



# **Bail (Domestic Violence) and Another Act Amendment Bill 2017**

**Report No. 50, 55<sup>th</sup> Parliament  
Legal Affairs and Community Safety  
Committee  
March 2017**



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## Legal Affairs and Community Safety Committee

Chair	Mr Duncan Pegg MP, Member for Stretton
Deputy Chair	Mr Michael Crandon MP, Member for Coomera
Members	Ms Nikki Boyd MP, Member for Pine Rivers Mr Don Brown MP, Member for Capalaba Mr Jon Krause MP, Member for Beaudesert Mrs Janet (Jann) Stuckey MP, Member for Currumbin
Staff	Ms Trudy Struber, Inquiry Secretary Ms Emily Booth, A/Research Director Mrs Janette van den Berg, A/Committee Support Officer
Technical Scrutiny Secretariat	Ms Renée Easten, Research Director Ms Marissa Kerr, Acting Principal Research Officer Mr Michael Gorringer, Principal Research Officer Ms Lorraine Bowden, Senior Committee Support Officer
Contact details	Legal Affairs and Community Safety Committee Parliament House George Street Brisbane Qld 4000
Telephone	+61 7 3553 6641
Fax	+61 7 3553 6699
Email	<a href="mailto:lacsc@parliament.qld.gov.au">lacsc@parliament.qld.gov.au</a>
Web	<a href="http://www.parliament.qld.gov.au/lacsc">www.parliament.qld.gov.au/lacsc</a>

### Acknowledgements

The committee acknowledges the assistance provided by Mr Ian Walker MP, Member for Mansfield, and Ms Ros Bates MP, Member for Mudgeeraba.



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## Abbreviations

Bail Act	<i>Bail Act 1980</i>
the Bill	Bail (Domestic Violence) and Another Act Amendment Bill 2017
the committee	Legal Affairs and Community Safety Committee
CS Act	<i>Corrective Services Act 2006</i>
defendant	a person charged but not convicted of a criminal offence
DPSO Act	<i>Dangerous Prisoners (Sexual Offenders) Act 2003</i>
FLPs	fundamental legislative principles
LS Act	<i>Legislative Standards Act 1992</i>
QIFVLS	Queensland Indigenous Family Violence Legal Service
VOCA Bill	Victims of Crime Assistance and Other Legislation Amendment Bill 2016



## Chair's foreword

This report presents a summary of the Legal Affairs and Community Safety Committee's examination of the Bail (Domestic Violence) and Another Act Amendment Bill 2017.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles – that is, to consider whether the Bill had sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

Although it was clearly apparent that all committee members and those who lodged submissions or appeared before the committee want to stop domestic and family violence, the committee was unable to reach a majority decision to recommend that the Bill be passed.

There has been bipartisan support for the implementation of the report by the Special Taskforce on Domestic and Family Violence, *Not Now, Not Ever: Putting an end to domestic and family violence in Queensland*. Any deviation from the recommendations made by the taskforce requires careful consideration and consultation.

Based on the submissions lodged and the evidence provided in the public hearings, Government members were of the view that this Bill requires more consultation and significant amendment. Whilst some of the proposals in the Bill have merit, there is potential for unintended consequences and it is abundantly clear that more work needs to be undertaken in relation to this very important issue. There is also considerable overlap in relation to notification of victims with the *Victims of Crime Assistance and Other Legislation Amendment Bill* which is currently before the House and the committee recommended be passed in its report tabled on 27 February 2017.

On behalf of the committee, I thank those individuals and organisations who lodged written submissions on the Bill or appeared before the committee and in particular Ms Sonia Anderson, Ms Bonnie Mobbs and Mr Damien Schilling.

I thank all members of the committee for their work on the inquiry. Additionally, I wish to express my appreciation to the committee's staff for the support they have provided.

I commend this report to the House.



Duncan Pegg MP

**Chair**



# 1 Introduction

## 1.1 Role of the committee

The Legal Affairs and Community Safety Committee (the committee) is a portfolio committee of the Legislative Assembly.<sup>1</sup> The committee's primary areas of responsibility include:

- Justice and Attorney-General
- Police Service
- Fire and Emergency Services, and
- Training and Skills.

The committee is responsible for examining each Bill in its portfolio areas to consider the policy to be given effect by the legislation, and the application of fundamental legislative principles (FLPs).<sup>2</sup>

Further information about the work of the committee can be found on its [website](#).

## 1.2 Referral of the Bill

The Bail (Domestic Violence) and Another Act Amendment Bill 2017 (the Bill) was introduced into the Legislative Assembly on 14 February 2017 by Mr Tim Nicholls MP, Member for Clayfield.

In accordance with Standing Order 131 of the Standing Rules and Orders of the Legislative Assembly, the Bill was referred to the committee for detailed consideration. The committee was required to report to the Legislative Assembly by 17 March 2017.

## 1.3 Committee inquiry process

The committee invited submissions from the public and from identified stakeholders to be received by 27 February 2017. The committee received 32 submissions (see **Appendix A** for a list of submitters).

Mr Ian Walker MP, the Member for Mansfield, provided the committee with a written briefing on the Bill on 27 February 2017. The committee received an oral briefing from Mr Walker MP and Ms Ros Bates MP, Member for Mudgeeraba, on 1 March 2017.

The committee held a public hearing on the Bill in Brisbane on 1 March 2017.

See **Appendix B** for details of the witness who participated in the committee's public briefing and hearing.

Copies of the material published in relation to this inquiry, including submissions and transcripts, are available on the committee's [website](#).

## 1.4 Policy objective of the Bill

The objectives of the Bill, as set out in the explanatory notes, are to:

- reverse the presumption of bail for a person charged with a relevant domestic violence offence
- allow for an urgent review of a bail decision in a higher court, staying the original bail decision for up to three business days to ensure the alleged offender would not be released during that period
- establish a special bail condition for a tracking device to be imposed against a person charged with a relevant domestic violence offence
- introduce a new system to alert the victim of a relevant domestic violence offence when the defendant applies for bail, is released on bail, or receives a variation to a bail condition, and
- provide the victim of domestic violence with information about a prisoner who receives parole even if the offence for which the prisoner is incarcerated is not a domestic violence offence.<sup>3</sup>

<sup>1</sup> *Parliament of Queensland Act 2001*, s 88 and Standing Order 194.

<sup>2</sup> *Parliament of Queensland Act 2001*, s 93.

<sup>3</sup> Explanatory notes, p 1.

## **1.5 Consultation on the Bill**

The explanatory notes state consultation was undertaken with the Queensland Law Society, Women's Legal Service Queensland, Queensland Police Union of Employees, and other academics and legal practitioners.<sup>4</sup>

During the course of the public hearing Mr Bill Potts from the Queensland Law Society stated that the consultation process was 'very short', and raised a concern that 'with such a short time of turnaround, there may be some unintended consequences which we simply have not had time to properly consider'.<sup>5</sup> Dr Ted Flack from Queensland Homicide Victims' Support Group also stated that while 'QHVSG representatives have spoken to the proponents of the bill', 'to other organisations in the field' and 'New South Wales counterparts', they 'have not had an opportunity to solicit the support of legally qualified and well informed commentators on these issues'.<sup>6</sup>

## **1.6 Outcome of committee consideration**

Standing Order 132(1) of the Standing Rules and Orders of the Legislative Assembly requires the committee to recommend whether the Bill should be passed.

After its examination of the Bill and consideration of the information provided by Mr Walker MP and Ms Bates MP, submitters and witnesses at its public hearing, the committee could not reach agreement on whether or not the Bill should be passed.

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<sup>4</sup> Explanatory notes, p 3.

<sup>5</sup> Public hearing transcript, Brisbane, 1 March 2017, p 5.

<sup>6</sup> Public hearing transcript, Brisbane, 1 March 2017, p 11.

## 2 Examination of the Bill

### 2.1 Reversing the presumption of bail for certain domestic violence offences

#### 2.1.1 Current law in Queensland

In Queensland there is generally a presumption in favour of granting bail to a person who has been charged but not convicted of a criminal offence.<sup>7</sup>

However, the *Bail Act 1980* (Bail Act) provides that bail must be refused if the bail authority is satisfied there is an unacceptable risk that the defendant would fail to attend court for their hearing, commit an offence while released on bail, endanger the safety or welfare of another person, interfere with witnesses or otherwise obstruct the course of justice, or that they should remain in custody for their own protection.

Under section 16 of the Bail Act, a defendant must also be refused bail unless they can show cause why bail should be granted if they are charged with:

- an indictable offence while on bail awaiting trial
- an offence against the Bail Act, such as failing to appear under a bail undertaking
- an offence, such as murder, for which only the Supreme Court may grant bail
- an indictable offence alleged to have involved the use or threatened use of a firearm, offensive weapon or explosive substance
- contravening a control order, or
- threatening a law enforcement officer, or a person helping a law enforcement officer, with the intent to prevent or hinder them from doing something they are lawfully entitled to do, to compel them to do something they lawfully entitled to abstain from, or to cause public alarm or anxiety.<sup>8</sup>

#### 2.1.2 Overview of proposed change

The Bill proposes to amend section 16 of the Bail Act to provide that bail must be refused for a defendant charged with a relevant domestic violence offence unless they can show cause why their remand in custody is not justified. This amendment would include relevant domestic violence offences as a circumstance in which the ordinary presumption in favour of bail is reversed.<sup>9</sup> The relevant domestic violence offences are:

- unlawfully choking, suffocating or strangling a person they are in a domestic relationship with, or where the choking, suffocation or strangulation is associated domestic violence<sup>10</sup>
- unlawfully confining or detaining a person or depriving them of liberty, where the behaviour is domestic violence, associated domestic violence or a contravention of a domestic violence order<sup>11</sup>
- unlawfully stalking another person, where the behaviour is domestic violence, associated domestic violence or a contravention of a domestic violence order<sup>12</sup>
- wilfully and unlawfully setting fire to a prescribed object such as a building or motor vehicle, where the behaviour is domestic violence, associated domestic violence or a contravention of a domestic violence order,<sup>13</sup> and
- a serious violent offence, such as grievous bodily harm, rape or torture, where the behaviour is domestic violence, associated domestic violence or a contravention of a domestic violence order.<sup>14</sup>

The ordinary presumption in favour of bail would continue to apply to other domestic violence related offences, such as breaching a domestic violence order.

<sup>7</sup> *Bail Act 1980*, s 9; Queensland Parliamentary Library, *Queensland Bail Laws*, Legislation Bulletin 1/00 p 6.

<sup>8</sup> *Bail Act 1980*, s 16; *Criminal Code*, s 359; *Penalties and Sentences Act 1992* s 161ZL.

<sup>9</sup> *Bail Act 1980*, s 9; Queensland Parliamentary Library, *Queensland Bail Laws*, Legislation Bulletin 1/00 p 6.

<sup>10</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 3; *Criminal Code*, s 315A.

<sup>11</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 3; *Criminal Code*, s 355.

<sup>12</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 3; *Criminal Code*, s 359E.

<sup>13</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 3; *Criminal Code*, s 461.

<sup>14</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 3; *Penalties and Sentences Act 1992*, sch 1.

### 2.1.3 Regulation in other jurisdictions

There is generally a presumption in favour of granting bail in all Australian jurisdictions.<sup>15</sup> However, this presumption is displaced in specified circumstances or for specified offences in each jurisdiction.

#### ***New South Wales***

Bail must not be granted in New South Wales to a person accused of specified offences, such as murder or a serious indictable offence committed while on bail, unless the accused person can show cause why their detention is not justified.<sup>16</sup> The presumption in favour of bail being granted is not reversed for domestic violence offences.

#### ***Victoria***

In Victoria, bail must not be granted if a person is accused of certain offences unless they demonstrate why their detention in custody is not justified. The offences to which the presumption in favour of bail does not apply include stalking and contravening a family violence intervention order, if the defendant used or threatened to use violence, and:

- has in the preceding 10 years been found guilty of an offence in which they used or threatened to use violence against any person, or
- the court is satisfied they used or threatened to use violence against the person who is the subject of the order, on a separate occasion.<sup>17</sup>

#### ***Tasmania***

The presumption is reversed in Tasmania for family violence offences. Bail must not be granted to a person accused of a family violence offence unless the court or police officer is 'satisfied release of the person on bail would not be likely to adversely affect the safety, wellbeing and interests of an affected person'.<sup>18</sup> An affected person is someone against whom family violence is directed.<sup>19</sup>

#### ***South Australia***

In South Australia if a person is accused of specified offences, bail is not to be granted unless they establish 'the existence of special circumstances' justifying their release on bail. The offences to which the presumption of bail does not apply include blackmail, arson, serious firearm offences and contravening an intervention order to protect a person against whom the defendant may commit an act of abuse.<sup>20</sup>

#### ***Western Australia***

Bail must not be granted in Western Australia to a person accused of specified offences, such as murder or a serious offence committed while on bail, unless the court is satisfied that there are 'exceptional reasons why the accused should not be kept in custody'.<sup>21</sup> The presumption in favour of bail being granted is not reversed for domestic violence offences.

#### ***Australian Capital Territory***

The presumption of an entitlement to bail is reversed for domestic violence offences in the Australian Capital Territory if bail is being granted by an authorised police officer. Bail must not be granted to a person accused of a domestic violence offence unless the police officer is 'satisfied that the person poses no danger to a protected person while released on bail'.<sup>22</sup>

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<sup>15</sup> Emily Ng and Heather Douglas, 'Domestic and Family Violence and the Approach to Bail', *Contemporary Issues in Criminal Law*, volume 34(2), 2016, pp 43-44.

<sup>16</sup> *Bail Act 2013* (NSW), ss 16A, 16B.

<sup>17</sup> *Bail Act 1977* (Vic), s 4(4)(ba).

<sup>18</sup> *Bail Act 1992* (Tas), s 12; Emily Ng and Heather Douglas, 'Domestic and Family Violence and the Approach to Bail', *Contemporary Issues in Criminal Law*, volume 34(2), 2016, p 47.

<sup>19</sup> *Bail Act 1992* (Tas), s 4.

<sup>20</sup> *Bail Act 1985* (SA) s 10A; *Intervention Orders (Prevention of Abuse) Act 2009* (SA), ss 7, 31.

<sup>21</sup> *Bail Act 1982* (WA), sch 1 part C.

<sup>22</sup> *Bail Act 1992* (ACT), s 9F; Explanatory notes, p 3; Emily Ng and Heather Douglas, 'Domestic and Family Violence and the Approach to Bail', *Contemporary Issues in Criminal Law*, volume 34(2), 2016, pp 43-44.

A protected person is someone against whom the offence was directed; the defendant's partner, former partner, relative or child; a child of the defendant's partner or former partner; a parent of the defendant's child; or someone who has been in a relationship with the defendant.<sup>23</sup>

A neutral presumption is assumed where the bail application is considered by a court in relation to specified offences including threatening to kill or inflict grievous bodily harm, stalking and contravening a protection order, if the person has in the past 10 years been found guilty of an offence involving violence or the threat of violence.<sup>24</sup>

### **Northern Territory**

In the Northern Territory bail must not be granted to a person accused of certain offences unless they satisfy the court that bail should be granted. The offences to which the presumption in favour of bail does not apply include:

- contravening a domestic violence order, if the person has within 2 years been found guilty of a previous offence for contravening a domestic violence order, an
- causing serious harm or contravening a domestic violence order, if the person has previously been found guilty of murder, serious harm, assault on workers or police, or rape.<sup>25</sup>

#### **2.1.4 Issues raised during the inquiry**

Submitters and witnesses presented differing views regarding reversing the ordinary presumption in favour of bail for a defendant charged with a relevant domestic violence offence.

Some submitters supported the proposed amendment that bail must be refused for a defendant charged with a relevant domestic violence offence, unless they can show cause why their remand in custody is not justified.<sup>26</sup> For example Ms Sonia Anderson, mother of Bianca Girvin who was killed in 2010, stated:

*With the Bill, the reverse of the presumption of bail, the perpetrators that this is aimed at have severely violated the non-aggression principle that we as a community live by. We in response therefore have the right to impose force on them to keep them detained.*<sup>27</sup>

Similarly the Queensland Homicide Victims' Support Group submitted:

*The reversal of the presumption of bail for an offender charged with domestic violence, where there is clear evidence of physical violence, will make it more unlikely that persons taken into custody by the police for DFV [domestic and family violence] offences will be able to quickly return to the scene of the alleged offence whilst on bail.*<sup>28</sup>

It was also submitted by SunnyKids that:

*Reversing the presumption of bail for an alleged offender charged with a relevant domestic violence offence does not prevent alleged offenders from seeking or securing bail if the court is satisfied that in all probability the risk of granting bail is considered reasonable.*<sup>29</sup>

Other submitters supported the proposed amendment but made additional suggestions regarding application of a reversal of the presumption in favour of bail in relations to domestic violence offences. For example the Queensland Indigenous Family Violence Legal Service (QIFVLS) submitted:

*QIFVLS supports the proposed reversal of the presumption of bail for an alleged offender charged with a relevant domestic violence offence.*

<sup>23</sup> *Bail Act 1992 (ACT)*, s 9F; *Domestic Violence and protection Orders Act 2008 (ACT)* s 15.

<sup>24</sup> *Bail Act 1992 (ACT)*, s 9B; Emily Ng and Heather Douglas, 'Domestic and Family Violence and the Approach to Bail', *Contemporary Issues in Criminal Law*, volume 34(2), 2016, pp 43-44.

<sup>25</sup> *Bail Act (NT)*, s 7A.

<sup>26</sup> See for example submissions 1, 2, 6, 16, 17, 18, 20, 21, 22, 23 and 31.

<sup>27</sup> Public hearing transcript, Brisbane, 1 March 2017, p 20.

<sup>28</sup> Submission 18, p 1.

<sup>29</sup> Submission 6, p 1.

*However, QIFVLS observes that the Amendment Bill is silent in relation to the reversal of bail for an alleged juvenile offender pursuant to the provisions of the Youth Justice Act 1992... There is no express provision in the ... Youth Justice Act 1992 to take into account the commission of a relevant domestic violence offence or a demonstrated criminal history of contravening domestic violence orders.*

*It is clear ... the Amendment Bill is intended to apply to juvenile offenders. However, it is perplexing to exclude those juvenile offenders from similar considerations for the grant of bail.<sup>30</sup>*

Conversely, a number of submitters did not support reversing the ordinary presumption in favour of bail, as it 'does not take into account the complex and challenging social relationships that society is attempting to manage through the justice system'.<sup>31</sup>

For example Caxton Legal Centre submitted that:

*The presumption of bail stems from the presumption of innocence which underpins our entire criminal justice system. That is, the community ought to reject the notion that a person upon allegation is deprived of their liberty during a lengthy court proceeding. Reversing the onus for domestic violence related offences may be superficially attractive but does represent a significant erosion of our rights and liberties.*

*There is a clear risk that if a reverse onus provision was legislated, many individuals would be refused bail and would spend much longer in custody on remand than any sentence they might receive upon conviction. This would create a most unfair system at significant public expense. There is also a clear risk of the Supreme Court being inundated with applications after a Magistrate's refusal of bail.<sup>32</sup>*

Micah Projects also expressed concern that reversing the presumption of bail may have 'unintended consequences':

*It is noteworthy that following their consideration of the issues related to bail provisions, the Australian Law Reform Commission ... did not recommend the introduction of a presumption against bail in family violence cases...*

*We share a concern raised by others that placing the onus of proof on offenders in applications for bail can disproportionately impact on disadvantaged people and substantially increase the prison population in Queensland without achieving its desired effect of targeting and managing the high risk offenders. ... It is our concern that by making it harder to receive bail, marginalised people will be caught in a process of further disadvantage.<sup>33</sup>*

Professor Heather Douglas noted that reversing the presumption of bail 'is not necessarily going to help' as the presumption was reversed, on other grounds, in a particular case where 'the system failed', and reversing the presumption 'could have a number of problematic effects'.<sup>34</sup> Other submitters who did not support the proposed amendment raised concerns that it may negatively affect women who are not the predominant aggressor but who are charged with reactive violence offences.<sup>35</sup>

Ms Angela Lynch from Women's Legal Service noted that if the reversal of the presumption was not limited to high risk cases 'there will be unintended consequences', and 'we will see women imprisoned and they are not dangerous perpetrators'.<sup>36</sup> Sisters Inside also submitted:

*Even though the proposed amendment is limited to violent offences, we are concerned that reversing the presumption of bail will negatively affect women, especially Aboriginal and Torres Strait Islander women, who these laws are designed to protect.<sup>37</sup>*

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<sup>30</sup> Submission 23, p 2.

<sup>31</sup> Queensland Law Society, submission 28, p 4. See for example submissions 9, 10, 11, 14, 15, 24, 25, 26, 28 and 29.

<sup>32</sup> Submission 24, p 1.

<sup>33</sup> Submission 15, pp 7-8.

<sup>34</sup> Public hearing transcript, Brisbane, 1 March 2017, p 7.

<sup>35</sup> See for example submissions 9, 11 and 10.

<sup>36</sup> Public hearing transcript, Brisbane, 1 March 2017, p 18.

<sup>37</sup> Submission 11, p 2.



Mr Ian Walker MP responded, advising that:

*I note the concerns from Sisters Inside that this provision may have the reverse effect and negatively affect women. There was no evidence provided to justify this conclusion and it is difficult to foresee how strengthening bail process for domestic violence related offences could diminish the community safety to victims. The issues raised by Sisters Inside could easily be raised through submissions to a bail hearing, for the consideration of the presiding judicial officer.*<sup>38</sup>

## 2.2 Imposing a bail condition for a tracking device (GPS tracker)

### 2.2.1 Current regulation and requirements in Queensland

Under the Bail Act conditions may be imposed on a defendant's bail if it is considered necessary to ensure the defendant:

- appears in accordance with their bail undertaking and attends court for their hearing
- does not commit an offence
- does not endanger the safety or welfare of another person, and
- does not interfere with witnesses or otherwise obstruct the course of justice.<sup>39</sup>

The Bail Act lists the following two examples of conditions that may be imposed to ensure the safety or welfare of another person is not endangered:

- prohibiting a person from associating with a stated person or class of person, and
- prohibiting a person from entering or being in the vicinity of a stated place or class of place.<sup>40</sup>

Any conditions imposed must not be more onerous than are necessary considering 'the nature of the offence, the circumstances of the defendant and the public interest'.<sup>41</sup>

### 2.2.2 Overview of proposed change

The Bill proposes to amend section 11 of the Bail Act to provide that in deciding whether to grant bail to defendant charged with a relevant domestic violence offence the court must consider imposing a condition that:

- prohibits them from approaching within a stated distance of a stated place regularly frequented by the complainant for the offence, and
- requires them to wear a tracking device (GPS tracker) while released on bail, to allow the Queensland Police Service to find or monitor their geographic location.<sup>42</sup>

### 2.2.3 Regulation in other jurisdictions

All Australian jurisdictions provide that conditions may be imposed on the defendant's bail. These conditions include restrictions on the defendant's conduct,<sup>43</sup> who they may have contact with,<sup>44</sup> or locations where they may or may not go<sup>45</sup> and requirements to live at a specified address,<sup>46</sup> to report at a specified place at a specified time.<sup>47</sup>

<sup>38</sup> Mr Ian Walker MP, correspondence dated 6 March 2017, attachment, p 1.

<sup>39</sup> *Bail Act 1980*, s 11(2).

<sup>40</sup> *Bail Act 1980*, s 11(2)(b).

<sup>41</sup> *Bail Act 1980*, s 11(4).

<sup>42</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 4; Explanatory notes, p 3.

<sup>43</sup> *Bail Act 2013* (NSW), ss 25, 30; *Bail Act 1982* (WA), sch 1 part D; *Bail Act 1985* (SA) ss 11(1)-(2); *Bail Act 1992* (ACT), s 25(4)(f).

<sup>44</sup> *Bail Act 1977* (Vic), s 5(2A); *Bail Act 1994* (Tas) ss 5 and 7; *Bail Act 1992* (ACT), s 25(4)(f).

<sup>45</sup> *Bail Act 2013* (NSW), ss 25, 30; *Bail Act 1977* (Vic), s 5(2A); *Bail Act 1994* (Tas) ss 5 and 7; *Bail Act 1992* (ACT), s 25(4)(f); *Bail Act* (NT), ss 27 and 27A.

<sup>46</sup> *Bail Act 1977* (Vic), s 5(2A); *Bail Act 1994* (Tas) ss 5 and 7; *Bail Act 1985* (SA) ss 11(1)-(2).

<sup>47</sup> *Bail Act 1977* (Vic), s 5(2A); *Bail Act 1994* (Tas) ss 5 and 7; *Bail Act 1985* (SA) ss 11(1)-(2).

The bail legislation in New South Wales, Victoria, Tasmania, Western Australia and the Australian Capital Territory does not specify that a condition requiring a defendant to wear a tracking device may be imposed. However, New South Wales is undertaking ‘a trial of GPS tracking for high-risk domestic violence offenders released on bail’.<sup>48</sup>

*The GPS monitoring can apply to sentenced or paroled offenders, but can also be used to monitor compliance with bail conditions in cases where a victim is protected by an ADVO [Apprehended Domestic Violence Order] with geographical restrictions.*<sup>49</sup>

Legislation in the Northern Territory and South Australia provides that a condition may be imposed requiring a defendant to wear a monitoring device. In the Northern Territory the condition may be imposed in a conduct agreement for the bail of any accused person, there is no distinction based on the offence the person is charged with.<sup>50</sup> However, in South Australia the condition may only be imposed if the defendant is a serious and organised crime suspect to monitor compliance with a requirement to live at a specified address.<sup>51</sup>

## 2.2.4 Issues raised during the inquiry

Submitters presented differing views regarding the proposed amendment that the court must consider imposing a condition requiring a defendant to wear a GPS tracker while released on bail.

Some submitters supported the amendment as a ‘reasonable proposal given the increase levels of safety it provides for the alleged offender’s victims’.<sup>52</sup> For example Ms Bonnie Mobbs, mother of Shelsea Schilling who was killed in 2016, submitted:

*I fully support the use of GPS technology to track alleged domestic violence offenders if they are given bail.*<sup>53</sup>

Similarly, Ms Dale Shales, mother of Teresa Bradford who was killed in 2016, submitted:

*We need to ensure the courts have the power to use of (sic) GPS technology to track alleged domestic violence offenders on bail.*<sup>54</sup>

Other submitters supported the amendment but raised concerns regarding its practical implementation.<sup>55</sup> For example the Queensland Law Society submitted:

*The Society is supportive of this clause. However, the Society notes that proper resourcing and funding is required for this provision to be effective in achieving the policy objectives of the Bill. For example, the use of tracking devices must also be met with a commensurate increase in personnel and resources to monitor the tracking devices.*

*This also raises the issue of how the location of the victim might be tracked in relation of the location of the alleged offender. In this regard, we are concerned that the GPS tracking device might create a false sense of security for victims.*<sup>56</sup>

Correspondingly, the Women’s Legal Service submitted:

*WLS is not opposed to the used of tracking devices on offenders if it increases women and children’s safety. We would probably prefer to wait for a trial evaluation as recommended by the Not Now: Not Ever Report (Recommendation 123) before recommending their widespread use.*<sup>57</sup>

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<sup>48</sup> Explanatory notes, p 3.

<sup>49</sup> New South Wales Government, *NSW Budget: Record investment to tackle domestic violence*, media release, 11 June 2016.

<sup>50</sup> *Bail Act* (NT), ss 27 and 27A.

<sup>51</sup> *Bail Act 1985* (SA) s 11(2aa).

<sup>52</sup> SunnyKids, submission 6, p 1. See for example submissions 1, 4, 13, 17, 18, and 21.

<sup>53</sup> Submission 1, p 1.

<sup>54</sup> Submission 17, p 1.

<sup>55</sup> See for example submissions 20 and 28.

<sup>56</sup> Submission 28, p 2.

<sup>57</sup> Submission 20, p 8.

A number of submitters did not support imposing a condition requiring a defendant wear a GPS tracker while released on bail.<sup>58</sup> For example, QIFVLS stated:

*It is QIFVLS submission that the implementation of clause 4 of the Amendment Bill in respect to the use of a tracking device would unreasonably divert much needed funds and resources [from] where it is needed most, being the front line delivery of services.*

*...there has not been made available a cost analysis for the implementation of this measure.*<sup>59</sup>

Sisters Inside also raised concerns regarding the imposition of a condition to wear a GPS tracker:

*When a person is on bail, generally they have not been convicted of an offence and may not have entered a plea of guilty. In these circumstances, GPS tracking is very intrusive and represents a breach of fundamental rights.*

*There is very little evidence to support the position that GPS tracking improves compliance with domestic violence orders or, by extension, bail conditions. ...Given the costs of implementing GPS tracking as a bail condition, as well as the limitations in the New South Wales Scheme, we suggest it would be inappropriate to implement the proposed amendment in Queensland.*<sup>60</sup>

Mr Ian Walker MP responded to the concerns raised by Sisters Inside, advising that:

*I note the concerns of Sisters Inside that the presumption of innocence is a fundamental principle of criminal law and that somehow this objective breaches an alleged offenders fundamental rights. Consideration need to also be given to the fundamental rights of victims and their families and their enduring right to safety and it should be acknowledged that this bail condition by no means prejudices the innocence of the accused and could already be applied now by a court or police officer authorised to grant bail.*<sup>61</sup>

The majority of submitters did not specifically address the proposed amendment that the court must consider imposing a condition prohibiting a defendant from approaching a place regularly frequented by the victim for the offence. Those that did suggested that it was 'largely unnecessary',<sup>62</sup> as 'non-contact conditions and geographic restrictions are routinely imposed on women granted bail for domestic violence-related offences'.<sup>63</sup>

## 2.3 Staying bail decisions if there is a review in a higher court

### 2.3.1 Current law in Queensland

When bail is granted the defendant is released from custody, subject to any pre-release conditions being met. If the complainant or prosecution does not agree with the decision, the Bail Act provides that they may apply for the decision to be reconsidered by a review court.<sup>64</sup> The defendant remains at liberty, subject to the conditions of their bail, during the review application process.

If on reviewing the decision to grant bail the court orders that bail should be refused, and the defendant is present at the review hearing, they are detained in custody. If the defendant is not present at the hearing, the court may issue a warrant for them to be apprehended and brought before the court.<sup>65</sup>

An application for a review cannot be made where the decision was made by the Supreme Court or by the District Court during the defendant's trial. A decision made by a magistrate acting as a review court may only be reviewed by the Supreme Court, if the Supreme Court agrees to review the decision.<sup>66</sup>

<sup>58</sup> See for example submissions 9, 10, 11, 14, 15 and 23.

<sup>59</sup> Submission 23, p 3.

<sup>60</sup> Submission 11, pp 2-3.

<sup>61</sup> Mr Ian Walker MP, correspondence dated 6 March 2017, p 3.

<sup>62</sup> Association of Labor Lawyers Qld, submission 14, p 5.

<sup>63</sup> Sisters Inside, submission 11, p 3.

<sup>64</sup> *Bail Act 1980*, ss 19B-19C.

<sup>65</sup> *Bail Act 1980*, ss 16, 19D.

<sup>66</sup> *Bail Act 1980*, ss 19B-19C; Queensland Parliamentary Library, *Queensland Bail Laws*, Legislation Bulletin 1/00 p 23.

### 2.3.2 Overview of proposed change

The Bill proposes to insert a new section 19CA in the Bail Act to provide that if a defendant charged with a relevant domestic violence offence is granted bail, and the prosecution subsequently applies for the decision to be reviewed, the decision to grant bail is stayed until:

- the review court reconsiders the decision and makes an order
- the application for the decision to be reviewed is discontinued, or
- 4pm on the day, three business days after the decision to grant bail was made.<sup>67</sup>

While the decision is stayed, the defendant would not be entitled to be at liberty, and would be detained in custody.<sup>68</sup> If the defendant was released under the original decision, prior to the application for the decision to be reviewed, in order to give effect to the stay of the decision the Bill proposes to amend section 19D of the Bail Act to provide that the court may issue a warrant for defendant to be apprehended and brought before the court.<sup>69</sup>

A two year review of these new provisions is also proposed by the Bill, requiring the Minister to ensure the operation of the new provisions is reviewed as soon as practicable two years after their commencement. The review must consider whether the provisions have been effective in protecting people from domestic violence, have sufficient regard to defendants' rights and liberties, and remain appropriate.<sup>70</sup>

The explanatory notes describe this review requirement as a safeguard 'to ensure this provision is effective in limiting serious domestic violence through the insertion of a two year review, [and prepare a report] which will need to be tabled in the parliament by the Minister upon completion'.<sup>71</sup>

### 2.3.3 Regulation in other jurisdictions

A decision to release a person on bail is not stayed in Victoria, Tasmania, Western Australia or the Australian Capital Territory if an application for the decision to be reviewed is lodged.

A release decision may be stayed in New South Wales, South Australia and the Northern Territory.

In these jurisdictions if the bail authority decides to release a person on bail, and the prosecution immediately informs the authority an intention to apply for the decision to be reviewed, the decision to grant bail is stayed and the defendant's release is deferred. The person is not entitled to be at liberty on bail while the stay of the decision is in effect.<sup>72</sup>

The decision is stayed until:

- the court reviews the bail decision and makes an order, or refuses to hear the application
- the prosecution advises it will not proceed with the application, or
- 4pm on the day three business days after the decision to grant bail was made in New South Wales and the Northern Territory, or 72 hours has elapsed (or a period determined by the court) in South Australia.<sup>73</sup>

In New South Wales the immediate stay of a decision to grant bail only applies in circumstances where the defendant was charged with 'murder or any other offence punishable by imprisonment for life' or offence 'involving sexual intercourse, or an attempt to have sexual intercourse, with a person under the age of 16 years'.<sup>74</sup> There are no provisions for the stay of a bail decision for defendants charged with domestic violence offences.

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<sup>67</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 7.

<sup>68</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 7; Explanatory notes p 1.

<sup>69</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 8.

<sup>70</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 9.

<sup>71</sup> Explanatory notes, p 2.

<sup>72</sup> *Bail Act 2013* (NSW), ss 40(1),(3); *Bail Act* (NT), s 36A(1)-(3); *Bail Act 1985* (SA), s 16(1).

<sup>73</sup> *Bail Act 2013* (NSW), s 40(2); *Bail Act 1985* (SA), s 16(2); *Bail Act* (NT), s 36A(4).

<sup>74</sup> *Bail Act 2013* (NSW), ss 40(1),(5).

In South Australia and the Northern Territory the stay of a decision to grant bail applies to applications for a review of bail decisions for defendants charged with any offence. There are no specific requirements for defendants charged with domestic violence offences.

### 2.3.4 Issues raised during the inquiry

Submitters presented differing views regarding the proposed amendment that a decision to grant bail be stayed if an application for a review of the decision is lodged.

Some submitters supported the amendment as a measure intended to protect a victim of domestic violence.<sup>75</sup> For example QIFVLS submitted:

*This proposed amendment will clearly address the identifiable gap ... with the primary focus being on the safety and protection of a victim...*

*By creating within legislation, a provision for the stay of a release order, pending the outcome of an urgent review, empowers victims with not only information but the element of time in which to implement safety measures or to flee their current location so as to avoid being easily found by an alleged offender.*<sup>76</sup>

Similarly, SunnyKids submitted:

*Introducing a provision to allow for an urgent review of a bail decision in a higher court will help authorities ensure the safety of the community should it prove to be the case that the alleged offender represents a high enough risk to the community.*<sup>77</sup>

Other submitters did not support the amendment to 'allow for the temporary stay of release decisions'.<sup>78</sup> For example Sisters Inside submitted:

*In our view, this provision undermines the authority and discretion of a judicial officer to grant bail, as it is likely to only be used in situations where bail is opposed.*

*In practice, this amendment is likely to operate to keep people in prison for three extra business days because matters cannot be listed in the Supreme Court promptly. This would create operational and administrative difficulties for government agencies and legal representatives, without any evidence that this process would actually protect women.*<sup>79</sup>

In response to Sisters Inside's submission, Mr Ian Walker MP advised:

*I note the concerns of Sisters Inside about a potential misuse of this urgent review provision. It should be acknowledged that a two year review of this provision has been included in the Bill to ensure that it is being used effectively to protect victims of domestic and family violence.*<sup>80</sup>

The Queensland Law Society also raised a number of concerns:

*First, the imposition of a temporary stay may, in some cases, only serve to inflame an already strained relationship without providing any other assistance to resolve the underlying issues...*

*Secondly, we note that a framework for review already exists in the Bail Act 1980... the policy intentions behind the Bill might be better achieved if the existing framework in the Bail Act 1980 were utilised more effectively...*

*Thirdly, the Society notes that there is a lack of clarity around where alleged offenders would be detained ... watch houses are not designed to detain persons for up to three days. As such, we would not be supportive of a proposal that would, in practice, result in the use of watch houses as defacto detention facilities...*

<sup>75</sup> See for example submissions 5, 13, 16, 20 and 21.

<sup>76</sup> Submission 23, pp 3-4.

<sup>77</sup> Submission 6, p 1.

<sup>78</sup> See for example submissions 11, 14, 26 and 28.

<sup>79</sup> Submission 11, p 4.

<sup>80</sup> Mr Ian Walker MP, correspondence dated 6 March 2017, p 4.

*Fourthly, the Society considers that the detention of these alleged offenders during a stay of the original decision does not accord with our international human right obligations ... the detention of persons without conviction or charge has the potential to be detention of an arbitrary nature.*<sup>81</sup>

In relation to the concerns raised by the Queensland Law Society, Mr Ian Walker MP advised:

*The concerns raised by the Queensland Law Society are also acknowledged. It is clear that the existing review framework under the Bail Act 1980 needs to be strengthened to provide better protection to victims and their families... The Bill before the Committee simply replicates an existing provision in the New South Wales legislation ... in this regard, which has been in place since 2013.*<sup>82</sup>

The majority of submitters did not specifically address the proposed requirement for a two year review of the provisions. Those who did suggested it was unnecessary as ‘considerable reviews have been undertaken in response to the Not Now Not Ever report, and such matters are always ongoing and within the ambit of the advocacy and lobby groups’.<sup>83</sup>

## **2.4 Alerting victims of domestic violence of bail applications**

### **2.4.1 Current law in Queensland**

Under the *Victims Assistance Act 2009*, if a victim asks for information about the crime committed against them, the relevant agency must ‘so far as is reasonably practicable’ give them information, including:

- the outcome of an application for bail made by the defendant, and
- if the defendant is released on bail, the arrangements for the release, including any condition that may affect the victim’s safety or welfare and any application to vary such a condition.<sup>84</sup>

### **2.4.2 Overview of proposed change**

The Bill proposes to insert a new section 11C in the Bail Act to provide that if a defendant charged with a relevant domestic violence offence makes an application for bail or to vary their bail, the prosecution must give the victim notice of the application within 24 hours.<sup>85</sup>

A proposed new section 11D provides that if a defendant charged with a relevant domestic violence offence (see section 2.1.2 for list of offences) is released on bail, the court must provide each person at risk of domestic violence from the defendant with information about the date the defendant is released and the time and place the defendant is required to surrender into the court’s custody.<sup>86</sup>

A person at risk of domestic violence means:

- the victim of the offence
- an immediate family member of the victim, if the victim is deceased
- the victim’s parent or guardian, if the victim is under 18 or has a legal incapacity
- a person who provides documentary evidence of the defendant’s domestic violence against them, whether or not domestic violence is the offence the defendant is charged with, and
- a person who satisfies the court that their life or physical safety could be endangered because of a risk of domestic violence from the defendant.<sup>87</sup>

If at the time the decision to grant bail is made the court is aware that someone is a person at risk of domestic violence, the information must be given to that person immediately after the bail decision is made. If the court later becomes aware that someone is a person at risk of domestic violence, the information must be given to that person within 24 hours of the court becoming aware.<sup>88</sup>

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<sup>81</sup> Submission 28, p 5.

<sup>82</sup> Mr Ian Walker MP, correspondence dated 6 March 2017, p 4.

<sup>83</sup> Association of Labor Lawyers Qld, submission 14, p 6.

<sup>84</sup> *Victims of Crime Assistance Act 2009*, s 11.

<sup>85</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 5.

<sup>86</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 5.

<sup>87</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 5.

<sup>88</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 5.

### 2.4.3 Regulation in other jurisdictions

All Australian jurisdictions except Tasmania have legislation regarding giving victims information about a bail application or bail decision. These requirements are not specific to domestic violence offences.

#### **New South Wales**

The New South Wales *Charter of Victims Rights* provides that a victim will be informed of ‘the outcome of a bail application if the accused has been charged with sexual assault or other serious personal violence’, and of ‘any special bail conditions imposed on the accused that are designed to protect the victim or the victim’s family’.<sup>89</sup>

#### **Victoria**

In Victoria a victim must be informed, if they request to be, about the outcome of a bail application and any condition imposed by the court on the grant of bail to protect the victim or their family members.<sup>90</sup> If the defendant is the respondent to an application for a family violence intervention order, and is arrested under a warrant, the affected family member must be advised of the outcome of an application for bail and any conditions imposed to protect the family member. They must also be given a copy of the defendant’s undertaking of bail.<sup>91</sup>

#### **South Australia**

In South Australia, a victim should be informed, if they request to be, about the outcome of a bail application and any condition imposed on the grant of bail to protect them from the defendant.<sup>92</sup>

#### **Western Australia**

The Western Australian *Guidelines as to how victims should be treated* states that a ‘victim who has so requested should be kept informed about ... any bail application made by the offender’.<sup>93</sup>

#### **Australian Capital Territory**

In circumstances where the prosecution is aware that a complainant has ‘expressed a concern about the need for protection from violence or harassment’ by the defendant, all reasonable steps must be taken to tell the complainant about a bail decision as soon as practicable.<sup>94</sup>

This requirement applies to the bail decisions for any offence, there are no specific requirements for advising complainants in relation to domestic violence offences.

#### **Northern Territory**

The *Northern Territory Charter for Victims of Crime* provides that a victim ‘can ask to be kept informed of the outcome of any bail application by the accused’ and that if bail is granted they ‘will be informed of any special conditions’ to protect the victim or they family members.<sup>95</sup>

### 2.4.4 Issues raised during the inquiry

There was general support from submitters for an alert system to notify victims of domestic violence if a defendant makes an application for bail or if bail is granted.<sup>96</sup> For example, Micah Projects submitted:

*Micah Projects ... welcomes information-sharing provisions that enable a system of notification to those aggrieved by domestic violence about the pending release or bail application of their offender.*

*In our experience, women live with grave fear and this will enable them time to plan for their safety and any dependent children or at risk family members.*<sup>97</sup>

<sup>89</sup> *Victims Rights Act 1996* (NSW), ss 6.12-6.13.

<sup>90</sup> *Victim’s Charter Act 2006* (Vic), s 10.

<sup>91</sup> *Family Violence Protection Act 2008* (Vic), s 52.

<sup>92</sup> *Victims of Crime Act 2001* (SA), ss 7, 8.

<sup>93</sup> *Victims of Crime Act 1994* (WA), sch 1.

<sup>94</sup> *Bail Act 1992* (ACT), s 47A.

<sup>95</sup> Northern Territory Government, *Northern Territory Charter for Victims of Crime*, p 5.

<sup>96</sup> See for example submissions 1, 2, 4, 5, 9, 10, 11, 13, 14, 15, 16, 17, 18, 20, 21, 23, 27 and 28.

<sup>97</sup> Submission 15, p 10.

Similarly SunnyKids submitted:

*...a new system to alert the victim of a relevant domestic violence offence when the defendant applies for bail, is released on bail or receives a variation to a bail condition will empower the alleged offender's victims to heighten [sic] security measures and seek the necessary support.*<sup>98</sup>

Some submitters, while supporting the intended outcome of notifying victims, raised concerns about the practical implementation of the system, timing of notifications, and potential unintended consequences.

In relation to ensuring the effective implementation of an alert system, the QIFVLS suggested:

*This requirement will place a great deal of pressure on both the police/police prosecution corps as well as the courts, who are already struggling with existing caseloads in the Magistrates Courts.*

*Consideration must be given to properly investing in resourcing the police/police prosecution corps and the courts so that they are able to comply with a 24 hour turn-around for the provision of information to a victim.*<sup>99</sup>

Ms Sonia Anderson, and Dr Samantha Jeffries from Griffith University and the Griffith Criminology Institute, also highlighted the importance of an effective and comprehensive system. Ms Anderson noted that 'there needs to be some formal register' to ensure people can be contacted, while Dr Jeffries raised concerns regarding the method of notification:

*I worry that in practice this may result in basically just a text message or an email being sent and then everyone thinking that their job has been done. Every effort needs to be made to ensure victims know when a perpetrator is being release on bail.*<sup>100</sup>

In relation to the timing of the notification, submitters such as the Red Rose Foundation and Gold Coast Centre Against Sexual Violence<sup>101</sup> suggested that the victim must be notified before the defendant is released, 'so that she can manage risk and plan for safety'.<sup>102</sup> Similarly, Dr Samantha Jeffries stated:

*...immediately might not be soon enough. Is it possible to have a time lag of a few hours between the granting of bail and release to ensure that victims receive this information? I acknowledge that this ... might hold up processes and cost a bit more money, but it is quite crucial that victims are aware that the person is getting released.*<sup>103</sup>

Some submitters identified potential inadvertent effects of the proposed mandatory notification system. For example, the Association of Labour Lawyers Qld raised a concern that the proposed system may allow a defendant to use the process to distress the victim.

*A person who applies for bail may make multiple successive applications for bail. Indeed a provision that requires notice to a person who experiences domestic and family violence of an application could enable a perpetrator of domestic and family violence who is in custody to continue to cause trauma and anxiety to their victim while on remand by making successive bail applications.*<sup>104</sup>

Comparably, Sisters Inside raised a concern that the proposal may unintentionally endanger women charged with reactive domestic violence offences.

*We are also cautious about the impact that the proposed amendments may have on women charged with reactive violence offences. Notifying violent partners of their release on bail may put these women in danger.*

*We consider that it may be more appropriate to implement a notification obligation through policy, rather than legislation, to maintain discretion for cases involving women as alleged perpetrators.*<sup>105</sup>

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<sup>98</sup> Submission 6, p 1.

<sup>99</sup> Submission23, p 3.

<sup>100</sup> Public hearing transcript, Brisbane, 1 March 2017, p 4.

<sup>101</sup> Gold Coast Centre Against Sexual Violence, submission 10; Red Rose Foundation, submission 9.

<sup>102</sup> Gold Coast Centre Against Sexual Violence, submission 10, p 4.

<sup>103</sup> Public hearing transcript, Brisbane, 1 March 2017, p 4.

<sup>104</sup> Submission 14, p 5.

<sup>105</sup> Submission 11, p 3.



Sisters Inside also noted that the Victims of Crime Assistance and Other Legislation Amendment Bill 2016 (VOCA Bill) proposes to introduce ‘a charter of victims’ rights, which would effectively require police and other government officers to notify survivors of domestic violence when bail is granted to an alleged perpetrator’.<sup>106</sup> Clause 93 of the VOCA Bill proposes to insert a provision that states ‘A victim will be informed about the outcome of a bail application made by the accused and any arrangements made for the release of the accused, including any special bail conditions imposed that may affect the victim’s safety or welfare’.<sup>107</sup> The committee recently tabled its report on the VOCA Bill.<sup>108</sup>

Sisters Inside suggested that ‘it would not make sense for both the VOCA Bill and this Bill to be passed’.<sup>109</sup>

In relation to the VOCA Bill, Mr Ian Walker MP advised:

*The VOCA Bill does not specifically refer to bail hearings, which is an important distinction. I also think it is important to ensure the specific objective of notification to victims for when a bail application is made, a bail decision is made and a variation to a bail condition is made, is outlined in the Bail Act 1980 to ensure the effect of the objective is implemented.*<sup>110</sup>

## 2.5 Alerting victims of domestic violence of parole release details

### 2.5.1 Current law in Queensland

The *Corrective Services Act 2006* (CS Act) requires that a register be kept of people who are eligible to receive information about prisoners incarcerated for a sexual offence or an offence involving violence, or who are supervised dangerous prisoners subject to a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (DPSO Act).<sup>111</sup> A person may apply to be included in the register if they:

- are the victim of the offence
- are an immediate family member of the victim, if the victim is deceased
- are the victim’s parent or guardian, if the victim is under 18 or has a legal incapacity
- provide documentary evidence, to the chief executive’s satisfaction, of the prisoner’s history of violence against them, or
- satisfy the chief executive that their life or physical safety could be endangered because of a connection between them and the offence.<sup>112</sup>

Information that may be released to a registered person includes information about the prisoner’s location and security classification, eligibility dates for discharge or release, date of discharge or release, transfer between facilities, the result of an application for parole, the prisoner’s death or escape, and any other exceptional circumstances applying to the prisoner. This information may be released to the registered person to the ‘extent the chief executive reasonably considers it appropriate’.<sup>113</sup>

### 2.5.2 Overview of proposed change

The Bill proposes to amend section 320 of the CS Act to extend those who may be included in the register to include a person who:

- provides documentary evidence of the prisoner’s domestic violence against them, whether or not the domestic violence is the offence for which the prisoner is incarcerated, or
- satisfies the chief executive that their life or physical safety could be endangered because of a risk of domestic violence from the prisoner.<sup>114</sup>

<sup>106</sup> Submission 11, p 3.

<sup>107</sup> Victims of Crime Assistance and Other Legislation Amendment Bill 2016, cl 93.

<sup>108</sup> Legal Affairs and Community Safety Committee, [Report No. 49, 55<sup>th</sup> Parliament - Victims of Crime Assistance and Other Legislation Amendment Bill 2016](#), 2016.

<sup>109</sup> Submission 11, p 3.

<sup>110</sup> Mr Ian Walker MP, correspondence dated 6 March 2017, p 4.

<sup>111</sup> *Corrective Services Act 2006*, s 320, sch 4.

<sup>112</sup> *Corrective Services Act 2006*, s 320.

<sup>113</sup> *Corrective Services Act 2006*, s 325.

<sup>114</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 11.

The extension would allow these persons to be included in the register to receive information about prisoners who are incarcerated for any offence. The current restriction that information may only be provided about prisoners incarcerated for offences sexual offences or offences involving violence, or who are a supervised dangerous prisoner subject to a supervision order under the DPSO Act would not apply.<sup>115</sup>

The Bill also proposes to insert a new section 324A in the CS Act to provide a right for registered persons to receive particular information. Under the proposed new section, the chief executive *must* give a registered person information about:

- eligibility dates for the prisoner's discharge or release, as soon as practicable after becoming aware of the information
- the prisoner's date of discharge or release, at least 14 days before the discharge or release date
- the death or escape of the prisoner, immediately after becoming aware of the information, and
- any other circumstances regarding the prisoner that could endanger the person's life or physical safety, immediately after becoming aware of the information.<sup>116</sup>

Other information about a prisoner that may currently be released to a registered person, such as information about the prisoner's location and security classification, the result of an application for parole, and any exceptional circumstances applying to the prisoner would continue to be released under the existing law to the 'extent the chief executive reasonably considers it appropriate'.<sup>117</sup>

### 2.5.3 Regulation in other jurisdictions

All Australian jurisdictions have a victims register or other requirements for providing victims with information about a prisoner.

#### **New South Wales**

In New South Wales a register is kept of victims who have requested to be given notice of the possible parole of a prisoner.<sup>118</sup> A victim is someone who suffers physical bodily harm or psychological or psychiatric harm, or whose property is deliberately taken, destroyed or damaged, as a direct result of an act committed by the prisoner. If a person dies as a result of the offence, a member of their immediate family is also a victim.<sup>119</sup>

The New South Wales *Charter of Victims Rights* provides that a 'victim will, on request, be kept informed of the offender's impending release or escape from custody, or of any change in security classification that results in the offender being eligible for unescorted absence from custody'.<sup>120</sup>

#### **Victoria**

A victims register is kept in Victoria containing details of people eligible to receive information about prisoners. A person included on the register may be given information about the length of a relevant prisoner's sentence, the date and circumstances in which the prisoner is to be or is likely to be released, and the details of any escape by the prisoner.<sup>121</sup> People eligible to be recorded on the register include:

- the victim of a criminal act of violence
- a person who is or has been the prisoner's spouse or partner, and who is a protected person under a final order under the *Family Violence Protection Act 2008* for which the prisoner is the respondent
- a person who satisfies the secretary of a documented history of family violence committed by the prisoner against them, and
- a person who satisfies the secretary that they have a substantial connection to the offence for which the prisoner is imprisoned or is subject to a supervision or detention order.<sup>122</sup>

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<sup>115</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 11.

<sup>116</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 12.

<sup>117</sup> Bail (Domestic Violence) and Another Act Amendment Bill 2017, cl 12; *Corrective Services Act 2006*, s 325.

<sup>118</sup> *Crimes (Administration of Sentences) Act 1999* (NSW), ss 256(1)-(2).

<sup>119</sup> *Crimes (Administration of Sentences) Act 1999* (NSW), s 256(5); *Victims Rights Act 1996* (NSW), s 5.

<sup>120</sup> *Victims Rights Act 1996* (NSW), s 6.15.

<sup>121</sup> *Corrections Act 1986* (Vic), s 30A; *Victims' Charter Act 2006* (Vic), s 17(2).

<sup>122</sup> *Corrections Act 1986* (Vic), ss 30A, 30C.

### **Tasmania**

In Tasmania a register must be kept of people who are eligible to receive information about prisoners who are imprisoned for a violent or sexual offence.<sup>123</sup> People eligible to be recorded on the register include:

- the victim of the offence
- a person who satisfies the secretary that the prisoner has been violent towards them, and
- a person who satisfies the secretary that their life or physical safety could be endangered because of their connection to the offence for which the prisoner was incarcerated.<sup>124</sup>

Information that may be released includes information about the prisoner's eligibility dates for discharge or release, date of discharge or release, result of an application for parole, and the prisoner's death or escape. This information may be released if the secretary 'reasonably considers it appropriate'.<sup>125</sup>

### **South Australia**

A victims register must be kept in South Australia, containing details of eligible people who have requested to receive information about offenders. A registered victim may be a person who suffers injury as a result of the offence or a member of a victim's immediate family.<sup>126</sup>

An eligible person may apply in writing for the release of information about a prisoner including the date and circumstances under which they are to be or are likely to be released, and the details of any escape from custody. The chief executive has an absolute discretion to grant or refuse an application for release of information to an eligible person.<sup>127</sup>

Additionally, the principles governing treatment of victims outlined in the *Victims of Crime Act 2001* (SA), includes that a victim should be informed, if they request to be, about the outcome of the offender's application for parole and any condition imposed on the parole to protect them from the defendant.<sup>128</sup>

### **Western Australia**

In Western Australia information about a prisoner may be given to a victim who has suffered injury, loss or damage as a direct result of an offence committed by the prisoner. If a person dies as a result of the offence, a member of their immediate family is also a victim.<sup>129</sup>

The *Guidelines as to how victims should be treated* (schedule 1 of the *Victims of Crime Act 1994* (WA)) states that a 'victim who has so requested should be kept informed about the impending release of the offender from custody and, where appropriate, about the proposed residential address of the offender after release' and 'of any escape from custody'.<sup>130</sup>

### **Australian Capital Territory**

A register of victims, containing details of eligible people who have requested to receive information about offenders, must be maintained in the Australian Capital Territory. A person may be registered if they suffered harm because of an offence by the offender, or if that person dies as a result of the offence, a person who was financially or psychologically dependent on the victim may be a registered victim.<sup>131</sup>

The information about an offender that may be disclosed to a registered victim includes the offender's parole eligibility date and earliest release date, any unescorted leave, and the death, escape or any other exceptional event relating to the offender. Information may be disclosed if the director-general is 'satisfied the disclosure is appropriate in the circumstances'.<sup>132</sup>

<sup>123</sup> *Corrections Act 1997* (Tas), 87A.

<sup>124</sup> *Corrections Act 1997* (Tas), 87A.

<sup>125</sup> *Corrections Act 1997* (Tas), s 87B.

<sup>126</sup> *Correctional Services Act 1982* (SA), ss 4, 5.

<sup>127</sup> *Correctional Services Act 1982* (SA), s85D.

<sup>128</sup> *Victims of Crime Act 2001* (SA), s 8.

<sup>129</sup> *Sentence Administration Act 2003* (WA), s 97D.

<sup>130</sup> *Victims of Crime Act 1994* (WA), sch 1.

<sup>131</sup> *Crimes (Sentence Administration) Act 2005* (ACT), s 215.

<sup>132</sup> *Crimes (Sentence Administration) Act 2005* (ACT), s 216.

### **Northern Territory**

In the Northern Territory a register is kept of people who are eligible to receive information about prisoners who are imprisoned for a serious sexual offence, an offence involving violence, or unlawfully entering a building.<sup>133</sup> People eligible to be recorded on the register include:

- someone who suffers injury as a direct result of the offence
- someone whom the prisoner has a history of using domestic violence against, and
- someone who has a domestic violence order against the prisoner at the time of the offence or at the time the prisoner is sentenced for the offence.<sup>134</sup>

A registered person must be given information about the prisoner's:

- earliest possible date of release on parole and any changes to the date
- parole consideration date, the actual date of release on parole, the conditions of parole, and any revocation or cancellation of parole
- date of discharge or release under, and
- death, or escape and any recapture.<sup>135</sup>

#### **2.5.4 Issues raised during the inquiry**

There was broad support from submitters for the proposed extension of the victim register to include persons who provide evidence of domestic violence or that they may be endangered because of a risk of domestic violence, and for the mandatory provision of information to registered persons.<sup>136</sup>

For example, Women's Legal Service submitted:

*WLS supports the amendments that would entitle a victim of domestic violence (who may not be a victim of the offence that the prisoner has been incarcerated) to have knowledge about a prisoner's release date and other necessary information to assist their decision making about their safety.*<sup>137</sup>

Similarly, Deborah Holland submitted:

*Victims and their families must be alerted when ... parole is being considered for a perpetrator, alleged or otherwise. Victims and their families have the right to be safe, to live without constant fear and to have the opportunity to make plans to stay safe.*<sup>138</sup>

However, some submitters did not support the proposed changes to the victim register and the provision of information to registered persons. For example Sisters Inside submitted:

*We do not support the proposed amendments to the Corrective Services Act 2006 (Qld). We note that the Queensland Parole System Review suggested that the Victims Register should remain limited to offences of violence and sexual offences and identified the potential burden that would be imposed if we expected survivors of domestic violence to register as a victim.*

*Recommendation 84 of the Parole Review outlines several improvements to information sharing practices by the Assessment and Parole Unit in relation to prisoners who were respondents to domestic violence orders when they entered prison. This recommendation has been accepted by the Government.*<sup>139</sup>

The Queensland Council for Civil Liberties also raised a concern regarding expanding the register to include people who were not the victim of the offence for which the prisoner is incarcerated:

*...we would express concern about the clauses permitting disclosure to individuals who assert a fear in the absence of being the victim or a relative of the victim.*<sup>140</sup>

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<sup>133</sup> *Victims of Crime Rights and Services Act (NT)* ss 17-18; *Criminal Code Act (NT)* s 213.

<sup>134</sup> *Victims of Crime Rights and Services Act (NT)* s 19.

<sup>135</sup> *Victims of Crime Rights and Services Act (NT)* s 22.

<sup>136</sup> See for example submissions 1, 2, 6, 10, 16, 17, 18, 21, 22, 23 and 27.

<sup>137</sup> Submission 20, p 8.

<sup>138</sup> Submission 22, p 1.

<sup>139</sup> Submission 11, pp 3-4.

<sup>140</sup> Submission 26, p 2.

## 2.6 Cost of implementation

The explanatory notes state that ‘It is not possible to estimate the financial impact of implementation for government as the relevant costs will depend on the application that result from the changes’.<sup>141</sup>

Some submitters while supporting the general intent of the Bill ‘to better manage high risk domestic violence offenders, hold them accountable for the harm they cause and reduce the risk of harm to those they violate’,<sup>142</sup> raised concerns regarding the cost of implementing the proposed initiatives and the need to ensure proper resourcing and funding.<sup>143</sup> For example, Mr Bill Potts representing the Queensland Law Society stated ‘It is a matter of balancing those costs against the effectiveness of the actual processes that we are putting in place’.<sup>144</sup>

In response to questions on the issue of the potential resource implications and costs of implementing the proposals in the Bill, Mr Walker MP stated:

*... there will be a cost to government as a result of the bill's being enacted, but the cost of doing nothing is far greater – both in terms of the impact on the lives of victims of domestic violence and their families, and in cost to the government and the community...*

*I am able to advise the committee that in relation to a four-year trial in New South Wales (announced in 2016) that the Department of Justice will spend \$2.9M for GPS monitoring devices to track high-risk domestic violence offenders. The trial applies to parolees and can also be a bail condition.*

*Beyond that it is problematic to quantify costs further – as is stated in the explanatory notes...*

*Much of the cost depends on how the changes will be enacted, and relates to the number of defendants charged and the relevant criminal justice proceedings that form part of that process. Notification processes that are added to the bail and parole system can be dealt with administratively by the relevant agencies.*<sup>145</sup>

<sup>141</sup> Explanatory notes, p 2.

<sup>142</sup> Micah Projects, submission 15, p 5.

<sup>143</sup> See for example submission 11, 15, 23, 28

<sup>144</sup> Public hearing transcript, Brisbane, 1 March 2017, p 6.

<sup>145</sup> Mr Ian Walker MP, correspondence dated 1 March 2017, p 1.

### 3 Compliance with the Legislative Standards Act

#### 3.1 Fundamental legislative principles (FLPs)

Section 4 of the *Legislative Standards Act 1992* states that FLPs are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to the rights and liberties of individuals, and the institution of Parliament.

The committee has examined the application of the FLPs to the Bill and brings the following to the attention of the Legislative Assembly.

##### 3.1.1 Rights and liberties of individuals

Clauses 4 and 7 have the potential to raise the issue of whether the Bill has sufficient regard to the rights and liberties of individuals.

##### Clause 4 - tracking device bail condition

Clause 4 amends section 11 of the Bail Act to require a bail authority to consider imposing a bail condition forcing a person charged with a relevant domestic violence offence to wear a tracking device while on bail. If such a condition was imposed, a person would have to wear a tracking device when their guilt of that offence had not yet been determined. The bail authority may also impose any other condition considered necessary to facilitate the use of the tracking device.

##### **Potential FLP issues**

Legislation should have sufficient regard to the rights and liberties of individuals.<sup>146</sup>

The proposed amendment to section 11 of the Bail Act, authorising the imposition of a condition that a defendant relevant domestic violence offence must wear a tracking device, clearly impacts upon defendants’ right to privacy, potentially in breach of the FLP requiring legislation have sufficient regard to individuals’ rights and liberties.

The explanatory notes do not identify this specific issue of FLP, nor do they provide any explicit justification in relation to this matter. The explanatory notes do state:

*Breaches of fundamental legislative principles are considered appropriate as they are balanced against the competing interests of public safety and welfare of victims (and their families, often children) of relevant domestic violence related offences.*<sup>147</sup>

##### Clause 7 - stay of bail decision pending review by higher court

Clause 7 inserts a proposed new section 19CA into the Bail Act to provide that if a defendant charged with a relevant domestic violence offence is granted bail, and the prosecution subsequently applies for the decision to be reviewed, the decision to grant bail is stayed and the defendant may be detained for up to three business days.

##### **Potential FLP issues**

Legislation should not abrogate common law rights without sufficient justification. In considering the impact of proposed legislation on right and liberties the former SLC considered common law rights and the legislation’s compliance with ‘international human rights contained in conventions to which Australia is a party’ may be relevant.<sup>148</sup> The High Court stated that ‘the right to personal liberty is the most elemental and important of all common law rights’.<sup>149</sup>

The proposed new section 19CA of the Bail Act allowing for the detention of a defendant who has been granted bail for up to three business days, impacts on the defendant’s common law right to personal liberty and arguably conflicts with international conventions to which Australia is a party.

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<sup>146</sup> *Legislative Standards Act 1992*, s 4(3).

<sup>147</sup> Explanatory notes, p 2.

<sup>148</sup> Office of the Queensland Parliamentary Counsel, *Fundamental legislative principles: the OQPC notebook*, 2008, p 113.

<sup>149</sup> Office of the Queensland Parliamentary Counsel, *Fundamental legislative principles: the OQPC notebook*, 2008, p 96.

Article 9 of the *International Covenant on Civil and Political Rights* (ICCPR), which Australia has ratified, relevantly provides:

1. *Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.*
3. *Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.*
4. *Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.*<sup>150</sup>

Detention is a serious limitation on individual liberty. The potential impact on an individual of the proposed new section 19CA is that they may be detained for up to three business days after their release on bail has been granted - the actual period of detention may be longer than three days, for example if a decision about release is made on a Friday they may be detained for an additional five days.

As clause 7 provides that the proposed new section 19CA applies to a decision about release under the *Youth Justice Act 1992*, it is possible that a child granted bail in relation to a relevant domestic violence offence child may be detained for up to three business days if an application for a review of the release decision is made.

Detention of a child is a serious matter and requires a correspondingly high degree of justification. This is confirmed by Queensland's Charter of Youth Justice principles which provides 'A child should be detained in custody for an offence, whether on arrest or sentence, only as a last resort and for the least time that is justified in the circumstances'.<sup>151</sup>

The explanatory notes do not explicitly identify this issue of FLP, however the explanatory notes do state:

*The right of police to arrest and bring an accused person to court is an exception to the general rights of freedom of movement...The Scrutiny Committee has acknowledged that these freedoms under the common law are not absolute, and that parliament has the power to restrict them by legislation but should not do so lightly.*<sup>152</sup>

### 3.1.2 Onus of proof

Clause 6 inserts a proposed new paragraph into section 16(3) of the Bail Act, to reverse the ordinary presumption in favour of bail for relevant domestic violence offences. This reverses the onus of proof for relevant domestic violence offences, requiring that the bail authority must refuse to grant bail unless the defendant can show cause their remand in custody is not justified.

#### **Potential FLP issues**

Legislation should not reverse the onus of proof in criminal matters and it should not provide that it is the responsibility of an alleged offender in court proceedings to prove their innocence, unless there is adequate justification.<sup>153</sup>

The reversal of onus of proof has been considered justified if the relevant fact is something 'inherently impractical to test by alternative evidential means' and the defendant is 'particularly well positioned to disprove their guilt'.<sup>154</sup>

<sup>150</sup> *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS (entered into force 23 March 1976) art 9.

<sup>151</sup> *Youth Justice Act 1992*, sch 1.

<sup>152</sup> Explanatory notes, p 2.

<sup>153</sup> *Legislative Standards Act 1992*, s 3(d).

<sup>154</sup> Office of the Queensland Parliamentary Counsel, *Fundamental legislative principles: the OQPC notebook*, p 36.

The proposed amendment to section 16 of the Bail Act reverses the presumption in favour of bail in relation to relevant domestic violence offences, potentially in breach of the FLP requiring that legislation should not reverse the onus of proof in criminal proceedings.

The explanatory notes do not specifically identify this issue of FLP. They do prove a general justification that 'Bail is an important process in the criminal justice system that provides an opportunity for dangerous offenders to be remanded in custody, pending their trial', and that breaches of FLPs are 'considered appropriate as they are balanced against the competing interests of public safety and welfare of victims'.<sup>155</sup>

### **3.2 Explanatory notes**

Part 4 of the LS Act requires that explanatory notes be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information the explanatory notes should contain.

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<sup>155</sup> Explanatory notes, p 2.



## Appendix A – List of submissions

Sub No.	Submitter
001	Bonnie Mobbs
002	Sonia Anderson
003	Julie Waters
004	yourtown
005	Southern Downs Regional Council
006	SunnyKids
007	John Tighe
008	Rosemary Nicol
009	Red Rose Foundation
010	Gold Coast Centre Against Sexual Violence Inc
011	Sisters Inside Inc
012	Beaunesert LNP Women
013	Banana Shire Council
014	Association of Labor Lawyers Qld Inc
015	Micah Projects Inc (incorporating Brisbane Domestic Violence Service)
016	Soroptimist International Brisbane Inc
017	Dale Shales
018	Queensland Homicide Victims' Support Group
019	Mellissa Smith
020	Women's Legal Service Inc
021	Jonathan Weale
022	Deborah Holland
023	Queensland Indigenous Family Violence Legal Service
024	Caxton Legal Service Inc
025	Ending Violence Against Women Queensland
026	Queensland Council for Civil Liberties
027	Queensland Family and Child Commission
028	Queensland Law Society
029	DVConnect
030	Confidential
031	Natalie Hinton
032	Bar Association of Queensland

## Appendix B – Witnesses at the public briefing and public hearing

<b>Public briefing</b>	<b>1 March 2017</b>
<b>Mr Ian Walker MP, Member for Mansfield</b> <b>Ms Ros Bates MP, Member for Mudgeeraba</b>	

<b>Public hearing</b>	<b>1 March 2017</b>
<b>Queensland Law Society</b> <ul style="list-style-type: none"> <li>Ms Christine Smyth, President</li> <li>Mr Bill Potts, Immediate Past President</li> </ul>	
<b>Griffith University and Griffith Criminology Institute</b> <ul style="list-style-type: none"> <li>Dr Samantha Jeffries, Senior Lecturer, School of Criminology and Criminal Justice, and Member, Griffith Criminology Institute</li> </ul>	
<b>Micah Projects Inc</b> <ul style="list-style-type: none"> <li>Ms Carly Bolhuis, Coordinated Community Response Manager</li> </ul>	
<b>Queensland Homicide Victims' Support Group</b> <ul style="list-style-type: none"> <li>Dr Ted Flack, Interim General Manager</li> </ul>	
<b>Edon Place</b> <ul style="list-style-type: none"> <li>Ms Rhonda Druett, Team Leader Communities, Domestic and Family Violence</li> <li>Ms Lyne Booth, Service Director</li> </ul>	
<b>North Queensland Domestic Violence Resource Service</b> <ul style="list-style-type: none"> <li>Mr Mark Lance, Secretary for the Management Committee</li> </ul>	
<b>Gold Coast Centre Against Sexual Violence</b> <ul style="list-style-type: none"> <li>Ms Di Macleod, Director</li> </ul>	
<b>Red Rose Foundation</b> <ul style="list-style-type: none"> <li>Ms Betty Taylor, CEO</li> </ul>	
<b>Women's Legal Service Inc</b> <ul style="list-style-type: none"> <li>Ms Angela Lynch, Community Legal Education Solicitor</li> <li>Julie Sarkozy, Solicitor</li> </ul>	
<b>Private Capacity</b> <ul style="list-style-type: none"> <li>Professor Heather Douglas</li> <li>Ms Bonnie Mobbs</li> <li>Mr Damien Schilling</li> <li>Ms Sonia Anderson</li> </ul>	

## Non-Government Members' Statement

There are six members on the committee. It is necessary to have at least four members of the committee agree on a motion for it to pass.

The three non-government members of the committee are very disappointed that the committee was unable to find sufficient support to agree to a motion to support the Bill.

It needs to be emphasised that the objectives of the Bill are very simple and are clearly in the public interest. The Bill seeks to:

- Reverse the presumption of bail for an alleged offender charged with a relevant domestic violence offence;
- Establish a special bail condition for a tracking device (or GPS tracker) to be imposed by a court or a police officer authorised to grant bail, against a person charged with a relevant domestic violence offence;
- Introduce a new system to alert the victim of a relevant domestic violence offence when the defendant applies for bail, is released on bail or receives a variation to a bail condition;
- Introduce a mandatory reporting provision to the parole system for when a prisoner applies for and receives parole so that a victim of domestic violence can receive information about a prisoner, even if the offence that the prisoner was convicted for is not a domestic violence offence; and
- Introduce a provision to allow for an urgent review of a bail decision in a higher court. The original bail decision would be stayed for up to three business days ensuring that the alleged offender would not be released during that period.

In short, the Bill seeks to protect victims and their families.

The Legislative Assembly should do everything possible to protect the victims of domestic violence and this proposed Bill offers reasonable, workable solutions. This Bill is:

- Based on laws and procedures working in other jurisdictions; or
- Draws from solutions offered by stakeholders on the ground, in the domestic violence support area; or
- Draws on the recommendations of the *'Not Now, Not Ever'* report that have not been enacted to date.

We, the non-government members of the committee have listened to the submissions pushing the libertarian view. The rights of the alleged offender has to be balanced against:

- The safety of the victims of domestic violence, including the children of affected families;
- The need to convince the victims of domestic violence to report domestic violence; and
- The deterrent effect of the policies in the Bill on the perpetrators of domestic violence.

We, the non-government members of the committee believe that the balance is clearly in favour of the victims, their families and the community generally.

We urge the Legislative Assembly to pass this Bill.

We urge all government members of the Legislative Assembly to honour years of bi-partisanship on tackling domestic violence. We urge all government members of the Legislative Assembly to set aside partisan politics and be unconcerned about which party introduced this Bill.

There are no words to express how shameful it would be for the Legislative Assembly to reject this Bill.

To reject the Bill would not only let down the victims and families who have already lost loved ones to domestic violence. To reject the Bill would make it difficult for those that fail to support the Bill from ever facing future victims or their families knowing that something could have been done now to stop their loss.

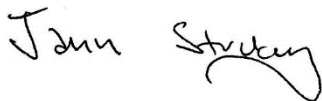
The non-Government members of the Committee want to thank all those people and groups that made submissions in favour of the Bill. We are deeply saddened that the committee has not been able to reach agreement to recommend that the Bill be passed.

Non-Government members only hope the Labor Government fully supports the Bill in the Legislative Assembly.

If this legislation is passed and saves one life, then it has been worthwhile. If this legislation is rejected and one life is lost, then we will always wonder whether this Bill could have saved that life.



Michael Crandon MP  
Member for Coomera



Jann Stuckey MP  
Member for Currumbin



Jon Krause MP  
Member for Beaudesert

