

Child Protection (Offender Reporting - Publication of Information) Amendment Bill 2013

Explanatory Notes

Policy objectives and the reasons for them

The primary objectives of the Child Protection (Offender Reporting - Publication of Information) Amendment Bill 2013 are to create a means by which information may be disclosed to the community concerning certain categories of reportable offenders, dangerous sexual offenders and other persons considered to be a risk to the lives or sexual safety of other persons. The Bill amends the *Child Protection (Offender Reporting) Act 2004* and the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

These amendments will give the Queensland Police Commissioner the power to publish information on Queensland's most dangerous and high risk sex offenders.

Concerned members of the community will have access to critical information enabling them to identify reportable offenders in their neighborhood or who otherwise have access to children in their care.

A 'reportable offender' describes a person whom a court sentences for a reportable offence. A reportable offence is an offence which comprises of a sexual or serious element involving a child or an incapable person as listed in Schedules 1 and 2 of the *Criminal Law (Sexual Offences) Act 1978*.

A reportable offender can also include offenders who come to reside in Queensland from other jurisdictions and persons whom the court has ordered to comply with the Act. As well as reportable offenders, this Bill will apply to dangerous sexual offenders and other offenders upon the authorisation of the Minister for Police.

Growing community outrage at the number of sexual assaults on children committed by known offenders has resulted in increased sentencing. However it has been widely acknowledged that monitoring and supervision of offenders post-release is inadequate and addressing monitoring deficiencies is costly. This has led to the introduction of registration schemes in many jurisdictions including Queensland.

The effectiveness of offender registration schemes will be strengthened by making information on certain offenders available to the community and empowering community members to assist parole services and Queensland Police monitor serious sex offenders post release.

This Bill also contains offence provisions which will regulate the use of any information which is disclosed to the public and allows protections for offenders whose details are published from animosity and harassment. By regulating the use of published information and penalising incorrect or unauthorised use, the Bill ensures information published is only used to assist to protect children and uphold community safety.

Achievement of Objectives

The Bill achieves the objectives by way of the proposed amendments to existing legislation described below.

Alternative ways of Objectives

There are no alternative ways of achieving the proposed reforms.

Estimated Cost of Implementation

Any costs in relation to the amendments will be met from the existing agency resources.

Consistency with fundamental legislative principles

The publication of personal information impacts on the right to privacy of individuals and broad immunity provisions for the police commissioner against civil or criminal liability may impact on an individual's right to claim injury or defamation caused by the publication of personal information.

However this has to be balanced against liability interfering with a decision to publish information that is in the best interests of community safety. Community safety and protection for the most vulnerable members of the community are considered adequate cause to grant immunity from civil and criminal liability. Publication of personal information is required to provide adequate deterrence for the abhorrent behaviour of sex offences against children and the right of the State to publish personal details of known sex offenders is considered an enhancement of community safety.

The amendment affords adequate protections from recrimination and harassment for individuals whose information is published and also gives recourse for individuals to apply to have information withheld and for the court to apply restrictions in a community service order on the publication of personal information.

Any adverse affects on the rights or liberties of sex offenders is justified with reference to community protection considerations.

Notes on Provisions

Part 1 - Preliminary

Clause 1 Short title

The Short Title of the bill is Child Protection (Offender Reporting - Publication of Information) Amendment Bill 2013

Clause 2 Commencement

Clause 2 provides for the proposed Act to be enacted by proclamation.

Part 2 – Child Protection (Offender Reporting - Publication of Information) Amendment Bill 2013 amended

Clause 3 Act amended this Bill will amend the *Child Protection (Offender Reporting) Act 2004* (the Act).

Clause 4 Amendment of long title

This clause amends the long title of the Act to recognise its new function of enabling information to be published about certain offenders.

Clause 5 Purpose

Amends the Purpose section of the Act to provide for the setting up of a publication system for the publication of information about certain offenders

Clause 6 Part 5B Publication of information about offenders inserted

Division 1 – Preliminary

Part 5B

This division inserts a proposed a new Part 5B containing sections 74AA through 74AP inclusive in the Act after section 74A.

Sections 74AA to 74AD provide limitations on police commissioners delegation powers and restrictions on information that can be published and restrictions on information about protected witnesses. It provides that the Commissioner may delegate his power under Division 2 only to a police officer who holds or is acting in the office of Deputy Commissioner or Assistant Commissioner.

Division 2 - Police commissioner may publish information

Sections 74 AE through 74AK inserts a new Division 2 into the Act establishing a website on which the police commissioner may make personal details regarding of a reportable offender available for public inspection. Sections 74AE through 74AI provides considerations for the police commissioner regarding the decision to publish information, what information will be published and matters to be taken into account when publishing information.

Proposed section 74AF sets out the circumstances in which reportable offenders who are not compliant with their reporting obligations may have identifying information published.

In this section, ‘personal details’, in relation to a reportable offender, means a photograph or digital image of the reportable offender. It also includes the information reported to the

Section 74AJ provides for parents to apply to the commissioner to determine if a person who has access to their children is a reportable offender.

Section 74AK provide protection to the Commissioner and the State in the exercise of the powers found in Part 5B.

Division 3 - Review

Sections 74AL and 74AM provide a system for the review of published information and empowers the police commissioner to withdraw information or republish withdrawn information that has been published under Division 2.

Division 4 - Offences

Proposed section 74AN through 74 AP inclusive establishes offences in relation to conduct intended incite animosity towards or harassment of identified offenders as well as offences relating to the unauthorised publication, display or distribution of information published under Division 2.

Clause 7 inserts a new section 77A prescribing a Ministerial review of the operation and effectiveness of part 5B after 3 years of the commencement of s 74AF.

Clause 8 inserts definitions relating to the following terms used in proposed Part 5B: ‘*DPSOA supervision order*’; ‘*general area where a person resides*’; ‘*identifying information*’; ‘*photograph*’; ‘*publish*’; and ‘*website*’.

Part 3 Amendment of *Dangerous Prisoners (Sexual Offenders) Act 2003*

Clause 9 amends the *Dangerous Prisoners (Sexual Offenders) Act 2003*

Clause 10 inserts a new section 16 provides for orders to contain limitations on the publication of a reportable offenders

Clause 11 amends Section 18(1) of the *Dangerous Prisoners (Sexual Offenders) Act 2003* to exempt section 19AB from any application made under this section.