

PROPOSED HUMAN RIGHTS FOR QUEENSLAND

The Human Rights Bill 2018 contains 23 individual rights to be protected.

Recognition and equality before the law (section 15)

Every person is equal before the law and is entitled to the equal protection of the law without discrimination.

For example, police should not refuse to investigate a crime against a person without any justification, or, a government agency should not refuse to issue a person with a valid form of identification so a person can access important services.

Right to life (section 16)

Every person has the right to life and has the right not to be arbitrarily deprived of life.

For example, if the government takes on the care of a person in prison or foster care, they must take positive steps to ensure that the person is safe and able to live with dignity. The government must also investigate unlawful killings and punish offenders.

Protection from torture and cruel, inhuman or degrading treatment (section 17)

A person must not be subjected to torture, treated or punished in a cruel, inhuman or degrading way or subjected to medical or scientific experimentation or treatment without the person's full, free and informed consent.

For example, hospitals should have established procedures to make sure that patients scheduled for treatment understand what is involved and have agreed to the treatment.

Freedom from forced work (section 18)

A person must not be held in slavery or servitude, or be made to perform forced or compulsory labour.

For example, a person can't be threatened with punishment for not performing work. This right does not cover work done in custody or the community as a result of a court order, or a civic obligation such as jury duty.

Freedom of movement (section 19)

Every person lawfully within Queensland has the right to move freely within Queensland and to enter and leave it, and has the freedom to choose where to live.

For example, public authorities should respect people's general rights to be in a public space, including the right to meet and spend time in public parks.

Freedom of thought, conscience, religion and belief (section 20)

Every person has the right to think and believe what they want, including religion. They can do this in public or private, as part of a group or alone.

For example, residential care facilities and prisons should have procedures to encourage residents to identify any special needs and to provide for them as far as possible, such as special food or prayer facilities.

Freedom of expression (section 21)

Every person is free to say what they think and want to say. They have the right to find, receive and share information and ideas. In general, this right might be limited to respect the rights and reputation of other people, or for the protection of public safety and order.

For example, people have the right to hand out information in a public place as long as it is not vilifying, defamatory, threatening or in breach of any other laws.

Peaceful assembly and freedom of association (section 22)

Every person has the right assembly peacefully, and to associate with others including the right to form and join trade unions.

For example, people have the right to march and rally in public to promote their cause.

Take part in public life (section 23)

Every person has the right to take part in public life, such as the right to vote, or to get a job in government.

Property rights (section 24)

People are entitled to own property and are protected from having their property taken, unless the law says it can be taken.

For example, authorities cannot confiscate or seize a person's property unless it is illegal (eg. drugs), was purchased from the proceeds of crime or stolen.

Privacy and reputation (section 25)

Everyone has the right to keep their lives private. A person's family, home or personal information cannot be interfered with, unless the law allows it.

For example, public housing tenants should be given access to secure lockers for their personal effects while their homes are renovated.

Protection of families and children (section 26)

Families are entitled to protection. Children have the same rights as adults with added protection according to their best interests.

For example, the right of couples with a disability to parent their own children can be promoted by the government providing extra support services, where it is in the best interests of the child to do so.

Cultural rights - generally (section 2)

People can have different family, religious or cultural backgrounds. They can enjoy their culture, declare and practice their religion and use their languages.

Cultural rights - Aboriginal peoples & Torres Strait Islander peoples (s28)

Aboriginal peoples and Torres Strait Islander peoples hold distinct cultural rights.

They must not be denied the right to enjoy, maintain, control, protect, develop and use their identity and cultural heritage, language, kinship ties; to maintain and strengthen their distinctive spiritual, material and economic relationship with the land, territories, waters, coastal seas and other resources with which they have a connection; and to conserve and protect the environment.

Aboriginal peoples and Torres Strait Islander peoples have the right not to be subjected to forced assimilation or destruction of their culture.

Right to liberty and security of person (section 29)

Every person has the right to freedom and safety.

The right to liberty includes the right to not be arrested or detained except in accordance with law.

The right to security means that reasonable steps must be taken to ensure the physical safety of people who are in danger of physical harm.

Humane treatment when deprived of liberty (section 30)

People have the right to be treated with humanity if they are accused of breaking the law and are detained.

For example, people accused of a crime must be treated humanely and must not be detained with people who have already been convicted of a crime.

Fair hearing (section 31)

Every person has the right to a fair hearing. This means the right to have criminal charges or civil proceedings decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

For example, everyone has the right to take their matter to court and seek advice and representation from an appropriate source, such as Legal Aid, if eligible. The court hearing should proceed without unnecessary delay and all relevant evidence should be disclosed.

Rights in criminal proceedings (section 32)

There are a number of minimum guarantees when a person has been charged with a criminal offence.

These include the right to be told the charges against you in a language that you understand; the right to an interpreter if you need one; the right to have time and facilities to prepare a case or talk to a lawyer; the right to have the hearing proceed without unreasonable delay; the right to be represented by Legal Aid if eligible; the right to be presumed innocent until proven guilty; and the right to not testify against themselves or confess guilt unless they choose.

Children in the criminal process (section 33)

A child charged with committing a crime or who has been detained without charge must not be held with adults. They must also be brought to trial as quickly as possible and treated in a way that is appropriate for their age.

Right not to be tried or punished more than once (section 34)

A person will only go to court and be tried once for a crime. If they are convicted they can only be punished once. If they are found innocent they cannot be punished for returned to court for the same offence.

Retrospective criminal laws (section 35)

A person has the right not to be prosecuted or punished for things that were not criminal offences at the time they were committed.

Right to education (s36)

Every child has the right to have access to primary and secondary education appropriate to the child's needs.

Every person has the right to have access, based on the person's abilities, to further vocational education and training that is equally accessible to all.

Right to health services (s37)

Every person has the right to access health services without discrimination.

A person must not be refused emergency medical treatment that is immediately necessary to save the person's life or to prevent serious impairment to the person.

