

# Electoral Laws (Restoring Electoral Fairness) Amendment Bill 2025

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Justice, Integrity and Community Safety Committee  
Queensland Parliament  
2A George St, Brisbane City  
QLD 4000

**Submission to the Justice, Integrity and Community Safety Committee regarding the *Electoral Laws (Restoring Electoral Fairness) Amendment Bill 2025***

We refer to the *Electoral Laws (Restoring Electoral Fairness) Amendment Bill 2025* (the **Bill**), introduced by the Hon Deb Frecklington to the Queensland Parliament on 11 December 2025, and the current call for submissions from the Justice, Integrity and Community Safety Committee (the **Committee**). We appreciate the opportunity to provide submissions on the Bill to the Committee.

**Overview**

- 1 Prisoners' Legal Service (**PLS**) is an independent community legal centre specialising in legal assistance for prisoners on issues related to their incarceration, such as parole, solitary confinement, and prison conditions. PLS's primary focus is administrative law; it does not provide assistance with criminal law matters. The concerns presented to us by our clients are wide-ranging.
- 2 The focus of this submission is on the proposed amendments to s 106 of the *Electoral Act 1992* (Qld), s 64 of the *Local Government Electoral Act 2011* (Qld), and s 21 of the *Referendums Act 1997* (Qld) (**the amendments**), which would prohibit persons serving a sentence of imprisonment or detention of one year or longer from voting in State elections and referendums and local government elections.
- 3 PLS is concerned about the further disenfranchisement of prisoners that will occur if the proposed amendment to prisoner voting rights contained in this Bill is passed. The proposed prohibition conflicts with the rehabilitative aims of Queensland's sentencing regime, which will disproportionately impact Aboriginal and Torres Strait Islander people who are incarcerated in far higher numbers. Despite a stated emphasis on serious offences, the proposed prohibition will capture less serious offences. It restricts the right to vote, enshrined in Queensland law, without legitimate justification. In PLS's view, the amendments will not achieve the policy objectives outlined in the explanatory materials for the Bill: enhancing civic responsibility and increasing electoral integrity and public confidence in elections.

**Conflict with Queensland's rehabilitation principles and reintegration goals**

- 4 Prohibiting prisoners serving an imprisonment term of one year or longer from voting will not deter future crime, nor support rehabilitation, which are cornerstone principles of Queensland's criminal law system. Indeed, further restricting prisoner voting rights will only further disempower prisoners, most of whom are likely to re-join society post-incarceration, making their reintegration – which serves as a deterrent to further criminal behaviour – more difficult.

- 5 Queensland's sentencing framework, as articulated in the *Penalties and Sentences Act 1992* (Qld), requires courts to balance punishment, deterrence, and community protection with the rehabilitative potential of sentences.<sup>1</sup> Rehabilitation is not an ancillary consideration. It is a core principle designed to reduce reoffending and reintegrate people into society. This commitment is reinforced by the *Corrective Services Act 2006* (Qld), which mandates 'humane containment, supervision and rehabilitation of offenders.'<sup>2</sup> These provisions demonstrate that Queensland's criminal justice system is intended to be restorative, not permanently exclusionary.
- 6 The proposed amendments compound existing restrictions on prisoners' rights – such as limitations on freedom of movement, association, and contractual capacity – by adding a further layer of exclusion that is both symbolic and practical: the removal of the right to vote. While other restrictions on prisoner rights may be justified for security and sentencing administration, political disenfranchisement severs the connection between incarcerated people and the democratic community, undermining rehabilitation objectives. Participation in civic life is strongly correlated with conformity to social norms; individuals who maintain civic engagement, including voting, are more likely to accept the legitimacy of the law and less likely to reoffend.<sup>3</sup>
- 7 Voting fosters a sense of belonging and social responsibility, which are key factors in successful reintegration. By stripping people of this right, the Bill sends a message of civic rejection, contradicting the principles of rehabilitation embedded in Queensland law. Until now, Queensland's approach reflected these ideals by allowing those serving sentences of less than three years to vote, acknowledging that enfranchisement supports rehabilitation and should only be restricted in the most extreme circumstances. The proposed amendments represent a backward step, replacing inclusion with exclusion and weakening the rehabilitative framework, with likely consequences for social reintegration.
- 8 The harm caused by the proposed disenfranchisement of individuals serving sentences of one year or more will not be evenly distributed. It will have a disproportionate impact on Aboriginal and Torres Strait Islander peoples, who remain significantly overrepresented in Queensland's prison population. As at 30 June 2025, Aboriginal and Torres Strait Islander people accounted for approximately 39% of all persons in custody in Queensland,<sup>4</sup> despite comprising only around 5.2% of the state's population.<sup>5</sup> This disparity means that any expansion of voting restrictions will fall most heavily on Aboriginal and Torres Strait Islander people, compounding existing structural disadvantage.
- 9 The Victorian Aboriginal Legal Service, in its submission to the Inquiry into the 2022 Federal Election, emphasised that over-incarceration of Aboriginal people translates directly into disproportionate disenfranchisement.<sup>6</sup> National estimates indicate that 0.6% of Aboriginal Australians are disenfranchised by prisoner voting restrictions, compared to just 0.075% of non-Aboriginal Australians.<sup>7</sup> In Queensland, where incarceration rates for Aboriginal and Torres Strait Islander peoples are among the highest in the country,<sup>8</sup> and Aboriginal and Torres Strait

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<sup>1</sup> *Penalties and Sentences Act 1992* (Qld) s 9(1).

<sup>2</sup> *Corrective Services Act 2006* (Qld) s 3(1).

<sup>3</sup> Kristen Budd and Niki Monazzam, 'Increasing Public Safety by Restoring Voting Rights', *The Sentencing Project* (Policy Brief, 25 April 2023) <<https://www.sentencingproject.org/policy-brief/increasing-public-safety-by-restoring-voting-rights/>>.

<sup>4</sup> Australian Bureau of Statistics, 'Prisoners in Australia' (Web Page, 11 December 2025) <<https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release/>>.

<sup>5</sup> Queensland Health, 'Our First Nations People' (Web Page, 25 September 2025) <<https://www.health.qld.gov.au/research-reports/reports/departmental/chief-first-nations-health-officer-report/why-health-equity-reform/our-first-nations-people>>.

<sup>6</sup> Victorian Aboriginal Legal Service, Submission No 185 to Joint Standing Committee on Electoral Matters, Parliament of Australia, *Inquiry into the 2022 Federal Election* (September 2022) 4.

<sup>7</sup> Martin Churchill, 'Voting Rights in Prison: Issues Paper' (Issues Paper, University of Queensland Pro Bono Centre, 15 July 2020) 8.

<sup>8</sup> Australian Bureau of Statistics, 'Prisoners in Australia' (Web Page, 11 December 2025) <<https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release/>>.

Islander Queenslanders only gained universal voting rights in 1965,<sup>9</sup> this amendment risks deepening structural exclusion and undermining commitments to reconciliation and justice-oriented rehabilitation.

- 10 Prohibiting prisoners serving sentences of one year or longer from voting will not facilitate effective rehabilitation of prisoners. A general prohibition based on a one-year term of imprisonment cannot be rehabilitative because it is an automatic prohibition, without judicial or administrative discretion; it is not adapted to the circumstances of the offence or the prisoner.

### **Restriction will capture less serious offences**

- 11 The explanatory materials for the Bill explain that a key rationale for prohibiting prisoners sentenced to more than one year's imprisonment is to "enhance civic responsibility and respect for the rule of law".<sup>10</sup> The rationale for the prohibition being imposed for prisoners serving more than one year is that such a sentence is for serious offences.

- 12 However, one year's imprisonment does not necessarily equate to a serious offence under Queensland law. For example, the *Summary Offences Act 2005* (Qld) contains many low-level offences that are punishable by a term of up to one year imprisonment. These include:

- Unlawful assembly (s 10A)
- Wearing or carrying a prohibited item in a public place (s 10C)
- Trespass (s 11)
- Unlawfully entering or remaining on particular land (s 13)
- Possession of implement in relation to particular offences (s 15)
- Unlawful possession of suspected stolen property (s 16)

These offence provisions are examples of types of low-level offending commonly dealt with summarily before a Magistrates Court that can result in the imposition of a term of imprisonment of one year. They illustrate that these amendments are not 'adopting an appropriate threshold for seriousness of offending'.<sup>11</sup>

- 13 Further, the offences listed in paragraph 12 above often disproportionately impact already marginalised groups of society including Aboriginal and Torres Strait Islander people, homeless adults, and adults experiencing mental health issues.

### **Imprisonment trends in Queensland**

- 14 It is important to also recognise how current imprisonment trends and release practices in Queensland will contribute to the amendments capturing a significantly wider net of prisoners than existing voting restrictions.

- 15 The prison population has increased by more than 50% over the past 10 years.<sup>12</sup> Imprisonment rates are increasing despite a decrease in the total number of cases sentenced.<sup>13</sup> In contrast,

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<sup>9</sup> Queensland Parliament, 'Indigenous Suffrage Timeline Queensland (Factsheet 10.5. updated July 2015)' <[https://documents.parliament.qld.gov.au/explore/education/factsheets/Factsheet\\_10.5\\_IndigenousSuffrageTimeline.pdf](https://documents.parliament.qld.gov.au/explore/education/factsheets/Factsheet_10.5_IndigenousSuffrageTimeline.pdf)>.

<sup>10</sup> Statement of Compatibility, Electoral Laws (Restoring Electoral Fairness) Amendment Bill 2025, page 2.

<sup>11</sup> Statement of Compatibility, Electoral Laws (Restoring Electoral Fairness) Amendment Bill 2025, page 5.

<sup>12</sup> Queensland Corrective Services 'Custodial Offender Snapshot as at 01 12 2015' (Web page, 2 February 2023) <<https://www.data.qld.gov.au/dataset/custodial-offender-snapshot-statewide/resource/35eadab7-d842-4250-8329-8b22f60eb26b>> Queensland Corrective Services 'Custodial Offender Snapshot, September 2025' (Web page, 11 December 2025) <<https://www.data.qld.gov.au/dataset/custodial-offender-snapshot-statewide-2025/resource/67c479bd-a0e2-4305-b20d-6cb83c7f77d3>>

<sup>13</sup> Queensland Sentencing Advisory Council 'Imprisonment rates up, despite fewer cases sentences' (Web page, 25 November 2025).

the number of intensive correction and community services orders, which allow people to serve sentences in the community, are decreasing.<sup>14</sup>

- 16 Following the abolition of home detention in and resettlement leave in 2006, release on parole is the only form of graduated release available in Queensland.<sup>15</sup> This means, prisoners spend longer periods of their sentences in custody as many cannot be released on parole due to lack of access to rehabilitation programs and housing.
- 17 PLS regularly works with prisoners serving sentences of less than 3 years who have been deemed suitable for release by the Parole Board Queensland (**PBQ**) and only remain in custody because they cannot source community accommodation. These prisoners have served the punitive element of their sentence and do not pose an unacceptable risk to community safety.<sup>16</sup> Under the proposed amendments, these prisoners cannot vote until they are able to source housing and obtain release on parole. In practice, many will serve their full sentence in custody due to the chronic shortage of housing available for people exiting prison.
- 18 Another relevant issue is the increasing median length of sentences for adults in Queensland. This trend is most pronounced for First Nations people. For example, the median sentence length for Aboriginal and Torres Strait Islander women increased by 50% (27 months) between 2014 to 2024.<sup>17</sup>
- 19 The Queensland Productivity Commission has previously reported that the increasing rate of imprisonment is primarily driven by policy and system changes, not crime rates.<sup>18</sup> The disproportionate increase in median sentences for First Nations people indicate that structural disadvantage is a driving factor in sentence length rather than seriousness of offending. These trends raise concerns about whether the proposed voting restriction can be justified.

### Inconsistency with human rights

- 20 The right to vote is a foundational human right that enables citizens to participate in public life and affirm membership in the political community. The International Covenant on Civil and Political Rights (**ICCPR**), to which Australia is a party, guarantees this right.<sup>19</sup> Article 25 recognises every citizen's right and opportunity to vote 'without unreasonable restrictions,' and the United Nations Human Rights Committee's General Comment No. 25 emphasises that limitations must be justified by objective criteria and proportionality to the offence and sentence.<sup>20</sup> Article 10 of the ICCPR affirms that prisoners are to be treated 'with respect for the inherent dignity of the human person,' with the essential aim of imprisonment being the rehabilitation of prisoners.<sup>21</sup>

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<<https://www.sentencingcouncil.qld.gov.au/about-us/news/latest/imprisonment-rates-up-despite-fewer-cases-sentenced>>.

<sup>14</sup> Queensland Government Statistician's Office, Justice Report, Queensland, 2023-24, Criminal Justice Statistics (2025), page 25.

<sup>15</sup> Sofronoff 'Queensland Parole System Review Final Report' (November 2016), page 4.

<sup>16</sup> See *Power v R* (1974) 131 CLR 623 at [628]; *Bugmy v R* (1990) 169 CLR 525; *Deakin v R* (1984) 58 ALJR 367 and *Hili v The Queen*; *Jones v The Queen* (2010) 85 ALJR 195 at [44]. The PBQ will only determine a prisoner is suitable for release if they do not pose an unacceptable risk to the community. See s2.1 of the Ministerial Guidelines to the Parole Board Queensland 2024.

<sup>17</sup> Queensland Government Statistician's Office, Justice Report, Queensland, 2023-24, Criminal Justice Statistics (2025), page 104.

<sup>18</sup> Queensland Productivity Commission, 'Inquiry into Imprisonment and Recidivism' (2019), page x.

<sup>19</sup> *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 25.

<sup>20</sup> Human Rights Committee, *General Comment No 25: The right to participate in public affairs, voting rights and the right of equal access to public service* (Art. 25), 57<sup>th</sup> sess, UN Doc CCPR/C/21/Rev.1/Add.7 (27 August 1996).

<sup>21</sup> *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 10.

- 21 Queensland law safeguards political participation through the *Human Rights Act 2019* (Qld) (the **Human Rights Act**). The Human Rights Act establishes human rights, drawn from international law including the ICCPR, for Queenslanders. Section 23 affirms the right of eligible individuals to vote and stand for election in periodic State and local government elections. Section 13 of the Human Rights Act requires that any limitation on human rights be assessed against strict criteria: a legitimate purpose, a rational connection to that purpose, necessity (using the least restrictive means), and proportionality. Guidance from both the Queensland Human Rights Commission and the Queensland Government reinforces that decision-makers must establish a lawful objective and adopt the least restrictive approach available.<sup>22</sup>
- 22 International and comparative jurisprudence consistently cautions against broad prisoner voting bans. The European Court of Human Rights in *Hirst v the United Kingdom (No 2)* (2005) 42 Eur Court HR 41 held that a general, automatic and indiscriminate restriction on the voting rights of incarcerated individuals fell outside any acceptable margin of appreciation because it lacked a discernible and sufficient link between disenfranchisement and the individual's conduct and circumstances.<sup>23</sup> Likewise, the Supreme Court of Canada in *Sauvé v Canada (No 2)* struck down a two-year prisoner voting ban, finding no rational connection to deterrence or civic responsibility and concluding that disenfranchisement was neither necessary nor proportionate to any valid objective.<sup>24</sup> Australian constitutional law also underscores the centrality of the franchise. In *Roach v Electoral Commissioner*, the High Court invalidated the Commonwealth's blanket ban on prisoner voting and confirmed that restrictions require a substantial reason and must be appropriate and adapted to the constitutional system of representative government.<sup>25</sup> In reaching this conclusion, the Court remarked upon the similarity between the notion of proportionality and what is required to be regarded as reasonably appropriate and adapted to maintaining the constitutionally prescribed system of representative government.<sup>26</sup>
- 23 The Statement of Compatibility for the Bill cites *Scoppola v Italy (No 3)* as supporting the link between civic responsibility and restrictions on voting eligibility. However, this reliance is misplaced. In *Scoppola*, the European Court of Human Rights upheld Italy's system because it was narrowly tailored and proportionate. The Court emphasised that disenfranchisement applied only to serious offences attracting sentences of three years or more, and even then, regard was had to the circumstances of the offence and the prisoner's personal situation. As a result, a large number of convicted prisoners retained the right to vote, ensuring that the measure was not arbitrary or overly broad. By contrast, the Bill lowers the threshold for disenfranchisement to one year, capturing a far wider category of people, including those convicted of less serious crimes, without any individualised assessment of circumstances. This approach lacks the proportionality that was central to the Court's reasoning in *Scoppola*. The European Court made clear that blanket or indiscriminate restrictions are incompatible with democratic principles and the right to free elections. Queensland's proposed amendment moves in the opposite direction by expanding disenfranchisement indiscriminately, without evidence that such a measure is necessary to protect electoral integrity.
- 24 Against this legal backdrop, the proposed amendment reducing Queensland's threshold from three-year sentences to one-year sentences introduces a broader restriction on the right to vote that appears much less precisely tailored. While the Bill's Statement of Compatibility identifies

<sup>22</sup> Queensland Human Rights Commission, 'Acting and making decisions in accordance with human rights' (Web Page, 29 June 2019) <<https://www.qhrc.qld.gov.au/your-responsibilities/for-public-entities/acting-and-making-decisions-in-accordance-with-human-rights>>; Queensland Government, 'Decisions compatible with human rights' (Web Page, 18 December 2023) <<https://www.forgov.qld.gov.au/service-design-and-delivery/deliver-public-services/comply-with-the-human-rights-act/understand-human-rights/accordion-group-1/decisions-compatible-with-human-rights>>.

<sup>23</sup> *Hirst v United Kingdom (No 2)* (2005) 42 Eur Court HR 41, 24–5.

<sup>24</sup> *Sauvé v Canada (No 2)* [2002] 3 SCR 519, 521–2.

<sup>25</sup> *Roach v Electoral Commissioner* (2007) 233 CLR 162, 50–7.

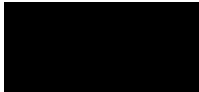
<sup>26</sup> *Roach v Electoral Commissioner* (2007) 233 CLR 162, 85.

the rights engaged, it does not demonstrate that excluding a larger group of prisoners is necessary to achieve electoral fairness or support for victim-survivors of crime, nor that less restrictive, reasonably available alternatives were thoroughly canvassed, such as retaining the current three-year threshold, adopting offence-specific criteria or requiring consideration of the personal circumstances of the prisoner. Guidance under the ICCPR and comparative case law suggests that any disenfranchisement should be closely proportionate to the nature of the offence and sentence, and supported by evidence that prisoner voting compromises electoral integrity which is absent here.

- 25 The Queensland human rights framework further heightens these concerns. Under s 13 of the Act, the Government bears the burden to show a legitimate aim, rational connection, minimal impairment, and an overall balance favouring the limitation of human rights. Absent a demonstrated electoral integrity risk, a one-year threshold fails the necessity limb because it is not the least restrictive means and expands exclusion arbitrarily relative to existing law. The proposed amendments serve no legitimate end, more specifically a valid criminal law purpose, as there is no evidence that disenfranchisement deters crime or supports rehabilitation.
- 26 PLS recommends the removal of the amendments that expand voting disqualification to prisoners serving sentences of imprisonment or detention of one year or more.

PLS would welcome the opportunity to further engage with the Committee in relation to this Bill. We are available to answer any questions that may arise from this submission.

Yours sincerely



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