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Sisters Inside Inc. is an independent community organisation which exists to advocate for the human rights of women in the criminal justice system

9 March 2017

Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

By email only: lacsc@parliament.qld.gov.au

Dear Research Director

Corrective Services (Parole Board) and Other Legislation Amendment Bill 2017

I am writing to comment on the *Corrective Services (Parole Board) and Other Legislation Amendment Bill 2017* (the **Bill**).

About Sisters Inside

Sisters Inside is an independent community organisation that advocates for the collective human rights and interests of women and children affected by the criminal justice system, and works alongside women and children to address their immediate, individual needs.

We believe that prisons are an irrational response to social problems that serve to further alienate socially marginalised groups in our communities, especially Aboriginal and Torres Strait Islander women and girls. All of our work is directly informed by the wisdom of criminalised women and, wherever possible, Sisters Inside employs staff with lived prison experience.

Sisters Inside is well placed to participate in this inquiry. We participated in consultation for the Queensland Parole System Review (the **Review**). Through our work, we daily see the failures of the current parole system for women in Queensland.

New Parole Board

We support the creation of the new, professionalised and well-resourced Parole Board in accordance with the relevant provisions in the Bill.

We also welcome clause 9, which amends chapter 5, division 5, subdivision 1 of the *Corrective Services Act 2006* (Qld) (the **Act**) to remove the chief executive's power to suspend parole orders and issue return-to-prison warrants.

Additional amendments for consideration

We propose the Committee considers including the following additional amendments in the Bill.

Timeframe for decisions about parole

Clause 5 of the Bill amends section 193 of the Corrective Services Act 2006 (Qld) (the **Act**) to require the Parole Board to make a decision to grant or refuse parole within shorter timeframes. The Bill does not make any changes to the timeframe in which a person may apply to the Parole Board – a person in prison is still eligible to apply 180 days before their parole eligibility date.

This proposed amendment effectively reflects recommendation 51 in the Review report.

In our view, these timeframes are still excessive. Additionally, the timeframes assume that a person in prison will be supported to apply for parole *before* their parole eligibility date, and that the person has not previously been refused parole. These assumptions do not reflect the lived experience of the parole process for many people in prison.

In cases where a person does not apply in advance or must wait to re-apply for parole, the proposed new timeframes are still too long and unfair. It is unreasonable to require a person to wait 4-5 months for a decision about parole. We are not aware of any other government decision that takes this long where individuals apply and provide information for consideration.

We suggest that the timeframes should be shortened to 60 days for deferred decisions and 30 days for normal decisions. We would prefer the Parole Board to attempt to make decisions within shorter timeframes and notify applicants if it needs an extension of time.

Geographic considerations as part of appointments

New section 223(2)(d) (in clause 12 of the Bill) sets out the matters to which the Minister must have regard in making recommendations for appointed members to the Governor in Council.

As well as gender and the representation of Aboriginal and Torres Strait Islanders on the Parole Board, we suggest the Minister must also have regard to the representation of members from regional and remote communities on the Parole Board.

This provision would ensure the Parole Board maintains localised knowledge and expertise from across the State, even though its premises are likely to be centralised in Brisbane.

Process for amendment of parole conditions that are inappropriate or no longer required for community safety

In our consultation with the Review team, we raised issues about unreasonable parole conditions or conditions that were onerous for women to comply with in practice, due to their personal circumstances. Examples of these conditions include:

- restrictions on a woman's ability to apply for or accept employment in situations where the offence was not connected with employment. Restrictions on applying for make it impossible for women to comply with Centrelink's mutual obligation

requirements and to engage with job agencies. Failure to comply with Centrelink obligations can, and often does, lead to payments being stopped;
- reporting conditions, which are inflexible for women with transport issues, limited income from Centrelink and who cannot easily arrange child care; and
- curfew conditions that may impact on women's employment, ability to maintain connection with children or attend appointments, especially where women are relying on public transport to travel to appointments.

Women who participated in the Review consultations also told us that the process for applying to amend parole conditions was unclear. There are currently no approved forms for applying to the Parole Boards to amend conditions of a parole order.

The Act must give the Parole Board discretion to review and amend conditions on application by a person on parole, to reflect the person's actual circumstances in the community.

We recommend amending section 205 of the Act to clearly allow people on parole to apply to the Parole Board for amendment of their order. We also recommend amending section 205(2) to allow the Parole Board to amend the parole order if the Parole Board reasonably believes that:

- the condition is no longer required to ensure community safety;
- the person on parole is not able to comply with the condition because of their personal circumstances in the community, which were not contemplated when the order was made; or
- it would not be in the interests of justice to require the person to continue to comply with the condition.

As appropriate, the Parole Board could add other conditions to address any concerns.

Natural justice should apply to decisions to suspend or cancel parole

As a result of the proposed amendments in clause 9 of the Bill, we understand that when the Bill is passed the power to suspend parole and issue return-to-prison warrants will be vested solely in the Parole Board. This is consistent with recommendation 78 of the Review report.

We welcome this amendment. However, the Bill does not make any amendments to the process for suspension or cancellation decisions by the Parole Board.

At present, under section 205(4) the Parole Board is not required to give the person on parole an information notice or a reasonable opportunity to be heard if the Parole Board suspends or cancels the person's parole.

If the Parole Board is considering a non-urgent suspension, we consider the Act must include an obligation to provide natural justice. Introducing natural justice principles would be consistent with the practice in other States and Territories.

We suggest section 205(4) is amended to require the Parole Board to provide an information notice to the person on parole and allow a reasonable opportunity for the person to be heard. We also consider it would be appropriate to allow the person on parole or their agent, which should include a lawyer, to apply to the Parole Board to attend the meeting where the suspension or cancellation is considered.

Appearance at meetings and legal representation

New section 233(8) in the Bill states that a prisoner granted leave before the Parole Board under section 190 may appear before a meeting of the Parole Board by videolink or if the person has a special need, by attending personally. This new section mirrors the current sections 224(11) and 238(12).

All of these sections assume that a person appearing before the Parole Board is in prison, not in the community. For people on parole in the community who are granted leave to appear before the Parole Board for suspension, cancellation or amendment meetings, it is not likely to be possible for people to access videolink facilities for the purpose of participating in the Parole Board's meetings. The Act should allow for attendance in person for these situations.

Additionally, these sections do not set out whether the appearance of a prisoner's agent would be by videolink or in person. It would be useful to clarify this matter in the Bill.

Further, in schedule 4 to the Act "prisoner's agent" is defined to not include a lawyer. As the Parole Board becomes professionalised, we consider that people applying for or on parole should have the benefit of legal representation before the Parole Board and we recommend this definition ought to be amended accordingly.

Guidelines, practice notes and approved forms

New section 242E (clause 12 of the Bill) provides for the Minister to publish guidelines about policies to help the Parole Board in performing its functions.

There is no provision in the Bill for the Parole Board or the President of the Parole Board to publish guidelines, practice notes or approved forms to support its operation.

Recommendation 57 of the Review report contemplates that the President of the Parole Board will publish practice notes on certain matters, in consultation with Queensland Corrective Services.

We recommend amending new section 242E to allow the President of the Parole Board to publish practice notes relating to the operation of the Parole Board that are not inconsistent with the ministerial guidelines. It would also be appropriate for the President of the Parole Board to have clear responsibility for publishing new versions of approved forms or additional approved forms relating to parole.

We also recommend new section 242E should include a provision requiring all guidelines, practice notes and approved forms to be public. These documents could be published on the Parole Board or Queensland Corrective Service's website.

Publishing decision and reasons

Parole decisions are currently not published. This means there is no transparency in the decision-making or risk assessment processes of the Parole Boards and it is not clear to the public what weight the Parole Boards give to certain risks or conditions.

Because the new Parole Board will be professionalised, we consider it would be appropriate for the Bill to include a new section which gives the Parole Board discretion to publish decisions and reasons in a de-identified manner.

The new section could be modelled on section 758 of the *Mental Health Act 2016* (Qld), which allows the Mental Health Review Tribunal to publish its final decisions in a proceeding and any reasons for the decision, including, for example, if the tribunal is satisfied that the decision may be used as a precedent, in a way it considers appropriate. Publication of any decisions

De-identifying any published decisions is an appropriate safeguard to maintain the confidentiality of the person applying for parole.

Parole conditions to support monitoring and GPS tracking

We do not support clause 8 of the Bill, which inserts the new section 200A. In our view, GPS tracking is an intrusive process that does not actually prevent people on parole from committing further offences. It is also inappropriate for the requirement to wear a GPS tracking device or permit the installation of a monitoring device be imposed by a corrective services officer, rather than the Parole Board.

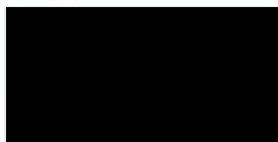
We also do not support the introduction of section 200A(2)(a). In our experience, the Parole Board regularly includes curfew and residential conditions in parole orders. Conditions requiring people on parole not to approach, enter or remain at certain places (e.g. bars) are also common.

Corrective services officers should not be given the power to direct people on parole to remain at a stated place for stated periods under section 200A(2)(a). In practice, this could mean that corrective services officers could require a person to remain in their home for a whole day at a time. Unfettered power to give these directions is excessive.

We recommend clause 8 is removed from the Bill.

Please contact me on [redacted] if you would like to discuss anything further.

Yours faithfully



Debbie Kilroy

Chief Executive Officer
Sisters Inside Inc