




Speech By
Hon. Nikki Boyd

MEMBER FOR PINE RIVERS

Record of Proceedings, 21 March 2024

POLICE POWERS AND RESPONSIBILITIES AND OTHER LEGISLATION AMENDMENT BILL

Introduction

 **Hon. N BOYD** (Pine Rivers—ALP) (Minister for Fire and Disaster Recovery and Minister for Corrective Services) (12.07 pm): I present a bill for an act to amend the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004, the Corrective Services Act 2006, the Crime and Corruption Act 2001, the Mental Health Act 2016, the Planning Regulation 2017, the Police Powers and Responsibilities Act 2000, the Public Health Act 2005, the Summary Offences Act 2005, the Terrorism (Preventative Detention) Act 2005 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 on behalf of the Minister for Police. I nominate the Community Safety and Legal Affairs Committee to consider the bill.

Tabled paper: Police Powers and Responsibilities and Other Legislation Amendment Bill 2024 [429](#).

Tabled paper: Police Powers and Responsibilities and Other Legislation Amendment Bill 2024, explanatory notes [430](#).

Tabled paper: Police Powers and Responsibilities and Other Legislation Amendment Bill 2024, statement of compatibility with human rights [431](#).

The Miles government is an inclusive government and we recognise that governments must continue to evolve with modern society. On 14 June 2023, the parliament passed the Births, Deaths and Marriages Registration Act 2023. From the commencement of that act, members of the Queensland trans and gender-diverse community will be able to update their birth record by nominating a sex descriptor of their choice that is most appropriate and meaningful to them.

As part of its consideration of these reforms, on 24 February 2023 the then Legal Affairs and Safety Committee tabled report No. 41, 57th Parliament, *Births, Deaths and Marriages Registration Bill 2022*. In relation to recommendation 3 of that report, the Queensland government committed that each agency would undertake an audit of its portfolio legislation to identify and assess the use of gendered language and determine whether any amendments were needed in light of that bill.

Given this, the Miles government is modernising safeguards when it comes to personalised searches, inspection of a person's belongings and forensic procedures to better recognise and promote the rights of diverse Queenslanders. Every day police officers, watch house officers and protective service officers search people and their belongings to keep the community safe. They uncover contraband like weapons, drugs and phones and get them out of the wrong hands. Currently, some safeguards require that the person being searched and the officer conducting that search must be of the same sex.

To ensure those searches remain legal, the bill enshrines safeguards in primary legislation around: people who are being searched being able to express a preference regarding the gender of the officer conducting the search; replacing existing same-sex safeguards with a new framework to provide protections in the exercise of powers, enabling the consideration of a person's gender; and remove the ability for any police officer to view the monitor of a video camera in the area where a person is

searched. The new safeguards retain the safe gender starting point; that is, the officer and the subject person should be of the same gender. The framework acknowledges that there may be times that a person would prefer to have a power exercised against them by a person of a different gender.

The new framework requires that: before exercising a power, the officer must explain how the power will be exercised and ask the subject person if they have any preference about the gender of the officer who exercises the power; a preference expressed by the subject person must be accommodated unless limited exceptions apply; and for some powers, the power can be exercised by a different officer for the upper and lower parts of the body.

Importantly, there are circumstances in which a power may need to be exercised against a person's preference. These are: where there are reasonable grounds to believe the expressed preference was made in bad faith or for an improper purpose; or where it is not reasonably practical to accommodate the preference; for searches and inspections, to address a concern related to gender in a way that minimises embarrassment and offence; and for forensic procedures, where there is a significant risk of evidence being lost or destroyed if the procedure is delayed to accommodate the preference. This will allow officers to protect the Queensland community while also recognising the diverse needs of members of the public and ensuring that the rights and safety of individual officers are protected in the course of their duties.

The bill also includes amendments to personal search provisions in the Crime and Corruption Act 2001 to introduce new gender-based safeguards in alignment with the amendments being made to the Police Powers and Responsibilities Act 2000, and it amends the Mental Health Act 2016 and the Public Health Act 2005. One of the primary aims of the amendments is to remove gendered language from police legislation unless it is absolutely necessary. This includes amendments to procedures related to the photography of breasts and the reporting obligations of reportable offenders. Currently, police officers either require a court order or are prohibited from requiring a female or a transgender person who identifies as female to expose their breasts for photography to capture evidence such as bruising or identifying features such as tattoos. The proposed amendments enable such evidence and identifying features to be recorded.

Consistent with the search safeguard, the bill inserts a new safeguard with the starting point that the photograph must be taken by someone of the same gender as the subject person. Further, it provides that the subject person must be given an explanation of the process and a reasonable opportunity to express a preference about the gender of the person taking the photograph. Requiring a court order in these circumstances would create an unjustifiable impost on the QPS.

The bill will also address critical issues impacting on the safe delivery of corrective services through amendments to the Corrective Services Act and Planning Regulation. We want an efficient and effective parole process that limits further trauma for victims. It is a priority for us. The Miles government will always put victims and victims' families first. Parole is not a right. Parole can only be suitable where a prisoner does not present an unacceptable risk to the community. There will be times when the independent Parole Board considers that the risk to the community is too great and they do not grant parole. Where a prisoner is refused parole, the Corrective Services Act provides how long a prisoner must wait before they can reapply. The majority of prisoners can reapply after only six months. Only life sentenced prisoners, who make up just over three per cent of the prisoner population, can be restricted from reapplying for longer—up to a maximum of three years. In the time that I have been Minister for Corrective Services I have met with several victims of crime and peak bodies. They have been clear that, as victims, repeated parole applications can leave them retraumatised. The Miles government has been clear: we are on the side of victims, and we want to minimise the retraumatisation of victims of crime and their families. That is why this bill extends the maximum parole periods the board may set to protect victims of crime from further trauma.

If Parole Board Queensland refuses a prisoner's parole application, the Parole Board will now be able to set a longer period of time before they can reapply. For life sentenced prisoners this period will be up to five years. For other long-term prisoners this period will be up to three years. For all other prisoners this period will be up to one year. The amendment gives the Parole Board more discretion to set an appropriate period that reflects the prisoner's prospects of release, reducing the need to consider reapplications from prisoners regularly when they have taken no steps towards rehabilitation. The bill ensures an efficient and effective parole system by reducing unnecessary reapplications so the board can prioritise other decisions. These changes do not affect a prisoner's ability to apply for exceptional circumstances parole, and the Parole Board can still consent to a new parole application during the restricted period. This will also reduce the administrative burden on the Parole Board from frequent parole applications and support an efficient parole system. We have heard from victims that repetitive reapplications have a devastating impact on them.

Next I would like to discuss safety order decisions for prisoners. Safety orders are made under the Corrective Services Act. They provide for the effective management of prisoners at risk of self-harm or suicide or harm from, or to, others. Currently, only doctors or psychologists employed by Queensland Corrective Services are approved to conduct clinical assessments of prisoners at risk of harming themselves or others. The timeliness of these assessments is essential to ensuring the continued safety and wellbeing of prisoners and Corrective Services staff. In light of the national critical shortage of psychologists, this bill expands the range of professionals able to be appointed to this role with suitable mental health training, qualifications and experience. As a strong safeguard, this bill clarifies that professionals with these qualifications will also be required to have appropriate training in assessing a prisoner's risk of self-harm or suicide in the context of a correctional centre in order to be appointed.

Lastly, in relation to Corrective Services the bill clarifies the application of planning legislation to the development of Corrective Services infrastructure on prescribed lots of land.

The Miles government is committed to an inclusive Queensland. We will always stand up for the rights of all Queenslanders, including our trans and gender diverse communities, victims of crime and our hardworking frontline officers. In addition to modernising several acts through the removal of gendered language, the bill recognises the trans and gender diverse community by introducing a safe gender starting point for searches and a dialogue model safeguard which recognise gender diversity and provide responsive protections when powers are exercised.

To ensure that the use of powers affected by these safeguards remains both practical and lawful, the amendments are proposed to commence alongside the new Births, Deaths and Marriages Registration Act 2023. This bill will also minimise the retraumatisation of victims of crime by extending the maximum periods the Parole Board may set before considering a subsequent parole application. I commend the bill to the House.

First Reading

Hon. N BOYD (Pine Rivers—ALP) (Minister for Fire and Disaster Recovery and Minister for Corrective Services) (12.19 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 Safety and Legal Affairs Committee

Madam DEPUTY SPEAKER (Ms Lui): In accordance with standing order 131, the bill is now referred to the Community Safety and Legal Affairs Committee.