




Speech By
Mark Boothman

MEMBER FOR THEODORE

Record of Proceedings, 5 March 2024

**CRIMINAL LAW (COERCIVE CONTROL AND AFFIRMATIVE CONSENT) AND
OTHER LEGISLATION AMENDMENT BILL; CRIMINAL CODE AND OTHER
LEGISLATION (DOUBLE JEOPARDY EXCEPTION AND SUBSEQUENT
APPEALS) AMENDMENT BILL**

 **Mr BOOTHMAN** (Theodore—LNP) (5.26 pm): I rise to make a contribution in the cognate debate specifically on the double jeopardy legislation. I would, firstly, like to thank my fellow committee members. Even though I was only transferred to the Community Safety and Legal Affairs Committee when the report was tabled, I feel it is appropriate for me to make a contribution on this very important issue. I would like to start with the general feedback from stakeholders. The Queensland Law Society supported the legislation in that it is another legislative pathway for defendants who have already unsuccessfully appealed to the Court of Appeal but then come into possession of further evidence. The Queensland Council for Civil Liberties also welcomed the amendments. Legal Aid Queensland stated that they did have some concerns because it could potentially increase the number of litigants before the court.

The bill proposes to make changes to the criminal justice system in response to possible wrongful convictions and unjust acquittals by: establishing a statutory framework to allow a person convicted on indictment or of a summary offence under section 651 of the Criminal Code to make, with leave of the Court of Appeal, a subsequent appeal against the conviction; and expanding the fresh and compelling evidence double jeopardy exception to 10 prescribed offences in addition to murder. The bill does not mention the reason we have actually come to this point, but that reason is the failure of the Queensland DNA lab. We heard the member for Currumbin say that there are up to 37,000 possible cases that may need to be retested. I believe there are 103,000 DNA tests. It should never have come to this. I know that my fellow members in the LNP have been speaking about this issue since December 2021. It took numerous repeated calls and whistleblowers to come forward and blow open the issues in the DNA lab before the current Labor state government was finally forced into action.

In Queensland under the current framework, a convicted person can appeal a conviction only once. The amendments in the bill will allow for an open number of subsequent appeals a convicted person can make, but this must be obtained through the Court of Appeal. This will allow the Court of Appeal to filter any potential vexatious appeals. If an appeal to the Court of Appeal is unsuccessful, the convicted person has a right to have their appeal heard to the High Court, but I should note, from my understanding of the bill the High Court has no jurisdiction to actually hear additional information or evidence.

The bill provides a right for a subsequent appeal if there is fresh and compelling evidence. The Court of Appeal will decide the merit on a case-by-case basis. The evidence must be credible and of real significance in relation to the matter of the upheld guilt. Therefore, these changes are necessary to fix the potential wrongs caused by the massive DNA lab debacle. While it is a potential comfort for the

37,000 DNA cases that need to be retested, it is also completely unacceptable for Queenslanders who are left in the dark with this massive debacle. DNA evidence forms a critical part of our justice system and Queenslanders need to know that their justice service is serving with credibility and honour to all Queenslanders.