



Queensland

# **Dangerous Prisoners (Sexual Offenders) Amendment Bill 2007**





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# Dangerous Prisoners (Sexual Offenders) Amendment Bill 2007

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**2007**

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**A Bill**

for

**An Act to amend the *Dangerous Prisoners (Sexual Offenders)*  
*Act 2003***

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	<b>The Parliament of Queensland enacts—</b>	1
<b>Clause 1</b>	<b>Short title</b>  This Act may be cited as the <i>Dangerous Prisoners (Sexual Offenders) Amendment Act 2007</i> .	2  3 4
<b>Clause 2</b>	<b>Act amended</b>  This Act amends the <i>Dangerous Prisoners (Sexual Offenders) Act 2003</i> .	5  6 7
<b>Clause 3</b>	<b>Amendment of s 16 (Conditions for supervised release)</b>  Section 16(1)—  <i>insert—</i>  '(da) comply with every reasonable direction of a corrective services officer; and'.	8  9  10  11 12
<b>Clause 4</b>	<b>Amendment of s 20 (Summons or warrant for released prisoner suspected of contravening a supervision order or interim supervision order)</b>  (1) Section 20, heading, 'Summons or warrant'—  <i>omit, insert—</i>  <b>'Warrant'</b> .  (2) Section 20(2), from 'apply for' to 'a warrant'—  <i>omit, insert—</i>  'apply for a warrant'.  (3) Section 20(3), 'summons or'—  <i>omit</i> .  (4) Section 20(4) and (5)—  <i>omit, insert—</i>	13 14 15  16  17  18  19  20  21  22  23  24  25

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- ‘(4) However, the warrant may be issued only if the complaint is under oath.’ 1  
2
- (5) Section 20(6), ‘summons or’— 3  
*omit.* 4
- (6) Section 20(8)— 5  
*renumber* as section 20(9). 6
- (7) Section 20(7)— 7  
*omit, insert*— 8
- ‘(7) If the magistrate issues a warrant under subsection (3), the commissioner of the police service or the chief executive must give a copy of the warrant to the Attorney-General within 24 hours after the warrant is issued. 9  
10  
11  
12
- ‘(8) The *Police Powers and Responsibilities Act 2000*, sections 13  
800 to 802, apply to the application for the warrant— 14
- (a) as if the warrant were a prescribed authority, within the 15  
meaning of section 800 of that Act, that could be 16  
obtained under that Act; and 17
- (b) if the application is made by a corrective services 18  
officer, as if the corrective services officer were a police 19  
officer. 20
- Note*— 21  
The *Police Powers and Responsibilities Act 2000*, sections 800 to 802 22  
provide for obtaining prescribed authorities by phone, fax, radio, email 23  
or another similar facility.’ 24
- (8) Section 20(9), as renumbered, from ‘affect’— 25  
*omit, insert*— 26  
‘affect the court’s ability to make a further order under section 27  
22.’. 28

- Clause 5 Replacement of s 21 (Contravention of supervision order or interim supervision order) 29  
30**
- Section 21— 31  
*omit, insert*— 32

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<b>'21</b>	<b>Interim order concerning custody generally</b>	1
	'(1) This section applies if a released prisoner is brought before the court under a warrant issued under section 20.	2 3
	'(2) The court must—	4
	(a) order that the released prisoner be detained in custody until the final decision of the court under section 22; or	5 6
	(b) release the prisoner under subsection (4).	7
	'(3) The released prisoner may, when the issue of his or her custody is raised under subsection (2), or at any time after the court makes an order under that subsection detaining the prisoner, apply to the court to be released pending the final decision.	8 9 10 11 12
	'(4) The court may order the release of the released prisoner only if the prisoner satisfies the court, on the balance of probabilities, that his or her detention in custody pending the final decision is not justified because exceptional circumstances exist.	13 14 15 16 17
	'(5) If the court adjourns an application under subsection (3), the court must order that the released prisoner remain in custody pending the decision on the application.	18 19 20
	'(6) If the court orders the released prisoner's release, the court must order that the prisoner be released subject to the existing supervision order or existing interim supervision order (each the <i>existing order</i> ) or subject to the existing order as amended by the order of the court.'	21 22 23 24 25
 <b>Clause 6</b>	 <b>Amendment of s 22 (Court may make further order)</b>	 26
	(1) Section 22(1), after 'may'—	27
	<i>insert</i> —	28
	', subject to subsection (2)'.	29
	(2) Section 22(1)(b), from 'and the court' to 'section 13(1)'—	30
	<i>omit</i> .	31
	(3) Section 22(2) to (4)—	32
	<i>omit, insert</i> —	33



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- ‘(2) Unless the released prisoner satisfies the court, on the balance of probabilities, that the adequate protection of the community can, despite the contravention or likely contravention of the order, be ensured by the order or the order as amended under subsection (1)(a), the court must—
- (a) if the order is a supervision order—under subsection (1)(b), rescind the order and make a continuing detention order; or
  - (b) if the order is an interim supervision order—under subsection (1)(c), rescind the order and make an order that the released prisoner be detained in custody for the period stated in the order.
- ‘(3) For the purpose of deciding whether to make a continuing detention order as mentioned in subsection (2)(a), the court may do any or all of the following—
- (a) act on any evidence before it or that was before the court when the supervision order was made;
  - (b) make any order necessary to enable evidence of a kind mentioned in section 13(4) to be brought before it, including an order in the nature of a risk assessment order.
- ‘(4) To remove any doubt, it is declared that the court need not make an order in the nature of a risk assessment order if the court is satisfied that the evidence otherwise available under subsection (3) is sufficient to make a decision under subsection (2)(a).
- ‘(5) If the court makes an order in the nature of a risk assessment order, the psychiatrist or each psychiatrist examining the released prisoner must prepare a report about the released prisoner and, for that purpose, section 11 applies.
- ‘(6) For applying section 11 to the preparation of the report—
- (a) section 11(2) applies with the necessary changes; and
  - (b) section 11(3) only applies to the extent that a report or information mentioned in the subsection has not previously been given to the psychiatrist.’.

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<b>Clause 7</b>	<b>Insertion of new s 22A</b>	1
	Part 2, division 5—	2
	<i>insert—</i>	3
<b>‘22A</b>	<b>Appearance by Attorney-General</b>	4
	‘The Attorney-General has a right of appearance before the court hearing a matter under section 21 or 22 and may do any or all of the following—	5 6 7
	(a) make submissions;	8
	(b) call evidence;	9
	(c) test the evidence before the court.’.	10
<b>Clause 8</b>	<b>Amendment of s 25 (Duty to disclose)</b>	11
	(1) Section 25(1), after ‘order’—	12
	<i>insert—</i>	13
	‘and for the hearing of a matter under section 22’.	14
	(2) Section 25(3), from ‘things’—	15
	<i>omit, insert—</i>	16
	‘things—	17
	(a) for an application for a division 3 order—at least 7 days before the application is heard; or	18 19
	(b) for the hearing of a matter under section 22—as soon as practicable after—	20 21
	(i) the Attorney-General is given a copy of the warrant issued under section 20 for the prisoner to whom the matter relates; and	22 23 24
	(ii) the warrant is executed.’.	25
<b>Clause 9</b>	<b>Insertion of new s 43B</b>	26
	After section 43A—	27
	<i>insert—</i>	28

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<b>'43B</b>	<b>Offence of contravening supervision order or interim supervision order</b>	1 2
	(1) A person subject to a supervision order or interim supervision order who, without reasonable excuse, contravenes a condition of the order commits an offence. Maximum penalty—2 years imprisonment.	3 4 5 6
	(2) A proceeding for an offence against subsection (1) is to be taken in a summary way under the <i>Justices Act 1886</i> .	7 8
 <b>Clause 10</b>	 <b>Amendment of s 45 (Other hearings)</b>	 9
	(1) Section 45(1), 'applications'— <i>omit, insert</i> — 'matters'.	10 11 12
	(2) Section 45(1)(c), 'an application'— <i>omit, insert</i> — 'a proceeding'.	13 14 15
	(3) Section 45(2), 'an application'— <i>omit, insert</i> — 'the matter'.	16 17 18
 <b>Clause 11</b>	 <b>Amendment of s 49 (Appearance at hearings)</b>	 19
	Section 49(1), from 'section 13'— <i>omit, insert</i> — 'section 13, 18, 22, 27 or 28'.	20 21 22
 <b>Clause 12</b>	 <b>Insertion of new pt 7</b>	 23
	After section 56— <i>insert</i> —	24 25

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<b>‘Part 7</b>	<b>Transitional provisions for Dangerous Prisoners (Sexual Offenders) Amendment Act 2007</b>	1 2 3 4
<b>‘57</b>	<b>Application of amended Act to previous orders</b>	5
	‘(1) Subject to this section, this Act as amended applies in relation to any previous order.	6 7
	‘(2) This Act as amended applies to any contravention of a previous order that happens after the commencement.	8 9
	‘(3) This Act as in force immediately before the amendment applies, or continues to apply, in relation to any contravention of a previous order that happened before the commencement.	10 11 12
	‘(4) In this section—	13
	<i>amended</i> means amended by the <i>Dangerous Prisoners (Sexual Offenders) Amendment Act 2007</i> .	14 15
	<i>amendment</i> means the amendment of this Act by the <i>Dangerous Prisoners (Sexual Offenders) Amendment Act 2007</i> .	16 17 18
	<i>commencement</i> means the commencement of this section.	19
	<i>previous order</i> means a supervision order or an interim supervision order made before the commencement.	20 21
<b>‘58</b>	<b>Transitional statements for particular provisions</b>	22
	‘(1) Section 16(1)(da) does not apply to a supervision order or interim supervision order that is in force at the commencement (the <i>existing order</i> ), unless the court amends the conditions of the existing order to include the requirement stated in the paragraph.	23 24 25 26 27
	‘(2) Section 43B is not effective to impose criminal liability retrospectively.	28 29
	‘(3) In this section—	30
	<i>commencement</i> means the commencement of this section.’	31

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<b>Clause 13</b>	<b>Amendment of schedule (Dictionary)</b>	1
	Schedule, definition, <i>interim detention order</i> , ‘22(1)(c) or (3)(c)’—	2 3
	<i>omit, insert</i> —	4
	‘21(2)(a), 22(1)(c) or (2)(b)’.	5