

The Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
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lacsc@parliament.qld.gov.au

Dear Madam/Sir

RE Penalties And Sentences And Other Legislation Amendment Bill 2012

Thank you for giving Queensland Advocacy Incorporated the opportunity to provide comments to the Inquiry into the *Penalties and Sentences and Other Legislation Amendment Bill 2012*.

While we greatly appreciate the opportunity to contribute to the legislative process we are concerned about the very short response time we have been given for this and other recent legislative proposals. A few days are simply not enough to do justice to the interests of people with disabilities or the general public. Further, while we appreciate that the committee is itself bound by tight time constraints, it is Government that sets the parameters within which all of us must operate. As an agent of Government charged with honestly and openly, reviewing proposed legislation, the committee must always ensure its fealty lies with the performance of its role and not with Government, though that body is the author of its function. Consequently, we urge the committee in future to employ all of the mechanisms at its disposal to obtain from Government operational timeframes that permit genuine and thoughtful consideration of all proposed legislation.

Criminal law issues

Clause 31 - Amendment of preamble; and

Clause 36 - Amendment of s 48 (Exercise of power to fine)

Clause 36 states that:

(3A) In considering the financial circumstances of the offender, the court must not take into account the offender levy imposed under section 179C.'

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Patron: Her Excellency, Ms Penelope Wensley, AO Governor of Queensland

Clause 31 proposes an amendment to the preamble of the *Penalties and Sentences Act 1992* to include the following:

'Society is entitled to recover from offenders funds to help pay for the cost of law enforcement and administration.'

Queensland Advocacy Incorporated believes that the administration of justice and the enforcement of the law must be free of conflicts of interest- as far as is possible. Charging fees, even to convicted offenders, incentivises public servants to use law enforcement processes to raise revenues. Justice ought not be a money-making exercise. Secondly, charging fees to convicted offenders may only serve to exacerbate the very problems that led to the offending behaviour. It is well established that many petty offences are crimes of poverty, and exacting fees for offences of poverty such as shop stealing, begging, minor theft and public space offences only serves to perpetuate a cycle of disadvantage. People who spend much of their time in public spaces, such as homeless people, including many Aboriginal and Torres Strait Islander people, and many of whom have intellectual disabilities or suffer from various forms of mental illness or addiction, are precisely the sort of people who will be most affected by this sort of fee.

A flat rate court fee is inequitable and quite possibly a breach of anti-discrimination legislation. While offenders who have financially prospered through crime such as many white collar offenders and major property offenders will hardly be deterred or inconvenienced by a two or three hundred dollar fee, offenders for whom these fees represent up to a week's income or more will be disproportionately affected. Those offenders are frequently the people Queensland Advocacy Incorporated represents.

Queenslanders are better served by crime prevention strategies directed at stopping crime before it happens- by reducing opportunities for crime and strengthening social structures and community. People are less likely to offend when we feel a sense of belonging, and that sense of belonging is particularly important to people with disabilities who suffer more than many from social isolation, discrimination and loneliness. Preventative programs that address poor health, unemployment and education and community-based programs that foster a sense of citizenship and interpersonal responsibility will better serve all Queenslanders by reducing the likelihood of offending in the first place. Above all the focus should be on addressing support to families, as evidence suggests that lack of parental input that is itself a result of economic stress is a key risk factor in offending.¹ We know that people with disabilities are over-represented in the criminal justice system and that a disproportionate number of people in correctional facilities have some kind of disability. The introduction of mandatory court fees will only serve to exacerbate that problem.

Yours sincerely



Ken Wade
Director

¹ Don Weatherburn and Bronwyn Lind. 1998. 'Poverty, Parenting, Peers and Crime-Prone Neighbourhoods' *Australian Institute of Criminology - trends and Issues* No 85.