




Speech By
Hon. Charis Mullen

MEMBER FOR JORDAN

Record of Proceedings, 14 June 2024

**DISABILITY SERVICES (RESTRICTIVE PRACTICES) AND OTHER
LEGISLATION AMENDMENT BILL**

Message from Deputy Governor

 **Hon. C MULLEN** (Jordan—ALP) (Minister for Child Safety, Minister for Seniors and Disability Services and Minister for Multicultural Affairs) (2.21 pm): I present a message from the Deputy Governor.

Mr DEPUTY SPEAKER (Mr Krause): The message from the Deputy Governor recommends the Disability Services (Restrictive Practices) and Other Legislation Amendment Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

DISABILITY SERVICES (RESTRICTIVE PRACTICES) AND OTHER LEGISLATION AMENDMENT BILL 2024

Constitution of Queensland 2001, section 68

I, DEBRA ANN MULLINS AO, Deputy Governor, recommend to the Legislative Assembly a Bill intituled—


A Bill for an Act to amend the Coroners Act 2003, the Disability Services Act 2006^a the Guardianship and Administration Act 2000, the Public Guardian Act 2014, the Queensland Civil and Administrative Tribunal Act 2009 and the legislation mentioned in schedule 1 for particular purposes

DEPUTY GOVERNOR

Date: 14 June 2024

Tabled paper: Message, dated 14 June 2024, from the Deputy Governor recommending the Disability Services (Restrictive Practices) and Other Legislation Amendment Bill 2024 [1084](#).

Introduction

 **Hon. C MULLEN** (Jordan—ALP) (Minister for Child Safety, Minister for Seniors and Disability Services and Minister for Multicultural Affairs) (2.21 pm): I present a bill for an act to amend the Coroners Act 2003, the Disability Services Act 2006, the Guardianship and Administration Act 2000, the Public Guardian Act 2014, the Queensland Civil and Administrative Tribunal Act 2009 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 Community Support and Services Committee to consider the bill.

Tabled paper: Disability Services (Restrictive Practices) and Other Legislation Amendment Bill 2024 [1085](#).

Tabled paper: Disability Services (Restrictive Practices) and Other Legislation Amendment Bill 2024, explanatory notes [1086](#).

Tabled paper: Disability Services (Restrictive Practices) and Other Legislation Amendment Bill 2024, statement of compatibility with human rights [1087](#).

The Disability Services (Restrictive Practices) and Other Legislation Amendment Bill seeks to improve safeguards for Queenslanders with disability where restrictive practices are required to be used. The overarching goal of this bill is to reduce and eliminate these practices by improving the regulatory framework authorising a restrictive practice.

A restrictive practice is any practice or intervention that limits the rights or freedom of movement of a person with disability displaying behaviours of concern where the primary purpose of the practice is to protect them or others from harm. Behaviours of concern can be an important way for the person to communicate. By understanding the issues underlying these behaviours of concern, it is possible to identify other ways for a person's behaviours to be managed.

However, in limited circumstances, and as a last resort, a restrictive practice may be required to prevent harm to the person with disability or to others. These practices can have substantial impacts on the rights and freedoms as well as the physical and emotional wellbeing of the person. Unfortunately, in light of recent reviews, such as the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, we know that restrictive practices are used too often and sometimes inappropriately. That is why I am introducing legislation to reform Queensland's restrictive practices authorisation framework.

We need to continue to deliver on Queensland's responsibility to have an effective framework to authorise the use of restrictive practices and to work to reduce and eliminate their use. We must ensure these practices are only used as a last resort and only in a way that respects the person's human rights and dignity as part of a broader strategy to support their wellbeing. This bill will require disability support providers to work with the person with disability, their family and carers, behaviour support providers and decision-makers to only use restrictive practices when it is the least restrictive way to manage behaviours of concern safely.

The use of regulated restrictive practices is monitored by the Commonwealth's National Disability Insurance Scheme Quality and Safeguards Commission. The NDIS Quality and Safeguards Commission also enforces compliance in accordance with the NDIS (Restrictive Practices and Behaviour Support) Rules. It operates under the agreed roles and responsibilities set out in the NDIS Quality and Safeguarding Framework.

States and territories are responsible for the legislative and policy frameworks for authorising the use of regulated restrictive practices in the National Disability Insurance Scheme. Since 2008, Queensland has had a well-established guardianship-based framework in place. This guardianship-based framework authorises the use of restrictive practices as a last resort for adults with a cognitive or intellectual disability in specialist disability services settings. It has served us well. However, the transition to the NDIS and the need to achieve consistency across Australia has sparked the need for reform.

In 2020, disability ministers agreed to work toward greater nationally consistent restrictive practices authorisation processes based on national principles. At the time, Queensland provided in-principle support for the national principles, noting the need to properly consider the policy and financial and legislative implications associated with implementation. The Queensland government subsequently commenced the positive behaviour support and restrictive practices review. This review was to identify opportunities to better align Queensland's restrictive practices authorisation framework with the national principles and the NDIS (Restrictive Practices and Behaviour Support) Rules. The review was informed by invaluable feedback from stakeholders. This included people with disability, NDIS and disability providers, statutory oversight bodies, advocates and peak organisations, and people with expertise in behaviour support and restrictive practices. I would like to thank everyone who has given their time to contribute to this review during the past four years.

Overall, the review found Queensland's framework could be improved by reducing potential conflicts of interest and administrative complexity by expanding the frameworks' safeguards beyond adults with intellectual or cognitive disability to all people receiving NDIS supports or services or state disability services and by aligning Queensland's regulated restrictive practices with the same restrictive practices regulated under the NDIS.

This bill implements the review findings and improves the way restrictive practices are authorised in Queensland to achieve greater safeguards for people with disability in alignment with the national principles. Specifically, the bill amends the Disability Services Act 2006 to establish the Office of the Senior Practitioner. The Senior Practitioner will be responsible for authorising regulated restrictive practices used in NDIS supports or services or in state disability services funded by the Department of Child Safety, Seniors and Disability Services. The Senior Practitioner will be an independent person with appropriate qualifications appointed by the Governor in Council. The Senior Practitioner's main function will be to work to reduce and eliminate the use of restrictive practices. The Senior Practitioner will provide the clinical oversight of all applications for the use of restrictive practices.

The Queensland Civil and Administrative Tribunal will have new jurisdiction to independently review authorisation decisions, providing an additional level of oversight for these decisions. A person with disability, and certain relevant persons in their support network, will be able to apply for a review of a Senior Practitioner's decisions in addition to the disability support provider who made the original application. This approach will ensure all authorisation decisions are made with relevant expertise and qualifications. It will reduce risks of conflicts of interest associated with the current framework. It also provides for a more simplified and streamlined process.

In addition, for the first time, the bill provides for consistent safeguards for all people with disability accessing NDIS supports and services and state disability services as it will enable the Senior Practitioner to consider applications in relation to children and adults with disability. Currently, the Disability Services Act 2006 provides a framework for authorising restrictive practices for adults with intellectual or cognitive disability only. However, data from the NDIS commission indicates that restrictive practices are used in relation to children and adults with a range of disabilities in these settings. By expanding the scope of the authorisation framework to include all people receiving NDIS supports and services or state disability services, there will be greater consistency in safeguards for all people accessing these supports.

The bill also expands the scope of the framework to align with regulated restrictive practices under the NDIS (Restrictive Practices and Behaviour Support) Rules. This will include the locking of gates, doors and windows in response to an adult not having the skills to safely exit premises without supervision. This means that these practices will now be subject to the same safeguards as other restrictive practices. We also know that there are some restrictive practices that, due to the level of harm and risk they can present to a person, should never be used. The bill creates a new regulation-making power to prescribe certain restrictive practices as prohibited. The Senior Practitioner will not be able to authorise these practices. The prohibition of certain restrictive practices was strongly supported by stakeholders during consultation and has subsequently been recommended by the Disability Royal Commission.

Finally, the bill also removes the requirement for the chief executive of Disability Services to develop all behaviour support plans that include containment and seclusion. Over time, the Department of Child Safety, Seniors and Disability Services will no longer prepare these plans when there is capacity in the specialist behaviour support market. This achieves greater national consistency and provides opportunities for Queensland's specialist behaviour support market to grow. Behaviour support plans developed by market providers will still be subject to the oversight of the Senior Practitioner through its function in authorising restrictive practice applications.

The reformed authorisation framework proposed by the bill is designed with in-built safeguards to respect the human rights and dignity of people with disability who may be subject to restrictive practices. The bill will recognise the rights of people with disability to their autonomy and independence, including the freedom to make decisions about their own lives. The bill promotes opportunities for people with disability to be involved in decision-making by requiring their behavioural support plans to be developed in consultation with them and members of their support network. It also requires the Senior Practitioner to consult with, and consider, any expressed or demonstrated views, wishes and preferences of the person with disability about the proposed use of the restrictive practices in a way that is accessible to them.

It is important to get this new reform right. That is why the new authorisation framework will be implemented with a long lead time to ensure people with disability, their families and disability support providers are well prepared and supported to engage with the new approach. The Queensland government will work closely with the sector to ensure service providers are supported and engaged throughout the process. The reformed authorisation framework will achieve the highest standard of safeguards for people with disability, strengthen efforts to reduce and eliminate restrictive practices and ensure consistency with the national principles.

Finally, the bill also makes minor amendments to the Coroners Act 2003 to expand the reportable deaths framework to reinstate coverage for deaths in care for people in Queensland who receive disability supports under the Commonwealth Disability Support for Older Australians Program. This amendment ensures the death of a client of this program is required to be reported to the coroner or police. This will be consistent with the scope of coverage of the reportable deaths framework that applied prior to the establishment of the NDIS. Collectively, the amendments put forward by the bill will strengthen Queensland's framework for preventing the abuse, neglect and exploitation of people with disability. I commend the bill to the House.

First Reading

Hon. C MULLEN (Jordan—ALP) (Minister for Child Safety, Minister for Seniors and Disability Services and Minister for Multicultural Affairs) (2.32 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 Community Support and Services Committee

Mr DEPUTY SPEAKER (Mr Krause): In accordance with standing order 131, the bill is now referred to the Community Support and Services Committee.

Portfolio Committee, Reporting Date

Hon. C MULLEN (Jordan—ALP) (Minister for Child Safety, Minister for Seniors and Disability Services and Minister for Multicultural Affairs) (2.33 pm), by leave, without notice: I move—

That, under the provisions of standing order 136, the Community Support and Services Committee report to the House on the Disability Services (Restrictive Practices) and Other Legislation Amendment Bill by Friday, 2 August 2024.

Question put—That the motion be agreed to.

Motion agreed to.