

**ACTS AMENDMENT (DOMESTIC VIOLENCE) BILL 2004**

*Second Reading*

Resumed from 27 August.

**HON LOUISE PRATT** (East Metropolitan) [3.28 pm]: I am pleased that this Bill has been brought forward, although it is a great tragedy that it is necessary in our society. We all strive, in this place, to uphold the family as a source of sustenance and support for individuals. Tragically, this is not always the case in the domestic environment. Fortunately, with many multi-pronged approaches to domestic and family violence, we can make a difference by intervening in these tragedies. It is important that domestic violence is not considered simply as a private matter; it is a tragic phenomenon of concern to everybody. It is a huge and tragic cost on the lives of individuals and families. It often takes place but is not spoken about openly among society.

It is significant to acknowledge that society spends a huge amount of money on domestic violence through the services provided by the police, the courts, welfare agencies, refuges, as well as social security and health and hospital services. Domestic violence has devastating consequences on the physical and psychological health of individuals and their families. We know also that people's propensity to commit violence within the home appears to pass from one generation to the next. Therefore, the problem can be compounded. With regard to health, welfare and criminal justice provisions, I note that between 1986 and 1987 refuge funding in Australia cost \$27.6 million, which is just the tip of the iceberg. An analysis I have before me shows that 20 victims of domestic violence generated services, including police and legal costs, health support, physical supports, benefits and emotional supports, which cost \$1 million.

A survey of community attitudes to domestic violence revealed that people know domestic violence is an important issue and that they are undoubtedly concerned about the problem. However, it does not top the list of issues that concern people. The survey to which I refer mentions unemployment and drug use as being more important issues affecting Australian families. Unfortunately, people believe also that domestic violence is a private matter that should be handled within the family. The survey notes that more than one quarter of people surveyed would ignore a situation if they found out that a neighbour was beating his wife. Two-thirds of the people surveyed held the view that a woman who was being beaten could leave her partner and those with sexist attitudes were more likely to hold pro-violence attitudes and to consider that violent actions by a man against his wife were justifiable. The survey by the Public Policy Research Centre was designed to assess community attitudes rather than community behaviour. In fact, although this survey shows that only a quarter of survey respondents were prepared to say that they would ignore the situation, the reality is that the majority of people would ignore such a situation. That highlights to me the necessity to ensure that we engage as many individuals and institutions as possible to raise awareness about domestic violence and assist people in speaking out against it.

Legislating for domestic violence is worthwhile. It began in Australia in New South Wales in 1983. Such laws make an effective contribution as part of a holistic strategy against domestic violence. The main thrust of such legislation is similar among Australian States and was originally broadly modelled on legislation from the United States, the United Kingdom and Canada. We begin with a definition of the range of offences that constitute domestic violence and the availability of protection orders from the courts in circumstances in which actual violence has occurred or there is a reasonable fear of violence occurring. Such laws look also at the extension of a range of orders to protect other people who live in the same household. This is something that we are beginning to address in the legislation before us today.

The Bill before us addresses deficiencies in our current legislative approach. The Bill acknowledges the seriousness of domestic violence and how it differs from other violent crimes. There can be a propensity for domestic violence to be repeated and to escalate in its seriousness. We know also that domestic violence can have very far-reaching consequences, as opposed to violence in other circumstances. That is because when violence takes place within a home, it can alienate people from areas that would otherwise be a source of support for the victim. The Bill acknowledges this. Violence that occurs in situations in which the offender is in a domestic relationship with a victim and a child is present constitutes a breach of a restraining order. Also, if the victim is age 60 or more, such coalescence will be considered a circumstance of aggravation and should rightly attract a more significant penalty, as has been proposed in the Bill. I am pleased that the penalty for a breach of a violence restraining order also will be increased from \$6 000 or imprisonment for 18 months to imprisonment for up to two years or both. Importantly, an offender exposing a child to violence also will be considered an aggravating circumstance.

Importantly, the Bill removes consent as a defence to a breach of an order and it significantly limits the types of defences against breaching such an order. This is a significant development in the legislation. I have come across circumstances in which people have been duped into allowing an offender to come close to them in a way

that they are not comfortable with. A hypothetical example is that of a woman who has a violence restraining order against her partner, who is a trades person who has left some tools in the family home. The man might contact the spouse and say that his, the family and the children's livelihood depend on the man having those tools and ask to visit the home to get the tools. In the process of collecting the tools, the man might commit a violent act against his partner. That is a hypothetical case of the man duping the woman into having access to the family home in which the man can commit a violent act against the woman. It is very important that this Bill remove consent as a defence to breaching an order. As a further development, it is important that a practical change occurs by making it possible to vary or cancel an interim order. That might take longer, but would prevent a person from being able to use consent as a defence. That is another important development in the legislation. The Bill allows also for violence restraining orders to be automatically granted in certain cases. It is important, for example, for a victim of a violent assault or rape to be able to have a restraining order automatically granted against a former offender when he is released from prison.

Importantly, this legislation delivers on a commitment to better protect children. That involves an increase in the penalties to be applied for domestic violence offences that are committed in the presence of a child, and allowing orders to be made on behalf of children who are exposed to domestic violence because they are significantly impacted on by such violence. The Bill recognises that children should not give oral evidence in restraining order proceedings because that can be extraordinarily distressing to them. The Bill will require courts also to recognise the acute vulnerability of children who are called upon to give evidence.

I have highlighted some of the provisions in this legislation that I am pleased to support. I will now touch on the extent of the problem of domestic violence in our society. It is difficult to estimate the level of domestic violence because of a lack of data. A survey by the Queensland Domestic Violence Task Force showed that 12 per cent of respondents had never spoken to anyone about violence and only 56 per cent had contact with the police despite the fact that they had sustained serious injuries. Of the people impacted by domestic violence who front up to our emergency wards, many do not have contact with the police and the courts. It is my belief that we need to encourage people to do so.

The broad estimates of the extent of domestic violence suggest that the behaviour is widespread. In some circumstances, quite tragically, it is almost to the extent of being normal. It is sometimes a normal and expected pattern of behaviour in many homes. Between one in three and one in ten families may be affected, according to an American study. I hope that Australian society does not have such a terrible scourge, but we cannot be above examining ourselves. The study concluded that one-third of all couples will be involved in a domestic violence incident at some time in their relationship.

Public education on domestic violence in Australia is extraordinarily important. Australian States and Territories have run significant campaigns. I commend the former Government for the campaigns it conducted because they did a lot of good in raising awareness of domestic violence in our society.

It is a tragic fact that one-quarter of young people in Australia have witnessed domestic violence. That figure comes from a study of 5 000 Australians aged between 12 and 20 years. One-quarter of participants in the study group had witnessed physical domestic violence against their mother or stepmother. In the study, physical domestic violence was defined as throwing an object at a person, trying to hit a person, hitting in defence, hitting when unprovoked, threatening with a knife or gun or using a knife or gun. That study was the largest research project of its kind in Australia at the time. It was undertaken by the Crime Research Centre at the University of Western Australia. The study identified attitudes towards violence among young people and the relationship between socioeconomic status, age, gender, indigenous status and history of domestic violence. Sadly, the study found that witnessing parental domestic violence was the strongest predictor of perpetration of violence in young people's own intimate relationships.

I have highlighted something of the tragedy of domestic violence. However, I emphasise to the House today that legal protection in the prevention of domestic violence can play a significant role in making a real difference in protecting people from violence. I have an article from the Australian Institute of Criminology that estimates that only six per cent of women abused by their partners and 35 per cent of women abused by previous partners report such incidents to the police. Sadly, there is no national data on the proportion of women seeking protection orders. The study also highlights what we know from other literature in that the first few years of a relationship are important. If violence is to be a factor in a relationship, it is most likely to occur in the first few years. In addition, the first few years are the most critical and important for the risk of spouse killing. It is important to remember that in conjunction with the other information I highlighted, which is that there can be a tendency in our society for such behaviour to pass from one generation to another. It has been terrific to see national domestic violence campaigns that target young people - both men and women - in preventing domestic violence. The study also states that 12 per cent of young people said they had been in a violent relationship with a partner or spouse. Nearly half the young women had been subjected to serious violence. They had been beaten, choked, threatened or the subject of an attempted shooting. Seven per cent had been shot or stabbed by a

partner and approximately three-quarters had been subjected to what is called medium severity violence, including kicking, slapping or being hit with a fist or something else.

There are significant differences between women who seek legal protection and those who do not. It is one of the inspiring things about this legislation. Women who have experienced more severe levels of violence and who have been injured are more likely to seek legal protection than those who were not as badly abused. Approximately half the women who had been subjected to physical violence in the previous three months of the study were not assaulted after they obtained legal protection. Making legal protection easier to obtain, which is what we are doing with this legislation, will save people from further violence. Of the study, 61 women were still subject to physical violence after they sought legal protection; there was no change in the severity of the violence. Fourteen women experienced a reduced severity of violence but, sadly, the severity of violence increased for three women. That study highlights the significance of the kind of legislative intervention we have before us. The study highlights that young women use a variety of strategies to protect themselves from repeated violence. Legal protection and police intervention through court orders is one avenue young woman might take. One of the major findings of the study was that the severity of violence was reduced after legal protection but the benefit is not as much unless women seek help from the courts as well as from police. This legislation enhances the way our courts manage domestic violence. We are making a significant difference in protecting people from the severity of violence. Young women who sought legal protection differed from those who did not. They experienced more serious injury and violence. They were also more likely to have children and their partner was more likely to have a record of violent or criminal behaviour. The study also went further than previous research and found that there are important differences in outcomes depending upon the type of legal protection. Just seeking help from the police is not as effective as calling the police combined with obtaining a court order. Again, that goes back to the main thrust of this legislation, which is to enhance the capacity for people to obtain court orders in cases of domestic violence.

I conclude my comments by highlighting a commendable project, which has been included in the Australian Violence Prevention Awards. It is the Armadale Domestic Violence Intervention Project. The project significantly highlights the importance of a multipronged approach to dealing with domestic violence. We are discussing the legal side of the problem, including the courts. We know that to effectively address domestic violence in our society we need a multipronged approach that covers all levels of society. The Armadale Domestic Violence Intervention Project is within my electorate and based on the Domestic Abuse Intervention Project from Minnesota. It operates by linking police, victims' services and offender programs and by encouraging community awareness of the problem. The main aim of the project is to reduce criminal assault in homes by using a collective approach. It has demonstrated its effectiveness through an increased arrest rate, offender education and counselling, victim advocacy and changing attitudes generally. This program detects and records. It also provides assistance to victims and perpetrators of domestic assault who enter the system via statutory or welfare agencies. It includes police training and education regarding the necessity of a pro-arrest policy, which focuses on domestic violence as a crime. There is an emphasis on the policy role in family protection and the establishment of appropriate bail conditions. There is the appointment of advocates for victims and an emphasis on the importance of dialogue and the sharing of information between agencies. There is also the establishment of abuser programs to which the courts can mandate attendance as part of their sentencing options. It is pleasing that a range of local organisations are participating in this project in Armadale. They include the police, the Ministry of Justice, the local hospital, Starrick House women's refuge - whose work I particularly commend - the courts, the Anglican Health and Welfare Services Offender Program and the Aboriginal Family Violence Committee. I particularly commend the work of those community agencies coming together in that local environment.

Hon Derrick Tomlinson: Is that document from the City of Armadale?

Hon LOUISE PRATT: No, the document was released by the Australian Institute of Criminology. It lists significant projects Australia-wide.

New police policies have been developed in the context of responding to this particular program. It has resulted in a change to police intervention procedures and, indeed, an increase in domestic violence arrests. A significant development of this program is that violent men have been provided with a 26-week offender program. Most attend as part of their probation agreement. When this document was written, up to 12 men had successfully completed the program and none of those had reoffended. Children have been receiving counselling and victim advocacy services have helped empower victims of domestic violence. The high profile of the Armadale Domestic Violence Intervention Project has made a significant contribution to changing community attitudes within the area in which it is operating.

Hon Derrick Tomlinson: When was that document published?

Hon LOUISE PRATT: The project is quite old; it began almost a decade ago.

I will read a short poem to highlight the need for intervention in domestic violence. The poem, written by a girl called Sarah, is titled "Too Many" and reads -

Too many 'IFS'  
Too many 'WHENS'  
Too many 'SORRYS'  
and 'NEVER AGAIN'S'  
Too many PROMISES  
Too many LIES  
Far too many 'ONE MORE TRIES'  
How many were there,  
Before I knew  
That 'ACTIONS' speak louder  
than 'PROMISES' DO?

Debate adjourned, on motion by Hon Nick Griffiths (Minister for Housing and Works).