

SENTENCE ADMINISTRATION AMENDMENT (MONITORING EQUIPMENT) BILL 2023

Second Reading

Resumed from 30 November 2023.

MR R.S. LOVE (Moore — Leader of the Opposition) [1.24 pm]: I rise to speak on behalf of the opposition on the Sentence Administration Amendment (Monitoring Equipment) Bill 2023. In doing so, I understand that the Leader of the Liberal Party would also like to make a few comments on this bill. As we know, this bill concerns a situation in which a person tampers with, tries to remove, or removes a GPS monitoring device from their person. That, in itself, should be considered to be a very serious offence. I suspect the member for Vasse will want to talk about her calls, over the life of this Parliament, for more to be done to ensure that these bracelets are used when required, and that stiff penalties are in place if somebody does not obey that law. I know that this is part of what was suggested would be used to provide a greater system of monitoring using GPS devices. After the high-profile domestic violence murders in 2023, it was revealed that only about 4.2 per cent of charged or convicted domestic violence offenders who were released into the community had been fitted with a GPS monitoring device. At the time the government said it would introduce legislation to compel the courts and the Prisoners Review Board to impose GPS monitoring conditions on family violence perpetrators, subject to community supervision orders, and to strengthen penalties for removing and tampering with a fitted GPS monitoring device. This legislation covers the second part of that and will significantly increase the penalties for removing and tampering with a fitted GPS monitoring device. We support that move and I do not think it should be controversial.

The legislation provides a minimum sentence of three months for somebody who tries to tamper with and remove their device, but there are tests, if you like, so that the judiciary can look at and ask whether the damage is deliberate and is something that a person has tried to do or it has occurred by accident. I presume that there will have to be deliberate tampering and damage to the device or an attempt to do so before those penalties would kick in. The bill deals with section 118 of the Sentence Administration Act 2003 and includes provisions to make it an offence to remove or interfere with that device. Those provisions are already under section 118(6) and (7) of the act and will be modified. The bill will consolidate those into a single provision by inserting reference to damage within subsection (6) and deleting subsection (7). Subsection (7) will be replaced with a new provision to introduce a minimum penalty for breach of the amended subsection (6). Penalties under subsection (6) will be significantly increased, with a maximum penalty of three years' imprisonment and a fine of \$36 000. I understand that the new provisions are roughly modelled on the High Risk Serious Offenders Act 2020. As I said, it will not apply when a GPS device is damaged by an accident or misadventure.

Mr J.R. Quigley: Or an emergency.

Mr R.S. LOVE: Yes. It will take into account a situation in which someone might be trying to get rid of it so that they can escape detection and monitoring.

We believe that this is a belated but important step to ensure public safety. I am sure that the Leader of the Liberal Party will have further words to say on this; I do not think we need to take up too much time of the house. As I said, this is not controversial in any way, in the sense of any division between the opposition and the government on the need to ensure that stiff penalties are applied to anybody who tries to tamper with GPS devices or indeed removes them to escape monitoring. We hope that the bill passes the house rapidly so that it can be entered into law as quickly as possible.

MS L. METTAM (Vasse — Leader of the Liberal Party) [1.30 pm]: I rise to also provide some support for the Sentence Administration Amendment (Monitoring Equipment) Bill 2023 and contribute to the debate. As I have stated, we support this bill, which seeks to strengthen the use of electronic monitoring as a tool to protect victims and improve community safety. Although the outlined changes are certainly welcome, it is tragic that it has taken family and domestic violence to reach such a crisis point in Western Australia before the Cook Labor government has acted. It is also disappointing that the catalyst for these changes was the opposition alliance coverage that the results of the two-year GPS trial, which wound up in 2022, remained unknown for a year. Later, the government simply matched our pledge to double the number of GPS trackers, which we certainly wholeheartedly support. I also acknowledge the government's commitment, which has matched ours, to ensure that penalties for those who breach family violence restraining orders include GPS tracking or imprisonment. As I understand it, that is not part of this bill, but it may be introduced later this year.

The proposed defences outlined in this bill are simple and will send a clear message that removing GPS monitoring devices or rendering them inoperable will be unacceptable, except in certain extraordinary circumstances. The maximum penalty will treble to \$36 000 and three years' imprisonment. This is a significant development that will send a strong message and protect the community and victims of family and domestic violence. It certainly points to the seriousness of this particular crime.

The bill will also finally allow Western Australia to start addressing this issue, like so many other Australian jurisdictions have done. The Queensland government has committed to exploring options to monitor high-risk perpetrators of domestic and family violence and is considering a full range of potential technological solutions, including the use of GPS monitoring, and will trial the most promising model to improve victim safety. In 2017, the New South Wales government undertook the domestic violence electronic monitoring program as part of its domestic and family violence strategy and blueprint for reform, which saw high-risk domestic violence offenders assessed by community corrections officers, with eligible offenders electronically monitored as part of their supervised parole under an intensive correction order. I also point to the 18-month trial in Tasmania that commenced in 2018. From all reports, it was somewhat successful, with an 82 per cent reduction in high-risk violent incidents, suggesting increased safety for women and their families. This indicates some great promise for what can be done by government in this space.

Family and domestic violence is a scourge and has plagued the Western Australian community for far too long. Its effects are countless, impacting women, families and the whole network of the community. In its wake it leaves shattered homes and a trail of suffering that extends well beyond the immediate victims themselves. The effects are profound and far-reaching across our society, and we recognise its impact on our communities. It is quite clear that there is bipartisan support to ensure that governments do all they can to address this scourge in our community.

It has an impact on people of all ages, genders and backgrounds. It is not limited to physical violence and can include emotional, psychological and financial abuse. It is a complex issue that requires a multifaceted approach to combat, and we must work together as a society to raise awareness of the impact of domestic violence, provide resources and support for victims and, importantly, hold perpetrators to account.

It is essential to recognise that domestic violence does not occur in a vacuum; it is a symptom of a larger societal challenge and represents issues of inequality, poverty and a lack of access to resources. We know that housing challenges also have an impact on these issues, and a significant body of work needs to continue to be done in prevention. One of the most insidious parts of family and domestic violence is how it undermines the principles of equality and respect, which should be the cornerstones of any healthy relationship. When an individual seeks to dominate and subjugate another, it creates a power imbalance that derides the principles of a compassionate society.

Family and domestic violence has far-reaching consequences, beyond the immediate victims, for our communities and society at large. It places an immense burden on our healthcare, legal and social support systems, diverting resources that could be better used elsewhere. It perpetuates a culture of silence and shame, discouraging victims from seeking help and continuing a cycle of abuse. It can have a ripple effect that has an impact on not only the individuals involved but also their families, friends and wider social networks. The impact it can have on people across the community is quite breathtaking, and it knows no social bounds. It is a leading cause of homelessness for women and children, and it imposes a significant cost on the community. The ramifications for victims and survivors of family violence who are forced to leave their homes are far-ranging and include homelessness, loss of employment, disruption to children's education and obvious effects on health and mental health.

Unfortunately, the true extent of the problem is likely to be much greater than recorded. Only one-quarter of women who are assaulted by a live-in partner report such incidents to police. Currently, WA has one of the highest recorded rates of family and domestic violence in the country. Notably, one in six Australian women has experienced physical and/or sexual violence by a current or previous partner since the age of 15 years. In 2022, 37 per cent of homicides and related offences in WA were related to family and domestic violence; that is 18 victims. In 2022, the number of victims of assault in WA increased by seven per cent to 38 743 victims, which is the highest number in 30 years, and 64 per cent of assaults were related to family and domestic violence. Intimate partners are responsible for almost 80 per cent of such incidents that result in hospitalisation. Family and domestic violence is a leading cause of homelessness for women and children; 51.5 per cent of women and 37 per cent of young children accessing homelessness services sought assistance because of the scourge of domestic violence.

Repeat family and domestic violence offenders pose a significant threat to the safety and wellbeing of their victims. To address this issue and prevent further violence, the implementation of GPS tracking devices has gained traction as an effective solution. GPS tracking devices are currently employed in more than 30 countries, and their use varies across all levels of the criminal justice system. The implementation of such technology raises ethical and privacy considerations; however, there are compelling reasons to support its use in Western Australia's fight against family and domestic violence. It is an approach that will put victims ahead of the freedom of perpetrators.

The implementation of GPS devices presents us with an opportunity for proactive deterrence. The knowledge that their movements are being monitored can act as a powerful deterrent for repeat offenders, and can cause them to rethink their actions before engaging in violent or intimidatory behaviour. We can prevent future acts of violence or threatening behaviour by establishing increased accountability and encouraging a safer environment for potential victims. By fostering deterrence, fortifying victim safety, enhancing legal measures and combating recidivism, this technology can contribute significantly to our collective efforts against family and domestic violence. It is imperative

to strike the right balance between accountability and privacy. It will ensure that ankle GPS devices are better utilised as a powerful tool in this space, which is a positive move.

The government is fully aware of the benefits of adopting an enhanced approach to GPS monitoring, which is why this legislation has been brought before the house. It has taken some time for the legislation to be presented, which is a problem. This is one of two parts. Hopefully, the second part will be introduced in a timely manner, shortly after the introduction of this legislation. The government knows the stories and it understands the impact. However, the government has been slow to act. It will claim that there are many reasons for this, of course: funding, bureaucracy and competing priorities. At the end of the day, there was work completed in 2022 that points to the great value of the devices and an opportunity to do more.

It is a sad reality that many people are struggling with the effects and impacts of domestic and family violence. The trauma, the fear, the pain—those are things that no-one should have to endure, let alone deal with on a daily basis. It is a tragedy that this continues to occur.

In an answer to a question that I asked last year in question time, the Attorney General was quick to point out that the government did not believe it had dropped the ball on family and domestic violence, regardless of whether the statistics showed otherwise. He stated —

We reject completely the member's nonsense proposition that the Labor government has not turned its attention to stemming family and domestic violence.

That is big talk from a government whose own evaluation of the two-year tracking trial revealed that, each month, an average of 10 family and domestic violence offenders had GPS monitoring imposed on them. If the government is keen on addressing family and domestic violence in Western Australia, why has it taken so long for this legislation to be brought before Parliament, and why is the legislation for the breaches of family violence restraining orders not before Parliament?

This is simple legislation, which had its second reading in November 2023; however, we are dealing with it three months later. I am advised that the government's legislative priority in the other place means that it may take months to pass both houses. In a media release in October last year, we challenged the Cook Labor government and the Attorney General to put some urgency behind this legislation, but that has fallen on deaf ears. It is even more astounding that this legislation does not address the number of offenders who are being monitored, with the second reading speech stating —

These impacts will be amplified by the next stage of reform to be progressed next year, which will significantly increase the number of offenders who are monitored.

It raises the question: how can this be seen as a priority if it will occur sometime down the track? We have heard the comments from this government again and again. The Premier has stated that violence in a family context is a scourge on our community, while the Minister for Prevention of Family and Domestic Violence has stated in Parliament that women have the fundamental right to feel safe in their home and that one death is too many. These are comments that every member of this house would certainly concur with. These comments are common sense. I implore the Cook Labor government to do everything in its power to ensure that the issue of family and domestic violence remains a key focus of its legislative priorities for this year.

With the number of breaches of family violence restraining orders increasing by 20 per cent in the last year alone, the safety of Western Australian children should not continue to be compromised due to the government's inaction in introducing the second part of the legislation, which has been flagged and which the opposition has been calling for. We certainly urge the Attorney General to introduce it as a matter of priority.

I will leave my comments there and support the legislation that has been proposed.

MR J.R. QUIGLEY (Butler — Attorney General) [1.46 pm] — in reply: Firstly, the Sentence Administration Amendment (Monitoring Equipment) Bill 2023 will deal with wider issues than family and domestic violence offenders. This government has introduced a suite of changes to protect victims of family and domestic violence, and the Leader of the Liberal Party has just referred to one of them—that is, serial and repeat offenders can now be declared as such. There are new offences in relation to domestic violence and assaults. I will have no truck with any criticism. After nearly seven and a half years of inaction in this space by the Liberal government under Premier Barnett and Minister for Police Harvey, we have introduced a suite of laws.

On the issue of the member saying that we have waited for domestic violence to escalate before bringing in this provision—that is, mandatory imprisonment for the removal of a tracking device—there is no pleasing the opposition. Members opposite always have to have a whinge. They whinged that we asked for a review of GPS tracking devices and their utility in this space. Let it be remembered that when we came to office in 2017, there was no GPS tracking of DV offenders—there simply was not. I went to the command centre with the then Minister for

Corrective Services, Hon Fran Logan, and we saw what the tracking devices were about, and then Labor introduced them. We are not going to take this nonsense that we have waited and waited.

We asked for a review to be undertaken of how the affixation of these devices was going and we just got criticism: “Where is the review?” The review was handed down on 4 November 2023. We got moving on it as soon as the report came down.

Ms L. Mettam interjected.

Mr J.R. QUIGLEY: There is the Leader of the Liberal Party saying, “Where is the report?” The report had to be compiled by the independent Western Australian Office of Crime Statistics and Research. It compiled it and reported back to government on 4 November 2023, and we got moving on the new provisions as soon as the report came out. No-one wants to go ahead and do something when a report says that it is ineffective for the following reason or whatever.

The devices and their fixation go far beyond domestic violence offences. They relate to high-risk serial offenders, people who have been released from immigration detention, and many other offenders who, but for the bracelet, would have to be held in prison at huge expense to the community. We will recall that prior to Labor coming to office in 2017, nearly every week there was another minor controversy under the Liberal government’s defunct dangerous sex offenders legislation. We suggested to the then Liberal government it should reverse the onus proof so that a person—sex offenders only—being considered under that previous regime would have to carry the weight and burden of convincing the court and establishing, on the balance of probability, that they would comply with all major or primary conditions of a dangerous sex offender order. What were we met with? We were met with howls of opposition from the Liberal government, which said that this was unconstitutional, unnecessary and flawed. I put up the legislation from the opposition and I got howled down by a Liberal Party sitting in government, stating it was unconstitutional and unnecessary to reverse the onus of proof. Labor got into government and not only reversed the onus of proof, but also extended the regime to cover all high-risk dangerous offenders. Our legislation subsumed the weaker dangerous sex offenders legislation. What have we observed since? The controversy has quietened because the stricter regime introduced by the WA Labor government has bitten hard on recidivism and repeat offenders. We do not see these controversies every day like we did previously. We will truck no criticism of bringing in GPS monitoring as a primary condition for high-risk sexual offenders. Those bracelets will go on, and they will go on mandatorily. If they are interfered with by the offender, that person will face six months’ mandatory imprisonment. No ifs, no buts, that is it, because they should have been incarcerated in the first place. No mention of this is made by the Liberal Party. All it wants to do is complain that this is taking so long.

Let me give members an idea. When I came into office, after being sworn in and given the keys to the Attorney General’s suite, the first thing I had to do was blow the dust and cobwebs off all the reports that had been sitting there recommending law reform. People reckoned that I was a great law reformer. What I did was pick up all the work that the Liberal Party had failed to do in seven and a half years and got on with the job! It included dealing with high-risk serial offenders by bringing in new laws on family violence, such as firearms laws—as the Minister for Police is doing at the moment. Yes, the firearms law reforms were very complicated, and had to have wide sector consultation, which this minister has done. The previous government had the report on firearms and did diddly squat, leaving this community at risk.

We have got on with the job of bringing in laws to protect the community and ensure its safety. That is why we are bringing in this law to make a sentence of imprisonment mandatory for anyone who interferes with a GPS tracking device that has been put on. As the Leader of the Opposition observed, there will be instances when that will not apply, such as if the person is involved in a traffic accident and a doctor or paramedic has to cut off the bracelet to administer first aid or whatever. Obviously, that will not be an offence, and nor will it be an offence if an accident happens. However, if a person sits down with a pair of plyers or a bread and butter knife—I do not care what instrument it is—and does anything to damage that bracelet, the offender will be put inside for six months—full stop. We are serious about this. We are not mucking around. As I said, the Liberal Party did not do anything about these GPS devices or what it could do to protect the community in all the years that it was in government. However, it does not finish there. As members have probably read in the newspaper, I will finish here soon, but I have further ideas on the tracking of these offenders that I will pass on to my successor in title. This brain has not stopped working on how we can suppress these sorts of offenders and track them and keep the community safe. You watch: Labor will never give up in this space. We will keep on surging ahead to protect the community from high-risk serious offenders, declared to be so by the courts, and by the courts dealing with family and domestic violence offences.

I realise that it is getting towards question time. There has not been any indication that we will go into the consideration in detail stage. No-one has called for it, so I will conclude my remarks presently.

Ms C.M. Rowe interjected.

Mr J.R. QUIGLEY: An unusual thing is happening in the chamber. Let me tell members—I will even break a cabinet secret here on the floor of the chamber—often I am told, “Can you wind it up? Can you keep quiet?”

Now I have the Whip telling me to keep going. The invitation to spread my dulcet tones in the chamber further is a very unusual experience for me.

There is no doubt that when I went to the command centre to look at how these things work, I was very impressed. I saw the screens and the maps. The officers could say, “Okay, Billy, you’re not allowed in the City of Fremantle.” The command centre can peg out the City of Fremantle on the map and register it to a GPS device and then forget about it. Should that GPS device enter an area that has been delineated on the map, an alarm immediately goes off. I watched them observing this happen. An alarm went off and an officer looked at the screen and saw that the GPS tracker was in a prohibited area momentarily but then kept on going. The officer watched it leave the area and determined that it was following a bus route. The offender was on a bus so the command centre did not have to send out a team. However, if a GPS device stops in a prohibited area and remains stationary, the officers can respond quickly.

I commend this bill to the chamber. I recognise the opposition’s support and thank the opposition for it. However, I will not truck its criticism either of the bill or Labor’s efforts in any shape or form. We have done the job for the people of Western Australia. This bill will pass through the Assembly today and be sent to the upper house for its approval. With those remarks, I will now deprive members of hearing any more from me by sitting down, may it please the chamber.

Question put and passed.

Bill read a second time.