

CHILDREN AND COMMUNITY SERVICES AMENDMENT BILL 2021

Second Reading

Resumed from 2 June.

DR J. KRISHNAN (Riverton) [1.29 pm]: I rise to commend the Children and Community Services Amendment Bill 2021 to the house. This is an important bill that seeks the support of every member sitting in this house. To emphasise the importance of looking after our kids in our state, let me share a personal story of being a general practitioner and providing care to a little child. It was only weeks since I had arrived in Australia when I was consulting, and to my surprise the mother walked in, suddenly opened her handbag and pulled a very weird object out of it. It was a balloon and a plastic tube. She said, “Test this; test this.” I could not understand what she was trying to say. I got more curious to find out what was going on. I asked whether she could explain what it was. She said, “You don’t know about this?”, and I said, “No, I’m sorry, I don’t know about this.” That balloon contained her kid’s urine and the adults were pretending to give a sample by using the balloon to pass the drug test. Unfortunately, that sample tested positive, which means someone had given drugs to that child. It was an eye-opener to me. I went to my supervisor for further advice because I was very new in Australia. My supervisor eventually reported that matter to Child Protection. Further investigations revealed that the child was in a dire state and severe help was needed to rescue the child and put them in proper placement. It was a pity to go through that and I emphasise again that it is essential that we tighten the laws to protect our kids who are going through difficult times. As members of this house we need to remember that every child in Western Australia is the future of Western Australia. They are the pillars for a strong Western Australian future.

I was brought up in a boarding school by the choice of my parents because my father was busy in his business and my mum was not educated enough to support me with my school homework. As a young kid I realised the cultural differences I had to accommodate from being in a home environment with its own cultural set-up to a boarding school environment with an entirely different religion and set of principles followed. As a kid I experienced how difficult it is to accommodate such differences at very short notice. When kids are placed in another environment, it is important to make sure that we take the utmost care in matching that environment as closely as possible to make that child as comfortable as possible in order to lead a normal life.

This bill will bring about important reform, which means mandatory reporting will include doctors, nurses, midwives, police officers, teachers, boarding supervisors, early childhood workers, ministers of religion, out-of-home care workers, school counsellors, registered psychologists and youth justice workers. I would call people in that list the first contact for a kid in the community who can recognise really, really early that there is a problem. If these people are not included in mandatory reporting, who else will ring the bell early on to protect the child? That is all the more reason why I plead with every member in this house to commend this bill to contribute towards protecting our kids and our future.

I come to the placement principles and cultural support planning for when kids are placed. We currently follow an order that, firstly, places the child with a member of the child’s family; secondly, it places them with an Aboriginal person within the child’s community in accordance with local customary practice; thirdly, with an Aboriginal person who might be anywhere in Western Australia; and, fourthly, with a non-Aboriginal person who may be anywhere in Australia. This bill amends this order to make it even more suitable for kids to be accommodated in more suitable places. The order of placement will now be, firstly, with a member of the child’s family; secondly, with an Aboriginal person in the child’s community; and, thirdly, with an Aboriginal person in close proximity to the child’s community who can better understand their culture. This is a new insertion. The order continues with placement with either an Aboriginal person who may reside anywhere in Western Australia or a non-Aboriginal person who is in close proximity to the child’s community who may have a better understanding of community than an Aboriginal person who is far away and has nothing to do with this community, and, finally, with a non-Aboriginal person who may reside anywhere in Western Australia. This order has been delicately done with the intention of providing the maximum cultural support that kids need when they are put in placement to grow or feel the same as their community, because they are our future. An amendment requires that the CEO consult with the important agencies before making a placement. This is, again, essential, because it is not just about ticking the boxes or matching it with an Excel spreadsheet. It is about matching cultural differences, matching familiarity and bringing about better health and lifestyle outcomes for kids who are going to be placed.

Amendments will be made to special guardianship orders and the courts will have restrictions on making such orders, which will only strengthen the rights of these kids to live a normal life. The most important parts of this bill are, firstly, the family contact plan and, secondly, a cultural support plan. These are essential parts of the amendments of this bill providing further support to make sure that the child is in constant contact with a family to relate back to their roots, and a continued cultural support plan to ensure that they understand and maintain their cultural heritage without losing it during the placement. The bill also includes investigative powers to make sure

the relevant authorities are able to investigate when the time comes to pick up things early. I thank you for this opportunity, Madam Acting Speaker. I commend the bill to the house and seek the support of every member.

MS J.L. HANNS (Collie–Preston) [1.38 pm]: I rise today in support of the Children and Community Services Amendment Bill 2021. I will talk specifically to particular aspects of this bill with reference to my previous experience as both a teacher and deputy principal. I feel very honoured this early in my first year of being a member of Parliament to rise today with the ability to potentially make a difference to a group of people I have dedicated 30 years of my life to working with and protecting, and that is the children of Western Australia.

To give members some background and context, mandatory reporting was introduced in 2009. I became a teacher in 1994, so I operated in a system whose job was to educate and protect children, without a system able to do that for 15 years. In my early stages as a young teacher, when I was about 24 years of age, I worked in schools where children reported certain instances of sexual assault and abuse to me. It was a big load to carry as a young person and as a teacher. At that time, there was not support from the system to carry through and support those children effectively. Therefore, I welcome the changes that mandatory reporting has brought across the many years I have been in the school system as both a teacher and a deputy principal.

As per the royal commission recommendations that were taken into account in developing this bill, the current mandatory reporters obviously include people such as me in my previous role, doctors, nurses, midwives, police officers, teachers and boarding supervisors. People who had accounts of children being sexually abused would have to report that to me, as a teacher, and I would have to report that on their behalf. Therefore, that information was being passed along second and third-hand because I needed to obviously take in the information, understand the information and report that through. I certainly welcome expanding the definition of “mandatory reporters” to include early childhood workers, ministers of religion, out-of-home care workers, registered psychologists, school counsellors and youth justice workers. As referenced by the member for Riverton, the earlier we can intervene in circumstances of child sexual abuse and help those children, and their families, who sometimes are unaware that that abuse is happening, the better. To provide support for children and their families very early on will certainly lead to the best possible outcomes for young people.

As a teacher, I was required to report through the mandatory reporting system. The question that I was asked as a mandatory reporter was: do you believe that child sexual assault has taken place? As the mandatory reporter, I might have heard this second or third-hand from somebody else. All I am required to do as a mandatory reporter is to lodge the report. As a mandatory reporter, it is not my role to investigate any of the circumstances. I report what I know and it might be days or dates or names of people. That information is all lodged within a very secure portal and the Department of Communities picks up that information and it may contact the police. The department may contact the mandatory reporter and ask for clarifying information. I would like to assure people who are concerned about potentially being included in the new definition that this is a way in which we can support mandatory reporting and expand support to families and children without it being our responsibility to do the investigating. That is the role of another agency and another department.

I have been asked to help supervise young people when subsequent police investigations have needed some further information from them about the circumstances of an alleged sexual assault. It is a pretty harrowing time, but that is the only time at which I needed to get involved in the details of what was happening. Otherwise, it was a case of doing my job and reporting the information. Oftentimes, I did not hear anything back; the investigation happened behind the scenes. To those people who might be concerned about being drawn into the new definition of “mandatory reporters” under this new legislation, from my experience it has been only positive and it means that we have been able to intervene in circumstances in which children were at risk.

Another important issue that in this day and age is often overlooked is schoolchildren exchanging nude selfies. That in itself can be subject to mandatory reporting. I have had to assist young people to report that information or pass that information on to police and be involved with families. This is all around supporting young people who have been through really difficult circumstances and making sure that their claims are investigated and followed up and those people are secure in our community.

I will move on to reflecting about children in care. Again, in my role in schools as a teacher and deputy principal, I dealt with many children in care, whether that was in foster care or group homes. Children are placed in group homes when there are no other options; all the other options have been explored and there is just nobody who can take care of those children. It breaks my heart to think that our society has reached a point at which families are dealing with such difficult circumstances and they are unable to care for their own children or grandchildren or extended family members. I would like to highlight Minister McGurk’s initial address to the house on Wednesday, 2 June, and the statistics and information the minister gave us around Aboriginal children in care. She said —

As at 30 April this year, 5 349 children aged under 18 years were in the care of the chief executive officer of the department. Fifty-seven per cent of these children were Aboriginal —

That is a staggering figure given that Aboriginal and Torres Strait Islander people represent only five per cent of our population. The minister said —

Fifty-seven per cent of these children were Aboriginal, despite Aboriginal children forming only 6.7 per cent of Western Australia's child population. This is the troubling reality facing Aboriginal families and their communities, and government, despite all the goodwill and efforts undertaken to reduce these disproportionate figures.

We have to ensure that those children in care and their care concerns are paramount. That leads to the ability to access social work and counsellors and to make sure that they are engaged in education on an ongoing basis. I have been in the unfortunate position in which I have had to help people say to the Department of Communities that they felt really unsafe in their own homes, and I had to facilitate them being able to report their concerns to the Department of Communities. I have spent many sleepless nights worrying about their care arrangements and where they were placed. Oftentimes they were in schools and we did not see them for a couple of weeks, and I can honestly say that that was a particularly worrying time. Those kids whom we teach across a school year become part of our own family in some ways, and we care for them as much as we care for our own children.

I welcome the arrangements for the hierarchy of care, particularly around Aboriginal children. I welcome them because the primary focus will be that Aboriginal children are placed with either Aboriginal family members or placed with either an Aboriginal or non-Aboriginal family within their own community so that their attachment to country and their extended family will be protected. I think this is a really strong feature of the proposed legislation. I have had very, very many examples of Aboriginal children—and non-Aboriginal children, I might add—not being able to reside with their own families, but in this case the hierarchy will mean that Aboriginal children who are not able to stay within their family structure will be able to stay with non-Aboriginal families who are very supportive of culture and encouraging continued family connections with the idea that eventually the family will be reunified. I have seen some really successful examples of care placements that have been made with those sensibilities in mind. I think it is an incredible opportunity for young Indigenous people to stay connected to their culture, their families and the broader community at large. When young Indigenous people are supported, they often can complete their formal education, look to further education and, potentially, return to the community they grew up in and support other Indigenous people to build a better life for their future families.

In concluding today, I would like to highlight that the two points I discussed around mandatory reporting and children in care highlight that this legislation takes into account that considerations of children and community services and around the care for and protection of some of the most vulnerable young people in our society should be paramount to all the decisions we make as a government. As the member for Riverton so eloquently said, they are the future of our society and we absolutely have to do everything we can to protect those young people.

MS D.G. D'ANNA (Kimberley) [1.50 pm]: I rise in support of the Children and Community Services Amendment Bill 2021. Children within state care deserve to have long-term stability and connections to family. As a state, we need to make sure that Aboriginal and Torres Strait Islander children in care have strong connections to culture, country, families and communities. Along with my colleagues, I too acknowledge that today is National Aboriginal and Torres Strait Islander Children's Day. The theme for 2021 is "Proud in culture, strong in spirit". Aboriginal and Torres Strait Islander children in state care deserve the right to continue their connection to culture, country and families. This is what it means to be proud in culture and strong in spirit. We are lucky to have so many cultures throughout the nation, the state and, especially for me, in the Kimberley region, where communities and families have raised their children to be strong and safe in culturally traditional practices for thousands of generations.

I would like to take this opportunity to celebrate all Aboriginal and Torres Strait Islander families and communities across the Kimberley. I also acknowledge all the non-Aboriginal people who are sharing, learning and educating others about the importance of Aboriginal children and their place in society and their connection.

Today is also an opportunity for us all to learn more about the crucial impact culture, family and community plays in the life of every Aboriginal and Torres Strait Islander child. This bill recognises the importance of culture, language, country, community and family to the wellbeing and development of our children and their outcomes.

In 2021, as a country and state, we acknowledged and apologised for the policy of forced removal of Aboriginal and Torres Strait Islander people. We have come far from those dark days, but we still see a gross over-representation of Aboriginal and Torres Strait Islander children in our state care. Again, as the member for Collie-Preston mentioned, as at 30 April this year, 57 per cent of children in state care were Aboriginal, despite Aboriginal children forming only 6.7 per cent of Western Australia's child population. This is the reality that many Aboriginal families and communities face. There is much more to be done to reduce these disproportionate figures.

One of the recommendations in the *Bringing them home* report was the implementation of the Indigenous child placement principle. This is a notion that when an Indigenous child must be removed, they should be placed with a family member, a member of the child's community or another Indigenous carer. The bill in front of us will amend the Aboriginal and Torres Strait Islander child placement principle to prioritise placements in closer proximity to

the child's community. In the Kimberley, we all know how important it is for our children to be close to family and country and we all acknowledge that not all Indigenous people and tribes are the same.

Previously, under that principle, a child would be placed with a member of the family; if that was not successful, it would be an Aboriginal member within the community, then any Aboriginal person in Western Australia, and then a non-Aboriginal person anywhere in Western Australia. With the changes in the bill, depending on the best interests of the child in care, the priority will change to a member of the child's family, an Aboriginal person within the child's community, an Aboriginal person within a close area of the community, an Aboriginal person anywhere in WA, a non-Aboriginal person within a close area of the community and then a non-Aboriginal person anywhere in WA. These changes aim to maintain connection with family, culture and country for Aboriginal and Torres Strait Islander children in care.

With that thought, I would like to mention that there have been many successful cases of children being placed in state care. As the member for Collie–Preston mentioned, it is sad that while a lot of families struggle to support their own families, they are still willing to take in their family members. They have been faced with the reality of their brother, daughter, son or grandchild being sent away down south. As I said before, not all Indigenous people are the same; there are differences. Even within the Kimberley region, the culture and practices as far north as the Miriwung and Wunambal people are separate from those down south in Karajarri, Bardi and Yawuru. I have seen two children who have been in state care who were from a different part of the Kimberley region. Unfortunately, they did not have the luxury of having a strong enough family network to support them through their state care. I have seen them go through one set of carers—I take my hat off to these carers; there is hardly enough for support—then non-Indigenous carers and Indigenous carers in the community. I have seen these children—without giving away anything—grow in care for almost 10 years. I have watched them with a family. They were lucky enough not to be sent far from home; they stayed close and the whole community rallied around in support of the children and of the non-Indigenous carer. They made sure that she had opportunities to explore the cultural opportunities from which they were removed. They came as little children, so they had to be reintroduced to where they came from. Sorry; I went off track.

On cultural planning, another crucial amendment in this bill is planning for placement. Prior to placement, the state must consult with Aboriginal members of the child's family, an Aboriginal representative organisation, an Aboriginal officer and an Aboriginal officer of the Department of Communities, who will have knowledge of the child, their family and their community. This is also very important because each child and each family is different, as are their needs. Aboriginal representative organisations may include existing native title bodies or other Aboriginal community-controlled organisations that are recognised by the local community and that have knowledge of the child, the child's family or the child's community.

There will also be an opportunity for Aboriginal representative organisations to participate in the development of an Aboriginal child's cultural support plan, including participation in reviews of the plan. This is an important amendment that acknowledges that the involvement and participation of Aboriginal people in decision-making is key to better outcomes that are culturally appropriate and reflect a greater understanding of the Aboriginal people whom the decisions affect.

In 2018, the Premier made a formal apology in state Parliament to all Western Australian survivors of child sexual abuse—an important moment in our state's history moving forward. There are no recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse that have not been accepted by this government. The McGowan government continues to work towards the delivery of a staged implementation plan of the recommendations, and this bill acquits an important recommendation.

The bill introduces new occupational groups to join doctors, nurses, midwives, police officers, teachers and boarding supervisors in being required to make a report if they believe that a child has been or is being sexually abused. The new groups are early childhood workers, ministers of religion, out-of-home care workers, school counsellors, registered psychologists, and youth justice workers. Importantly, there will be no excuse for failing to make a mandatory report because a minister's belief was based on information disclosed to the minister during a religious confession, or because making the report would otherwise be contrary to the tenets of the minister's faith or religion.

The highest priority for us is to keep children safe. All children deserve to grow up in a healthy, happy and safe environment, and I will continue to advocate for the children of the Kimberley electorate to have the same access to this right as any other child in the state. I commend the bill to the house.

MS C.M. ROWE (Belmont) [2.00 pm]: Madam Acting Speaker, thank you for the opportunity to rise to speak again on the Children and Community Services Amendment Bill 2021. It is a bill that I feel deeply passionate about. I would like to take this opportunity to again acknowledge and thank the incredible dedication of Minister McGurk in putting forward such a comprehensive reform in this bill. As I said, it is something that I feel very passionate about, and I would like to take this opportunity to speak around the mandatory reporting aspect, especially as it pertains

to the protection of children. I, too, would like to acknowledge the impact that this has especially on Aboriginal children in foster care, and how difficult it is for children who experience trauma to then recover.

Debate interrupted, pursuant to standing orders.

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