CHILDREN AND COMMUNITY SERVICES AMENDMENT BILL 2021

Second Reading

Resumed from 2 September.

HON NICK GOIRAN (South Metropolitan) [3.34 pm]: It is National Child Protection Week 2021. I am pleased we now have the opportunity to consider the Children and Community Services Amendment Bill 2021. I mention in passing, for what it is worth, that the priorities of the McGowan government this week have been wrong with respect to this chamber. Nevertheless, it is its choice as to what gets debated at what particular point in time. I just think that, given it is National Child Protection Week —

Point of Order

Hon MATTHEW SWINBOURN: I bring to the attention of the house that the speaker's time on the clock is not correct.

Hon Nick Goiran: I had started my comments; this is a continuation.

Hon MATTHEW SWINBOURN: My apologies.

Debate Resumed

Hon NICK GOIRAN: Can I just acknowledge the hardworking Parliamentary Secretary to the Attorney General, who has always been a gentleman, but in this instance I confirm that I had the opportunity to commence my remarks on this bill last week. My point is that I would have liked us to have already dealt with this bill this week, being National Child Protection Week, but the government has decided that that will not be the case.

The genesis of the bill before us is the statutory review that had been undertaken in a previous Parliament, and also this bill seeks to implement recommendations arising from the royal commission. I have already touched on a number of elements in the bill and I am keenly looking forward to our going into Committee of the Whole House. However, before we do that I want to finish off on a couple of areas that I was addressing when this matter was last before us. In particular, members will note that in this bill we are seeking to legislate what is the current policy within the department, certainly with respect to leaving care. That is to say that there is a policy in the department that when a child hits the age of 15, there needs to be a leaving care plan, or at the very least, the planning for leaving of care needs to commence in earnest. This bill will elevate that policy into the form of a statutory requirement. The concern I have around that is not the idea that there should be a leaving care plan and that it should be legislated; my concern goes to the resourcing to ensure that that actually occurs. We know that there is a policy at the moment and yet it is frequently not happening. Hopefully, when we look into this element of the bill, the parliamentary secretary's advisers might be able to provide us with some data on the frequency with which leaving care plans are being prepared for children between the ages of 15 and 17 and the frequency with which there simply is not a plan. It would be useful for us to know what the current statistics are because as best as I can recall, historically the figures have been something in the realm of fewer than one in five. Therefore, 80 per cent, or four out of five children, do not have a plan when they leave care. Anecdotally, the information provided to me by carers and children leaving care is that to the extent that there have been some plans, often it is best described, most charitably, as a rushed job or a tick-the-box exercise for something that is quickly put onto a file. Although on behalf of the opposition in my capacity as shadow Minister for Child Protection I support the elevation of that policy into the legislation, my concern is not so much the requirement, but the implementation of the requirement and the resourcing to facilitate it.

Last month I attended with Hon Steve Martin a walk-through of Anglicare Western Australia's Home Stretch trial. I want to commend Anglicare for the presentation of the work undertaken. Not only was Anglicare most hospitable, but also we could see the level of authentic engagement in that trial from the feedback that had been provided, so I want to commend Anglicare for its work on that. Obviously, I am yet to have an opportunity to properly scrutinise the budget that has just been delivered today by the government. However, I noted in passing that the government has made some form of commitment in this area, and a certain amount of money has been allocated to continuing or extending that program. That certainly has my support, and I look forward to getting further details around that, either in the Committee of the Whole House or, alternatively, during the estimates process we will embark upon as members over the coming weeks.

As I say, it was incredibly encouraging and valuable to be able to speak, in particular, to young adults who had left care. Despite the fantastic work that has been undertaken by Anglicare in that area, I was surprised when I recently asked a question about the numbers. On 12 August—less than a month ago—I asked the Minister for Child Protection, through the parliamentary secretary, about the Home Stretch program. I was looking to ascertain how many young people had left care in the last financial year, in the reporting period 2020–21. The answer that came back from the parliamentary secretary was that 897 young people had left care during that reporting period. In the last financial year, on average, more than two young people per day left care. That is the statistic provided by the parliamentary secretary. The question that followed was: how many of that number are supported in the Home Stretch program? It surprised me that the answer was five. There were 897 young people who had left care in the reporting period

in the last financial year. That is just a statement of fact; it is a statistic, it is not a criticism—897 had left care. On a multi-partisan basis, we want to make sure that when young people leave care, they are well-equipped for that leaving process, no matter what circumstances they find themselves in. Indeed, it is our aspiration that they are better equipped than when they first went into state care.

There were 897 who left care, and as I say, that is not a criticism; it is a statement of fact. However, it is peculiar that only five of the 897 were supported through the current Home Stretch trial. Maybe the parliamentary secretary will give an explanation of that in her reply to the debate on this Children and Community Services Amendment Bill. If not, alternatively, I certainly encourage the advisers to try to ascertain some of that information when we get to the Committee of the Whole House, because it seems curious that there could be such a disparity between the number of young people who leave care and those supported by the Home Stretch program. It may well be that the government says, "We agree that it is an issue and that is exactly why, in today's budget, we have allocated a whole chunk of money for this purpose." If that is the case, that is a great outcome. I would like some further information on that so that we can be sure that all those 897 children who leave care and are appropriate and eligible for the Home Stretch trial will be able to access it. Obviously, I accept that not all of the 897 young people who leave care would necessarily be eligible or appropriate for the Home Stretch trial, including, if for no other reason, their age and circumstances.

I think the Parliamentary Secretary to the Minister for Child Protection tabled the *Foster care refresh project* report. I do not have the date it was tabled, but from memory it was sometime in the last month. At page 21 of the report under the heading "Leaving care", the report states —

> Carers specifically discussed the lack of meaningful child centred leaving care planning that included supports, services and planning to prepare the young person to live independently as an adult. They talked about rushed care planning which can increase the risk of the care leaver going into unstable, short-term arrangements, which were particularly difficult for children with trauma-related behavioural issues or with an intellectual disability. Most importantly, where leaving care arrangements were not planned, carers felt children were denied choice and autonomy, and were not able to exercise their independence or make their own decisions.
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> Carers with older children in care were often concerned about the future of those children, and the planning for their leaving care. There was a strong sentiment that planning did not start when it was supposed to, at age 15, but often was left until very shortly before the child left care.

I pause there to say that that is exactly the feedback that has been provided to me anecdotally over the last five years. It may well be the case that this was an issue long before that. When I say "the last five years", I am not necessarily saying that this is solely a child protection issue at the feet of the McGowan government, but it is the consistent feedback that has been provided, and at some point someone needs to do something about it. The report goes on to say —

> Carers feared that a child leaving care would be cut off from supports from Communities and from the carers themselves as soon as they turned 18. Under the *Children and Community Services Act 2004* support is available to a child leaving care until they turn 25, and some carers were unaware of this.

Again, I pause, because not only are the carers routinely unaware of it, but also, of course, the young people themselves are frequently unaware of it. The report goes on to say —

> Carers wanted children leaving formal care to have independent living skills such as budgeting, cooking and meal planning, home maintenance and cleaning, and transportation.

Again, I pause to say that it is certainly my aspiration that we, as a state, should facilitate and help every young person in Western Australia who attains the age of 17, particularly children in care, to get their driver's licence if they want it. The report goes on to say —

> Carers also wanted children to have strong connections to supports and services, and to know what they were entitled to and how they could access those services. If leaving care planning commenced as early as possible, it maximised the opportunities for a child in care to learn these skills and develop and strengthen useful connections.
>
> Carers felt that if leaving care planning was left until shortly before the child left care, —

As is routinely the case —

> there would be little opportunity to connect with services or build skills. So the child was at risk of having no strong connections to provide support, few skills, and no place to call home.
>
> Carers wanted a strong focus on building independent living skills as part of long-term, planned responses to leaving care. Carers wanted to be part of the decision-making process and to continue to be part of a child's support network.

It ends with a quote —

> Young people living in care should have life skills training and supports for budgeting, be job ready etc.

That was a comment from one of the foster carers, found on page 21, for the benefit of Hansard, from the recently tabled *Foster care refresh report*.

In conclusion, I want to acknowledge that the government has—not just at this time but certainly, in my observation, over the last four to five years—consistently expressed a commitment to putting child safety first. That commitment is wholeheartedly shared by the opposition. This bill before us is indeed important legislation. It has its history in the statutory review that was undertaken. It has elements associated with the recommendations arising from the royal commission. It is disappointing that this matter was not able to be implemented in the fortieth Parliament, notwithstanding the vocal support provided by me, in particular, in the previous Parliament urging the minister to make sure that all five categories of mandatory reporters be included in the bill. In fairness to the minister, eventually there was a supplementary notice paper after the committee inquiry had made its recommendation to that effect that would have seen that occur, but the bill was never brought on for debate at the end of the previous Parliament. Although it is disappointing that that did not occur in the fortieth Parliament, here we are in the forty-first Parliament, during National Child Protection Week, in a position to now implement a lot of these longstanding reforms.

I appreciate that the bill that is currently before us, which is what I would describe as the 2021 version, is different from the original presented to us in, as I recall, 2019, but to the extent that it is different, it has been improved and enhanced in large part because of the work of the Standing Committee on Legislation in the fortieth Parliament and the report that was tabled in September 2020.

For the benefit of the parliamentary secretary, when we get into the Committee of the Whole Stage I will want to look into the elements that have changed between the 2019 and the 2021 bill and also look at the concerns that I outlined when we last discussed this bill about the extraordinary powers that have been provided to child protection, those police-like powers, and seek a cogent persuasive explanation about why they are necessary and not simply some reference to another piece of legislation where it already exists. The concerns that I raised on the last occasion on behalf of the opposition about implementation and the resourcing that will be provided to the department to implement these reforms has been some concern of mine for some time. I have been on the record for more than four years that the government decided to amalgamate the then standalone Department for Child Protection to the mega-Department of Communities notwithstanding that even if we are mere reasonable students of history, we will know that the forward report at a time of crisis in child protection recommended exactly the opposite, that there be a standalone department for child protection and that was the case and was working well. Since the amalgamation, all I have heard from stakeholders is the large amount of difficulties that have arisen as a result.

We have in recent times even seen an exodus out of the department of its most senior and experienced officers. This continues to be a concern for the opposition. We can change the laws and support the government in this process today, but it will come to nothing if there is not then the resourcing provided to the department. That does not mean simply making a budget speech referring to millions of dollars; it means making sure that the right people are at the helm with the expertise and capacity to drive these reforms. That has not been evident for quite some time. I hope those responsible will take this very seriously.

I was pleased this morning to be joined by the parliamentary secretary at a breakfast hosted by the Safeguarding Office. I think this is the fifth or sixth time that it has done this, with perhaps the exception of last year because of COVID-19. Dr Karl O'Callaghan made a very touching, personal, passionate presentation this morning. I only wish it had been recorded, because I think all members would be the better and more enriched for having listened to that this morning. I am very, very pleased that in our community we have individuals like Dr Karl O'Callaghan. Despite his extensive time in the public service in a very, very difficult job—he could be quite rightly forgiven for just taking it easy and retiring—he is still there doing the heavy lifting at a personal level. One of the words used this morning was "herculean". That really resonated with me this morning when I was listening to the presentation with all the people of fantastic goodwill there, because the task of child protection requires exactly that. It is at times so overwhelming. Just the mere thought of the numbers involved and the complexity of cases makes it feel like mission impossible at times, yet the solution cannot be simply to throw up our hands, vacate the space and say it is just too hard. We need these herculean efforts in order to make sometimes even the smallest of steps forward. It is with those remarks that I indicate that the opposition supports the bill before the house. We have concerns about some of the extraordinary powers and implementation of these reforms, including the resourcing, but we will unpack that a little bit further when we get in to the Committee of the Whole House.

HON DONNA FARAGHER (East Metropolitan) [3.57 pm]: I rise to make a few brief comments about the Children and Community Services Amendment Bill 2021 before us. As Hon Nick Goiran has already outlined, the opposition supports this bill, which, as he has already indicated, covers very, very important matters relating to children.

In my contribution today I intend to focus on the part of the bill specifically relating to the mandatory reporting of child sexual abuse. The Royal Commission into Institutional Responses to Child Sexual Abuse made some

409 recommendations of which two are particularly relevant to the bill, being recommendations 7.3 and 7.4, and I want to read those. Recommendation 7.3 states —

> State and territory governments should amend laws concerning mandatory reporting to child protection authorities to achieve national consistency in reporter groups. At a minimum, state and territory governments should also include the following groups of individuals as mandatory reporters in every jurisdiction:
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> a. out-of-home care workers (excluding foster and kinship/relative carers)
>
> b. youth justice workers
>
> c. early childhood workers
>
> d. registered psychologists and school counsellors
>
> e. people in religious ministry.

Recommendation 7.4 said —

> Laws concerning mandatory reporting to child protection authorities should not exempt persons in religious ministry from being required to report knowledge or suspicions formed, in whole or in part, on the basis of information disclosed in or in connection with a religious confession.

I indicate that I support strongly both those recommendations. I appreciate—this has also been noted in the parliamentary secretary's second reading speech—that there were some concerns around recommendation 7.4, including from some survivor groups. I am very cognisant of that. That was also raised in the report by the Standing Committee on Legislation. However, I remain of the view that recommendations 7.3 and 7.4 are very important.

Hon Nick Goiran referred to the fact that this is the second Children and Community Services Amendment Bill to come before this chamber. The first bill was introduced in 2019. This bill was introduced this year. It is important to reflect a bit on the history of this piece of legislation. The 2019 bill did not include any of the categories that were reflected in the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse, other than ministers of religion.

From my perspective, having had the benefit of the royal commission's findings, I was somewhat unconvinced by the reasoning of the Minister for Child Protection as to why only ministers of religion had been included in the 2019 bill and not the remaining categories. I say that because it was very clear from the royal commission's recommendations that all five categories should be included. Although I accept that there might need to be a phased approach to when each of those categories would come online in order to provide the necessary training, I felt it was important that all five categories be included in the bill in the first instance. Indeed, I was not alone in thinking that. As Hon Nick Goiran has indicated, the 2019 bill was referred to the Standing Committee on Legislation. That committee undertook a substantial report into this bill. It identified that Western Australia was the only Australian jurisdiction in which none of the five recommended groups were mandatory reporters. Notwithstanding the minister's explanation as to why the inclusion of ministers of religion was to be expedited before other groups, it was clear from my reading of the committee's report that the committee had received multiple submissions from both individuals and organisations, including the WA Council of Social Service and the Youth Advisory Council of Western Australia, calling on the government to introduce all five categories.

I also indicate that on 16 September 2020, in a public hearing of the Joint Standing Committee on the Commissioner for Children and Young People, I asked a number of questions of the Commissioner for Children and Young People, Colin Pettit, about this very point. I want to reflect on a couple of the comments that he made. I asked —

> … are you concerned that WA is the only Australian jurisdiction where none of the five recommended mandatory reporters are included?

Mr Pettit responded —

> I am concerned that the recommendations have not been enacted at this point in time. I think the debate that you are having through the Parliament is an important debate to have. I think the committee needs to understand that. But I will be more content when the whole bill is through in its entirety.

We then talked about some of the issues that had been raised about definitions and the like and the reasons why there might have been delay. I then put to Mr Pettit —

> I suppose there were some concerns raised with regard to needing to expedite the consultation process.

I was talking in the context of the committee's report. I went on to say —

> I am not putting words in the committee's report, but having read the report, it is my understanding that that was a conclusion made by the committee, that that needed to be expedited. Would you be of the same view?

Mr Pettit responded —

> I would think that we have had nearly a year of debate on this, and it is time to get it moving, yes.

That was the position of the Commissioner for Children and Young People when I asked him about this matter last year. Of course, those members who have read the Standing Committee on Legislation's report will know that the committee made a number of recommendations calling on the government to include all categories. I point to a couple of the paragraphs in there. Paragraph 4.45 of the report states —

> On the balance of the evidence received, the Committee is not convinced that there is any adequate justification for ministers of religion to be the only reporter group included in this Bill.

Paragraph 4.47 states —

> The Committee is of the view that the other recommended groups should become mandatory reporters as soon as possible. Definitions are readily available for early childhood workers, out-of-home care workers and psychologists, removing one of the main objections to including these groups in the Bill. Consultation should commence as soon as possible on the relevant definitions for youth justice workers and school counsellors. The Committee makes recommendations 13 and 14 to this effect.

Following the release of the committee's report, I was pleased that the minister agreed to the inclusion of the remaining groups in the 2019 legislation, albeit, quite obviously, that had to be done through the circulation of amendments in this place. Obviously, that bill lapsed, but I note that the minister had sought to incorporate those amendments, and they have been incorporated in the bill that is now before us.

I am very pleased, because it is my very, very strong view—I know that everyone in this house will have the same view—that individuals who work with children should absolutely be mandatory reporters. That includes workers like early childhood workers and out-of-home care workers, much like doctors, nurses, teachers and other defined groups. I fully support the inclusion of all five categories as identified by the royal commission, with no exceptions.

Child sexual abuse is abhorrent. Child abuse in any form is abhorrent. No child should suffer in silence—not one—and I know that every member in this house would agree. With that in mind, I raise one matter. I want to express some disappointment, to put it mildly, with some comments that were made by the Minister for Child Protection in the other place last year. I appreciate that time has passed, and the opposition called out the remarks that the minister made at the time, but given that we are now debating the very bill that was the genesis of those remarks, I feel it is important that I place them on the record today. I understand that, in answer to a question without notice, the minister was reflecting on a minority recommendation in the committee report, but then, notwithstanding her knowledge that the opposition was fully supportive of this legislation, she decided to extrapolate that to effectively say that the Liberal and National Parties in this house, in this chamber, of which I am a member, did not stand with victims of child sexual abuse. This is what the minister had to say. I do not like to raise these things, but it is important, and it is important to me.

On 15 September 2020, the minister said —

> Without the support of the other parties in the upper house, the legislation is at risk of failing to pass. Survivors of child sexual abuse will rightfully be asking themselves, as we are on this side of the house: Do members of the Liberal and National Parties think that they know better than the five-year royal commission? Why are they prioritising religious institutions over victims of child sexual abuse?

The minister continued —

> Why are they not putting child safety first?

A little later, she said —

> I want to make it clear that this government stands by its commitment to implement the recommendations of the royal commission. It stands with victims of child sexual abuse.

Through those words, the minister suggested that the Liberal and National Parties do not stand with victims of child sexual abuse. She said, "Why are they not putting child safety first?" I do not intend to dwell on this because the bill is too important. I find that the comments made by the minister in the other place—that somehow the Liberal and National Party members in this house, which includes me, would not stand with victims of child sexual abuse—were disgraceful and offensive. Those comments were a very poor reflection on the minister who, quite frankly, should have known better.

Given that we are speaking about mandatory reporting laws in this state, I want to acknowledge a former member of this house for her significant advocacy on that issue. Some members will know Hon Barbara Scott, a member of the Parliamentary Liberal Party who championed the cause for mandatory reporting laws in this state. Hon Barbara Scott first prepared and oversaw the introduction of a private member's bill back in 2006, which was introduced in the Legislative Assembly, calling for mandatory reporting, actually with no exceptions. That bill was struck out after the second reading without any further parliamentary debate. After that, the then Labor government introduced a bill. The Leader of the House is in the chamber today. She will tell me if I am wrong but I believe that the Leader of

the House was the then responsible minister who had carriage of that bill. She introduced that legislation, and I commend her for that.

In ending my comments about the Minister for Child Protection, I want to say that in my view the protection of our children is absolutely paramount. They are the most vulnerable within our community. They are and need to be protected, valued, loved and supported by individuals, family members, carers and friends and by society as a whole. The minister was wrong in what she said. I hope that she reflected on what she said at the time because, as I said, her comments were deeply offensive to members on this side of the house. To suggest that we—that I—would not put child safety first was really unacceptable. No child should suffer in silence, not one. Every member in this house, irrespective of political persuasion, whether they are a member of the Labor Party, the Liberal Party, the Nationals WA, the Greens (WA), the Legalise Cannabis Party or the Daylight Saving Party, would agree that no child should suffer in silence.

That is why the Liberal Party supports this legislation. I absolutely support the inclusion of additional groups as mandatory reporters. In fact, in my view—I think everyone would share this view—no-one, whether or not they are mandatory reporters, should ever turn a blind eye to child abuse. Last year, the Joint Standing Committee on the Commissioner for Children and Young People tabled its fifth report, titled *From words to action: Fulfilling the obligation to be child safe*. The committee tasked itself to examine the direction of work being undertaken by government agencies and non-government organisations to improve the monitoring of child-safe standards and, using the words from the terms of reference, "the role of the Commissioner for Children and Young People in ensuring Western Australia's independent oversight mechanisms operate in a way that makes the interests of children and young people the paramount consideration".

The committee's final report, to which I am pleased to say my name is attached, identifies a number of significant recommendations on improving child safety in this state. Importantly, it impresses upon the government the need to progress certain matters. In particular, the committee recommended that, as a crucial part of child-safe reform, an oversight body with a purpose of assisting child-safe approaches and a focus on achieving better safety outcomes for children be established as a priority by government. A number of other recommendations were also made. They were made in the context of child-safe monitoring, education, legislative reform and information sharing. More specific recommendations were made, including the need for urgent additional resources to be provided to the advocate for children in care. Members may have noticed that I asked a question of the parliamentary secretary about this because I was interested to see whether there had been any progress. The report identified that, notwithstanding the invaluable role that the advocate currently plays within the department, there is significant concern about whether there should be greater resources.

Debate interrupted, pursuant to standing orders.

[Continued on page 3704.]

Sitting suspended from 4.16 to 4.30 pm