



6 January 2020

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

Via email: [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear Secretary,

**Re: *Justice and Other Legislation Amendment Bill 2019***

The Bar Association of Queensland is grateful for the opportunity to comment on the *Justice and Other Legislation Amendment Bill 2019*.

The Association welcomes the proposed amendment to section 651 of the *Criminal Code*, which would make the process of transferring summary charges to the superior courts much simpler. Furthermore, the proposed change to section 159A of the *Penalties and Sentences Act 1992* would enable judges to declare pre-sentence custody as time already served under a sentence even if associated summary charges were not, for whatever reason, being dealt with at the same time. These two amendments would greatly reduce the number of last-minute applications for an adjournment on the morning of sentence.

Similarly, the Association is in favour of the proposed amendments to the *Drugs Misuse Act 1986* so as to make it clear that the meaning of “informer” is limited to those who provide information to police on the basis that their identity will be kept secret.

Whilst the Association understands the rationale for the increase in the monetary limit prescribed by section 552BB of the *Code* from \$30,000 to \$80,000, there are concerns that this amendment will result in a large increase in the number of matters of considerable seriousness being dealt in the

BAR ASSOCIATION  
OF QUEENSLAND  
ABN 78 009 717 739  
Ground Floor  
Inns of Court  
107 North Quay  
Brisbane Qld 4000

Tel: 07 3238 5100  
Fax: 07 3236 1180

DX: 905  
[www.qldbar.asn.au](http://www.qldbar.asn.au)

Magistrates Court in circumstances where, because of the constraints of Legal Aid funding, defendants are most unlikely to be represented by counsel, and in cases where they contest the matter, unlikely to be represented at all.

As things presently stand, it is virtually impossible for a defendant to obtain a grant of legal aid to be represented by counsel in the Magistrates Court, and grants of aid for a solicitor are subject to a merit test that is satisfied only rarely. This unsatisfactory position will be seriously exacerbated by the proposed amendment. It is the experience of our members that cases of fraud are frequently able to be resolved by way of a plea of guilty, but *only* after the expenditure of considerable effort in reading the material. More than occasionally, the services of a forensic accountant are required. Then there is the delicate task of providing often recalcitrant clients with a frank assessment of their prospects at trial. If the jurisdictional limit is increased as proposed, most defendants will be left to fend for themselves.

The proposed change in jurisdictional limits will almost certainly impose a significantly greater burden on magistrates, who will be obliged to preside over long and complicated trials (such as fraud cases) with unrepresented defendants. The Association foresees this becoming a very significant problem in the absence of increased resourcing.

The Association is concerned at the proposed extension of the operation of the *Dangerous Prisoners (Sexual Offenders) Act 1999* to persons who commit serious sexual offences as children, and whose sentences of detention extend into adulthood so that they are transferred to the adult prison system. It is appreciated that there are presently some offenders subject to the DPSOA regime who initially offended in a very serious way as a child.<sup>1</sup> It is, however, presently possible for a child to be sentenced to a period of detention without a conviction being recorded,<sup>2</sup> and the proposed amendments would potentially expose a child sentenced to detention without the recording of a conviction to the provisions of the DPSOA. In the Association's view, the operation of the DPSOA should be limited to cases where the offending was thought by the sentencing judge to have been sufficiently serious as to warrant the recording of a conviction.

The Association does not wish to otherwise comment on the Bill, but would be only too happy to assist further should that be thought desirable.

---

<sup>1</sup> see, for example, *Attorney-General v Currie* [2017] QCA 318

<sup>2</sup> *Youth Justice Act 1992*, section 183

Yours faithfully

A handwritten signature in black ink, appearing to read 'Rebecca Treston', with a long, sweeping flourish extending to the right.

**Rebecca Treston QC**  
**President**