CHILDREN AND COMMUNITY DEVELOPMENT BILL 2003

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 1: Short title -

Debate was interrupted after Ms S.M. McHale (Minister for Community Development, Women's Interests, Seniors and Youth) had moved to postpone further consideration of the clause.

Mr R.F. JOHNSON: I think I was on my feet when debate was interrupted on the motion moved by the minister.

The SPEAKER: We were hoping you would forget that!

Mr R.F. JOHNSON: No, Mr Speaker, I have a good memory.

I am more than happy to agree to postpone the clause, because there is a glimmer of hope that the minister will sit down and negotiate a more appropriate title to the Bill. The purpose of the negotiations will be to try to reflect in the title exactly what the Bill is about. I am disappointed that the minister appears to have written off out of hand any reference to child protection in the title. That gives me great concern, because I believe that our number one priority as legislators in this State is to protect children. The children in the State are the most important people in our society because they are the most vulnerable. The Bill purports to act in the interests of children. I believe the minister conceded that about 70 per cent of the Bill relates to child protection. I therefore cannot understand her reasoning for not wanting the word "protection" in the title. The Opposition has said clearly that the phrase "community development" means nothing to anybody, other than perhaps to the minister and some people in her department who want to get away from the reality of life that children need protection from some pretty dreadful people in society.

I am sure that the shadow Minister for Community Development will want to say a few words on this, but it is not the Opposition's intention to delay the Bill in any way, and that is not our intention in debating the short title. We have spent a lot of time on the short title, but only because members on this side of the House - and I believe some members opposite - who have studied and understood the Bill say that the title of the Bill does not reflect what we, as legislators, should be doing to protect children. I am therefore glad to hear that the words "community development" will go because they mean nothing to anybody other than, as I said, a few people in the minister's department and perhaps the minister herself. I do not know whether she instigated the title or whether she has been led by people in her department; however, the title is miles away from what we should be doing in this House today.

I appreciate that the minister has agreed to consider alternative titles. I maintain that the word "protection" should be in the title because our utmost responsibility is to protect children. I hope the minister will think again. She was pretty quick to come up with the suggestion to postpone the clause so that we could discuss the options. The minister said that she did not want the word "protection" in the title, but I put that down to the minister's haste. I hope she will rethink the matter because the word "protection" is definitely needed. The Opposition will consider sympathetically any wording that reflects more accurately the contents of the Bill. A more appropriate title for this Children and Community Development Bill is the "Children's Care and Family Assistance Bill" because the words "children and community development" mean nothing to most people. The Opposition therefore supports the postponement of this clause.

Question put and passed; further consideration of the clause postponed.

Clause 2: Commencement -

Dr E. CONSTABLE: I want some clarification from the minister on subclause (2). It may be only a technical matter, but I ask the minister what is intended by this subclause? Will certain provisions be delayed for a long period; and, if so, which provisions will be proclaimed while others are delayed? I am always wary of this sort of provision in legislation. I recall instances in which provisions of Bills have passed this Parliament but were never proclaimed while other provisions were proclaimed. If it is the will of this Parliament to pass the clauses in the Bill, I would expect the entire Bill to be proclaimed.

Ms S.M. McHALE: I thank the member for Churchlands for the question. It is certainly not my intention to deliberately delay any elements of the Bill. The wording of this clause reflects the fact that with regard to some clauses - for instance, the child-care clauses - there may need to be some consultation about the regulations.

Dr E. Constable: Will the regulations need to be in place before those clauses of the Bill can be passed, and will that take a short or a long period?

Ms S.M. McHALE: It will be as short a period as I can possibly make it, because I will be driving -

Dr E. Constable: Can the minister be more specific?

Ms S.M. McHALE: I will seek advice on that matter, but in the case of the regulations, the period will be between three and six months.

Dr E. Constable: So some parts of the Bill will be proclaimed, and other parts of the Bill - the minister does not know which ones; child care may be one of them - may be delayed for up to six months while the regulations are put in place?

Ms S.M. McHALE: Yes, for proclamation, while the details of the regulations are sorted out. I anticipate that most of the legislation will be proclaimed as soon as practicable after it has gone through both Houses of the Parliament.

Dr E. Constable: Will the minister indicate as we go through the Bill which parts of the Bill may be delayed for up to six months because of the regulations so that we will get some idea?

Ms S.M. McHALE: I am happy to do that. I will seek advice on that, and I will then be able to answer that question.

Ms S.E. WALKER: I thank the member for Churchlands. When I was researching this Bill I noticed that in the amendments to the Child Welfare Act, or it might have been the Community Services Act, the name of the former Department of Family and Children's Services had been changed, and so too had the name of the minister's portfolio, but the changes had not yet been proclaimed. Does the minister know about that? Is there anything in that?

Ms S.M. McHALE: It was the Community Services Act. I am informed that those amendments are being managed through the machinery of government amendments, and it is intended to bring them into the Parliament at some stage, but I cannot give a specific time.

Ms S.E. Walker: The name of the minister's portfolio was also changed.

Ms S.M. McHALE: The important thing is that I am the minister.

Clause put and passed.

Clause 3: Terms used in this Act -

Ms S.E. WALKER: I move -

> Page 3, line 17 - To insert after "development" the following -
>
> , and any form of sexual abuse

The definition of "harm" at page 3 of the Bill is -

> **"harm"**, in relation to a child, includes harm to the child's physical, emotional or psychological development;

The reason I am seeking to insert the phrase ", and any form of sexual abuse" is that I am concerned that part 4 of the Bill, which deals with the protection and care of children, states in clause 28(2) that a child is in need of protection if -

> (c) the child has suffered, or is likely to suffer, significant harm as a result of any one or more of the following -
>
> (i) physical abuse;
>
> (ii) sexual abuse;
>
> (iii) emotional abuse;
>
> (iv) psychological abuse;
>
> (v) neglect, ...

Therefore, from my reading of the definition of "harm", quite apart from any sexual abuse that the child might suffer, the child would also need to suffer not just harm but significant physical, emotional or psychological harm before he or she would be deemed to be in need of protection. That is of concern. Section 9 of the Queensland Child Protection Act 1999 states -

> **What is "harm"**
>
> **(1)** **"Harm"**, to a child, is any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing.

(2) It is immaterial how the harm is caused.

(3) Harm can be caused by -

(a) physical, psychological or emotional abuse or neglect; or

(b) sexual abuse or exploitation.

Is this clause saying that a child who is being sexually abused can stay within the family if there is no emotional, physical or psychological harm to the child? That is a very serious statement in the Bill and one that I am very concerned about. It is bad enough for the Bill to say that a child is not in need of care and protection if the child suffers sexual abuse, but for the Bill to say that a child is not in need of care and protection unless he or she suffers significant harm in one or more of these ways is most serious. I gave an example of that yesterday when I read out the Court of Criminal Appeal decision about the young girl who had been raped repeatedly by her stepfather for about five years, yet when her mother took her for a psychological assessment, the psychologist said she was okay. Of course she was not okay. She was scared, and she had thought about committing suicide. I want the minister to tell me why she is limiting the definition of "harm" in this way.

Ms S.M. McHALE: I am not limiting the definition of "harm". The purpose of the definition is to reinforce the point that harm can include the effect on the child's development. The sexual abuse is the cause of the harm. The harm as it is defined extends to the psychological effect of having been abused. What the member for Nedlands has read out is pertinent, but it argues against what the member is trying to do. The abuse is causing the harm. What we are trying to say is that not only is there physical harm, but also we need to take account of the fact that the abuse can affect the emotional and psychological development of the child.

Ms S.E. WALKER: What the minister is saying in this Bill is that if a child is suffering sexual abuse, she will not intervene unless that abuse is significantly harmful. I just do not get it. Does the minister understand what I am saying? The minister states that a child can suffer sexual abuse, but unless it is significantly harmful, people can go right ahead with the abuse! That is what the provision states. The matter has not been thought through by either the minister's advisers or the minister. Does the minister intend that people will go to the SafeCare program? That would be a good way to get someone to the SafeCare program. It could be said that a child is being sexually abused, but she is not being significantly harmed to warrant intervention. The child can be kept in the family, and the perpetrator can go to the SafeCare program. That process would be outlined in legislation passed by Parliament. This aspect is crucial to this Bill. It is connected to clause 28(2)(c) because a child would not meet the definition for needing protection. A child in this State will no longer receive protection from sexual abuse unless the child is suffering significant physical, emotional or psychological harm. Can the minister see that? Perhaps I have missed something. I will move that amendment later because I do not want any child who has been sexually abused not to be afforded protection in this State.

Ms S.M. McHALE: With respect, I think the member for Nedlands is misunderstanding the legislation. This provision refers to the grounds for taking children into care. There are children who have been sexually abused who are not automatically taken into care. A range of services and supportive mechanisms is provided to those children.

Ms S.E. Walker: What are they?

Ms S.M. McHALE: One may have a perpetrator taken into prison. One may have the family member leave the home. I think the member is stuck on the view that as soon as a child is sexually abused, the child must be removed from the family.

Ms S.E. Walker: Why not?

Ms S.M. McHALE: That is not what happens. Does the member want us to do that?

Ms S.E. Walker: Tell us how it works.

Ms S.M. McHALE: Does the member suggest that every time a child is sexually abused, the child should be removed from the family?

Ms S.E. Walker: If a child is being sexually abused in the home by a parent, does the child stay there?

Mr R.C. Kucera: Remove the parent.

Ms S.E. Walker: I know.

Mr J.N. Hyde interjected.

Several members interjected.

Ms S.M. McHALE: No. I am happy to take interjections if we have reasonable debate, as we have with the member for Churchlands. Clearly, there are children who have been abused who are provided with support and intervention in many different ways. I defy the member to tell me that in her party's days in government every child who was sexually abused was taken away from the family. Can we please differentiate between support for children who have been sexually abused, and the legal and judicial process by which we determine whether to remove that child from the home and put the child into alternative care? These definitions and procedures are for the latter matter. Children come to our attention who have been abused, but who are no longer at risk because the family has moved on. The perpetrator may have had some form of intervention and may have ceased abusing that child. We provide services to those children in other forms. In order to have a system that determines whether a child is taken into care and away from the home, a certain threshold is needed around harm. The member for Nedlands has two amendments that must be seen together. I can understand where the member is coming from. In common with all of us, the member's view is that child sexual abuse is horrific. The member has seen cases, and I deal with them day in, day out. They are horrific. The reality is that children are not always taken into care.

Ms S.E. Walker: Will the minister stand there and pontificate or will I be given an opportunity to speak? You tell people what you think I think.

Ms S.M. McHALE: I do not think the member's definition will help the children for whom we are providing a service. The abuse is the cause of the harm. We are trying to say that the harm needs to be as broad as possible, and includes the effect on psychological development and emotional harm, not purely physical harm.

Ms S.E. WALKER: As the Bill stands, if a child is being sexually abused, unless the child suffers significant harm, the department will not intervene.

Mr R.C. Kucera: It's not what she said at all.

Ms S.E. WALKER: I am not talking to the Minister for Tourism. I want to find out what this provision means. Frankly, what I see is very scary. A child may suffer physical, sexual, emotional and psychological abuse, but the department will not intervene unless that abuse is significantly harmful. An officer may believe that a child is suffering sexual abuse. The child may say, "Daddy's been touching me in the wrong places." What would happen? The child may look happy playing in the sandpit. Nothing in the legislation states that the officer must call the police in such cases. What will happen to a child in that situation? It seems that if an officer from the department is happy that the child does not appear to be suffering any physical, psychological or emotional difficulties, nothing would be done. The Child Welfare Act was pretty clear. A child is in need of care and protection if the child -

> . . . is living under such conditions, or is found in such circumstances, or behaves in such a manner, as to indicate that the mental, physical and moral welfare of the child is likely to be in jeopardy.

As I said yesterday, the wording may be a little old fashioned, but we understand its meaning. Under the Bill before us, a child who is sexually abused is not necessarily deemed to be in need of care and protection. My argument is that the threshold under this legislation will be lifted. Why is it being lifted from a simple assessment of whether the child has been sexually abused to a situation in which the department, in the full knowledge that the child has been sexually abused, will not consider that the child is in need of protection unless the child is suffering significant harm? That is why I will move to delete ", or is likely to suffer, significant harm". That passage in clause 28(2)(c) relates to the definition in clause 3. I believe that it should read that an intervention should occur when the child has suffered physical abuse, sexual abuse, emotional abuse and psychological abuse.

The Bill will lift the bar, but the department has a new range of orders. Therefore, it need not take a child away from a family. The department could obtain a supervision order, although I do not approve of that method when a child is being abused. It does not involve taking a child away from the home without a warrant, which should happen in any case of sexual abuse when the perpetrator is in the home.

Can the minister explain the situation? Why is it that under the current Act a child who has been sexually abused in the home is in moral danger and in need of care and protection, but under this legislation that child will not need such protection?

Dr E. CONSTABLE: The member for Nedlands and the minister have made some very good points, and we should try to pull them together. The minister has said that the two amendments on the Notice Paper from the member for Nedlands should be taken together. If we do that, we must have some reference to sexual abuse in the definition of "harm". I would like to be bold enough to suggest that there is perhaps a better wording than we might end up with if we follow the member for Nedlands' amendment to page 3 of the Bill. I suggest that it

would read better and make more sense, when the two amendments are taken together, if it stated, "in relation to a child, includes physical, emotional or psychological harm and any form of sexual abuse to a child". I believe the grammar is a bit better, it follows and makes sense, and it connects very well with what is already in this Bill on page 24, where physical abuse, sexual abuse, emotional abuse and psychological abuse are listed. It brings the four together. If I were writing this definition, I would put it this way: "harm", in relation to a child, includes physical, emotional or psychological harm and any form of sexual abuse to a child. All four elements are included, because all four are included in clause 28 on page 24. I believe it gives a better definition of "harm" and is a bit clearer than the amendment put forward by the member for Nedlands. I offer that as a suggestion to bring in what the member for Nedlands and the minister have said in this debate so far. For me, that gives the picture that we are all trying to paint. I leave that with members, and I look forward to the comments of the member for Nedlands and the minister.

The ACTING SPEAKER (Mr P.W. Andrews): Members, we still have in front of us the amendment moved by the member for Nedlands. The question is that the words to be inserted be inserted.

Mrs C.L. EDWARDES: I acknowledge the member for Churchlands' comments. Given her previous profession, I bow to her expertise in the area of English grammar. I have no intention whatsoever of saying that any part of it would be better able to be understood. It obviously adds a few extra words and adds meaning. I do not think there will be any issue with that.

However, on the question of taking the two amendments together, I suggest that that is not the way to go. The reason I say that is that the definition of "harm" and the word "harm" are used throughout the Bill. Therefore, although sexual abuse has now been put into the definition of "harm", and for very good reason, it should not just be linked with the issue of significant harm. That is a whole new debate that I have every intention of getting involved in. The member for Nedlands is correct. The Government has raised the bar. The ability for individual officers and agencies to have consistency in their interpretation of what is significant will make their job a lot harder than it is at the moment. A whole new debate surrounds the issue of significant harm. I support the amendment that has been put forward. If the member for Nedlands wishes to change that in any way, and if the minister is likely to concede to it, that would be an important step forward.

Dr J.M. WOOLLARD: I hope that the member for Nedlands will accept the changes that have been suggested by the member for Churchlands. I believe this is important, because clause 28 refers to physical abuse, sexual abuse, emotional abuse and psychological abuse. People will look at the definition of "harm" in clause 3, and I believe that unless sexual abuse is also mentioned in that clause, it will be challenged later. The argument would be that "harm", according to the definition, does not include sexual abuse. I encourage the member for Nedlands to accept the member for Churchlands' changes. Although that would give consistency throughout the Bill, I agree that the two clauses need to be looked at separately. When the two clauses and their impact on the overall Bill are considered together, I believe that the words "significant harm" should be deleted from clause 28(2)(c). However, this amendment is about clause 3 and the definition of "harm", and I believe that sexual abuse should be included in that definition.

Ms S.M. McHALE: I really cannot accept the amendments, for good reasons. First of all, I explain that the term "significant harm" was first introduced into departmental practice in 1996 with the new directions in child protection. It was based on the research of David Thorpe, to which the member for Kingsley referred, and of Nigel Parton and Corinne Wattam, to which I believe the member for Kingsley also referred. It has been part of departmental practice for nearly eight years. I know that we can always change our minds, as I have indicated I am prepared to do on the short title. However, I remind the member for Kingsley particularly that she signed off on the draft legislation. The member for Nedlands should not tut and get hot under the collar. It is important that we reflect on where the member was coming from. She was quite prepared to accept "significant harm".

I say again that sexual abuse is the event, the incident or the thing that causes the harm. My advisers say that it is not the harm in itself; it is the cause of the harm. Therefore, the outcome could be post-traumatic stress caused by the sexual abuse, for instance. I am at pains to try to tell the House that the department intervenes in many different ways with a child who has been sexually abused. For instance, it provides services to families; it provides the perpetrator programs; it removes the perpetrator from the family in some instances; and it reports and refers cases to the police.

Ms S.E. Walker: Every one?

Ms S.M. McHALE: Yes. It is an instruction of the director general that every one is referred to the police.

Ms S.E. Walker: What about SafeCare?

Ms S.M. McHALE: I will not deal with SafeCare in this context. However, the department refers every case to the police. Sometimes the problem is a lack of evidence, and sometimes it is the inability of the children to be

interviewed. In some cases allegations are made and then withdrawn. There are situations in which families will come forward only if the family will not be broken up. When we talk about sexual abuse, we are talking about not only adults but also cases in which minors abuse other minors. If a parent has just discovered that his or her son might be abusing a younger daughter, it is not always the case that that parent wants that son to go to prison. We must deal with the reality, and we must have the services available. Therefore, we provide financial assistance so that families can remove themselves from the perpetrator, or we might provide intensive psychological services. I ask the member to please understand that a raft of intervention services is available, although at times those services are stretched. I do not think there are enough services. However, I assure the member that there is a range of services. We are dealing with the situations under which we remove a child in care. I ask the member not to amend the clause and to accept that the abuse is the cause of the harm. We are trying to include a broad definition of "harm" so that we can assess the situation and then determine whether the child will be taken into care.

Dr J.M. WOOLLARD: The definition of "harm" in clause 3 states -

> **"harm"**, in relation to a child, includes harm to the child's physical, emotional or psychological development;

Is the minister including sexual abuse as a component of harm to a child's physical, emotional or psychological development? Otherwise, sexual abuse will not fall within the definition. Unless the minister clearly states for the record that the terms "physical", "emotional" and "psychological" include sexual abuse, the amendment by the member for Nedlands must hold, otherwise it will not be in the definition.

Ms S.M. McHALE: I am trying to get across to members that there are different forms of abuse. There is sexual abuse, which we are focusing on, physical abuse, emotional abuse and neglect. The consequences of the abuse are several and varied. The consequences of the physical or sexual abuse could be physical. There could be physical damage to the genitalia or other parts of the body, significant harm to a child's emotional development, or emotional or psychological harm. I am trying to convey to members the distinction between the offence of sexual abuse and the consequences of that offence, which are, as I have said, several. It is not that the definition of "sexual abuse" will be removed; we are saying that the consequences of the abuse, whether they be physical, psychological or emotional, are several and extend to the things that are not always seen. Sexualised behaviour, post-traumatic stress, psychological damage and the harm to a child as a result of these events can be broad. That is what we are talking about.

Mrs C.L. EDWARDES: We understand that the minister has been asked to redefine it. She has a brand-new Bill and she wants it to be modernised and updated. One of the purposes of legislation is to send a message to the community. A perpetrator could say that he is not physically harming his child, that he loves her because she is his daughter, that he would not do anything to hurt her, that she is not emotionally affected, and that she does not even tell anybody about it. If sexual abuse were included in the definition of "harm", which is used throughout the Bill, it would send a very clear message to the community that that is one of the most serious harms to a child. We know what the minister is talking about. These are the consequences of the action that is carried out on a child. That is fine. If the minister wants to be academic about it, she can put it all in a nice little block. For years academics have been telling us to redefine. I am not interested in redefining just for the sake of redefining. We need to redefine with a purpose to send a message to the perpetrators who harm children. One of the most serious harms that the community believes anyone can inflict on a child is sexual abuse. We want to ensure that the definition sends a clear message to the community that sexual abuse is harm to a child.

Ms S.E. WALKER: I ask the members for Kingsley, Churchlands and Alfred Cove and the minister and her advisers to read clause 100, which states -

> (1) A person who has the care or control of a child and who engages in conduct -
>
> (a) knowing that the conduct may result in the child suffering significant harm . . .
>
> is guilty of a crime . . .

It goes on to state -

> **"harm"** means harm as a result of any one or more of the following -
>
> (a) physical abuse;
>
> (b) sexual abuse;
>
> (c) emotional abuse;

(d) psychological abuse;

(e) neglect . . .

Why is it harm in that clause? Why does the definition in that clause include all those forms of abuse? I am just pointing out the inconsistencies. There are other definitions of "harm" in the Bill. It is referred to throughout the Bill. Does the Government think a child is in need of care and protection when he or she suffers sexual abuse in a family home or anywhere? I say that knowing that, this Bill has new provisions that allow the chief executive officer to apprehend a child, carry out an investigation and then return the child to a parent or complete a negotiated placement agreement. It does not hold with me for the minister to say that the child will be removed from the home, so somehow the definition must be worked into the Bill in this way. Anyone interpreting this Bill would say that it is clear; I and other lawyers would say that it is clear. It does not matter if a child suffers sexual abuse, because the child may not manifest any signs of psychological, emotional or physical harm. It does not even have to be those harms; it must be significant. I will press ahead. I am happy for the member for Churchlands to write down her suggestion. I intend to proceed with the amendment, because I am concerned that sexual abuse is included in the definition of "harm" in one part of the Bill, but is not included in the main definition. I cannot read clause 28(2)(c) any other way.

I am not standing in this place and filibustering. I have an interest in this area. I used to be a prosecutor. I feel very strongly about children who are being abused behind closed doors. I will not be part of any legislation that I think is inadequate and I will do my best to fight against such legislation. I have only four amendments on the Notice Paper. This is a 189-page Bill. I have just picked out the parts that I think are significant. I have spent a lot of time looking at the Bill. I have spent a lot of time working out whether children will be as secure and protected under this Bill as they are currently. The department's practice of grading other issues is another matter. This is not the practice manual. When I read the Bill I thought it was a glorified practice manual. We are talking about the message that we, as a Parliament, mean to send to the community about the sexual abuse of children, so I will press ahead with the amendment.

Ms S.M. McHALE: The member for Nedlands again has answered her own question by referring to clause 100, which refers to harm. We know that harm means physical, emotional or psychological harm. The clause states -

"harm" means harm as a result of any one or more of the following -

The causes of harm are physical, sexual, emotional or psychological abuse or neglect.

Dr E. Constable: The subsequent harm is the result of abuse.

Ms S.M. McHALE: I certainly said earlier that harm was the result of abuse. I thank the member for Churchlands. We are trying to broaden the definition of "harm". Harm is the result of sexual, physical, emotional or psychological abuse; that is, the incident or event causes the harm. I do not want to put into the Bill a reference merely to sexual abuse. If we are to put anything in, we should put them all in.

Ms S.E. Walker: They are all in there.

Ms S.M. McHALE: That is what I am saying. They are the consequences of the abuse. My understanding is that the member wants to include the words "and any form of sexual abuse". Sexual abuse is not the harm but the cause of the harm. Harm is a result of one or more of those five definitions on page 64.

Ms S.E. Walker: Do you not think that a child is harmed if he or she is sexually molested?

Ms S.M. McHALE: Yes, but the act is the sexual abuse and the harm could result in different manifestations. It could be physical or highly emotional. No physical harm may result from the abuse but we know that there is likely to be other significant harm as a result of it. I would counsel against inserting the words "and any form of sexual abuse", because it would then exclude other abuse. It is important that members listen to this. If the member wishes to put into the Bill the words "and any form of sexual abuse" as a cause of the harm - if she wants to make it absolutely explicit in the definition - she could say that the harm was as a result of the definitions listed in clause 100, but she should not merely put in sexual abuse, because it will result in the separation of the cause and effect. I think we have dealt with this. The definition is of "harm" and not of the event or incident that causes the harm. This is dealt with in clause 100, which lists five results of the abuse. We must either put in all the definitions or accept that it is dealt with in clause 100.

Ms S.E. WALKER: I will pursue my amendment because I do not think that there should be significant harm involved in an act to result in a child needing care and protection. Any type of emotional, physical, psychological or sexual abuse should require the department to investigate whether the child is in need of care and protection. I will therefore press ahead with my amendment.

Ms S.M. McHALE: We are dealing with an amendment to insert the words "and any form of sexual abuse". I will vote against the amendment. We will then deal with the other question of whether it is significant harm or harm. The reason I am voting against the amendment is that the matter is dealt with in clause 100. Harm means harm as a result of a series of incidents or events, one of which could be sexual abuse. If we only put in the words "and any form of sexual abuse", we will be denigrating the other forms of abuse. They can be just as significant and damaging to a child. In clause 100 we have dealt with the issue that the member for Nedlands is raising; that is, clause 100 lists the causes of the harm. As I have said, the definition of "harm" is the consequence of the action. I do not think that we should isolate sexual abuse when it is already dealt with in clause 100. Sexual abuse is the event or incident, the consequences of which are the harm caused to the child.

Dr J.M. WOOLLARD: Just to clarify the position, I believe the minister has agreed with me that the definition of "harm" is the consequence of the action; that she is including sexual harm as a form of physical harm; that sexual abuse is also a form of emotional abuse; and that sexual trauma can damage a child's psychological development.

Ms S.M. McHale: Yes.

Amendment put and a division taken with the following result -

Ayes (18)

Mr R.A. Ainsworth	Dr E. Constable	Mr M.G. House	Ms S.E. Walker
Mr C.J. Barnett	Mr J.H.D. Day	Mr R.F. Johnson	Dr J.M. Woollard
Mr D.F. Barron-Sullivan	Mrs C.L. Edwardes	Mr W.J. McNee	Mr J.L. Bradshaw *(Teller)*
Mr M.J. Birney	Mr J.P.D. Edwards	Mr P.G. Pendal	
Mr M.F. Board	Mr B.J. Grylls	Mr T.K. Waldron	

Noes (26)

Mr J.J.M. Bowler	Mrs D.J. Guise	Ms S.M. McHale	Mr E.S. Ripper
Mr C.M. Brown	Mr S.R. Hill	Mr A.D. McRae	Mr D.A. Templeman
Mr A.J. Carpenter	Mr J.N. Hyde	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Dean	Mr J.C. Kobelke	Mrs C.A. Martin	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr R.C. Kucera	Mr M.P. Murray	Ms M.M. Quirk *(Teller)*
Dr J.M. Edwards	Mr J.A. McGinty	Mr A.P. O'Gorman	
Dr G.I. Gallop	Mr M. McGowan	Ms J.A. Radisich	

Pairs

Mr A.D. Marshall	Mr J.R. Quigley
Mr P.D. Omodei	Mrs M.H. Roberts
Ms K. Hodson-Thomas	Mr F.M. Logan

Amendment thus negatived.

Dr E. CONSTABLE: I seek from the minister some guidance on and explanations about a number of the definitions. The definition of "authorised officer" refers us to clause 25, which states -

> The CEO may appoint officers as authorised officers -
>
> (a) generally for the purposes of this Act; or
>
> (b) for the purposes of provisions of the Act specified in the appointment.

I did not learn much from that clause or the definition. I would like the minister to explain to me who can be an authorised officer. What is the lowest level of appointment at which someone can be considered an authorised officer? What sort of training and experience would this authorised officer have? I think it is very important that we understand the minimum qualifications someone must have to be an authorised officer because they are the people who will be making extremely important decisions and coming to very important conclusions about the children who are brought before them. That is one of the definitions about which I would like more information.

My questions about the definition of "carer" are much the same. The clause states -

> **"carer"** means a person who provides care for a child under a placement arrangement;

Will the minister tell us what this means? What sort of qualification will a carer have? I understand there is a number of different types of carers, ranging from a relative to a foster carer, and there may be others. What is the minister looking for in a carer, and what sort of qualities does she want that carer to have? I think I raised some of those issues last night in my contribution to the second reading debate.

I also need some explanation about "relative". The definition lists six types of people who are believed to be relatives. The definition then states -

> whether the relationship is established by, or traced through, consanguinity, marriage, a de facto relationship, a written law or a natural relationship;

Does that mean that a grandparent in a de facto relationship could be considered a relative? Does it mean a stepsibling could be a relative? How broad is it? I need to understand this because I do not think the Bill contains enough information. I am not being critical of the definition, but I want to know more about it. I suspect that a range of people well beyond those we consider to be in a nuclear family could be seen as relatives, and I think we need to be very clear about how far the definition reaches.

The definition of "social services" contains a long list, but "health" is not included. Am I to assume that paragraph (h), "therapeutic services", includes health services? Perhaps "health" needs to be included in the list, as "therapeutic" can mean a lot of things, as can "health services". I do not think that "therapeutic services" necessarily covers everything provided by "health services".

The definition of "wellbeing" is -

> **"wellbeing"** of a child includes the care, development, health and safety of the child;

I would like education also to be included. If the minister can convince me that this definition includes education, I will be satisfied; however, I suspect that it does not. I think that is part of the child's wellbeing. I raised that last night in the example I gave in my contribution to the second reading debate.

They are the definitions about which I would like some clarification from the minister.

Ms S.M. McHALE: I thank the member for Churchlands. Authorised officers would be only departmental officers with the special skills and training to undertake the various powers conferred under the legislation. Specifically, they would be social workers, psychologists or a specialist trained -

Dr E. Constable: Are we talking about university-educated officers?

Ms S.M. McHALE: Not necessarily. The officers may have a diploma in community services or a masters degree in clinical psychology. They would not be unskilled.

Dr E. Constable: I am not suggesting that they would be. What is the minimum qualification? From what I understand of what you just said, the minimum qualification would be a one-year or two-year diploma.

Ms S.M. McHALE: The minimum qualification will depend on the position. There is not a minimum qualification for a base-grade position. The qualification could be a diploma. It would depend on the task. Clearly, the authority will be given to only those officers who have and are assessed as having the necessary skills and training. That training may be provided on the job. It would depend on the particular power that will be delegated through that authority. For instance - I think this is the appropriate example - the authority to restrain a child or young person in a hostel will be given to only those who have undertaken designated specific training, the likes of which would probably not be provided in a degree. Officers will need to be given that training prior to being given the authority. That is the best way I can explain it. A degree will not of itself give a person all the skills -

Dr E. Constable: I agree. I said that last night.

Ms S.M. McHALE: Okay. I refer to the definition of "carer". The placement arrangement could be with a foster carer, a departmental worker, a worker employed by a non-government agency, another government department's residential facility or a person or a body that receives funding - for example, non-government organisations such as Parkerville Children's Home, MercyCare or Mofflyn - or it could be any other arrangement the chief executive officer deems appropriate. The carer could be a family member. It could be a significant other in the person's life. That is broadly the definition of who would care for a child in a placement arrangement.

The member is absolutely correct in saying that the definition of "relative" is broad. As the Bill says, the definition could extend to the stepsibling if that person were considered appropriate to have responsibility for the care and protection of that child. It could be a grandparent in a de facto arrangement - they are still grandparents - or it could be an aunt or uncle. It is quite a broad term.

The member's question on social services and health is absolutely appropriate, particularly as it relates to mental health. There is no classification of health services but that would come under therapeutic services.

Debate interrupted, pursuant to standing orders.