

HOUSE OF ASSEMBLY

TUESDAY 27TH SEPTEMBER 2016

CHILD SAFETY (PROHIBITED PERSONS) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 20 September 2016.)

Mr PEDERICK (Hammond) (11:30): I rise to speak to the Child Safety (Prohibited Persons) Bill 2016. I note that this is:

A Bill for an Act to minimise the risk to children posed by persons who work or volunteer with them; to provide for the screening of persons who want to work or volunteer with children; to provide for a system of accountability for persons working or volunteering with children; to prohibit those who pose an unacceptable risk to children from working or volunteering with children; to provide for a central assessment unit to undertake screening of persons who want to work or volunteer with children; and for other purposes.

I note that this bill was only introduced by the Attorney last week, on 20 September 2016. The working with children's check will either provide clearance to work with children for five years or be a bar against working with children, which obviously gets you the prohibited person status.

There will be continuous monitoring of cleared applicants and the relevant new records may lead to the clearance being revoked. The clearance will be fully portable, so it can be used for any paid or unpaid child-related work in South Australia for as long as the worker remains cleared. The government has stated that this bill 'enables progress to be made towards a nationally consistent scheme'. As has been stated by the shadow minister, the bill is part of a package of legislative reforms and this is part of the reaction to the recommendations that the government has made. These recommendations were made by Commissioner Nyland in her recent report.

The draft bill was released for a brief period for public consultation on 23 August and closed for submissions on 13 September. Since the draft was released, consultation around anything difficult has been removed and will be decided in regulation which, as has already been stated, we will not be able to debate here, but hopefully there will be some consultation along the way. Part of that regulatory framework will be around the definition of 'close physical contact'. The regulations will be drafted in consultation with all the relevant agencies, including the Department for Education and the Department for Communities and Social Inclusion.

In regard to some of the changes from the current system that are in place, the clearance will be valid for five years versus the current three years. The central assessment unit will issue an applicant with a unique identifier, so employers will then be able to identify potential employees. It will certainly become a criminal offence to employ someone who has not received a clearance. Certainly, there will not be any discretion to employ someone without a clearance.

Employers will need to go on the Department for Communities and Social Inclusion's website to register and this will then enable them to be notified if an employee registered with them commits an offence. Let's hope that level of technology works appropriately so that, if someone does commit an offence, that person can be identified readily and easily.

Both employee and employer will be notified of when renewals are due. There are a lot of unknowns yet, but I am sure we will have a bit of work through committee around some of those unknowns, including the guidelines on how things have progressed and the way things are to be considered in approving a clearance. The bill uses the commonwealth definition of working with children, but there is still a lot of confusion over some jobs and how widely this will be applied. I will talk about some of this a bit later on in my contribution. We are told that this will again be dealt with in the regulations.

Also under this bill we will be able to continue to check a person who makes but then withdraws an application for a check. Previous changes to screening delayed work for individuals; self-requests should limit this occurring. Previously, a requesting officer was required to obtain a working with children check, and now you can self-request. The shadow minister went through her own personal situation with that.

The legislation strengthens against employers employing individuals without a check, and spent convictions will be noted on the registry. Appeals will be made to SACAT, and each individual will have one number for the five-year period, compared with currently, when an individual can have multiple unique identifier numbers and multiple different checks. For example, you can have a working with children or the aged check. At least this is a sensible move in the direction to have a single identifier so that people can be identified far more quickly and, let's hope, take some level of overmanagement of these checks out of the system.

If an individual is prohibited interstate, they will automatically be prohibited in South Australia. I am not sure how this will be applied to internationals, and people on working visas will need to work through that. Under the bill, a person would be banned from working with children if they were the subject of a prohibition notice and they have been prohibited from working with children under a law of the commonwealth or of another state and territory because they have been found guilty of a prescribed offence committed as an adult. This includes, but is not limited to, serious crimes such as the murder of a child, or rape or other sexual offence against a child.

As has been already stated, this bill will bring South Australia into line with all other Australian states and territories which already have similar registration processes, and the cost will not increase from the current rates of \$105 for people working under employers and \$55 for volunteers. I believe things have sped up a little bit recently, but over the last couple of years there has been a long delay in any level of working with children or vulnerable people, especially in the taxi industry. I have certainly had issues raised with me by the two taxi companies in Murray Bridge about the time it took for people to get clearances. It is a ridiculous situation, really, because these are cost neutral proposals.

The government probably profits, actually, out of every application. It is just a matter of employing more people to make sure that you can process these applications to get them through. I believe that with this legislation there will be many more thousands—tens of thousands—of people who will need to be checked, and it needs to be done in a time-managed and convenient way for all concerned. In regard to some of the other matters in relation to the legislation, and referring to some of the comments made when the bill was introduced into the house, I quote from the speech that was made on the introduction:

The bill adopts a number of recommendations of royal commissioner Nyland of the South Australian Child Protection Systems Royal Commission as well as recommendations made by the commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse as set out in its final recommendations on working with children checks. The bill represents the adoption of recommendations 238(a) to (c) of the SA royal commission, being that a stand-alone legislative

instrument is enacted to regulate the screening of individuals engaged in child-related work, which:

declares that the paramount consideration in screening assessment must be the best interests of children, having regard to their safety and protection;

invests powers in only one authorised government screening unit which is charged with maintaining a public register of all clearances and their expiration dates; and

empowers the screening authority to take into account in its assessments criminal offence and child protection history, professional misconduct or disciplinary proceedings, and deregistration as a foster parent or other type of carer under the Family and Community Services Act 1972.

I note the recent advertisements that the government is running for more foster carers. I think the people who take up foster care do very noble work, but it does not come without its challenges. As I have indicated in my speech, the safety of children is absolutely paramount and must come first, but I struggle with some of the matters regarding foster carers that have come to my office. I know of some people who had to go through the legal system to clear their name of vexatious claims from a foster child, and it cost a lot of money.

I know of some who are in front of the Supreme Court, and I know of others who are waiting up to two years to have their say in court on some allegations and it troubles me. What troubles me the most is that these matters take so long to resolve. I fully understand the separation of powers and I explain this to the people I talk to. It is a troubling time. It is a troubling time when someone mentions the word 'suicide' to you on the phone because of these allegations, and I have taken the appropriate action at those times.

As I said, the safety of children is paramount but these things trouble me greatly. These things have to be settled in court but sometimes, as I have found out, certainly in one case that has been cleared up, vexatious arguments are made. I put on the record that I salute all foster carers for the work they do, but it is certainly a place in which I would not tread. I salute people like Monica Perrett and her husband, Nathan, and the work they did with young Finn. It took 19 months of negotiation to get Finn's Law up in this house and I appreciate the support I received in regard to that legislation, but it took a long time. I acknowledge their ongoing work to hopefully make things better for foster carers.

We have a real problem in this state. We have thousands of children who have to be put up in motels for a range of reasons. There are a lot of troubled children out there and I wonder sometimes whether we do not have the courage to take action earlier. I know that taking children away from their natural parents is not the first choice and I understand that, but the problem we have is that even if these children get to three years old and they are living in a very damaging environment, they are damaged basically for life.

From talking to school services offices (and my wife is one of them and she has been in this situation, but not where she is currently working—I put that on the record), I know that their job at times is just to look after one of these troubled children. It is noble work trying to get these children assimilated into the classroom, but these poor little kids are damaged. I know why governments do not have the courage—I am saying this in a bipartisan way from opposition—that is, because the next thing is that there is the potential to have a generation we would have to say sorry to, and I believe that that is probably why there is an unease about doing this. I certainly think that we need to show more courage in relation to how we manage these situations.

Instead of having a dozen staff turn up at a school to work through the process when an incident happens with a troubled child (and I do not believe it needs a dozen public servants to work through this), we need to be better than that. We need to stop these situations getting to the point where they need that amount of intervention. Yes, it is a difficult place to be. For well over a decade now, we have had multiple inquiries and we need to get the right answers, but we have a long, long way to go.

I note that the member for Port Adelaide previously indicated that there will be school exemptions for people working with children. We need to explore that in the debate. This could have far-reaching effects right across the state and, as indicated earlier, it could mean an influx of tens of thousands of people making applications. I hope the government is ready for that because the safety of children is paramount.

I know that on the weekend the member for Florey was at the Pedal Prix at Murray Bridge. It is a fantastic event, with over 200 teams and human-powered vehicles, and thousands of people attend, and what I like about it is that the kids are out there pedalling bikes instead of mucking around with their phones. They all get into it, they go all night, and it is a fantastic event supported by so many schools from not just across this state but across the country, including the Northern Territory, Western Australia, Victoria and probably others.

With an event like that, where thousands and thousands of people are camped on Sturt Reserve at Murray Bridge (which is the perfect location for the 24-hour race), does it mean that every one of those adults needs a working with children check? That is something we need to find out in the debate. I am not saying this flippantly. We need to know because we do not want to suddenly find out that thousands of people could be subject to criminal charges.

Other events—and I am not being flippant about this either—include the many Christmas pageants that will be coming up in the next couple of months right across the state. Who can believe that we are already talking about Christmas? The big one here used to be called the Johnnie's Christmas Pageant when it started years ago. Will everyone, whether a spectator or whether a volunteer, need to have a working with children check? We need to have that validated.

I think that the biggest issue in this debate is that we need to be absolutely certain who needs to go through this process and who does not. I have said several times during this contribution that in this whole debate the safety of children is paramount, but there are so many other issues that we have to deal with around this and the impacts on society as a whole. We certainly do not want to have situations develop that could have been constrained if everyone was aware of and educated on what their position had to be, moving ahead, in regard to this legislation.

I think it is certainly a major step in the right direction. It is interesting that we have had to have so many inquiries since the early 2000s in regard to child protection and that we have suddenly seen some fast action in introducing legislation. We certainly will not be standing in the way of that legislation going through the house, but we need to make sure that the legislation is appropriate, that it is workable, that the departments are funded to operate the legislation and that people can apply for these clearances and get them in the appropriate time frame for whatever work they are doing with children or whatever volunteering they are doing with children. I commend the bill.