

LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE

Report No. 39 on the

Justice and Other Legislation Amendment Bill 2013

QUEENSLAND GOVERNMENT RESPONSE

INTRODUCTION

On 5 June 2013, the Justice and Other Legislation Amendment Bill 2013 (the Bill) was introduced to Parliament.

The Bill was subsequently referred to the Legal Affairs and Community Safety Committee (the Committee) with a report back date of 12 August 2013.

On 12 August 2013, the Committee tabled Report No.39 in relation to the Bill (the Report).

The Queensland Government response to the Report's recommendations is provided below.

RESPONSE TO RECOMMENDATIONS:

Recommendation 1 –

The Committee recommends that the Justice and Other Legislation Amendment Bill 2013 be passed.

Queensland Government response:

The Queensland Government thanks the Committee for its timely consideration of the Bill and appreciates the Committee's recommendation that the Bill be passed.

Recommendation 2

The Committee recommends the Attorney-General and Minister for Justice give further consideration to including an Editor's Note or example with the amendments to the *Domestic and Family Violence Protection Act 2012* to improve the clarity of how the processes relating to temporary protection orders are to operate.

Queensland Government response:

This recommendation is not supported. The Committee specifically referred to the need for legislative clarity in how to vary a temporary protection order. It is considered that the Act is clear on this point so an editor's note is not required.

The Act includes a division called Overview (Part 2, division 4) that sets out some of the ideas that are important in understanding the Act. Examples dealing with the variation of protection orders, including temporary protection orders are provided in

this division in section 29. The section explains that domestic violence orders can be varied if circumstances change and provides that a person can apply under section 86 for a variation to the order.

Recommendation 3

The Committee recommends an additional provision be included in the Bill to amend the *Legal Profession Act 2007* to provide the Queensland Law Society with discretion as to whether it reports a matter under section 706(2) of that Act.

Queensland Government response

The Bill is proposed to be amended during consideration in detail to address an immediate issue for the Queensland Law Society under section 706(2) of the *Legal Profession Act 2007*. It is intended to consult with the Society on whether any further exclusions are appropriate for future amendment.

Recommendation 4

The Committee recommends that prior to the development of the Domestic and Family Violence Protection Rules further consultation takes place with stakeholders, such as the Queensland Law Society, to ensure the new rules operate as intended, without inconsistency.

Queensland Government response

The Queensland Government supports this recommendation and will ensure that consultation with legal stakeholders, including the Queensland Law Society, is undertaken during the development of the Domestic and Family Violence Protection Rules.

Recommendation 5

The Committee recommends the Attorney-General and Minister for Justice consult further with Queensland Association of Independent Legal Services Inc. and other community legal service organisations, prior to the second reading debate of the Bill, to ensure that the proposed definition of ‘community legal service’ in the *Personal Injuries Proceedings Act 2002* is workable and includes all organisations that it is intended to include.

Queensland Government response

The Bill is proposed to be amended during consideration in detail to transfer the definition of ‘community legal service’ to the *Legal Profession Act 2007* as a more appropriate location. This amendment will include provision for an organisation to be prescribed as a community legal service so the situation can be quickly addressed should a technicality arise about the application of the definition to a particular community legal service.

Recommendation 6

The Committee recommends Clause 146 of the Bill be amended to include applications or referrals made under the *Child Protection Act 1999* in the list of exceptions contained in section 46(2) of the *Queensland Civil and Administrative Tribunal Act 2009*.

Queensland Government response

The Bill is proposed to be amended during consideration in detail to include applications or referrals made under the *Child Protection Act 1999* to the list of exceptions contained in section 46(2) of the *Queensland Civil and Administrative Tribunal Act 2009*.

Recommendation 7

The Committee recommends clause 150 of the Bill, which inserts a new section 122(4) into the *Queensland Civil and Administrative Tribunal Act 2009* - be amended to omit sections 51, 57 and 62(1) from the list of sections with which a request for written reasons is not required to be complied.

Queensland Government response

This recommendation is not supported. The Bill provides the Queensland Civil and Administrative Tribunal (QCAT) with discretion as to whether or not to provide written reasons in relation to decisions of a procedural nature under stated sections. Decisions of the tribunal under sections 51, 57 and 62(1), mentioned in the Committee's recommendation, are stated for this purpose. Section 51 provides for the setting aside of a decision by default; section 57 provides for taking evidence on oath, acting in the absence of a party and adjourning proceedings; and section 62(1) provides for the giving of directions in a proceeding. The amendment is intended to ensure that QCAT's limited resources are not expended on providing written reasons for decisions which do not determine the merits of the parties' claims. QCAT will still be able to provide reasons for these decisions where in the interests of transparency, or having regard to the rights of the parties, it is preferable to do so.