



Queensland

Child Protection (Offender Reporting—Publication of Information) Amendment Bill 2013



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2013

A Bill

for

An Act to amend the *Child Protection (Offender Reporting) Act 2004* and the *Dangerous Prisoners (Sexual Offenders) Act 2003* to provide for matters relating to the publication of information about particular offenders

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Child Protection (Offender Reporting—Publication of Information) Amendment Act 2013*. 4
5
6

Clause 2 Commencement 7

This Act commences on a day to be fixed by proclamation. 8

Part 2 Amendment of Child Protection (Offender Reporting) Act 2004 9
10

Clause 3 Act amended 11

This part amends the *Child Protection (Offender Reporting) Act 2004*. 12
13

Clause 4 Amendment of long title 14

Long title, after ‘re-offend,’— 15

insert— 16

to enable information to be published about 17

particular offenders, 18

Clause 5 Amendment of s 3 (Purpose of this Act) 19

(1) Section 3, heading, ‘Purpose’— 20

omit, insert—

1

Purposes

2

(2) Section 3(1), ‘The purpose’—

3

omit, insert—

4

The main purpose

5

(3) Section 3—

6

insert—

7

(1A) Another purpose of this Act is to enable information to be published about particular offenders.

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(4) Section 3(2)—

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insert—

12

(da) provides for the publication of information on a website; and

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14

(db) provides for a person to apply to receive information about a reportable offender; and

15

16

Clause 6 **Insertion of new pt 5B**

17

After section 74A—

18

insert—

19

Part 5B **Publication of information about offenders**

20

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22

Division 1 **Preliminary**

23

74AA Definitions for pt 5B

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In this part—

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[s 6]

DPSOA supervision order means an interim supervision order or a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

general area where a person resides means a description of the general locality in which the person resides, including, for example, the town or suburb, but does not include the person's residential address.

identifying information means—

(a) personal details of a person who is a reportable offender; or

(b) a photograph and a statement about the general area where a person resides.

photograph includes a digital image.

publish, except in section 74AO, means make available on the website for inspection by members of the public.

website means the website kept by the police commissioner for this part under section 74AE.

74AB Limitation on delegation of police commissioner's powers

The police commissioner may delegate a power of the police commissioner under division 2 only to a person for the time being performing functions in the police service as a deputy commissioner or an assistant commissioner of the police service.

Note—

Under the *Police Service Administration Act 1990*, section 4.10, the police commissioner has the power to delegate the police commissioner's powers, including powers under any other Act.

74AC Police commissioner not required to publish or provide information	1 2
Nothing in this part requires the police commissioner to publish or provide information about a reportable offender or another person.	3 4 5
74AD Restriction on information about protected witnesses	6 7
Nothing in this part authorises the police commissioner to publish or provide information about a person to whom part 4, division 9 applies.	8 9 10
Division 2 Police commissioner may publish information	11 12
74AE Police commissioner to keep website	13
(1) The police commissioner must keep a website for the purpose of publishing information about persons if the information may be published under this part.	14 15 16 17
(2) The police commissioner must ensure the website is available for inspection by members of the public.	18 19 20
74AF Police commissioner may publish personal details of certain reportable offenders	21 22
(1) The police commissioner may publish any or all of the prescribed personal details of a reportable offender, other than a reportable offender who is a child, if—	23 24 25 26
(a) the police commissioner is satisfied the reportable offender—	27 28

[s 6]

- (i) has contravened the offender's reporting obligations; or
 - (ii) in purported compliance with part 4, has reported information that is false or misleading in a material particular; and
 - (b) the reportable offender's whereabouts are not known to the police commissioner.
- (2) The police commissioner may at any time—
- (a) remove any or all of the prescribed personal details of a reportable offender from the website; or
 - (b) again publish under subsection (1) any or all of the prescribed personal details of the reportable offender after their removal under paragraph (a).
- (3) If—
- (a) the police commissioner has published any prescribed personal details of a reportable offender on the website; and
 - (b) the reportable offender subsequently reports the offender's whereabouts to the police commissioner under part 4;
- the police commissioner must, as soon as is practicable after receiving the report, remove the prescribed personal details from the website.
- (4) In this section—
- prescribed personal details*** means the following—
- (a) personal details of a reportable offender, other than any details reported under section 16(1)(e) or other details that may identify a child;
 - (b) a photograph of the reportable offender.

74AG Police commissioner may publish photograph and general area of certain persons	1 2 3
(1) Subject to this section, the police commissioner may publish a photograph of a person and a statement about the general area where the person resides, other than a person who is a child—	4 5 6 7 8
(a) if the person is subject to a DPSOA supervision order and the order does not provide that the person’s photograph and a statement about the general area where the person resides are not to be published under this section; or	9 10 11 12 13 14
(b) if—	15
(i) the person, after becoming a reportable offender, commits and is found guilty of a prescribed offence; and	16 17 18
(ii) an offence committed by the person, including the prescribed offence, is a class 1 offence or an offence committed against a child under the <i>Criminal Code</i> , section 352; or	19 20 21 22 23
(c) if—	24
(i) the person has been found guilty at any time of an offence punishable by imprisonment for 5 years or more; and	25 26 27
(ii) on application by the police commissioner, the publication is authorised by the Minister because the Minister is satisfied the person poses a risk to the lives or sexual safety of 1 or more children, or of children generally.	28 29 30 31 32 33
(2) If, as mentioned in subsection (1), the police commissioner proposes to publish a photograph of the person and a statement about the general	34 35 36

[s 6]

- area where the person resides, the police commissioner must— 1
2
- (a) give the person written notice of the proposal and the reasons for it; and 3
4
- (b) in the notice, inform the person that— 5
- (i) the person has a stated period to make submissions or be heard in relation to the proposal; and 6
7
8
- (ii) if the person is subject to a pre-commencement DPSOA supervision order—the person may apply to a court under the *Dangerous Prisoners (Sexual Offenders) Act 2003*, section 19AB, to amend the order to provide that the photograph or statement, or both, is not to be published; and 9
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- (c) if subsection (1)(a) applies to the person—give a copy of the notice to the chief executive (corrective services). 18
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- (3) If the person subject to a pre-commencement DPSOA supervision order applies to amend the order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*, section 19AB, the police commissioner must not publish the photograph and a statement about the general area where the person resides until the police commissioner is satisfied that the application is finally decided by the court. 21
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- (4) Before publishing a photograph of the person and a statement about the general area where the person resides, the police commissioner must have regard to— 30
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- (a) a submission made, or information or document given, by the person within the stated period in the notice; and 34
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- (b) if a copy of the notice was given under subsection (2)(c)—a submission made by the chief executive (corrective services) within the stated period in the notice. 1
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- (5) For subsection (1)(c), it is not necessary for the Minister to be able to identify a risk to particular children or a particular class of children. 5
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- (6) For subsection (1)(c), the Minister may take into account the following— 8
9
- (a) a medical, psychiatric, psychological or other assessment relating to the person; 10
11
- (b) information indicating whether the person is likely to commit a prescribed offence in the future; 12
13
14
- (c) whether there is a pattern of offending behaviour on the part of the person; 15
16
- (d) the person’s antecedents and the seriousness of the person’s total criminal record; 17
18
- (e) the person’s age and the age of victims of offences committed by the person at the time those offences were committed; 19
20
21
- (f) the difference in age between the person and the victims of those offences; 22
23
- (g) another matter the Minister considers relevant. 24
25
- (7) In an application mentioned in subsection (1)(c), the police commissioner must include information available to the police commissioner that may be relevant to the Minister’s decision whether to authorise publication. 26
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- (8) The fact an offence for which a person has been found guilty becomes spent does not affect the consideration of the offence as part of the person’s total criminal record for subsection (6)(d). 31
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[s 6]

- (9) For subsection (8), an offence becomes spent if, under a law in any jurisdiction, the reportable offender is allowed to not disclose the fact that the person was convicted or found guilty of the offence. 1
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- (10) In this section— 6
- pre-commencement DPSOA supervision order* means a DPSOA supervision order made before the commencement of this section. 7
8
9
- prescribed offence* means— 10
- (a) a class 1 offence; or 11
- (b) a class 2 offence; or 12
- (c) a sexual offence under the *Criminal Law (Sexual Offences) Act 1978*. 13
14
- stated period*, for a notice, means— 15
- (a) if the person given the notice is subject to a pre-commencement DPSOA supervision order—a period of not less than 28 days; or 16
17
18
- (b) otherwise—a period of not less than 21 days. 19
20
- 74AH Removal of photograph and general area from website** 21
22
- (1) The police commissioner may at any time— 23
- (a) remove the photograph of a person and the statement about the general area where the person resides from the website on which they are published under section 74AG(1); or 24
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- (b) again publish under section 74AG(1) a photograph of a person and a statement about the general area where the person resides after their removal under paragraph (a). 29
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- (2) The police commissioner must, as soon as is practicable, remove the photograph of a person and the statement about the general area where the person resides from the website if—
- (a) the police commissioner has published a photograph of the person and a statement about the general area where the person resides as mentioned in section 74AG(1)(a); and
 - (b) the person ceases to be subject to a DPSOA supervision order; and
 - (c) section 74AG(1)(b) and (c) do not apply to the person.
- (3) The police commissioner must, as soon as is practicable, remove the photograph of a person and the statement about the general area where the person resides from the website if—
- (a) the police commissioner has published a photograph of a person and the statement about the general area where the person resides as mentioned in section 74AG(1)(b); and
 - (b) the person’s reporting obligations expire; and
 - (c) section 74AG(1)(a) and (c) do not apply to the person.

74AI Police commissioner may take into account certain matters

- (1) This section applies to a decision by the police commissioner about whether to—
- (a) publish identifying information about a person under section 74AF(1) or 74AG(1); or

[s 6]

- (b) remove the identifying information from the website under section 74AF(2) or 74AH(1). 1
2
- (2) The police commissioner may take into account the following matters— 3
4
 - (a) whether publishing the identifying information about a person would interfere with— 5
6
7
 - (i) an investigation by police officers in relation to the person; or 8
9
 - (ii) the person’s compliance with the reporting obligations; or 10
11
 - (iii) the operation of a community order, a DPSOA supervision order or another order or requirement under a written law to which the person is subject; 12
13
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15
 - (b) whether publishing the identifying information about the person might identify a victim of an offence, or a school, university or other place of education attended by a victim of an offence, committed by the person; 16
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 - (c) the effect publishing the identifying information about the person might have on a victim of an offence committed by the person; 22
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 - (d) whether, in statements made by the victim to the police commissioner, publishing the identifying information about the person has been supported or opposed by a victim of an offence committed by the person; 26
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 - (e) whether publishing the identifying information about the person would increase the risk of the person committing offences; 31
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-
- (f) the police commissioner’s assessment of the benefit to the community of publishing the identifying information about the person;
- (g) if the identifying information is about a person who is awaiting trial on a charge of an offence—whether publishing the identifying information might prejudice the fair trial of the person;
- (h) another matter the police commissioner considers relevant.
- (3) In this section—
community order means a community service order, an intensive correction order, a probation order, or an order that a term of imprisonment be suspended, under the *Penalties and Sentences Act 1992*.

74AJ Police commissioner may inform child’s parent or guardian whether specified person is a reportable offender

- (1) A person may apply to the police commissioner to be informed about whether or not a person specified in the application (the *specified person*), other than a person who is a child, is a reportable offender.
- (2) The application must be made in a way approved by the police commissioner.
- (3) In support of the application, the applicant must give any evidence required by the police commissioner to be satisfied the specified person has regular unsupervised contact with a child of whom the applicant is a parent or guardian.
- (4) For subsection (3), a person does not have regular unsupervised contact with a child unless the person has unsupervised contact with the child

[s 6]

for at least 3 days (whether consecutive or not) in 1
any period of 1 year. 2

- (5) If the police commissioner is satisfied the 3
specified person has regular unsupervised contact 4
with a child of whom the applicant is a parent or 5
guardian, the police commissioner may inform 6
the applicant whether or not the specified person 7
is a reportable offender. 8

**74AK Protection as to publication and other 9
provision of information 10**

- (1) If the police commissioner decides in good 11
faith— 12

(a) to publish or give information under this 13
part; or 14

(b) not to publish or give information under this 15
part; 16

no civil or criminal liability attaches to the police 17
commissioner or the State by reason of 18
publishing or giving the information or omitting 19
to publish or give the information. 20

- (2) If information is published or provided by the 21
police commissioner under this part, the 22
publication or giving of the information is not to 23
be regarded— 24

(a) as a breach of any duty of confidentiality or 25
secrecy imposed by law; or 26

(b) as a breach of professional ethics or 27
standards or as unprofessional conduct. 28

- (3) Section 75 does not apply to publishing or giving, 29
or omitting to publish or give information, as 30
mentioned in subsection (1). 31

- (4) In this section— 32

information includes identifying information. 33

Division 3 Review 1

74AL Review about publication of personal details 2

- (1) This section applies if a person believes identifying information about the person has been published in error under section 74AF or 74AG. 3
4
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6
- (2) The person may apply in writing to the police commissioner to review a decision to publish the details, unless the publication was authorised by the Minister under section 74AG(1)(c). 7
8
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- (3) The application must be made while the identifying information is published under this part. 11
12
13
- (4) The police commissioner may remove the identifying information from publication while the commissioner is considering the application. 14
15
16
- (5) On receiving the application for a review, the police commissioner must— 17
18
 - (a) give the person a reasonable opportunity to state the person’s case before making a decision on the matter; and 19
20
21
 - (b) review the decision to publish the identifying information and confirm or revoke it; and 22
23
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 - (c) give the person written notice of the decision. 25
26
- (6) If the police commissioner revokes a decision to publish the identifying information about a person, the police commissioner must, as soon as is practicable after making the decision, remove the information from the website. 27
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[s 6]

74AM Review about identification of person as reportable offender	1 2
(1) This section applies if a person believes the police commissioner has, under section 74AJ, informed a parent or guardian that the person is a reportable offender and the information is incorrect.	3 4 5 6 7
(2) The person may apply in writing to the police commissioner to provide correct information.	8 9
(3) On receiving the application, the police commissioner must—	10 11
(a) give the person a reasonable opportunity to state the person’s case before making a decision on the matter; and	12 13 14
(b) confirm the information or correct it; and	15
(c) give the person, and the parent or guardian, written notice of the confirmation or correction.	16 17 18
 Division 4 Offences	 19
 74AN Conduct intended to incite animosity towards or harassment of identified offenders	 20 21 22
(1) A person must not engage in any conduct, otherwise than in private, by which the person intends to create, promote or increase animosity towards, or harassment of, a person as an identified offender.	23 24 25 26 27
Maximum penalty—10 years imprisonment.	28
(2) An offence against subsection (1) is a crime.	29
(3) A person must not engage in any conduct, otherwise than in private, that is likely to create,	30 31

-
- promote or increase animosity towards, or harassment of, a person as an identified offender. 1
2
- Maximum penalty—2 years imprisonment. 3
- (4) A reference in subsection (1) or (3) to conduct 4
includes conduct happening on a number of 5
occasions over a period of time. 6
- (5) For subsection (1) or (3), conduct is taken not to 7
happen in private if it— 8
- (a) consists of a form of communication with 9
the public or a section of the public; or 10
- (b) happens in a public place or in sight or 11
hearing of people who are in a public place. 12
- (6) In this section— 13
- animosity towards* means hatred of or serious 14
contempt for. 15
- harassment* includes threat, serious and 16
substantial abuse and severe ridicule. 17
- identified offender* means— 18
- (a) a person in relation to whom prescribed 19
personal details are published by the police 20
commissioner under section 74AF; or 21
- (b) a person in relation to whom a photograph 22
and a statement about the general area 23
where the person resides are published by 24
the police commissioner under section 25
74AG; or 26
- (c) a person about whom the police 27
commissioner provides information under 28
section 74AJ or 74AM. 29
- public place* includes— 30
- (a) a place to which the public, or a section of 31
the public, has or is permitted to have 32

[s 6]

access, whether on payment or otherwise;	1
and	2
(b) a privately owned place to which the public has access with the express or implied approval of, or without interference from, the owner, occupier or person who has the control or management of the place; and	3 4 5 6 7
(c) a school, university or other place of education, other than a part of it to which neither students nor the public usually have access.	8 9 10 11
74AO Publication, display and distribution of identifying or other information	12 13
(1) A person must not display, distribute or publish—	14 15
(a) identifying information about a person published under section 74AF or 74AG; or	16 17
(b) information about whether or not a person is a reportable offender provided under section 74AJ or 74AM.	18 19 20
Maximum penalty—2 years imprisonment.	21
(2) Subsection (1) does not apply to a person who—	22
(a) obtained the written approval of the Minister before displaying, distributing, or publishing the information mentioned in subsection (1); or	23 24 25 26
(b) is authorised under this part to display, distribute or publish the information mentioned in subsection (1).	27 28 29
(3) In this section—	30
<i>display</i> means display in or within view of a public place.	31 32

	<i>distribute</i> means distribute to the public or a section of the public.	1 2
	<i>public place</i> see section 74AN(6).	3
	<i>publish</i> means publish to the public or a section of the public.	4 5
	74AP Disclosure of published information on website not a breach of confidentiality	6 7
	(1) If information is published on the website in accordance with this part, section 70 does not apply to a person who discloses the information after it is published, even if it is personal information in the register.	8 9 10 11 12
	(2) This section does not limit section 74AO.	13
Clause 7	Insertion of new s 77A	14
	After section 77—	15
	<i>insert</i> —	16
	77A Review of operation of publication of information provisions	17 18
	The Minister must carry out a review of the operation and effectiveness of part 5B as soon as is practicable after 3 years after the commencement of section 74AF.	19 20 21 22
Clause 8	Amendment of sch 3 (Dictionary)	23
	Schedule 3—	24
	<i>insert</i> —	25
	<i>DPSOA supervision order</i> , for part 5B, see section 74AA.	26 27
	<i>general area where a person resides</i> , for part 5B, see section 74AA.	28 29

[s 9]

	<i>identifying information</i> , for part 5B, see section 74AA.	1 2
	<i>photograph</i> , for part 5B, see section 74AA.	3
	<i>publish</i> , for part 5B, except section 74AO, see section 74AA.	4 5
	<i>website</i> , for part 5B, see section 74AA.	6
Part 3	Amendment of Dangerous Prisoners (Sexual Offenders) Act 2003	7 8 9
Clause 9	Act amended	10
	This part amends the <i>Dangerous Prisoners (Sexual Offenders) Act 2003</i> .	11 12
Clause 10	Amendment of s 16 (Requirements for orders)	13
	Section 16—	14
	<i>insert—</i>	15
	(3) Without limiting subsection (2), the order may provide that the photograph of the person and a statement about the general area where the person resides are not to be published under the <i>Child Protection (Offender Reporting) Act 2004</i> , section 74AG.	16 17 18 19 20 21
Clause 11	Amendment of s 18 (Application for amendment)	22
	Section 18(1), after ‘division’—	23
	<i>insert—</i>	24
	, other than an application made under section 19AB,	25

Clause 12	Insertion of new s 19AB	1
	Part 2, division 4, after section 19A—	2
	<i>insert—</i>	3
	19AB Application to prevent publication of prescribed information on website	4
		5
	(1) This section applies if a supervision order or interim supervision order is made for a released prisoner before the commencement of this section.	6 7 8 9
	(2) The released prisoner may apply to the court under this division to amend the requirements of the supervision order or interim supervision order to provide that the prescribed information is not to be published under the <i>Child Protection (Offender Reporting) Act 2004</i> , section 74AG.	10 11 12 13 14 15
	(3) Notification of an application made by the released prisoner must be given to the police commissioner, the Attorney-General and the chief executive.	16 17 18 19
	(4) The court may, on application, amend the requirements of a supervision order or an interim supervision order to provide that the prescribed information about the released prisoner is not to be published if the court is satisfied that it is reasonable to make the amendment in all the circumstances.	20 21 22 23 24 25 26
	(5) In this section—	27
	<i>prescribed information</i> means a photograph of a released prisoner and a statement about the general area where the person resides.	28 29 30
Clause 13	Amendment of schedule (Dictionary)	31
	Schedule—	32
	<i>insert—</i>	33

[s 13]

general area where the person resides see the 1
Child Protection (Offender Reporting) Act 2004, 2
section 74AA. 3

Authorised by the Parliamentary Counsel