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CRIME & JUSTICE

Rejects granted Blue Cards despite Queensland officials deeming them too risky to work with kids

Natasha Bitu, The Courier-Mail

June 4, 2018 9:00am

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CONVICTED drug addicts, deadly drivers and child bashers are being handed Blue Cards, despite Queensland justice officials deeming them too risky to work with children.

The Queensland Civil and Administrative Tribunal has overturned one in every four Blue Card bans in the past six years.

A *Courier-Mail* investigation has found that in the past 12 months, QCAT granted Blue Cards to 24 people the Department of Justice had rejected as a potential risk to children.

They included a teenage tutor who killed another driver in a failed suicide attempt, and a worker who stole \$95,000 from a children's charity.

A former ice addict was granted a Blue Card, despite Justice Department concerns about his "recent and frequent" drug history.

A woman who had a drug lab in her backyard, along with two mothers charged with assaulting their own children, were given Blue Cards.

QCAT granted a Blue Card last year to Billy James Cody, who was jailed in 2014 over the death of another driver when he smashed into two cars while driving drunk and drugged.

The Justice Department told QCAT Mr Cody had "recklessly endangered the safety of others ... he chose to drive after consuming alcohol and drugs".

But QCAT member Steven Holzberger ruled there was "no specific risk to children".

He said Mr Cody was 18 at the time of the crash and was effectively treating and managing his autistic spectrum disorder.

The Justice Department denied a Blue Card last year to a woman it said "at best, was wilfully blind" to



📷 Billy James Cody was jailed in 2014 over the death of another driver when he smashed into two cars while driving drunk and drugged.
Picture: Megan Slade

her former partner's drug lab in her backyard.

But the woman appealed against the decision to QCAT, which ruled she should get a Blue Card because she was unaware of her former partner's drug issues.

A bipolar woman who pleaded guilty to assaulting her own three children in 2014 – and then breached her bail conditions by trying to see her son at school and abusing the principal in front of other children – won her QCAT appeal last June.

QCAT member Julie Ford ruled the woman had been under extreme stress while suffering a manic episode and had since shown remorse and insight.

Blue Cards are transferable, so a card granted to coach junior soccer can be used to work in childcare or have children sleep over in "home stays".

The existing law bans Blue Cards for anyone convicted and jailed for serious child sex offences, the murder of a child, or offences related to child exploitation material.

But other criminals, including drug dealers, armed robbers and wife bashers, can get a Blue Card if the Department of Justice decides they are an "exceptional case where a person is not a risk to children".

Bravehearts founder Hetty Johnston yesterday said people with other kinds of criminal records should also be ineligible to get Blue Cards.


"The law isn't strict enough, and it's too easy to get a Blue Card," she said.

A State Government review last year recommended 81 changes to approvals for working with children, including a ban on Blue Cards for a broader range of crimes.

A Blue Card Services spokeswoman yesterday said QCAT appeals "provide natural justice".



“QCAT can also obtain and review information that may not have been available to, or accessible by, Blue Card Services when making the original decision,” she said.

 Hetty Johnson from Bravehearts. Picture: Jono Searle.

“All Blue Card applicants and cardholders’ criminal records are monitored daily by the Queensland Police so Blue Card Services can take action, including suspending or cancelling a Blue Card – which prohibits the person from working with children – if there is a relevant change in a person’s criminal history.”

A spokeswoman for Attorney-General Yvette D’Ath yesterday said “work is well underway” on the Blue Card reforms recommended eight months ago.


EX-ICE ADDICT CLEARED TO WORK WITH CHILDREN

A FORMER ice addict has been granted a Blue Card, despite Justice Department concerns about his “recent and frequent” drug history.

Michael Patraic Murray, 40, has a history of drug convictions and was found not guilty of dangerous driving causing death after killing a pedestrian on the Gold Coast in 2006.

The Justice Department rejected his Blue Card application last year on the grounds of “recent, frequent and extensive drug-related activities”.



 Former drug addict Michael Patraic Murray has made 'a remarkable and significant turnaround in his life'.

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"Drug use and drug-related activities will be likely to detract from his ability to provide a protective environment for children placed in his care, and his ability to present as an appropriate role model for them," Blue Card Services screening unit director Michelle Miller stated in her decision.

But Mr Murray appealed to the Queensland Civil and Administrative Tribunal, which ruled that he had made a "remarkable and significant turnaround in his life" after a year in the Salvation Army's Fairhaven drug rehabilitation centre.

"Mr Murray would only present a risk to children if still using illicit drugs," QCAT member Andrew McLean Williams stated in his decision in February.

"Yet it appears improbable that Mr Murray would now return to a life of drug addiction."

Mr McLean Williams said QCAT had heard evidence from representatives of the Australian Anti-Ice Campaign, the Salvation Army and two psychologists, who "were able to testify to the redemption that he has since undergone".

The QCAT ruling reveals that Mr Murray was convicted of drug offences in 1999 and 2014, and convicted for breach of privacy when he was "high on ice" on Anzac Day 2014 and peered over and under the door in a beachside shower block while a man was having a shower.

Mr Murray told QCAT "the man was known to him, and that he was trying to encourage him to become involved in the modelling industry".

In 2006, Mr Murray was charged with dangerous operation of a motor vehicle causing death after his car hit a pedestrian on the roadside, but a jury found him not guilty in 2008.

Mr Murray could not be contacted yesterday.



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Townsville Bulletin



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May a Townsville school employed a teacher's aide who allegedly showed a nude image of himself to Year 4 students. (generic image)

NEWS

Child safety Blue Card system left in limbo in Queensland

SAM BIDEY, Townsville Bulletin

November 16, 2017 12:00am



CHILD safety improvements in Queensland will be put on the backburner until the election is completed.

The *Townsville Bulletin* yesterday revealed more than 5000 people were currently working with children without a Blue Card due to a loophole in the system.

Under the current policy people can be employed to work with children while their Blue Card applications are pending.

In May, it saw a Townsville school employ a teacher's aide who allegedly showed a nude image of himself to Year 4 students on October 19.

Parents of the alleged victims of this incident have called for the 5421 people currently employed without finalised working with children checks to be stood down immediately.

However, a spokeswoman for Attorney-General Yvette D'Ath said this could not be done before the election.

"The government is not able to make policy or legislative changes while caretaker conventions are in place during the election campaign," the spokeswoman said.

"But that doesn't mean Labor won't make the system even stronger by closing a loophole that has existed for many years, even under the LNP.

"We'll introduce the 'no card, no start' requirements."

The "no card, no start" policy, announced as an election commitment by Education Minister Kate Jones to solve the Blue Card issue, would only be implemented by a re-elected Labor government.

The LNP acknowledge there was an issue with the system but Opposition justice spokesman Ian Walker would not say how the LNP would fix the problem.

"It's too little, too late for Labor to say they will close this loophole now on the eve of an election when they have had three years to do something and didn't," Mr Walker said.

"The system needs to be fixed as quickly as possible and every effort should be made to ensure that happens."

KAP leader and Mount Isa MP Robbie Katter said the system needed to be overhauled.

He suggested having Blue Cards assessed locally would speed up the application and checking process.

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ABC NEWS

Tighter screening of shopping centre Santas proposed in wake of Tiahleigh Palmer's death

By Ashleigh Stevenson, Chris O'Brien and Allyson Horn

Updated Thu 7 Sep 2017, 4:26pm

Shopping centre Santas and children's photographers will be required to have a Blue Card under proposed reforms to Child Safety laws.

Three reports into Queensland's child protection system, foster care system and blue card scheme were tabled in state parliament.

They were sparked by the death of 12-year-old Tiahleigh Palmer in 2015, whose foster father was charged with her murder.

The report into the Blue Card system recommends expanding the number of professions that require a Working with Children Check and ensuring blue cards have photo identification.

It also recommends expanding the offences that automatically disqualifies someone from obtaining a Blue Card to include abduction or kidnapping of a child and animal-related sexual offences.

Bravehearts Founder Hetty Johnston said the system needed to move away from being paper-based.

"I think we've really achieved something, a great big step forward," she said.

"Is it the whole answer? Probably not I don't know if we'll ever get the whole answer.

"But we're a lot further along the road now certainly than we were before.

"I feel really confident that we've done as much as we can do at this stage."

'Improvements being made'

The overall system report into the child protection system called for a budget focus on frontline staff and for a pool of child safety officers to be available to backfill.

Report author Linda Apelt said more officers were needed to deal with the demand of increasingly complex cases.

Premier Anastacia Palaszczuk told parliament funding had already been increased.

The 2017-2018 budget provides a \$200 million package to address pressures and capacity issues in the child protection system, including 236 additional child safety staff in 2017-18, increasing to 292 additional child safety staff in 2018-19.



PHOTO: The reports were sparked by the death of 12-year-old Tiahleigh Palmer in 2015.
(Supplied: Queensland Police Service)

RELATED STORY: Explained: How Tiahleigh's death is changing the child protection system

RELATED STORY: Tiahleigh Palmer's death prompts improvements to child safety system

RELATED STORY: Tiahleigh Palmer's foster father committed to stand trial for murder



PHOTO: Tiahleigh's mother Cindy Palmer, has been campaigning for justice since her daughter's death.

"These reports have helped us to target our unprecedented investment of more than 400 new child safety staff over two budgets to the areas of highest need," Ms Palaszczuk said.

The review of the state's foster care system found a need to strengthen personal history checks during the screening process for potential carers.

The expert panel made more than 40 recommendations.

Child Safety Minister Shannon Fentiman insisted the system was already strong but they would use the reports to improve.

"We will toughen background checks on prospective foster carers so that domestic violence history, traffic history, referee checks and medical clearance are mandatory right across the state," Ms Fentiman said.

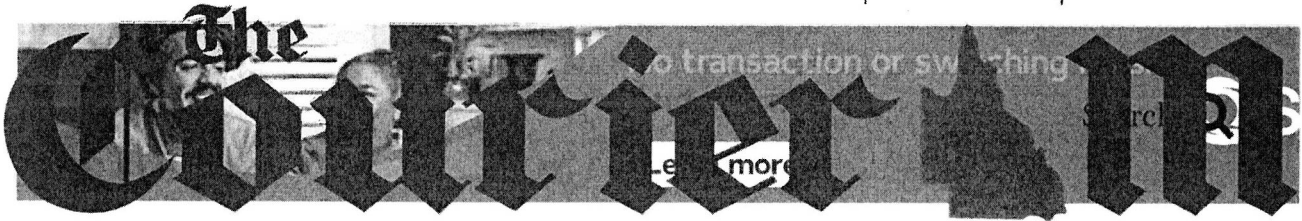
Tiahleigh Palmer's foster father Rick Thorburn was charged with her murder and foster brother Trent Thorburn charged with incest.

The 12-year-old had been missing from foster care for six days before her body was found on the banks of the Pimpama River in November 2015.

Topics: family-and-children, child-care, community-and-society, child-abuse, brisbane-4000, qld

First posted Thu 7 Sep 2017, 2:08pm

Contact Allyson Horn



Blue Cards haven't changed since they were introduced in 2002 despite significant advances in technology.

QLD NEWS

No faith in 'faceless' Blue Cards

Thomas Chamberlin, The Courier-Mail

October 1, 2016 12:00am

Subscriber only



LICENCES to work with children used by hundreds of thousands of Queenslanders do not require photographs despite almost every other identification card requiring one.

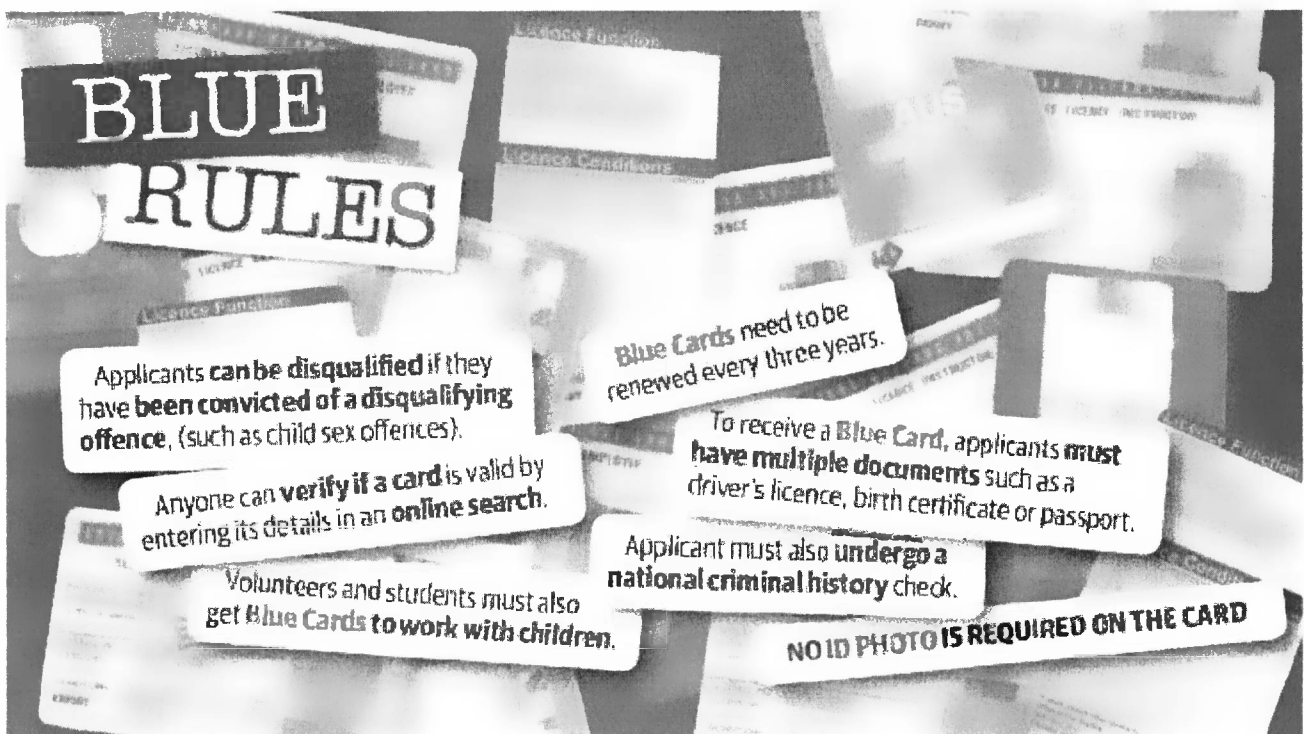
A Costco or theme park loyalty card and many gym memberships all have more security than a Blue Card, which has barely changed since they were introduced in 2002 despite significant advances in technology.

Photographs are also required for driver's licences, proof of age cards, security licences, firearms licences, maritime and aviation security licences, high-risk work licences, student cards and taxi driver licences.

Many of the cards also have sophisticated holograms.

Security experts, child-safety groups and senior police have raised concerns people could exploit loopholes in the Blue Card system in Queensland.

Victoria, WA, the ACT and NT all require photo identification on their working-with-children check cards.



There are 660,000 Blue Card holders in Queensland.

Child safety minister Shannon Fentiman said a review of Blue Cards would form part of a broader review of child safety systems in the wake of the death of Tiahleigh Palmer.

The 12-year-old schoolgirl had been in the care of a foster family who all lawfully held blue cards.

Hetty Johnson, who is the founder of Bravehearts and is on the external panel for the Blue Card and foster care inquiry said: "It (adding a photo) is one of the first things we should be looking at."

A senior police officer said in an era of "identity theft and fraud" it was questionable why photographs were not a requirement on Blue Cards.

"The opportunity of someone obtaining a Blue Card in an assumed name is certainly there and the reality of a 'borrowed' or 'stolen' Blue Card being used fraudulently is of serious concern."

Australian Nannies Association president Annemarie Sansom said any extra information or identification on Blue Cards would be positive.

"Unless they are checking other documentation ... yes a person could definitely be flashing a Blue Card and saying 'yes, I've got a Blue Card' and get away with it," she said.

Ms Sansom said families who approach people to work with their children in situations outside of regulated businesses or agencies should ask for a driver's licence and additional identification with photos and addresses.

While it is difficult to get a Blue Card — requiring a number of forms of identification, documents and a police background check — experts said the current card could be replicated.

Blue Cards for child-related employment, for which applicants must pay, have a hologram but some volunteer cards, which are free, do not.

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Specialised Career Solutions security manager Jarrad Broadhurst, who is licensed to teach in the areas of security, maritime, aviation, and firearms, said photos and holograms were a necessity.

"They've changed \$5 notes but they haven't changed Blue Cards when we have all these pedophiles out there," he said.

PPC ID Card Solutions marketing manager Jason Hicks said replicating the card would not be difficult.

Police Minister Bill Byrne said adding photo identification had “merit” but would defer to the recommendations to come from the Queensland Family and Child Commission inquiry.



THE AUSTRALIAN

Toddler killer 'could get job with children'

By **JARED OWENS**, and **MARK SCHLIEBS** REPORTER

12:00AM NOVEMBER 14, 2018

Queensland's new child protection crackdown would not block the man who killed toddler Mason Jet Lee from obtaining a "blue card" to work with children, the Liberal National opposition has warned.

After *The Australian* last month revealed a university student was granted a blue card despite being charged with rape, the Palaszczuk government yesterday unveiled legislation expanding the list of "disqualifying offences" that would automatically stop a person being cleared to work with children.

This includes the murder and rape of an adult, bestiality and child abduction.

Opposition Leader Deb Frecklington warned that the new law would not affect notorious offenders such as William O'Sullivan, who is serving a nine-year sentence for manslaughter and child cruelty over the death of his 22-month-old stepson Mason in 2016.

"It is unacceptable that the man who bludgeoned little Mason Jet Lee to death could still unbelievably get a blue card," Ms Frecklington told *The Australian*. "Under Labor's new flawed legislation, attempt to commit rape of a child, manslaughter committed against a child and cruelty to children are not considered disqualifying offences."

The LNP claimed the bill gave the Justice Department director-general discretion to clear rapists and murderers under certain rare circumstances. However, the government was adamant no rapist or murderer would ever be issued a blue card.

Attorney-General Yvette D'Ath said the government had "listened to community concerns, and is making these changes to ... (provide) even greater protections."

Bravehearts founder Hetty Johnston said she was "happy" with the law: "It's a no-brainer, really. It's common sense."

THE AUSTRALIAN

No appeal over rape accused's blue card

By **MICHAEL MCKENNA**, QUEENSLAND EDITOR

12:00AM OCTOBER 29, 2018

No appeal will be launched against a Queensland tribunal decision to give an international student charged with the rape of a woman a "blue card" allowing him to work with children.

After refusing last week to comment on the specific case, the Palaszczuk government yesterday conceded it had not exercised its right to appeal the decision that has shocked child-protection advocates.

Queensland's Civil and Administrative Tribunal ruled in August that the French national be allowed to hold a blue card because legislation disqualified those charged with rape only when the victim was a child.

A report into Queensland's blue card system — delivered in September last year after the murder of schoolgirl Tiahleigh Palmer while in state foster care — recommended the government "expand the range of offences" automatically disqualifying people from being authorised to work with children.

Child protection advocates have criticised continuing delays in the government's response to the recommendations of the independent report, which found "the current range of disqualifying offences does not meet community expectations".

A spokesman for the Palaszczuk government last night could not say whether a sexual assault charge or conviction against an adult was being considered as a disqualifying offence for a blue card.

"The government has accepted the intent of the recommendations," he said.

“The government is considering which additional offences will be included as ones that disqualify applicants from holding or applying for a blue card.”

The French national, who is studying a pharmacy degree in Brisbane and whose identity cannot be revealed because of legal reasons, is accused of raping a woman in December 2016. Police charged him in June last year.

His blue card was cancelled a month later by Justice Department director-general David Mackie under his discretion to consider such “serious” offences when determining whether a person could receive a blue card.

The student appealed to QCAT.

Under Queensland's Working with Children (Risk Management & Screening) Act, rape is among the offences — also including murder of an adult, kidnapping, bestiality and female genital mutilation — that do not automatically disqualify someone from holding a blue card.

QCAT found that because legislation disqualified only those charged with rape when the victim was a child and because the alleged crime was committed after a night of drinking in a private residence, the man's behaviour did not pose “a potential risk to children he may come in contact with”.

On Friday, the Justice Department and the office of Attorney-General Yvette D'Ath refused to comment on the case or whether QCAT's August 17 decision had been appealed.

Yesterday, a government spokesman confirmed there would be no appeal. “Expert advice is that there is no likelihood of a successful appeal,” he said.

Federal Assistant Minister for Children and Families Michelle Landry said the state government should have “closed the loophole” as recommended by the review of the blue card system.

THE AUSTRALIAN

Sex assault student teacher cleared to work with children

By **MARK SCHLIEBS**, REPORTER

12:00AM OCTOBER 30, 2018

A Queensland tribunal has allowed a man who admitted to two counts of sexual assault to work with children a month after finding an international student charged with rape should get such a “blue card”.

Last month, the Queensland Civil and Administrative Tribunal ruled that a blue card should be given to a man who was charged with rape and two counts of sexual assault in 2014. While the rape charge was dropped, the teaching student pleaded guilty to the sexual assault charges but had no conviction recorded. When he appealed the decision to refuse his blue card to QCAT, he said he pleaded guilty only when advised it would result in no conviction being recorded.

“The evidence suggests the applicant has no proclivity for engaging in offending behaviour,” the QCAT findings, handed down on September 21, said. “Indeed, the opposite: The alleged offending all occurred within the space of one hour, on one day, with no offending of any sort occurring before or after.”

In his decision, QCAT member Alan Collier also said he could “conclude” that the offences probably did not occur.

“It is not open to this tribunal to reopen settled judgments of the District Court but, on the balance of probabilities, the evidence, taken as a whole, leads me to conclude that the offences did not take place,” Dr Collier said.

This followed the case of a French student, revealed by *The Weekend Australian*, who had his blue card revoked after being charged with rape last year and who successfully

had that decision overturned in the QCAT. QCAT found that — because legislation only disqualified those charged with rape when the victim was a child and because the alleged crime was committed after a night of drinking in a private residence — the man's behaviour did not pose “a potential risk to children”.

That case prompted calls by the state opposition and federal Assistant Minister for Children Michelle Landry to “close the loophole” in Queensland's Working with Children (Risk Management & Screening) Act.

Under the legislation, the rape of an adult is among “serious offences” — also including murder of an adult, kidnapping, bestiality and female genital mutilation — that do not automatically disqualify someone from holding a blue card.

A review of the blue card system last year recommended the range of “disqualifying offences”, which currently focuses on crimes against children, be expanded. But a spokeswoman for Attorney-General Yvette D'Ath has said the director-general of the Justice Department rejected all applications where applicants committed a “serious offence”.

Those that have been rejected for a blue card under such “exceptional circumstances” have the ability to appeal the decision to the QCAT. Among successful appeals was a 2016 case of a psychologist who pleaded guilty to wilful exposure, but had no conviction recorded. The tribunal was told a woman had seen the man's erect penis while he sat in a ute in a public carpark at 1.45am.

QCAT found there was not the case that “it would not be in the best interests of children” for the man to be refused a blue card, saying he had “learned valuable lessons” since the incident.

NATIONAL QUEENSLAND COURTS

Rape accused granted blue card as tribunal overturns decision

By Jocelyn Garcia

October 27, 2018 – 5.14pm



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EXPLOSION

Man dies in shipping container explosion in Mackay



An international student accused of raping a woman last year has been granted a blue card thanks to a tribunal ruling his case was not exceptional and did not show he was a risk to children.

The 27-year-old man, who is studying pharmacy at a Queensland university and on a temporary student visa, was first issued a blue card in March, 2016.





The student will need to work at a pharmacy. VIRGINIA STAR

He was charged with rape in July last year and the card was cancelled one week later.

Due to his study requirements, the man would need to work in a pharmacy for work placement, which would require a blue card as he might be required to work with children.

He has disputed the allegations.

The Queensland Civil and Administrative Tribunal's decision to reissue the student's blue card was due to the evidence not reaching "the level of exceptional circumstances".

"The alleged offence, with which he is charged, was committed, at a time, when he was heavily intoxicated, he was not at work and was in a social setting," the statement said.

QCAT member Robert King-Scott's finding stated the matter had not proceeded through the committal stage and it would be unlikely it would go to trial in the near future.

His ruling did not see the man's behaviour on the night in question "as posing a potential risk to children he may come in contact with".

"It is not reasonable to compare the applicant's behaviour, in those circumstances to circumstances outlined in the respondent's submissions where he may be required to work with children or young people," the statement said.



Jocelyn Garcia



Jocelyn Garcia is a journalist at the Brisbane Times, covering breaking news.

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Mander slams 'flawed' Blue Card system

QLD NEWS

Blue card loophole could allow murderers, rapists to apply

Jack McKay, Council Reporter, The Courier-Mail

September 27, 2018 12:00am

Subscriber only



MURDERERS and rapists can apply for government approval to work with children in a bizarre technicality in the Blue Card system.

The Courier-Mail can reveal that some of the most serious offences that disqualify a person from even applying for a Blue Card only apply to those that have been committed against a child.

It means convicted killers and rapists who committed their crimes against adults can still apply for a Blue Card, allowing them to work with children if approved.

A spokeswoman for the Attorney-General Yvette D'Ath yesterday insisted those convicted of a serious offence against an adult, such as murder or rape, would have their Blue Card applications rejected.

But she conceded they could be granted one in exceptional circumstances by the director-general of the Department of Justice and Attorney-General.



📷 Queensland Attorney-General Yvette D'Ath speaks in Parliament House in Brisbane this week. Picture: Dan Peled/AAP

“Since Blue Cards were introduced, the legislation has always been framed so that offences against children are prioritised as disqualifying offences and there is no discretion for exemptions,” she said.

“Our Government takes the safety of Queensland’s children extremely seriously.”

Those applicants who are rejected to hold a Blue Card are still entitled to an appeal via the Queensland Civil and Administrative Tribunal.

Deputy Opposition Leader Tim Mander called for urgent law changes to be brought before State Parliament to correct the issue.

“It’s outrageous to think that there could be convicted murderers and rapists applying to work with children in Queensland,” he said.

RELATED CONTENT

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A disqualifying offence includes murder or rape of a child, but this does not extend to those who have committed the same offence against an adult.

Bravehearts founder and child safety advocate Hetty Johnston, who sat on the Blue Card review panel, said there was no way anyone who was convicted of murder would get a Blue Card in Queensland.





NEWS STATE QUEENSLAND

9:36pm, Jun 4, 2018 Updated: 10:05am, Jun 5

Child abusers and drug addicts granted working with children cards



Tracey Ferrier and Warren Barnsley

SHARE



A ban on Queenslanders with criminal records obtaining a blue card to work with children appears to be off the table, despite revelations the passes have been given to child abusers and drug addicts.

An investigation by *The Courier Mail* found several people rejected by the justice department for a blue card successfully appealed to the Queensland Civil and Administrative Tribunal.

It showed the tribunal overturned a quarter of bans over the past six years, with blue cards given to a former ice addict, a drug-and-drink driver who killed another motorist, and two mothers accused of assaulting their children.

Anyone convicted and jailed for serious child sex offences, the murder of a child, or offences related to child exploitation material are banned from obtaining blue cards.

But other criminals, including drug dealers, armed robbers and wife bashers, can get one if their cases are deemed exceptional and authorities do not believe there's a risk to children.

The revelations would send shock waves to every parent in the state, the state opposition said.

The LNP called for the urgent implementation of recommended changes in a state government review last year, including expanding the list of crimes that would automatically exclude someone from obtaining a blue card.

Deputy Opposition Leader Tim Mander raised the murder of 12-year-old Tiahleigh Palmer by her foster father Rick Thorburn as an example of children being at risk.

"Children in Queensland remain at risk because of a flawed blue card system," he told reporters on Monday.

"If the policies and guidelines are tighter and stricter, it will make it more difficult for any judicial overturn."

But he stopped short of calling for an outright ban on anyone with a criminal record obtaining a blue card.

"There's no doubt there's degrees of severity regarding criminal acts," Mr Mander said.

Child safety campaigner and Bravehearts founder Hetty Johnston said the rules about who can obtain blue cards aren't strict enough.

A spokeswoman for Attorney-General Yvette D'Ath said work to implement the reforms was well under way.

A Blue Card Services spokeswoman told the paper the QCAT appeals process was about providing "natural justice".

She said police monitor the criminal records of blue card applicants and cardholders, and they can be suspended or cancelled.

-AAP

3 Comments

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