

To the Legal Affairs and Community Safety Committee  
HUMAN RIGHTS BILL 2018,

I wish to make a submission to the committee regarding the proposed introduction of the Human Rights Bill 2018. Basically, I am happy with the introduction of the bill as drafted but have concerns regarding the ability of the parliament to introduce legislation that is “incompatible” with our Human Rights as granted by common law and international covenants to which we are signatories.

I would like to make the following submission to the committee for consideration if I may.

The first objective of the bill as presented is to **“protect and promote human rights”**

### **Sect 3 Main objects of Act**

The main objects of this Act are—

- (a) to **protect and promote human rights**; and
- (b) to help build a culture in the Queensland public sector that respects and promotes human rights; and
- (c) to help promote a dialogue about the nature, meaning and scope of human rights.

*It does not say to “conditionally” protect and promote human rights.*

*All reference to “compatibility” should be removed from the bill prior to enactment to ensure equality for all, not just the “compatible” persons*

Division 1 Preliminary

### **Sect 11 Who has human rights**

(1) All individuals in Queensland have human rights.

(2) Only individuals have human rights.

Note— A corporation does not have human rights.

*This is saying **ONLY** individuals have human rights, no corporation or public entity has overriding ability to limit those rights and nor should they.*

### **Sect 13 Human rights may be limited**

(1) **A human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.**

(2) In deciding whether a limit on a human right is reasonable and justifiable as mentioned in subsection (1), the following factors may be relevant—

- (a) the nature of the human right;
- (b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom;
- (c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose;
- (d) **whether there are any less restrictive and reasonably available ways to achieve the purpose;**

*“A human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.”*

*This principle is already being breached by the provisions of the Serious and Organised Crime Amendment Act 2016 which allows an entity to determine what clothing I must not wear in public.*

*This provision should be included without the restriction of “compatibility”*

*“**whether there are any less restrictive and reasonably available ways to achieve the purpose”***

*This principle should be maintained to protect the rights of any person subjected to this Bill without mitigation.*

### **Sect 22 Peaceful assembly and freedom of association**

Sect 22 of the bill calls for the right of every person peaceful assembly and freedom of association

(1) Every person has the right of peaceful assembly.

(2) Every person has the **right to freedom of association with others**, including the right to form and join trade unions.

*There should be no mechanism at law to override or limit this basic right with a “certificate of incompatibility” possibly proposed or introduced by a public entity with a vested interest in LIMITING A PERSONS RIGHTS OF FREE ASSOCIATION*

### **Sect 25 Privacy and reputation A person has the right**

(a) not to have the person’s privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and

(b) not to have the person’s reputation unlawfully attacked.

*This right is currently being breached by government entities that constantly and publicly refer to innocent men as “criminal gangs” and “outlawed gangs” when referring to legitimate motorcycle clubs without any avenue of remedy available.*

*This provision of the bill is critical to rights and should be retained without limiting provisions*

### **Sect 32 Rights in criminal proceedings**

- (1) A person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

*The Serious and Organised Crime Amendment Act 2016 allows for the “reverse onus of proof” in the application of the law. (Guilty unless you can prove your innocence)*

*This proposed section should be retained to ensure ALL people that face criminal proceeding are treated EQUALLY without profiled and targeted discrimination*

### **Division 1 Scrutiny of new legislation**

#### **Sect 38 Statements of compatibility**

- (1) A member who proposes to introduce a Bill in the Legislative Assembly must prepare a statement of compatibility for the Bill.

- (2) The statement of compatibility must state— (a) whether, in the member’s opinion, the Bill is compatible with human rights and, if so, how it is compatible; and

- (3) A member who introduces a Bill in the Legislative Assembly, or another member acting on the member’s behalf, must table the statement of compatibility prepared under this section when introducing the Bill.

- (4) The statement of compatibility is not binding on any court or tribunal.

*The concept of ensuring any new or amended legislation be examined for “compatibility” with the Human Rights Bill or Act is an historic and responsible move by the ALP and is to be commended for its progressive nature.*

*Watering down of the concept of human rights for every individual by allowing the parliament to enact legislation and subordinate regulations which allow for exceptions to “compatibility” in certain cases severely diminishes the desired result in my eyes and will leave the door open to exploit the “compatibility certificate” provision to the detriment of certain “profiled” groups in our society.*

#### **Sect 44 Statement about exceptional circumstances**

- (1) A member who introduces in the Legislative Assembly a Bill containing an override declaration, or another member acting on the member’s behalf, must make a statement to the Assembly explaining the exceptional circumstances that justify including the override declaration.

- (2) The statement under subsection (1) must be made when introducing the Bill.

- (3) If the override declaration is contained in an amendment in consideration of a Bill, the statement under subsection (1) must be made—

- (a) by the member who moves the amendment or another member acting on the member’s behalf; and
- (b) when the amendment is moved.

*As I have spoken about above, this is a provision to certify exceptional circumstances to deviate from the intent of the proposed Human Rights legislation to treat everyone equally and fairly.*

*This ability will severely diminish from the inherent rights of **EVERY** individual living under current QLD laws and legislation.*

*By making an exception to a basic right is like saying “everyone has the obligation to refrain from urinating in the pool, unless an entity says you may urinate because we have decided it is in the interests of public safety that you remain in the pool to urinate”.*

*You have now infringed on the rights of the individual to decide their own action, and the rights of the collective to be intolerant of the behaviour of the individual.*

*Much better if nobody pisses in the pool in QLD*

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