



Speech By  
**Hon. Jarrod Bleijie**


**MEMBER FOR KAWANA**

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Record of Proceedings, 8 May 2014

## **CRIMINAL LAW AMENDMENT BILL**

### **Introduction**

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (4.01 pm): I present a bill for an act to amend the Acts Interpretation Act 1954, the Animal Care and Protection Act 2001, the Bail Act 1980, the Criminal Code, the Criminal Proceeds Confiscation Act 2002, the Dangerous Prisoners (Sexual Offenders) Act 2003, the Director of Public Prosecutions Act 1984, the Drugs Misuse Act 1986, the Evidence Act 1977, the Justices Act 1886, the Penalties and Sentences Act 1992 and the Youth Justice Act 1992 for particular purposes. I table the bill and explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

*Tabled paper:* Criminal Law Amendment Bill 2014 [[5053](#)].

*Tabled paper:* Criminal Law Amendment Bill 2014, explanatory notes [[5054](#)].

I am pleased to introduce the Criminal Law Amendment Bill 2014 which provides miscellaneous amendments to a number of criminal law and criminal law related statutes. The bill represents this government's ongoing commitment to get tough on crime in Queensland to make this state the safest place to raise a family. I want to briefly outline some of the more significant amendments. The bill amends chapter 68 of the Criminal Code to retrospectively apply the exceptions to the rules against double jeopardy. Queensland's double jeopardy exception regime will apply to all acquittals of a relevant offence, irrespective of when the alleged offence was committed and the timing of the acquittal. Queensland's double jeopardy exception regime allows for the retrial of a person acquitted of murder if there is fresh and compelling evidence. It also allows for the retrial of a person acquitted of an offence carrying a maximum penalty of 25 years imprisonment or more if the acquittal is a tainted acquittal. However, the exception regime only applies to acquittals for relevant offences where the acquittal occurred on or after the commencement of the exception regime on 25 October 2007.

There are compelling reasons why we should amend the Criminal Code to apply the exception regime to all relevant acquittals, no matter their timing. The other Australian jurisdictions apply their exception regimes retrospectively. Queensland is inconsistent in that regard. It can be argued that the current Queensland approach draws an arbitrary distinction between persons acquitted before and after 25 October 2007. Victims of crime and the community can be justifiably outraged where new evidence in an old case is obtained and the double jeopardy exception regime would otherwise have applied but for a mere accident of timing. Advances in forensic and scientific technology and the high quality and reliability of subsequent evidence means that, without retrospectivity, the potential advantage in applying new and advancing technology to old cases is lost. We must have regard to the extremely serious and dangerous nature of offences covered by the double jeopardy exception regime. There is a strong public interest in pursuing convictions for the most heinous unsolved crimes, in particular the offence of murder. Importantly, all of the existing protective safeguards under chapter 68 continue to apply irrespective of the timing of the acquittal. In order to present a new indictment

against an acquitted person, the Director of Public Prosecutions must apply for approval to the Court of Appeal. The bill also introduces new criminal offences and amends some existing offences.

Queenslanders love their sport and sport betting is a rapidly growing part of the billion dollar per year wagering market. Unfortunately some people, including those in criminal gangs, try to corrupt sport for their own profit. This bill introduces six new offences into the Criminal Code that target match-fixing conduct which reflect the government's commitment to the national policy of match-fixing in sport. These new offences will protect the integrity of sports betting and address conduct if a person engages in, facilitates or conceals match-fixing conduct; uses information about match-fixing conduct; or uses inside information for betting purposes. Cheats who interfere with sporting events will face a maximum penalty of 10 years imprisonment for the match-fixing conduct offences and two years imprisonment for using inside information.

The bill inserts a new offence into the Criminal Code of serious animal cruelty. The new offence will target those persons who intentionally inflict severe pain and suffering on animals—in effect, their torture. This type of offending is abhorrent and, to ensure offenders are appropriately punished, the new offence carries a maximum penalty of seven years imprisonment. The government shares the community's frustration when offenders who have done terrible things to animals walk free without any jail time. This new offence sends a clear message that animal cruelty will not be tolerated in Queensland. The bill also amends the Animal Care and Protection Act 2001 to give animal welfare officers greater powers to investigate the new offence of serious animal cruelty. These amendments will ensure alleged offences can be appropriately investigated and offenders are brought to justice.

The bill amends the existing offence of stealing by looting in the Criminal Code to ensure the increased penalty applies to an offender who steals property from a declared area under the Disaster Management Act 2003, including when the theft occurs immediately after the declaration ends to ensure victims are appropriately protected until they return to their property. The amendment implements recommendation 2 of the Legal Affairs and Community Safety Committee in its report No. 40, which was directed at the Queensland government. The amendment acknowledges the particular vulnerability of a community affected by the making of such a declaration. Opportunistic offenders who steal during times of disaster must face strong punishments.

The bill increases the maximum penalty for the offence of procuring engagement in prostitution in section 229G(2) of the Criminal Code where the person procured is a child or a person with an impairment of the mind. Offences that come to light have generally been of a shocking nature and understandably attracted significant moral outrage and denouncement. To ensure the adequate punishment of offenders who prey and exploit the young and the vulnerable in our community, the maximum penalty is increased from 14 years to 20 years imprisonment and the offence is added to the schedule of serious violent offences in the Penalties and Sentences Act 1992.

The bill strengthens Queensland's community protective regime provided by the Dangerous Prisoners (Sexual Offenders) Act 2003 by creating an increased penalty for the offence of contravening a condition of a supervised release order. The increased penalty will apply where the contravention involves the dangerous sex offender removing or tampering with a monitoring device such as a GPS tracking device which the offender is required to wear. The interference with a monitoring device by a released dangerous prisoner strikes at the heart of this protective community protection regime and mandates strong penalties to condemn and deter such a serious contravention. Where a dangerous sex offender removes or tampers with their monitoring device, they will now face a much higher maximum penalty of five years imprisonment and will be required to serve a mandatory minimum jail term of at least one year in prison.

The bill also extends the Dangerous Prisoners (Sexual Offenders) Act to include child sex offences that involve a fictitious child. The amendment addresses a legislative gap resulting from the Court of Appeal decision in *Dodge v Attorney-General for the State of Queensland* 2012 QCA 280 and will mean that the Dangerous Prisoners (Sexual Offences) Act will apply, for example, to the offence of using the internet to procure a child under 16 for sexual activity which involved a covert police officer posing as a child.

The bill also provides a number of amendments to clarify or otherwise improve the operation of criminal laws in this state. The bill strengthens Queensland's bail laws to require a court or police officer to consider imposing a special condition for the surrender of a defendant's passport when granting bail to a nonresident. The bill also provides that where such a condition is imposed in relation to a defendant's bail, irrespective of whether or not they are a nonresident, the defendant must be held in custody until their passport has been surrendered. These provisions will ensure that accused persons cannot use their passport to flee the jurisdiction to avoid the prosecution process.

The bill amends the Evidence Act 1977 to establish a rebuttable presumption that an expert witness is to give their testimony in a court proceeding by audio or audiovisual link. This amendment aims to encourage greater participation in the justice system by skilled witnesses and may reduce the cost and disruption to them caused by providing their time to assist in court proceedings. Amendments are made to the Evidence Act 1977 to replace the current complex and outdated computer evidence provision in section 95.

The bill also makes several amendments to the Justices Act 1886. Amendments are made to complement the implementation of a web based portal for electronic pleas of guilty in the Magistrates Court. This amendment is consistent with recommendation 123 of the Queensland Commission of Audit report and improves the efficiency of the courts in dealing with pleas of guilty for simple and regulatory offences. The report also recommended that electronic pleas of guilty be introduced for minor indictable offences. I wish to advise the House that the government will consider expanding the availability of electronic pleas of guilty to minor indictable offences in the future. Amendments are made to set the position with respect to the extent a court may rely upon a prior conviction at sentencing where a notice of intention to allege a prior conviction is not served in accordance with section 47 of the Justices Act. Finally, amendments are made to provide the Attorney-General with standing to appeal simple offences disposed of summarily. This amendment is complementary to the Attorney-General's existing appeal powers.

The bill amends the Penalties and Sentences Act to ensure the confidentiality and protection of informants who significantly assist law enforcement agencies with their investigations but fall outside the ambit of an existing provision in section 13A of the act. Protecting the safety of an informant and the confidentiality of the information provided is vitally important to encourage others to cooperate with law enforcement agencies and to not jeopardise ongoing investigations.

The Drugs Misuse Act 1986 is amended to allow the minister to recommend the prescription of a substance in the Drugs Misuse Regulation without considering all the matters listed in section 134A of the act where it is necessary to regulate the substance as a matter of urgency.

To support the government's commitment to taking the profit out of crime, the bill amends the Criminal Proceeds Confiscation Act 2002 to remove the requirement that interstate restraining orders and pecuniary penalty orders be based on a criminal charge or conviction. Serious criminal activity operates across state and territory borders and this amendment is vital to proper interstate cooperation on confiscation matters.

The bill amends the Youth Justice Act 1992 to address two technical matters and an emergent issue following the commencement of the Youth Justice and Other Legislation Amendment Act 2014 on 28 March 2014. To better protect staff, offenders and property at the Lincoln Springs sentenced youth boot camp centre, youth detention centre workers will be engaged in supervising young offenders at this centre. In order to properly equip these staff to enforce the centre's safety and security and to manage young offenders, the bill amends the Youth Justice Act 1992 enabling these staff to use, if necessary, practices such as use of force, restraint, separation and personal searches. The use and recording of these practices will be governed by clear regulatory guidelines inserted into the Youth Justice Regulation 2003 similar to those governing the use of these practices in detention centres. The government is committed to fundamental reform of the Queensland youth justice system and ensuring the efficient and effective running of the youth boot camp program is one part of this process.

The bill also amends the Youth Justice Act to ensure the Children's Court, when sentencing children for offences in open court, is able to receive information identifying children as subject to the child protection system. Restrictions under the Child Protection Act 1999 on the publication of this information will remain in force.

The bill also amends the Acts Interpretation Act 1954 to allow chairs of various government boards, tribunals and similar entities established under an act to choose their preferred title, whether it be 'chair', 'chairperson', 'chairman' or 'chairwoman' or another similar title irrespective of what chair title is used in an act. The amendment also applies to deputy chairs. I commend the bill to the House.

### **First Reading**

**Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (4.14 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

**Referral to the Legal Affairs and Community Safety Committee**

**Mr DEPUTY SPEAKER** (Mr Watts): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.

**Portfolio Committee, Reporting Date**

**Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (4.14 pm), by leave, without notice: I move—

That under the provisions of standing order 136 the Legal Affairs and Community Safety Committee report to the House on the Criminal Law Amendment Bill by 28 July 2014.

Question put—That the motion be agreed to.

Motion agreed to.