

Criminal Code (Dangerous Driving) and Other Legislation Amendment Bill 2026

Statement of Compatibility

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019* (HR Act), I, the Honourable Deb Frecklington MP, Attorney-General, Minister for Justice, and Minister for Integrity make this statement of compatibility with respect to the Criminal Code (Dangerous Driving) Amendment Bill 2026 (the Bill).

In my opinion, part of the Bill is not compatible with the human rights protected by the HR Act. The incompatibility is outlined in this statement. The remainder of the Bill is, in my opinion, compatible with the human rights for the reasons outlined in this statement.

Overview of the Bill

The Bill reforms the offences in the Criminal Code relating to dangerously operating or interfering with the operation of a vehicle to ensure the provisions are clear and contemporary, and that the penalties are appropriate and meet community expectations. The Bill also makes consequential amendments to other statutory instruments, including amendments to the *Youth Justice Act 1992* (YJ Act) to ensure behaviour under the new offences continues to be captured in the Adult Crime, Adult Time framework, and to retain the admissibility of childhood convictions as previous convictions for the new offences.

Human rights issues

Human rights relevant to the Bill

In my opinion, the human rights limited by the Bill are: right to recognition and equality before the law, freedom of movement, property rights, right to liberty and security of person, and the right of children to protection in their best interest.

Consideration of whether limitations are reasonable and demonstrably justifiable

(a) the nature of the right

Right to recognition and equality before the law

The right to recognition and equality before the law requires public entities, as well as courts and tribunals undertaking certain functions, to treat people equally when applying the law and to not apply the law in an arbitrary or discriminatory way. The increased maximum financial penalties will limit the right as the imposition of a higher fine may disproportionately impact some persons or groups. The increased minimum disqualification periods and retention of the power to disqualify a person who is not convicted will also limit the right as a disqualification may disproportionately impact some persons or groups who are reliant on driving for employment or family responsibilities, or who live in areas with limited transport alternatives.

Freedom of movement

Freedom of movement protects the right to move freely within and to enter and leave Queensland. The increased minimum disqualification periods and retention of the power to disqualify a person who is not convicted will limit the freedom as the person is prohibited from driving.

Property rights

Property rights protect the right to own property and to not be arbitrarily deprived of property. The increased maximum financial penalties will limit the right to property as a higher fine will result in a greater deprivation of money if the penalty is paid or, if the person fails to pay, the deprivation of property seized under the *State Penalties Enforcement Act 1999* (SPE Act).

Right to liberty and security

The right to liberty and security protects people from unlawful or arbitrary arrest or detention. The increased maximum periods of imprisonment will limit the right as they may result in a longer term of imprisonment. The right is also limited by the requirement for the court to impose a sentence of imprisonment if an offender has previous convictions for prescribed offences. The increased maximum financial penalties will also limit the right to liberty to the extent they may result in imprisonment under the SPE Act if the person fails to pay the fine.

Right of children to protection in their best interest

The best interests of the child is aimed at ensuring the full and effective enjoyment of all of a child's human rights and their holistic development. The amendments to retain the offending conduct in the Adult Crime, Adult Time framework will mean children guilty of the new offences will be subject to the same maximum penalties as adult offenders. Additionally, the retention and expansion of the requirement for the court to impose a sentence of imprisonment for repeat offending, means a child guilty of a dangerous driving offence after previous convictions for prescribed offences will be subject to detention. The right will also be limited by the retention of the admissibility of childhood findings of guilt as previous convictions.

- (b) nature of the purpose of the limitation to be imposed, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

Right to recognition and equality before the law

The purpose of the limitation is to ensure sentences appropriately reflect the seriousness of the offending and meet community expectations, and to protect the public by prohibiting the person from driving for a period of time.

Freedom of movement

The purpose of the limitation is to protect the public from harm and deter future dangerous driving behaviour.

Property rights and right to liberty and security

The purpose of the limitation on these two rights is to ensure sentences appropriately reflect the seriousness of the offending and meet community expectations.

Right of children to protection in their best interest

The purpose of the limitation is to ensure sentences that reflect the seriousness of offending and meet community expectations can be imposed for offences committed by children and adults with a history of offending as a child.

- (c) the relationship between the limitation to be imposed and its purpose, including whether the limitation helps to achieve the purpose

Right to recognition and equality before the law

As the maximum financial penalty is the highest fine the court can impose, increasing the penalties signals an intention for sentencing patterns to move toward higher fines. The minimum disqualification periods set the least severe licensing sanction the court can impose. Increasing the disqualification periods ensures they are set at an appropriate level to deter and punish offending behaviour. Similarly, the power to disqualify a person who is not convicted reflects the importance of protecting the public by prohibiting the person from driving.

Freedom of movement

The limitation will achieve its purpose by prohibiting offenders from driving for a specified period or indefinitely. Increasing the length of the disqualification periods ensures they are set at an appropriate level to protect the public and deter future offending behaviour. Similarly, the power to disqualify a person who is not convicted reflects the importance of protecting the public by prohibiting a person from driving.

Property rights

The maximum financial penalty is the highest fine the court can impose. Increasing these penalties signals an intention for sentencing patterns to move toward higher fines, supporting the achievement of the limitation's purpose.

Right to liberty and security

As the maximum term of imprisonment is the most severe consequence the court can impose, an increase signals an intention for sentencing patterns to move toward more severe penalties. Similarly, requiring the court to impose a sentence of imprisonment reflects the seriousness of repeat offending and an intention that these offenders be subject to more severe penalties.

Right of children to protection in their best interest

Retaining the conduct in the Adult Crime, Adult Time framework ensures a child offender can be held accountable to the same extent as an adult offender. Similarly, retaining the admissibility of childhood findings of guilt ensures more severe penalties can be imposed for adult offenders with a history of offending as a child.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose

There is no less restrictive alternative reasonably available for the majority of the amendments. In particular, increasing the maximum penalties or minimum disqualification periods by lesser amounts would not have as effectively achieved the purposes.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

Right to recognition and equality before the law

The limitation is appropriate to ensure sentences reflect the seriousness of the offending and meet community expectations. The amendments ameliorate the impacts by retaining judicial discretion to impose a fine up to the maximum. The impacts are also ameliorated by setting different disqualification periods depending on the offence and the offender's history and by restricting the power to disqualify a person who is not convicted to cases where it is in the interest of the public.

Freedom of movement

The limitation is appropriate to protect the public from harm and deter future dangerous driving behaviour. The amendments ameliorate the impacts as much as possible by setting different minimum disqualification periods depending on the offence and the offender's history. The impacts are also ameliorated by restricting the court's power to disqualify a person who is not convicted to cases where it is in the interest of the public.

Property rights

The limitation is appropriate to ensure sentences reflect the seriousness of the offending and meet community expectations. The amendments ameliorate the impacts as much as possible by retaining judicial discretion to impose a fine up to maximum considering the circumstances of each case including the financial circumstances of the offender.

Right to liberty and security

The limitation is appropriate to ensure sentences reflect the seriousness of the offending and meet community expectations. The amendments ameliorate the impacts as much as possible by retaining judicial discretion to impose a term up to the maximum considering the circumstances of each case. The impacts are also ameliorated by requiring the court to impose a sentence of imprisonment only where the history of offending suggests a propensity to commit serious offences that endanger the public. Further, the admissibility of childhood findings of guilt is restricted to circumstances where the prior conviction is relevant to aggravating the offence or sentencing repeat offenders.

Right of children to protection in their best interest

The limitation is appropriate to ensure sentences that reflect the seriousness of the offending and meet community expectations can be imposed for offences committed by children and adults with a history of offending as a child. The amendments ameliorate the impacts as much as possible by retaining judicial discretion to impose a term of detention up to the maximum considering the circumstances of each case. The impacts are also ameliorated by requiring the court to impose detention only where the person's history of offending suggests a propensity to commit serious offences that endanger the public. Further, the admissibility of childhood findings of guilt is restricted to circumstances where the prior conviction is relevant to aggravating the offence or sentencing offenders with a history of offending.

However, I acknowledge that the amendments to the Adult Crime, Adult Time framework under section 175A of the YJ Act exposes children to the requirement to impose a sentence of imprisonment for repeat offending and as such are incompatible with human rights. The amendments are subject to the override declaration in that section.

Conclusion

In my opinion, part of the Bill is not compatible with the human rights protected by the HR Act. In my further opinion, the remainder of the Bill is compatible with human rights because the rights are limited only to the extent that is reasonable and demonstrably justified.

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