



Speech By
Hon. Nikki Boyd


MEMBER FOR PINE RIVERS

Record of Proceedings, 21 May 2024

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

Police Powers and Responsibilities and Other Legislation Amendment bill resumed from 21 March (see p. 856) and Corrective Services (Promoting Safety) and Other Legislation Amendment Bill resumed from 13 February (see p. 36).

Second Reading (Cognate Debate)

 **Hon. N BOYD** (Pine Rivers—ALP) (Minister for Fire and Disaster Recovery and Minister for Corrective Services) (11.22 am): I move—

That the bills be now read a second time.

The Miles government has made it clear that community safety is a priority. The Corrective Services (Promoting Safety) and Other Legislation Amendment Bill and the Police Powers and Responsibilities and Other Legislation Amendment Bill support the safety of the Queensland community.

On 12 April 2024 the Community Safety and Legal Affairs Committee tabled its report on the Corrective Services (Promoting Safety) and Other Legislation Amendment Bill. The Community Support and Services Committee considered the Police Powers and Responsibilities and Other Legislation Amendment Bill and tabled its report on 10 May 2024. The committees have recommended that both bills be passed. The committees have made further recommendations about the amendments in the bills. The police minister will provide further detail relating to the Queensland Police Service amendments and will respond to matters relating to the Queensland Police Service during consideration in detail. I will leave it to the police minister to table the government's response to the committee's report in relation to the Police Powers and Responsibilities and Other Legislation Amendment Bill. I table the government's response to the committee report in relation to the Corrective Services (Promoting Safety) and Other Legislation Amendment Bill.

Tabled paper: Community Safety and Legal Affairs Committee: Report No. 7, 57th Parliament—Corrective Services (Promoting Safety) and Other Legislation Amendment Bill 2024, government response [816](#).

Being tough on crime means making sure criminals who are a risk to community safety are detained and offered rehabilitation. As such, Queensland Corrective Services provides for the supervision and rehabilitation of almost 30,000 prisoners and offenders with around 10,800 prisoners in detention centres. It is vital that corrective services officers managing prisoners and offenders are supported in their roles and that their safety is protected. It is equally important to ensure the safety of victims and to protect the community. I extend my thanks to the committee for its consideration of the bill and to those stakeholders who made submissions and gave evidence at the public hearing. I will now discuss the committee's recommendations and the government response in detail.

First I mention recommendation 2 relating to parole applications. The committee's second recommendation is for the Queensland government to consider allowing non-written parole applications from prisoners. While there are no legislative barriers that prevent this recommendation from being implemented, QCS and the board will need to work through any changes to the parole application process to ensure they are operationally viable. Allowing prisoners to apply for parole in a non-written format will be considered as part of ongoing work.

The third recommendation in the committee report relates to clause 32 of the bill, which inserts new section 340AA into the Corrective Services Act. This section provides discretion for a decision-maker acting under the Corrective Services Act to withhold the detail of information that informed the decision for prescribed reasons. The majority of the committee recommended that the government consider the merit of amending new section 340AA to:

- provide for a public interest test in relation to the decisions in order to determine whether the impact of disclosure outweighs the right to natural justice;
- require that decision-makers keep a record of reasons even if they are not required to disclose these reasons to a prisoner; and
- clarify that the section does not apply to statements of reason under the Judicial Review Act.

Based on these recommendations, I propose that minor amendments to clause 32 of the bill be made during consideration in detail. The first recommendation is to provide a public interest test in relation to decisions to determine whether the impact of disclosure outweighs the right to natural justice. I am advised that a public interest test will not provide adequate protections for confidential victim information. However, I propose amendments to require a balancing test in relation to the decision. I want to be very clear: in a choice between the rights of offenders and the rights of victims, we choose the rights of victims.

These amendments will clarify that a decision-maker is not required to disclose sensitive information if the information fits within the prescribed criteria and the decision-maker considers the benefit of not disclosing the information outweighs the rights of the offender. The prescribed criteria include whether the disclosure could be reasonably expected to eventuate in harm to an individual or the community; would prejudice natural security or public safety; or would prejudice detection, investigation or prosecution by a law enforcement agency. If information is withheld the decision-maker will still be required to provide the essence of the information that was withheld. Amendments to section 340AA of the bill will also require a decision-maker to document and keep a record of any reason for withholding information under the section. This responds to the second point of the committee recommendation.

In relation to the third part of recommendation 3, the legislation does not exclude the application of new section 340AA for its statements of reason given under the Judicial Review Act. To do so would undermine the effectiveness of the provision by essentially enabling a prisoner or offender to obtain the withheld information by requesting a statement of reasons under the Judicial Review Act. Most importantly, this would not provide material protection and reassurance to victims. The importance of victims knowing that their information is protected and will not be disclosed to the person who offended against them was highlighted by Mr Brett Thompson, Chief Executive Officer of the Queensland Homicide Victims' Support Group, in his evidence to the committee. The new section 340AA in the bill is one of the ways the Miles government is supporting victims and improving their experience of navigating the criminal justice system.

The fourth and final recommendation in the committee report was that a privacy impact assessment be conducted before implementing provisions relating to corrective services officers using body worn cameras in the community. The government supports this recommendation and Queensland Corrective Services will conduct a privacy impact assessment for the use of body worn cameras in the community prior to the provision commencing.

I would now like to address the statement of reservation provided by opposition members of the committee. The member for Theodore and the member for Scenic Rim published a statement of reservation in relation to recommendation 3 of the committee report. The government response to that recommendation ensures that the original policy intent is upheld by ensuring appropriate protections for those impacted by these decisions.

The member for Mirani also published a statement of reservation expressing concerns with amendments that remove same-sex search requirements from the Corrective Services Act, replacing them with a head of power to prescribe these requirements in a regulation. I am assured by Queensland Corrective Services that the development of a future regulation will be subject to internal and external consultation to ensure the requirements for searches are tailored to the correctional environment and

provide sufficient safeguards for all people involved with searches. The member for Mirani also expressed concerns that the new section 340AA is incompatible with the Human Rights Act and inconsistent with the rules of procedural fairness. The statement of compatibility accompanying the bill details how the amendment is compatible with the Human Rights Act. A further statement of compatibility will be tabled with the minor amendments made to 340AA.

The bill includes amendments to support victims by improving the Queensland Corrective Services victims register process. The bill streamlines the victims register registration process by enabling an entity supporting a victim, such as a victim support group, to apply on their behalf. This shields victims from having to repeatedly disclose potentially traumatising information. Currently, an eligible person must be removed from the victims register when a prisoner is no longer managed by Queensland Corrective Services. In circumstances where the relevant prisoner returns to custody, a new application must be submitted by the victim in order to re-register.

The bill provides discretion for an eligible person to be re-registered on the victims register within 90 days, removing the requirement for a new application. This bill also provides the chief executive with discretion to register a victim on their own initiative, with the person's consent. This provision may be used where Queensland Corrective Services already has the information or access to the required information, such as an interstate transfer or where a child victim turns 18 and consents to be registered. These amendments acknowledge that where information necessary to register a person on the victims register already exists, requiring a victim to retell their story is potentially traumatic and unnecessary.

The bill extends the victims register eligibility criteria to victims and persons affected by a homicide offence. This recognises that these offences, like other serious offences, have lifelong impacts. The bill allows for a victim to register against a homicide offender regardless of the offender being under Queensland Corrective Services' supervision for the homicide offence or a different offence. The bill also removes any doubt that a victim may register against an offender subject to an order under the Dangerous Prisoners (Sexual Offenders) Act whether that offender is in custody or on a supervision order.

Providing a victim submission to the Parole Board Queensland in relation to a prisoner's parole application is an understandably stressful process for victims. Providing these submissions takes courage and victims must be supported through this process. This bill provides flexibility for the Parole Board Queensland to accept submissions in a format other than writing. It ensures a victim is not disadvantaged if they are illiterate or where English is their second language. Currently, while a victim may nominate someone to receive information from the victims register on their behalf, this does not extend to notification of parole applications. Arguably, this is the most stressful information a victim may receive. The bill ensures that victims can nominate a person or body, such as a victims advocacy group, to receive this information on their behalf.

The bill updates the information that the victims register must provide and may provide to a victim under sections 324A and 325 of the Corrective Services Act. This includes changes, such as allowing the victims to be told about any matter relevant to the prisoner's parole rather than just the fact that the prisoner submitted a parole application. The prisoner's deportation or removal status under the Migration Act, if it is known, will also be disclosed to a victim. The bill also clarifies that a victim registered against a homicide offender who is on community-based supervision may be informed of matters about the offender that are known to QCS and if it is appropriate to disclose that information to the victim. The bill includes a safeguard that the chief executive does not have to provide information to a victim if they reasonably believe the disclosure will endanger the safety and security of a Corrective Services facility, the safe custody or welfare of a prisoner or the safety or welfare of someone else.

Regular positive communication with supportive family and friends is an essential component of the rehabilitative journey for many prisoners. However, some prisoners misuse communication systems to perpetrate crime and to re-victimise people in our community, particularly in relation to domestic and family violence. The bill includes a suite of amendments intended to limit abuse of prisoner communications. This includes strengthening the approval process for a prisoner to add someone to their phone list and clearly providing the chief executive with the authority to revoke or suspend the approval. The bill also expands the chief executive's powers to end calls involving violence, coercion, harassment or threats.

The bill introduces the concept of 'prohibited prisoner communication'. Prohibited prisoner communication includes a prisoner's personal call which constitutes or facilitates an offence, a breach of a domestic violence order or notice or other court order against the prisoner, domestic violence, a threat to a person's welfare or safety, an incitement to commit violence against a person or to destroy property, gambling by a prisoner or a threat to the security or good order of a corrective services facility. The bill enables the chief executive or delegate to set limits on the length and frequency of a prisoner's

personal calls. More restrictive terms and conditions may be applied if the prisoner is likely to use personal calls to engage in prohibited prisoner communication. The bill includes a safeguard to ensure a prisoner must not be prevented from making at least seven personal calls in a seven-day period. The amendments do not impact a prisoner's ability to contact their lawyer or engage in authorised prisoner communications, such as with the Ombudsman.

A portion of offenders who are supervised by Queensland Corrective Services in the community under the Dangerous Prisoners (Sexual Offenders) Act are also child sex offenders and reportable offenders subject to the Child Protection (Offender Reporting and Offender Prohibition Order) Act. These offenders are only required to make an initial report to the Queensland Police Service before their CPOR reporting obligations are suspended. As these obligations are suspended, some police powers that would ordinarily apply are also suspended. This bill enlivens the police powers that would ordinarily apply under the Child Protection (Offender Reporting and Offender Prohibition Order) Act and the Police Powers and Responsibilities Act. The bill also amends the Child Protection (Offender Reporting and Offender Prohibition Order) Act to clarify that police are authorised to inspect electronic devices where an officer forms a reasonable suspicion that the offender has committed an indictable offence against the Dangerous Prisoners (Sexual Offenders) Act. These amendments ensure police powers remain in place regardless of whether the offender is reporting to police or Queensland Corrective Services.

Body worn cameras play a vital role in capturing evidence and serving as a deterrent to antisocial behaviour. The bill provides clear authority for the use of body worn cameras by corrective services officers outside of the custodial environment. This includes safeguards to ensure staff and prisoners' rights to privacy are balanced with the need to maintain safety and security. The bill includes a higher threshold for body worn camera activation in sensitive locations such as a private residence or change room.

In addition to this, the Police Powers and Responsibilities and Other Legislation Amendment Bill includes amendments to the Corrective Services Act. The bill extends the maximum periods the board may decide to restrict a prisoner from reapplying for parole following a refusal. The maximum period that can be set increases from three years to five years for life sentenced prisoners, from six months to three years for long-term prisoners and from six months to one year for all other prisoners. Allowing the board to set longer periods between applications where the board has determined there is no prospect of earlier release will reduce retraumatisation of victims through frequent and unnecessary parole applications.

The bill also expands the range of suitably qualified professionals who can assess a prisoner's risk of self-harm or suicide in the correctional environment. The bill provides that an authorised practitioner may also perform such assessments. The practitioner must hold a relevant professional qualification and meet specific registration, competency and training requirements that are set out in the policy. I note the committee recommendation for Queensland Corrective Services to consider a proactive campaign to recruit qualified psychologists. I thank the committee for its recommendation and note the current targeted recruitment campaign and the psychological services workforce planning project which will continue to explore opportunities.

I now turn to the other amendments in the Police Powers and Responsibilities and Other Legislation Amendment Bill, the Mental Health Act 2016 and the Public Health Act 2005. The bill amends safeguards in police, Crime and Corruption Commission and mental health and public health legislation for the exercise of particular powers to ensure that trans and gender diverse people receive the same protections as other Queenslanders. The amendment replaces the existing same-sex safeguard for personal searches with new frameworks to retain the same gender starting point but create a new dialogue model, enabling a respectful discussion. The bill also updates the same-sex safeguard that applies where a person authorised to perform a forensic procedure requests assistance from another person to conduct a forensic procedure. This aligns closely with the new safeguards for personal searches and applies only to people who are not health professionals.

This bill will also enable a police officer in some circumstances to require a person of any gender to expose their breasts for photography. Photographs capturing permanent distinguishing marks like birth marks, scars, tattoos, bruises or an injury can help provide evidence to ensure the detection and successful prosecution of offences. This bill again inserts new safeguards in line with those for personal searches.

The Queensland government is committed to cracking down on knife crime. This bill will strengthen the ability for police officers to detect knives and other potentially harmful objects and keep our community safe by enabling police officers to conduct a scan of any person regardless of sex or gender. This bill will not change other existing safeguards. This is a bill that aims to keep the community safe and prioritise the rights of victims. I commend the bill to the House.