




Speech by

Jann Stuckey

MEMBER FOR CURRUMBIN

Hansard Wednesday, 16 November 2011

EDUCATION AND TRAINING LEGISLATION AMENDMENT BILL

 **Mrs STUCKEY** (Currumbin—LNP) (9.26 pm): I, too, rise to join the debate on the Education and Training Legislation Amendment Bill 2011, introduced into this House on 2 August by the Minister for Education and Industrial Relations, the honourable member for Greenslopes, and subsequently referred to the Industry, Education, Training and Industrial Relations Committee to report by 7 November. As a member of this committee, I wish to place on record my appreciation to Bernice Watson and her team. I would also like to thank the education department director-general, Julie Grantham, and departmental staff as well as everyone who made submissions with regard to the serious issue of the reporting of child sexual abuse. Members of the committee contributed significantly. During the final presentation of this bill, I would also like to commend the chair of our committee. I might add that this is a bill that created considerable debate—and so it should, for it is, indeed, a serious subject.

The primary objective of this bill is to protect Queensland children by amending the Education (General Provisions) Act 2006 to extend mandatory reporting requirements by school staff of child sexual abuse and risk of sexual abuse and, secondly, to amend the Education (Queensland College of Teachers) Act 2005 to provide for the automatic cancellation of teacher registration and lifetime bans on teaching for teachers convicted of serious offences. In addition, this bill proposes amendments to several acts that will enable universities to use land held in trust in more flexible ways than at present.

As my colleague the shadow minister for education and Torres Strait Islander partnerships, the honourable member for Moggill, has indicated, the LNP will be supporting this bill. Any form of sexual abuse of children is abhorrent and mechanisms designed to report existing or suspected abuse deserve the attention of legislators. Some sectors of the community are puzzled that this extension of mandatory reporting for teaching staff and school employees has not already been implemented, regardless of whether you attend a state or a private school. As a former paediatric nurse and also a former shadow minister for child safety, my contribution today will focus on provisions in this bill relating to mandatory reporting of sexual abuse.

In its examination of this bill, the committee called for written submissions until 15 September and held a public hearing on 12 October with key witnesses. A total of 14 written submissions were received from a variety of people ranging from Independent Schools Queensland to the Queensland University of Technology, UQ, the Council of Parents and Citizens' Associations, Catholic Education Commission, the Queensland Law Society, the commission for children and others. Witnesses at the public hearing were from the Queensland University of Technology, the Queensland Catholic Education Commission, Brisbane Catholic Education, Independent Schools Queensland and the Queensland Law Society.

According to the explanatory notes, this bill currently contains provisions for staff in state and non-state schools to report suspected sexual abuse of certain students when perpetrated by an employee of the school. In addition, state schools are currently required to report harm or risk of harm to students by any person.

The amendments proposed in this bill are an expansion of the existing reporting requirements. Under the bill, school staff members will be required to report suspected sexual abuse or risk of sexual abuse perpetrated or likely to be perpetrated by any person, not just an employee of the school. The bill will place obligations on principals to report directly to the police.

Submissions in respect of the child protection elements of the bill were all supportive of the bill's intent, but many raised concerns about practical implications, such as the definition of key terms such as 'sexual abuse', and the ability of school governing councils to delegate their obligation to report to police, and the balance between the two goals of protecting children and complying with fundamental legislative principles, in particular, the protection of individual rights and liberties.

It was noted that the lack of a definition of sexual abuse attracted a high level of commentary. The Queensland Catholic Education Commission stated in their submission that staff need a clear definition of sexual abuse so that appropriate training can be provided. The lack of such could also delay reporting or increase reporting of unnecessary and/or unsustainable allegations, causing sometimes irretrievable damage to the reputations of those accused. They also submitted that the proposal to require reporting of suspected risk of abuse was initially unanimously rejected by all stakeholders, and it is unclear why that position has been ignored. Instead of mandatory reporting of suspected abuse, this group suggest that training could be provided to staff to recognise 'grooming' behaviour and that the issue of 'grooming' behaviour should be addressed in existing policies and procedures.

The Catholic Education Commission also raised another problematic point with the proposed extension of reporting to a staff member, given that 'staff member' is not defined in the legislation and may encompass cleaners, groundsmen, tuckshop convenors, school officers or even volunteers. They state—

People in these positions have not had the same training or opportunity to develop "expertise in monitoring changes in children's behaviour" and yet it is proposed to place the same obligation on them to make reports.

They drew a comparison to similar mandatory reporting requirements in the medical field, where the mandatory obligation is placed on the professionals—namely, doctors and registered nurses—and not on the medical reception staff or other hospital staff.

The Queensland Law Society do not support the bill in respect of mandatory reporting as it stands. They raised concerns about the lack of definition of 'sexual abuse' and 'likely sexual abuse' and the implications of this in terms of risk to students and legal risks to staff. In their submission they stated that research from jurisdictions with mandatory reporting shows that mandatory reporting does not work to protect children. They also argue that, due to the lack of definition of sexual abuse, young people are put at risk of being charged with sexual offences by the requirement to report abuse by 'another person'.

Another submitter, Independent Schools Queensland, had concerns around mandatory reporting requirements to include 'likely sexual abuse'. The ISQ submission stated—

Research into professionals who are legally required to report suspicions of child abuse and neglect confirm a number of difficulties in relation to frequency and accuracy of such reporting. It appears there is widespread professional ignorance of the law and procedures involved in reporting; the inability to recognise indicators of abuse; and reluctance to report because of perceived problems in the services available to the child.

They state—

The danger is that staff will report the smallest suspicion and thus overload an already overworked system; or will fail to report on the basis that predicting 'likely sexual abuse' is fraught with error.

As honourable members can see, there was some very interesting debate and presentations that the committee heard with regard to this bill.

The Queensland Law Society expressed a similar view at the public hearing that training could in fact raise the risk of overreporting, making school staff more vulnerable to expectations that they should recognise abuse or likely abuse, potentially opening them up to charges of failing to report.

ISQ believes the existing reporting requirements to the school principal or a board member are adequate and does not support the proposed amendments to broaden the delegation of reporting by the director of a non-state schools governing body to an 'appropriately qualified person'. ISQ states in its submission—

As the legislation now stands reporting requirements are clear. The report is to the school principal or to a member of the school board. A change to the legislation could result in, conceivably, any number of people deemed appropriate delegates. For example, a child protection officer, school chaplain, school counsellor etc.

ISQ argues that this will create less clear-cut lines, potentially increasing the risk to young people the more people are involved in the reporting hierarchy. ISQ states—

Independent Schools Queensland does not, however, believe that (1) extending reporting requirements to include 'risk of sexual abuse' or (2) changing the reporting guidelines to include delegates other than the school principal and board members, improves child safety. On the contrary, there appears to be potential for both of these changes to lessen the safety of young people.

In response to this issue, which was raised by the committee in its report, the minister has provided an amendment to clarify that a director of a non-state school governing board delegating their function to receive and make reports about sexual abuse may not delegate this function to a principal or other staff member of the school. Perhaps the minister would clarify with an example as to whom the director may delegate this function if it is not the principal or a staff member. I would ask the minister to address that in his reply.

It is good to see that the concerns of stakeholders have been taken on board and that the committee process is working in a positive way. However, despite the universal concern of submitters that the bill fails to define the term 'sexual abuse' and 'likely sexual abuse', it was disappointing to see that the minister did not see fit to include the definition of these important terms until now—or did he? Again, I ask whether the minister may like to clarify this in his reply.

In fact, the committee in its report concluded that this is a significant issue and that a definition of 'sexual abuse' and 'likely sexual abuse' is required to ensure the bill can achieve its intended policy objective of protecting the safety and wellbeing of young people. At the very least the definition should be consistent with those used in other Queensland government agencies and include 'grooming'. If the government is bothering to enshrine current practices into legislation, as it is doing with this bill, surely having legislative clarity over such important elements would assist teachers and those delivering their training with the practical application of this bill.

Dr Kerryann Walsh, Senior Research Fellow at the Faculty of Education at Queensland University of Technology, stated at the public hearing—

The training needs to be a lot more detailed in terms of what behaviours to look for. In recent times, particularly here in Queensland, we have focused on training teachers in the procedural aspects of reporting, which is very important, and we probably need to return now to teachers also understanding the warning signs and indicators and particularly about grooming behaviour.

This I am sure is certainly not a slight on teachers, who do an absolutely marvellous job under increasingly difficult circumstances. Moreover though, it exposes areas where improvement is warranted.

Whilst I was shadow child safety minister in the 52nd Parliament, highly upsetting cases of children sexually abusing others of a similar age in primary school led me to read a report from the British Columbia Ministry of Education. The minister mentioned this report earlier this evening and commented that there was already adequate training in place. However, information provided during our committee deliberations and briefings would suggest that more could be done. There may well be good training programs available, but it seems they are not as known as the minister would have us believe. The British Columbia comprehensive report offered practical models to assist teaching professionals to recognise children who exhibited sexualised behaviours in elementary schools and how to correctly report the situation.

Three tiers of behaviour were categorised, and they are as follows. In a normal range children will include actions such as showing private parts, playing doctor, looking at nude pictures, using dirty words, touching their own genitals and occasional masturbation in private. The second stage, where there is some cause for concern, includes peeking at others when told not to, attempting to expose the genitals of peers, having sexually explicit conversations with peers reflecting an adult level of knowledge, and a preoccupation with masturbation.

The third tier, which is cause for very serious concern—and I find it really shameful that some members opposite find this amusing, because it is this sort of behaviour that really does need to be noticed by our teaching professionals—includes making threats to force others to expose themselves, touching others' genitals with force, forcing others to view nude pictures or pornography, simulating intercourse with others with clothes off, and engaging in compulsive masturbation.

These tables describing particular behaviours are accompanied by response and reporting guidelines for each tier. They are simple to understand and clearly identify the types of behaviour to look for. Bravehearts have been pushing for several years to include mandatory reporting of sexual assault by teaching professionals. They report that schoolyard incidents are usually perpetrated by other children who are most likely to be acting out behaviours committed against them by adults or actions and/or inappropriate materials witnessed in their private lives. Children are naturally inquisitive. As part of growing up, they go through various stages of learning about their bodies. However, models such as the one in British Columbia's Ministry of Education would no doubt be a useful resource for teaching staff. Early detection and counselling can prevent further harm to children and curb negative behaviours.

I turn briefly to the provisions relating to the cancellation of teacher registration. The bill as it is presented will amend the Education (Queensland College of Teachers) Act 2005 to provide for the automatic cancellation of teacher registration when a teacher is convicted of a serious offence, irrespective of whether the person was sentenced to imprisonment. Further, the bill as is presented will prohibit any person who from commencement has been convicted of a serious offence from applying for teacher registration in Queensland.

In response to some of the committee's recommendations, a number of amendments have been circulated by the minister relating to these provisions. Amendments have been drafted to make the bill retrospective. As it stands now, the bill would only apply to teachers convicted of offences after the commencement of the bill. However, the minister's amendments provide that any person who has been convicted of a serious offence irrespective of the date of their conviction will be unable to apply for teacher registration or permission to teach or will have their teacher registration or permission to teach cancelled under the act.

It is understood that there are currently 10 teachers whom this retrospectivity would affect, some with convictions dating back to the 1960s. The QCT has concerns that it would be unfair to submit them to a process that they have already undergone, costing the individuals time and money and creating undue stress. The committee shared this view. However, it recommended that in respect of the minister's foreshadowed amendments to enable retrospectivity, a show cause process aligned with existing QCT and QCAT show cause processes rather than automatic cancellation of registration be adopted for teachers practising at the time of commencement of the amendments.

In the absence of any right to appeal decisions where an eligibility declaration to reapply for teacher registration is refused, the committee also recommended that clause 15 of the bill provide for a right of appeal to QCAT in respect of decisions by the QCT not to grant an eligibility declaration. This has been reflected in the amendments moved by the minister, meaning decisions by the QCT will now be able to go to QCAT for review. Each of us has a responsibility to protect children from harm, and this bill is an important step in that direction by strengthening reporting requirements.