



9 June 2017

Acting Committee Secretary  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
Brisbane Qld 4000

By Email: [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear Sir / Madam

**Re: *Corrective Services (No Body, No Parole) Amendment Bill 2017***

Thank you, on behalf of the Bar Association of Queensland ("the Association"), for your invitation to make submissions on the *Corrective Services (No Body, No Parole) Bill 2017*.

Unfortunately the Association is unable to support the Bill.

The Bill is intended to amend the *Corrective Services Act 2006* ("the Act") to give effect to Recommendation 87 of the Queensland Parole System Review report ("QPSR report") which was tabled in Parliament on 16 February 2017. That Recommendation reads as follows:

The Queensland Government should introduce legislation, similar to that in South Australia, which requires the Parole Board to consider the cooperation of an offender convicted of murder or manslaughter and not release the prisoner on parole unless the Board is satisfied that the prisoner has satisfactorily cooperated in the investigation of the offence, including, when relevant, by assisting in locating the remains of the victim of the offence.

The Bill would implement a policy that, when the body or remains, or a part of the body or remains, of a victim of a homicide offence remain unlocated, the Parole Board would be required to refuse any application for parole made by a prisoner imprisoned for that offence unless the Board is satisfied the prisoner has cooperated satisfactorily in locating the body or remains.

A new s.193A would be inserted into the Act to achieve this purpose.

The Association submits that a necessary preliminary step to the implementation of such a scheme should be a finding of fact by the sentencing judge that the prisoner has knowledge of the location of the victim's remains. Such a finding will, of course, often be difficult in the many cases where the prisoner has not given evidence. Nevertheless, this decision would be better made by a judge, apprised of the admissible evidence, at the time of sentencing, than by a parole board, informed solely by a report from the Commissioner of Police, many years after the victim's disappearance.

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The Association also submits that the only prisoners for whom a “no body, no parole” scheme could be considered appropriate are those prisoners serving sentences of life imprisonment rather than a lesser term for manslaughter or some lesser offence. To this end, the Association notes the contents of paragraphs 126 to 128 of the QPSR report:

126. There are two main reasons for parole.

127. Firstly, parole is a system of administering sentences in a way that reduces offending by:

1. providing an incentive for prisoners to participate in programs in custody;
2. supporting an offender’s reintegration into the community;
3. managing serious offenders more intensely.

128. Secondly, parole reduces the social and financial costs of severe sentences in appropriate cases. The parole system allows expensive prison space to be allocated to the highest-risk offenders. This is a practical matter that should not be overlooked in any consideration of the parole system.

The ultimate effect of a “no body, no parole” scheme applying to prisoners serving finite sentences of imprisonment would be to have violent offenders, who have not cooperated in the way the Bill contemplates, being released at the end of their sentences without the support and supervision that parole provides.

Additionally, if a prisoner knows that their lack of cooperation will result in their never being granted parole, there would be no incentive for them to participate in rehabilitative programs. This would mean that such prisoners serving finite sentences could ultimately be released, not only without parole supervision but without the benefit of rehabilitative treatment in custody.

The application of these laws to those sentenced to life imprisonment, however, would also highlight the ongoing injustice of mandatory sentences for offences of murder. The effect of these laws would be to enable the Parole Board to consider an offender’s level of cooperation (either before or after sentence) in determining whether or not to grant parole. Maintaining a mandatory sentence of life imprisonment for the offence of murder, however, means that sentencing judges dealing with offenders who offer that cooperation prior to sentence are unable to take it into account as part of the sentencing process.

The Association reiterates its opposition to mandatory sentences of any type including for murder. The maintenance of a mandatory sentence of life imprisonment for offences of murder limits the proper exercise of judicial discretion and discourages any cooperation with the administration of justice.

Clause 5 of the Bill would insert transitional provisions into the Act to make the effect of the “no body, no parole” scheme retrospective. The Association is opposed to the creation of retrospective legislation that has the potential to significantly affect the right to liberty of individuals.

It is easy to imagine a prisoner who has been incarcerated for a long time (perhaps even decades) and has made genuine and impressive efforts towards rehabilitation in the hope of parole. Such a prisoner could be suddenly ineligible for parole owing to the effect of the Bill and the passage of time upon their memory or even the state or the location of the missing remains.

In short, the Association opposes the Bill in its current form and opposes any retrospective application of such a scheme.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Christopher Hughes', written in a cursive style.

Christopher Hughes QC  
**President**