

Youth Justice and Other Legislation Amendment Bill 2019

Explanatory Notes for amendments to be moved during consideration in Detail
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Short title

The short title of the Bill is the Youth Justice and Other Legislation Amendment Bill 2019.

Policy objectives and the reasons for them

The policy objectives of the amendments to the Youth Justice and Other Legislation Amendment Bill 2019 (the Bill) are to:

- introduce a statutory prohibition on prolonged detention in watch houses;
- restore breach of bail as an offence.

Achievement of policy objectives

The policy objectives will be achieved by amending the Bill to:

- introduce a provision to restrict the length of time children can be held in watch houses to 72 hours;
- introduce a new breach of bail offence and a reverse onus provision in relation to the offence.

Children in police custody

The Bill amends sections 50 and 54 of the *Youth Justice Act 1992* (YJ Act) to ensure that a child is not held in custody at a police station, police establishment or watch-house for more than 72 hours after the child's arrest.

Breach of bail

The Bill amends the YJ Act by inserting a new offence 'Finding of guilt while on bail'. The proposed section 59B applies to a child if a) the child is granted bail after being charged with an original offence and b) a finding of guilt is later made against the child for a subsequent offence committed while on bail for the original offence.

With respect to proceedings for an offence against s 59B, the onus is placed on the child to prove 'why the child should not be convicted of an offence under section 59B'.

A finding of guilt made against the child for a subsequent offence will be taken to be an offence. A maximum penalty of 20 penalty units or 1 year's imprisonment will apply.

Alternative ways of achieving policy objectives

There are no known alternate ways of achieving the same policy objective.

Estimated cost for government implementation

It is possible that there may be an increase in cost in relation to finding more suitable accommodation for children, however it is not possible at this stage to estimate the exact financial implication.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles as outlined in section 4 of the *Legislative Standards Act 1992*.

Consultation

There was consultation undertaken on the Bill with external stakeholders about the proposed amendments.

Consistency with legislation of other jurisdictions

The amendments are specific to Queensland and is not uniform with or complementary to legislation of the Commonwealth or another state.

Notes on provisions

Amendment 1 inserts a new clause 3A which amends section 42 (Preferred way of starting proceedings) by inserting 'or an offence under s 59B' after 'serious offence' in subsection (1).

Amendment 1 inserts a new clause 3B which amends section 50 (Dealing with a child if court can not be promptly constituted) by inserting a new subsection (4)(d) to provide ' police officer must not keep the child in custody under subsection (2) at a police station, police establishment or watch-house for more than 72 hours after the child's arrest'.

Amendment 1 inserts a new clause 3C which amends section 54 (Custody of child pending court appearance) by inserting 'an arrested child' after 'child' in subsection (1) and omitting 'the child' and inserting 'the arrested child' in subsection (3). A new subsection (4) is inserted to provide 'However, the arrested child must not be held in custody under this section at a police station, police establishment or watch-house for more than 72 hours after the child's arrest'.

Amendment 1 inserts a new clause 3D which inserts new sections 59B (Finding of guilt while on bail) and 59C (Proceedings for offence against s 59B).