



NSW Legislative Council Hansard

Parliamentary Electorates and Elections Amendment (Child Sexual Offences Disclosures) Bill

Extract from NSW Legislative Council Hansard and Papers Tuesday 21 November 2006.

Second Reading

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [2.53 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

This Bill demonstrates the Government's ongoing commitment to improving public trust in our system of government.

The Government believes that the public should have confidence in those people seeking election to the New South Wales Parliament and that is why we are introducing these measures.

Residents of New South Wales should also have a right to more information about a candidate before they are asked to elect that person to public office.

This Bill is a measured and practical way to ensure that voters have greater access to the relevant information.

It also establishes a sensible and workable system for holding candidates accountable for any false statements they make about their involvement in offences against children.

The first part of the new system will require all candidates to make a declaration about their criminal history to the Electoral Commissioner.

The declaration must be made at the same time as the person nominates to be a candidate for the election.

If a person fails to make the declaration, their nomination will not be accepted as valid.

The information which is required to be disclosed as part of a person's criminal history will include charges as well as convictions.

This will include charges or criminal convictions which arise from conduct in the workplace.

The declaration will cover child murder and serious sex offences involving children, including child pornography.

A serious child sex offence will be an offence that is punishable by a term of imprisonment of 12 months or more.

It will also cover apprehended violence orders made by a court where those orders were sought by the police or another public official in order to protect a child from sexual assault.

The offences that are to be included are broadly similar to those covered by the *Child Protection (Prohibited Employment) Act*.

It will also be a criminal offence to make a false declaration deliberately.

If a Member of Parliament is convicted of making a false declaration, he or she will be disqualified from sitting in Parliament pursuant to section 13A of the *Constitution Act*.

This will ensure that the candidate has a strong incentive to make a true and accurate disclosure as required by the legislation.

The declarations of all candidates will be made public by the Electoral Commissioner before the relevant election or by-election.

This means that political candidates will be subject to significantly greater public scrutiny of their criminal history

than other people seeking to work with children.

Voters will be able to take into account the information which has been disclosed in deciding whether to elect a person to public office.

After the election, the declarations of successful candidates will be audited by the Commissioner for Children and Young People.

This audit will involve background checks which are similar to checks conducted by the Commissioner on people seeking to work in child-related employment.

The Commissioner will check to ensure that all charges, offences and apprehended violence orders [AVOs] were properly disclosed.

During the audit, the Commissioner will need to consult with any Member if there appears to be a discrepancy relating to that person's declaration.

This will ensure that the Commissioner is able to form a view, based on all relevant information, about whether any such discrepancy was an inadvertent mistake.

Given that there are upward of five hundred candidates at each general election, it is simply not practical to require all candidates' declarations to be audited before polling day.

The risk of prosecution, and the risk of potential disqualification from Parliament, will provide strong incentives for candidates to make proper disclosures.

As noted, a conviction for making a false declaration will be a sufficient trigger under the *Constitution Act* for a Member of Parliament to lose his or her seat.

Once the audit of all successful candidates is complete, the Commissioner will provide her report to the Speaker and the President of the Legislative Council.

The report will then be tabled in Parliament as soon as practicable, or otherwise made public.

Any apparently unlawful conduct by Members of Parliament relating to their declarations can then be referred to the Police for investigation and prosecution.

Putting in place a new system acknowledges the importance of the work performed by Members of Parliament in our community.

This legislation will ensure that politicians are transparent about their backgrounds so that the community has adequate information when it votes as to whether the candidate will meet community expectations in relation to the protection of our young people.

Nonetheless, the Government would expect that nominees who fill a casual vacancy would make the same declaration as candidates who contest an election.

The proposed new process is a sensible and effective approach to make Members of Parliament more accountable to the people who put them there.

I commend the Bill to the House.