

# Bar Association of Queensland



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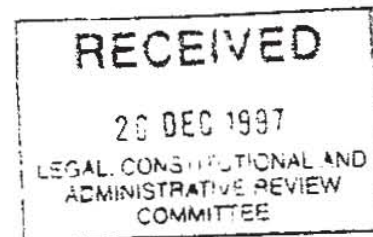
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Bar Association of Queensland A.C.N. 009 717 739

Your ref:

Our ref:

19 December 1997



Mrs. Judy Gamin MLA  
Chairman  
Legal Constitutional and Review Committee  
Legislative Assembly of Queensland  
Parliament House  
George Street  
BRISBANE QLD. 4000

Dear Mrs. Gamin,

RE: CRIMINAL LAW (SEX OFFENDERS REPORTING) BILL 1997

The Committee of the Association gave careful consideration to a report on this Bill at its meeting on the 15th December 1997.

Firstly, we are opposed to such a Bill for a number of reasons:

- (a) Such requirements as are imposed by the Bill are a gross violation of personal liberty and privacy;
- (b) Such information has the capacity and potential to be severely misused if it falls into the wrong hands as it can do, despite the best efforts made to prevent this happening;
- (c) The only justification for such legislation can be that it prevents people, who have a tendency to molest children, from being present in the community, without the knowledge of those policing that community. However, the Police have records of local offenders, and can check on

interstate offenders, should there be such a need. Most offenders confine their activity to within the family, and in such cases usually represent no risk to strangers - yet within the family their activities will obviously be known and those who need to take precautions will take precautions;

- (d) In cases where publication is prevented to avoid the identity of offenders being known, such a register simply increases the risk that identifying material will become known publicly;
- (e) The legislation treats all offenders identically and pays no regard to the circumstances, relationships relating to, or background of, particular offences.

Should you be of the view that legislation of this type should proceed, may we ask you to consider the following:-

- (i) That the legislation be limited to persons who offended outside the family circle.
- (ii) That the requirement to give notice be made part of the sentencing process where the sentencing judge has the discretion as to whether to order reporting and for what period, up to set maximums.

The person the subject of such an order should be able to approach the Court to review the order if circumstances can be shown to have changed.

- (iii) The applicable date should be the date of the offence, not the date of conviction. These offences are often unreported for long periods, and offenders often have not offended for many many years. People who have served imprisonment have often undergone rehabilitation in prison and some who have not been sent to prison have often undergone rehabilitation.

The Bill itself in its present form limits the persons to whom publication may be made by the Commissioner of Police. However, the Bill fails in a number of respects to deal with serious issues relating to publication:

- (i) The Bill fails to specify the purposes for which publication is to be made to the nominated people;
- (ii) The Bill is silent as to what may be done with the information by the people who receive it and the purposes for which they may further publish it, if at all, or to whom they may further publish it; and
- (iii) The Bill makes no provision for punishment of breaches of what on the face of it is intended to be, and should be, a secrecy requirement. It should be an offence for anyone to publish to an authorised person, or for any unauthorised person to further publish the material, and for any publication by an authorised person for an unauthorised purpose. The penalties should be severe as the effect on a named person would be potentially very serious.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'R. Gotterson', written in a cursive style.

R. GOTTERSON O.C.

PRESIDENT