




Speech By  
**Stephen Andrew**

**MEMBER FOR MIRANI**

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Record of Proceedings, 21 May 2024

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

 **Mr ANDREW** (Mirani—PHON) (3.07 pm): I rise to speak on the cognate debate with specific reference to the Corrective Services (Promoting Safety) and Other Legislation Amendment Bill 2024. According to the explanatory notes, the bill's purpose is to enhance the safety of frontline corrective services officers, victims of crime and the broader community. The bill includes provisions that will allow the chief executive to revoke approval for, or place limitations on, a prisoner's personal calls depending on the level of risk and other factors. Neither the prisoner nor the individual affected would have any opportunity to have input into the chief executive's decision to suspend approval for a personal call to an individual.

According to Queensland Corrective Services, these unlimited powers for restricting a prisoner's personal calls are to ensure the continued safety and security of corrective services facilities in Queensland. Along the same lines, the bill greatly expands police powers, including the circumstances in which a police officer may enter premises where a reportable offender resides; photograph a thing if a reportable offender is required to report information about that thing; and access a reportable offender's digital device. Under the bill, it will be an offence for a reportable offender to fail to comply with a requirement to give a police officer access to a digital device and its contents. The explanatory notes acknowledge that these amendments may be inconsistent with fundamental legislative principles and could result in self-incrimination.

A number of submitters raised concerns over how broad the powers are. Legal Aid Queensland notes that the expanded powers—

... have the potential for overuse or be abused with respect to a group of prisoners whose movements are already heavily monitored and restricted.

LAQ also points out that—

There is no requirement that the exercise of the power is reasonably necessary to monitor compliance with the order.

In relation to the expanded powers around accessing digital devices, LAQ observed that—

These provisions provide: .. a blanket authority for police to access a device where it is not reasonably necessary to investigate the indictable offence under the order, and therefore unreasonably infringes upon the prisoner's right to privacy in circumstances where it is gratuitous.

The requirement for a searching officer to be the same sex as the prisoner is one of several safeguards in the current Corrective Services Act 2006. The safeguard was originally introduced to protect the privacy of female prisoners, particularly given the intrusive nature of some searches. The current bill removes the safeguard, saying that a new principle of flexibility will be added to the

requirements in subordinate legislation after the bill is passed. As the Queensland Human Rights Commission noted, the benefit of 'increasing flexibility will likely be outweighed by a reduced level of legislative protections, and reduced opportunity for input into the drafting of regulations'.

The commissioner expressed concerns over this use of regulation, instead of primary legislation saying—

While there may be an intention to consult with stakeholders while developing regulation in the first instance, the principle's removal from the primary legislation diminishes the opportunity for community input and parliamentary scrutiny of these issues. In the QHRC's experience, amendments to regulations are rarely the subject of consultation by departments.

The commissioner goes on to say—

... while a human rights certificate must be completed for subordinate legislation, the human rights analysis and parliamentary scrutiny is perfunctory.

The bill also expands the use of body worn cameras by corrective services officers to include when they accompany prisoners out in public areas within the community. As the Information Commissioner submitted, this expanded use of body worn cameras should be subjected to privacy impact assessments. The OIC has produced guidelines for agencies outlining the privacy impacts and information access obligations agencies must consider when implementing or expanding a camera surveillance system, which includes body worn cameras. According to the OIC—

While the collection of personal information using these technologies may be considered necessary to ensure the safety and security of corrective services staff, prisoners and other individuals, it should be appropriately balance so as not to intrude unreasonably into the personal affairs of those individuals. A PIA will assist to identify privacy risks and appropriate mitigation strategies.

The OIC advised that a privacy impact assessment also needs to be—

... updated at key phases throughout the life cycle of the implementation and use of surveillance technologies, including the passing of the legislation and prior to adoption of any new surveillance technologies.

The bill inserts new section 340AA into the act to provide decision-makers with the discretion to withhold the details of information or reasons behind a decision. Information can be withheld if the decision-maker is satisfied that releasing the information could reasonably be expected to cause harm, prejudice public safety or national security, prejudice the detection, investigation or prosecution of an offence, disclose the identity of a confidential source or releasing the information is prohibited under another law. Again, all this is very broad, not to mention inconsistent with the rules of procedural fairness.

The principle of procedural fairness, which is also known as natural justice, is one of the fundamental legislative principles specified under section 4 of the Legislative Standards Act 1992. Moreover, Queensland's Judicial Review Act grants people adversely impacted by a decision the right to know the reasons for that decision. Currently, information may only be excluded in cases where the Attorney-General has certified that disclosure of the information is contrary to the public interest.

The bill before the House will bypass this important safeguard by removing any need for a public interest assessment to be carried out by the Attorney-General. The proposed section also removes any requirement for the Attorney-General to keep a record of the reasons on which a decision to restrict certain information was based. This is clearly inappropriate. The absence of such a requirement in the bill will significantly undermine the capacity of the courts to examine a decision as part of judicial review proceedings. The section is also incompatible with Queensland's Human Rights Act, which states that a party to a civil proceeding has the right to a fair hearing.

A number of submitters also expressed serious concerns that these amendments would greatly limit a prisoner's ability to respond to reasons for a decision. According to the Prisoners' Legal Service—

PLS considers that the proposed amendments undermine accountability and transparency in executive decision-making and fail to promote community safety. Accountability, transparency and related rights are especially important in the context of parole decision-making because these principles allow a prisoner to understand their responsibilities in relation to release and rehabilitation.

The proposed amendments provide expansive discretionary powers for withholding details of relevant information from prisoners who are eligible for parole about why they remain in custody. As Legal Aid Queensland states—

... an information notice provided to a prisoner making an application for a parole order that refers only to 'confidential information' as a reason for a substantial reason for parole cancellation does not give the prisoner any information to which they can meaningfully provide a response.

The practical consequence of this is that prisoners will remain in custody for longer because they will be unable to address any of the criteria used—

**Madam DEPUTY SPEAKER (Ms Lui):** Member, can I please ask you to take your seat? Under the provisions of the business program agreed to by the House and the time limit for this stage of the bill having expired, I call the minister to reply to the second reading debate.