

GUIDANCE ON UPCOMING YOUTH JUSTICE LEGISLATIVE REFORMS IN QUEENSLAND

It is expected that the Queensland Government will introduce a Bill to legislate the "Adult Crime, Adult Time" policy and remove the principle of detention as a last resort from the *Youth Justice Act 1992* (Qld) ('the Youth Justice Act') in the last week of November. The Bill may include other legislative changes proposed in the *Making our Community Safer Plan*. The Plan outlines a range of commitments which were made in the lead up to the recent state election by the LNP who have now formed government.

HOW TO ENGAGE:

The Premier has confirmed that [the Bill will be passed through Parliament before the end of this year](#). Based on the Parliamentary calendar, this means the Bill will pass in the second week of December. Assuming submissions are invited, the timeframe to respond will be very short.

Given the tight turn-around time, QCOSS has developed this resource which includes guidance and information about the Bill so that community organisations wishing to develop a submission can start planning in advance. Our guidance will be updated once the Bill is introduced, when further details will be available.

We will also be holding a submission consultation and discussion session once the Bill is introduced in November.

If you work with a community service organisation and would like to attend the submission consultation session or if you would like to share any thoughts about these proposed changes in the law in the meantime, please email us (research@qcross.org.au). We are keen to hear your views.

OUR POSITION ON THE PROPOSED CHANGES:

The Bill has not yet been introduced. The positions in this document are in response to what is known based on announcements so far, but we have not yet seen the details of the Bill.

■ Adult Crime, Adult Time

Based on what has been [announced in pre-election commitments](#), the *Adult Crime, Adult Time* policy will mean children can receive the same sentences for certain offences as adults. Youth offenders are likely to be sentenced under the Criminal Code, rather than the Youth Justice Act. Announced offences include murder, manslaughter, serious harm like wounding, home and business break-ins and robbery, stealing cars and dangerous operation of vehicles. Due to the minimum age of criminal responsibility in Queensland, we are concerned these laws will apply to children as young as just 10 years old.

The *Human Rights Act 2019* (Qld) outlines a child's right to treatment that is appropriate to the child's age when they are convicted of an offence (see [Section 33, Subsection 3](#)). Children do not have the same decision-making capacity as adults, are at a different developmental stage of their lives, and experience different vulnerabilities. This is why it's important to have different approaches for young people in contact with the criminal justice system compared to adults, including different approaches to rehabilitation that incorporate therapeutic supports to meet their specific needs.

The United Nations Committee on the Rights of the Child provided guidance on the application of the child justice system in their [General Comment No. 24 \(2019\) on children's rights in the child justice system](#). They outline "...the child justice system should apply to all children above the minimum age of criminal responsibility but below the age of 18 years at the time of the commission of the offence."

The Committee recommended that any governments that limit the applicability of their child justice system should "...change their laws to ensure a non-discriminatory full application of their child justice system to all persons below the age of 18 years at the time of the offence." In the same General Comment, the Committee also urged governments to raise the age of criminal responsibility to at least 14 years based on established findings regarding brain development in children and young people.

The proposal will also not make communities safer, where tough-on-crime approaches are often ineffective. Recidivism was explored in a recent research report, [Safety through support: Building safer communities by supporting vulnerable children in Queensland's Youth Justice System](#). It outlined that of the children who are sentenced to detention, 80 per cent will return to youth justice supervision within 12 months. The younger a child is when they are first sentenced, the more likely they will be to return to youth justice supervision again during childhood. Of the children aged 10 to 12 years who receive a supervised sentence, 94 per cent will return to youth justice supervision at some point. Detaining children for longer periods of time is also concerning when Queensland's youth detention facilities are already full.

The *Adult Crime, Adult Time* proposal is a step in the wrong direction, it will not make communities safer and is not consistent with Queensland's human rights obligations to children, nor international best practice.

■ Removing the principle of detention as a last resort

The Government also announced they would [remove the principle of detention as a last resort from the Youth Justice Act](#) by the end of this year. The principle was already amended by the *Queensland Community Safety Act 2024* (Qld) earlier this year. Previously the Principle required that “A child should be detained in custody for an offence, whether on arrest, remand or sentence, only as a last resort and for the least time that is justified in the circumstances.”

Following recent amendments, it currently reads as follows:

- “A child should be detained in custody—
- a) where necessary, including to ensure community safety, and where other non-custodial measures of prevention and intervention would not be sufficient; and
 - b) for no longer than necessary to meet the purpose of detention.”

We do not support the removal of, nor prior amendments to, the principle of detention as a last resort. This principle is derived from the UN Convention on the Rights of the Child. Removing the principle from the Youth Justice Act sends a troubling signal into a system that already detains more children than any other Australian jurisdiction on an average night. The removal of this safeguard is particularly concerning in the context of detention of children in adult watch houses. The principle should be fully restored and maintained.

What other youth justice changes might be in the Bill?

There have been other commitments that will require a range of changes to youth justice laws, but it is not as clear when those changes will be introduced. Commitments have included [expanding the application of children's criminal history](#), and [further expanding access to Children's Court proceedings](#). We are concerned that these changes do not sufficiently respect the human rights of children and undermine the ability of children in contact with the justice system to effectively move forward with their lives.

What we're calling for instead of tougher laws

We are calling for reforms to the youth justice system to be based on the evidence of what makes communities safer, and that any changes ensure the rights of children and victims are respected.

The [United Nations Convention on the Rights of the Child](#) outlines that children in contact with the justice system should be “...treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.”

Legislative changes relating to youth justice should be guided by a human rights framework to ensure children are afforded special care in the protection of their human rights. Among other rights, Queensland's Human Rights Act includes the right to protection needed by the child, in the child's best interest; the right to privacy; the right to freedom from torture and cruel, inhuman or degrading treatment; and a child's right to treatment which is appropriate to the child's age when they are convicted of an offence.

The criminal justice system has a disproportionate impact upon Aboriginal and Torres Strait Islander children and their families. Of the young people who were incarcerated in the 2022-23 financial year in Queensland, over 70 per cent identified as Aboriginal and/or Torres Strait Islander. Within the 10-13 year old age group, this figure increases to over 80 per cent ([Report on Government Services 2024](#)). The right of First Nations Peoples to self-determination, which is acknowledged in the preamble of Queensland's Human Rights Act, must therefore shape the way forward.

The [Queensland Youth Justice Strategy](#) outlines that "...of the young people in the youth justice system in 2022-2023:

- 81 per cent have used at least one substance
- 53 per cent are impacted by domestic and family violence
- 48 per cent are not enrolled in education, training or employment
- 30 per cent are in unstable and/or unsuitable accommodation
- 38 per cent of youth in custody have used ice/methamphetamine in the past
- 25 per cent have a parent who has been in custody
- 44 per cent have one or more mental health disorders and/or behavioural disorders (diagnosed or suspected)
- 44 per cent have one or more disabilities
- 16 per cent have one or more psychological behavioural issues."

Rather than introducing increasingly tougher approaches to children and young people in contact with the justice system, we recommend:

- The Queensland Government review the operation of Queensland's youth justice system to identify immediate opportunities to streamline and improve the effectiveness of responses across the continuum. This must start by engaging with First Nations Peoples and a diverse range of organisations and community leaders to chart a way forward.
- The voices of Aboriginal and Torres Strait Islander children, families, and communities must be central to all policy and service delivery decisions. The youth justice system must be co-designed with Aboriginal and Torres Strait Islander leaders, ensuring that decisions reflect the priorities, knowledge, and cultural practices of those most affected by the system.
- Prioritise investments and policies that enable the community services sector, with a particular focus on Aboriginal and Torres Strait Islander community-controlled organisations, to lead the way in addressing the root causes of youth crime and make all Queenslanders feel safe in their communities.
- Fund and implement an alternative, community service-led response to children under the age of 14 years old who are interacting with the justice system. The response must be supportive and therapeutic in nature. It should also adopt principles of restorative justice, ensuring that the needs of victims continue to be met.
- End the use of adult watch houses for the detention of children and create viable pathways for diversion and rehabilitation, including community services available 24/7 for young people and families across Queensland.

