



Level 5, 183 North Quay Brisbane Qld 4000
PO Box 13035, George Street Brisbane Qld 4003
T: 07 3025 3888 | F: 07 3025 3800
Freecall: 1800 012 255
ABN: 116 314 562

The Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000
By email: lacsc@parliament.qld.gov.au

28th April 2014

Re: The Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2014

Dear Colleague,

We welcome and appreciate the opportunity to make a submission in relation to the Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2014 (“the Bill”).

Preliminary Consideration: Our ability to pass meaningful comment

The Aboriginal and Torres Strait Islander Legal Service (QLD) Ltd (“ATSILS”) provides legal services to Aboriginal and Torres Strait Islander peoples throughout mainland Queensland. Our primary role is to provide criminal, civil and family law representation. We are also funded by the Commonwealth to perform a State-wide role in the key areas of: Law and Social Justice Reform; Community Legal Education and Monitoring Indigenous Australian Deaths in Custody. As an organisation which, for over four decades, has practiced at the coalface of the justice arena, we believe we are well placed to provide meaningful comment. Not from a theoretical or purely academic perspective, but rather from a platform based upon actual experiences. We trust that our submission is of assistance.

Subsidiary Preliminary Comment – PUBLIC REGISTER OF SEX OFFENDERS

Our submissions herein are predicated to a degree upon an assumption that the Government will not pursue a previously raised consideration of creating a public register of sex offenders. Our Organisation would strongly oppose a public register being created for the following reasons:

1. Such would undoubtedly lead to public vigilante groups - which is counter-productive to the objective of enhancing public safety. The public threat to safety might result in many sex offenders adopting an itinerant lifestyle, which would be a serious impediment to monitoring their movements, thereby increasing the risk of reoffending.
2. Such would create further difficulties and challenges for those sex offenders re-entering society, due to intense public scrutiny and a general unwillingness by the public to offer sex offenders employment opportunities etc – again, such being counter-productive to rehabilitation and safer communities.
3. Public registers of sex offenders would decrease the prices of property in areas where the sex offender resides – especially for residences in particularly close proximity.
4. A public register is particularly prejudicial to vulnerable sex offenders such as youths and those with mental or physical disabilities (many of whom were victims themselves of sexual abuse).
5. Publicly identifying sex offenders also leads to the identification of their family. This could cause many serious issues for the family and lead to them being unfairly discriminated against.

As to the Bill itself:

CLAUSE 6 OF THE BILL – REMOVAL OF SECTION 5(2)(c)(i) OF THE ACT

OMIT -

5 *Reportable offender defined*

- (2) However, a person mentioned in subsection (1)(a) is not a reportable offender merely because—
- (c) the person, as a child, committed—
 - (i) a single offence against the Criminal Code, section 210;

Clause 6 of the Bill removes section 5(2)(c)(i) of the *Child Protection (Offender Reporting) Act 2004* (“the Act”), which stipulated that a child who commits a single offence against section 210 of the *Criminal Code Act 1899* (Indecently dealing with a child under 16 years) is excluded from the classification of ‘reportable person’. The effect of this amendment is that children who commit unlawful carnal knowledge with their underage partner will be potentially subjected to 8 years of reporting requirements.

ATSILS have acted for child clients who have been charged under section 210 for having a consensual boyfriend/girlfriend relationship with their similarly aged underage partner. We note that clause 27 of the Bill provides the Police Commissioner with the power to suspend the reporting requirements for children who do not pose a risk to the lives or sexual safety of children. We presume that it is intended for clause 27 to protect children in circumstances similar to those described at the beginning of this paragraph. However for reasons set out below, we are concerned that clause 27 of the Bill will not provide adequate protection for children. Further, the risk of public or political criticism and the like, would suggest that the then Police Commissioner is likely to be loathed to suspend a reporting requirement.

CLAUSE 27 OF THE BILL

INSERT-

67A Application of this division

This division applies to a reportable offender who –

- (a) Was a child when he or she committed the offence that makes the person a reportable offender....

67C Suspension of reporting obligations of reportable offenders on police commissioner’s own initiative

- (1) The police commissioner may suspend the reportable offender’s reporting obligations on the commissioner’s own initiative only if satisfied, on reasonable grounds, that –
 - a. The offender does not pose a risk to the lives or sexual safety of children...

Proposed section 67C of the Bill is an important safeguard – although our primary concern is that it will be one largely in theory only - whilst in practice, it will be one where the then

Police Commissioner would be extremely loathed to action for a number of considerations, even in meritorious cases. We note that the Bill seeks to insert part 4A, which allows for an internal review of a decision made by the Commissioner pursuant to clause 27. However the internal review process is in our respectful submission open to potential flaws – for example:

1. Section 671(3)(b) allows the Police Commissioner to review his or her own decision, which could unfairly place the Commissioner in an invidious position – as well as leave him or her open to unfair *perceptions* of bias (for the record, the *current* Police Commissioner is well known to our Organisation as being a well respected and highly ethical individual); and
2. Part 4A does not identify any matters or issues which the Police Commissioner is bound to take into consideration.

In totality, we would counsel against the expansion of the definition of “reportable offender” (i.e. as such relates to youth, single s210 offenders).

I close by once again thanking the Committee for this opportunity to have input into this very important area. If required, we would be only too pleased to provide additional information to the Committee.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Shane Duffy'. The signature is written in a cursive, flowing style with a large initial 'S'.

Shane Duffy

Chief Executive Officer