

**CHILDREN AND COMMUNITY SERVICES (MANDATORY REPORTING) AMENDMENT BILL
2006**

Second Reading

MR P.D. OMODEI (Warren-Blackwood - Leader of the Opposition) [4.02 pm]: I move -

That the bill be now read a second time.

The Children and Community Services (Mandatory Reporting) Amendment Bill 2006 is a bill to amend the Children and Community Services Act 2004 to provide for mandatory reporting of harm, or suspected harm, to children by abuse or neglect. I thank Hon Barbara Scott for preparing this bill.

Nothing is more important to Western Australia than its children. Our children are not only our future, but the best part of our present. No interest or political consideration can be permitted to compromise their wellbeing. Every government and opposition must be judged on its commitment to children. A government that does not put children first does not deserve to govern. The opposition puts children first.

We all know that, no matter how much most of us love and care for our children, children are being abused. This is not an interesting issue for study by academics and discussion by bureaucrats; it is both a tragedy and a scandal. It is the absolute duty of governments to protect the weak of their community. There is no weaker individual than an abused child. The opposition accepts this duty as a solemn trust. Governments that are soft on child abuse betray their community.

Too often, child abuse is treated as a social phenomenon to be talked and conferenced away. Child abuse is not just about substandard parenting. When a boy is beaten or a girl is assaulted, a serious crime is committed. Of course, families must be counselled and supported. However, when a crime is committed against children, it must be reported and dealt with. For the opposition, this is non-negotiable.

Western Australia is the only state in which the law does not make it mandatory that child abuse be reported by those with professional responsibility for children. Only in Western Australia can a professional with responsibility for the care of children observe the unmistakable signs of child abuse and be under no legal compulsion to report them. This is the choice not of the people of Western Australia, who revile child abuse, but of a government that is more concerned with bureaucratic turf wars, academic opinion and finding money for grandiose projects than with preventing violence towards children. The opposition rejects this approach as un-Western Australian.

The arguments usually made against mandatory reporting are the sorts of arguments that appeal to governments that are soft on crime and even softer on crime against children; that is, that there will be too many reports, civil liberties will be compromised, there will be administrative confusion, and the whole system will be too expensive. These are the problems that arise when mandatory reporting systems are adopted as a mere token.

In contrast, the opposition proposes mandatory reporting as a key part of its commitment to children, for the simple reason that there is no better investment than the safety of our children. This bill mandates the reporting of child abuse. This will apply wherever there is a reasonable belief that a child is suffering, or at risk of suffering, significant harm from physical or sexual abuse. Quite apart from its legal effect, this will be the first unequivocal statement by the Parliament of Western Australia that child abuse is to be detected and eliminated wherever it occurs.

In conjunction with the passage of this bill, the government of the day must generously resource the child protection unit within the Department for Community Development. The unit should be responsible not only for receiving and dealing with reports of child abuse, but also for the critical functions of advising and training mandated professionals on their responsibilities, and monitoring the functioning of the system generally.

The cost of providing the extra staff that will be needed, the emergency accommodation, and the training for the mandated professionals is estimated at \$65 million per annum. Some may say that that is a lot of money, and so it is. However, we must get our priorities right. It is estimated that at least 1 000 children a year will be rescued from abusive environments if mandatory reporting is adopted in Western Australia.

“Abusive environments” is a phrase that is used by governments to cover up horrific crime, and to prevent their inaction from pricking their consciences too much. When we say “abuse”, we mean torture. When we say “abusive environments”, we mean homes that have become prisons and torture chambers in which little children suffer, suffer and suffer. Is \$65 million too much to save 1 000 of those children every year? I hope every member is thinking that we should double the amount and hopefully save more children.

The opposition has reviewed the mandatory reporting acts from all the Australian states and territories. We took the best and strongest provisions and formed this bill. The bill is modelled upon terms in the New South Wales Children and Young Persons (Care and Protection) Act 1998, the Tasmanian Children, Young Persons and Their Families Act 1997, and the Northern Territory Community Welfare Act.

The bill amends the Children and Community Services Act 2004 by the insertion of a new division 1A after section 30 of the act. The Children and Community Services Act 2004 contains, in section 28, definitions of “harm”, “neglect” and “in need of protection” for the purposes of the child protection provisions. Further, the definition of a child “in need of protection” includes “harm” as a result of “physical abuse”, “sexual abuse”, “emotional abuse”, “psychological abuse” or “neglect”. This bill uses the same concepts by incorporating the definitions of “harm” and “neglect” from section 28. There is no need to incorporate the concept of a child being “in need of protection” because section 28(2) provides that this concept applies for the purposes of part 4 into which the new division 1A is to be inserted.

The bill creates a civil duty, without criminal penalty, to prevent child abuse or neglect of children on all adults. This duty may be discharged by a report to a police officer or the CEO. This provision gives reassurance to members of the public that they will not suffer in any way - for example, civil suits - for reporting child abuse, that it is their duty to report child abuse and that this is a good and proper thing to do. The provision closely follows a similar provision in the Tasmanian act.

The primary distinction between professionals and non-professionals under this bill is the penalty that will attach to a failure to report child abuse - \$12 000 versus \$50. A professional must also make the report directly to the Department for Community Development rather than to a police officer. Defining the relevant professional persons is always a difficult drafting issue. The Tasmanian act attempts to list every relevant vocation, including, where applicable, by reference to legislation governing that vocation and then provides a catch-all for the minister to gazette further classes of persons. The problem is that because of the vast field of persons who may conceivably work with children, the list will never be exhaustive, so that classes of persons may be missed if not gazetted, and the legislative cross-referencing is likely to change over time, necessitating ongoing amendment.

The New South Wales act applies the reporting requirement to broadly defined classes of persons who work with children. This approach has been adopted in clause 30B of this bill. The bill provides comprehensive protections from any possible breaches of professional conduct or etiquette, civil and/or criminal liability for making reports to the police or the Department for Community Development. It is important to note that the report must be made in good faith. Anyone who makes fictitious or vexatious reports will not be protected. The bill also provides very strong protection for the confidentiality of persons making a report. It is, in fact, the largest clause in the bill. There are two existing reporting obligations: section 160 of the Family Court Act 1997 requires various officers of the Family Court to report suspected child abuse; and various regulations to the WA act require childcare personnel to report suspected child abuse. The proposed provisions in this bill overlap with these. Ideally, either the new provisions should exclude these or the existing provisions should be repealed in the bill. It is considered that the government of the day should have discretion over this matter and put forward the appropriate amendments.

In conclusion, mandatory reporting of child abuse will at last mean that Western Australia has joined the rest of Australia in squarely facing one of the great evils of our society. There is no room for a bet each way; we either utterly reject child abuse, uncover it and eliminate it or we wink at its existence. I commend the bill to the house.

Debate adjourned, on motion by **Mr R.C. Kucera**.