

5 May 2026

Our ref: BC:MC

Committee Secretary
State Development, Infrastructure and Works Committee
Parliament House
Cnr George and Alice Streets
Brisbane Qld 4000

By email: [REDACTED]

Dear Committee Secretary,

Transport and Other Legislation (Managing E-Mobility Use and Protecting Our Communities) Amendment Bill 2026 (the Bill) – response to question take on notice

Thank you for the opportunity to appear at the public hearing for the inquiry into the Bill.
During our appearance, we took the following question on notice:

- *“Are there concerns in the legal community that the sudden criminalisation of what is currently lawful property could, in fact, also be subject to legal challenge?”*

Response to QON

New section 78D

Whether the new criminal offence provisions are open to legal challenge can, in one sense, be understood as a question of constitutional validity. However, for present purposes, this response proceeds on the more practical interpretation of the question, that is, whether the prosecution and operation of the new section 78D offence, extending criminal liability to parents under the parental responsibility framework, is likely to be vulnerable to legal challenge in its application. On that interpretation, several features of the offence set out in section 78D make it particularly susceptible to legal challenge.

First, section 78D is constructed as a deemed liability provision. That is, it attributes legal responsibility to a parent for the conduct of another person (the child) and the parent’s alleged failure to take reasonable steps. Its strict interpretation will attract heightened scrutiny because it departs from fundamental legislative principles of personal culpability and individual fault.

Second, subsection 78D(2)(a) is conjunctive in its drafting. To successfully rely on this element of the defence, a parent must prove both limbs:

(a) that they did not know, **and**

(b) that they could not reasonably have been expected to know of the child's conduct constituting the offence.

This is a high and unusual threshold. A parent who satisfies one limb but not the other, i.e. where a parent who genuinely did not know, but where it is open for a Court to consider they could reasonably have been expected to know, would be excluded from the defence entirely. The conjunctive nature therefore narrows the availability of the defence in a way that is likely to be contested, particularly where the factual matrix is complex or where the reasonable expectation limb is inherently contestable. As a result, the drafting will likely attract legal challenges throughout the prosecution process.

Third, satisfying the reasonable steps threshold is inherently contextual and highly variable. What is considered reasonable in a parental supervision context is not an objective standard. It depends on a variety of factors that differ dramatically between families and between children within the same family. A provision that assumes a single objective benchmark for parental supervisions risks being unworkable for the reasons set out above and below. Reasonableness is also influenced by factors such as cultural norms, socioeconomic constraints, housing conditions, parental disability or illness and access to support services.

Fourth, the current drafting gives rise to practical and evidentiary gaps that are likely to be contested. Some examples of how these practical and evidentiary gaps may manifest in practice include:

(a) Conflicting parent accounts

Where parents provide inconsistent accounts of the steps they took or did not take, is not contemplated in the current drafting and will give rise to the prosecution of the requisite elements against each parent individually.

(b) Different parenting approaches for different children

Parenting is not uniform across a household. Parents adopt different supervision strategies depending on a child's age, maturity, disability, trauma history or behavioural needs. The offence does not recognise this variability. A parent may take steps that are entirely reasonable for one child, which are not inappropriate or insufficient for another. The drafting does not provide a clear framework for assessing reasonableness in these circumstances.

(c) Separated parents with differential rules or supervision levels

Where parents are separated and a child is supervised differently depending on which parent they are with, the offence does not clarify how liability operates in this circumstance. A parent may have limited control over the child's conduct or over the other parent's approach to supervision. The provision does not address how responsibility is allocated nor how a parent

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can satisfy a defence in circumstances of shared care arrangements, conflict or limited communication.

Accordingly, in our view, new section 78D creates a framework that is susceptible to legal challenge.

Other observations regarding the introduction of a parental responsibility scheme in Queensland

It is concerning that the Bill includes a parental responsibility framework despite the failure of such frameworks in other jurisdictions particularly, New South Wales. In 2006 when analogous frameworks were considered by the New South Wales Government, their Parliamentary Research Service prepared a Briefing Paper which analysed the efficacy of parental responsibility frameworks domestically and abroad.¹ The paper is comprehensive and considers schemes which were introduced during the 1990's and resulted in two (2) review by Parliamentary Committees occurring in 1997 and 1999: -

- (a) the 1997 review of the laws introduced in 1994 by the *Children (Parental Responsibility) Bill 1994* recommended the Act be repealed. The Committee was of the view that:

“ ... the Act is neither an appropriate nor effective means of dealing with issues relating to juvenile crime ... the Act addresses the issue in only the most superficial way and might exacerbate family problems and place children at further risk.”²

- (b) because of the abovementioned review in 1997, the 1994 legislation was repealed, and the *Children (Protection and Parental Responsibility) Act 1997* was introduced. That legislation was then reviewed in 1999 and whilst much of the scheme was retained, the Committee recommended that s. 11 of the Act (which related to parents being found guilty for the offences of their children) be repealed as the provision had rarely been used and offended the rule of law.³

Whilst each of those reviews are dated as is the research conducted by the Parliamentary Research Service, the concerns raised by stakeholders in relation to the parental responsibility schemes remain apt today.

We also hold concerns about the consequences that flow from the fact that section 78B is a traffic offence, as set out below.

¹ Parental Responsibility Laws by Lenny Roth, NSW Parliamentary Library Research Service (2006), Research Paper No. 7/06: <https://www.parliament.nsw.gov.au/researchpapers/Pages/parental-responsibility-laws.aspx>

² Ibid at pg. 12.

³ Ibid at pg. 14.

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- (a) Parents will be forced to disclose the conviction when renewing or applying for motor vehicle insurance. This disclosure is likely to result in an increased yearly premium cost.
- (b) If a parent is unable to pay the fine imposed or is not aware of the fine and as a result it is not paid, enforcement action can be taken by the State Penalties and Enforcement Office. Such action is likely to include a license suspension (this suspension is also disclosable to insurers).
- (c) If parents are intercepted driving whilst their license has been suspended in the circumstances raised in (b) a license disqualification of six (6) months will be imposed⁴, in addition to a fine. Concerningly, if a parent is subject to other court orders, this may result in further legal proceedings.

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



Craig Chapman
Vice-President

⁴ See s. 78(1)(b) and s. 78(3)(f) of the *Transport Operations (Road Use Management) Act 1995*.