



Justice and Other Information Disclosure Act 2008

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Queensland

Justice and Other Information Disclosure Act 2008

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Justice and Other Information Disclosure Act 2008

An Act to facilitate the disclosure of justice information, treatment order information or child protection information between particular public sector agencies or by particular entities

Part 1 Preliminary

1 Short title

This Act may be cited as the *Justice and Other Information Disclosure Act 2008*.

2 Dictionary

The dictionary in the schedule defines particular words used in this Act.

3 Purpose of Act

The purpose of this Act is to facilitate the disclosure of justice information, treatment order information or child protection information between particular public sector agencies or by particular entities, including in ways that—

- (a) help the coordinated management of persons in the criminal justice system or child protection system; and
- (b) improve collaboration between criminal justice agencies, treatment order agencies or child protection agencies.

Part 2

Disclosure of justice information between criminal justice agencies

4 What is *justice information*

- (1) Information, about a person in the criminal justice system, is *justice information* if it is—
 - (a) obtained by a criminal justice agency in the performance of the agency’s functions under any Act or law or in the performance by a person employed or engaged by the agency of a function under any Act or law; and
 - (b) relevant to a purpose mentioned in section 5.
- (2) Without limiting subsection (1), justice information includes information about—
 - (a) the details of a court appearance of the person in a justice proceeding; and
 - (b) a court decision made in a justice proceeding; and
 - (c) when the person is released from, or intended to be released from, a criminal justice facility.

5 What is a *justice purpose*

Justice information, about a person in the criminal justice system, is made available by a sending agency to a receiving agency for a *justice purpose* if the information is made available for any of the following purposes—

- (a) to enable the receiving agency to prepare for a justice proceeding relating to the person;
- (b) to enable the receiving agency to attend, or arrange the attendance of the person or someone else, at a justice proceeding relating to the person;

- (c) to enable the receiving agency to record and give effect to a court decision made in a justice proceeding relating to the person;
- (d) to enable the receiving agency to use the criminal history of the person to the extent the receiving agency is authorised to use the criminal history of the person;
- (e) to enable the receiving agency to conduct information linking in relation to the person;
- (f) to enable the receiving agency to provide for the safety and welfare of the person, or of someone else, while the person is—
 - (i) in the chief executive (corrective services)'s custody within the meaning of the *Corrective Services Act 2006*, section 7; or
 - (ii) in the commissioner of the police service's custody within the meaning of the *Corrective Services Act 2006*, section 8; or
 - (iii) in the chief executive (youth justice)'s custody; or
 - (iv) in the custody of a court;
- (g) to enable the receiving agency to provide for the effective supervision of the person while the person is—
 - (i) in the community under the supervision of the chief executive (corrective services); or
 - (ii) subject to a community based order; or
 - (iii) subject to a supervised release order;
- (h) to enable the receiving agency to record the fact of and manage the release of the person from a criminal justice facility;
- (i) to enable the receiving agency to provide for, or consider whether it needs to provide for, the safety and welfare of—

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- (i) someone who is a victim because of an offence committed or allegedly committed by the person; or
- (ii) a witness of an offence committed or allegedly committed by the person; or
- (iii) a child associated with the person; or
- (iv) an individual employed or engaged by the receiving agency who may be in contact with the person; or
- (v) an individual whose safety or welfare may be at risk because of an association with the person or someone else mentioned in subparagraph (i), (ii), (iii) or (iv);

Example—

- an individual named in a domestic violence order made against the person
 - an individual who is a neighbour of a victim of the person
- (j) to enable the receiving agency to conduct person of interest matching;
 - (k) to enable the receiving agency—
 - (i) to conduct research and statistical analysis of any aspect of the criminal justice system or the relationship between the criminal justice system and the child protection system; and
 - (ii) to use the results of the analysis without revealing or being likely to reveal the identity of the person to whom the information relates;
 - (l) to test whether the technical systems used to make information available under this section are working.

6 Making justice information available to criminal justice agencies for justice purpose

The chief executive of a criminal justice agency (the *sending agency*) may, under arrangements mentioned in section 13 made with the chief executive of another criminal justice agency (the *receiving agency*), make justice information about a person in the criminal justice system available to the receiving agency for a justice purpose.

Part 2A Disclosure of treatment order information

6A What is *treatment order information*

Information, about a person to whom a treatment order applies, is *treatment order information* if it is—

- (a) either—
 - (i) obtained by a treatment order agency in the performance of the agency's functions under an Act or other law or in the performance by a person employed or engaged by the agency of a function under an Act or other law; or
 - (ii) obtained by a service provider in the performance of the provider's functions under an agreement entered into by the provider with the State or in the performance by a person employed or engaged by the agency of a function under the agreement; and
- (b) relevant to a purpose mentioned in section 6B.

6B What is a *treatment order purpose*

- (1) Treatment order information, about a person to whom a treatment order applies, is made available by a sending agency or service provider for a *treatment order purpose* if the

information is made available for any of the following purposes—

- (a) to enable the receiving agency to prepare for a meeting of the review team for the person's treatment order;
- (b) to enable the receiving agency to attend, or arrange the attendance of the person or another person, at a meeting of the review team for the person's treatment order;
- (c) to enable the receiving agency to record and give effect to a court decision made in a proceeding relating to the person's treatment order;
- (d) to enable the receiving agency to use the criminal history of the person to the extent the receiving agency is authorised to use the criminal history of the person;
- (e) to enable the receiving agency to administer, or assist in administering, the treatment order;
- (f) to enable the receiving agency to provide for the effective supervision of the person while the treatment order applies to the person;
- (g) to enable the receiving agency to provide for the safety and welfare of the person;
- (h) to enable the receiving agency to provide for, or consider whether it needs to provide for, the safety and welfare of—
 - (i) an individual employed or engaged by the receiving agency who may be in contact with the person; or
 - (ii) an individual whose safety or welfare may be at risk because of an association with the person or another person mentioned in subparagraph (i).

(2) In this section—

review team, for a treatment order, see the *Penalties and Sentences Act 1992*, section 151B.

6C Making treatment order information available to treatment order agencies for treatment order purpose

- (1) The chief executive of a treatment order agency (the *sending agency*), or a service provider, may make treatment order information about a person available to the chief executive of a treatment order agency (the *receiving agency*) for a treatment order purpose.
- (2) To remove any doubt, it is declared that the sending agency need not give treatment order information if the sending agency reasonably considers it would not be in the public interest to do so because, for example, giving the information could reasonably be expected to—
 - (a) prejudice the investigation of a contravention or possible contravention of a law in a particular case; or
 - (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained; or
 - (c) endanger a person’s life or physical safety; or
 - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law.

6D Making treatment order information available for research purposes

- (1) The chief executive (justice) may authorise a qualified person to use treatment order information for research.
- (2) If the qualified person is authorised to use treatment order information under subsection (1), the information must be used for the research in a way that could not reasonably be expected to result in the identification of any of the individuals to whom the research relates.
- (3) In this section—

[s 6E]

qualified person, in relation to research, means a person who the chief executive (justice) is satisfied has appropriate qualifications or experience to carry out the research.

6E Chief executive may make guidelines

- (1) The chief executive (justice) may make guidelines consistent with this Act, the *Information Privacy Act 2009* and the *Public Records Act 2002* for sharing and dealing with treatment order information under this part.
- (2) The purposes of the guidelines are to ensure—
 - (a) treatment order information is shared under this part for proper purposes; and
 - (b) to the greatest extent possible, the privacy of individuals is respected when sharing information under this part, while ensuring each receiving agency has sufficient information to enable the agency to administer, or assist in administering, a treatment order effectively; and
 - (c) information shared under this part is properly used, stored, kept and disposed of.
- (3) The chief executive (justice) must publish the guidelines on the department's website.

Part 3 Disclosure of child protection information between child protection agencies

7 What is *child protection information*

- (1) Information, about a person in the child protection system or a person in the criminal justice system, is ***child protection information*** if it is—

- (a) obtained by a child protection agency in the performance of the agency's functions under any Act or law or in the performance by a person employed or engaged by the agency of a function under any Act or law; and
 - (b) relevant to a purpose mentioned in section 8.
- (2) Without limiting subsection (1), child protection information includes information about—
- (a) the details of a court appearance of the person in a child protection proceeding or a justice proceeding; and
 - (b) a court decision made in a child protection proceeding or a justice proceeding.

8 What is a *child protection purpose*

Child protection information, about a person in the child protection system or a person in the criminal justice system, is made available by a sending agency to a receiving agency for a *child protection purpose* if the information is made available for any of the following purposes—

- (a) to enable the receiving agency to prepare for a child protection proceeding or a justice proceeding relating to the person;
- (b) to enable the receiving agency to attend, or arrange the attendance of the person or someone else, at a child protection proceeding or a justice proceeding relating to the person;
- (c) to enable the receiving agency to record and give effect to a court decision made in a child protection proceeding or a justice proceeding relating to the person;
- (d) to enable the receiving agency to use the criminal history of the person to the extent the receiving agency is authorised to use the criminal history of the person;

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- (e) to enable the receiving agency to conduct information linking in relation to the person;
- (f) to enable the receiving agency to provide for, or consider whether it needs to provide for, the safety and welfare of—
- (i) if the person in the child protection system is a child, the person; or
 - (ii) someone who is a victim because of an offence committed or allegedly committed by the person; or
 - (iii) a witness of an offence committed or allegedly committed by the person; or
 - (iv) a child associated with the person; or
 - (v) an individual employed or engaged by the receiving agency who may be in contact with the person; or
 - (vi) an individual whose safety or welfare may be at risk because of an association with the person or someone else mentioned in subparagraph (i), (ii), (iii), (iv) or (v);
- Example—*
- an individual named in a domestic violence order made against the person
 - an individual who is a neighbour of a victim of the person
- (g) to enable the receiving agency to conduct person of interest matching;
- (h) to enable the receiving agency—
- (i) to conduct research and statistical analysis of any aspect of the criminal justice system or the relationship between the criminal justice system and the child protection system; and

- (ii) to use the results of the analysis without revealing or being likely to reveal the identity of the person to whom the information relates;
- (i) to test whether the technical systems used to make information available under this section are working.

9 Making child protection information available to child protection agencies for child protection purpose

- (1) The chief executive of a child protection agency (the *sending agency*) may, under arrangements mentioned in section 13 made with the chief executive of another child protection agency (the *receiving agency*), make child protection information about a person in the child protection system or a person in the criminal justice system available to the receiving agency for a child protection purpose.
- (2) However—
 - (a) the chief executive (child safety) may under subsection (1) make child protection information about a person in the child protection system or a person in the criminal justice system available to the commissioner of the police service for a child protection purpose mentioned in section 8(e) or (i) only; and
 - (b) the police commissioner may under subsection (1) make child protection information about a person in the child protection system or a person in the criminal justice system available to the chief executive (child safety) for a child protection purpose mentioned in section 8(e) or (i) only.

Part 4 **Disclosure of information to information technology service provider**

10 **Sending agency may make information available to information technology service provider**

- (1) This section applies to—
 - (a) a criminal justice agency (the *sending agency*) that makes criminal justice information available to a receiving agency under section 6; or
 - (b) a treatment order agency (also the *sending agency*) that makes treatment order information available to a receiving agency under section 6C; or
 - (c) a child protection agency (also the *sending agency*) that makes child protection information available to a receiving agency under section 9.
- (2) The sending agency may make the information available to an information technology service provider—
 - (a) under guidelines mentioned in section 6E, or an arrangement mentioned in section 13, made between the chief executive of the sending agency and the chief executive of the information technology service provider—to enable the provider to transmit the information from the sending agency to the receiving agency; or
 - (b) under guidelines mentioned in section 6E, or an arrangement mentioned in section 13, made between the chief executive of the receiving agency and the chief executive of the information technology service provider—to enable the provider to perform an information technology service for the receiving agency.
- (3) In this section—

information technology service, performed by an information technology service provider for a receiving agency, means an

information technology service that enables or helps the receiving agency to carry out the purpose for which the sending agency makes the information available to the receiving agency.

Part 5 Relationship with other Acts

11 Use of information permitted despite other Act

Despite any other Act, a person may use information provided to the person—

- (a) under section 6C or 6D; or
- (b) under an arrangement mentioned in section 13.

12 Information not to be disclosed under this Act

Despite sections 6, 6C, 6D, 9 and 10, this Act does not authorise the disclosure of the following information—

- (a) information provided in an application made under the *Police Powers and Responsibilities Act 2000*, section 239, 248, 282, 328, 333, 336 or 343;

Editor's note—

- Section 239 deals with an application for an authority to conduct a controlled operation.
- Section 248 deals with an application for a variation of an authority to conduct a controlled operation.
- Section 282 deals with an application for an authority to acquire or use an assumed identity.
- Section 328 deals with an application for the issue of a surveillance device warrant.
- Section 333 deals with an application for the extension or variation of a surveillance device warrant.
- Section 336 deals with an application for the issue of a retrieval warrant.

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- Section 343 deals with an application for an emergency authorisation for the use of a surveillance device.
- (b) information mentioned in the *Police Powers and Responsibilities Act 2000*, section 803(2);

Editor's note—

Section 803 deals with the protection of methodologies.

- (c) information that may lead to the identification of an informer;
- (d) information that may lead to the identification of a person mentioned in the *Child Protection Act 1999*, section 186(1) who has notified under that section a suspicion of harm or risk of harm to a child or unborn child;

Editor's note—

Section 186 deals with the confidentiality of notifiers of harm or risk of harm to children or unborn children.

- (e) information that may lead to the identification of a detention centre employee who has reported, under the *Youth Justice Act 1992*, section 268, harm or suspected harm to a child.

Editor's note—

Section 268 deals with the obligation of detention centre employees to report harm to children in detention centres.

Part 6 Miscellaneous

13 Form of arrangements for giving and receiving information

- (1) A chief executive who makes information available to another chief executive under this Act, other than part 2A, must enter into a written arrangement by which the information is made available.

- (2) Without limiting subsection (2), the arrangement may provide for the electronic transfer of information, including on a daily basis.
- (3) The arrangement must state all limitations on the purposes for which the information may be used.

14 Disposal of information by receiving agency

- (1) This section applies to—
 - (a) a receiving agency to which information is made available under section 6, 6C or 9 (the *entity*); or
 - (b) an information technology service provider to which information is made available under section 10(2)(b) (also the *entity*).
- (2) Despite the *Public Records Act 2002*, the entity must dispose of the information as soon as practicable if—
 - (a) the information is not required by the entity for the performance of a function of the entity; and
 - (b) it is reasonably practicable for the entity to dispose of the information.

Maximum penalty—50 penalty units.

- (3) Subsection (2) applies to the extent there is no provision of an Act other than the *Public Records Act 2002* that regulates the keeping and disposal of the information by the receiving agency.
- (4) A disposal of a record under this section is an authorised disposal under the *Public Records Act 2002*, section 13.

15 Misuse of information made available under this Act

- (1) This section applies in relation to information a person has because it has been made available to a receiving entity under this Act.
- (2) The person must not use the information for a purpose other than—

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- (a) the purpose for which the information was made available; or
 - (b) a purpose that is authorised or permitted under an Act.
- Maximum penalty—100 penalty units.
- (3) Despite subsection (2)(b), if the information is subject to any restriction on use in the hands of the sending agency or service provider, the same restriction applies to the information in the hands of the person.
 - (4) Subsection (3) does not apply if, had the receiving entity or the person obtained the information in the performance of the receiving entity's or the person's functions under any Act or law other than this Act, the information would not have been subject to the restriction.

16 Protection from liability

- (1) This section applies if a person, acting honestly, makes information available under section 6C or 6D or an arrangement mentioned in section 13.
- (2) The person is not liable, civilly, criminally or under an administrative process, for making the information available.
- (3) Also, merely because the person makes the information available, the person can not be held to have—
 - (a) breached any code of professional etiquette or ethics; or
 - (b) departed from accepted standards of professional conduct.
- (4) Without limiting subsections (2) and (3)—
 - (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
 - (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
 - (i) does not contravene the Act, oath or rule of law or practice by making the information available; and

- (ii) is not liable to disciplinary action for making the information available.

17 **Sunset provision**

- (1) A regulation under section 5(m) or 8(j)—
 - (a) may only be made within 1 year after the commencement; and
 - (b) unless the regulation sooner expires or is repealed, expires 1 year after the regulation commences.
- (2) Despite the expiry of a regulation under subsection (1), the regulation continues to apply in relation to matters arising before its expiry.
- (3) Sections 5(m) and 8(j) expire 2 years after the commencement.
- (4) In this section—
commencement means the commencement of this section.

Schedule Dictionary

section 2

chief executive, of a child protection agency, means the following—

- (a) the chief executive (child safety);
- (b) the chief executive of the department within which the *Justices Act 1886* is administered;
- (c) the commissioner of the police service.

chief executive, of a criminal justice agency, means any of the following—

- (a) the chief executive (corrective services);
- (b) the chief executive of the department within which the *Justices Act 1886* is administered;
- (c) the chief executive (youth justice);
- (d) the commissioner of the police service.

chief executive, of a treatment order agency, means the following—

- (a) the chief executive (corrective services);
- (b) the chief executive (justice);
- (c) the chief executive of the department in which the *Health Act 1937* is administered;
- (d) the chief executive officer of Legal Aid Queensland under the *Legal Aid Queensland Act 1997*;
- (e) the commissioner of the police service;
- (f) a health service chief executive under the *Hospital and Health Boards Act 2011*.

chief executive (child safety) means the chief executive of the department within which the *Child Protection Act 1999* is administered.

chief executive (justice) means the chief executive of the department in which the *Penalties and Sentences Act 1992* is administered.

chief executive (youth justice) means the chief executive of the department within which the *Youth Justice Act 1992* is administered.

child protection agency means any of the following—

- (a) the department within which the *Child Protection Act 1999* is administered;
- (b) the department within which the *Justices Act 1886* is administered;
- (c) the police service.

child protection information see section 7.

child protection proceeding means—

- (a) a proceeding on an application for an order under the *Child Protection Act 1999*; or
- (b) an appeal on a proceeding mentioned in paragraph (a).

child protection purpose see section 8.

community based order see the *Youth Justice Act 1992*, schedule 4 and the *Penalties and Sentences Act 1992*, section 4.

corrective services facility see the *Corrective Services Act 2006*, schedule 4.

court cell means a place attached to or near a court that may be used for detaining a person in the criminal justice system.

criminal history, of a person—

- (a) means the person's convictions of offences committed in Queensland or elsewhere; and
- (b) includes information about offences of any kind alleged to have been committed, in Queensland or elsewhere, by the person.

criminal justice agency means any of the following—

Schedule

- (a) the department within which the *Corrective Services Act 2006* is administered;
- (b) the department within which the *Justices Act 1886* is administered;
- (c) the department within which the *Youth Justice Act 1992* is administered;
- (d) the police service.

criminal justice facility means—

- (a) a corrective services facility; or
- (b) a watch-house; or
- (c) a holding cell at a police station; or
- (d) a court cell; or
- (e) a detention centre.

criminal proceeding includes—

- (a) a proceeding on a charge, whether brought summarily or on indictment, for an offence; and
- (b) a bail proceeding; and
- (c) a committal proceeding.

detention centre means a detention centre established under the *Youth Justice Act 1992*, section 262.

detention centre employee see the *Youth Justice Act 1992*, schedule 4.

domestic violence order see the *Domestic and Family Violence Protection Act 2012*, schedule.

effective supervision, of a person, means supervision of the person that provides for community safety, the safety and welfare of the person or crime prevention.

function includes power.

information linking, conducted by a receiving agency, means using information, including information provided under this Act—

-
- (a) to find out whether a person about whom information is recorded by the receiving agency is the same as a person about whom information is recorded by the sending agency; and
 - (b) to ensure that the details of any information recorded by the receiving agency and the sending agency about the person are accurate and recorded in a way that enables the details recorded by the receiving agency to be accurately matched with the details recorded by the sending agency.

information technology service provider means an entity whose functions include electronically transmitting information from a sending agency to a receiving agency.

infringement notice means an infringement notice under the *State Penalties Enforcement Act 1999*, section 15.

justice information see section 4.

justice proceeding, relating to a person, means—

- (a) a criminal proceeding in which the person is a defendant; or
- (b) a proceeding about a complaint made under the *Peace and Good Behaviour Act 1982*, part 2 against the person; or
- (c) a restraining order proceeding in which the person is a defendant; or
- (d) a proceeding on an application for a domestic violence order made under the *Domestic and Family Violence Protection Act 2012* against the person; or
- (e) a proceeding on an application made under the *Dangerous Prisoners (Sexual Offenders) Act 2003* relating to the person; or
- (f) an appeal on a proceeding mentioned in paragraph (a), (b), (c), (d) or (e).

justice purpose see section 5.

parent, see the *Child Protection Act 1999*, section 11.

person in the child protection system means—

- (a) a child in relation to whom an application has been made for an order under the *Child Protection Act 1999*; or
- (b) a child in relation to whom the chief executive has decided to take action under the *Child Protection Act 1999*, chapter 2, part 3B; or
- (c) a parent of a child mentioned in paragraph (a) or (b); or
- (d) an adult against whom an allegation of harm or risk of harm to a child has been made.

person in the criminal justice system means—

- (a) a person for whom a warrant for arrest has been issued under any Act or law; or
- (b) a person who has been arrested for an offence, whether or not under a warrant; or
- (c) a person who has been charged with an offence; or
- (d) a person to whom a caution has been administered under the *Youth Justice Act 1992*; or
- (e) a person who committed an offence that is referred to the chief executive (youth justice) for a restorative justice process under the *Youth Justice Act 1992*; or
- (f) a person to whom a police officer has offered an opportunity to attend a drug diversion assessment program under the *Police Powers and Responsibilities Act 2000*, section 379; or
- (g) a person who has been served with an infringement notice; or
- (h) a person in relation to whom an application has been made for a domestic violence order under the *Domestic and Family Violence Protection Act 2012*; or
- (i) a person against whom a complaint has been made under the *Peace and Good Behaviour Act 1982*, part 2; or

- (j) a person in relation to whom an application has been made for an order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

person of interest matching, conducted by a receiving agency, means using information, including information provided under this Act, to identify persons in relation to whom the receiving agency may have a function under an Act.

receiving agency see sections 6, 6C and 9.

receiving entity means a receiving agency or an information technology service provider.

restraining order proceeding means a proceeding started under the Criminal Code, section 359F(2).

sending agency see sections 6, 6C, 9 and 10.

service provider means a non-government entity that provides assistance or support services to a person to whom a treatment order applies.

supervised release order see the *Youth Justice Act 1992*, schedule 4.

treatment order means a drug and alcohol treatment order under the *Penalties and Sentences Act 1992*, part 8A.

treatment order agency means the following—

- (a) the department in which the *Corrective Services Act 2006* is administered;
- (b) the department in which the *Penalties and Sentences Act 1992* is administered;
- (c) the department in which the *Health Act 1937* is administered;
- (d) Legal Aid Queensland established under the *Legal Aid Queensland Act 1997*;
- (e) the police service;
- (f) a Hospital and Health Service established under the *Hospital and Health Boards Act 2011*, section 17.

treatment order information see section 6A.

treatment order purpose see section 6B.

use, information or the criminal history of a person, includes disclose, give access to, make available, publish or record, the information or the history.