

Second Reading

Reverend the Hon. FRED NILE [4.43 p.m.]: I move:

That this bill be now read a second time.

This bill is very straightforward. It relates to and will work in cooperation with the Child Protection (Offenders Registration) Act. It deals with information that can be published. Clause 5, which is very specific, defines "publishable information" as any information required to be made available by the Commissioner of Police. Clause 5 (1) states:

(1) The Commissioner of Police must publish the following information contained in the Register in respect of each registrable person—

Members of the House know that the names of convicted sex offenders are placed on that register. The information that the Commissioner of Police must publish will include:

(a) the person's name, together with any other name by which the person is or has previously been known.

I raised this matter when the House was debating the change of name legislation. At that time I noted that it had become the practice for some paedophiles to change their name and image in the hope that they can continue their activity—at least until they are again caught. This bill requires that they list all the names by which they are or have been known. Clause 5 (1) states further:

(b) in respect of each name other than the person's current name, the period during which the person was known by that other name,

(c) the person's date of birth,

(d) a physical description of the person including their gender and race,

(e) the person's most recent photograph,

(f) the suburb and postcode of the residential address of the person.

This will prevent controversy similar to that involving Dennis Ferguson recently, whom Housing NSW, which may or may not have been in possession of all the details, believed could have been quietly located in a particular Sydney suburb. If my bill is passed, such a situation could not recur; the person will be required to register the suburb and postcode of his or her residential address. Residents in any suburb or street will know if a former convicted child molester is living nearby. Obviously it will be a matter for them what action they choose to take, but housing authorities will be restricted in relocating such individuals; no longer will they be able to conceal their presence. Parents have the right to protect their children, and that is the underlying objective of this bill. And in order to protect their children parents need to know whether a paedophile is living nearby, so that they can take action. If through some error such a person is wrongly located, an outcry similar to that which brought the Dennis Ferguson incident to attention will cause the Government to move the individual to another location. Clause 5 of bill states further:

(g) for a registrable person found guilty of a Class 1 offence, the person's full residential address,

(h) details of each Class 1 or Class 2 offence of which the person has been found guilty or with which the person has been charged,

- (i) details of each offence of which the person has been found guilty that resulted in the making of a child protection registration order,
- (j) the date on which the person was sentenced for any registrable offence,
- (k) the date on which the person ceased to be in government custody in respect of a registrable offence, or entered or ceased to be in government custody in respect of any offence during the person's reporting period.

(2) The Commissioner of Police must ensure that publishable information:

- (a) is made available on the website of the NSW Police Force, and
- (b) can be viewed at each police station, free of charge, during ordinary office hours.

The bill provides the opportunity for parents who wish to protect their children to be alerted to and to avail themselves of this freely available information. The Commissioner of Police will ensure that the public are not hindered in any way when accessing this information.

Clause 6 (1), which is titled "Restriction on publishable information", states:

(1) The Commissioner of Police must ensure that any publishable information about a protected witness (that is, a person to whom Division 5 of Part 3 of the *Child Protection (Offenders Registration) Act 2000* applies) whose identity is apparent or can reasonably be ascertained from that public information is not made available to the public under section 5.

This is to provide genuine protection for a person who has become a protected witness. Over the years, in a number of major cases police have only gained the information from a person who was also involved in the offending activity. The person repents of their activity, and provides information on individuals they know who are engaged in the activity; indeed, they may even have been engaged in the activity together. Then it is in the province of the Commissioner of Police, and I would assume the Attorney General, to make a decision. Because of the value of the witness, he or she will be given a special category of a protected witness. So we could have two lists that are in conflict. First, the person is on the list of protected witnesses, but he or she is also on the list of registered sex offenders. If it can be proved that the person is a genuine protected witness, under clause 5 that information will not be made available to the public.

Obviously I would insist that that be done with scrupulous honesty and it should not in any way ever be abused or in some way extended in order to undermine the impact of this legislation. In my opinion, only a small number of people should be on the list of protected witnesses; perhaps only two or three individuals who have been involved in an offence of sexual abuse should be categorised as protected witnesses. The bill also provides that the Commissioner of Police must ensure that publishable information does not contain any information from which the identity of a victim of a registrable offence can reasonably be ascertained. That is very important.

Obviously, in cases where children have been abused they are automatically protected as persons under 16 years of age. However, this provision in the bill is not restricted by age. It provides that the identity of a victim of a registrable offence must never be disclosed. Obviously, we are only concerned about the perpetrator of the offence; we want the victim to be protected by every means possible. It is important that nothing should be done that would identify the victims, or provide information about their name or their address, or where they are located. We know that some sex offenders try to commit a further offence against

someone they have already abused. So it is important that the victims have that protection. Clause 6 (3) provides:

In this section, **victim** means a person against or in respect of whom a registrable offence has been committed.

Clause 7 provides:

Withdrawal of publishable information

The Commissioner of Police must withdraw from publication any information that relates to a registrable person when that person ceases to be subject to reporting obligations under Part 3 of the *Child Protection (Offenders Registration) Act 2000*.

That would involve an extremely limited number of persons. However, there may be valid reasons why that would occur. The registrable person would be removed from the registered list of sex offenders, and obviously then would not be on the list of information that is provided through the New South Wales Police Force to members of the public, and particularly to the families. This type of legislation has been very effective in the United States of America, where I believe it has helped to reduce some of the stress and concern of parents regarding the welfare of their children. In Australia we have been a bit slow in responding to this need. Therefore, I hope that my bill will receive the support of the House. Obviously, the impact of such bills needs to be assessed. In due course, perhaps after two or three years, my bill may need some finetuning. I do not know in what way at this stage, but that may be necessary, and I fully expect that as a result of the operation of the legislation.

In the United States many of the States have passed laws based on this principle. In that country "Megan's law" has now become an umbrella term for laws dealing with notification, but the laws are not identical. However, I believe that what I have included in this bill is the best model after considering the models that are available in the United States. The Washington Institute of Public Policy, which examines various laws and their application, has classed all community notification laws—or laws authorising the public release of identifying information about registered sex offenders—as "Megan's laws". However, the fact is that State laws regarding notification vary in form and function.

The laws have operated in the United States in various ways. They may be grouped into three categories: those requiring broad community notification; those requiring notification to individuals and organisations at risk; and those that allow access to registration information through the county sheriff. The third category is the model that I have followed. In due course there may be a good argument to make the bill even stronger, to provide for broad community notification. In other words, this information would be published in a local newspaper or on the Internet. But at this stage that is not the objective of the bill I have introduced. In the United States some of the so-called "Megan's laws" have involved that public notification.

The question must be asked: Who should be put on the list? There may be further discussion about the registration and notification of child sex offenders when others convicted of violent sexual offences or non-sexual violence offences may also justify registration and notification programs. The bill deals in particular with convicted sex offenders who commit sexual offences. However, the issue has been raised as to whether the provision should be extended to include non-sexual violence offences. That may be a point for consideration in the future. In Australia there are already some registration schemes. The Australian Bureau of Criminal Investigation's national database on child sex offenders is described as an official registration scheme. The database is available to all Australian law enforcement agencies. Obviously, the law enforcement agencies need to have that information so they can work across the States. The case of Dennis Ferguson is a classic example. Dennis Ferguson kidnapped children in

New South Wales, took them to Queensland and abused the children in that State. So two States are involved there. He was convicted in Queensland and served his prison sentence in Queensland.

Law enforcement agencies need to have this information. At this stage, obviously they have the information I have spoken about. Through this bill I seek to expand that provision so the public can also be aware of that information. Police law enforcement agencies have these registration lists and they include child sex offenders, particularly those noted for possessing child pornography. Child pornography has always been a serious problem, and with modern technology such as the Internet it has become even more serious. However, a positive aspect of the Internet is that police have been able to use it to track down these offenders.

Pursuant to sessional orders business interrupted to permit a motion to adjourn the House if desired.

Debate resumed from 24 September 2009.

Reverend the Hon. FRED NILE [3.44 p.m.]: As members know, on 24 September I gave my second reading speech but I was interrupted just before I concluded that speech, and the bill was left in limbo as the debate was not adjourned for five sitting days. I remind members of why the word "Nicole" is included in the title. The bill is named in memory of five-year-old Nicole Hanns, who was brutally stabbed 17 times by John Lewthwaite, a paedophile who was on parole at the time. The bill simply recognises the right of New South Wales families, concerned for the safety of their young children, to be made publicly aware of the presence of convicted paedophiles living within their neighbourhood. In light of recidivism rates amongst paedophiles, legislators have an implicit responsibility to do all they can to ensure the safety and wellbeing of children.

The bill seeks to put the safety and protection of children before that of convicted paedophiles. It empowers parents and carers to take additional appropriate precautions when there is an increased localised risk to the children in their care. The bill will also force paedophiles to choose carefully where they live, to choose to live in non-family environments where there are no children. I know that is difficult but that will be the challenge. The bill came before the House when it did because it had the support of the majority of members, and I trust that in due course members will give it their support again so that the bill can be passed by this House and become law. I encourage members to consider seriously the merits of the legislation. I commend the bill to the House.