

**CHILD SEX OFFENDERS REGISTRATION BILL****Thursday, 21<sup>st</sup> September 2006**

Adjourned debate on second reading (resumed on motion).

**The Hon. A.L. EVANS:** At the outset I indicate general support for the establishment of a Child Sex Offenders Registry; however, I think it could be done in a better way. Family First is grateful for the minister's briefing in respect of this bill, and there has been significant discussion between my office and the Hon. Mr Hood's office and the minister regarding possible improvements to the bill.

I understand that the minister is in the process of redrafting some parts of the bill, and I trust that his office will consider the proposals that I describe today as part of the redrafting process. If that turns out not to be the case, then I may have our draft proposals finalised in the form of an amendment. Given the current negotiations and the likelihood of several amendments to this bill, at the conclusion of my speech today I will be seeking leave to conclude my remarks at a later time.

I think the bill can be improved in several ways. First, let me get one thing straight—sexual predators now also operate on line. We believe that judicial officers should have the power to limit a child sex offender's internet activity—including, amongst other things, the ability to restrain an offender from having a home internet connection, hosting web sites, using chat rooms, or sharing photographs or videos on line. There is no provision in this current bill, nor in the current paedophile restraining order provisions, to protect our children from paedophiles who carry on their disgusting activities on line.

Secondly, we submit that controls on a paedophile's behaviour should not be imposed administratively, as the current bill proposes, but should be imposed by a judge or a magistrate as part of a paedophile restraining order. In this regard I submit that the interplay between the Child Sex Offenders Registry and paedophile restraining orders under section 99AA of the Summary Procedure

Act can be improved. Let me first look at the interplay between the Sex Offenders Registry and the paedophile restraining orders; I will then get back to my suggestion that judicial officers should have the power to ban paedophiles from using the internet or the ability to limit their on-line activities.

I will start by taking a step back to explain the difference between the proposed registry and our current system of paedophile restraining orders. We are told that the primary purpose of this bill is simply to monitor the whereabouts and employment of sex offenders. In briefings that our office has had regarding this bill we are assured that the aim of the bill is not to place offenders under parole-type conditions. The focus of this bill, we are told, is simply to set up a register, or list of offenders, and that it is not designed to control them in any way beyond forcing them to report in from time to time to update their personal details, address and so forth. Therefore, the registry is administrative and not judicial. If a person is convicted of certain offences, they are automatically placed on the register, presumably by the Commissioner's clerk, as anticipated in section 60.

Compare that with our current system of paedophile restraining orders as they appear under section 99AA of the Summary Procedure Act. These restraining orders have, as their object, to control and restrict sex offenders. In particular, they have the power to restrain offenders from loitering around children. This regime is reasonably rare in other jurisdictions. To my knowledge, the only other jurisdiction that has these powers is New South Wales. Nevertheless, I understand that these orders are regularly used and that they are a vital part of the arsenal in the battle against paedophiles in this state. For example, on 29 October 1999, *The Advertiser* ran an article about a sex offender against whom a paedophile restraining order proved particularly effective. A paedophile restraining order is, in effect, a judicial restriction to a person's freedom. It is imposed by a judicial officer—that is, a judge or magistrate—under the application of the prosecutor after listening to the relevant evidence.

I draw members' attention to section 65 of the bill which provides that sex offenders on the register should be restrained from doing child-related work.

This is a significant punishment—possibly a lifelong restriction to a person's freedom—which will ensure the safety of our children. This sort of penalty should not be left up to a clerk or a computer system in SAPOL headquarters. Even if it is mandatory, such an order should be imposed judicially rather than administratively under the paedophile restraining order. This line of thinking led Family First to realise it is appropriate to take section 99AA of the Summary Procedure Act out of that act and to place it in this bill so that all paedophile monitoring and control provisions are under one act.

Provisions which deal with the keeping of the register can and should remain administrative. Control provisions such as restraining the offender from doing child-related work should be dealt with judicially under the paedophile restraining order provisions. In that way, a judicial officer will have the opportunity to turn their mind to imposing the most effective restraints, once they have convicted a person of a child sex offence. In some cases, a judicial officer might believe that a particular clause in the restraining order is not warranted and, in other cases, that conditions—harsher than those currently envisaged—should be imposed. A further benefit to putting section 99AA in the Summary Procedure Act is that the paedophile restraining order regime comes into this bill.

The suite of amendments we propose will enable, for instance, a sentencing judge to impose the existing type of 'no-loitering' paedophile restraining order on the person they are sentencing. At present, to get a paedophile restraining order, evidence of loitering needs to be presented. However, if a sentencing judge were convinced there was a good reason to impose a no-loitering condition, along with a no-child-related work order, they should be able to do so. Some might say Family First is just mucking about with the legislation, shifting legislation from one place to another for appearance sake. Not so; I reject that absolutely. The Hon. Ann Bressington and the opposition have protested that this bill is too weak. We are trying to tighten it up.

Once we have the power to judicially impose further controls on paedophile activity, I submit that we should consider online offending. This is a focus sorely

lacking in the bill. The current paedophile restraining order provisions deal primarily with loitering around children. These laws were drafted over 10 years ago in times when internet stalking and online child pornography were not so prevalent. Many offences for child sexual abuse now occur online. The US Federal Bureau of Investigation booklet entitled 'A Parent's Guide to Internet Safety' reads as follows:

Unfortunately, the same advances in computer and telecommunication technology that allow our children to reach out to new sources of knowledge and cultural experiences are also leaving them vulnerable to exploitation and harm by computer sex offenders. While online computer exploitation opens a world of possibilities for children, expanding their horizons and exposing them to different cultures and ways of life, they can be exposed to dangers as they hit the road exploring the information highway.

There are individuals who attempt to sexually exploit children through the use of online services and the internet. Some of these individuals gradually seduce their targets through the use of attention, affection, kindness, and even gifts. These individuals are often willing to devote considerable amounts of time, money and energy in this process. They listen to and empathise with the problems of the child. They will be aware of the latest music, hobbies and interests of children. These individuals attempt to gradually lower children's inhibitions by slowly introducing sexual context and content into their conversations.

There are other individuals, however, who immediately engage in sexually explicit conversation with children. Some offenders primarily collect and trade child pornographic images, while others seek face-to-face meetings with children via online contacts. It is important for parents to understand that children can be indirectly victimised through a conversation, i.e., 'chat', as well as the transfer of sexually explicit information and material.

Computer sex offenders may also be evaluating children they come in contact with online for future face-to-face contact and direct victimisation. Parents and

children should remember that a computer sex offender can be any age or sex. The person does not have to fit the caricature of a dirty, unkempt, older man wearing a raincoat to be someone who could harm a child.

There was a story in last Saturday's *Advertiser* regarding a 48 year old Warradale man charged with distributing and downloading more than 500 images of child pornography over the internet. I am assuming, and hope sincerely, that he will serve time in custody if he is found guilty. Child pornography images are pictures of crime scenes depicting defenceless children as offences are committed against them. Offences are carried out on children for these pictures to be obtained and often traded online, and it is for this reason that our society deems child pornography abhorrent. But, if this man serves his time in custody, the current law says that he can walk out of the gates of Yatala and straight back to his computer. We submit that a judicial officer should have the power to ban such an offender from using the internet.

We submit that under a paedophile restraining order a judicial officer should now have the power to limit an offender's internet usage, including the ability, for example, to restrain an offender from having a home internet connection, hosting web sites or sharing material online.

Where a judge is satisfied that the use of the internet was a factor in offending and considers that there is merit in making such an order, we submit that the judge must make an order (in addition to recording a conviction, thereby invoking the Child Sex Offender Registry conditions) for a paedophile restraining order barring the offender from using the internet for such period, including indefinitely, as the judge may order, or barring certain methods of use of the internet. The offender should also be subject to such reporting and/or disclosure requirements as the judge deems fit, including conditions enabling police to seize and inspect a personal computer or other internet-enabled device in possession of the offender.

I understand that such provisions are being debated in the US under the Adam Walsh Child Protection and Safety Act. In the United Kingdom, judges are now

routinely imposing internet bans, particularly on child sex offenders who use the internet in the commission of an offence. As recently as 15 September, the Guardian Online talked of a 57 year old south-east Londoner who was convicted of having more than 480 000 inappropriate images of children on his computer and almost 2 000 videos, including one of a baby who was just a few months old. The judge gaoled the man for a minimum of 4½ years and banned him from using the internet for life.

On 22 July 2004, the Register Online tells the story of a convicted paedophile who was banned from internet chatrooms for 10 years after pleading guilty to possessing and distributing images of child abuse involving children as young as 18 months old. He was also gaoled for 2½ years. A BBC news article on 16 January 2004 mentions a 37 year old man who lured a 14 year old girl into having sex with him after grooming her via an internet chatroom. The story explains that he was gaoled and banned from using the internet for five years.

So, the concept of banning paedophiles from using the internet is nothing new. Mother England is doing it, and Family First sees no sound reason for our not doing it. Other states in Australia have not yet implemented these provisions, but the proposal I suggest would let South Australia lead the way in this country. I trust that the government will consider my suggestions. I will have further discussions with parliamentary drafters. As I foreshadowed earlier, given the current negotiations, and the likelihood of several amendments to this bill, I seek leave to conclude my remarks next week in order to allow the Hon. Sandra Kanck to speak today.