Joint Departmental Brief to the Education, Employment and Training Committee on the Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022

DEPARTMENTS

- Queensland Corrective Services (QCS)
- Department of Children, Youth Justice and Multicultural Affairs (DCYJMA)

OBJECTIVES OF THE BILL

The Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022 (the Bill) amends the *Corrective Services Act 2006* (CSA) and the *Youth Justice Act 1992* (YJA).

The Bill aims to ensure the safety and security of the correctional and youth justice systems through amendments that:

- Modernise emergency response powers to facilitate better responses to situations that threaten the health and safety of prisoners, detainees, corrective services officers (CSOs), detention centre staff, or other people at a corrective services facility or youth detention centre.
- Criminalise the use of drones over corrective services facilities and youth detention centres, and entry onto rooftops and other restricted areas of corrective services facilities to address evolving behaviour that presents new risks to the safety of custodial facilities.
- Provide clear authority to use x-ray body scanners, closed circuit television (CCTV), body-worn cameras and other emerging technologies in corrective service facilities to maintain safety and monitor threats within the closed correctional environment.
- Enhance CSA information sharing powers to promote prisoner health and wellbeing, support frontline service delivery and interagency collaboration.
- Update the prisoner security classification framework to better align with corrective services facility infrastructure and appropriately respond to risk.
- Clarify sentence calculation issues, enable the effective operation of the Official Visitor Scheme, and support the delivery of prisoner health services provided by Queensland Health (QH) by updating out-dated terminology within the CSA.

AMENDMENTS IN THE BILL

Modernising the emergency response framework

Amendments to the CSA

Clause 28 of the Bill replaces section 268 of the CSA with a new emergency response framework for adult correctional facilities.

Currently the CSA does not appropriately anticipate emergencies, such as natural disasters that may cause an emergency from outside of a prison, emergencies at corrective services facilities other than prisons (including a community corrections centre (the Helana Jones Centre) and work camps), health emergencies, or emergency situations that may eventuate for a prolonged period of time.

To address the need for a more modern and fit for purpose emergency response framework, the Bill amends the CSA to support potential future emergency responses at corrective services facilities. The new framework will better equip responses to internal and external, and short or long-term emergency situations that threaten the health and safety of prisoners, CSOs or other people at a corrective services facility.

Clause 28 provides for the following amendments to the existing framework:

- Makes permanent the reference to 'corrective services facility' rather than 'prison' (new section 271B).
- Provides for various types of declarations of emergency to respond to different threats (new section 271B).
- Clarifies the ability of the chief executive to restrict movement to a facility, refuse entry to a facility, quarantine or isolate prisoners, and limit or withhold privileges depending on the emergency situation (new section 271C).
- Provides that a declaration of emergency must be published (new section 271D).

As a key feature of the framework, strict maximum durations are included to reflect the different types of emergencies. New subsection 271B(8) provides for an emergency declaration to be made for:

- up to 21 days if the emergency relates to a public health emergency declared under the *Public Health Act 2005*,
- up to 14 days if the emergency relates to a disaster, as defined under section 13 of the *Disaster Management Act 2003*,
- up to 7 days if the emergency relates to a risk to health, other than a public health emergency, and
- otherwise, the existing limit of up to 3 days will apply, such as in response to a prison riot or loss of control event.

The framework also includes the following safeguards to limit the extent of any impact actions taken in an emergency have on individuals to only those necessary to respond to the emergency. These are:

- the discretion to make a declaration is subject to a high threshold (subsection 271B(1)), the chief executive must:
  - reasonably believe that a situation exists that is likely to threaten the security or good order of a facility or the health or safety of a prisoner or another person at a facility, and
  - be satisfied the situation justifies the making of a declaration,
- the power for the chief executive to make an emergency declaration cannot be delegated (clause 27),
- the making of a declaration of emergency is subject to the approval of the Minister (subsection 271B(4)),
- the chief executive is required to consult with agencies relevant to the emergency response (subsection 271B(5)),
- the chief executive is required to ensure the declaration is no longer than is reasonably necessary given the emergency (subsection 271B(7)),
- if the emergency declaration is made in response to a public health emergency, the declaration lapses if the public health emergency declaration made under the *Public Health Act 2005* ceases (subsection 271B(10)),

- a prisoner's privileges can only be limited where the chief executive reasonably believes that it will not be practicable to provide for the privilege because of the emergency (subsection 271C(2)(d)),
- other limitations are to be put in place only to the extent necessary because of the emergency (subsection 271C)
- declarations must be published on QCS' website with prescribed information, including reasons for making the declaration (subsection 271D), and
- as is the case under the existing framework, all decisions to make a declaration, and any directions made under a declaration are still subject to the *Human Rights Act 2019*.

The ability for the chief executive to declare a place to be a temporary corrective services facility under new section 271B(3)(b) is already provided for under the CSA, in existing section 268(2)(b).

The new emergency framework will commence on 1 November 2023, upon the expiry of the temporary COVID-19 measures in Chapter 6, Part 15A of the CSA, which is due to occur on 31 October 2023.

Amendments to the YJA

Clause 48 of the Bill inserts new sections 301B to 301S into the YJA to provide for a new response framework for youth detention centres affected by a disaster – essentially, where there is serious risk to the life, health or safety of detainees or staff, or where it is not possible to ensure the security of the centre or the safe custody and wellbeing of detainees (section 301F). A disaster includes, for example, a natural disaster, explosion, fire or epidemic (section 301B).

While it would be possible, under common law, to establish a temporary youth detention centre in an emergency, the provisions in the Bill will provide certainty and a clear and transparent process for establishing temporary arrangements, facilitating timely and accountable decision-making.

When speedy action is essential – when the disaster is about to happen or has just happened – the chief executive, with the approval of the Minister, may declare a place to be a temporary detention centre.

That declaration may remain in force for up to 21 days – an initial 7 days, with the option of extensions.

If the temporary facility is needed for longer, the Bill provides that it must be declared by regulation, which brings increased accountability, including scrutiny by Parliament.

The Bill amends the YJA to:

- Enable the chief executive to declare a youth detention centre to be disaster-affected and declare an alternative location (or locations) as a temporary youth detention centre, for a period of up to seven days (the declaration may be extended up to a total of 21 days from the initial declaration) (new sections 301F to 301M). A temporary detention centre declaration must be notified on the department's website, or in another way decided by the chief executive if publication on the website is not practicable, and published in the gazette (new section 301I).
- Require the chief executive to select the most suitable place from amongst the options available. In doing so, the chief executive must consider a number of factors including:
    - the purpose for which the place is ordinarily used,
    - compliance with the youth justice principles and the human rights of detainees and the broader community,

  - facilities at the site,
  - planning considerations that might apply to the site,
  - the ability to deliver or procure specialist programs and services, and
  - any impact (including land use impacts) on the local community (new section 301H).
- Enable the Governor in Council to make a regulation to declare a temporary youth detention centre for a specified period, which may be longer than the initial 21 days under a declaration made by the chief executive. The same factors must be taken into account before the Minister recommends the making of the regulation (new sections 301N to 301P).
- Require the chief executive to carry out their statutory responsibilities in relation to the management of a detention centre and the provision of programs and services in a temporary detention centre to the greatest extent practicable in the circumstances (new section 301Q).
- Require the chief executive to review regularly whether a temporary detention centre is still required and if an alternative place for a temporary detention centre would be more suitable (new section 301R).
- Ensure other government agencies, oversight bodies and key legal stakeholders are notified that a temporary detention centre has been established (new section 301S). This will ensure the safety, wellbeing and human rights of children detained in a temporary detention centre by facilitating the continuity of relevant services and oversight functions. It will also ensure that planning matters and land use impacts are appropriately addressed.

The Bill also includes provisions to ensure maximum flexibility of staffing options for youth detention centres during a *declared emergency* (declared under the *Public Health Act 2005*, the *Disaster Management Act 2003*, the *Public Safety Preservation Act 1986* or the *Biosecurity Act 2014*).

Drawing on learnings from the COVID-19 public health emergency, DCYJMA has contingency plans to redeploy its own staff when large numbers of detention centre staff are unavailable for work due to an emergency. This could include non-operational detention centre staff, youth justice service centre staff, and central office staff.

Where existing staff are not available, the normal preference will be to appoint persons under the *Public Service Act 2008*, as these staff will be covered by the Public Service Code of Conduct and may be directed and delegated functions in the same way as the established detention centre workforce.

However, there may be cases when this is not the best option. For example, an interstate youth justice agency may be willing to 'lend' a cohort of skilled and experienced detention centre staff, who would retain their employment with that interstate agency. To facilitate this, new sections 301D and 301E provide for the appointment of appropriately qualified persons who are not public service employees as temporary detention centre employees. The chief executive will also be able to delegate functions and powers to temporary detention centre employees.

All temporary staff members – whether public service employees or temporary detention centre employees – would receive training in detention centre operations, including physical intervention training, prior to commencement of duties. The department is developing approved training packages that can be used to quickly train people to streamline the timeframes required to mobilise a temporary workforce in an emergency.

The Bill (clause 49) also amends section 312 of the YJA to modernise the delegation powers in the Act to allow the chief executive to delegate to appropriately qualified public service employees. Currently, the YJA

only allows delegation to public service *officers*, which generally excludes temporary employees. This amendment will facilitate, for example, delegation to a recently retired detention centre employee who is employed on a temporary basis during an emergency response period.

This amendment, unlike the provisions in clause 48, will have effect at all times, not just in emergencies. This is because the current YJA delegation arrangements have been in place for many years, and no longer reflect best practice. The amendment will provide for the efficient and effective administration of the YJA consistent with contemporary legislation such as the *Public Service Act 2008* and the *Child Protection Act 1999*.

The Bill also enables restorative justice conferences to be conducted remotely during a declared emergency. The Bill provides that the usual requirement for participants to physically *sign* an agreement will be satisfied if the convenor *notes* the consent of the participants on the agreement. The Bill also provides that the requirement for participants to *immediately* be given copies will be satisfied if the convenor *promptly* gives the copy (clause 48, new section 301C).

The amendments to the YJA would commence on Assent.

Criminalising evolving behaviours putting custodial facilities at risk

Restricted area offence

Prisoners gaining access to a rooftop is a consistent issue across corrective services facilities and demonstrates that the existing penalties are insufficient at deterring prisoners from engaging in this behaviour.

Clause 14 of the Bill creates a new offence for a prisoner to be in a restricted area without a reasonable excuse. This offence applies only to prisoners in adult corrective services facilities.

The Bill inserts this offence into section 124 of the CSA which contains other prison offences, meaning this offence only applies to prisoners. The offence will have a maximum penalty of 2 years' imprisonment, which is consistent with existing offences under section 124.

The Bill defines a restricted area as each roof of a corrective services facility. The Bill provides flexibility to prescribe (in the regulation) other 'restricted areas' within a corrective services facility that are subject to the offence.

However, an additional element is included for the prosecution to establish that a prisoner was made aware that the area (other than a rooftop) was a restricted area in subclause 14(2). This will only apply if new areas are prescribed in the regulation. This requires the area to be controlled by a corrective services officer (CSO) (such as a door that needs to be opened by a CSO) or for prisoners to be given sufficient warning that the area is a restricted area for the offence. Sufficient warning could be but is not limited to:

- displaying a notice that the area is a restricted area,
- informing prisoners during their induction, or
- giving the prisoner a written of verbal direction not to enter the area.

The creation of the new offence does not prevent the chief executive or a corrective services officer from managing prisoner movement within a corrective services facility. For example, prohibiting certain areas from prisoner access without prescribing a restricted area or treating behaviour as a breach of discipline matter

under the CSA. Rather, it aims to provide a deterrent for increasing prisoner behaviour that presents a significant risk to the prisoner, other prisoners, CSOs, and the security of facilities.

Unlawful use of drones offence

The growing use of drones remains an issue for the correctional and youth justice environments. Drones have been used to drop contraband into corrective services facilities and may take photographs as well as video footage, including images which may identify vulnerable children, or imagery of secure infrastructure.

Each sighting of a drone at a corrective services facility results in the facility going into lockdown while a search for contraband is conducted. In youth detention centres, all children are taken indoors and movement limited to prevent anyone being filmed or identified. As such, drones represent a significant threat to the security and good order of facilities, including the safety and privacy of staff, prisoners, detainees and visitors.

The Bill creates new offences to prohibit a person from operating a drone at (including above) a corrective services facility (clause 15) or a youth detention centre (clause 46), inclusive of the land on which the facility or centre is located, without a reasonable excuse.

A corrective services facility is defined in existing schedule 4 of the CSA. This includes a prison, a community corrections centre (Helana Jones Centre), or a work camp. Prisons, inclusive of the lot of land, are declared under schedule 1 of the Corrective Services Regulation 2017. Other corrective services facilities may be declared by gazette notice.

Youth detention centres are established under section 262 of the YJA. There are three youth detention centres in Queensland: Brisbane Youth Detention Centre and West Moreton Youth Detention Centre, at Wacol; and Cleveland Youth Detention Centre in Townsville. These detention centres are prescribed in the Youth Justice Regulation 2016 by way of street address of the land on which they are located. The prohibition will apply on, or above, the land at the prescribed addresses.

The offences will have a maximum penalty of 2 years imprisonment or 100 penalty units.

Clause 15 inserts the offence under the CSA as a new section 132A. This offence applies to people other than prisoners. Clause 46 inserts the offence under the YJA as a new section 279A. The offences apply to any person operating, or attempting to operate, a drone at a youth detention centre, regardless of the location of the operator.

Use of a drone in the following ways will <u>not</u> be an offence under either Act:

- if approved by the chief executive of the relevant department responsible for the facility or centre,
- by an officer of a law enforcement agency (or someone acting on their behalf) to assist in carrying out their functions, or
- by an officer of an emergency service (or someone acting on their behalf) to assist in carrying out their functions. This includes, but is not limited to, an officer of the rural fire brigade or state emergency service.

The Bill defines a drone as a device that is capable of flight, remotely piloted or able to be programmed to fly autonomously, and not capable of transporting a person.

Use of x-ray body scanners and other emerging technologies

The Bill amends the CSA to support the future use of x-ray body scanners in corrective services facilities and provide clear authority for the use of surveillance devices, such as CCTV and body worn cameras, to record and monitor activities within corrective services facilities.

These amendments apply only to adult correctional facilities.

X-ray body scanners – imaging search

The presence of contraband in corrective services facilities poses a significant threat to institutional security, CSO safety, public safety, and prisoner safety, health and welfare. The Bill provides a head of power to support a future trial and any future roll out of x-ray body scanning technology at adult corrective services facilities to improve opportunities to detect contraband. Use of this technology also presents an opportunity to trial a less restrictive method for searching than personally invasive methods such as removal of clothing searches and body searches.

Clause 36 creates a new type of search an 'imaging search' and provides discretion for imaging searches to be used for prisoners (clause 9), staff (clause 18), visitors (clause 16) and children accommodated with prisoners (clause 8).

Clause 36 inserts the definition for 'imaging search' into schedule 4 of the CSA. The imaging search definition provides that electronic images will be produced by a method of scanning a person, including by use of ionising or non-ionising radiation.

Clause 20 inserts a number of requirements for imaging searches into section 175A, including:

- devices used must be prescribed in the regulation,
- a regulation may also prescribe requirements for conducting the search and for the use, storage and destruction of any images produced by the search,
- a person subject to an imaging search may be required to remove outer garments, temporarily hold a position or move as directed, and
- the search must be conducted in a way that causes minimal embarrassment to the person.

The new head of power is subject to any other regulation or laws governing use of such technology, including requirements under the *Radiation Safety Act 1999* (RSA) and Radiation Safety Regulation 2021. Body scanning technology may only be used by QCS, if these other stringent regulatory requirements are met. These regulatory requirements include such things as annual limits that apply to persons being scanned and scanner operators to ensure their health and radiation levels remain below the recommended dose limit. QCS will be bound by these limits under Radiation Health guidelines and licensing requirements.

For consistency with the structure of these amendments, definitions of general and scanning searches have been revised in schedule 4 (clause 36) and all requirements for these searches have been moved alongside the new requirements for imaging searches under section 175A (clause 20). These searches and requirements for these searches are not otherwise amended by the Bill.

Surveillance devices

The use of surveillance technology within the closed correctional environment is imperative to maintain CSO and prisoner safety. Surveillance devices enable QCS to collect, evaluate, and analyse information to identify and manage risk, respond to or investigate emergency incidents, support a breach hearing or review, prosecute an offence, and deter prisoners and visitors from attempting to breach security requirements. While some technology such as CCTV has been used within the correctional environment for some time, the use of devices such as body worn cameras is relatively new.

In light of these and other emerging technologies, it is timely to clarify the chief executive's power to authorise use of such devices, including additional safeguards for use.

Clause 19 of the Bill provides the chief executive with a clear head of power to authorise use of a prescribed surveillance device at a corrective services facility to monitor and record activity in and around a facility. This amendment applies only to the adult correctional system.

In authorising the use of a surveillance device, clause 19 provides that the chief executive must:

- be satisfied that use of the device will enhance one or more prescribed matters, including the safety of persons, the security of facilities, preventing corruption and detecting contraband,
- have regard to the privacy of prisoners, CSOs and visitors,
- include requirements about the use, storage and destruction of recordings made by a prescribed surveillance device, and
- not authorise the covert use of a surveillance.

The Bill does not limit the use of a surveillance device at a corrective services facility, including the covert use of a surveillance device, under another provision of the CSA or another Act such as, for example, the use of a surveillance device by warrant under the *Police Powers and Responsibilities Act 2000*.

The types of surveillance devices authorised for use will be prescribed in regulation. A transitional provision has been included in clause 35 to provide for the section to apply to surveillance devices currently being used in corrective services facilities, for example, CCTV and body worn cameras, from commencement of the new provision (on proclamation).

In authorising and using devices, QCS will continue to comply with other legislation safeguarding privacy including the *Information Privacy Act 2009* and the *Human Rights Act* 2019.

<u>Enhancing information sharing</u>

The Bill includes amendments to the information sharing provisions in the CSA to promote prisoner wellbeing, support frontline service delivery and enhance interagency collaboration. These amendments apply only to the adult correctional system.

CSOs work closely with partner agencies to safely manage prisoners and offenders according to their individual risk and needs, ensure the safety and security of the correctional environment, and support broader community safety by preventing crime. This requires a level of sharing of confidential information, including proactively where appropriate. While the CSA allows for information sharing, the existing provisions can be improved to support decision-making by frontline CSOs.

Clause 32 provides clear legislative guidance for staff to ensure that confidential information can be shared in the following circumstances:

- to a health practitioner to support the care, treatment or rehabilitation of a prisoner, including a prisoner released on parole,
- to anyone if information is about the condition of a prisoner in custody and is given in general terms (for example, telling a prisoner's family that the prisoner is okay but in transit to hospital),
- to a law enforcement agency for a function of the agency, and
- to a corrections agency of another jurisdiction if the information is about an offender, including a prisoner, and relevant to the management or supervision of the offender in that jurisdiction.

Clause 31 of the Bill provides a stronger protection for sensitive law enforcement information provided to QCS by creating a new offence for disclosure of such information without authorisation. The proposed new offence has a maximum penalty of 100 penalty units or 2 years imprisonment.

Updating the prisoner security classification framework

The Bill includes amendments to the prisoner security classification under the CSA to ensure the framework aligns with the existing infrastructure of corrective services facilities in Queensland (placement in either a secure facility or a low custody facility) and appropriately responds to risk. These amendments apply only to the adult correctional system.

Clauses 4 to 6 of the Bill make amendments to the classification framework including:

- Amending current section 12 of the prisoner security classification framework to reflect the operational environment, by removing 'maximum' as a classification level and requiring a prisoner classified as high to be detained in a secure facility.
- Providing greater meaning within current section 12 of the framework by enabling risk sub-categories to be established within the prisoner security classification categories of high and low, as prescribed in regulation.
- Amending classification review periods in current section 13, including to be event-based or at the prisoner's request.
- Expanding matters the chief executive is to have regard to when deciding a prisoner's security classification.

Clause 34 of the Bill includes a transitional provision which will provide for a prisoner with a 'maximum' classification to transition to a 'high' classification.

Other amendments

Other amendments to the CSA are included in the Bill to support the effective and efficient operation of the correctional environment. These amendments apply only to the adult correctional system.

Updating health practitioner provisions

The Bill includes amendments to reflect the current provision of health services to prisoners by QH. These amendments remove outdated provisions and update terminology within the CSA to replace references to 'doctor,' 'nurse' and 'psychologist' with registered health practitioner where appropriate.

The change in terminology is consistent with QH being responsible for health service delivery to prisoners and being best placed to determine what discipline of clinician is most suitable to provide particular services or advice. The amendment recognises that since 2008, and in accordance with current Administrative Arrangement Orders, QH has been responsible for the delivery of prisoner health services in all corrective services facilities operated by QCS.

Clause 7 removes the power for a doctor to direct a prisoner to submit to a medical examination, or for the use of force in the carrying out of a directed examination. The Bill omits these provisions as the *Public Health Act 2005* and the *Mental Health Act 2016* provide the legislative frameworks necessary for registered health practitioners to utilise when treating or examining a prisoner without consent and provide the necessary safeguards.

Clause 36 inserts a definition of registered health practitioner into Schedule 4, referencing section 5 of the *Health Practitioner Regulation National Law (Queensland).*

Unlawfully absent

There have been a very small number of instances when a prisoner has been accidentally, wrongfully, or unlawfully released and under the current definition of unlawfully at large in section 112 of the CSA. To ensure there is no doubt in the power to arrest and return the person to custody, clause 13 explicitly clarifies the application of section 112 to prisoners who have left lawful custody in error.

Clause 13 of the Bill inserts a definition for a prisoner that is 'unlawfully absent' to explicitly provide for arrest and return to custody of a prisoner where they have been mistakenly, unlawfully or otherwise incorrectly discharged or released before the prisoner's discharge day or release day. Section 112(4) of the CSA will not apply to these prisoners.

Section 112 will continue to apply to prisoners who are 'unlawfully at large', such as where they have escaped lawful custody.

Exceptional circumstances parole

Clause 22 and 23 of the Bill inserts new section 176C to clarify that a prisoner who is detained on remand for an offence may not apply for exceptional circumstances parole (ECP).

It is considered appropriate that a bail decision by a court is determined prior to an administrative decision (decision on an application for ECP) being put before the Parole Board Queensland (the Board) for consideration if the prisoner is on remand and concurrently serving a sentence of imprisonment. The Board currently prioritises and triages an ECP application and can make a parole decision very quickly, particularly if there are pressing circumstances.

Official Visitor reappointment

Clause 30 of the Bill prescribes that the chief executive may reappoint an appropriately qualified person as an official visitor (OV). The person may be reappointed one or more times, for a period of up to three years, if the chief executive is satisfied reappointing the person is likely to benefit a corrective services facility or prisoners of a corrective services facility.

This amendment supports greater flexibility in the ongoing use of suitably qualified OVs, beyond the current six-year (two three-year terms) maximum appointment. The amendment will also assist in meeting the

requirements for appointing a certain number of Aboriginal and Torres Strait Islander people and legal professionals to the role of OV. This will ensure appropriate diversity of OVs that is reflective of the prisoner cohort and ensures the scheme is able to meet legislated requirements.

Updating the definition of 'discharge'

Discharge is the process by which an offender has completed their period of detention or sentence of imprisonment, without a further period to be served on parole in the community. Unlike a parole release decision (an administrative decision), an offender discharged can only be brought back into prison by a decision of the court, such as via a decision to detain a person on remand, the imposition of a suspended term of imprisonment or sentence of imprisonment for reoffending.

However, discharge may not always be 'unconditional' as an offender could, for example, be released onto another court order such as a suspended sentence (the condition being not to reoffend), on bail (this could have various conditions), a probation order (this has various conditions), or a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

In response, clause 36 of the Bill clarifies the term and removes reference to the word 'unconditional'.

CONSULTATION

All government agencies have been consulted in the development of the Bill.

Corrective Services Act 2006

On 27 October 2022, a consultation draft of the amendments to the CSA included in the Bill was provided to the following 28 community stakeholders.

Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd, Aboriginal and Torres Strait Islander Women's Legal Service North Queensland, Bar Association of Queensland, Civil Aviation Safety Authority, Crime and Corruption Commission, District Court of Queensland, Legal Aid Queensland, Magistrates Court of Queensland, Office of Queensland Health Ombudsman, Office of the Director of Public Prosecutions, Office of the Information Privacy Commissioner, Office of the Public Advocate, Office of the Queensland Ombudsman, Parole Board Queensland, Prisoners' Legal Service, Queensland Council for Civil Liberties, Queensland Court of Appeal, Queensland Homicide Victims' Support Group, Queensland Human Rights Commission, Queensland Indigenous Family Violence Legal Service, Queensland Law Society, Queensland Nurses and Midwives Union, Queensland Public Guardian, Sisters Inside, Supreme Court of Queensland, Together Union, United Workers Union, and Women's Legal Service Queensland.

Formal responses were received from 16 of the stakeholders consulted with and a further three stakeholders provided informal feedback. A total of 9 stakeholders did not provide a response or advised that they had no feedback on the material. Broad support was received from most community stakeholders on the amendments to the CSA. Feedback on the draft was considered and informed development of the Bill.

Youth Justice Act 1992

Consultation on the amendments to the YJA included in the Bill occurred separately. A consultation paper outlining the proposed provisions was provided to the following stakeholders: President of the Childrens Court of Queensland; Deputy Chief Magistrate; Aboriginal and Torres Strait Islander Legal Service, Australian Workers Union, Community and Public Sector Union Bar Association of Queensland, Health Services Union, Legal Aid Queensland, Office of the Public Guardian, PeakCare, Queensland Aboriginal and Torres Strait

Islander Child Protection Peak, Queensland Advocacy Incorporated, Queensland Family and Child Commission, Queensland Human Rights Commission, Queensland Law Society, Queensland Nurses and Midwives Union, Queensland Ombudsman, Queensland Police Union of Employees, Queensland Teachers' Union, Together Union, United Workers, YFS Legal, and the Youth Advocacy Centre.

Stakeholder feedback was taken into account and informed the development of the amendments to the YJA.

FUNDAMENTAL LEGISLATIVE PRINCIPLES

The Bill is considered generally consistent with fundamental legislative principles as per section 4(2) of the *Legislative Standards Act 1992*. While a number of amendments in the Bill may be considered to be inconsistent with fundamental legislative principles, these inconsistencies are considered justified in that the amendments reflect community expectations, provide for appropriate management of prisoners and offenders, and increase community safety.

HUMAN RIGHTS

As outlined in the Statement of Compatibility, the Bill is considered compatible with the human rights protected by the *Human Rights Act 2019* (HRA).

Human rights engaged (including rights that are promoted and/or limited) by the Bill include:
- the right to recognition and equality before the law (section 15 of the HRA),
- the right to life (section 16 of the HRA),
- the right to protection from cruel, inhuman or degrading treatment (section 17(b) of the HRA),
- the right to protection from medical or scientific experimentation or treatment without consent (section 17(c) HRA),
- the right to freedom from forced work (section 18 of the HRA),
- the right to freedom of movement (section 19 of the HRA),
- the right to freedom of association (section 22(2) of the HRA),
- the right to privacy and reputation (section 25 of the HRA),
- the right to protection of families and children (section 26 of the HRA),
- the cultural rights of Aboriginal and Torres Strait Islander peoples (section 28 of the HRA),
- the right to liberty and security of person (section 29 of the HRA),
- the right to humane treatment when deprived of liberty (section 30(1) of the HRA),
- the rights of children in criminal proceedings (section 33 of the HRA),
- the right to education (section 36 of the HRA), and
- the right to health services (section 37 of the HRA).

COSTS

There are no anticipated costs to government in implementing the amendments to the CSA in the Bill. The Bill creates heads of power to provide for the future roll out of emerging technologies, but does not require their use.

There will be costs incurred if the provisions allowing temporary youth detention centres or detention centre employees are utilised. However, these are costs that would be incurred under common law emergency powers if the Bill is not passed. The provisions in the Bill will minimise these costs by providing a clear and transparent framework for decision-making, allowing decisive and timely action, with appropriate safeguards.
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