



Queensland

# **Criminal Code (Drink Spiking) and Other Acts Amendment Bill 2006**





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# Criminal Code (Drink Spiking) and Other Acts Amendment Bill 2006

## Contents

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|               |  | Page |
|---------------|--|------|
| <b>Part 1</b> | <b>Preliminary</b>   |      |
| 1             | Short title . . . . .  | 4    |
| 2             | Commencement . . . . .   | 4    |
| <b>Part 2</b> | <b>Amendment of Criminal Code</b>  |      |
| 3             | Code amended in pt 2 . . . . .   | 4    |
| 4             | Insertion of new s 316A . . . . .  | 4    |
|               | 316A Unlawful drink spiking. . . . .   | 4    |
| 5             | Amendment of s 552B (Charges of indictable offences that may be dealt with summarily). . . . .         | 6    |
| <b>Part 3</b> | <b>Amendment of Corrective Services Act 2006</b>   |      |
| 6             | Act amended in pt 3 . . . . .  | 6    |
| 7             | Amendment of s 82 (Leave for other particular prisoners). . . . .                                      | 6    |
| 8             | Insertion of new ch 7A . . . . .   | 7    |
|               | Chapter 7A Transitional provisions for Criminal Code (Drink Spiking) and Other Acts Amendment Act 2006 |      |
|               | 478A Previous expectations of sexual offenders about leave of absence . . . . .                        | 7    |
|               | 478B Previous expectations of sexual offenders about resettlement leave . . . . .                      | 7    |
| <b>Part 4</b> | <b>Amendment of Dangerous Prisoners (Sexual Offenders) Act 2003</b>                                    |      |
| 9             | Act amended in pt 4 . . . . .  | 9    |
| 10            | Amendment of s 16 (Conditions for supervised release) . . . . .  | 9    |



**2006**

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**A Bill**

for

**An Act to amend the Criminal Code, and for other purposes**

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*Criminal Code (Drink Spiking) and Other Acts  
Amendment Bill 2006*

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|                 |   |                            |
|-----------------|---|----------------------------|
|                 | <b>The Parliament of Queensland enacts—</b>   | 1                          |
|                 | <br><b>Part 1 Preliminary</b>   | <br>2                      |
| <b>Clause 1</b> | <b>Short title</b>  | 3                          |
|                 | This Act may be cited as the <i>Criminal Code (Drink Spiking) and Other Acts Amendment Act 2006</i> .   | 4<br>5                     |
| <b>Clause 2</b> | <b>Commencement</b>   | 6                          |
|                 | Part 4 commences on a day to be fixed by proclamation.  | 7                          |
|                 | <br><b>Part 2 Amendment of Criminal Code</b>  | <br>8                      |
| <b>Clause 3</b> | <b>Code amended in pt 2</b>   | 9                          |
|                 | This part amends the Criminal Code.   | 10                         |
| <b>Clause 4</b> | <b>Insertion of new s 316A</b>  | 11                         |
|                 | After section 316—  | 12                         |
|                 | <i>insert—</i>  | 13                         |
|                 | <b>‘316A Unlawful drink spiking</b>   | 14                         |
|                 | ‘(1) A person who administers, or attempts to administer, in drink a substance to another person without the other person having knowledge of the substance with intent to cause the other person to be stupefied and overpowered is guilty of a crime and is liable to imprisonment for 5 years. | 15<br>16<br>17<br>18<br>19 |
|                 | ‘(2) The following matters are immaterial—  | 20                         |
|                 | (a) whether the lack of knowledge of the substance is lack of knowledge of the presence at all of the substance or of the particular quantity of the substance;   | 21<br>22<br>23             |

*Criminal Code (Drink Spiking) and Other Acts  
Amendment Bill 2006*

---

- (b) whether the substance is capable of having the effect intended; 1  
2
- (c) whether a particular person is intended to be the person to whom the substance is administered or attempted to be administered. 3  
4  
5
- ‘(3) A reference to causing a person to be stupefied and overpowered is a reference to causing a person to be stupefied and overpowered in circumstances where the person is not intending to be stupefied and overpowered. 6  
7  
8  
9
- ‘(4) This section does not apply to an act lawfully done in the course of the practice of a health professional, the carrying out of a function under an Act or the performance of the responsibilities of a parent or carer. 10  
11  
12  
13
- ‘(5) In relation to an attempt to administer a substance, for this section and section 4, attempt includes adding a substance to drink in preparation for the administration of the substance. 14  
15  
16
- ‘(6) It is a defence for a person charged with an offence against this section to prove— 17  
18
- (a) the substance that was administered, or attempted to be administered, was not a dangerous drug; and 19  
20
- (b) the substance was administered, or attempted to be administered, as a prank. 21  
22
- ‘(7) In this section— 23
- adding a substance**, to drink, includes, without limiting section 7, the following— 24  
25
- (a) cause to be added to drink; 26
- (b) substitute drink with other drink containing the substance; 27  
28
- (c) take any step to provide drink containing the substance instead of other drink. 29  
30
- circumstances**, where a person is not intending to be stupefied and overpowered, includes any circumstance of timing, place, condition, or way of stupefaction and overpowering. 31  
32  
33
- dangerous drug** see the *Drugs Misuse Act 1986*, section 4. 34

*Criminal Code (Drink Spiking) and Other Acts  
Amendment Bill 2006*

---

*drink* includes water, beverage, or other liquid, intended or prepared for human consumption. 1  
2

*health professional* has the meaning given by the *Health Services Act 1991*, section 60. 3  
4

*prank* means a trick of a playful nature and not a trick of a malicious nature. 5  
6

*stupefy and overpower* includes stupefy and overpower by intoxication.’. 7  
8

|                 |  |         |
|-----------------|--|---------|
| <b>Clause 5</b> | <b>Amendment of s 552B (Charges of indictable offences that may be dealt with summarily)</b> | 9<br>10 |
|                 | Section 552B(1)—   | 11      |
|                 | <i>insert</i> —  | 12      |
|                 | ‘(ia) an offence against section 316A; <sup>1</sup> ’.                                       | 13      |

|               |  |          |
|---------------|--|----------|
| <b>Part 3</b> | <b>Amendment of Corrective Services Act 2006</b> | 14<br>15 |
|---------------|--|----------|

|                 |   |          |
|-----------------|---|----------|
| <b>Clause 6</b> | <b>Act amended in pt 3</b>  | 16       |
|                 | This part amends the <i>Corrective Services Act 2006</i> .                                  | 17       |
| <b>Clause 7</b> | <b>Amendment of s 82 (Leave for other particular prisoners)</b>                             | 18       |
|                 | Section 82(1)—  | 19       |
|                 | <i>insert</i> —   | 20       |
|                 | ‘(e) a prisoner detained, other than as mentioned in paragraph (d), for a sexual offence.’. | 21<br>22 |

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1 Section 316A (Unlawful drink spiking)



*Criminal Code (Drink Spiking) and Other Acts  
Amendment Bill 2006*

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|                 |   |                      |
|-----------------|---|----------------------|
| <b>Clause 8</b> | <b>Insertion of new ch 7A</b>   | 1                    |
|                 | After chapter 7—  | 2                    |
|                 | <i>insert—</i>  | 3                    |
|                 | <b>‘Chapter 7A Transitional provisions for<br/>Criminal Code (Drink<br/>Spiking) and Other Acts<br/>Amendment Act 2006</b>  | 4<br>5<br>6<br>7     |
|                 | <b>‘478A Previous expectations of sexual offenders about<br/>leave of absence</b>   | 8<br>9               |
|                 | ‘(1) This section applies to a prisoner sentenced for a sexual<br>offence committed before the commencement of this section<br>(the <i>commencement</i> ), whether or not the prisoner was<br>sentenced for the offence after the commencement. | 10<br>11<br>12<br>13 |
|                 | ‘(2) If, before the commencement, the prisoner had an expectation<br>to be granted prohibited leave after the commencement, it is<br>extinguished.  | 14<br>15<br>16       |
|                 | ‘(3) An application for prohibited leave made by the prisoner, but<br>not decided, before the commencement is of no effect.   | 17<br>18             |
|                 | ‘(4) If this section is inconsistent with section 473, this section<br>prevails to the extent of the inconsistency.   | 19<br>20             |
|                 | ‘(5) In this section—   | 21                   |
|                 | <i>expectation</i> includes right, privilege, entitlement and<br>eligibility.   | 22<br>23             |
|                 | <i>prohibited leave</i> means leave of absence other than<br>compassionate leave or health leave.   | 24<br>25             |
|                 | <b>‘478B Previous expectations of sexual offenders about<br/>resettlement leave</b>   | 26<br>27             |
|                 | ‘(1) This section applies to a prisoner to whom section 478A(1)<br>applies if—  | 28<br>29             |

*Criminal Code (Drink Spiking) and Other Acts  
Amendment Bill 2006*

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- (a) the prisoner was granted resettlement leave before the commencement of section 82(1)(e) (the ***commencement***); and
- (b) the chief executive cancels the operation of the order for the prisoner's resettlement leave under section 85(2) because the Queensland board suspended or cancelled the prisoner's resettlement leave program, whether before or after the commencement.
- '(2) The pre-amended Act applies for the purpose of the following—
- (a) section 80;
- (b) an amendment of the resettlement leave program;
- (c) an application made under the *Judicial Review Act 1991* in relation to the Queensland board's decision to suspend or cancel the resettlement leave program.
- '(3) If the Queensland board, whether before or after the commencement, changes its decision to suspend or cancel its approval of the resettlement leave program for the prisoner, the chief executive must act under section 74 to give effect to the changed decision as if section 9 of the amending Act had not been enacted.
- '(4) If the Queensland board, whether before or after the commencement approves a resettlement leave program for the prisoner following an order made under the *Judicial Review Act 1991*, section 30, the chief executive must act under section 74 in relation to the approved resettlement leave program as if section 9 of the amending Act had not been enacted.
- '(5) If, in accordance with subsection (3) or (4), the chief executive grants the prisoner resettlement leave, the pre-amended Act applies to the prisoner for the resettlement leave.
- '(6) In this section—
- amending Act*** means the *Criminal Code (Drink Spiking) and Other Acts Amendment Act 2006*.

*Criminal Code (Drink Spiking) and Other Acts  
Amendment Bill 2006*

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*pre-amended Act* means this Act as in force immediately before the commencement of section 9 of the amending Act.’. 1  
2

**Part 4                                    Amendment of Dangerous** 3  
**Prisoners (Sexual Offenders)** 4  
**Act 2003** 5

**Clause 9                    Act amended in pt 4** 6  
This part amends the *Dangerous Prisoners (Sexual Offenders)* 7  
*Act 2003*. 8

**Clause 10                Amendment of s 16 (Conditions for supervised release)** 9  
Section 16(2)(a), examples— 10  
*omit, insert—* 11  
‘*Examples for paragraph (a)—* 12  

 13  
- an order that the prisoner must not knowingly reside with a 14  
convicted sexual offender
  
- an order that the prisoner must not, without reasonable 15  
excuse, be within 200m of a school 16
  
- an order that the prisoner must wear a device for monitoring 17  
the prisoner’s location’. 18