

Queensland



**CORRECTIVE SERVICES
AMENDMENT BILL (No. 2)
2001**

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TABLE OF PROVISIONS

Section		Page
1	Short title	4
2	Commencement	4
3	Act amended	4
4	Amendment of s 94 (Other offences)	4
5	Insertion of new ss 268A and 268B	4
	268A All release to be dealt with under this Act	4
	268B Further provisions about transitional release circumstances	6
6	Amendment of sch 3 (Dictionary)	7

2001

A BILL

FOR

An Act to amend the Corrective Services Act 2000

The Parliament of Queensland enacts—

1

Clause 1 Short title

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This Act may be cited as the *Corrective Services Amendment Act (No. 2) 2001*.

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Clause 2 Commencement

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Section 5, to the extent it inserts new section 268A, is taken to have commenced on 1 July 2001.

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Clause 3 Act amended

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This Act amends the *Corrective Services Act 2000*.

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Clause 4 Amendment of s 94 (Other offences)

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Section 94—

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insert—

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‘(j) without reasonable excuse, be unlawfully at large.’

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Clause 5 Insertion of new ss 268A and 268B

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After section 268—

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insert—

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‘268A All release to be dealt with under this Act

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‘(1) This section applies to a prisoner sentenced for an offence committed before 1 July 2001, whether or not the prisoner was sentenced for the offence before 1 July 2001.

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‘(2) On and from 1 July 2001—

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(a) chapters 2 and 5 are the only provisions under which the prisoner may be released before the end of the period of imprisonment to which the prisoner was sentenced; and

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Corrective Services Amendment Bill (No. 2) 2001

(b) the only requirements for the granting of the release are the requirements that apply under this Act.

‘(3) If, before 1 July 2001, the prisoner had any expectation to be able, after 1 July 2001, to be released before, or to be considered for a release taking effect before, the end of the period of imprisonment to which the prisoner was sentenced, the expectation is extinguished to the extent that the release is not provided for under subsection (2).

Examples of operation of subsections (2) and (3)—

1. Suppose before 1 July 2001 a prisoner had an expectation to be released on home detention on 1 August 2001 under section 86 of the repealed *Corrective Services Act 1988*. However, by applying subsection (2), the prisoner could only expect to be released under chapter 5¹ on 1 December 2001, having regard to the requirements of section 135(2).² Subsection (3) extinguishes the prisoner’s expectation to be released on 1 August 2001 without affecting any expectation the prisoner may have to be released on 1 December 2001 under chapter 5.
2. Suppose before 1 July 2001 a prisoner had an expectation to be considered for release on home detention under section 86 of the repealed *Corrective Services Act 1988*, the release to take effect on 1 August 2001. However, by applying subsection (2), the prisoner could only expect to be considered for release under chapter 5, with, having regard to the requirements of section 135(2), the release to take effect on 1 December 2001. Subsection (3) extinguishes the prisoner’s expectation to be considered for release to take effect on 1 August 2001 without affecting any expectation the prisoner may have to be considered for release under chapter 5, with the release to take effect on 1 December 2001.

‘(4) Subsections (2) and (3) apply in relation to an application made by the prisoner and dealt with on or after 1 July 2001 even if the application was made before 1 July 2001.

‘(5) If a form of release for which the prisoner made an application before 1 July 2001 corresponds to a form of release that, after 1 July 2001, is available under chapter 5, the application must be dealt with, to the greatest practicable extent, as an application for the form of release under chapter 5, but this subsection does not authorise release before a date prescribed by section 135.

‘(6) This section prevails to the extent it is inconsistent with section 268 or 273.

‘(7) In this section—

“**expectation**” includes right, privilege, entitlement and eligibility.

1 Chapter 5 (Post-prison community based release)

2 Section 135 (When order starts)

- ‘268B Further provisions about transitional release circumstances** 1
- ‘(1) Section 268A has no effect in relation to—** 2
- (a) a post-prison community based release order granted on or after 3
1 July 2001 but before 30 October 2001 on the basis of an 4
application made before 1 July 2001 for a form of release that 5
corresponds to a form of release available under chapter 5; or 6
 - (b) a decision made by a court before 30 October 2001 upholding, in 7
action brought by a particular prisoner, that prisoner’s 8
expectation to be released, or to be considered for release; or 9
 - (c) the terms of a release instrument made before 1 July 2001, or any 10
decision relating to the making of the release instrument, giving a 11
prisoner an expectation to be further released after, or to be 12
considered for a further release taking effect after, 1 July 2001. 13
- Example for subsection (1)(c)—* 14
- Suppose on 1 June 2001 a prisoner was released on leave of absence to 15
engage in employment (commonly known as ‘leave of absence (release to 16
work)’). The terms of the release instrument included a statement that the 17
prisoner would be considered for release on home detention after the 18
prisoner had successfully completed 3 months release to work. 19
Section 268A has no effect on the statement’s operation. 20
- ‘(2) For giving effect to terms mentioned in subsection (1)(c), a prisoner** 21
may be released at any time the prisoner may have been released under the 22
terms if the repealed *Corrective Services Act 1988* had not been repealed. 23
- ‘(3) Subject to subsections (1) and (2) and without limiting** 24
section 268A, any requirement that may have existed after the repeal of the 25
repealed *Corrective Services Act 1988* and before the commencement of 26
this section that a person be dealt with in a way inconsistent with 27
section 135(2) is extinguished. 28
- ‘(4) Section 268A and subsection (3) prevail to the extent they are** 29
inconsistent with the *Acts Interpretation Act 1954*, sections 20 and 20C(3),³ 30
the Criminal Code, section 11(2),⁴ the *Penalties and Sentences Act 1992*, 31
section 180(1)⁵ or any other law of similar effect. 32
- ‘(5) In this section—** 33

3 *Acts Interpretation Act 1954*, section 20 (Saving of operation of repealed Act etc.)
and 20C (Creation of offences and changes in penalties)

4 Criminal Code, section 11 (Effect of changes in law)

5 *Penalties and Sentences Act 1992*, section 180 (Effect of alterations in sentences)

Corrective Services Amendment Bill (No. 2) 2001

“expectation” includes right, privilege, entitlement and eligibility. 1

“release instrument” means an instrument under which a prisoner was 2
released.’. 3

Clause 6 Amendment of sch 3 (Dictionary) 4

Schedule 3, definition **“unlawfully at large”**, after ‘cancelled’— 5

insert— 6

‘or, other than for a conditional release order, parole order or exceptional 7
circumstances parole order, has expired or is otherwise no longer in force’. 8

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