

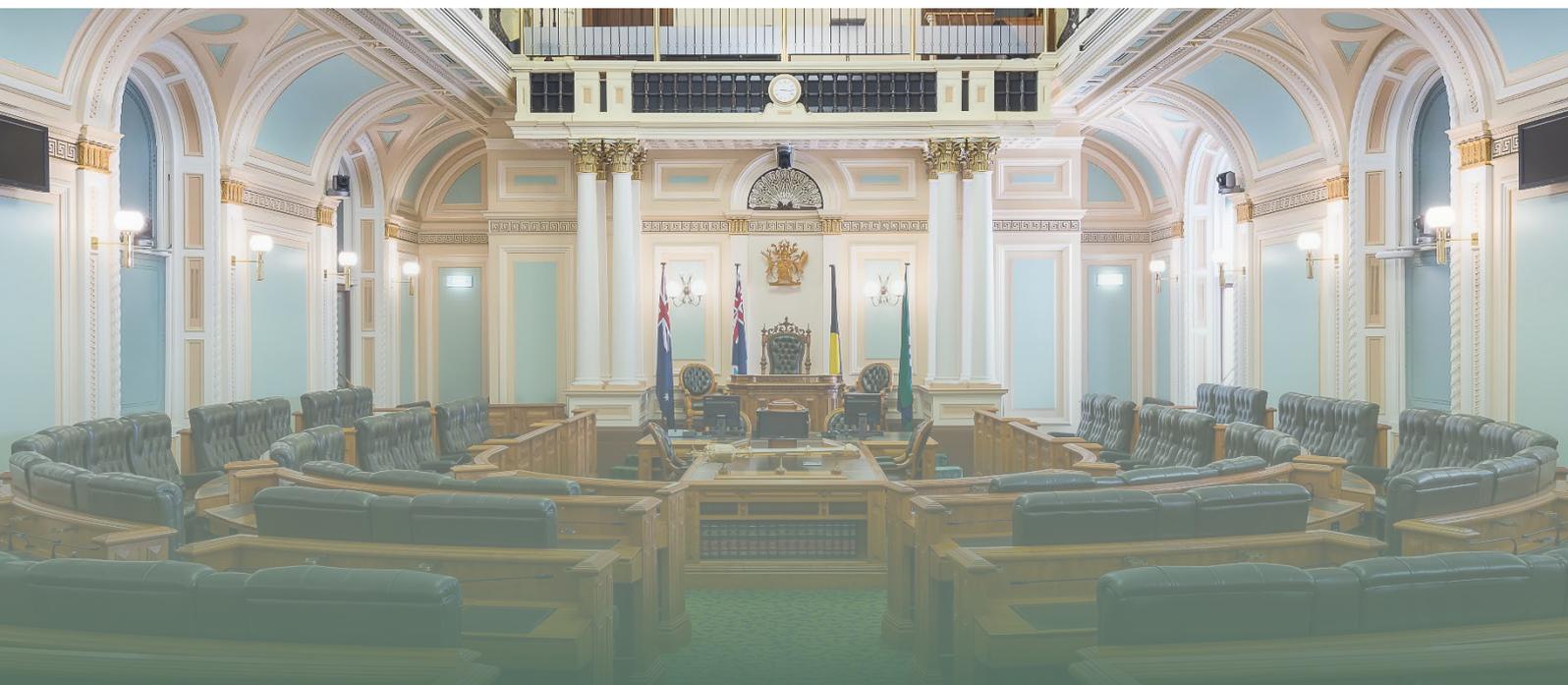


QUEENSLAND PARLIAMENT **COMMITTEES**

Corrective Services (Parole Board)

Amendment Bill 2025

Governance, Energy and Finance Committee



Report No. 8

58th Parliament, May 2025

Governance, Energy and Finance Committee

Chair	Mr Michael Crandon MP, Member for Coomera, Chair
Deputy Chair	Mr Chris Whiting MP, Member for Bancroft, Deputy Chair
Members	Ms Bisma Asif MP, Member for Sandgate Mr John Barounis MP, Member for Maryborough Mr Lance McCallum MP, Member for Bundamba Ms Kendall Morton MP, Member for Caloundra

Committee Secretariat

Telephone	(07) 3553 6603
Email	gefc@parliament.qld.gov.au
Committee Webpage	www.parliament.qld.gov.au/GEFC

All references and webpages are current at the time of publishing.

Acknowledgements

The committee acknowledges the assistance provided by Queensland Corrective Services and Parole Board Queensland.

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Chair's Foreword

This report presents a summary of the Governance, Energy and Finance Committee's examination of the Corrective Services (Parole Board) Amendment Bill 2025.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill. I also thank our Parliamentary Service staff, along with Queensland Corrective Services and Parole Board Queensland.

I commend this report to the House.



Michael Crandon MP

Chair

Executive Summary

The Corrective Services (Parole Board) Amendment Bill 2025 (Bill) was introduced by the Honourable Laura Gerber, Minister for Youth Justice and Victim Support and Minister for Corrective Services (Minister) and was referred to the Governance, Energy and Finance Committee (the committee) by the Legislative Assembly on 3 April 2025.

The Bill aims to empower the Parole Board Queensland (Board) with the authority to review all decisions made by a prescribed board member after a request for immediate suspension from Queensland Corrective Services (QCS), including where a prescribed board member decides not to suspend parole.

The Bill also aims to validate decisions made by the Board as a result of this practice in the past.

Stakeholders and subscribers were invited to make written submissions on the Bill, with the committee receiving 3 submissions. A public briefing was held on 30 April 2025 with representatives of QCS and the Board. This was followed by a public hearing to speak with one submitter.

The key issues raised by stakeholders during the committee's examination of the Bill included:

- the potential for the Bill to work against the aims of parole, including the potential for the suspension of more parole orders
- the retrospective provisions of the Bill and the potential impact on people to claim for wrongful imprisonment.

The committee is satisfied that the Bill gives sufficient regard to the rights and liberties of individuals and the institution of Parliament, and that any limitations of human rights, as set out in the *Human Rights Act 2019*, are reasonable and justifiable. The explanatory notes contain the information required by Part 4 and a sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.

The committee made 1 recommendation that the Bill be passed.

Recommendation

Recommendation 1 5
The committee recommends that the Bill be passed.

Glossary

ATSILS	Aboriginal and Torres Strait Islander Legal Service (Qld) Limited
Board or PBQ	Parole Board Queensland
FLP	Fundamental Legislative Principle
HRA	Human Rights Act 2019
JRI	Justice Reform Initiative
LSA	Legislative Standards Act 1992
PLS	Prisoners' Legal Service
QCS	Queensland Corrective Services

1. Overview of the Bill

The Bill was introduced by the Honourable Laura Gerber MP, Minister for Youth Justice and Victim Support and Minister for Corrective Services (Minister) and was referred to the Governance, Energy and Finance Committee (the committee) by the Legislative Assembly on 3 April 2025.

1.1. Aims of the Bill

The stated objective of the Bill is to ensure the Parole Board Queensland (PBQ or Board) can make decisions that maintain community safety. The Bill also aims to provide legal certainty to Board decisions and, in turn, promote confidence in Board decisions.¹

The explanatory notes state that the Bill empowers the Board with the authority to review all decisions made by a prescribed board member after a request for immediate suspension from Queensland Corrective Services (QCS), including where a prescribed board member decides not to suspend parole.

The Bill also aims to validate decisions made by the Board as a result of this community safety practice in the past.²

1.2. Context of the Bill

The Parole Board Queensland is an independent statutory authority, which ‘makes objective, evidence-based and transparent parole decisions without influence or pressure from external sources’.³

Amongst the Board’s functions are:

- a 24/7 function to decide requests by the Chief Executive for immediate suspension of parole orders (including court-ordered parole orders)
- subsequent consideration by the Board of whether to confirm those immediate suspension decisions, set them aside or cancel the parole order.⁴

If a prisoner is released onto parole, they are supervised in the community by QCS community corrections officers.⁵ QCS advised that ‘sometimes the conduct of a supervised individual causes such concern that a determination is made by Community Corrections that the individual cannot be safely managed in the community’.⁶ If this occurs, QCS sends a request to the Board ‘seeking that they consider that the offender’s parole be suspended’.⁷ These matters are considered a high risk, time critical scenario where a rapid response is essential.⁸ A request to suspend may arise when ‘a prisoner on parole

¹ Record of proceedings, Brisbane, 30 April 2025, p 3.

² Explanatory notes, p 1.

³ Parole Board Queensland, <https://pbq.qld.gov.au/>.

⁴ Parole Board Queensland, Annual Report 2023-24.

⁵ Explanatory notes, p 1.

⁶ Record of proceedings, Brisbane, 30 April 2025, p 2.

⁷ Record of proceedings, Brisbane, 30 April 2025, p 2.

⁸ Parole Board Queensland, correspondence, 7 May 2025, p 4.

has failed to comply with a condition of their parole order, poses an unacceptable risk of committing an offence, or presents a serious and immediate risk of harm to another'.⁹

The Minister advised that 'if a prisoner on parole in the community fails to comply with their parole order or presents a risk to community safety, it is the Board's responsibility to make a decision on whether to leave them in the community or to return them to prison'.¹⁰ According to the Board, its focus when making such decisions is on community safety.¹¹

To enable a swift response to these requests, the decision can be made by the Board or a prescribed board member.¹² According to PBQ, the vast majority of decisions are made by a prescribed board member, particularly those outside of business hours.¹³ If a prescribed board member decides to suspend a prisoner's parole order and issue a warrant for the prisoner's arrest, the Board must convene within two business days to either confirm the decision, cancel the parole order, or set aside the decision.¹⁴ The full board consists of a professional board member, a Queensland police officer and a Queensland Corrective Services officer. The full board reviews the decision, as well as any additional information received, and either confirms or sets aside the suspension decision.¹⁵

According to the Minister, the Board makes around 6,000 decisions to suspend the parole of prisoners who do not comply with their parole orders, with approximately 98 per cent of decisions to suspend parole confirmed by the full board.¹⁶

However, where a prescribed board member decides not to suspend a prisoner's parole order (i.e. keep them in the community), the *Corrective Services Act 2006* (CSA) is silent on allowing the Board to convene to review the decision (section 208C).¹⁷

While the Board has a general power to suspend or cancel a parole order (under section 205), decisions made on requests for immediate suspension (under sections 208A and 208B) can only be reviewed using section 208C.¹⁸ Decisions made on requests for immediate suspensions also use slightly different criteria to those available under the general power, including immediate risk or risk of carrying out a terrorist act. Hence, PBQ considers there is currently no legislative basis to review that decision.¹⁹ This has been identified as 'a substantial gap that has existed in the parole suspension framework'.²⁰

⁹ Parole Board Queensland, correspondence, 7 May 2025, p 1.

¹⁰ Queensland Parliament, Record of Proceedings, 3 April 2025, p 799.

¹¹ Record of proceedings, Brisbane, 30 April 2025, p 4.

¹² A prescribed Board member means the President, Deputy President or a professional board member (Schedule 4, *Corrective Services Act 2006*).

¹³ Parole Board Queensland, correspondence, 7 May 2025, p 2.

¹⁴ Explanatory notes, p 1.

¹⁵ Record of proceedings, Brisbane, 3 April 2025, p 800.

¹⁶ Record of proceedings, Brisbane, 3 April 2025, p 800.

¹⁷ Explanatory notes, p 1.

¹⁸ Parole Board Queensland, correspondence, 7 May 2025, p 3.

¹⁹ Parole Board Queensland, correspondence, 7 May 2025, pp 3,5.

²⁰ Record of proceedings, Brisbane 30 April 2025, p 4.

However, since 2022, the Board has reviewed decisions by a prescribed Board member not to suspend a parole order.²¹

PBQ advised that since 1 January 2022, 61 requests for suspension (under section 208A) did not result in a decision to suspend the parole order on first consideration by the prescribed Board member. Of these 61 requests, the decision on 39 parole orders not to suspend was confirmed by the Board. There were 22 matters where the Board determined the order should be suspended.²²

PBQ advised there is a safeguard in the parole order suspension framework for prisoners on parole 'in the sense that if a single board member comes to a suspension decision, then each prisoner comes before the full board to review, in effect, that decision to suspend'.²³ However, the same safeguard for the community 'does not exist with respect to a limited number of decisions that are made not to suspend a parole order by a single member'.²⁴

The proposed amendments purport to ensure that both the community's rights and the rights of the prisoner are respected by having a decision to suspend or not suspend, reviewed by the full Board.²⁵

The key issues raised by stakeholders during the committee's examination of the Bill,²⁶ which are discussed in Section 2 of this Report, included:

- the potential for the Bill to work against the aims of parole, including the potential for the suspension of more parole orders, and
- the retrospective provisions of the Bill and the potential impact on people to claim for wrongful imprisonment.

1.3. Inquiry process

During its examination of the Bill, the committee:

- invited written submissions on the Bill from the public, identified stakeholders and email subscribers, and received 3 submissions (a list of submitters is provided at Appendix A)
- received a written briefing on the Bill from QCS prior to a public briefing with QCS officials on 30 April 2025 (a list of officials who appeared at the briefing is provided at Appendix B), and
- held a public hearing with stakeholders on 30 April 2025 (a list of the witnesses who participated in the hearing is provided at Appendix C).

²¹ Record of proceedings, Brisbane, 30 April 2025, p 5.

²² Parole Board Queensland, correspondence, 7 May 2025, pp 2-3.

²³ Record of proceedings, Brisbane 30 April 2025, p 4.

²⁴ Record of proceedings, Brisbane 30 April 2025, p 4.

²⁵ Record of proceedings, Brisbane 30 April 2025, p 4.

²⁶ Note that this section does not discuss all consequential, minor, or technical amendments.

The submissions, written briefing, and transcripts of the briefing and hearing are available on the committee's webpage.

1.4. Legislative compliance

The committee's deliberations included assessing whether the Bill complies with the requirements for legislation as contained in the *Parliament of Queensland Act 2001*, the *Legislative Standards Act 1992* (the LSA),²⁷ and the *Human Rights Act 2019* (the HRA).²⁸



1.4.1. Legislative Standards Act 1992

Assessment of the Bill's compliance with the LSA identified the retrospective validation of decisions made by the Board as an issue, which is analysed in Section 2.2.2 of this Report.

Matters relating to the rights of individuals that could be considered in an analysis of fundamental legislative principles as well as the Bill's compatibility with the HRA, have been considered in the sections relevant to the HRA. See section 2.2.3 for reference to these matters.

Committee comment



The committee is satisfied the Bill gives sufficient regard to the rights and liberties of individuals and the institution of Parliament. Any relevant considerations of fundamental legislative principles are discussed further in section 2 of this report.

Explanatory notes were tabled with the introduction of the Bill. The notes contain the information required by Part 4 of the LSA and a sufficient level of background information together with commentary to facilitate understanding of the Bill's aims and origins.



1.4.2. Human Rights Act 2019

Assessment of the Bill's compatibility with the HRA identified issues with a person's right to property, which is analysed further in Section 2.

Committee comment



The committee found that the Bill is compatible with human rights, and that any limitations are reasonably and demonstrably justified. Any relevant considerations of human rights issues are discussed in section 2 of this report.

A statement of compatibility was tabled with the introduction of the Bill as required by section 38 of the HRA. The statement contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

²⁷ Legislative Standards Act 1992 (LSA).

²⁸ Human Rights Act 2019 (HRA).

1.5. Should the Bill be passed?

The committee is required to determine whether or not to recommend that the Bill be passed.



Recommendation 1

The committee recommends that the Bill be passed.

2. Examination of the Bill

This section discusses key themes which were raised during the committee's examination of the Bill.

2.1. Review of decisions not to suspend a parole order

The Bill proposes to amend the CSA to enable the Board to review all prescribed board member decisions about requests for immediate suspension of a parole order, including decisions to leave a prisoner in the community. QCS advised that this 'is an important safeguard to ensure that decisions made by one person are reviewed by an appropriately convened board to provide consistency in decision-making'.²⁹

2.1.1. Stakeholder Submissions and Department Advice

i. Stakeholder Submissions

Both the Justice Reform Initiative (JRI) and the Aboriginal and Torres Strait Islander Legal Service (Qld) Limited (ATSILS) raised concerns about the potential for the Bill to work against the aims of parole, which are to prevent reoffending and improve community safety, and raised the risk of prisoners having their parole suspended for trivial or technical matters.³⁰

The JRI stated there 'is a strong body of literature that suggests suspending a person's parole order and issuing a warrant for their arrest (and re-imprisonment) is actually likely to be detrimental to community safety', particularly because of the likelihood of ongoing criminal justice system involvement.³¹

ATSILS similarly argued that unnecessary suspensions of parole can work completely counter to the aims of parole with the offender being 'sent back into an overcrowded jail with no foreseeable access to programs or health interventions that are available on the outside'.³² ATSILS referred to the 'deleterious impacts of suspension', particularly 'suspensions that are unrelated to any re-offending but arise from a perception of risk', because 'there are no positives for the return to prison and the gains being made on the outside are lost'.³³

²⁹ Record of proceedings, Brisbane, 30 April 2025, p 3.

³⁰ Submission 1, p 1.

³¹ Submission 1, p 1.

³² Submission 3, p 6.

³³ Submission 3, p 5.

The JRI also raised a concern that ‘giving the Board the legislative power to review a decision where a prescribed board member decides not to suspend a person’s parole order may result in more people having their parole suspended/cancelled’.³⁴

ATSILS raised concerns about parole processes not remedying the current problems and concerns about appropriate risk assessments.³⁵

ATSILS also raised the issue of resources, disagreeing with the suggestion in the explanatory notes that there will be no additional costs to government for implementing the proposed amendments. ATSILS argued that there will be an increase in decisions before the Board, which will add to the ‘backlog that currently exists’ and the cost of the jail cells themselves.³⁶

Due to the difficulties some people experience complying with parole requirements, especially if they do not have access to ‘holistic, intensive, long-term and relational support’, the JRI recommended:

- technical breaches of parole conditions should not result in parole being revoked and the person being returned to prison
- it is not appropriate for parole to be revoked for use of illicit drugs or possession of drugs for personal use.³⁷

The JRI urged the Queensland Government ‘to instead invest in community-led services and programs that will support people released on parole to comply with their parole conditions, as an alternative way to achieve the policy objectives of the proposed amendments’.³⁸

ATSILS recommended that the review measure not apply to decisions not to suspend for sentences of 12 months or less or 6 months or less, which would bring Queensland into line with other states (12 months or less would bring Queensland into line with most other Australian states, and 6 months or less would bring Queensland into line with New South Wales).³⁹

The Prisoners’ Legal Service (PLS) submitted there is ambiguity in the drafting of clause 3 (s208C) which should be amended to provide legal certainty. The PLS stated that the Bill amends current s208C to provide an express power to set aside a decision not to suspend, and that it should similarly contain an express power to confirm a decision not to suspend and leave the prisoner in the community.⁴⁰

ATSILS submitted that it is unclear whether prisoners will be told about the initial decision not to suspend and given reasons why that decision has been overturned by the Board,

³⁴ Submission 1, p 1.

³⁵ Submission 3, pp 6-7.

³⁶ Submission 3, p 8.

³⁷ Submission 1, p 2.

³⁸ Submission 1, p 1.

³⁹ Submission 3, p 8.

⁴⁰ Submission 2, p 2.

and recommended that in the interest of procedural fairness, they should be given this information.⁴¹

ii. Department Advice

On concerns about prisoners having their parole suspended on trivial or technical matters, QCS stressed that Community Corrections staff do not ask the Board to immediately suspend a parole order for minor matters. The committee was advised that ‘risk is managed on an individual basis, meaning that what may be managed in the community for one person would trigger a request for suspension for another’.⁴² QCS added that ‘when we refer to the Board in relation to recommending a suspension, an officer has determined that there is a risk, that there is potential of harm to someone in the community or significant risk, so it is not treated trivially in any way, shape or form’.⁴³

PBQ supported this position and stated ‘single board members being asked to suspend on technical grounds by Queensland Corrective Services is not a reflection of reality’ given ‘the amount of work that is being done in the community to try to keep prisoners in the community, if at all possible’.⁴⁴

QCS provided the following outline on the development of a report requesting suspension of parole:

If a community corrections officer considers that a person on parole is a risk to community safety and can no longer be safely managed in the community, they will prepare an advice to Parole Board report. The advice to Parole Board report includes information about the individual’s current offences and criminal history. The report speaks to the risk escalation, progress in rehabilitation and other factors considered relevant to the current circumstances of the individual for the board’s consideration. The report references the relevant limb of section 208A of the Corrective Services Act and provides details of why the offender meets the criteria in relation to the threshold for suspension. Section 208A of the *Corrective Services Act 2006* is quite clear in that there must be a reasonable belief that a person on parole failed to comply with the parole order or poses a serious and immediate risk of harm to another person or poses an unacceptable risk of committing an offence or is preparing to leave the state other than where permission has been granted or poses a risk of carrying out a terrorist act.

The advice to Parole Board report includes detailed analysis about the offender’s current situation and the risk the offender is presenting with. It includes further analysis as to why the offender can no longer be safely managed in the community. The advice to Parole Board report is then reviewed and endorsed by the district manager and forwarded to the board for the board’s consideration. After reviewing the report, the board or a prescribed board member decides whether to suspend or not suspend the offender’s parole order.⁴⁵

PBQ also referred to requests received by the Board from Community Corrections staff for amendments, rather than suspensions, to parole orders. It argued that requests for amendments to orders show that Community Corrections staff have identified a risk that

⁴¹ Submission 3, p 7.

⁴² Record of proceedings, Brisbane, 30 April 2025, p 2.

⁴³ Record of proceedings, Brisbane, 30 April 2025, p 2.

⁴⁴ Record of proceedings, Brisbane, 30 April 2025, p 4.

⁴⁵ Record of proceedings, Brisbane, 30 April 2025, p 2.

a prisoner's current parole order does not manage, but if managed may allow them to stay in the community. This was seen as evidence that Community Corrections staff do not request suspensions for trivial matters.⁴⁶

In addition, PBQ referred to Board members being available 24 hours a day to consider requests to suspend and that the Board 'understands that it will not be called at 2 o'clock in the morning in relation to a suspension unless it is necessary; unless QCS have come to the view that there is a risk'.⁴⁷

In response to concerns about the potential for an increase in the number of parole suspensions, QCS advised it does not anticipate a significant increase in parole suspensions or any significant impact on prisoner numbers because there are only a small number of cases where QCS officers have requested an immediate suspension of a parole order and a prescribed board member has not suspended the parole order, noting that the Board has already been reviewing decisions made by single prescribed members.⁴⁸

In defence of the proposed amendments, PBQ argued that 'the limited amendment to section 208C creates a tailored, proportionate, and operationally sound solution without impacting the Board's current powers or operational ability to respond to urgent suspension matters. It recognises the real-world demand of parole decision-making.'⁴⁹

In response to the PLS concerns about the ambiguity of the drafting of the provision, QCS advised that it considers that the provision is clear as drafted. The QCS also noted that the Parole Board Queensland (the Board) provides an information notice to prisoners if their parole is suspended.⁵⁰

QCS responded to ATSILS suggestion that prisoners should be advised if a prescribed board member decides not to suspend their parole order, by advising that the Board provides prisoners with written advice if their parole order is suspended to enable the prisoner to provide reasons why the decision should be re-considered. In the instance that the Board decides not to suspend a parole order, there is no impact on the prisoner. QCS stated, that 'Implementing an additional administrative process when there is no direct impact on the prisoner is not an efficient use of public resources'.⁵¹

In response to ATSILS suggestion that the review measure not be applied to parole suspension decisions for prisoners sentenced to short sentences of imprisonment (6 months or less, or 12 months or less), QCS advised the following:

While there was commentary in the Queensland Parole System Review about the utility of parole for short sentences, there was not a recommendation to remove this, and consequently no legislative amendment. It would therefore be arbitrary and inconsistent to apply a different approach for suspension and non-suspension reviews.

⁴⁶ Record of proceedings, Brisbane, 30 April 2025, p 5.

⁴⁷ Record of proceedings, Brisbane, 30 April 2025, p 5.

⁴⁸ Record of proceedings, Brisbane, 30 April 2025, p 3.

⁴⁹ Parole Board Queensland, correspondence, 7 May 2025, p 4.

⁵⁰ QCS, correspondence, 29 April 2025, p 1.

⁵¹ QCS, correspondence, 29 April 2025, pp 1-2.

Further, while QCS notes ATSILS recommendation in respect of reducing the workload of the Board, by reducing the number of decisions the Board would need to consider and make, it is anticipated that it is more administratively burdensome to separate the decisions based on the prisoner's sentence length than to decide the additional number of suspension decisions.⁵²

Committee comment



While the committee acknowledges the concerns about the suspension of parole for prisoners and agrees that rehabilitation and reintegration into the community is an important goal of parole, the committee must also consider the rights of the community to feel safe, in addition to a prisoner's rights.

The committee notes that when the Board reviews decisions to suspend, it reviews the decision, as well as any additional information received, and either confirms or sets aside the suspension decision. The committee considers this to be an important review mechanism and expects the same mechanism would apply to decisions not to suspend a parole order.

The committee also notes that in practice, the Board has already been reviewing decisions not to suspend parole and the bill provides legislative clarity in this regard. There are a relatively small number of relevant decisions and the committee has not been presented with any overwhelming evidence that the number of decisions to suspend would increase as a result of the proposed amendments. Of the Board's review of 61 decisions of prescribed Board members to not suspend, it confirmed almost two thirds (39) compared to 22 matters where the Board decided to subsequently suspend the parole order.

Therefore, the committee supports the amendments to require a review by the Board of all decisions made by a prescribed Board member on requests for immediate suspension as proposed in the Bill.

2.2. Retrospective validation of Parole Board Queensland reviews

The Bill proposes to validate decisions made by the Board since 3 July 2017 resulting from its reviews of a prescribed board member's decision to not suspend a parole order after a request for immediate suspension.⁵³

According to the statement of compatibility, the purpose of the clause is to 're-establish legal certainty about the Board's decision making' and to promote 'public confidence in the Board' as well as remove 'any doubt about the legal effect of the Board's decisions'.⁵⁴

The clause is also designed to prevent the relevant Board decisions being successfully challenged in court, on the basis of a lack of power.⁵⁵ QCS advised 'this provision will have the effect to minimise any opportunity for an impacted individual to make a successful

⁵² QCS, correspondence, 29 April 2025, p 2.

⁵³ Record of proceedings, Brisbane, 30 April 2025, p 3.

⁵⁴ Statement of Compatibility, p 3.

⁵⁵ QCS, correspondence, 7 May 2025, p 1.

claim for compensation against the State of Queensland. This includes potential claims for compensation for unlawful detention'.⁵⁶



2.2.1. Stakeholder Submissions and Department Advice

i. Stakeholder submissions

Both the JRI and ATSILS raised concerns about the legislation being retrospectively applied to ensure that any decisions made by the appropriately convened Board were lawful.⁵⁷

ATSILS referred to the Bill's compliance with fundamental legislative principles and human rights, and made specific reference to their concerns that:

- the requirement that due process be followed when state authorities exercise their powers of arrest and detention was missing when a special regime, not authorised by a law of a parliament, was used by the Parole Board.
- the protection against retrospective laws and punishments has been disregarded.⁵⁸

ATSILS advised they 'respectfully disagree with the statement that the Bill is considered consistent with fundamental legislative principles' and argued that 'fundamental legal principles, fundamental freedoms and the effective scrutiny of parliament over the laws should remain primary concerns and should be upheld'.⁵⁹

ii. Department advice

PBQ stated that when making the relevant previous decisions, the Board considered that a power existed to allow it to review a decision by a prescribed Board member not to suspend, but that 'high-level advice on the point was that the better view is that a power does not exist'.⁶⁰ However, PBQ emphasised 'those past decisions were made by multidisciplinary boards that had community safety at their heart and determined that the suspension was well required in the circumstances because unmanageable risk had presented'.⁶¹ PBQ argued that it is appropriate that those decisions be given legal effect.⁶²

In terms of retrospectivity, PBQ acknowledged that if the Bill is passed, rights are extinguished in terms of compensation for the 22 historical matters. PBQ noted that when parole is suspended, there is no procedural fairness given at that stage to the prisoner. However, after that stage, a notice is given to the prisoner, and the prisoner then has an opportunity to request a review of that decision.⁶³ PBQ also advised that judicial

⁵⁶ QCS, correspondence, 7 May 2025, p 1.

⁵⁷ Submission 1, p 2.

⁵⁸ Submission 3, p 3.

⁵⁹ Submission 3, pp 1, 9.

⁶⁰ Record of proceedings, Brisbane, 30 April 2025, p 5.

⁶¹ Record of proceedings, Brisbane, 30 April 2025, p 5.

⁶² Record of proceedings, Brisbane, 30 April 2025, p 5.

⁶³ Record of proceedings, Brisbane, 30 April 2025, p 9.

applications can still be brought in order to challenge the decisions if it was a decision made on a jurisdictional error.⁶⁴

QCS noted ATSILS' disagreement with the statement that the Bill is consistent with fundamental legislative principles due to the retrospective nature of the Bill, but stated it is considered justified given the appropriately convened Board's determination that there was a higher level of risk to community safety.⁶⁵



2.2.2. Retrospectivity

One of the matters to be considered in determining whether legislation has sufficient regard to rights and liberties of individuals is whether it does not adversely affect rights and liberties retrospectively.⁶⁶

Given the significance of the impact on a person's liberty of suspending or cancelling a parole order, it is important that the correct procedures are followed when decisions are made about parole orders.

If enacted, the validation provision would result in the impacted persons being adversely affected.⁶⁷ They would be unable to bring court action to seek damages for being falsely imprisoned on the basis of the ability of the Board to make the decision,⁶⁸ and they would lose the ability to seek judicial review of the relevant decisions under the *Judicial Review Act 1991* on the ground that the decision was unauthorised. The explanatory notes advise that the bill would not extinguish the right of impacted individuals to seek judicial review of the Parole Board's decision on other grounds (subject to the normal operation and application of provisions and timeframes under the *Judicial Review Act 1991*).⁶⁹

The explanatory notes contend that the validation provision is justified on the basis of community safety, and that '[t]here has been no determination by a court that the Board did not have that power'.⁷⁰

The statement of compatibility asserts that the validation provision preserves the state's revenue by extinguishing potential liability.⁷¹ While the committee is aware of the 22 matters since 2022 where a person's parole was suspended after an initial decision was made not to suspend, it is difficult to assess the strength of this justification without an estimate of the level of damages that might have been awarded in any successful challenge.

⁶⁴ Record of proceedings, Brisbane, 30 April 2025, p 8.

⁶⁵ QCS, correspondence, 29 April 2025, p 2.

⁶⁶ LSA, s 4(3)(g).

⁶⁷ Provided that any relevant time limit periods have not expired.

⁶⁸ Statement of compatibility, p 3.

⁶⁹ Explanatory notes, p 2.

⁷⁰ Explanatory notes, p 2.

⁷¹ Statement of compatibility, pp 3-4.

Committee comment

The committee acknowledges the significant impacts of a decision by Parole Board Queensland to suspend or cancel a parole order on a person as it means the person loses their right to be out in the community.

While the legislation has an adverse effect on the rights of the impacted persons to bring legal action regarding these previous decisions, the committee notes that the Board's focus when making these decisions was on community safety, and that a decision was made by a multidisciplinary board experienced in considering applications for suspension. The committee also notes the justification that the provision prevents a successful claim for compensation against the State of Queensland on a limited basis, and that the bill does not affect the other avenue for legal redress for claimants should they wish to challenge a decision to suspend parole.

Therefore, while the committee acknowledges the seriousness of wrongful imprisonment as a principle and recognises that the proposed clause would prevent legal action in a case where this might have occurred, we are satisfied that sufficient justification has been provided for the adverse effect that the retrospective provision would have on the rights of impacted persons.

**2.2.3. Property rights – right to seek compensation**

The right to liberty is not only protected under the HRA;⁷² it is also a common law right. The right protects personal liberty and is focused on the requirement that due process be followed when state authorities exercise their powers of arrest and detention, and that the deprivation of liberty not be arbitrary or unlawful.⁷³

In addition, a person has the right not to be arbitrarily deprived of their property.⁷⁴ The right to property may extend beyond existing property rights to a legitimate expectation, which could include a cause of action to obtain compensation.⁷⁵

It is arguable that the Bill limits this right, with the purpose being to validate decisions made by the Parole Board, thus ensuring that the impacted persons are not able to seek judicial review of the relevant decisions or sue for false imprisonment on the basis that the board was not authorised to make such a decision.⁷⁶

To limit property rights under the HRA, the deprivation of property must be arbitrary.⁷⁷ The meaning of 'arbitrary' includes conduct that is capricious or unjust, or interferences with

⁷² See particularly HRA, s 29(2), (3).

⁷³ Statement of Compatibility, p 3.

⁷⁴ HRA, s 24(2).

⁷⁵ Queensland Government, *Guide: Nature and scope of the human rights protected in the Human Rights Act 2019*, version 2, May 2022, p 73. See statement of compatibility, p 3.

⁷⁶ On the grounds that the decision was unauthorised. Explanatory notes, p 2.

⁷⁷ See HRA, s 24(2).

rights that are unreasonable.⁷⁸ It is arguable that the deprivation of property in this case is arbitrary because the effect on the impacted persons is unjust. That is, they could argue that they had their parole order suspended or cancelled unlawfully, resulting in their reincarceration, and the Bill would remove their right to seek compensation.

A less restrictive and reasonably available way to achieve the purpose would be to validate the relevant decisions of the Board and provide some level of compensation to the impacted persons. The statement of compatibility, however, contends that this option would not 'be as effective in preserving the state's revenue'.⁷⁹

Noting that it appears that no legal action has been brought to date by any of the impacted persons,⁸⁰ it may be possible to continue the status quo (leaving open avenues for legal redress). There is, however, no guarantee that impacted persons would not bring claims in the future,⁸¹ in which case the purpose would not be achieved.

Committee comment



The committee notes the legal uncertainty with respect to the relevant decisions of the Parole Board and the limitation of the right to liberty of the impacted persons. The Bill would remove their ability to sue for compensation.

However, while a person's parole order may have been suspended or cancelled potentially unlawfully, resulting in their reincarceration, this does not negate the possibility that the person may have represented an immediate risk to the community, and suspending the parole order appropriately reflected the Board's focus on preserving community safety.

Noting that the purpose of the clause is to establish legal certainty about the Board's decision making, and that the HRA is not intended to provide a right to compensation, the committee considers that the limitation on property rights is sufficiently justified, such that the validation provision is compatible with human rights.

⁷⁸ Queensland Government, Guide: nature and scope of the human rights protected in the Human Rights Act 2019, version 2, 2022, p 74. See also Nicky Jones and Peter Billings, An annotated guide to the Human Rights Act 2019 (Qld), Lexis Nexis, 2023, pp 249-250.

⁷⁹ Statement of compatibility, p 4.

⁸⁰ The explanatory notes (p 2) state: 'There has been no determination by a court that the Board did not have that power'.

⁸¹ If within times set out in the relevant legislation.

Appendix A – Submitters

<i>Sub No.</i>	<i>Organisation</i>
1	Justice Reform Initiative
2	Prisoners' Legal Service
3	Aboriginal and Torres Strait Islander Legal Service (Qld) Limited

Appendix B – Public Briefing, 30 April 2025

Queensland Corrective Services

Commissioner Paul Stewart APM	Commissioner Queensland Corrective Services
Deputy Commissioner Ursula Roeder	Deputy Commissioner – Community Corrections Specialist Operations
Ms Natalie Smith	Director Workplace Law
Mr Michael Woodford	President – Parole Board Queensland

Appendix C – Public Hearing, 30 April 2025

Aboriginal and Torres Strait Islander Legal Service (Qld) Limited

Ms Kate Greenwood Barrister, Senior Policy Lawyer, Closing the Gap

Ms Pree Sharma Legal Practitioner, Law Reform and Community Legal
Education

Statement of Reservation

STATEMENT OF RESERVATION
CORRECTIVE SERVICES (PAROLE BOARD) AMENDMENT BILL 2025

The Queensland Opposition places on record our thanks to the hardworking Corrective Services officers and staff throughout Queensland, as well as the staff of the Parole Board Queensland. They play an important role in supporting community safety across our state, but also ensure that individuals' rights are respected and upheld.

It is important to note at the outset that these reforms make a specific head of power explicit in the Act, for a practice that is already happening and is operationally practical. During the public briefing on 30 April 2025, the Commissioner of the Queensland Corrective Services explained that "*it has become evident that there was not a clear head of power for the board to review all urgent parole suspension decisions.*" In the same briefing, the President of the Parole Board said, "*the amendments put beyond doubt the board's power to review single Parole Board member decisions.*"

These are clarifying reforms that affirm an existing practice, not reforms resulting from a gap in the current legislation.

THE LNP GOVERNMENT HAS NO SUBSTANTIVE LEGISLATIVE AGENDA

There were more efficient ways to achieve this reform that would have taken much less of the Parliament's time and resources, while not compromising any aspect of the legislative process.

Instead of considering these changes as a standalone piece of legislation, the Crisafulli LNP Government could have easily chosen to include these amendments into another Bill, such as the numerous other community safety bills – for example the *Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025*.

The Crisafulli LNP Government does not have a substantive legislative agenda and its legislative process is driven by politics, not better policy and laws.

FUNDAMENTAL OMISSIONS IN LEGISLATIVE NOTES

The *Legislative Standards Act 1992* sets out the requirement for legislative notes and the information they should contain. Fundamental legal principles require direct justifications and explanations for the impacts of retrospective provisions.

In our view, the explanatory notes tabled with this Bill do not meet the required standard, nor do they provide details about the number of people affected by the validation provision.

This is a fundamental omission from the Minister, and it was only after evidence from Corrective Services officers that detail was provided.

It is also of great concern that both the Explanatory Notes and First Reading Speech the Minister failed to mention relevant material.

Foster v Shaddock & Ors [2016] QCA 36, inter alia, found that section 205 of the Corrective Services Act empowers the parole board in section 205 to amend, suspend or cancel a parole order.

This information would have been known by the Minister and should have at the very least been included in the Explanatory Notes as an alternate way of achieving the outcomes sought.

THERE IS NO CURRENT LEGISLATIVE GAP

It was confirmed at the public hearings that the Parole Board could rely on section 205 of the current Act to make decisions in line with current practice; however, the reforms are recommended as they lead to better operational practice and use of Parole Board resources – not because there is a gap in current legislation.

In our view, this was confirmed by the Parole Board President in the public briefing on 30 April 2025:

Mr McCALLUM: Thank you. Would it be fair to say that whilst there would be a potential under 205 in terms of the power that exists, it is not operationally practical when it comes to the real-world implementation of that?

STATEMENT OF RESERVATION
CORRECTIVE SERVICES (PAROLE BOARD) AMENDMENT BILL 2025

Mr Woodford: I would accept that as a fair comment. It would be a major shift in policy which would require substantially more resourcing of the board, and my real concern is the timeliness of decisions being made, given that, as you said, the board is obsessed with community safety. That is at the core of what we do. My concern is if I have to have full boards doing this 24 hours a day, that is a substantial resource increase for the board.

Mr McCALLUM: But there is no legislative gap? This will make it operationally better, but it would be fair to say that there is no legislative gap?

Mr Woodford: In that way, no. These provisions were put in following reviews of the Parole Board for a specific purpose, so it would be a major policy move to move away from them.

The Queensland Opposition thanks the submitters and witnesses who engaged with committee process, and the Queensland Parliamentary service staff, in particular, the secretariat of the committee and Hansard for their support during the inquiry.

The Queensland Opposition reserves its right to articulate further views through the second reading debate of the Bill, when it comes on for debate in the Legislative Assembly of the Queensland Parliament.



CHRIS WHITING MP
MEMBER FOR BANCROFT
DEPUTY CHAIR OF THE COMMITTEE



LANCE MCCALLUM MP
MEMBER FOR BUNDAMBA
SHADOW MINISTER FOR ENERGY



BISMA ASIF MP
MEMBER FOR SANDGATE