

Community Protection and Public Child Sex Offender Register (Daniel's Law) Bill 2025

Erratum to Statement of Compatibility

Title of the Bill

Community Protection and Public Child Sex Offender Register (Daniel's Law) Bill 2025

Reason for Erratum

The Erratum corrects clerical errors.

Notes on provisions

The fourth paragraph on page 6 of the Statement of Compatibility included clerical errors. The paragraph has been corrected and incorporated in the enclosed Statement of Compatibility.

Community Protection and Public Child Sex Offender Register (Daniel's Law) Bill 2025

Statement of compatibility

Prepared in accordance with part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019* (HR Act), I, Dan Purdie MP, Minister for Police and Emergency Services make this statement of compatibility with respect to the Community Protection and Public Child Sex Offender Register (Daniel's Law) Bill 2025 (the Bill).

In my opinion, the parts of Clause 8 of the Bill which insert new part 5AA, other than division 3 and section 74AN are not compatible with the human rights protected by the HR Act. The nature and the extent of the incompatibility is outlined in this statement. In my further opinion, the remainder of the Bill is compatible with protected human rights. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

Any risk to the lives or sexual safety of children is unacceptable. The Queensland Government is committed to safeguarding children from these risks. To support families and the community to access information about known repeat child sex offenders and offenders who pose a risk to the lives of children, the Crisafulli Government committed to establish a new three-tiered Queensland Community Protection and Public Child Sex Offender Register (the *public register*) which will build upon existing schemes that safeguard children.

The Bill will amend the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (the CPOROPOA) to provide for a public register of reportable offenders comprising the following three tiers:

- **Tier 1: Missing non-compliant offender website** – a public website displaying facial images and particular personal details of reportable offenders who have breached their obligations and whose whereabouts are unknown to police.
- **Tier 2: Locality search** – a local area search, allowing Queensland residents to apply to temporarily view facial images of particular reportable offenders (including reportable offenders who the Police Commissioner considers pose a serious risk to the lives or sexual safety of a child or children generally) residing in their locality.

- **Tier 3: Parent/guardian disclosure scheme** – an application-based scheme enabling parents or people with ongoing parental responsibility for a child to apply for confirmation about whether a particular person who has had, or will have, unsupervised contact with their child is a reportable offender.

However, in line with existing restrictions, the public register will not enable the publication or disclosure of information:

- about an offender who is under the age of 18 years, or who was under the age of 18 years at the time they committed a child sexual offence and has not reoffended or engaged in particular conduct as an adult;
- about an offender who is a participant in a witness protection program; or
- where a court has prohibited identification of the offender or the disclosure or publication of personal information about the offender.

Section 8 of the CPOROPOA outlines when a person stops being a reportable offender. The Police Commissioner must not disclose information where a person is no longer a reportable offender.

Information will be made available through the Queensland Community Protection and Public Child Sex Offender Register website (the *website*), to be established by the Queensland Police Service (QPS).

Human rights issues

While I consider there are strong arguments in favour of compatibility, I acknowledge that some members of the community may consider that the amendments which implement the public register are incompatible with human rights under section 13 of the HR Act.

Section 43 of the HR Act allows Parliament to explicitly declare that a law will operate despite being inconsistent with human rights protected under the HR Act (an *override declaration*). The effect of such an override declaration is that the HR Act will not apply to the amendments for a period of 5 years and acts and decisions under the proposed public register will be exempt from the obligations in sections 58 and 59 of the HR Act. An override declaration removes the risk that a court might declare the proposed public register, or decisions made by the Police Commissioner under it, incompatible with human rights.

Despite my belief that the proposed public register is otherwise compatible with human rights, I therefore consider it is necessary to override the HR Act in respect of these amendments to ensure the effective operation of the public register.

Queensland Community Protection and Child Sex Offender Register

The amendments will introduce a new public register which will operate as follows:

Tier 1 – Missing non-compliant offender website

On a publicly accessible part of the website, the Police Commissioner may publish personal information about reportable offenders who have breached their obligations and whose whereabouts are unknown to the police.

Reportable offenders are people who have committed sexual or other serious offences against children.¹ They are subject to reporting obligations under the CPORPOA,² including regularly telling police where they reside. Some reportable offenders, known as released prisoners,³ may be subject to more stringent supervision requirements⁴ in the community by virtue of a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (the DPSOA).

A failure to report their whereabouts to the authorities constitutes either a failure to comply with their reporting obligations or a contravention of their supervision order. After this, when police cannot locate the offender after reasonable attempts, they will be considered missing.

For most offenders, the information published by the Police Commissioner will comprise their name, year of birth, facial image and a description of any tattoos or distinguishing marks. The Police Commissioner will hold a discretion to publish further information, such as the make and model of a car owned by the offender.

The Police Commissioner must remove published information as soon as practicable once the offender has been located.

When deciding whether to publish a photograph, the Police Commissioner may consider a range of factors. These include the effect on a victim of an offence committed by the offender, any likely prejudice to a criminal proceeding in relation to the offender or an investigation by the QPS or other law enforcement agency relating to the offender; the public interest, the purposes of the CPORPOA any other matter the Police Commissioner considers is relevant.

Tier 2 – Locality search

Queensland residents may apply to view facial images of particular reportable offenders who reside in their locality. A person's locality is the general locality where the person resides.

¹ *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld) s 5.

² *Ibid* pt 4.

³ *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) sch 1 (definition of 'released prisoner').

⁴ *Ibid* s 16.

Reportable offenders whose information may be published under the locality search are:

- reportable offenders who have been found guilty of 1 or more prescribed offence after becoming a reportable offender and being given a notice about their reporting obligations (i.e. repeat offenders);
- reportable offenders who are, or have ever been, subject to an order under the DPSOA;
- reportable offenders who are subject to lifelong reporting obligations; and
- reportable offenders who the Police Commissioner considers pose a serious risk to the lives or sexual safety of a child or children generally.

The Police Commissioner may make the photograph available to the applicant for inspection in a secure way designed to be accessible only by the person.

When deciding whether to make a photograph available, the Police Commissioner may consider the same range of factors listed above.

Tier 3 – Parent/guardian disclosure scheme

Queensland residents who are the parent or guardian of, or are exercising parental responsibility other than on a temporary basis for a child may apply for disclosure about whether a person who has had, or will have, unsupervised contact with the child is a reportable offender.

If the person is a reportable offender, the Police Commissioner may disclose that fact to the applicant. However, the Police Commissioner will not disclose further information such as which offence the offender was convicted of or the facts of the offence.

Vigilantism offences

Any information accessed or received through the public register must be treated as confidential. New offences are designed to target a broad range of vigilante style conduct or conduct that could give rise to this, including conduct that occurs online, but does not include communication between the parents of a child made in person in a private capacity for the purposes of safeguarding the child.

Other matters

In order to ensure the effective operation of the public register the Bill provides that all relevant decisions to release information are final and conclusive, may not subject to judicial review under the *Judicial Review Act 1991* or any other form of review, and may not be subject to any declaratory, injunctive or other order of a court on any ground.

The Bill also provides a broad protection from liability to persons involved in the administration of the new public register. Persons acting honestly will be protected. Protection from liability is extended to the State.

The Bill requires a statutory review of the public register to occur as soon as practicable following 5 years of operation. A report about the outcomes of this review is to be tabled in the Legislative Assembly.

Compatibility with human rights

The amendments will impose limitations on human rights, most prominently on those persons classified as reportable offenders. For reportable offenders, the release of personal information, including their appearance and status as a reportable offender, will limit the right to privacy (section 25(a) of the HR Act). Further, insofar as the release of that information may impact the physical or mental integrity of those persons (and indeed family or associates of those persons), this right will be further limited. While there are amendments directed toward ameliorating the impact on privacy (including the limited access to the information, and relevant confidentiality and offence provisions), these will not prevent interference with the right.

I recognise there is some evidence that the release of personal information about sex offenders may increase the likelihood of those offenders (and indeed family or associates of those offenders) being subject to vigilantism, which may manifest as intimidation or harassment or, in extreme cases, violence.⁵ While the public register is appropriately tailored towards reducing this risk as far as possible, by way of new offences for misuse of the information and intimidation or harassment of offenders, this increased risk nevertheless will limit the right to life (section 16 of the HR Act), the right to security of person (section 29 of the HR Act), and the right to protection of families and children (section 26 of the HR Act). To the extent that intimidation or harassment may also manifest by way of damage to property, or impacting reportable offenders' ability to work, this may also limit property rights (section 24(2) of the HR Act). Further, the amendments which limit liability and rights to review of decision would also limit property rights and the right to fair hearing (section 31 of the HR Act).

It is also foreseeable that the release of information about reportable offenders may impact the ability for those offenders to move and live freely in their communities out of fear of harassment or embarrassment. This will limit the freedom of movement (section 19 of the HR Act).

While the public register will result in differential treatment of a particular class of persons (and thus engage and potentially limit the right to recognition and equality before the law), it does not arbitrarily target or impact a class or group of persons in a

⁵ Napier S, Dowling C, Morgan A & Talbot D, 2018, What impact do public sex offender registries have on community safety?. *Trends & issues in crime and criminal justice* no. 550. Canberra: Australian Institute of Criminology, 11.

discriminatory way. Indeed, those impacted by the public register are offenders who have committed sexual offences against children and offenders who pose a risk to the lives of children, and in this way there is a direct link between the purposes of the law (being protection of the community from sexual offending) and the persons impacted. While the definition of discrimination in the HR Act is inclusive, and may capture discrimination on the basis of attributes which are analogous to those protected under the *Anti-Discrimination Act 1991*, having committed relevant sexual offences would not be such an analogous ground. Accordingly, I do not consider the right to recognition and equality before the law is limited.

It might also be argued that the public register would limit the right not to be tried or punished more than once (section 34 of the HR Act). However, the purpose of the public register is not to punish reportable offenders (as demonstrated by the confidentiality and offence provisions which protect against misuse of information), but is instead protective. As such, I do not consider the right not to be punished more than once is limited.

The purpose of the amendments is to safeguard children by empowering the community—and, in particular, families—to take protective actions in the best interests of children (consistent with section 26(2) of the HR Act) to prevent children from being subject to the devastating harm which results from sexual offending. Indeed, the state has a positive obligation under a number of rights, including the right to life which requires authorities to put in place measures that would protect an individual from real and immediate risks to their life. It may be engaged where an authority knew (or ought to have known) of the existence of a real and immediate risk to life of an identified individual from the criminal acts of a third party and failed to take measures within its powers that might reasonably have been expected to avoid the risk. Safeguarding children and human rights are undoubtedly a proper purpose consistent with the principles of a free and democratic society.

However, in order for these purposes to justify the limitations to the right of reportable offenders and those secondary impacts on other members of the community, there must be a rational connection between the measures employed in the amendments and advancing that purpose. I consider the rational connection is made out.

It is also necessary to show that there are no less restrictive alternatives available which would achieve the same purpose of safeguarding children and promoting human rights. Perhaps the most obvious alternatives are the existing mechanisms under the *Police Powers and Responsibilities Act 2000*, the CPOROPOA and the DPSOA by which information about reportable offenders can be given to a child's parent or guardian, or by which limited information can be released to locate individuals who have failed to comply with their reporting obligations or contravened their supervision order. In relation to empowering parents and guardians to take necessary actions to protect children, targeted safety campaigns may also go to achieving this purpose without

limiting rights to the same degree. However, these measures would fail to provide parents and carers with the same level of information as a public register would.

The public register will significantly limit the rights of reportable offenders. This limit is most apparent in the Bill's provisions which limit review rights and recourse to damages.

As outlined above, the public register will limit a number of rights. However, the paramount importance of protecting children from the devastating and lifelong harm which results from sexual abuse justifies all reasonably available steps being taken. Nevertheless, in balancing the degree to which the public register might achieve the purpose of protecting children by empowering the community, and in particular families, to take protective actions in the best interests of children against the limitations on rights, I concede that it may be argued that the public register is incompatible with human rights.

For this reason, the amendments include an override declaration as a precautionary measure to ensure the public register can operate effectively in order to protect the lives and sexual safety of Queensland children.

Vigilante offences

Any information accessed or received through the public register must be treated as confidential.

The Bill creates new offences prohibiting misuse of information accessed or obtained using the public register:

- an offence carrying a maximum penalty of 10 years targeting conduct intending to, or inciting others to, intimidate or harass a person believed or suspected to be an identified offender;
- an offence carrying a maximum penalty of 3 years targeting conduct that is likely to, or likely to incite others to, intimidate or harass a person believed or suspected to be an identified offender; and
- an additional offence carrying a maximum penalty of 3 years for the unauthorised sharing of information obtained through the public register.

The amendments will limit the following rights under the HR Act:

- the right to freedom of expression (section 21); and
- the right to liberty and security (section 29).

(a) the nature of the right

The *right to freedom of expression* under section 21 of the HR Act protects the right of all people to seek, receive and express information and ideas, including verbal and non-verbal communication.

The right to freedom of expression protects almost all types of expression, as long as it conveys or attempts to convey a meaning.⁶ This is judged by its impact on reasonable members of the public who are exposed to it, without knowing the purpose of the person who expressed it. The right applies to expressions which “are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb”.⁷ However, not all forms of expression are protected and the right may be justifiably limited.⁸

The proposed new offences will limit the right to freedom of expression by prohibiting particular forms of expression involving particular information about reportable offenders or inciting intimidation or harassment of those offenders, or people misidentified as these offenders.

The *right to liberty and security of person* under section 29 of the HR Act will be limited because a maximum penalty of imprisonment applies to each offence.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of creating the new offences is to guard against information given under the public register being misused and the significant harm that may flow from this and signify to the community that this kind of behaviour will not be tolerated.

The offence provisions recognise the significant harm that may be caused both to individuals who are the subject of intimidation and harassment as a result of being identified as a reportable offender, accurately or mistakenly, as well as to the harm that may be caused to the community as a whole in circumstances where these acts spark public disorder and fear. The diversion of front-line services required to respond to instances of community unrest is also a relevant consideration.

Also, reportable offenders who may have information about them given under the public register have already been punished by the courts.

(c) the relationship between the limitation to be imposed by the Bill if enacted and its purpose, including whether the limitation helps to achieve the purpose

Creating the new offences helps to achieve the purpose by criminalising conduct that involves:

⁶ *Magee v Delaney* (2012) 39 VR 50, [61]; *R v Keegstra* [1990] 3 SCR 697; *Weisfeld v Canada (Minister for Public Works)* (1994) 116 DLR (4th) 232.

⁷ *Matalas v Greece* (2021) 73 EHRR 26, 975 [38]. See also *Gachechiladze v Georgia* (2022) 74 EHRR 21, 761.

⁸ *Magee v Delaney* (2012) 39 VR 50, [89]; Alistair Pound and Kylie Evans, *Annotated Victorian Charter of Rights* (Lawbook, 2nd ed, 2019) 143.

- the sharing of information, which is outside the purpose of the public register; and
- persons being targeted by intimidation or harassment because they are believed or suspected to be identified offenders —such as vigilantism.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There are no less restrictive alternatives to achieve the purpose of the Bill.

An alternative option to criminalising the conduct is to not create new offences. While some existing offences overlap with the proposed offences, they do not cover all conduct captured by the offences, nor do they signal to the community the Government's condemnation of this kind of behaviour in the specific context of the public register.

Another alternative option is to allow further, or unregulated, sharing of information given under the public register. However, this would have the effect of limiting other rights identified in the discussion about the public register in a way that outweighs the benefit of broader freedom of expression. For example, the unregulated sharing of information that a person is a reportable offender may significantly limit the right to privacy of persons identified as offenders or persons related to them (including victims) and in a way that does not achieve the purpose of the public register.

Although the maximum penalties for the new offences could exclude a term of imprisonment, this would not reflect the seriousness of the conduct.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

Any limitation on a person's right to freedom of expression and right to liberty and security is reasonable and demonstrably justified when considering the significant harm that may arise from the misuse of information disclosed under the public register. The offending requires proportionate and predictable consequences to demonstrate that it is unacceptable.

The limitation on the right to liberty and security of the person is appropriate to ensure that sentences imposed for the relevant offences can adequately account for the impacts of the behaviour and send a clear message that the public register is not a platform for retaliation or public vigilantism.

On balance, it is considered that the importance of achieving the purpose of the limitations outweighs the harm caused to the right to freedom of expression and the right to liberty and security of person.

(f) any other relevant factors

Nil.

Conclusion

In my opinion, the parts of clause 8 of the Bill which insert new part 5AA, other than division 3 and section 74AN, are not compatible with the human rights protected by the HR Act. In my further opinion, the remainder of the Bill is compatible with protected human rights.

DAN PURDIE MP
Minister for Police and Emergency Services

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