

Corrective Services (Promoting Safety) and Other Legislation Amendment Bill 2024

Submission No: 11
Submitted by: Queensland Homicide Victims' Support Group
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:



Legal Affairs and Safety Committee

Proposed amended and new measures under the
Corrective Services (Promoting Safety) and Other Legislation Amendment Bill 2024

Submission by
Brett Thompson
Chief Executive Officer
On behalf of the Queensland Homicide Victims' Support Group

Level 4, 80 Ann Street, Brisbane. QLD. 4000.

07 [REDACTED]

Background

Queensland Homicide Victims' Support Group (QHVSOG) welcomes the opportunity to provide preliminary input into proposed amended and new measures under the Corrective Services (Promoting Safety) and Other Legislation Amendment Bill 2024.

We note that we have already provided significant input into aspects of these proposed amendments through previous consultations and through our ongoing advocacy for people impacted by homicide.

The comments we have provided below are brief, and relatively high level. We reserve the right to review and/or revise our views as the process progresses, and look forward to expanding on our thoughts at the upcoming hearing on March 17.

Objective 1

Enhance the legislative framework for the Queensland Corrective Services (QCS) Victims Register to promote the safety and wellbeing of victims engaging with the service.

Comments

QHVSOG support the overall intent of this part of the amendments.

1. Streamline the registration process.

We support an 'opt out model' for registration, and the ability for referral entities to register victims on their behalf. We add the following concerns around the impact of not having this an amendment.

Concern around current PITA Act (1982)

When a prisoner has an active eligible person registered with the QCS VR , a check is conducted with the QCS VR to seek information on whether there would be proximity information regarding the prisoner's request to transfer. For example, if a prisoner applied to transfer to Western Australia and an active eligible person resided in Western Australia, this would be noted for the Minister to consider when deciding on whether to consent to the interstate transfer. An application may not be denied solely based on this information.

It is the case however that the victim is not contacted to ask about other family members who may reside in the area where the prisoner is applying to transfer to.

Issue 1

This being the case, the Minister may not have reliable proximity information to base that part of the decision.

Solution

Move ahead with the proposed 'opt out' QCS Eligible Persons system so that each person receives relevant information, and the Minister has all relevant proximal information to make informed decisions.

In addition, we ask that the following consideration. This has been raised previously.

Minor technical matter

Ensuring the validity of past parole transfer decisions and

Under section 325 of the Corrective Services Act 2006, it states that the QCS VR may release information about a prisoner to an eligible person when the prisoner transfers under a scheme for the transfer of persons imprisoned under a sentence.

There currently is no provision in the legislation that enables the QCS VR to seek a submission from an eligible person on the register prior to a transfer occurring.

For our members, this causes re-traumatisation. It also leads to the possibility of the prisoner being released into the very community that a related victim lives. This is avoidable.

Solution

Ask for input from the victims as a part of the decision.

2. Extend eligibility criteria

We support the ability for extended family, neighbours, witnesses, or other relevant persons to have the ability to be Eligible Persons.

3. Increase flexibility

We support the expansion of the modes of victim submission to include voice, telephone, or video link. Prisoners currently utilise similar modes during their applications, and it is equitable to allow the same ability to eligible persons.

4. Clarify information provided to eligible persons

We support the provision of information but ask for clarification around the following items.

a. 'The nature of the community-based order.'

Question

Does the Eligible Person receive confirmation as to whether their conditions of release requests were supported by the parole board (e.g., curfew, geographic exclusion areas, GPS tracking)? If not, we ask that this be added to the amendments.

Disclosing information to victims around return to prison orders.

We know that some homicide offenders who have been granted parole breach their conditions of release and have their parole suspended or cancelled. When this occurs, it raises significant concern for the victims. For example, what did the person do, did they hurt someone, where they close where we live, were they looking to harm the victims?

At this point in time, there is no mechanism for the victims to be provided with any insight into the reasons for the return to prisoner order. This lack of clarity creates uncertainty, fear and is re-traumatising families.

We appreciate that there are always issues around privacy, however we also feel that there is a need to provide some insight into situation.

If this information is provided, victims will be better able to cope, and we will be in a better position to support. The support extends to be ability to discuss the parole processes, and de-bunk and myths which may exist.

b. 'The prisoner's deportation or removal status under the Migration Act 1958 (Cth) if it is known to QCS.'

QHVSG have been advocating to the Federal and state governments to provide details of a prisoner's detainment and subsequent deportation for several years. I have provided an overview of this issue below.

Background

Eligible victims of crime in QLD receive updates in relation to the offender such as where they are imprisoned, when they apply for parole and when they are released. This occurs through Queensland Corrective Services Victim Register.

In its work, the QCS VR adheres to the [Queensland Charter of victims' rights](#) which states that;

1 An eligible person in relation to an offender will be kept informed of the following matters.

(a) the offender's period of imprisonment or detention;

(b) the transfer of the offender to another facility;

(c) the escape of the offender from custody or whether the offender is unlawfully at large.

The issue

This right to be informed ceases if the offender is to be deported.

There is currently an obvious gap in the communication processes for victims of crime in Australia between State and Federal agencies; this is having a significant impact on some of our most vulnerable citizens. Specifically, when a prisoner is given parole, and falls under the Australian Border Force Act 2015, victims of crime are not able receive any information in relation to whereabouts, or when they will be deported.

This break in the communication chain is re-traumatising people, creating scepticism and consuming valuable support resources. Victims feel completely disempowered yet only wish to know:

a. that the offender if not in the community

b. if they are going to be deported

c. when they have gone

d. if they can return to Australia.

Below is a message that I received a few years ago from a distraught member of our organisation. She lost a dear friend to homicide.

"I have just received word that XXXXXXXX killer has been released on parole. This happened yesterday. He was due to be deported however we cannot get confirmation of this. Only that he has been handed over to border security. Are you able to assist? Do you have avenues to access this information. We just want confirmation that he is no longer in the country. As you can imagine I am devastated."

Solution

We feel that there needs to be a Legislative change to ABF Part 6, to allow disclosure to relevant persons (QHVSG already adheres to the Australian Privacy Act 1988); or

Categorise QHVSG as government funded body to enable QHVSG to access this critical information to support our members. We do this is QLD with Victim Register for our members.

NB. I have advocated to the Federal Minister, who provided the following 'educational' response in which appears below.

There is no appetite for change despite the trauma being created.



THE HON ALEX HAWKE MP
MINISTER FOR IMMIGRATION, CITIZENSHIP,
MIGRANT SERVICES AND MULTICULTURAL AFFAIRS

Ref No: MC21-007061

The Hon Trevor Evans MP
Assistant Minister for Waste Reduction and Environmental Management
Federal Member for Brisbane
trevor.evans.mp@aph.gov.au

Dear Assistant Minister

Thank you for your recent representation, received on 26 February 2021, on behalf of Mr Brett Thompson, Chief Executive Officer of Queensland Homicide Victims' Support Group (QHVSG), concerning visibility of visa offenders being released on parole and/or removed from Australia. I apologise for the delay in responding.

The Australian Border Force (ABF) is subject to secrecy and disclosure provisions that ABF officers must abide by under the *Australian Border Force Act 2015* (the ABF Act) and the *Privacy Act 1988* (Cth) (the Privacy Act), amongst others. Each request for disclosure of information that the ABF receives is assessed on a case by case basis in accordance with our statutory requirements. Whether disclosure is lawful depends on a range of factors, including the type of information requested, the requesting organisation, and the purpose for requesting the information.

However, unless very exceptional circumstances apply, there are no mechanisms under the ABF Act and the Privacy Act to allow for disclosures notifying the removal or release of an offender from immigration detention to organisations such as QHVSG. Though direct disclosure to QHVSG would generally not be possible, disclosure through Queensland Corrective Services or the Queensland Police Service may be considered on a case by case basis.

Thank you for bringing Mr Thompson's concerns to my attention.

Yours sincerely

ALEX HAWKE

5 / 6 / 2021

Question

Subsection (3) provides that without limiting the information which may be given, the information may include information within the knowledge of the chief executive including 'the deportation or removal status of the prisoner under the Migration Act 1958 (Cth)'

Does this mean that there will be a mechanism for the eligible person to be made told if the offender is still in the community, if they are going to be deported, when they have gone, and if they can return to Australia?

These are incredibly important pieces of information, and we that we hope that this can be provided through these amendments.

Objective 2

Require representation for victims on the Parole Board Queensland (the Board) to increase victims' input into parole decision.

Comment

QHVSG supports this amendment.

It must be noted that there may be an increased risk of vicarious trauma and that careful consideration will be needed in terms of both suitability and subsequent support.

Objective 3

Strengthen powers to respond to abuse of prisoner communication channels to protect the community from prisoners who seek to inflict harm from behind bars.

Comment

QHVSG supports this amendment.

Objective 4

Enable the use of certain police powers for reportable child sex offenders being supervised under the Dangerous Prisoners (Sexual Offenders) Act 2003 (DPSOA) to strengthen community safety.

Comment

QHVSG supports this amendment.

Objective 5

Increase the penalty for possession of a gel blaster on corrective services land in response to evolving behaviour putting safety at risk.

Comment

QHVSG supports this amendment.

Objective 6

Protect the use of victim and intelligence information to support effective decision making.

Comment

QHVSG supports this amendment.

It is imperative that that the prisoner or their representatives are not able to access any EP submissions. We applaud the retrospective aspect to the amendment.

Objective 7

Clarify the authority for corrective services officers to use body-worn cameras while in the community to promote the safety of frontline corrective services officers.

Comment

QHVSG supports this amendment.

Objective 8

Provide greater flexibility for prescribing protections and requirements around how invasive prisoner searches are conducted to accommodate diverse prisoner needs.

Comment

QHVSG is not able to provide input into his aspect of QCS operations.

Objective 9

Update legislative requirements to support the independence, diversity and efficient administration of the Board.

Comment

QHVSG is not able to provide input to this amendment.

Objective 10

Enable QCS to lawfully detain prisoners from Norfolk Island in line with the Queensland Government's commitments under the Intergovernmental Partnership Agreement on State Service Delivery to Norfolk Island

Comment

QHVSG supports this amendment.

Question in relation to objective 10

QHVSG is not aware of any plans for Queensland to provide victim support services to the residents of Norfolk Island.

Is the committee aware of any such proposals?

We thank you for your time.