Justice Legislation (Strengthening Victims' Rights) Amendment Bill 2026

Explanatory Notes

FOR

Amendments to be moved during consideration in detail by the Honourable Deb Frecklington MP, Attorney-General and Minister for Justice and Minister for Integrity

Title of the Bill

Justice Legislation (Strengthening Victims' Rights) Amendment Bill 2026

Objectives of the Amendments

The objectives of the amendments to the Justice Legislation (Strengthening Victims' Rights) Amendment Bill 2026 (the Bill) to be moved during consideration in detail are to:

- make technical and consequential amendments to the *Bail Act 1980* (Bail Act), including to ensure that adults who commit a new dangerous driving-related offence while on bail, unlawfully at large or failing to appear are subject to the new bail reforms;
- amend the Bill to clarify the definition of a victim under section 179IA of the *Penalties and Sentences Act 1992* (PS Act) to ensure it aligns with and supports the expanded scope of offences under section 179J;
- amend the Bill to clarify information sharing arrangements between the Victims' Commissioner and the Police Commissioner or Director of Public Prosecutions to support the effective operation of the Community Impact Statement (CIS) framework; and
- amend the Bill to omit consequential amendments to section 39(1)(c) of the *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Victims' Commissioner Act) as these are no longer necessary.

Achievement of the Objectives

Technical and consequential amendments to the Bail Act

The amendments will amend schedule 1 of the Bail Act from 1 March 2027 to omit the repealed offence of dangerous operation of a vehicle under section 328A of the Criminal Code and insert the new dangerous driving-related offences under sections 334I, 334J, 334K and 334L of the Criminal Code.

The amendments are consequential to the commencement of the *Criminal Code (Dangerous Driving) and Other Legislation Amendment Act 2026* (Dangerous Driving Act) on 1 March 2027, which replaces section 328A of the Criminal Code with a new dangerous driving offence framework.

On commencement, the Dangerous Driving Act will prescribe the new dangerous driving-related offences as Adult Crime, Adult Time offences under section 175A of the *Youth Justice Act 1992* (Youth Justice Act). This means that a youth who commits a dangerous driving-related offence while on bail, unlawfully at large or failing to appear will be subject to the new high degree of confidence test (section 48AG of the Youth Justice Act) and the new offence of committing particular offences while on bail, unlawfully at large or failing to appear (section 29AA offence), as introduced by the *Breach Bail, Go to Jail and Other Legislation Amendment Act 2026* (Breach Bail Act).

For adults, offences must be listed in schedule 1 of the Bail Act to be a prescribed offence and thereby captured by the new high degree of confidence test (section 16AA of the Bail Act) and the new section 29AA offence.

Prescribing the new dangerous driving-related offences as a prescribed offence in schedule 1 of the Bail Act is consistent with dangerous operation of a vehicle currently being included as a prescribed offence and the bail reforms applying to youths who commit the new dangerous driving-related offences.

The amendments include a transitional provision to ensure that adults who commit an offence of dangerous operation of a vehicle (under section 328A of the Criminal Code) before 1 March 2027 while they were on bail, unlawfully at large or failing to appear are still subject to the high degree of confidence test and section 29AA offence after the repeal of that offence.

The amendments also include a minor drafting correction to the definition of prescribed offence in the Bail Act.

Clarifying definition of victim to align with scope of offences

The amendment recasts the definition of victim under section 179IA of the *Penalties and Sentences Act 1992* (Qld) (PS Act) to mean a person who suffers harm because of the commission of an offence mentioned in section 179J.

The amendment also sets out legislative examples to include a person who suffers harm because an offence mentioned in section 179J is committed against the person, their family members, dependants, a person with a close personal relationship with the

person, persons who directly intervene, witnesses, a person who would have been a family member of an unborn child whose life was destroyed as a direct result of an offence mentioned in section 179J or a person who incurs financial loss or damage to their property because of the commission of the offence.
This amendment is intended to align with the expanded scope of offences under section 179J of the Bill. This includes offences where a particular victim does not need to be identified in the prosecution of the offence, or causing harm or injury to a person is not required to be proven as an element of the offence.

Prosecuting authorities sharing information with the Victims' Commissioner for CIS

The amendment to section 179S of the PS Act clarifies the ability of the Victims' Commissioner to request information relevant to the offence from the Police Commissioner or Director of Public Prosecutions to assist with the performance of their functions under the CIS framework when preparing a CIS.

In response to the request, the Police Commissioner or Director of Public Prosecutions may provide information to the Victims' Commissioner. This will be subject to existing confidentiality provisions and may include, for example, information relevant to the facts of the charge or circumstances of the offence, such as a bench charge sheet or QP9.

The material will be used by the Victims' Commissioner to inform the preparation of the CIS and assist the Victims' Commissioner in determining what information is appropriate to provide to the sentencing court under the CIS framework.

Removal of consequential amendments to the Victims' Commissioner Act

A minor, technical amendment is made to omit the consequential amendment to section 39(1)(c) of the Victims' Commissioner Act, which defines a relevant offence under the *Domestic and Family Violence Protection Act 2012*.

However, this is no longer necessary because the Domestic and Family Violence Protection and Other Legislation Amendment Bill 2026 addresses this issue.

Other minor and technical amendments

The amendments make other minor and technical amendments to make corrections and editorial changes.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways of achieving the policy objectives other than by legislative amendment.

Estimated Cost for Government Implementation

There are no costs associated with these amendments.

Consistency with Fundamental Legislative Principles

The amendments have been drafted having regard to the fundamental legislative principles (FLPs) in the *Legislative Standards Act 1992* (LS Act).

Technical and consequential amendments to the Bail Act

By prescribing sections 334I, 334J, 334K and 334L of the Criminal Code as prescribed offences under schedule 1 of the Bail Act, the amendments ensure that adults who commit a dangerous driving-related offence while on bail, unlawfully at large or failing to appear are captured by the high degree of confidence test and section 29AA offence. The amendments raise the same FLP issues as the Breach Bail Act.

The amendments may infringe the rights and liberties of individuals because an adult charged with a prescribed offence allegedly committed while on bail, unlawfully at large or failing to appear will be subject to the high degree of confidence bail test, which sets a higher bar for release (section 4(3)(a) of the LS Act). Adult defendants will also be subject to a reversal of onus, which could be broadly interpreted as a reversal of the onus of proof in criminal proceedings (section 4(3)(d) LS Act).

Further, an adult who commits a prescribed offence while on bail, unlawfully at large or failing to appear may be liable to the new section 29AA offence and its mandatory minimum period of 12 months imprisonment which must be wholly served in custody. Mandatory sentencing limits judicial discretion to impose a sentence irrespective of mitigating factors and may result in a greater punishment than would otherwise have been imposed.

Any impact on the rights and liberties of individuals is considered justified because it is consequential to the commencement of the Dangerous Driving Act and ensures that adults who commit the new dangerous driving-related offences are subject to the new bail reforms.

This will also provide consistency between adults and youths who commit a new dangerous driving-related offence while on bail, unlawfully at large or failing to appear, noting that the Dangerous Driving Act already prescribes these new offences as Adult Crime, Adult Time offences with respect to youth offenders.

Prosecuting authorities sharing information with the Victims' Commissioner

The amendments clarify the ability for the Victims' Commissioner to request information from the Police Commissioner or Director of Public Prosecutions to assist with the performance of their functions under the CIS framework when preparing a CIS. The Police Commissioner or Director of Public Prosecutions may provide relevant information in response, subject to existing confidentiality provisions.

The amendment may have implications for the rights and liberties of individuals as this may include information that contains sensitive and confidential personal information relating to victims, accused persons, witnesses and other persons connected with the offence. This is a potential departure from the FLP that legislation has sufficient regard

to the rights and liberties of individuals, including protection of their privacy and disclosure of confidential information (section 4(3), LS Act).

The amendment is justified to clarify that the Victims' Commissioner can obtain critical information from the Police Commissioner or Director of Public Prosecutions to prepare a CIS and perform functions under the CIS framework. This includes material such as facts and circumstances of the relevant offence, which will enable the Victims' Commissioner to include appropriate information on broader harm to the community that is relevant to the offence, or the likely harm caused to an affected community by offences of the same kind. Any impact on privacy and confidentiality is considered justified having regard to the purpose of the amendment.

Consultation

No external consultation was undertaken given the clarifying nature of the amendments.

Notes on provisions

Amendment 1 inserts new commencement provisions for the amendments to the *Bail Act 1980*.

New section 2(1AA) of the Bill provides that Part 1A, other than sections 2C and 2D, commences on the later of the following:

- immediately after the commencement of section 4 of the *Breach Bail, Go to Jail and Other Legislation Amendment Act 2026*, to the extent that section inserts paragraph (a) of the definition of prescribed offence; or
- the date of assent.

New section 2(1AB) of the Bill provides that sections 2C and 2D commence on 1 March 2027.

Amendment 2 inserts a new Part 1A (Amendment of the *Bail Act 1980*) into the Bill.

New section 2A of the Bill provides that Part 1A amends the *Bail Act 1980*.

New section 2B of the Bill amends paragraph (a) of the definition of prescribed offence in section 6 of the *Bail Act 1980* by inserting the words 'against a provision' after 'offence'.

New section 2C of the Bill inserts a transitional provision into the *Bail Act 1980*. New section 55(1) of the *Bail Act 1980* provides that, from commencement, a reference to an offence under the Criminal Code in schedule 1 is taken to include an offence against former section 328A of the Criminal Code that was committed before commencement. New section 55(2) provides a definition of 'former'.

New section 2D(1) of the Bill amends schedule 1 of the *Bail Act 1980* to omit the reference to section 328A (Dangerous operation of a vehicle) of the Criminal Code.

New section 2D(2) of the Bill amends schedule 1 of the *Bail Act 1980* to insert references to sections 334I (Driving motor vehicles dangerously), 334J (Interfering dangerously with the driving of motor vehicles), 334K (Operating non-motor vehicles dangerously) and 334L (Interfering dangerously with the operation of non-motor vehicles) of the Criminal Code.

Amendment 3 inserts a new section 179IA(1) into the *Penalties and Sentences Act 1992* and provides that a victim is a person who suffers harm because of an offence mentioned in section 179J.

New section 179IA provides examples of persons who are victims who may be able to provide a VIS. This captures:

- primary victims including a person who suffers harm because the offence is committed against them or where they suffer financial loss or damage to their property because of the commission of the offence; and
- a range of secondary victims, for example family members, dependents, people with close personal relationships, a person intervening or witnesses.

Amendment 4 renumbers subsections in new section 179IA as a result of the changes in Amendment 3.

Amendment 5 inserts subsection 179S(3)(a) to provide the ability for the Victims' Commissioner to request the Director of Public Prosecutions or the Police Commissioner provide information relevant to the offence for the purposes of a CIS. The provision also inserts subsection 179S(3)(b) which retains the existing provision in the Bill that in preparing a CIS, the Victims' Commissioner may consult with the affected community.

Amendment 6 amends clause 17 to omit reference to 'after section 266' and instead refer to 'Part 14'.

Amendment 7 amends Schedule 1 to omit amendments to section 39(1)(c) of the *Victims' Commissioner and Sexual Violence Review Board Act 2024.*

Amendment 8 amends the long title of the Bill to include reference to the *Bail Act 1980.*

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