




Speech By
Hon. Shannon Fentiman

MEMBER FOR WATERFORD

Record of Proceedings, 28 October 2021

INSPECTOR OF DETENTION SERVICES BILL

Message from Governor

 **Hon. SM FENTIMAN** (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (11.27 am): I present a message from His Excellency the Governor.

Mr DEPUTY SPEAKER (Mr Martin): The message from His Excellency the Governor recommends the Inspector of Detention Services Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

INSPECTOR OF DETENTION SERVICES BILL 2021

Constitution of Queensland 2001, section 68

I, PAUL de JERSEY AC CVO, Governor, recommend to the Legislative Assembly a Bill intitled—


A Bill for an Act to provide for an inspector of detention services, and to amend this Act, the Corrective Services Act 2006, the Crime and Corruption Act 2001, the Hospital and Health Boards Act 2011, the Mental Health Act 2016, the Ombudsman Act 2001, the Parliament of Queensland Act 2001 and the Youth Justice Act 1992 for particular purposes

GOVERNOR

Date: 28 October 2021

Tabled paper: Message, dated 28 October 2021, from His Excellency the Governor recommending the Inspector of Detention Services Bill 2021 [1839](#).

Introduction

 **Hon. SM FENTIMAN** (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (11.27 am): I present a bill for an act to provide for an inspector of detention services, and to amend this act, the Corrective Services Act 2006, the Crime and Corruption Act 2001, the Hospital and Health Boards Act 2011, the Mental Health Act 2016, the Ombudsman Act 2001, the Parliament of Queensland Act 2001 and the Youth Justice Act 1992 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Legal Affairs and Safety Committee to consider the bill.

Tabled paper: Inspector of Detention Services Bill 2021 [1840](#).

Tabled paper: Inspector of Detention Services Bill 2021, explanatory notes [1841](#).

Tabled paper: Inspector of Detention Services Bill 2021, statement of compatibility with human rights [1842](#).

I am pleased to introduce the Inspector of Detention Services Bill 2021. The bill provides for a new role of the Inspector of Detention Services to provide independent oversight over places of detention, namely: prisons, community corrections centres, work camps, youth detention centres and

watch houses. Independent inspectors ensure accountability and transparency in the way that places of detention, and the people detained in them, are managed by providing the community with insight into detention environments. The purpose of the inspector is to promote the improvement of places of detention and detention services with a focus on ensuring the humane treatment of detainees and the prevention of harm, including torture, cruel, inhumane or degrading treatment.

The Palaszczuk government is committed to establishing an independent Inspector of Detention Services in response to recommendations in a number of reviews including: the Independent Review of Youth Detention; the Queensland Parole System Review; Taskforce Flaxton: an examination of corruption and corruption risks in Queensland's corrective services facilities; the Queensland Productivity Commission's report on its Inquiry into Imprisonment and Recidivism; and the Royal Commission into Institutional Responses to Child Sexual Abuse. Importantly, the bill represents a further commitment by this government to uphold human rights in Queensland and recognises that observance of human rights is the most effective and safe way to manage custodial environments. At present, there is no single body whose primary function is to provide this independent external oversight. The inspector will not be subject to direction by any person about the way the inspector performs their functions.

The bill provides that the inspector will provide independent oversight through a system of regular inspections and reviews of places of detention and detention services. There will be independent and transparent reporting to ensure accountability and transparency in the way that places of detention, and the people detained in them, are managed. The focus will be on the prevention of harm by examining the systems and lived experiences of people who are deprived of their liberty. It is intended that the inspector will consider the operation and management of facilities and the treatment and conditions of people in light of national and international materials that establish best practice.

Under the bill, the Queensland Ombudsman will be the Inspector of Detention Services, and staff from the Office of the Queensland Ombudsman will support the exercise of the inspector's functions. The inspector, like the Ombudsman, will be functionally and operationally independent from government and will be appointed as an officer of the parliament. The inspector will also report directly to the parliament on the performance of its functions. Queensland's inspectorate model is broadly consistent with similar models in other jurisdictions across the country.

A key function of the inspector will be to conduct inspections of places of detention—within its scope—and review detention services provided in those places of detention. The bill will provide for mandatory inspections of particular places of detention as well as allow the inspector to inspect a place of detention within scope at any time, unannounced or announced. The inspector will also be able to review a detention service at any time, including the transport of detainees between places.

Detention services are broadly defined in the bill to include: the operation, management, direction, control or security of a place of detention; security, management, control, safety, care or wellbeing, including health care and education, of a detainee at a place of detention; and transport of detainees between places of detention, given the unique vulnerability of persons detained during transport.

The inspector's focus will be on preventing harm through systems review rather than responding to harm through the investigation of individual complaints. It will not be the role of the inspector to investigate specific incidents such as riots, deaths or escapes. These will remain the responsibility of existing internal and external oversight bodies, and the bill provides that the inspector may refer matters to an appropriate body for further investigation.

The bill also provides the ability for the inspector to refer matters to the relevant minister who has responsibility for the place of detention. This is for cases where the inspector suspects, on reasonable grounds, that: there is or has been a serious risk to the security, control, safety, care or welfare of a detainee; or a detainee is, or has been, subject to cruel, inhuman or degrading treatment.

In order to carry out the inspector's functions, the bill provides the inspector with broad powers to do all things necessary to fulfil its preventative, proactive and independent mandate. This includes the power to: take any equipment to a place of detention; enter a place of detention at any time, including place of detention, vehicle or equipment used in place of detention; access any information, including documents, about the place of detention or services provided to people detained, including health information; require answers to questions and speak to detainees privately; and require reasonable help for a review or inspection. To facilitate full and frank disclosure to the inspector, the information obtained will be protected except in specified circumstances. The bill also provides for evidential immunity and to protect a person from victimisation or reprisals.

The bill will also require the inspector to have regard to the good order and security of places of detention and the safety of people who work at places of detention in exercising their powers. In line with a commitment to transparency and external scrutiny, the bill requires the inspector to prepare an

annual report directly to the Speaker that focuses on the operations of the inspector during the reporting period and reports directly to the parliament on each review of a detention service and each mandatory inspection. The inspector can also report on any issue it considers is in the interest of any person or in the public interest. These reports may include advice or recommendations from the inspector. The inspector is also required to prepare and publish inspection standards that will articulate best practice and contribute to consistency and transparency.

Measures in the bill are included to provide that the inspector must have regard to the cultural background and vulnerabilities of detainees, for example: when appointing staff to exercise the inspector's functions, to consider the desirability of staff reflecting the social and cultural diversity of detainees in Queensland, including those people who identify as Aboriginal or Torres Strait Islander; in carrying out a review or inspection, requiring the inspector to have regard to the cultural background or vulnerability of detainees; and consulting with people or using staff suitable to the cultural background or vulnerability of any detained person involved in an inspection or matter being reviewed. For a review or inspection relating to an Aboriginal person or Torres Strait Islander, the inspector must arrange for an appropriate representative for the detainee to help the inspector carry out the review or inspection. For a review or inspection relating to a child, the inspector must arrange for a person with expertise in child trauma, prevention and identification of child sexual abuse to help the inspector carry out the review or inspection.

The inspector may also consult with or engage consultants with professional skills or expertise; for example, legal or medical or experience working with vulnerable persons such as children, as well as another person with other appropriate skills or experience; for example, a former detainee, or a family member or close friend of a former detainee. These measures respond to the feedback from stakeholders during consultation on the draft bill that staff exercising the functions of the inspector should be multidisciplinary in composition, strive for gender and minority representation, and include the perspectives of people with lived experience of disability and incarceration.

In response to stakeholder feedback on the draft bill, the bill being introduced today allows the inspector access to prisons under a declaration of emergency, with Queensland Corrective Services maintaining the power to restrict access under section 268 of the Corrective Services Act. The relationship between the inspector and existing oversight bodies is integral to ensure a coordinated approach to the external oversight of places of detention. The bill provides that the inspector must ensure it does not duplicate, delay or interfere with other independent or investigative statutory functions and will also be able to enter into arrangements with corrective services, police, youth justice, education, health service and other service providers for detainees.

To assist the inspector in effectively performing its functions and to encourage cooperation with the inspector, the bill contains some offences. It will be an offence to, without reasonable excuse: provide false or misleading statements or documents; fail to comply with any lawful requirement of the inspector; or obstruct, hinder, resist or threaten the inspector in the performance of their duties. In recognition of the sensitivity of the information the inspector may obtain, it will also be an offence for the inspector to disclose information obtained under the act except in specified circumstances.

This important bill continues to demonstrate the government's commitment to human rights and will ensure that the oversight, accountability and transparency of our places of detention and the treatment of detainees are strengthened. As I have mentioned, development of the bill was informed by extensive targeted stakeholder consultation with non-government and government stakeholders from a range of interest areas. Where possible, feedback from stakeholders was incorporated into the bill, and I thank all those involved for their time and their valuable input to inform this bill. I commend the bill to the House.

First Reading

Hon. SM FENTIMAN (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (11.37 am): 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 Legal Affairs and Safety Committee

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