



## Crimes Amendment (School Protection) Bill

Second Reading  
In Committee

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### CRIMES AMENDMENT (SCHOOL PROTECTION) BILL

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#### Second Reading

**The Hon. IAN MACDONALD** (Parliamentary Secretary) [9.01 p.m.]: 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.

I am pleased to introduce the *Crimes Amendment (School Protection) Bill 2002*.

This Bill provides specific provisions under the *Crimes Act 1900* to protect school premises and premises being used for school purposes from intruders who may seek to harm staff or students.

This legislation has been developed in the context of two very important consultative meetings chaired by the Minister for Police and the Minister for Education and Training in April and August this year. It was also developed in consultation with the Attorney General's Department's criminal law experts.

The Community Parents and Police Forum was convened in April to canvass issues concerning how violence sometimes spills into our schools and disrupts the vital everyday role of teaching children.

Arising from the two meetings were a number of initiatives that have been completed. These included the creation of a Safety and Security Directorate in the Department of Education and Training.

This directorate is being headed up by former Assistant Commissioner of Police, Ike Ellis and is charged with the task of improving the physical and personal safety of our schools.

The Bill before the House today represents the implementation of another initiative supported by the Community, Parents and Police Forum.

Following the first Forum in April this year the Minister proposed new offences for assaults on staff or students to be inserted into the *Crimes Act 1900* to secure the special place all schools have in our communities.

The proposed offences focus on the status the community gives to schools as a place of education and learning that should be a sanctuary for students and staff to learn, teach and work in a safe environment.

School communities have become legitimately concerned about incidents where intruders enter school premises for the purpose of assaulting or intimidating a person working—either as staff or student—on the school site.

Schools across both the government and non-government school systems are introducing measures such as requiring visitors to report to the front office and obtain a visitor's tag.

Such measures compliment the legislative changes proposed here in this Bill and they have the Minister's full support.

The *Crimes Act 1900* provides numerous general assault provisions.

Just as schools are subject to requirements that those working in their communities be subject to working with children checks, the unique nature of a school will benefit from specific laws to discourage criminal activity on school premises.

Schools are special places and deserve special protection.

Already the law offers legislative protection from assault and guides the courts when passing sentence for criminal behaviour.

For instance the *Crimes (Sentencing Procedure) Amendment (General Sentencing Procedures) Act 2002* commenced on 15 April inserting a new provision (Section 21A) to guide courts on sentencing offenders where the victim is particularly vulnerable.

On 23 October this year, the Attorney General introduced the *Crimes (Sentencing Procedure) Amendment (Standard Minimum Sentencing) Bill* which further amends s.21A to provide an aggravated circumstance where the victim is a teacher exercising a public function and the offence arose in the course of the victim's occupation.

The section also reinforces the circumstances of aggravation where a victim is vulnerable due to age, as in the case of a young student.

The existing and proposed new s.21A would apply in circumstances where schools are the venue for criminal activity that either directly or indirectly targets students or staff.

Whilst such a provision is of significant benefit, without a specific offence with an appropriate tariff, reflecting the value the community places upon school locations, the Minister remained concerned that the message should be unequivocal—intruders will be subject to harsh penalties if they enter schools to assault the people working and learning there.

Across the community, children are recognised and protected from harm where they are perceived to be at risk.

Whilst schools are statistically one of the safest places for children, there are still incidents of invasions onto school property which are particularly alarming.

The community will send the clear message in this legislation by stating quite clearly through the Parliament that incursions into schools will not be tolerated and we reiterate the fact that we cherish the safe environment that schools should be for children and young people.

The *Inclosed Lands Act 1901* provides for monetary penalties for unauthorised entry onto Government school property.

However, these *Crimes Act* reforms along with sentencing procedure principles will enhance the security of the school environment across the board.

With the existing suite of measures complemented by the Bill before the House today we will be in the best position ever to ensure that the message resonates throughout the community that schools are special places, and should be sanctuaries of learning.

The following offences are proposed by the Bill:

- (i) A person who assaults, stalks, harasses or intimidates staff or students on school property without causing bodily harm is guilty of an offence with a maximum penalty of 5 years imprisonment
- (ii) A person who assaults, stalks or harasses a member of staff or a student entering or leaving school property for the purposes of school work or duty is guilty of an offence carrying a maximum penalty of 5 years imprisonment.
- (iii) A person who assaults staff or students on school property causing actual bodily harm is guilty of an offence with a maximum penalty of 7 years imprisonment.
- (iv) A person maliciously wounding or inflicting grievous bodily harm on a teacher or student on school property is guilty of an offence that carries the significant penalty of 12 years imprisonment. This same penalty applies if the wounding occurs whilst a staff member or student is entering or leaving school premises.

These offences and penalties represent a significant new level of protection for schools.

The Minister wrote to the representatives of school bodies who were in attendance at the Forum on August with an advance copy of the Bill.

The Minister asked for the comments of the participants. These were addressed in his speech in reply in the other place and will be considered in amendments in committee in this House.

Those consulted include parent and student bodies, government and non-government school bodies and teacher representatives as well as representatives of support and administrative staff in schools.

The Minister have received input from more than one group.

Sue Walsh from the Public Service Association was quick off the mark with the concerns of her organisation. Sue contacted the Minister's office on Monday (28 October) on the draft Bill and canvassed the issue of the definition of a school.

She pointed out that proposed clause 60(D) sub clause (1) may be cast too narrowly and does not expressly include all the different types of school that are in existence such as distance education centres, schools for specific purposes and senior colleges.

As drafted this clause states;

*School means*

- (a) *a primary or secondary school*
- (b) *a child care facility for pre-school age children*

Section 29 of the *Education Act 1990* gives the Minister the power to create an array of different types of Government schools.

The kinds of schools that may be established include; infants schools, primary schools, secondary schools, composite schools (where both primary and secondary education are offered), schools for education of specific age groups, schools for children with disabilities as well as specific secondary schools such as senior campuses, selective schools, specialist schools and single sex schools.

It is certainly the intention of the Government that all these kinds of schools are covered by the legislation. The advice of the Parliamentary Counsel as to the need for amendment for the sake of clarity on this issue has been sought.

The PSA also pointed out that for clarity the term pre-school in the draft as circulated at clause 60(d) sub clause (2)(c) should be replaced with the term *before school* in order to ensure that a technical reading of the legislation does not prevent the higher tariff for a crime perpetrated where a victim is on the premises of a school for *before school care* rather than a pre-school.

This has now been changed in the First Print before the House.

I also thank Dr Brian Croke from the Catholic Education Commission who wrote to me on 24 September this year with a number of recommendations concerning the then proposed draft of a Bill.

The Minister met the CEC on Monday (28 October) to provide them with a response and further input was to be forthcoming.

Dr Croke raised an issue that will be of interest to members here today.

The CEC were concerned that the bill not be drafted so as to create unnecessary litigation in the school environment.

This is taken into account and I reiterate here that this is not the intention of this legislation. There should be no scope for anyone to find in this Bill the possibility of opening a door to some form of litigation against an education institution that did not already exist.

The Bill as drafted clearly states that reasonable disciplinary action is not impacted upon by the proposed law reform. I also reiterate that this clarification in no way re-introduces or condones forms of discipline such as corporal punishment in schools.

Rather this ensures that the day to day operation of the school is not disrupted by a vexatious student claiming this legislation somehow excuses them from appropriate disciplinary action for an infringement of legitimate school requirements.

The CEC also suggested the terms of the proposed offences extend to an assault upon a student waiting for a bus or a teacher in their home.

Both the CEC and the PSA questioned the scope of protection of the Bill for instances where the staff or student member is outside of the school grounds.

As drafted the scope is not limited to school property but includes property used for school purposes. However let me emphasise it does focus on place.

That will include playing fields and excursions to specific locations like school camps outside of the normal school grounds.

However, due to concerns about certainty it cannot include moveable activities such as bus stops and excursions to, for example, the botanical gardens or the public areas of the Zoo.

The offences must attach to the locus of the school to reinforce the message that schools are special places deserving of special protection, but more importantly to provide for certainty in prosecution and sentencing.

Existing assault provisions protect students outside of school who may or may not be in school uniform. An attempt to apply specific provisions such as these may fail in court due to lack of certainty as to the offender being aware the victim was in a special category. Whereas as far as a school is concerned, make no mistake a higher tariff applies with these very specific offences.

I emphasise that for reasons of clarity and certainty the Bill before the House focuses upon school locations and does so in order to better protect all members of school communities

Let me re-emphasise these provisions in this new division of the Crimes Act complement existing criminal law. Where these provisions would not apply, normal assault provisions remain the law.

I commend the Bill to the House.

**The Hon. PATRICIA FORSYTHE** [9.01 p.m.]: The Opposition most certainly does not oppose the bill, which introduces penalties for four new offences: assaulting, stalking, harassing or intimidating a school student or member of staff on school property; assaulting or harassing a school student or member of staff entering a school; assaulting staff or students on school property; and wounding or inflicting grievous bodily harm on a teacher or student. A variety of penalties are provided for each of those four offences. In many ways the bill puts teachers in a similar position to that of police. In doing their work at school they will be protected at perhaps a higher level than other people in the community. The bill also provides a greater level of protection for students.

The bill arises out of some high-profile cases during the year when a number of gangs attacked teachers. I do not want to detract from the importance of the bill but I have to say that in many ways it does not go to the fundamental day-to-day issues in schools arising out of discipline problems. While the Government created a Safety and Security Directorate in the Department of Education and Training headed by a former assistant commissioner of police, Ike Ellis, it has not addressed many of the fundamental issues. Earlier in the year by way of policy announcement we sought to give effect to a police in schools initiative. This has been totally misrepresented by the Government. I first learnt about this initiative from people from Western Australia and Queensland. That initiative has been in place in Western Australia since the mid-1980s. After a pilot program, it has been in operation for many years in many schools in southern Queensland.

On a trip to Canada last year I took the opportunity to visit the British Columbia Safe Schools Centre, which provides a support network for schools across British Columbia. The message I was given was that every high school in British Columbia has a police liaison officer attached, who also provides support to each of the elementary schools, which are the equivalent of our primary schools. People in Canada described that as the single most important crime prevention initiative that British Columbia has introduced. Police learn where the drug trade is at and where gang incidents will take place. Students have made friends with the police officers and are quick to inform them of problems. Let us deal with crime in a way that young people understand. They come to know the police attached to their school. It is not just about imposing penalties; it is about finding a proper preventive strategy.

We also have to deal with some of the discipline issues at schools that undermine safety for teachers. I well remember a meeting earlier this year with the deputy principal of a school who told me that as a consequence of suspending two year 10 students last year, preventing them from getting their School Certificate, she feared for her safety. She believed that one day she would walk out of her house or her school and find that her car had been damaged or that she or her family would be attacked. When teachers performing their ordinary duties within classrooms are subjected to that level of violence and fear we have not dealt with the underlying problems; we have dealt only with the symptoms. While the Opposition certainly does not oppose the bill and while we believe that it is appropriate that teachers and students be given adequate and additional support on school property, we believe that the Government could have done more. Police in schools is an issue which we have long promoted and which I have championed for a very long time. It is valued particularly in Western Australia and British Columbia, Canada. The Government has missed an opportunity to bring in a measure that would redress some of the fundamental problems that exist within our schools—safe as they may be.

**Reverend the Hon. Dr GORDON MOYES** [9.05 p.m.]: The Christian Democratic Party supports the Crimes Amendment (School Protection) Bill, the object of which is to amend the Crimes Act 1900 to include specific offences relating to the assault, harassment, stalking and intimidation of

students and staff of schools on school premises or while entering or leaving school premises. The bill is very important. Providing a secure place for education is fundamental to the task of education. Growth by students involves not only educational understanding but also the emotional and psychological security of students—and less stress upon academic staff. The Christian Democratic Party supports the bill.

**The Hon. IAN MACDONALD** (Parliamentary Secretary) [9.06 p.m.], in reply: I commend members for their energetic contributions, particularly the Hon. Patricia Forsythe. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time.**

### **In Committee**

**Clauses 1 to 4 agreed to.**

**The Hon. IAN MACDONALD** (Parliamentary Secretary) [9.07 p.m.], by leave: I move Government amendments Nos 1, 2, 3 and 4 in globo:

No. 1 Page 3, schedule 1, proposed section 60D (1). Insert after line 7:

*member of staff* of a school includes a person who performs voluntary work for the school.

No. 2 Page 3, schedule 1, proposed section 60D (1), line 9. Omit all words on that line. Insert instead:

(a) an infants school, primary school or secondary school (however described), and

No. 3 Page 3, schedule 1, proposed section 60D (1). Insert after line 13:

*school student* includes a child attending a child care facility.

No. 4 Page 3, schedule 1, proposed section 60E, line 25. Omit "**on school premises**". Insert instead "**at schools**".

I seek leave to incorporate in *Hansard* my remarks in support of the amendments.

**Leave granted.**

#### **Government Amendment Number 1**

This amendment will change the wording to include a person who performs voluntary work for the school to be treated the same as a staff member for the purposes of offences prescribed under the Bill.

This amendment arises from a number of submissions stating that the Bill as drafted does not specifically protect persons legitimately on the school premises doing volunteer work at the same level as the proposed offences protect staff.

#### **Government Amendment Number 2**

This amendment ensures that all those premises currently recognised as schools are covered by the legislation.

The proposed provision is now drafted to include an infants, primary or secondary school

"however described".

Parliamentary Counsel advise this amendment will capture all schools including those of a composite nature, stand alone senior or junior campus, schools for specific purposes and all other types of schools as now able to be established.

**Government Amendment Number 3**

The definition of a student is clarified to include those children attending child care facilities.

**Government Amendment Number 4**

This amendment ensures reference to "schools" is consistent and there should be no confusion as to what constitutes school premises. A school is "school premises" as are those things included in Clause 60D sub clause 1 whilst being used for the purposes of the school.

**The Hon. PATRICIA FORSYTHE** [9.08 p.m.]: The Opposition supports the amendments. They pick up concerns that the Opposition has raised.

**Amendments agreed to.**

**Schedule 1 as amended agreed to.**

**Schedule 2 agreed to.**

**Title agreed to.**

**Bill reported from Committee with amendments and passed through remaining stages.**

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