

Commonwealth Parole Board Bill 2025

Submission



Committee Secretary

Legal and Constitutional Committee

PO Box 6100

Parliament House

Canberra ACT 2600

Justice Action

Unit 10/2 Catherine St, Glebe

Sydney NSW 2037

Executive Summary

The consideration of the Commonwealth Parole Board Bill 2025 is an opportunity to address concerns of procedural fairness in parole hearings and access to support and resources. Justice Action has represented people in prisons for many decades, and this is an issue that affects many.

While we support the Bill's stated aims of independent, risk-informed decisions , Justice Action contends that establishing a new, centralised Commonwealth Parole Board is an unnecessary and flawed solution. We believe it will lessen access to fair hearings, create practical disadvantages, and disregard the effective systems already managed by State parole boards.

This is a clear step backwards from existing state-level protections. This lack of fairness is a direct consequence of the Bill's flawed, centralised model. A remote Board in Canberra, conducting hearings via video link, is inherently less fair than the in-person hearings common in State systems. This new structure fails to mandate a right to in-person hearings,

fails to guarantee legal representation, and even fails to ensure prisoners have access to essential legal research tools like AUSTLII to prepare their own case.

Furthermore, the Bill lacks transparency, as it includes no requirement to make parole decisions or subsequent legal challenges publicly available. Critically, there are no federal prisons. All federal offenders are managed by State services. This Bill proposes spending \$28.3 million on a new, remote body that will be entirely reliant on the same State agencies that already possess the local knowledge to make these decisions, all while stripping away the procedural fairness those state systems provide.

To make up for these shortcomings, we propose the legislation should include a 'compensatory clause' - a specific legislative provision that ensures these disadvantages do not negatively impact applicants' rights. This clause must mandate special services and procedures to make up for the physical distance and information gaps between the remote board and the people whose lives it is deciding.

Recommendations and Objectives

1. Given the time (4 years), cost (\$28.3 million) and resources required to establish a federal parole authority, it would be cheaper and more efficient to empower and adopt pre-existing State parole authorities to assess and decide federal offenders' applications
2. If the Bill is passed, significant and guaranteed funding for Legal Aid must be included. The Bill introduces new, complex processes and the explanatory memorandum confirms procedural fairness is not "formally embedded." Legal representation is therefore essential, not optional. This should be included in the legislation.

3. All prisoners presenting applications to the CPB should have access to legal resources such as AUSTLII and other case databases to prepare their applications. All past decisions including appeals should be published and available to future applicants.
4. The current stipulation is that the board will compose of "qualified individuals" and "representatives of the Australian community." To accommodate the varying needs, sentencing practices, and community values of different states, the Board should mandate the inclusion of the State parole board representatives to assist in decision-making and ensure local context, 'colour and culture' are properly considered. (*Clause 29*)
5. A new provision must be added to mandate the regular publication of the Board's decisions and the outcomes of any judicial reviews, in an anonymised format, to ensure transparency and accountability.
6. The Bill must mandate in-person parole hearings as the default, given the significant budget and the stated obligation for procedural fairness. Clause 23 ("may conduct interviews") is insufficient and implies a default to remote AVL hearings, which undermines procedural fairness.

Justice Action

Justice Action represents people locked in Australian prisons and hospitals, and targets the abuse of authority against other vulnerable individuals who are incarcerated, defending human rights in the hardest places. Justice Action (JA) is a not-for-profit, self-funded organisation based in Australia that champions the interests and rights of marginalised members of the society. We have been involved in service provision, peer mentoring and accommodation as well as supervising Community Service Orders for twenty three years.

JA advocates for the improvement of the social and mental health of people locked in adult and youth prisons as well as in locked hospitals ensuring their voices and those connected to them are heard and respected. In pursuance of those goals, JA engages in policy development, initiates campaigns and liaises with stakeholders including victims of offences.

JA believes that a positive change in Australia's criminal justice and mental health systems requires the voices of the marginalised and excluded to be respected and embraced as part of the solution.

JA aims to improve the social and mental health of prisoners and involuntary patients by providing prisoner, mental health and court support. It also engages in policy development, initiates campaigns and liaises with stakeholders.

JA comprises prisoners, victims, families, students, lawyers, judges, members of parliament, the media and others who contribute their skills, knowledge, talents and support to redress the injustices of our judicial system.

JA's Focus for Submission

We will contend that a state-based parole system offers better outcomes for prisoners, community safety, and the administration of justice. Our submission will be structured around the following key arguments

Advantages of state parole authorities:

- State parole authorities are more effective and beneficial than federal parole authorities because they have greater flexibility in tailoring parole decisions to the specific needs and circumstances of the individual and community.

- Additionally, they are typically more responsive to local concerns and priorities, fostering a more targeted approach to reintegration.
- State parole authorities are better positioned to understand the specific characteristics of their local communities, including crime rates, resources, and potential reintegration challenges.
- They are more likely to have a strong network of local support services and community organisations, facilitating easier reintegration and supervision.
- State parole systems can adapt to the unique needs and priorities of each state, allowing for tailored approaches to parole and reintegration.
- This flexibility can be particularly important in addressing specific challenges faced by certain states, such as high incarceration rates or specific types of crime.
- In summary, state parole authorities often possess a more localised and flexible approach to parole, which can lead to more effective reintegration and better community safety outcomes compared to federal parole systems.
- They prioritise community safety above all else, unlike a federal parole authority which would be forced to take on a much broader, untargeted approach, lacking specific focus (<https://paroleauthority.nsw.gov.au/about-us/who-we-are.html>)

Disadvantages of a new federal parole authority:

- Federal parole systems can be more complex than state systems, potentially leading to increased bureaucracy and delays in the process.
- A federal parole authority may be less familiar with the specific needs and dynamics of local communities compared to a state authority.

- There could be potential for conflict or overlap in responsibilities between federal and state parole authorities, particularly in cases involving both federal and state offenses.

Disadvantages of state parole authorities:

- Inconsistency among states, leading to unfairness based on geographical location.

For example (<https://www.austlii.edu.au/au/journals/ALRCRefJl/2005/3.pdf>):

- Automatic parole is available only in Western Australia, New South Wales and South Australia.
- In Western Australia prisoners serving less than 12 months must generally be released on parole after serving one half of their sentence.
- In New South Wales, offenders sentenced to three years or less will be released automatically at the end of their non parole period, provided one was set at the time of sentence.
- In South Australia that period is five years.
- Statistics suggest that, in 2001, about 12% of prisoners fell within the automatic parole period in Western Australia and 50% in South Australia.
- New South Wales fell somewhere between these two figures.
- In the other states and territories, the decision to release a prisoner on parole is always a discretionary one, made in most cases by a parole authority but in some cases by the relevant minister or state governor.

Advantages of a new federal parole authority:

- A federal parole authority might be considered superior to state parole authorities due to potential advantages in standardisation, transparency, and access to resources.

- Federal systems often have clearer guidelines and are subject to parliamentary oversight, promoting consistency across different jurisdictions.
- Additionally, federal authorities may have more resources and expertise to properly afford prisoners procedural fairness and ensure transparency.
- Federal parole systems often operate under a uniform set of guidelines, ensuring a consistent approach across different jurisdictions.
- This can provide clarity and predictability for offenders and the public.