



6 October 2026

Our ref: [LP:MC]

Mr Martin Hunt MP
Chair
Justice, Integrity and Community Safety Committee
Parliament House
George Street
Brisbane Qld 4000

By email: [REDACTED]

Dear Chair

Protecting Queenslanders from Dangerous Prisoners and Strengthening Victims' Rights Amendment Bill 2026

Thank you for the opportunity to provide feedback on the Protecting Queenslanders from Dangerous Prisoners and Strengthening Victim's Rights Amendment Bill 2026 (**Bill**).

The Society is the peak professional body for the State's legal practitioners. We represent and promote over 14,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. The Society also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

This submission has been prepared with the assistance of the Society's Criminal Law Committee and Human Rights and Public Law Committee.

The proposed amendments in the Bill represent a fundamental reworking of how life-sentenced and other long-term prisoners in Queensland access parole, and of the legal protections that apply to their treatment while in custody. If we have not commented on other aspects of the Bill, the absence of comment is not to be taken as endorsement.

It is well known that a great many people who come before the courts and go into custody have been the victims of crime, family and domestic violence, child abuse and neglect, and other trauma, often long before their offending. That is especially so for women and Aboriginal and Torres Strait Islander people in custody. Recognising this fact does not diminish the harm done to those they have offended against. It does mean that a justice system which supports rehabilitation, supervised reintegration and the humane treatment of people in custody is itself a community safety strategy, and one that protects victims by preventing future offending.

Parole is not a reward. It is a supervised and conditional way of managing a person's return to the community, a return that will occur for most prisoners, including those serving life sentences, either under supervision or at the end of their sentence, without it. The independent Review of the Parole Board Queensland conducted by Mr Peter Hastie KC (**the Review**) itself found that unnecessary delay in releasing an eligible prisoner works against the purpose of parole, because the supervised release helps condition a person's return to the community and has a real value in reducing reoffending.

Measures that restrict access to parole and that reduce the oversight of how people in custody are treated, should be tested against this finding. Properly functioning, individualised parole processes, subject to ordinary human rights scrutiny, are themselves a community safety measure.

The Review and its findings

The Review made 46 recommendations. The Government response states it supports or supports in principle 31 of those recommendations and does not support 15 of them, on the basis that they did not prioritise community safety and victims' rights. The Bill gives effect to some of the supported recommendations. The Bill also introduces further reforms including the expansion of the restricted prisoner regime to all life-sentenced prisoners.

The Bill is presented, and should be understood, against the background of the Review and the Government Response to it. That background is directly relevant to the Committee's assessment of the proposed amendments addressed in this submission.

Override of the *Human Rights Act 2019* (Qld)

Clause 4 inserts new section 5B into the Corrective Services Act (**CSA**). Subsection 5B (1) declares that section 58 of the *Human Rights Act 2019* (Qld) (**HR Act**) does not apply to acts and decisions of the chief executive or a corrective services officer, in administering the CSA or the *Dangerous Prisoners Sexual Offences Act 2003* (Qld) (**DPSOA**), that relate to a prisoner in a corrective services facility, the placing of a prisoner in a facility, or a supervised dangerous prisoner in the community.

The Society is concerned that the administrative burden rationale advanced for disapplying section 58 of the HR Act is unpersuasive when considered against the new reporting, notification, consultation and information-sharing and decision-making obligations the Bill would otherwise impose on Queensland Corrective Services (**QCS**).

In our view, the Statement of Compatibility does not adequately explain why the existing obligation to consider human rights is said to be burdensome, while a more complex administrative framework is regarded as necessary and proportionate. These concerns also arise at a time when the operation of the Human Rights Act is subject to a further broader review. The current strategic review of the Human Rights Act being conducted by Hon Peter Flanagan KC is considering a range of issues that are relevant to the stated objectives of new section 5B. The Discussion Paper released on 30 September includes examination of the operation of section 58 of the HR Act and associated procedural requirements. Accordingly, we suggest the Committee consider recommending the insertion of new section 5B should not be progressed until the strategic review has reported to the Attorney-General.

Section 58 in practice

The Society considers it is important to understand how the operation of section 58 of the HR Act works in practice, and in turn, the consequences that will flow from its removal.

Members of the Society's Human Rights and Public Law Committee have direct experience of the impact of raising section 58 matters in legal representation for people in custody. In that experience, section 58 is not an abstract or symbolic protection. It is one of a few practical levers available to remedy the consequences of actions and decisions that are not compatible with a prisoner's human rights.

Section 58 of the HR Act provides that:

58 Conduct of public entities

(1) It is unlawful for a public entity –

*(a) to act or make a decision in a way that is not compatible with human rights;
or*

(b) in making a decision, to fail to give proper consideration to a human right relevant to the decision.

Members of the Society's Human Rights and Public Law Committee's experience is that section 58(1)(b), the duty to give proper consideration to a relevant human right, is most helpful in leading to good outcomes. Moreover, section 58 has significant value in addressing decisions with serious human rights consequences, such as the placement of a prisoner in solitary confinement¹. These decisions are made administratively, frequently, and with limited transparency. Section 58 does not prevent such action being taken but allows better interrogation of whether the use of segregation is justified in all the circumstances, and anecdotally, has led to changes in initial decision-making processes.

Impact on developing human rights jurisprudence

The HR Act is a relatively young piece of legislation, and its jurisprudence, including the body of case law interpreting section 58 is still developing. The developing body of decisions is gradually building a more detailed and practical understanding of what proper consideration of human rights requires in the corrective services context, and of the circumstances in which a limitation of those rights will, or will not, be reasonable and demonstrably justified. That process of incremental understanding is important. Removing section 58 from acts and decisions in the administration of the CSA would not simply pause this development, it would foreclose it for the period the override remains in force.

The Statement of Compatibility justifies this outcome on the basis that undertaking human rights assessments under section 58 imposes an unnecessary administrative burden, consumes resources, and can impede the effective performance of QCS core community safety functions.

A developing jurisprudence of the kind described above does not impede QCS's core functions. It informs them. Each decision that considers how section 58 applies to a use of force incident,

¹ See the Supreme Court's decision in *Owen-D'Arcy v Chief Executive, Queensland Corrective Services* [2021] QSC 273, in which a limitation on the right to humane treatment arising from prolonged solitary confinement regime was found unjustified because the department had not shown that less restrictive alternatives were unavailable. This case illustrates in a reported case what our members report seeing frequently in day-to-day practice

a placement decision or a strip search builds a clearer, more specific body of guidance for the officers and decision-makers who must make similar decisions in future. Over time, that guidance reduces uncertainty rather than adding to it. An administration that has the added benefit of that accumulating guidance is better placed to act quickly and with confidence. Removing section 58 does not remove the underlying operational difficulty of managing a high-risk environment. It removes the developing body of practice, case-tested guidance that helps QCS manage it well, and develop guidance internally through training, policy and practice.

More fundamentally, the premise that human rights considerations and community safety pull in opposite directions does not hold once regard is had to what ultimately happens to the people affected by these decisions. The great majority of prisoners will be released from custody. How a person is treated while in custody, whether they are held in prolonged solitary confinement without proper justification, whether their mental health needs were met and whether they are able to maintain family and cultural connection bears directly on their mental health and preparedness for release, and in turn, the on the risk they pose to the community once released.

Scope of the override

New section 5B is not confined to a defined cohort. It reaches people on remand who have not been convicted, people serving short sentences, women, young adults, people with mental illness or cognitive impairment and Aboriginal and Torres Strait Island people who are significantly overrepresented in custody. It will therefore reduce the legal protection afforded to all people in custody in Queensland.

This would appear to capture use-of-force, placement in separate confinement or protective custody, access to medical and mental health care, conditions of detention, disciplinary decisions, and the day-to-day treatment of every prisoner in custody in Queensland. It will also remove obligations under the HR Act for people affected by decisions that relate to prisoners held in custodial facilities, such as family members seeking access to visitors. Critically, this means the provision's consequences fall on the entire Queensland prisoner population and will constitute a significant limitation on the human rights of all prisoners.

The HR Act override mechanisms exist precisely so that Parliament confronts, transparently, the fact that it is legislating incompatibly with human rights and explains why that step is justified. A declaration of this breadth, covering the entirety of corrective services administration, makes it very difficult to test whether the incompatibility is proportionate to any legitimate purpose, because the category of decision affected isn't defined by reference to a specific risk or harm the provisions is designed to address, but by reference to the setting in which a decision is made. Furthermore, the recognition that it is incompatible means that the government accepts it cannot be demonstrably justified in a free and democratic society based on human dignity, equality and freedom as required by HRA s 13(1). Parliament intended that override declaration would only be made in exceptional circumstances such as war, a state of emergency or exceptional crisis constituting a threat to public safety, health or order (HRA s 43). A good guide is what would justify derogation from Australia's international obligations under the ICCPR, and those circumstances are not disclosed in the statement of exceptional circumstances.

Section 58 requires a decision maker to turn their mind to human rights and to act compatibly with them so far as reasonably possible in the circumstances, subject to the limitations already permitted under section 13 of the HR Act, which allows human rights to be reasonably limited where that is reasonably justified, including by reference to community safety. As such, the

ordinary operation of the HR Act already permits corrective services' decision-makers to limit a prisoner's rights, where doing so is necessary and proportionate to protect the community, other prisoners or staff.

Excluding section 58 altogether removes the basic procedural discipline of having to identify what rights are engaged and to turn one's mind to them before acting. It also means prisoners are excluded from the basic human rights protections required by international law that are implemented for all other Queenslanders through the HR Act. It is difficult to see what legitimate public safety objective is served by removing that discipline and that protection, as opposed to simply relying on the limitations powers already built into the HR Act for this exact purpose.

Section 58 is also fundamental to a prisoner's ability to submit complaints about how they have been treated. A person who considers that a corrective services act or decision has not been compatible with, or has not properly considered, their human rights must first complain to QCS. If the response is deemed inadequate, the prisoner may make a complaint to the Queensland Human Rights Commission.

This pathway does more than resolve individual grievances. Outcomes frequently address the underlying practice or procedure that gave rise to the complaint, and where matters are unresolved, the QHRC can publish de-identified reports and recommend actions for the facility to take. It works as a feedback loop that identifies and corrects problems in the corrective services system before they recur for others.

Inconsistency with international conventions

Section 30 of the HR Act requires that people deprived of liberty be treated with humanity and respect for their inherent dignity. It is drawn directly from Article 10(1) of the *International Convention on Civil and Political Rights (ICCPR)*, to which Australia is a party. The principle is that loss of liberty is the punishment, conditions and treatment in custody must not add to the hardship beyond what imprisonment itself involves.

Article 10(1) is particularly relevant to the Bill's proposed expansion of the restricted prisoner regime. The Bill would make a restricted prisoner declaration mandatory for an expanded class of prisoners serving life sentences, with an initial declaration preventing an application for ordinary parole for a minimum period of five years. The prisoner may therefore be required to remain in custody for a further substantial period without access to the ordinary parole process, irrespective of the prisoner's individual circumstances at the time the declaration is made. This raises a question as to whether the proposed regime sufficiently distinguishes between the deprivation of liberty inherent in the sentence imposed by the court and additional restrictions imposed administratively on the prisoner's ability to seek release on parole.

The concern is not that a prisoner has an inherent right to parole. Rather, it is whether the statutory framework governing parole and parole ineligibility operates in a manner consistent with the requirement that prisoners be treated with humanity and respect for their inherent dignity. The Bill's imposition of a mandatory minimum five-year period before an ordinary parole application can be made, coupled with the capacity for subsequent restricted prisoner declarations, warrants particular scrutiny in this regard. In our view, the Committee should seek clarification as to how the proposed framework has been assessed against s 30 of the HR Act and Article 10(1) of the ICCPR, including whether consideration has been given to the

cumulative effect of successive periods during which a prisoner is unable to access the ordinary parole process.

We consider further safeguards are required to ensure that restrictions on access to parole remain directed to legitimate public-safety purposes and do not operate as an additional form of punishment beyond the sentence imposed by the sentencing court

Compounding overrides

Further, the override provision in this Bill cannot be assessed in isolation. The Government has, in the same period, introduced the *Breach of Bail, Go to Jail and Other Legislation Amendment Bill 2026* which inserts an equivalent exemption from section 58 of the HR Act into the *Police Powers and Responsibilities Act 2002* (Qld) in relation to the detention of prisoners in watch-houses.

If both Bills are passed, a person's entire journey through the Queensland criminal justice system, from arrest and decision to refuse bail, through detention in a watch house, to imprisonment, placement decisions within custody, parole-related decision making and where applicable, post-release supervision under the DPSOA, would proceed without a single decision maker along that chain being under any statutory or cultural obligation to properly consider or act compatibly with the person's human rights.

This is a substantial and largely unassessed structural and cultural change to how human rights protections operate across the justice system. The Committee should not assess new section 5B purely on its own terms but should consider its cumulative effect when read together with the equivalent PPRA amendment.

Codification of the matters the Board must have regard to when deciding parole applications

New section 193(5) makes the safety of the community the paramount consideration in deciding a parole application. This submission supports that principle, which the Ministerial Guidelines already express as the Board's highest priority when deciding parole applications.

However, new section 193(6) goes further and requires the Board to have regard to all of the matters in subsections 193(6)(a)-(j), in assessing risk. On the current drafting of the Bill, new subsection 193(6)(a) states '*any adverse statement, regarding the prisoner and the potential risk the prisoners poses to the community, made by the court in passing sentence on the prisoner and included in published sentencing remarks*'.

The Explanatory Notes say clause 33 implements the Government Response to Recommendation 11.

The Society considers subsection 193(6)(a) departs substantially from Recommendation 11. The differences are significant.

First, '*relevant*' has become '*adverse*'. A sentencing judge's remarks often include findings of genuine remorse, insight, prospects of rehabilitation and recommendations as to parole. A properly informed risk assessment requires all the relevant factors informing sentence to be weighed together.

Second, it blurs the distinct roles of the sentencing court and the Board. The court fixes the punishment, on the material before it, at a point in time that may be many years earlier. The

Board's role is to assess the risk as at the time of determination of an application on current information, including programs and behaviour in custody. There is a substantial body of case law on how sentencing remarks are to be used in parole decision making and the weight they should carry. A statutory direction to have regard to adverse statements about risk risks displacing that body of law, electing one category of historical remarks above current evidence, and inviting litigation about what is "adverse" and what is a statement "regarding the potential risk".

These differences raise a number of technical issues.

Firstly, the Bill does not define "adverse statement". It is unclear whether this is intended to capture only an express judicial finding concerning future risk, or any adverse observation about the offender, the offending, their character, prospects of rehabilitation or previous conduct. Given that s 193(6) creates a codified checklist for assessing risk to community safety, the scope of this expression should be clear.

Secondly, the provision creates a distinction between published and unpublished sentencing remarks. The Explanatory Notes acknowledge that the Board may obtain sentencing remarks from the Court or QCS, or access them through a searchable database, but expressly state that the Board is not required to obtain sentencing transcripts for every Magistrates Court sentence.

That approach creates an obvious question of consistency. Two prisoners in otherwise comparable circumstances may be assessed on materially different information depending simply upon whether their sentencing remarks happen to have been published or provided to the Board. The Bill should clarify whether publication is intended to be a substantive threshold for the Board's consideration of sentencing remarks, or merely a practical mechanism for identifying information already available to the Board.

Thirdly, the provision does not address the position where sentencing remarks have subsequently been corrected, varied or overtaken by an appellate decision. Nor does it specify whether the Board must have regard to the original sentencing remarks where a material finding has subsequently been quashed or altered.

This is particularly important because the proposed provision does not merely permit the Board to consider sentencing remarks; it makes specified adverse statements a mandatory consideration when assessing community-safety risk.

As mentioned above, we reiterate the matters referred to in paragraph 1.3 of the Ministerial Guidelines which rests on the observation of Mr Walter Sofronoff KC in the Queensland Parole System Review that the only purpose of parole is to reintegrate a prisoner into the community before the end of their sentence, so as to reduce the chance that they will reoffend, and that the only rationale for parole is to keep the community safe from crime². This is a statement about community safety that should be expressly reflected in new section 193.

Accordingly, we recommend section 193(5) be amended so that, in assessing community safety, the Board must consider whether there is an unacceptable risk to the community if the prisoner is released on parole, and whether the risk to the community would be greater if the prisoner does not spend a period of time on parole, under supervision, before the completion of their sentence and new section 193(6) be amended to address the matters raised above.

² [Ministerial Guidelines to the Parole Board Queensland](#) – Section 1, paragraph [1.3].

Applicability of the exceptional circumstances parole framework to all prisoners

Section 176A of the CSA currently governs the deciding of exceptional circumstances parole (ECP) applications made by restricted prisoners. Clause 26 removes the reference to restricted prisoners, so that the section applies whenever any prisoner applies for an ECP order under section 176.

The Bill broadens who is eligible to apply for ECP but does not change the test. The operative concept in the test is *imminent death or incapacity*.

The term *imminent* confines eligibility to the very end of life, and excludes many compassionate cases including advanced terminal illness, serious chronic conditions that cannot be appropriately managed in custody.

In addition, the amendments create a real risk that the exceptional circumstances pathway will come under materially increased pressure, without any corresponding increase in the Parole Board's resourcing or case-management capacity. This concern is sharpened by the Review findings that unnecessary delay and deferral in parole decision-making already contributes significantly to prison overcrowding and undermines the reintegrative value of parole. Instead, the Bill's amendments rework this framework in a way likely to increase demand on it, without the evidence base or resourcing analysis necessary to show that it can bear the additional weight.

Amendments to the restricted prisoner framework

Clause 9 changes the definition of a restricted prisoner to a person sentenced to life imprisonment.

Clause 12 amends the existing discretionary and narrow framework with a mandatory requirement for the Board to make a restricted prisoner declaration of at least five years if it is given a restricted prisoner report by the chief executive. The President of the Board must decide the term of the mandatory restricted prisoner declaration ending on a day that is at least 5 years, but not later than 10 years, after the date of the declaration taking effect.

The Society strongly opposes the proposed amendments for the following reasons.

First, a sentence of life imprisonment, and the non-parole period or parole eligibility date fixed as part of it, represents the considered judgment of a court as to the punishment warranted by the offending. It is a longstanding and fundamental principle of the criminal law, that once judgment has been made and the sentence imposed, the punitive element of the offence is not to be added to. However, the proposed amendments to the existing restricted prisoner framework do exactly that. It will extend the period during which a person who has already been sentenced remains ineligible to apply to for parole.

Secondly, the class of prisoners to whom the mandatory scheme will apply will be expanded. In turn, it can be expected that a proportion of mandatory and subsequent declarations will be challenged. In turn there will be corresponding administrative and resourcing consequences for the Office of the President presenting a risk of delay in existing parole processes.

Thirdly, once a mandatory restricted prisoner declaration term ends, new section 175E permits the President to make a subsequent restricted prisoner declaration. This power arises repeatedly. The Bill does not contain any cap on the number of subsequent declarations that

may be made in relation to a single prisoner. This is again contrary to the intent of the sentencing judge and consecutive decision making of this kind risk subjecting a person to arbitrary and indefinite detention.

Fourthly, difficulties also arise with the five-year minimum as it will operate without requiring an individualised assessment that a five-year restriction is appropriate in each case. The Board is required to consider the appropriate length of the declaration and must have regard to specified matters, including human rights considerations. However, the statutory minimum means that the Board cannot determine, having regard to the circumstances of the prisoner, the offending, the prisoner's conduct and rehabilitation, and the relevant risk, a shorter period would be sufficient. A life sentence encompasses prisoners convicted of materially different offending and circumstances. The circumstances surrounding the offence, the prisoner's age, criminal history, conduct in custody, rehabilitation, risk assessment, health, family circumstances and prospects of safe release may differ substantially.

Lastly, the expansion is not a Review recommendation.

Should the Bill progress, to address these concerns we recommend:

- (a) the powers to make a restricted prisoner declaration should only be vested in a court. This would ensure that such decisions with serious implications for individual liberty are made in a way that ensures transparency and procedural fairness; alternatively
- (b) proposed sections 175DE and 175G include an express requirement:
 - (i) that a prisoner be given a copy of the restricted prisoner report;
 - (ii) the prisoner be informed of the intended duration of the declaration;
 - (iii) the timeframe to provide a written submission be extended from 21 days to 40 days.

Amendments to conditions of parole

New section 200(3A) will require the Board to consider whether conditions are necessary to ensure that *no psychological harm* is caused to a registered victim by the prisoner's release on parole.

The Bill does not define *psychological harm* or establish any threshold by which the Board is to assess when such harm is sufficiently foreseeable or serious to warrant the imposition of a condition. This is particularly significant in circumstances where registered victims will be permitted to make submissions concerning the likely effect of a prisoner's release on the victim or their family, including submissions concerning conditions directed to their physical or psychological safety. The provision may therefore capture a broad range of subjective experiences, from significant psychological injury to anxiety, distress or fear arising from the knowledge of a prisoner's release. Further, it is unclear how a parole condition could in fact ensure no psychological harm occurs, where the victim's psychological response may not be capable of being controlled by conditions imposed on the prisoner.

As such, we submit that the Committee should examine whether *psychological harm* requires definition and whether the provision should instead require the Board to consider conditions reasonably necessary to prevent or minimise a reasonably foreseeable risk of significant psychological harm. This would provide a clearer and more workable statutory threshold while

preserving the Bill's intention that the psychological safety of registered victims be taken into account.

Amendments to provisions relating to information to eligible persons

New section 325(2)(a) expressly permits the chief executive to provide a registered victim with the current location of the prisoner.

While the Bill appropriately expands the information available to registered victims concerning matters relevant to parole, disclosure of a prisoner's precise or current custodial location raises distinct privacy, safety and operational concerns. Unlike information concerning the prisoner's parole status, eligibility dates, release date or changes in custodial status, the prisoner's current location is not necessarily information required for a victim to meaningfully participate in the parole process. It may also create a risk of unnecessary disclosure of sensitive custodial information, particularly where the victim and prisoner have an ongoing or contentious relationship. The provision is drafted broadly and does not identify the circumstances in which disclosure of location information would be appropriate, necessary or proportionate.

In the Society's view this provision should be removed. Alternatively, limiting disclosure to circumstances in which the chief executive is satisfied that providing the information is necessary for the registered victim's safety or for the effective exercise of the victim's statutory rights. This would preserve the Bill's broader objective of keeping victims informed while avoiding an unnecessarily broad entitlement to information concerning the prisoner's current whereabouts.

Impact on correctional facilities

The Bill must be assessed against the condition of the correctional system in Queensland. Queensland's prisons are overcrowded. Public reporting of the Queensland Audit Office's July 2026 report indicates that most high-security correctional centres hold more prisoners than they were designed for and the prison population is forecast to remain above built cell capacity for the next decade, that is, it is projected to grow by between 1,500 and 5,200 prisoners by June 2035.

Financial impact

The Society submits the Committee should scrutinise the assertion that the Bill has no financial implications.

The Bill creates a substantial number of new statutory functions and administrative obligations for Queensland Corrective Services and the Parole Board, including additional reporting requirements, victim notifications and submissions, publication processes, information-management obligations, restricted prisoner declaration processes, and additional decision-making and reasons requirements. These are not merely amendments to existing processes; in a number of respects, they create new tasks which will need to be completed to ensure compliance with statutory obligations.

Against that background, the assertion that the Bill will have no financial impact warrants further explanation. Even if the Government does not anticipate a direct appropriation, the implementation of the reforms will necessarily involve staff time, training, systems and information-management requirements, administrative support and potentially additional legal

and operational resources. The Bill will also mean prisoners may be kept in prison for longer and the cost of detention will therefore increase.

It would be preferable for the Explanatory Notes to identify the basis upon which the financial impact has been assessed, particularly where the Bill simultaneously imposes significant additional administrative obligations on agencies.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [REDACTED] [REDACTED]

Yours faithfully

A large black rectangular redaction box covering the signature of Peter Jolly.

Peter Jolly
President