




Speech By
Hon. Mark Ryan

MEMBER FOR MORAYFIELD

Record of Proceedings, 29 November 2022

CORRECTIVE SERVICES (EMERGING TECHNOLOGIES AND SECURITY) AND OTHER LEGISLATION AMENDMENT BILL

Introduction

 **Hon. MT RYAN** (Morayfield—ALP) (Minister for Police and Corrective Services and Minister for Fire and Emergency Services) (5.02 pm): I present a bill for an act to amend the Corrective Services Act 2006, the Corrective Services Regulation 2017, the Police Powers and Responsibilities Act 2000, the Youth Justice Act 1992 and the legislation mentioned in schedule 1 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: Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022 [1989](#).

Tabled paper: Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022, explanatory notes [1990](#).

Tabled paper: Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022, statement of compatibility with human rights [1991](#).

I am pleased to introduce the Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022. The adult correctional and youth justice systems are fundamental frontline services that keep our community safe while ensuring prisoners, detainees and offenders are humanely detained and rehabilitated. Every day Queensland Corrective Services is responsible for delivering this service to the highest of standards for over 9,000 prisoners in custody and over 19,000 offenders in the community. In addition, on any given day in Queensland, around 285 young people are in custody and approximately 1,300 young people are on community supervision, receiving services from the Department of Children, Youth Justice and Multicultural Affairs. This work has always been some of the most complex and challenging faced by frontline officers in Queensland. At its centre is a dedicated workforce of Corrective Services and Youth Justice officers who are committed to safety and security. I take this opportunity to acknowledge all of those officers who continue this work to the highest standard every day.

Recently, Queensland Corrective Services and Youth Justice services have faced new challenges to the security of the correctional environment. Those challenges include emerging threats from new technologies, the impact of natural disasters, COVID-19, renewed strategies to introduce contraband and evolving behaviour putting custodial facilities at risk. Alongside those challenges are also opportunities to enhance security with modern and innovative practices and technologies.

To this end, the Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022 will deliver a suite of important amendments to the Corrective Services Act 2006 and the Youth Justice Act 1992. These amendments aim to ensure the continued safety and security of the custodial environment. Specifically, the amendments aim to: firstly, criminalise the use of drones over Corrective Services facilities and Youth Justice detection centres and entry onto rooftops of Corrective Services facilities; secondly, to provide clear authority to use X-ray body scanners, CCTV,

body worn cameras and other emergency technologies in Corrective Services facilities; thirdly, to modernise the emergency response frameworks to better respond to emergencies that threaten Corrective Services facilities or youth detention centres; fourthly, to enhance information-sharing powers to promote prisoner health and wellbeing, and support frontline service delivery and interagency collaboration; and, finally, to update the prisoner classification framework to better align with prison infrastructure.

The bill also includes other minor and technical amendments to clarify sentence calculation issues, to enable the effective operation of the official visitor scheme and to support the delivery of prisoner health services provided by Queensland Health by updating outdated terminology within the Corrective Services Act. These amendments support Corrective Services officers and youth detention centre staff in responding to emerging threats and technologies and ensure the closed correctional environment keeps pace with change in a complex work area.

I would like to address the new offences included in the bill to respond to evolving behaviour that is increasingly putting Corrective Services facilities and youth detention centres at risk. The correctional environment has experienced an increase in evolving behaviours that present a significant risk. It is, therefore, important that a strong deterrent and appropriate penalties are in place to keep those environments safe.

The first offence introduced by the bill aims to tackle the emergence of drones being used around custodial facilities. Drones are becoming more accessible across Australia and the regulation of drones is becoming more and more common. For Corrective Services facilities and youth detention centres the use of drones is a growing and emerging threat to safety and security. While drones are prescribed as a prohibited item under the Corrective Services Act, there is no provision to restrict or prevent a drone being flown in the airspace above a custodial facility.

As at 25 November, Queensland Corrective Services has recorded almost 90 incidents relating to drone incursions over Corrective Services facilities since 2013-14. For youth detention centres the number is smaller at approximately two to three sightings per year. Nonetheless, the use of drones above closed environments presents a number of threats. Drones can be used to drop contraband, survey secure infrastructure, be weaponised or be used to create a nuisance or distraction. For detention centres there is an added risk of images or film being taken that may identify vulnerable children. Due to these significant risks, each sighting of a drone results in the facility going into lockdown while a search for contraband or the drone is conducted.

To combat this threat, a new offence has been created in the Corrective Services Act and the Youth Justice Act. The new offences prohibit the use or attempted use of drones at or above all Corrective Services facilities and youth detention centres, including the land on which the facilities are located, without a reasonable excuse. To limit interference with the use of drones for legitimate purposes, the offence does not apply when the use has been approved by the chief executive, the drone is being used by an officer of a law enforcement agency or emergency service to carry out an official function, or the person is acting on behalf of or under the direction of an officer of a law enforcement agency or emergency service. The penalty for this offence is up to two years imprisonment and is a strong deterrent for those who seek to fly drones over detention centres or correctional services facilities.

The other offence introduced by this bill combats evolving behaviour and targets increasing incidents of prisoners gaining access to rooftops and other restricted areas. Prisoners gaining access to a rooftop and other restricted areas is a consistent issue across corrective services facilities, demonstrating that existing penalties are insufficient at deterring prisoners from engaging in this behaviour. In addition to risking the safety of those involved, this behaviour causes a significant disruption to frontline operations and can have broader implications for the safety and security of corrective services facilities, including the need for centre-wide lockdowns as part of an incident response, and erodes community confidence in the correctional system.

To highlight the importance of the creation of this offence, over the past two years there have been more than 20 incidents of prisoners occupying rooftops at corrective services facilities, with prisoners gaining access to those rooftops. This does not extend to other incidents of prisoners accessing restricted areas. While there are already sanctions applied to these prisoners under the Corrective Services Act, the creation of a specific offence will aim to further deter prisoners from climbing onto rooftops or accessing other restricted places in the future. The penalty of up to two years imprisonment is in line with existing offences already contained in section 124 of the Corrective Services Act.

Next I would like to address the amendments in the bill that capitalise on the use of technology that enhances the safety of the closed correctional environment. The first area where technology presents an opportunity to enhance safety is the use of X-ray body scanners to detect contraband. The

presence of contraband in corrective services facilities poses a significant threat to institutional safety, officer safety, public safety and prisoner safety, health and welfare. Despite existing search methods, contraband remains prevalent in these environments, with over 4,000 incidents of contraband discovered in the last year alone. The opportunity to use X-ray body scanners enhances corrective services officer and prisoner safety. X-ray body-scanning technology has the capability to detect non-metallic objects on or inside the body, something search equipment currently in use in the closed correctional environment cannot deliver.

As a result, the bill inserts a new imaging search function into the Corrective Services Act to support a trial of body-scanning technology at, firstly, the Brisbane Women's Correctional Centre and any future rollout of X-ray body-scanning technology at other corrective services facilities in Queensland. The amendment supports the implementation of the Palaszczuk government's response to recommendation 136 of the second report from the Women's Safety and Justice Taskforce, *Hear her voice: Report Two—Women and girls' experiences across the criminal justice system*, by establishing the head of power for non-invasive screening technology to be used. The new search power will operate in addition to other stringent regulatory requirements in relation to the use of this technology under the Radiation Safety Act 1999 and the Radiation Safety Regulation 2021. This includes annual limits under radiation health guidelines and licensing requirements that apply to persons being scanned and scanner operators to ensure their health and radiation levels remain below the recommended dose limit.

In addition to supporting the future use of X-ray body scanners, the bill includes a clear head of power for embedded and emerging use of surveillance technology to maintain safety and monitor threats within the closed correctional environment. The use of CCTV, body worn cameras and other monitoring technology at corrective services facilities throughout Queensland is imperative to ensure the safety of officers and prisoners. Surveillance devices enable Queensland Corrective Services to collect, evaluate and analyse information to identify and manage risk, respond to or investigate emergency incidents, support a breach hearing or review, prosecute an offence and deter prisoners and visitors from attempting to breach security requirements.

Surveillance devices also play a key role in promoting the humane treatment of prisoners within a closed environment as an objective source of evidence that can be reviewed after the fact. While some technology such as CCTV has been used within the correctional environment for some time, the use of devices such as body worn cameras is relatively new. In authorising the use of a surveillance device, the Queensland Corrective Services Commissioner must be satisfied that the use of the device will enhance prescribed matters including the safety of officers, prisoners and visitors and the security of facilities; prevent corruption and the commission of offences; and detect contraband. The commissioner must also have regard to privacy and include requirements for the use, storage and destruction of any recordings made by the device. These amendments include the flexibility to adapt to other technology in the future and will commence on proclamation alongside a regulation to prescribe the specific devices to be authorised.

I would like to now address the amendments to the Corrective Services Act and the Youth Justice Act included in the bill which modernise the emergency declaration framework to better respond to emergency situations that threaten facilities or detention centres. In relation to the amendments to the Corrective Services Act, Queensland Corrective Services has faced multiple emergency situations in recent years that have presented unprecedented threats to the safety and security of corrective services facilities. These situations have included bushfires in 2019-20 which led to two low-security facilities being evacuated for the first time in the known history of Queensland Corrective Services; the COVID-19 public health emergency; and flooding in early 2022, which resulted in a number of centres being isolated due to rising floodwaters.

In all situations, Queensland Corrective Services has risen to the challenge and ensured the health and safety of prisoners, officers and visitors while maintaining frontline operations. However, good emergency management requires good planning. The existing emergency provisions of the Corrective Services Act contained in section 268 were developed to respond to a short-term emergency that occurs at a prison such as a riot or a loss-of-control event. As they are, these provisions do not appropriately anticipate external threats or other longer term types of emergencies such as those experienced in recent years.

Additionally, the current framework does not contemplate emergency situations at facilities that are not prisons, including the Helana Jones Centre and other work camps. It is vital that there are appropriate tools to support an effective response to these situations so that the health and safety of all can be protected. This includes legislation that clearly authorises actions to mitigate or respond to the potential impacts of an emergency situation or restore order afterwards.

The bill provides for amendments to the existing framework including: making permanent the reference to 'corrective services facility' rather than 'prison'; providing for various types of declarations of emergency, including for a natural disaster or serious health threat, with strict maximum time limits to respond to different threats; clarifying the ability of the chief executive to restrict movement to a facility or refuse entry to a facility, quarantine or isolate prisoners, and limit or withhold privileges depending on the emergency situation; and providing that a declaration of emergency must be published.

New safeguards have been built into the bill to ensure provisions are only used where absolutely necessary. The bill provides that the Queensland Corrective Services Commissioner cannot delegate the power to make an emergency declaration. The commissioner will also be required to ensure the declaration is no longer than is reasonably necessary given the emergency.

Prior to making a declaration, the commissioner must take reasonable steps to consult with other agencies as relevant to the type of emergency; for example, the Chief Health Officer where the amendment relates to a public health emergency, the State Disaster Coordinator or the Commissioner of the Queensland Fire and Emergency Services.

The bill also requires all declarations to be published. These safeguards will operate in addition to existing safeguards, including that a declaration must be approved by the relevant minister in charge of the portfolio. The new emergency framework will commence on 1 November 2023 upon the expiry of the temporary COVID-19 measures in chapter 6, part 15A of the Corrective Services Act which is due to occur on 31 October 2023.

Next, I would like to outline the amendments in the bill to provide new emergency response powers under the Youth Justice Act. The Youth Justice Act currently does not provide a legislative framework to respond in the event of an emergency at a youth detention centre or include safeguards that must be considered and addressed as part of an emergency response. Temporary amendments to the Youth Justice Act to mitigate the impacts of the COVID-19 pandemic ceased on 30 April 2022. Permanent measures are now needed to ensure the government can respond to future emergencies promptly, consistent with human rights and the youth justice principles, and with certainty, transparency, and accountability. These amendments will help protect the health and safety of young people, staff and visitors at youth detention centres and others impacted by the emergency.

In summary, the amendments enable: the declaration of a youth detention centre as disaster affected and one or more places as a temporary youth detention centre; the appointment of emergency staff to provide assistance at a youth detention centre if the workforce is impacted by a declared emergency such as an epidemic or other disaster; and the delivery of restorative justice conferences by video or tele link in the event of a declared emergency.

In respect of the enhancing information sharing provisions, corrective services officers work closely with partner agencies to safely manage prisoners and offenders according to their individual risk and need. This requires a level of confidential information sharing, including proactive information sharing where appropriate, to ensure the safety and security of prisoners, corrective services officers, offenders and the broader community.

While the Corrective Services Act already allows for information sharing, the existing provisions can be improved to support the important work conducted by our frontline workers and enhance frontline service delivery and interagency collaboration. The amendments aim to provide corrective services officers with improved legislative guidance on what they are and are not able to disclose in key areas of service delivery to ensure the efficient and effective operation of the correctional system. These amendments have come about for a variety of reasons.

The bill clarifies that information can be shared with a health practitioner for the care, treatment or rehabilitation of a prisoner. This amendment recognises the partnership and shared responsibility that Queensland Corrective Services and Queensland Health have towards the health and wellbeing of prisoners. Queensland Corrective Services previously held responsibility for delivering health services to persons in custody, but since 2008 this responsibility has sat with Queensland Health.

In the custodial setting, Queensland Corrective Services may possess confidential information about a prisoner that is critical to their health care, treatment and rehabilitation that could assist a health practitioner treating the prisoner in providing adequate care. This could include information about a prisoner diverting medication or be about a prisoner's self-harm or violence risk that could be relevant to a health practitioner's treatment decisions. The ability to clearly and proactively share this information is integral to the safety, security and effective management of prisoners and provision of client focused health services for the prisoner.

In addition, the bill includes an amendment to enable confidential information about the condition of a prisoner to be disclosed in general terms. This amendment recognises that there are a number of situations where a prisoner may not be able to directly communicate to persons within their support

network such as their family. For example, a prisoner may be in transit to hospital following an incident, a centre may have been locked down to respond to a significant event or the person may be temporarily unable to communicate due to a live incident. This can create anxiety and stress in relation to the prisoner's health and wellbeing. The amendment therefore enables a corrective services officer to provide general information, including whether a prisoner is okay, is being treated or is in transit to hospital.

Further to information sharing to support prisoner health and wellbeing, the bill provides a clear power to proactively share information with the Queensland Police Service as well as other law enforcement agencies. The correctional system manages a multitude of security risks such as gangs, violent extremism, violence, including domestic and family violence, and the risk of escape. Queensland Corrective Services also often has access to information that can be key to preventing crime, including information about who a prisoner is contacting, the circumvention of domestic and family violence orders or other information about associates. Proactively sharing information with law enforcement can inform strategies and prevent the commission of further crimes. The amendment to explicitly provide for this sharing of information recognises the key role that Queensland Corrective Services has within the broader criminal justice system to stop crime and keep the community safe.

To support the increased sharing of sensitive information, including information relating to violent extremism and domestic and family violence, the bill also introduces a new offence for an informed person under the Corrective Services Act to disclose or make a record of sensitive information, other than in select authorised circumstances. The offence captures sensitive information that an informed person obtains or has access to from a law enforcement agency or that has been accessed under an arrangement with a law enforcement agency. It would hold a maximum penalty of up to 100 penalty units or two years in prison.

In addition, amendments are included in the bill to clearly authorise information sharing with interstate or foreign correction agencies to support the ongoing detention, reporting, supervision or management of former Queensland prisoners or offenders in another jurisdiction. This amendment supports existing arrangements in place with other correction agencies and the effective operation of overseas laws to keep the community safe, including the New Zealand Returning Offenders (Management and Information) Act 2015. Under this act, a New Zealand citizen who has been sentenced to more than one year in an overseas prison and who has been released from detention before returning to New Zealand may be subject to supervision by corrections upon their arrival in New Zealand.

I now turn to amendments in the bill to update the prisoner security classification framework. Queensland's prisoner security classification framework has been in place since the introduction of the act in 2006. However, the correctional environment in which it operates has been subject to significant change and reform, including increasing prisoner numbers. Amendments to the prisoner security classification will ensure the framework aligns with the existing physical infrastructure of the custodial environment in Queensland and appropriately responds to risk. This includes the ability to establish risk subcategories within the prisoner security classification framework in regulation, expanded matters the Queensland Corrective Services commissioner can or must consider when determining the prisoner's classification and amendments to the classification review periods such as evidence-based reviews or at a prisoner's request.

Other amendments included in the bill aim to increase community safety, streamline processes to increase efficiencies, remove redundant provisions and update out-of-date technology within the Corrective Services Act. This includes an amendment to enable the commissioner to reappoint a suitably qualified person as an official visitor beyond the current two-term limit. Official visitors play an important role to ensure the accountability of Queensland's correctional system by providing a regular, accessible, independent program of visitation to correctional centres to assist prisoners to manage and resolve their complaints.

Official visitors are trusted and treated with respect by prisoners. They are an independent presence on the ground, visible to prisoners and provide an opportunity for individual advocacy and informal resolution of issues for a prisoner. Official visitors provide complaint reports and review findings to Queensland Corrective Services and are empowered to make non-binding recommendations to the commissioner. The amendment acknowledges the often unrecognised work of official visitors and supports greater flexibility in the ongoing appointment of suitably qualified official visitors, in particular First Nations and legal official visits, to the benefit of prisoners in the broader correctional system.

This bill also includes a new definition of 'unlawfully absent' and an explicit power to arrest a prisoner mistakenly, unlawfully or otherwise incorrectly discharged or released before the prisoner's discharge day or release day and an amendment to clarify that a prisoner who is detained on remand for an offence may not apply for exceptional circumstances parole.

In addition, the bill makes several minor amendments to reflect the current provision of health services to prisoners by Queensland Health. These amendments remove outdated provisions and replace references to doctor, nurse, psychologist with registered health practitioner where appropriate. The change in terminology is consistent with Queensland Health being responsible for health service delivery to prisoners and best placed to determine what discipline of clinician should provide particular services or advice.

The bill also removes the power for a doctor to direct a prisoner to submit to a medical examination or for the use of force in carrying out a directed examination. These provisions are omitted as there are other legislative mechanisms contained in the Public Health Act 2005 and the Mental Health Act 2016 for registered health practitioners to utilise when treating or examining a prisoner without consent, including necessary safeguards.

In conclusion, the amendments proposed in this bill provide that Queensland's correctional and youth justice systems are responsive and flexible to emerging threats and opportunities, support the ongoing safety and security of the correctional system for prisoners, young people, corrective services officers, detention centre workers, visitors and service providers and ensure community safety. I commend the bill to the House.

First Reading

Hon. MT RYAN (Morayfield—ALP) (Minister for Police and Corrective Services and Minister for Fire and Emergency Services) (5.29 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 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.