

PARENTAL SUPPORT AND RESPONSIBILITY BILL 2005

Second Reading

Resumed from 20 October 2005.

HON KEN BASTON (Mining and Pastoral) [5.27 pm]: I will make only a few comments on the Parental Support and Responsibility Bill 2005. Hon Peter Collier, Hon Giz Watson and I oppose part 5 of the bill. I will relate to members why I have some difficulty with this bill and with that part in particular. That part of the bill relates to the punitive measures of a parental responsibility order. It is my belief that people must operate under incentives rather than disincentives. I believe also that the legislation we make in this place must apply to all Western Australians. I wonder how this legislation will be applied to everyone in Western Australia and how it will affect them. This bill will affect lower income earners. I have difficulty getting my head around the imposition of a fine of \$2 000 for not carrying out a parental responsibility order to be a responsible parent.

I refer to incentives and disincentives. Let us look at the example of Halls Creek and the trial relating to the high truancy rate in the Aboriginal community. I met the headmaster at the school there earlier this year and discussed with him how the program worked whereby Centrelink payments were delayed in order to get children to attend school. The increase in attendance was quite astounding. That was because the parents did not receive the money if their children did not attend school. They were not fined, as this bill proposes. That is, I believe, a disincentive as distinct from an incentive. The money is there but the parents do not get it until the kids go to school, so they went to school and the parents got the money. This proposal is the other way round. To put it simply, if the parents are subject to a responsible parent order - in other words, they are not a good parent in the eyes of the department - they could be fined up to \$2 000. I do not believe that would end up benefiting the children at all. This bill was based on the policy that every child matters and that children need to be cared for and nurtured, and parents, families and communities are all responsible for the wellbeing and protection of children and young people.

Many of the witnesses who gave evidence to the committee certainly felt that that punitive measure was unnecessary if the department provided the right people to deal with the problem. One of the witnesses was Dr Tracy Westerman, who was the managing director of an indigenous psychological service. I was very impressed with her and her response to problems in indigenous communities, bearing in mind that this bill deals with all Western Australians. Her success rate was in the order of 98 per cent. Interestingly, over 80 per cent of the services were not in Western Australia. To me she was almost a shining light. I visited some towns up north and had the privilege of talking to some people working in the mental health area. I spoke to a psychologist in Derby and asked her what she thought of Dr Westerman and the way she dealt with some of the issues with children and the psychologist sort of looked around and said, "She is a breath of fresh air." I believed she was a breath of fresh air when I heard her give evidence to the committee.

It also made me realise there are other ways of doing things rather than applying punitive measures if we are to achieve the goals we wish to achieve. That is all I have to say about the work of the committee, although it took a year to get to this stage.

HON PETER COLLIER (North Metropolitan) [5.33 pm]: I would like to make some comments because, like Hon Ken Baston, I sat on the Standing Committee on Legislation, which dealt with this bill. We looked at it over a period of about 12 months and an enormous amount of scrutiny went into our decisions. As far as I was concerned, I went into the exploration of this bill with open eyes and an open mind and by the end of the investigation I had no doubt whatever or any hesitation in saying that I could not put my name to a bill -

THE DEPUTY PRESIDENT (Hon George Cash): Order members! Hon Vince Catania knows the rules; members are not meant to speak over the bar of the house. Members are on one side of the bar or the other. I draw that to the member's attention because too often people are speaking from the President's gallery to members inside the chamber.

Hon PETER COLLIER: By the time the committee came to a majority decision on the Parental Support and Responsibility Bill 2005, there was no doubt in my mind that I could not put my name to a bill that made provision for punitive action on parenting or lack thereof because it is such a subjective issue. I find it almost offensive that people could be fined up to \$2 000 for what is regarded as poor parenting - whatever that is. I was particularly offended by an interjection from a member opposite during another debate. The member said -

Perhaps you should talk to your colleagues about the inconsistency of their attitudes towards doing the best for children in this state. Perhaps you should talk to Hon Peter Collier and Hon Ken Baston.

When I spoke to that member about that comment, the member said that it was because of what the committee had done with the Parental Support and Responsibility Bill. The reason I came to my conclusion was that I found it absolutely offensive that punitive provisions could be applied to what is deemed to be "poor parenting".

It is simply unpalatable to me. Coercion is not a good method for developing harmonious relationships in any shape or form. I would in any case have reached that conclusion without the evidence that was presented to the committee. However, the overwhelming evidence presented to the committee from virtually every stakeholder involved ran counter to what the bill purported to achieve. Virtually every stakeholder recommended against going down that path.

In themselves, the objectives as stipulated in the second reading speech are quite commendable. It states -

The objectives of this bill are to support parents to exercise their role to safeguard and promote the wellbeing of their children and . . . to exercise appropriate control over the behaviour of their children.

. . .

The bill breaks new ground, opening the way for government agencies to share information, permitting them to work together and to provide real assistance to parents.

. . .

Quality parenting can be rewarding and enjoyable, giving us happy, healthy and successful kids. However, it also provides us with much more: good parenting is a powerful instrument for prevention and early intervention against some of the serious social problems confronting us.

I doubt that anyone in this house or in the community would argue with that. However, a smoking gun appears in the paragraph that states -

Provision is made in the bill for a maximum penalty of a \$2 000 fine. It is not intended that default on payment of a fine for the breach of a responsible parenting order should lead to the suspension of a motor driver's licence or imprisonment. Rather, provision is made in this legislation that default on payment of a fine may result in the seizure of non-essential household goods or a work and development order.

That is the provision with which I had real difficulty. This bill deals with those in the community who are least capable of dealing with any punitive action - particularly with the seizure of household goods, for goodness' sake! I cannot believe that the government introduced this bill in the first place. Imagine a single parent who already has communication and relationship difficulties with his or her child. Imagine if, for some reason, he or she was issued with a parenting order and was fined. Do members think that will improve the relationship with the child? The same thing applies to indigenous communities. Do members think that a fine will improve relationships between parents and children? Of course not. That is why I could not put my name to this bill. I will read a couple of comments from some of the witnesses. I appreciate that we are under time constraints, but I feel very strongly about this. As I have said, I take offence at the implication that I do not care about children. Nothing could be further from the truth, which is why I did not support this bill. I repeat: I cannot support this bill because I cannot support punitive action on what is perceived as poor parenting. It is a contradiction in terms. I will read part of the evidence from the Department of Corrective Services. It was given by Wendy Murray and Robyn Wells. The evidence from Ms Murray states -

While we endorse the principle of parental involvement, responsibility and all those matters, we were not persuaded in any way that ending up with orders that could result in some sort of criminal sanction being applied to parents is going to help. At the extreme end, we opposed part of the concept while at the same time supporting many of the principles that underpin the generation of the concept.

Evidence from the Youth Affairs Council states -

Ultimately, we feel that this is again legislation that serves to punish parents - parents who are already struggling to provide the care and support for young people, but they obviously do not have the strength, competencies or capacities to do so. Particularly if we are looking at young juvenile offenders, we know that young indigenous people are overwhelmingly represented in the young offender statistics, and we know already - it is well documented - of the structural inequalities that indigenous families have been dealing with for years and years. When we look even at the whole concept of parenting issues, we essentially took indigenous children away from their parents. They were parented by institutions. Now we are going to fine them for not being able to parent properly, and we were the ones who essentially modelled the parenting for them. . . .

To just summarise the paper, we feel that the bill will punish parents - parents who are often struggling themselves already. It introduces another layer into the legal system. The legal system is a very, very intimidating system. It is very intimidating for young people; it is very intimidating for these families. The bill makes reference to ensuring that the mechanisms that we use will be culturally appropriate and appropriate for young people, but it does not kind of detail how that will happen. . . .

Ultimately, we believe that families should be supported. They need assistance to be able to do their job better, and punishment is not an effective system to do that.

This bill will put the cart before the horse. The government has said that a parenting order cannot be implemented unless the services are already provided. Quite frankly, if the services were there, there would be no need for a parenting order. It is a nonsense.

Evidence was given by Tonia Brajcich and Lorraine Allen from the Aboriginal Legal Service. Part of the evidence stated -

CHAIR: Are your objections essentially that it might be a good model but that it does not apply to indigenous families?

Ms Brajcich: No. Essentially we say it is a bad model.

Ms Allen: There must be a clear understanding that what you are proposing is yet another interference in how a family functions. If you look at the criminal jurisdiction, young offenders may be granted penalties under criminal sanctions and you have to look at the level of compliance. When they are being sanctioned with community-based orders, intensive supervision orders and the like, they are not necessarily compliant. My experience coming from the court is numerous breaches of those orders. Getting young kids to comply with them is becoming very difficult.

I will not go through other witness statements suffice to say that, as Hon Ken Baston said, we heard from Dr Tracy Westerman who gave compelling evidence. She advised against parenting orders.

Hon Graham Giffard: I am interested in your assessment that she gave compelling evidence against parenting orders.

Hon PETER COLLIER: I thank Hon Graham Giffard for that. I will read part of the evidence.

Hon Graham Giffard: I might read you other parts.

Hon PETER COLLIER: Part of the evidence states -

CHAIR: A number of stakeholders have raised concerns about how the concept of parenting agreements and orders will impact on Aboriginal families. How do you see the concept of parenting agreements and orders impacting on Aboriginal parents?

Dr Westerman: Probably the primary thing is that anything that is worded in terms of responsibility - any legislation, bill or agreement that has the word "responsibility" in it - will be effective only if it gets the process right. The classic example is the shared responsibility agreements, which are getting a lot of publicity at the moment. The ones that I have seen in communities that are the most effective are the ones that get the process right, so they engage the community effectively, and they ensure that the community is the primary component of how the program looks. They focus primarily on developing capacity and building on the strengths in those communities. That means the programs do not come across as being paternalistic, because the communities themselves drive the programs and have the prime responsibility for how they should look. The word "responsibility" is about getting the process right.

...

Often what happens is that from the practitioners' perspective people are struggling to figure out whether something is bad parenting or is culturally appropriate, and how to determine the difference between the two. An example is that in remote communities the kids are encouraged to be autonomous and independent, and particularly to have no boundaries and no restrictions, because that is how they learn to be practically competent. However, if we take that set of parenting strategies, or skills, if we like, and put that into an urban context, suddenly the very things that make the kids strong and resilient and enable them to learn very quickly are seen as deficits.

Hon Sally Talbot: Does that support your argument?

Hon PETER COLLIER: Absolutely it does.

Hon Graham Giffard: It does not support your argument at all.

Hon PETER COLLIER: It does. It is saying if we do not get the process right -

Hon Graham Giffard: You are saying that means, therefore, that you cannot have parenting orders.

Hon PETER COLLIER: Exactly.

Hon Graham Giffard: That is a huge leap.

Hon PETER COLLIER: With all due respect, can the member say -

Hon Graham Giffard: Take us through the evidence.

Hon PETER COLLIER: I will go on until 6 o'clock, if the member likes. I do not have a problem with that at all.

Hon Graham Giffard: Just do not mislead us. That is all.

Hon PETER COLLIER: I am not misleading the house at all. I will move on to the evidence of Mr Henry Councillor, Chief Executive Officer, Kimberley Aboriginal Medical Services Council; Judge Hal Jackson, Chairman, Ministerial Advisory Council on Child Protection; and Superintendent Duane Bell, Acting Director, Corporate and Community Development, WA Police. In each and every instance, they expressed strong reservations about this bill. They were very concerned that we would, in essence, be punishing the very people who were least able to defend themselves and upon whom the bill would have the least positive impact. That is why I cannot support this bill. If the government was serious about developing harmonious relationships, particularly with the group of people I have just spoken about, it would provide these services through various other means. It would not impose punitive measures on people for what is perceived as poor or inappropriate parenting.

Hon Robyn McSweeney: Did anyone other than Michael Thorn's mob support the introduction of parenting orders?

Hon PETER COLLIER: Certainly no-one at the coalface did. The people from the department did, yes, but no-one at the coalface did. Those people who have the most interaction with the people who will be affected by this bill all advised against the introduction of this bill.

Having said that, I will get back to my point. I did not make this decision flippantly. I made this decision based on the evidence that was presented to the committee. No-one spoke to me about this bill. I listened to the evidence that was presented at the committee, and I made a decision based entirely on my own conscience. In no way, shape or form am I against this bill because I have a disregard for the welfare of children, or any other similar reason. Essentially, I cannot support a bill that seeks to impose punitive measures on people for what is perceived as poor parenting. That concept is abhorrent to me.

HON KATE DOUST (South Metropolitan - Parliamentary Secretary) [5.47 pm]: I thank those members who have made a contribution to this debate both 12 months ago and again today. I also thank the Legislation Committee for its report on this bill. The majority report from the Green and Liberal members of the Legislation Committee recommends the removal of part 5 of the bill and all reference to responsible parenting orders. For all intents and purposes, that would render the bill useless, apart from permitting information sharing and the making of responsible parenting agreements, which will not require a statute in any event. The intent of the Parental Support and Responsibility Bill 2005 is to provide a system of responsible parenting agreements and orders as a means to engage resistant families with services and help them obtain the support they need to manage their children's behaviour. Without the responsible parenting order mechanism, these families will be relegated, yet again, to the scrap heap. Their children will be destined to repetitive, and even escalating, problem behaviours, and exposed to harm. Meanwhile, the community will continue to bear the burden and cost of this entrenched antisocial and criminal behaviour.

The opposition's stance at this time is in direct contradiction with the expression of support initially given by Hon Robyn McSweeney when she said in this house that she supports the bill. I also remind members that the bill was strongly supported and passed in the other place without amendment in September 2005. The government takes seriously the need to protect our children, and we are investing in, and improving, child protection procedures. However, we need to do something before the need for child protection rears its head. We need to intervene when things first start to go wrong, when people are struggling with raising their children, to give them the skills they need to be able to manage their children's behaviour.

Members who are parents know that they were not given a manual when they became parents. We learnt from good role modelling or support mechanisms. However, some people do not have the benefit of those mechanisms and it is very difficult for them. I am sure that at times all of us have had difficulties with trying to be good parents to and good role models for our children. We endeavour to work through the difficulties. Being a parent is probably the toughest, most challenging, exciting and best job in the world that a person can have, but it is not an easy path.

The Parental Support and Responsibility Bill 2005 provides for early intervention to prevent the flow of families into crisis and children into care. It is about responding to parents of children under the age of 15 who are in trouble at home, school or in the community because of antisocial, truanting or offending behaviour. These behaviours can seriously curtail a child's potential and vastly reduce their life outcomes. Indeed, many do not

achieve at school, can become delinquent, unemployed, mentally ill, drug abusive or offenders; a cycle of events that, left unchallenged, can affect generations of children.

The legislation articulates that there are responsibilities attached to raising children, and acknowledges and supports the primary role of parents in safeguarding and promoting the wellbeing of children. It supports and reinforces the role and responsibility of parents to exercise appropriate control over the behaviour of their children and makes it clear that the government agencies also have a responsibility to provide the appropriate service and support.

There is overwhelming national and international evidence on the unique importance of positive parenting for children to grow up to be healthy, happy and productive members of our community. This evidence holds irrespective of the cultural circumstances of the child. The evidence from the Western Australian Aboriginal child health survey supports the importance of quality parenting as one of the key factors in ensuring the emotional and behavioural resilience of Aboriginal children. Parenting is influenced by many things, including each parent's personal experiences and family circumstances.

I agree with Hon Giz Watson that poor parenting can occur in a wide range of circumstances, but good parenting can be learned. Parents cannot be expected to always do this on the run and many people have supportive structures and networks around them that assist in raising children. However, some parents, for a variety of reasons, may be unable or unwilling to care for their children, to make sure that they go to school, monitor where they are or who they are with to ensure that they are safe or to help them manage their behaviour. Some parents do not ask for or get the help that they need.

Every member of Parliament has received complaints about difficult families that seem impervious to the usual avenues of providing assistance. It serves no purpose to take on an apologist role in relation to these families. Calling for self-determination and self-responsibility from those who simply have neither the personal resources nor experience to make improvements is akin to the worst form of patronisation.

Extensive research shows that good parenting involves adequate supervision, utilises a style of parental discipline that is consistent, reflective of and proportionate to the behaviour and the developmental capacity of the child, and involves ongoing positive interaction with the child.

This responsible parenting initiative is a new form of government response to a very complex area. The initiative includes three key elements - coordinated interagency action, intensive service and support and this legislation. While the initiative and the legislative element of it is predicated on the voluntary engagement model, a responsible parenting order will be established as a last resort and in particular and limited circumstances.

International experience shows that court ordered involvement in parenting support is successful in assisting parents and children. In the United Kingdom 90 per cent of parents who were referred to a parenting support program as a result of their child's offending or antisocial behaviour were glad that they attended. They said they would recommend a similar program to other parents in their situation. This result held whether they were there voluntarily or court mandated, and even when they had been initially reluctant to attend. An interim consideration of the responsible parenting initiative, ParentSupport service, showed that of the 51 cases considered only 26 engaged. There is evidence that ParentSupport is on target, working with the cohort of hard-to-engage, difficult-to-service families. The majority of cases referred had more than one common behaviour. Ultimately 68 per cent of families that engaged fully with ParentSupport made significant gains, and positive pro-social child behaviours were recorded.

The intention of the Parental Support and Responsibility Bill 2005 is to provide a system of responsible parenting agreements and orders as a means to require resistant families to engage with services. The additional possibility that one might be compelled to engage will provide sufficient impetus to some resistant families. It is expected that some families will require the added formality of a responsible parenting order. Increasingly, the courts are taking on a problem-solving role, focusing not so much on penalising as in understanding the causal factor impacting on behaviour and providing interventions for therapeutic ends, such as drug courts and family violence courts. These are just two successful examples of such therapeutic jurisprudence. The Children's Court in particular extensively uses its supervisory capacity to manage clinical and therapeutic interventions designed to make sustainable change. Two examples are the Children's Court's use of juvenile court conferencing and the Children's Court juvenile drug court regime. That is why the government intends to place the power to make responsible parenting orders in the Children's Court jurisdiction.

In response to questions asked by Hon Robyn McSweeney on the use of the Children's Court, it is not unusual for the Children's Court to intervene and compel parents to take an active role in addressing their child's behaviour. Under section 58 of the Young Offenders Act 1994, parents can be made responsible for their child's offending and ordered to pay fines and restitution or costs. Parents can be required to give security for a young

person's behaviour while on bail under section 70 of the Young Offenders Act. Should the young person commit an offence while subject to bail conditions, section 58 can compel a parent to appear before the court and to forfeit the security. Section 45 of the Young Offenders Act allows a court to compel an adult to attend court when a young person is appearing. Should they fail to attend the court, the court can issue a bench warrant for their arrest. In this legislation, though, we are giving the court the power to make a therapeutic order, providing supervised support to parents to help them meet their responsibilities and placing a clear responsibility on government agencies to provide appropriate service and support. We anticipate that the court will acknowledge the spirit and intent of this legislation through the manner in which parents and children will be given the opportunity to participate in the process leading to any order.

Members opposite asked whether it was appropriate for the state to intervene in parenting matters. The responsible parenting initiative provides us with a mechanism to work in an early intervention sense to turn around the circumstances of troubled families before a child's safety is so compromised that the state will consider an action to remove a child from the family. I am sure we all agree that that is a last resort and not something we want.

Members opposite are right in their argument that the Children and Community Services Act 2004 provides us with very strong mechanisms to deal with circumstances in which child protection is an issue. However, the ultimate sanction available in that legislation is the removal of a child from the parents. A protection order removes the rights of parents to exercise responsibility for their children. That is a terrible sanction. While it is important to take that step when it is necessary, it is a course that is not embarked upon lightly. Crisis intervention when harm or neglect is evident should not be the only statutory tool available to the community to help families deal with their circumstances.

The Parental Support and Responsibility Bill provides us with another tool that focuses attention on parental capacity. It enables us to work with families where children are under 15 years of age, with particular focus on families where children are of primary school age. Thus far, the majority of children whose parents have been referred to ParentSupport are under 11 years old. We are talking about families who keep older children away from school to look after younger ones because their mother may not be able to manage or families where the parents were not parented themselves and thus have no role models upon which to base a positive family life. We are talking about some very sad families who need both support and assistance. Most of these families will take up the support when it is offered. However, a small number require the impetus of a court order and supervision to encourage them.

Significant resources have been allocated to the new ParentSupport service, which provides highly specialised assistance to parents to help increase their skills and confidence. This service includes intensive home visiting to help create stability as well as one-on-one counselling and group-based parenting work. The service models used by ParentSupport are designed in response to local parenting issues and concerns. The service is available as appropriate, irrespective of whether the parent is subject to a responsible parenting order. The responsible parenting initiative is investing significantly in developing innovative approaches to the provision of parenting services, using the best knowledge available to create a new kind of service and working closely with the non-government sector in this regard. This includes the development of appropriate services for rural and remote areas.

I am running out of time and I want to deal with this legislation today. There are a lot of issues I would like to respond to further. I listened to the opposition on a regular basis talking about mandatory reporting and guardianship and the government providing resources. This government is legitimately concerned about what is happening with families. It has responded.

Debate interrupted, pursuant to sessional orders.

House adjourned at 6.00 pm
