

Legislative Council
Wednesday, 26 May 2010
CHILDREN'S PROTECTION (RECORDING OF MEETINGS)
AMENDMENT BILL

The Hon. A. BRESSINGTON (16:11): I move:

That this bill be now read a second time.

It is no secret in this place that child protection has been an issue I have pursued for four years. This bill will provide for the recording of interviews and meetings between parents and child protection workers, and children and child protection workers. I see this as a necessary amendment to the Children's Protection Act because of the numerous cases I have heard about and seen evidence of where parents are being falsely accused, where children are being verballed to make statements about their parents and where children have disclosed to their parents abuse and neglect that has occurred in state care. When I have taken these concerns to the social workers involved with these cases, the response has been, 'Well, perhaps the parents are asking leading questions.'

As I keep saying in this council, it was May 2008 when premier Mike Rann made an apology to forgotten South Australians about abuse in state care which we were made aware of through the Mullighan inquiry. The guts of that apology was, 'We are sorry we did not hear you, we are sorry that we did not believe you and we are sorry that we did not listen.' Over the past four years, I have heard about many cases where parents and children are simply not believed about the fact that abuse is occurring in state care as we speak.

I will not go through it case by case because we could be here for the next three days, but I will speak about a couple of very recent cases which have resulted in my meeting with the CE of Families SA, Mr David Waterford. He has agreed that questions need to be asked here. First, I refer to the case of two children who were in care. Two children (out of six) were taken from their parents, and the critical incident seems to be that the stepdad smacked the little boy three times on the bottom for breaking house rules. Child protection saw that as a critical incident which resulted in the removal of the children. They could never say that, simply because it is not against the law to smack our children.

The children were put into the care of NannySA. The little boy was aged nine and the little girl was aged seven. These children were covered—and the little boy from head to feet—with school sores. They did not have the school sores when they went into care. The parents videoed this on their phone. School sores (impetigo) need to be treated with antibiotic cream, and they need to be kept covered because they are highly contagious and spread like wildfire. None of this was being done. The children had not received medical care at all; certainly the little boy had not received medical care.

The parents made the video of this on their phone out of sheer concern that nothing was being done. The boy was now complaining that the sores had spread from his feet up to his body and through his hair, and that he was actually in pain. The little girl was covered in ringworms, which she did not have when she went into care. She was

also not receiving any treatment for ringworms. This little girl was also verbally abused by a social worker and she was called an f-ing little whore; at the age of seven.

The little boy was sat down by one of these workers, for three hours on a lounge chair, and was lectured about what bad, bad children their mother had raised. These are children that had been removed from families because they were being allegedly abused and neglected, and we somehow believe that they are better off in this kind of care.

I believe that this particular case is on the record with Families SA. Five NannySA workers have been removed from the care of these children because of proven abuse and neglect. This is not a one-off case. When the children come to access—the parents get one hour supervised access a week with these children in a room not much bigger than the average bathroom—they disclose this information to their parents. Their parents go to the social workers and make known what is happening. Then, it seems, the modus operandi is that the social workers will build a case against the parents.

These parents had an allegation made of them. The little boy of nine was promised a birthday party; he was actually in care on his birthday. It was not an access day for the parents, so he had his birthday away from his parents. The social workers promised him a birthday party with his sisters; it just did not happen. He did not have his birthday party or a birthday cake. He was not around his siblings or with his mum and dad on his birthday.

So the next day they went to access and, of course, the little boy was quite agitated, as a nine year old would be. He said, 'They promised me a birthday party and it didn't happen.' He got quite angry. Mum and dad sat down and tried to reason that they would go and talk to the social worker about this. They tried to calm him so that they could have a reasonable access.

When they got out of access they were accused of banging on the glass in an irrational way, threatening social workers and escalating the situation with the little boy. If they had not video-taped that access, that would have stuck. It would have gone in their report and affected the reunification plan that they were waiting to have drawn up to get their children back.

The stepfather has been accused of having anger management issues, when in fact a video recording shows a social worker, or a worker at that office, stepping in front of him and treating him aggressively. This was turned around to him being threatening and intimidating to the worker. This is all on DVD and I have provided it to Mr Waterford. It is not fantasy or something that a disgruntled parent has made up to try to counter the claims.

There is also the case I raised in my question yesterday of the mother who noticed that, at the age of 18 months, her son had some sort of behavioural issues. She had a suspicion that he may be assessed to be somewhere on the autism disorder spectrum, because there is another autistic child in this family. She tried for years to get help for this little boy.

When the boy was aged seven, she reached out to Families SA to try and get help because that is what they are there to do. They told her—and this should have been on video by the way—that what she probably needed to do was to criminally neglect her son so that she could be charged with criminal neglect and he could be taken into care. In that way, he could access the services that he needed.

After that, the mother signed a three-month voluntary order so that her child could access these services. After the three months was up, she was told that she was not getting him back and they were keeping him until he was 18. She is a good mum who has raised three other children very successfully. This little boy, as I said, was obviously a problem from the age of 18 months, yet she has now been deemed to be a bad mother.

The child will be in Families SA care until he is 18 years old. He has had his front teeth knocked out and not replaced. He has had a chair broken over his back, and I have seen the photos of all this. He has also incurred other injuries while in care. While he is in care he is staying out all night on the street and not going to school. This little boy won a \$130,000 scholarship to a quite exclusive school in Adelaide. He is not going to school, and on Friday night he was arrested for a home invasion. This kid is 12 years old.

The mother has made numerous contacts with Families SA to try and get her son home, believing that if he was home he would not be exhibiting the behaviours he is now. She has had absolutely no response from the caseworkers and has basically been told on occasions that this has all happened because she is such a bad parent. These sorts of things need to be recorded because, when these parents try to make a complaint, it turns into a 'he said, she said' situation. I have seen numerous occasions where some social workers within Families SA have been caught out and, as a desperate attempt, will then simply make up a story to counter the claims that have been made by parents and children.

I know of another person whose two children were removed from him and his wife. He reached out to Families SA for nothing more than two weeks' respite, because his wife was bipolar and was unstable. The department took a three month voluntary order—and, by the way, when parents are asked to sign a voluntary order they are told that if they do not sign they will be taken to court and they will get it anyway, and they will go for an 18 year order. We need to get that on the record, that these orders are not actually voluntary. The signing of these orders needs to be recorded and the information given to parents when they are forced to sign their children over to the state.

These children have been removed, but he has evidence that the department has mistaken him for his wife's previous husband, whom she fled because of domestic violence. It is a case of mistaken identity, but these children are now on an 18 year order and he is never allowed to see them. He has not seen them for four years. He has made claims about violence with social workers in meetings, and he has pressed an assault charge against one only to have a counter assault charge placed on him, because there was no recording. As I said, I could go on about this for hours with the number of cases I have seen.

I do not rely just on people coming in and spinning me a story. We keep extensive records and documents on these cases, and I have taken a number of the cases to Mr Waterford, or previously the minister or Ms Angela Duigan, who I believe is no longer with the department. So it is not a fantasy; this stuff is happening. Why have the Mullighan report? Why have the inquiry? Why make a big deal about the Mullighan report or have a day of apology if we will not believe that this stuff still goes on and will not take steps to fix it? Just fix it, for God's sake! I do not know what agenda is running in that department, but it is quite disturbing.

This will allow the recording of meetings in the department. If departmental staff decide that they want to have a meeting in a café, such as McDonalds, which we have seen happen, or in someone's lounge room at home or in the local park, parents themselves will have the option to video. We cannot imagine (we probably can; but we will not) that Families SA could have cameras everywhere, but parents will have the option to record these meetings on their own devices, make a copy of that available to Families SA and keep a copy themselves.

The department would be required to keep these recordings until the youngest child in care reached the age of 21, which is consistent with the statutory limitation on initiating negligence or breach of duty of care claims for a breach inflicted while the child is in care. They can file for a breach of duty of care up to the age of 21, so the recordings would need to be kept in case that were to happen.

If there is no possibility of a video-audio recording then an audio recording would be enough, and this also applies to telephone calls. It is not uncommon to hear stories of parents being rung and bullied, intimidated and threatened over the phone. There is no way of keeping a record of that because it is illegal to tape telephone calls, so when the parents complain that this type of conduct is happening they are not believed; it becomes a case of 'he said, she said'. In one particular case there was a string of abusive phone calls and, when a complaint of harassment was made to the department and the police, the department sought a restraining order against the person complaining, saying that he was the one ringing and doing the abusing.

This has to be cleared up once and for all. Parents need to have some rights in this state when their children are in care or when they are dealing with the department. They need to have some way of proving allegations they make or incidents that occur where there is no doubt that this is actually happening. Until we have that proof we will continue to hear the minister's response that these are complex people with complex needs, and that it is all very difficult. Well, I am putting forward a solution to at least one of the problems being faced by parents. Of course, this will work in reverse as well; if there are abusive and aggressive parents and it is on video, there will be no difficulty for social workers to prove that. So it works both ways.

This could also be used as an accurate record for the Youth Court, quite a strange court that does not work on the rule of evidence. People can create affidavits and put whatever they like in them. It does not have to be proven; it does not even have to be truthful. However, if we have video recordings of events that will give parents at least one foot over the line in proving that they have not abused or neglected their children, or abused or threatened workers within the department, or, like those other parents, that they have not been banging on two-way mirrors and threatening social workers.

This will also be required for psychological assessments. When children get a psychological assessment—if they are lucky enough—this will also be recorded; the information that children come forward with will also be recorded. I have spoken to children who used to be in state care who have told me that they were verbally. The police have recordings of all interviews with criminals and suspects for this reason, because it was known that police had been verbally suspecting. That is contained within section 74D of the Summary Offences Act 1953, and was introduced for police interviews in 1995.

If social workers truly believe that parents are physically, sexually or emotionally abusing their children, it is a criminal act and therefore with the interviews that are

done—rarely are charges pressed on these allegations—in case we intend to follow through the justice system right through to the end, this will provide evidence as well. It will help counter the false allegations. It is also a quality control issue, with social workers knowing that their conduct is there to be reviewed by supervisors, senior practitioners and managers, which may perhaps improve how they interact with members of the public, especially in quite devastating times.

One can imagine being a parent and having the false allegation made that you have bashed, abused or neglected your child and then having them removed, knowing that none of it is true. Yet when these people express any level of anger or frustration, they are told that they need anger management classes. That defies logic because, if anybody tried to step in between me and my kids, it would not be me needing anger management, but I will not expand on that on the record.

In addition, the ability of social workers to use this as part of their legitimate case building could be quite useful. It also opens the door and perhaps an avenue—if we were to be so lucky—for a complaints mechanism to be in place. At the moment, parents have absolutely no recall if they have been falsely accused. If their children are literally kidnapped based on a false allegation, they have nowhere to go, and if the department seeks an 18 year order they have nowhere to appeal.

This bill pre-empts another bill I will introduce to give parents a right of appeal, and it is important that both social workers, parents and children have a way of verifying the complaints being made. All that bad news said, I say yet again that I understand that child protection is one of the most difficult, most traumatic areas in which people can work: I totally get that. I know many good social workers who bust their backside to do their job well and to make sure that good outcomes are reached for these children where and when possible.

I have said before and will say again that there is a core group of social workers within this department, who one of these days I will name and shame, who are a common thread with these cases that I have heard about. If these sorts of mechanisms are in place, it will bring those social workers whom I have labelled 'rogue' social workers into line, and they will either comply or they will lose their job because this malpractice, this professional misconduct, simply cannot continue for the safety of our children, for the welfare of our families and also for the reputation of the good social workers out there. These guys are casting a shadow over everybody who works in the child protection system.

With that, I leave this with members and hope that the bill gets support for practical reasons. We have problems in this system that we need to address. I have waited four years, it has not happened, so I have decided to do it myself. It falls in line with the recommendations of the select committee inquiry that ran from 2007 to 2009, which I called for and which the Liberal Party supported. I leave it with members, and if any member doubts the horror stories, please access the report and have a read. It is not a huge report, but it is thorough. I hope this bill gets the support it needs for the safety of everybody.

Debate adjourned on motion of Hon. I.K. Hunter.