

**ANTI-DISCRIMINATION AMENDMENT (PRIVATE EDUCATIONAL
AUTHORITIES) BILL 2013**

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Bill introduced on motion by Mr Alex Greenwich, read a first time and printed.**Second Reading****Mr ALEX GREENWICH** (Sydney) [10.05 a.m.]: I move:

That this bill be now read a second time.

School is a vital part of development and should not be a place where children and young people are subject to discrimination or unfair treatment and left exposed to abuse or bullying. Schools are places for study and personal development and the law should not allow fear and intimidation of vulnerable groups to impact on students' learning outcomes. The Anti-Discrimination Amendment (Private Educational Authorities) Bill removes the exemptions in the Anti-Discrimination Act that allow private schools and other private education institutions to discriminate against students. The Act allows for private education authorities to discriminate against people with a disability, single mums, lesbian, gay, bisexual, transgender and intersex teens, and other vulnerable groups. Some parts this bill will simply bring the State Act into line with the Federal Anti-Discrimination Act and other parts give students who currently do not have recourse if they believe they have been discriminated against access to the independent Anti-Discrimination Board. This is a straightforward bill that is designed simply to protect vulnerable students.

Australia is a country that promotes tolerance, acceptance and equal opportunity. We recognise the special vulnerability of children and young people. So it is vital that all students are treated fairly and are given the same opportunities regardless of their background, family make-up, sexuality or personal characteristics. The December 2008 Melbourne Declaration on Education Goals for Young Australians agreed to by all Australian education Ministers has as its first goal that Australian schooling should promote equity and excellence. It requires all Australian governments and all school sectors to provide every student with access to high-quality schooling free from discrimination based on gender, language, sexual orientation, pregnancy, culture, ethnicity, religion, health or disability, socioeconomic background or geographic location.

In New South Wales these principles are enshrined in the Anti-Discrimination Act, which makes it unlawful to expel, refuse to enrol, or limit access to benefits provided by a school, or to subject a student to any other detriment based on certain grounds of discrimination. These grounds are race, sex, transgender, marital or domestic status, disability and homosexuality. However, on all grounds but race, there are exemptions for private schools and other private education authorities allowing them to discriminate or condone discrimination against students in ways that are unlawful for public schools.

The need for change has been known for many years. In 2011 the Attorney-General was quoted by David Marr in an article in the *Sydney Morning Herald*. He stated:

It is an unusual provision in this day and age, it is something that should be reviewed, looked at with a view to perhaps changing it. Times have changed.

I agree. Discrimination can involve being treated unfairly in comparison to other students. It can also involve being singled out and targeted, being coerced to leave, or having authorities

turn a blind eye to or tolerate bullying or harassment.

Students at private schools can legally be expelled or pressured in to leaving if they are pregnant, or they can be singled out and be provided with no assistance to combat bullying if they are gay. Private education institutions, including universities, colleges and specialty schools like business schools, are also subject to the exemptions. These institutions can also deny entry to people with a disability and kick out students who are gay or lesbian, transgender, single, too old, or pregnant. While most schools and institutions choose not to allow this discrimination, there is limited legal protection if they do. Students from private schools who suffer from discrimination cannot go to the Anti-Discrimination Board.

Opponents of the bill say that change is not necessary because private schools no longer discriminate or permit discrimination, but this contradicts the stories I have heard. I will share some of those stories with the House so that members can understand that discrimination does happen and does impact on students and children.

The first student told me that he was openly gay throughout 2008 and 2009 in years 11 and 12 at an Anglican college. He stated:

I was actively involved in creative arts, business and hospitality, music ensembles, representative council, student prefect council, student support mediators, as well as [assisting] with student admin duties as an officer for the student services office. I was never supported by the school or recognised for my contributions and when I graduated from the high school, they used me as a marketing tool and example of how [the school] gets their students ahead in their careers and futures due to their "supportive", "moral values" education. In addition the high school made the HSC process harder, by repeatedly throwing me regularly into the counsellor's office because I was apparently "sick" because I was gay. I remember regularly coming home from school and locking myself in my room and crying for hours.

Another student from a Catholic Marist college stated:

My peers' reaction to my sexuality was expected, losing friends, everyone hating me, girls feeling weird around me in the PE change rooms, people pointing and laughing at me, teachers on duty doing nothing and telling me "kids will be kids" , but when my English Teacher ... also discriminated against me for my sexuality, I was shocked.

She had asked the class to write an essay on anything we felt passionate about as practice for our year 10 certificate, I chose a topic about equality for gay people. Before I even put pen to paper she asked me what I was doing and I told her. She called me up to her and told me that I was disgusting and that I will never be allowed to write anything like that in her classroom. She looked me in the eyes and told me that not only was I disgusting but I was a disgrace to the school and to my Catholic religion.

I said nothing while she was yelling at me, but when she was done I said "I believe love is love, regardless of gender". She instantly yelled at me to get out. She took me outside and screamed at me further until she got my year coordinator's attention, she told him what happened and he took me to his office where he told me "You're skating on thin ice, and I don't know if we should let you into Senior School".

In my religion class shortly after, we each had to write a speech on bullying. I chose to not do my speech on statistics and how bad it is like everyone else, my speech was about my peers, what it's like to go from getting A's to being depressed and getting E's and I spoke about my experience with my English teacher. Three quarters of the way through I broke out into tears in front of my class and by the end of that term I had left the school. I had had enough. I now work in retail and have no shot at becoming the psychologist that I wanted to be.

That school was a constant hell from year eight when my sexuality got out until the day I left, and now the rest of my life will reflect that school's actions, or should I say lack of actions to help me.

I know that it is too late for me to do anything; I know that I am now stuck in retail, but I am not writing this for myself ... The laws need to be changed; I wouldn't wish this on anyone.

I have additional stories that I will relate, but it is important to note that this type of discrimination against vulnerable students is now allowed under New South Wales law. Another private school student told me that things did not go well for him when fellow students and teachers found out he was gay after he appeared in a *Girlfriend* magazine coming-out story with his partner and then on the *Sunrise* program. He said:

Basically it was six weeks before my HSC and [the school] set a meeting with me and my mother to talk ... about the "issue" of my sexuality. After this meeting the conclusion was that they would take it to the school board to see what will be done, whether or not I would be expelled.

That was six weeks before the Higher School Certificate exams. He continued:

A week later I had another meeting saying I could stay in school on these conditions:

- 1: I could not mention/talk about my sexuality at school
- 2: I would be excluded from some school functions
- 3: I had to see a councillor weekly until I left school

I didn't agree with this but with only six weeks left I had to suck it up and deal with it. It left me feeling very angry and stressed.

The last student whose story I will relate is currently at a private Christian school. He told me that only a handful of classmates and teachers know about his sexuality, but that there are countless rumours that he has avoided responding to because his principal has indicated to him that if he is openly gay he will be expelled or removed from his extra-curricular activities because it would be a bad influence on younger students and goes against the educational creed of the school. He stated:

Homosexuality has been brought up countless times during class, and a majority of teachers and fellow classmates have said incredibly homophobic things, including one teacher saying that "gays should get shot". After a classmate asked me about rumours spreading, she said, "Have you heard of how many diseases and STI's homosexuals get?"

It is difficult to be open and honest about yourself, and at least your views, when other people want to vilify you. This is something that I had to learn the hard way, through being vilified. What makes it worse is the fact that staff couldn't really do anything.

The student told me about one incident in which he asked a fellow student who was being rowdy to be quiet. He was subjected to a number of homophobic profanities, but the teacher did little in response. He said that my bill is important because it sends a message to all private schools that discrimination and bullying are never justifiable. He hopes that the bill will pass so that future students will be protected.

These experiences—and I could relate more—come from a variety of schools across the State, including the Penrith Christian School, where the Prime Minister announced increased funding for private schools. At the time, the school had an official statement referring to homosexuality as an "abomination". I have heard other stories, and during a recent meeting with People with Disability I was told that it is aware of cases of discrimination against students with a disability. I expect to hear more stories in the coming weeks and I will share them with members.

For a child, falling victim to discrimination at their school impacts on their self-confidence and sense of worth, and it can seriously disrupt their education. It legitimises vilification and harassment by other students in and outside the playground. Students suffering from bullying by their peers because of their lesbian, gay, bisexual, transgender or intersex status are less likely to report the matter to teachers if they know they could be expelled. A school that can legally discriminate is less likely to have processes in place to deal with this type of bullying if it is reported.

Girls who become pregnant at school are less likely to graduate and are more likely to become welfare dependent and socially and economically disadvantaged, and they are more likely to end up in an abusive relationship. It is not in their best interests to be expelled or to be pressured to leave school. The exemptions in the Anti-Discrimination Act make students at some private schools more vulnerable than students at public schools and expose them to wider violence and abuse. While parents may choose their child's school, the State should protect children from discrimination regardless of which school they choose. Furthermore, parents who send their children to private schools should not be seen to condone discrimination. There are many reasons parents choose a private school over a public school—including proximity to home, academic record, discipline, and attendance by other family members. I have repeatedly raised in this House the absence of a public high school in the Sydney electorate, which means some parents choose a private school based purely on location. They have no choice but to send their children to a school where they could be legally discriminated against.

A 2004 Newspan survey of 650 randomly selected adults in New South Wales and Victoria undertaken on behalf of the Australia Institute found that 89 per cent disagreed that private schools should be able to expel a student for being gay, with 76 per cent strongly disagreeing. The survey found no difference between parents of students in private schools and parents of students in public schools. Given that acceptance of the gay and lesbian community has increased greatly since 2004, I would expect support for my bill to be even higher. Parents may not know when they enrol their child that later down the track he or she will come out as

lesbian or gay, become pregnant, or have a disability. All parents want a compassionate and supportive school environment for their children. Students who are not subject to discrimination themselves should not be forced to learn in an environment that condones discrimination against their peers. The Anti-Discrimination Amendment (Private Educational Authorities) Bill will make private schools and private education institutions subject to the same laws that make discrimination unlawful in public schools.

It is important to note that cuts to TAFE and increased subsidies to the private adult education sector are expected to increase private college enrolments as they have in Victoria. However, people with disabilities, single parents, and other vulnerable students will have less protection against discrimination in such institutions than they currently have in a TAFE. Each section of the Act that makes it unlawful for a public school to discriminate on the grounds of sex—including pregnancy—transgender, marital or domestic status, homosexuality, age and disability includes a subsection that exempts private schools and private education institutions. The bill would remove these exemptions.

Like public schools, private schools will still be able to retain single-sex schools and to specify age where the level of education is provided only for students of a particular age. As with public schools, private schools will still be able to refuse to enrol a student with a disability if, after considering all possibilities, the enrolment would create unjustifiable hardship to the school, staff or students over and above any benefit the enrolling student would experience. Australia should not condone discrimination against children. Students in private schools should not be treated any less favourably than students in public schools.

Some members will express concern, and some members have, about religious freedom. I ask those members to consider that a person can be gay and religious—whether a Christian or a follower of some other faith. Earlier this year the House unanimously welcomed and acknowledged the world's first openly gay bishop, Gene Robinson. People of faith who are gay, transgender, single mums or who have a disability should be free to learn at a religious school that respects and teaches their faith and be free to do so in a discrimination-free setting. This bill protects their religious freedoms and allows them to do that. The bill does not affect in any way what a school teaches or who teaches it; it simply provides students like those I have mentioned with access to recourse should they be unfairly discriminated against. Schools are set up first and foremost to educate children and young people. The law should not let them be exposed to discrimination at such an important time in their development because they are enrolled at a school run by a particular religious group.

Before proceeding with debate on this bill I will continue to consult. I have already released a discussion paper, which is available on my website at alexgreenwich.com. I encourage people, especially those affected by discrimination, to make a submission. I have also briefed the Attorney General's office and spoken to the Labor Party and The Greens about my bill. My door is open to any member of Parliament or stakeholder who has questions or concerns. I thank The Greens for their support of the bill and I thank the Labor Party for the serious and sympathetic consideration it is giving the bill. I hope that the Government will at least consider granting a conscience vote on the bill as it did with legislation dealing with voluntary euthanasia and marriage equality and the bill we will debate next today, the Crimes Amendment (Zoe's Law) Bill (No 2). It is important that vulnerable students such as those I have mentioned in my speech know there are people in the Government who do not tolerate this sort of discrimination. I commend the bill to the House.

19 SEPTEMBER 2013

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