Speech By

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MEMBER FOR MAIWAR

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POLICE POWERS AND RESPONSIBILITIES AND OTHER LEGISLATION AMENDMENT BILL; CORRECTIVE SERVICES (PROMOTING SAFETY) AND OTHER LEGISLATION AMENDMENT BILL

Mr BERKMAN (Maiwar—Grn) (12.32 pm): I rise to give my contribution to this cognate debate. Yet again the government is pushing through two bills in cognate so I have limited time to deal with all of the issues raised in both. Moreover, this entire debate is to be conducted in only three hours which is completely inadequate and is really quite a shocking denigration of the process in here.

In short, some of the intentions behind both bills are positive, but the overall approach is, as always, to expand the powers and discretion of police and corrections officers without sufficient safeguards or protections for people's human rights in the criminal legal system. We support the corrective services bill changes that allow victims of crime to access their rights under the Victims Register without, as far as possible, being subjected to further retraumatisation. This includes expanded eligibility, streamlined application processes, clearer and more fulsome information and more flexibility around involvement in the parole processes. We are also supportive of ensuring diverse representation on the Parole Board, provided there are no conflicts of interest. However, these bills ignore some of the real systemic issues with parole. The committee report notes that we are still waiting on the QPSR2, the parole system review report. This was finalised last year and the government has been sitting on it and refusing to release it ever since.

The changes in the police powers bill, which extend the period before which a prisoner can reapply for parole, were strongly opposed by stakeholders. Parole delays are already placing additional pressure on Queensland's prison system, and overcrowding is significantly impacting on prisoners' safety and human rights. The changes proposed in this bill can only be expected to make that situation worse. As with most of this government's bandaid reforms to the criminal legal system, this will disproportionately impact vulnerable populations, including disabled prisoners, First Nations people and people with English as a second language.

I understand that the QPS is currently considering Queensland government recommendations to provide non-written parole applications as recommended by the Prisoners' Legal Service. We support the changes in the corrective services bill to allow parole submissions from victims to be made orally. This should also be the case for prisoners, especially noting the disproportionately low literacy rates and high rates of intellectual disability in prisons. Probably most concerning, and perhaps ironically, the outcome is that the proposed amendments to the parole regime will likely reduce community safety. The purpose of parole is to reduce the risk of reoffending by providing prisoners with gradual release into the community, subject to supervision and conditions, before the expiry of their sentence. Stakeholders like ATSILS and the Prisoners' Legal Service pointed out that extending the prohibition period on prisoners reapplying for parole may actually mean that more prisoners are released only at the end of their sentences, thereby losing access to parole services and being released into the community without any prior structured community-based supervision. In fact, the changes mean that this is even more likely where they have spent a longer time in prison which increases the risks around effective reintegration.

The corrective services bill also allows Corrective Services to withhold information used in deciding a parole application for a broad range of reasons, including law enforcement, public safety, individual welfare and state security. Many submitters pointed out that this undermines fundamental principles of procedural fairness. With this reform, a person could be repeatedly denied parole without having any idea as to why and without the ability to respond to the case against them. This seriously limits their chances of getting parole which in turn limits their rights, prevents the community benefiting from reintegration measures and leads to more overcrowded prisons.

I am glad to see that the government has foreshadowed amendments to introduce a public interest test for exercising this new power, but I still question the need for these reforms. As the Prisoners' Legal Service pointed out, 'Public interest immunity, which is routinely invoked by the Board, already protects sensitive information from disclosure' and, importantly, judicial oversight of these decisions is already available. Yet again it seems the government is legislating its way out of an adverse court finding, in this case where they were caught failing to comply with obligations to disclose reasons for parole suspension. Again, they are taking this so-called correction even further at the expense of basic rights.

The changes in both the corrective services bill and the police powers bill around invasive searches in prisons and watch houses appear to be well intentioned, allowing for consideration of trans, gender diverse and intersex people and their preferences. The lack of clarity, though, creates a concerning risk that existing protections will be undermined. The corrective services bill leaves the provisions largely up to regulation, leaving the protections unclear and inadequate. Meanwhile, the police powers bill replaces the existing safeguards requiring searches to be conducted by an officer of the same sex with a new system that rests ultimately on some degree of police discretion. The bill means that a person can express a preference regarding the gender of the officer who searches them, but this can be refused in circumstances where it is not reasonably practicable or for an improper purpose.

Although I support updating the terms used in the legislation from 'sex' to 'gender', it seems to me a reasonable concern that women may lose the protections they currently have against being subjected to strip searches made by male officers. I also agree with the various stakeholders who suggested that the examples for an 'improper purpose' listed in the explanatory notes be inserted into the bill. This includes the Queensland Human Rights Commission, the QLS and even the QPU, which are not often on the same page on this sort of matter. The committee requested the minister consider amendments to this effect as well as to clarify when it is not reasonably practicable for police to accommodate a gender preference for a search. While I appreciate the minister has foreshadowed amendments intended to retain existing protections, it seems to me that it is still down to police discretion where a preference is expressed, so it remains to be seen how this particular reform will be implemented in practice.

As the LGBTI Legal Service have pointed out, the failure of the bill to define gender also risks obscuring the gendered experiences of people subject to police searches. It is unclear why, for example, the definition from the recently amended BDMR Act was not used. They also support the suggestion by DVConnect that greater checks and balances be required on the exercise of police discretion around invasive searches—for example, through mandatory review by a senior officer.

The police powers bill also allows a forensic examiner to photograph a person's breasts, potentially without their consent, by reclassifying it not as an intimate forensic procedure. Frankly, this seems a little bizarre and creates a clear erosion of existing safeguards for women. If the objective was to update the law to allow for flexibility around gender identity, the bill could have amended the definition of breasts as suggested by the LGBTI Legal Service—for example, to include the breasts and chests of trans and non-binary people as well as women who have undergone a mastectomy.

The bill also removes the requirement for an officer conducting a suspicionless search with a handheld scanning device to be of the same sex or gender as the person being searched. Pride in Law, DVConnect, the LGBTI Legal Service and the Human Rights Commission also opposed this change, noting that this could give a male officer free rein to pat down or stripsearch a woman if the scanner detects something. Even if no touch is involved in the search, a police search is still a potentially traumatising experience underpinned by a really significant power imbalance, which is why the safeguard is important. Particularly given what we know about the Queensland Police Service and in the absence of an independent police integrity unit, as was recommended by the inquiry into police responses to domestic and family violence, this bill is not clear enough to safely allow that new level of discretion.

All of this is aside from the fact that strip searches are an outdated, violent and unnecessary practice that should not be happening at all while an alternative exists. The Queensland Human Rights Commission's report on this last year, titled *Stripped of our dignity*, concluded that strip searches fail to

achieve improved prison safety and, at the same time, unreasonably limit the human rights of prisoners, their children and families, and prison staff. The Human Rights Commission recommends that, even upon someone's first entrance to a watch house, strip searches should only happen where it is the least restrictive option available.

Unfortunately, these bills have little regard for the rights of anyone involved in the criminal legal system, and I share concerns stakeholders raised about the police powers bill's changes that expand who can assess a prisoner for a safety order. These orders can often mean someone is kept in solitary confinement, which has serious impacts on their mental health and ultimately their chances of rehabilitation. It seems appropriate that they are reserved for exceptional circumstances and only following an assessment by a doctor or a psychologist.

There was a little more I wished to say on this but, again, having to cram two bills into a 10-minute speaking slot has deprived me and many others in the House of that opportunity. I would observe that we have—yet again—this government wanting to ram through two bills, apparently with not only not much regard for the debate in here but also little concern for the actual consequences of the legislation.