

Queensland Community Safety Bill 2024

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Queensland Parliament Community Safety and Legal Affairs Committee

Via E-mail to CSLAC@parliament.qld.gov.au

May 15th, 2024

Attn: Committee Secretary

Dear Sir/Madam,

Please accept this submission regarding my concerns over elements of the *Queensland Community Safety Bill 2024*, and in particular areas which I believe are an over-reach of authority or raise civil liberties issues.

REMOVAL OF CERTAIN SOCIAL MEDIA CONTENT

I am especially concerned about the social media content elements (the proposed Chapter 21A to be inserted into the *Police Powers and Responsibilities Act*).

While I appreciate the intent of these laws are to prevent offenders, particularly youth offenders, uploading videos or pictures of themselves to social media engaging in crimes such as joyriding and theft, I believe the proposed scope of the Bill in this regard is far too broad and will capture people who are not engaging in anti-social behaviour.

The extraterritoriality elements of this section are particularly worrisome, for a number of reasons.

Firstly, the hubris involved in trying to force a social media platform with no Australian presence to take down content purely because a police officer in Queensland objects to it would be amusing if it was not being proposed in earnest.

We have already seen Elon Musk make it very clear he will not comply with Australian directives to remove content from X/Twitter, and there appears to be essentially nothing anyone in Australia can realistically do about it.

The penalties in the Bill for breaching s745D are civil in nature and most of the large tech companies are based in the USA, which does not automatically enforce foreign judgments and requires an appeal to US courts for enforcement – an appeal I suggest would be highly unlikely to be granted as it would be seen as a breach of the First Amendment in the US Constitution.

Other sites hosting potentially objectionable content are likely to be in places such as China or Russia, which can generously be described as disinclined to acquiesce to Australian requests for civil penalty enforcement in these matters.

In short, Queensland could obtain all the civil judgments they like against a social media company in the overseas, but I suggest would be effectively powerless to actually make them pay up – rendering s745E toothless and therefore pointless.

I also believe the combination of extraterritoriality and applicability to “A person ordinarily resident in Queensland” to be highly problematic, with considerable scope for misinterpretation, overreach, or misuse.

By my reading of this section, a person who lives in Queensland and travels to Las Vegas in the USA, where they visit a shooting range and fire actual machine-guns at targets, and then puts a picture or video of themselves on their Facebook account talking about how great it was to fire real machine-guns in Las Vegas and how cool it was may be uploading content which is subject to takedown under S745(D) of the Bill.

This is despite the activity being not only completely legal in Nevada (where Las Vegas is located), but actually encouraged and widely advertised there as a tourist attraction.

This section regarding social media is broadly worded and includes “an offence involving a weapon” – it is illegal for a regular person in Queensland to have possession of, much less actually fire, a machine-gun (they are Category R weapons per the *Weapons Categories Regulations 1997* and it is not possible for 99% of people to get a licence to a functioning fully automatic firearm), and so firing one without the appropriate - and almost impossible to get - licence would be a breach of an Act of Queensland were it to take place here.

The second element of S547D involves the police officer demanding the content removal believe it was posted for “increasing the person’s reputation, or another person’s reputation, because of their involvement in the unlawful conduct” – which someone posting videos or photos of themselves shooting machine-guns in Las Vegas is doing, because they want their friends to think they’re cool because they’ve been firing real machine guns.

While some might say a content removal order being sought in these circumstances is an unlikely scenario, I suggest that it could still be interpreted that s745D does not say the objectionable activity had to *take place* in Queensland, just that it would be illegal to do the activity here - even if it is legal elsewhere and the person participating is not committing a crime as a result.

I ask that this section of the Bill be amended to include something to the effect of “For the avoidance of doubt, content which depicts activities that are legal in the place it is created are not considered an offence against an Act Of Queensland.”

This would make it much clearer that takedown orders or other action can only be made against content where the depicted activity is also illegal in the place the photo was taken or the video filmed as well.

Insertion of S6A to Criminal Code

S6A(2)(c) provides that someone is taken to have known a vehicle was an emergency services vehicle if *“a person who is inside, or emerges from, the vehicle identifies themselves to the first person as a type of emergency worker”*.

I believe this is unreasonable, as it would require the “first person” to know ahead of an incident, that (for example) an unremarkable Toyota Camry was actually an undercover police car with a police officer in it – something the first person cannot do if they have not noticed (or cannot see, due to poor lighting etc) the person(s) in the unmarked emergency vehicle.

I ask this section be reworded to something in the vein of *“a person who has recently emerged from the vehicle is wearing an emergency worker uniform or formally identifies themselves as an emergency worker”* – I believe this would preserve the intent of this section without requiring the first person to have X-ray vision to ascertain whether an emergency worker was in a vehicle or not.

Expansion of “Jack’s Law”

I am opposed to the expansion of places where police may essentially “stop and search” (via metal detectors) random people to encompass pretty much any public place.

Most of the people carrying offensive knives are doing so because of their involvement in antisocial groups or possible criminal activities, not carrying them around Carindale shopping centre or their local supermarket car park for the sheer hell of it.

Legislation already exists to allow police to search people who are reasonably suspected of carrying an offensive knife for criminal purposes, and I am concerned about the erosion of civil liberties the proposed expansion of “Jack’s Law” represents – I believe it is trying to solve a largely irrelevant problem, or an issue that is already well served by existing laws.

Personally, I feel *less* safe when I see metal detectors and lots of police around – my thoughts are “What is so dangerous or unsafe about this place that they need metal detectors or lots of police randomly searching people here?”

Increasing security theatre undermines the sense of community Queenslanders enjoy and would, I suggest, represent a net reduction in the quality of life and community for Queenslanders as a result.

SCOPE OF FIREARM PROHIBITION ORDERS

It is generally understood that access to firearms in Queensland requires a firearms licence, and Queensland's existing firearms legislation already serves to make it illegal for a person without a gun licence to be in possession of a firearm.

I do not believe it has been adequately demonstrated that Queensland's existing firearms laws lack the necessary elements to enable police to charge criminals in possession of illegal firearms, and I am unconvinced the powers granted by the Bill relating to Firearm Prohibition Orders (FPOs) are genuinely necessary or in the public interest, given their alarming civil liberties issues.

I am particularly concerned about the civil liberties implications for the family, friends, and work colleagues of people issued with a Firearms Prohibition Order, as the powers proposed under the Bill will have far-reaching consequences for people besides the offender being issued the FPO.

S141E of the Bill notes that one of the factors being taken into account for issuing an FPO is "whether the individual is an associate of a recognised offender".

The Bill further defines "associate of a recognised offender" as including: "has a romantic or familial relationship with the offender" and/or "associates with the offender in a way that involves seeking out or accepting the offender's company, whether the association happens in person or in another way, including, for example, electronically."

This encompasses a ridiculously and unreasonably broad number of people, including family members (who may have nothing to do with the offender, or even actively disapprove of their activities), work colleagues (who "accept the offender's company" because they have to work with them) and I would suggest potentially even people who have spoken/interacted with the offender online about totally unrelated things (for example, playing video games online with the offender despite knowing absolutely nothing about them in real life, likely not even their name).

While being somewhat connected to the offender is only one of the matters which can be taken into account when issuing an FPO, the fact remains it appears possible for people who are genuinely not involved with an offender's criminal activities to find themselves issued an FPO.

By my reading of the powers granted under a Firearms Prohibition Order via s141ZG, police would be able to conduct a warrantless search whenever they like of a rental property owned by an FPO subject but let to someone else who has never met them or is even aware of who they are (likely because they are renting through a property agent).

Similarly, it would seem s141ZF would potentially allow a police officer to conduct a warrantless search of the belongings of every single person on the same public bus as someone subject to a Firearms Prohibition Order.

While I fully support keeping firearms out of the hands of dangerous criminals, I believe our current laws already address this and the powers granted by the proposed Firearms Prohibition Order framework have far too much scope for abuse and cast too wide a net, essentially punishing family and friends of an offender, for crimes those family and friends have not committed or had any involvement with.

I further appreciate that these adverse outcomes may not be the *intent* of the legislation, and that the legislation is aimed at serious criminals, but I believe the fact these aspects exist even as potential possibilities is alarming and should be rectified.

What amounts to “Trust us, bro” is not a sufficient safeguard against potential abuse of these laws, and I ask that they be amended to ensure they do not capture innocent people or otherwise further erode the civil liberties of Queenslanders.

Yours sincerely,

Royce Wilson

A black rectangular redaction box covering the signature area, consisting of two horizontal bars.