

**Legislative Council**

**Wednesday, 29 September 2010, Page 979**

**CHILDREN'S PROTECTION (REPORTING OF SUSPECTED CRIMINAL OFFENCE) AMENDMENT BILL**

**The Hon. A. BRESSINGTON** (17:08): I move:

That this bill be now read a second time.

This bill is simple in both its intent and its drafting, so I shall be brief. The bill seeks to insert in the Children's Protection Act 1993 the requirement for the Chief Executive of Families SA to report to the Commissioner of Police any case in which it is reasonably suspected a criminal offence has been committed against a child.

While in many instances this does now occur, there are numerous examples—some historical and some very recent—which demonstrate that, despite Families SA having knowledge or evidence of offences—in some cases, sexual offences—occurring against a child, they have not referred the matter to the appropriate authority for further investigation and charges, if warranted.

It is Families SA's role to protect children and in its capacity they will often be the first authority to discover this type of offending. However, by denying the police this information and not reporting their suspicions, Families SA usurp the police's role, which, of course, is to prosecute the offender.

Many honourable members will be aware of the case of Mr John Ternezis and his daughter who, at the age of 13, ran away from home and subsequently came under the control of the minister via a youth court order. Despite the state having effective control, Mr Ternezis's daughter, at the age of 14, ended up living with three adult men who were supplying her with drugs, resulting in a serious drug habit. She then got pregnant by one of them, who was believed to have been 33 at the time, and had a baby. This all occurred while Katrina was under the supervision of the minister and with the department's knowledge. This is not the one and only case of this kind of example. That is why Mr Ternezis's barrister has advised me on the necessity of drafting this bill and also on what was needed to be included this bill, because he has represented a number of parents under the same circumstances.

It is this knowledge that is the key to the debate. On numerous occasions, Mr Ternezis reported his daughter's living arrangements and sexual activity with the adult men, and Katrina herself apparently disclosed this to Families SA workers. Yet, having spent years going through all the documentation generated by Families SA during this period in his daughter's life, Mr Ternezis can find no evidence that Families SA made any attempt to report the matter to the police, and they also saw no harm in her living with these men. This is despite a clear offence being committed against the Criminal Law Consolidation Act 1935. Under our law, they had every right not to refer the matter to the police, but I ask members present whether they believe such a right should actually exist.

A more recent, yet similar, example can be found in the case that I raised yesterday in my question to the Attorney-General. Again, this case featured a young girl who had run away from home and was living with an adult male. Despite being provided with Facebook postings and other evidence giving rise to a reasonable suspicion that this girl was having sexual relations with the man, Families SA saw no priority in intervening, let alone referring

the matter to police. This young girl, also in her Facebook postings, admitted that she was being provided with drugs and alcohol by this person whom she had chosen to reside with.

Nearly every professional who comes in contact with children is required by law to notify Families SA through the child abuse report line of any case in which they reasonably suspect that a child is being abused or neglected. We make notifications mandatory to assist Families SA to execute their role to protect children in need. This bill essentially extends the mandatory reporting requirement to Families SA itself. It is not its role to prosecute offenders so it is only reasonable that, where Families SA investigations reveal an offence may have been committed against a child, it may be required to refer the matter to the police. Families SA workers are officers of the state and, as such, should respect the law and assist those with the responsibility for enforcing it to do their job. Failure to do so is a failure to discharge their official duty, and if this bill passes it will definitely be so.

The proposed wording of the new section mirrors section 14(2) of the Queensland Child Protection Act, in many ways a superior act to ours, except that the bill before the council has a wider threshold of 'reasonable suspicion' instead of Queensland's 'reasonable belief'. I see no reason why the requirement for the chief executive needs to be based on anything more than a reasonable suspicion that a criminal offence has been committed against a child.

As I have stated, it is the police's role to conduct further investigations and determine the validity of the suspicion and whether charges should be laid. This will also work in the reverse, where false allegations of sexual abuse have been made against a parent, which happens quite often. This will put the matter in the hands of the police and an investigation can then be undertaken, and innocent people will not have to walk around with the stigma of being labelled as a child sex offender or paedophile without ever having an investigation done or any court proceedings gone into.

Those members present who were elected in 2002 or earlier will recall the lengthy debate on the Children's Protection (Miscellaneous) Amendment Bill 2005 or, as it was known prior to the committee stage to this place, the Children's Protection (Keeping Them Safe) Amendment Bill 2005. The council saw fit to move some 20 amendments to the government's bill, one of which was a requirement for the chief executive to cause an assessment or investigation of the circumstances of a child if there was a reasonable suspicion that a child was at risk; that is, it went from 'may' to 'must'.

In speaking to the Hon. Kate Reynolds' amendment, the Hon. Robert Lawson, whose expertise is dearly missed in this place, expressed his delight in the opposition's support, and stated that, 'where reasonable suspicion exists, it is only reasonable for the chief executive to be compelled to act'. The government, however, saw it differently and fought the amendment to a deadlock committee, where a compromise on the wording, but not the obligation, was eventually reached. This council stood firm in its belief that there is no room for discretion when a reasonable belief exists that a child is at risk. In introducing this bill, I am again asking this council to remove the discretion to not report criminal matters to the police. Those who offend against our children must always be pursued by the law. I commend the bill to honourable members.

Debate adjourned on motion of the Hon. B.V. Finnigan.