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Crimes (Domestic and Personal Violence) Bill 2007

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CRIMES (DOMESTIC AND PERSONAL VIOLENCE) BILL 2007

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Bill introduced on motion by Ms Tanya Gadiel, on behalf of Mr David Campbell.

Agreement in Principle

Ms TANYA GADIEL (Parramatta—Parliamentary Secretary) [10.00 a.m.], on behalf of Mr David Campbell: I move:

That this bill be now agreed to in principle.

The Government is pleased to announce the Crimes (Domestic and Personal Violence) Bill 2007. The Government is always vigilant in its quest to stamp out domestic violence and to improve the criminal justice system. This bill improves upon and enhances the initiatives that were introduced in March this year. Far too many women and children are victims of violence at the hands of those they have a domestic relationship with and this Government is committed to ensuring that the legislation governing this area is progressive and forward thinking and provides the best possible protection.

The initiatives in this bill were part of this Government's commitment to the people of New South Wales that if it were re-elected domestic violence would play a prominent part in legislative reform. The initiatives in the bill are specifically linked to the State Plan priority to address domestic and family violence. It is well recognised that domestic violence is difficult to detect and investigate—occurring, as it generally does, within the privacy of the home. Research has indicated that 57 per cent of Australian women have experienced some level of physical or sexual harm over their lives. The legislative reforms are aimed at reducing stress and trauma for victims of domestic violence when progressing a matter through the criminal justice system and ensuring a clear statement is made about the aggravated nature of an offence of violence that is committed in the context of a domestic relationship.

Violence against women directly affects the victims, their children, their families and friends, employers and co-workers. There can be far-reaching financial, social, health and psychological consequences. Whilst the human impact of domestic violence is incalculable, a study in 2004 by the Office for the Status of Women estimated the total cost per annum of domestic violence in Australia to be \$8.1 billion. This estimate includes the costs of pain and suffering, health costs and long-term productivity costs.

The Australian Bureau of Statistics estimates that approximately one in three or 33 per cent of women have experienced sexual violence at some stage in their lives since the age of 15. The Women's Safety Survey found that 24 per cent of women who had experienced violence at the hands of their current partner in the last 12 months were currently living in fear. Eleven per cent of women who had experienced violence by a previous partner were also currently living in fear. Significantly, the bill creates a new stand-alone Act for apprehended violence orders and associated domestic and personal violence issues. Creating a separate Act gives full recognition to the seriousness of violence against women and children.

Many other States and Territories have designated Acts for protection orders, restraining orders and breaches. These laws have been regarded as easy to find and user friendly for both police and practitioners. The proposed stand-alone Act will have the benefit also of a clearly stated and prominent objectives clause and a readily accessible index. The separate Act will create a one-stop legal manual for practitioners and will mean that the Act is easier to amend in the future if amending is necessary. It will now be easier for women and children to obtain apprehended violence orders [AVOs].

Under the reforms victims will automatically be protected by an apprehended violence order if their alleged attacker is charged with certain serious personal violence offences. The automatic apprehended violence orders will be extended to all victims in these types of cases, irrespective of whether they are involved in a relationship with the person. The defendant will not be entitled to contest the order in court until the concurrent criminal charges have been finalised. This will spare victims of violence the trauma of being cross-examined at the hearing for an apprehended violence order as well as at the hearing of the criminal charges.

The reforms will also ensure children of domestic violence victims are better protected. Previously, when a victim of domestic violence took out an apprehended violence order, the children were not necessarily included on the order. Under the new changes the presumption will be that children are included on the victim's apprehended violence order unless there are good reasons for them not to be. This will ensure that the focus of all parties will be on the best interests of the child and it will guarantee that the safety of the child and victim is taken into consideration.

This bill also introduces a new offence of domestic violence to help identify repeat offenders. Currently offences of violence such as common assault do not specify whether the offence was committed in a domestic situation, which can make it difficult to track habitual offenders. Being convicted of the new offence of domestic violence would leave a permanent stain on a person's record and would be readily identifiable by a sentencing court or a court making a bail determination. Other changes to domestic violence laws include allowing police to search for a greater range of potential weapons at premises where a domestic violence offence has occurred, and giving police the power to demand the name of a person suspected of being the subject of an AVO.

I now turn to the detail of the bill. The object of the bill is to repeal and re-enact part 15A of the Crimes Act 1900 as a principal stand-alone act, with some modifications. The bill makes a number of modifications to the current provisions contained in part 15A of the Crimes Act 1900. The new provisions will enable a charge in respect of an offence to specify whether the offence is a domestic violence offence as defined in the bill. Further, where a person has been found guilty of a domestic violence offence a criminal court will be able to direct that the person's criminal history records that the offence was a domestic violence offence. In addition, the court can direct that similar records be made on a person's criminal history in respect of domestic violence offences that were previously committed.

The bill also will require a court, when making an apprehended domestic violence order for an adult or an interim apprehended domestic violence order for an adult, to include any child with whom the adult has a domestic relationship as a protected person under the order, unless there are good reasons for not doing so. Further, a court will be required to make an interim apprehended violence order at the time the accused person is charged with the offence to protect a victim of a serious personal violence offence. The bill will incorporate also the offence of stalking or intimidation with the intention of causing someone to fear physical or mental harm, currently contained in section 545AB of the Crimes Act 1900.

The application procedures and provisions with respect to apprehended violence order proceedings will also be incorporated in the new bill, rather than merely stipulating that part 6 of the Local Court Act 1982 applies, as is currently the case. The bill also amends the Law Enforcement (Powers and Responsibilities) Act 2002 to enable a police officer to require a person to disclose his or her identity if the police officer reasonably suspects that the person is the subject of an apprehended violence order.

The bill further amends the Law Enforcement (Powers and Responsibilities) Act 2002 to expand the range of dangerous implements that a police officer may search for in a dwelling, provided that the police officer reasonably believes that they have been used or may be used to commit a domestic violence offence. The bill also consequentially amends other Acts and Regulations. Violence is unacceptable in all its manifestations, and the Government has an indefatigable commitment to doing all it can to prevent its occurrence and lessen the impact it has when it does occur. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire and set down as an order of the day for a future day.

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