL 2011*

**Michelle O'Byrne MP**

**MINISTER FOR HEALTH**

Mr Speaker,

I move that the Bill now be read a second time.

This Bill contains amendments to the *Community Protection (Offender Reporting) Act 2005* which seek to correct anomalies that have been identified in the Act and to ensure consistency of Registered Offenders reporting conditions with other jurisdictions.

The Bill amends section 15 of the Act to provide that the crime of Manslaughter, section 159 of the *Criminal Code Act 1924*, is a Class 3 offence in situations where there are reasonable grounds to believe that in the course of or as part of the events surrounding the commission of that offence, an offence specified in Schedule 1, 2 or 3 was committed by the offender.

A practical example of such a situation involved a recent Tasmanian Supreme Court case, where two males were convicted of crimes surrounding the death of a young university student. One male was convicted of murder, the other convicted of manslaughter. The facts of this case suggested a sexual element, however sexual offences were not able to be substantiated against either male due to the absence of the victim's testimony.

It is considered that in situations such as this, where the crime has involved a sexual element, the offender is a potential risk to the community upon release from custody, and as such should be considered for registration on the

Community Protection Offender Register. Section 15(f) of the Act already provides that the crime of Murder, section 158 of the *Criminal Code* is a Class 3 offence, if there are reasonable grounds to believe that, in the course of or as part of the events surrounding the commission of that offence, an offence specified in Schedule 1, 2 or 3 was committed by the offender.

Section 17 of the Act provides for the details that a reportable offender must report to the Registrar. Currently a reportable offender must report details such as name, address, any aliases, details of affiliation with any club or organisation that has children participate, details of tattoos or permanent distinguishing marks, and employment details amongst other matters. Section 17 does not currently require the reportable offender to report passport details, electronic identifiers or internet providers.

The Bill amends the Act to require a reportable offender to provide the Registrar or an authorised person with copies of valid passports, and to report any updated details regarding those passports. Reporting passport details will assist with compliance management, monitoring and verification of any travel outside of Australia.

Mr Speaker, New South Wales, Victoria, Western Australia and South Australia currently have legislation which requires a reportable offender to report their email address and other electronic identifiers to police as part of their reporting obligations.

This Bill amends the Act to include a similar provision as these jurisdictions and provide that a reportable offender must report electronic communication identifiers including carriage service providers and internet service providers that are used by the offender.

These obligations concerning electronic communications extend to the provision of email addresses and other electronic identifiers, and will contribute to deterring such offenders from accessing child exploitation material or engaging in predatory behaviour such as 'grooming' children via the internet.

Mr Speaker, a reportable offender by virtue of section 19, is required to provide the Registrar with details concerning travel arrangements, including dates of travel, locations and addresses.

The Bill further amends the Act to require reportable offenders to present all valid passports when reporting an intended absence from Australia. Passports must be presented for inspection at least 14 days before the reportable offender intends to travel. The reportable offender will also be required to present their passport to the Registrar or an authorised person for inspection within 7 days of their return to Tasmania.

This amendment seeks to assist in maximising the effectiveness of the management of registered offenders. The register allows reportable offenders to be monitored, and this amendment will be a further tool to assist in managing the risk of known sex offenders.

Mr Speaker, the need to amend section 24 of the Act was initially identified by the Chief Justice, Mr Ewan Crawford. The Chief Justice identified that the Act was silent as to the reporting period if an offender is sentenced for two or more Class 2 offences or for two or more Class 3 offences. The Bill provides that the reporting period, for an adult, will be for the remainder of the reportable offender's life or such lesser period as is determined by the court.

Section 25 of the Act relates to reporting periods for young offenders. This section has also been amended to ensure appropriate periods are imposed

for young offenders who have committed certain scheduled offences. The Bill provides that where a young offender is sentenced to not more than one Class 1 offence, the reporting period must not exceed 4 years. In situations where a young reportable offender is sentenced for Class 2 offences, Class 3 offences or more than one Class 1 offence the maximum reporting period must not exceed 7 ½ years.

Mr Speaker, the current penalty for the offence of “Failing to comply with reporting obligations” is a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both. The Bill amends this penalty to a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both. This will bring Tasmania into line with the penalties provided for this offence in other jurisdictions.

At present the legislation does not restrict a reportable offender from lawfully changing their name with the Tasmanian Registrar of Births, Deaths and Marriages. This Bill amends the Act to stipulate that a reportable offender must notify the Commissioner of Police if he or she intends to change any details with the Registrar of Births, Deaths and Marriages.

In addition, the amendments allow the Commissioner to provide the Registrar of Births, Deaths and Marriages with the name, date of birth and addresses of a reportable offender. Where a reportable offender applies to have his or her name changed, the Registrar must then inform the Commissioner of that application. The Commissioner may then order the Registrar to refuse to register the change of name. Should the reportable offender be aggrieved by this decision there are allowances to appeal the decision.

Finally Mr Speaker President, Schedules 1, 2 and 3 are amended, to include offences in the Commonwealth *Crimes Legislation Amendment (Sexual*

*Offences Against Children) Act 2010*. This Act strengthens child sex tourism laws and introduced new offences for dealing in child pornography or child abuse material overseas, further ensuring comprehensive coverage of offences in areas of traditional Commonwealth responsibility. Schedule 2 is also amended to include the crime of Unnatural Crimes from the Tasmanian Criminal Code, commonly referred to as bestiality.

As a result of the changes made by the Commonwealth Act, references in the *Community Protection (Offender Reporting) Act 2005* to existing Commonwealth child sex-related offences need to be updated to ensure that offenders can be registered on the State Community Protection Register and on the Australian National Child Offender Register, which is now active across all Australian State and Territories.

I commend the Bill to the House.