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Friday, 25 August 2017

The Chair  
Legal Affairs and Community Safety Committee  
Parliament House  
Cnr George and Alice Streets  
Brisbane Qld 4000

By Email: lacsc@parliament.qld.gov.au

Dear Chair,

**Penalties and Sentences (Drug and Alcohol Treatment Orders) and Other  
Legislation Amendment Bill 2017**

We thank the Chair for the invitation to comment on the Bill. All references in this document are [hyperlinked in blue](#).

We note the Attorney-General's introduction of the Bill into the Parliament included the following statement:

*I now turn to the other unrelated criminal law amendments in the bill. The bill will also amend the Criminal Law (Rehabilitation of Offenders) Act 1986, which provides the framework to allow persons convicted of certain criminal offences to lawfully deny or not be required to disclose those convictions after a specific rehabilitation period has passed. The proposed amendment will clarify that a conviction involving a head sentence of more than thirty months imprisonment can never be a spent conviction and must, therefore, be disclosed. This amendment is a direct response to the concerns raised in the recent Court of Appeal decision of Dupois v Queensland Television Ltd & Ors.*

While it might be a peripheral issue, the Court of Appeals' comments about the *Criminal Law (Rehabilitation of Offenders) Act 1986* are instructive. They are symptomatic of a larger public interest issue.

While clarifying the intent of the Act is important in order to address *Dupois v Queensland Television Ltd & Ors*, we take the view that the Act requires broader review for a number of reasons.

Firstly the Act requires review to ensure that it mirrors best practice within Australia on the issues within its scope. There is an important public interest in balancing the privacy and other rights of Queenslanders with those who have a genuine need to know about criminal history and past.

Increasingly, Queenslanders are required to provide consent for access to criminal history for matters that may not actually warrant disclosure where the reliance on that history may be inappropriate. For example, insurance contracts often require a claimant to consent to the release of their criminal history.

Secondly, it is important to ensure the Act's compliance with [International Labour Organisation Convention 111](#). The Australian Human Rights Commission's report "[On the Record](#)" was updated in 2012 and canvasses many of the issues that arise around disclosure in occupational matters. The Commission noted that the States' and Territories' spent conviction laws differ considerably. Excepting the Crimes Act 1914 (Cth) the Queensland laws are the oldest – now more than 25 years old.

Thirdly, a person's individual criminal history warrants careful treatment and protection. It is already subject to a wide range of statutory provisions about privacy, and disclosure including in matters such as occupational suitability.

Our respectful submission is that the Act should be referred to the Queensland Law Reform Commission for consideration. There have been several recent reviews by the Commission that similarly relate to the use of personal information including its Inquiries into on Domestic Violence Disclosure, and Expunging Criminal Convictions for Historical Gay Sex Offences.

We are available to give evidence on this matter in more detail should the Committee wish.

Yours faithfully

Townsville Community Legal Service Inc.

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