



Queensland

Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021



Queensland

Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021

Contents

		Page
Part 1	Preliminary	
1	Short title	4
Part 2	Amendment of Criminal Code	
2	Code amended	4
3	Replacement of s 29 (Immature age)	4
	29 Immature age	4
Part 3	Amendment of Youth Justice Act 1992	
4	Act amended	4
5	Insertion of new pt 11, div 20	5
	Division 20 Transitional provisions for Criminal Law (Raising the Age of Responsibility) Amendment Act 2021	
	407 Application of division	5
	408 Ending proceedings and punishment	5
	409 Release from watch-house	6
	410 Ending detention	8
	411 Destruction of things collected by forensic procedures	10
	412 Records of convictions and related actions	11

2021

A Bill

for

An Act to amend the Criminal Code and the *Youth Justice Act 1992* to raise the age of criminal responsibility to 14 years

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Criminal Law (Raising the Age of Responsibility) Amendment Act 2021*. 4
5

Part 2 Amendment of Criminal Code 6

Clause 2 Code amended 7

This part amends the Criminal Code. 8

Clause 3 Replacement of s 29 (Immature age) 9

Section 29— 10

omit, insert— 11

29 Immature age 12

A person under the age of 14 years is not 13
criminally responsible for any act or omission. 14

Part 3 Amendment of Youth Justice Act 1992 15
16

Clause 4 Act amended 17

This part amends the *Youth Justice Act 1992*. 18

Clause 5	Insertion of new pt 11, div 20	1	
	Part 11—	2	
	<i>insert—</i>	3	
	Division 20	Transitional provisions for	4
		Criminal Law (Raising the	5
		Age of Responsibility)	6
		Amendment Act 2021	7
	407 Application of division	8	
	(1) This division applies to a person who, before the commencement, committed an offence when the person was under the age of 14 years.	9 10 11	
	(2) This division applies despite any law to the contrary.	12 13	
	(3) Without limiting subsection (2), to the extent of any inconsistency between this division and any of the following Acts, this division prevails—	14 15 16	
	(a) this Act, other than this division;	17	
	(b) the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> ;	18 19	
	(c) the <i>Police Powers and Responsibilities Act 2000</i> .	20 21	
	(4) To remove any doubt, it is declared that this division applies to the person regardless of whether the person is still a child when this division commences.	22 23 24 25	
	408 Ending proceedings and punishment	26	
	(1) A police officer may not—	27	
	(a) take any alternative action against the person for the offence; or	28 29	

[s 5]

- (b) start a proceeding against the person for the offence. 1
2
- (2) On the commencement— 3
 - (a) any alternative action taken by a police officer against the person for the offence, that is still in effect, ends; and 4
5
6
 - (b) if the person is under arrest by a police officer for the offence, the arrest ends; and 7
8
 - (c) a notice to appear or a summons for the offence ceases to have effect; and 9
10
 - (d) a warrant for the arrest of the person on a charge for the offence ceases to have effect; and 11
12
13
 - (e) if the person is on bail for the offence, the bail ends; and 14
15
 - (f) a proceeding before a court in which the person is charged with the offence ends; and 16
17
 - (g) all consequences for the offence under this Act cease to be enforceable against the person or any other person, including, for example— 18
19
20
21
 - (i) a sentence order; and 22
 - (ii) a community based order. 23
- (3) In this section— 24
 - alternative action* means action mentioned in section 11(1)(b) to (e). 25
26
- 409 Release from watch-house** 27
- (1) This section applies if, on the commencement, the person is being held in custody in a watch-house in relation to the offence. 28
29
30
- (2) The watch-house manager must arrange for the person to be released from custody as soon as 31
32

-
- reasonably practicable to do so but no later than 1
the sooner of the following— 2
- (a) the time the person would have been 3
released from custody if this section had not 4
commenced; 5
- (b) 3 days after the commencement. 6
- (3) In deciding when it is reasonably practicable to 7
release the person from custody, the watch-house 8
manager must have regard to the welfare of the 9
person, including whether the person will have 10
access to the following things from the day the 11
person is released— 12
- (a) appropriate accommodation; 13
- (b) support from a consistent parent or 14
guardian; 15
- (c) any health or other services the person 16
required while in custody. 17
- (4) Subsection (3) does not prevent the watch-house 18
manager releasing the person from custody 19
merely because the person will not have access to 20
a thing mentioned in that subsection. 21
- (5) In making arrangements for the release of the 22
person from custody, the watch-house manager— 23
- (a) may consult with the chief executive or the 24
chief executive (child safety); and 25
- (b) must, in consultation with the chief 26
executive and the chief executive (child 27
safety), make all reasonable efforts to 28
ensure the person has access to the things 29
mentioned in subsection (3)(a) to (c); and 30
- (c) may, for the consultation mentioned in 31
paragraph (a) or (b), share any confidential 32
information about the person with the chief 33
executive or the chief executive (child 34
safety). 35

[s 5]

- (6) While the person is waiting to be released from a watch-house, the person continues to be subject to the rules governing the watch-house. 1
2
3
- (7) This section does not apply if, on the commencement, the person is also being held in custody in a watch-house in relation to an offence committed when the person was 14 years or older. 4
5
6
7
- (8) In this section— 8
- confidential information* means confidential information to which part 9 applies. 9
10
- watch-house manager* see the *Police Powers and Responsibilities Act 2000*, schedule 6. 11
12

410 Ending detention 13

- (1) This section applies if, on the commencement, the person is— 14
15
- (a) serving a period of detention in a detention centre in relation to the offence; or 16
17
- (b) otherwise being held in custody in a detention centre in relation to the offence. 18
19
- (2) The chief executive must arrange for the person to be released from detention or custody as soon as reasonably practicable to do so but no later than the sooner of the following days— 20
21
22
23
- (a) the day the person would have been released from detention or custody if this section had not commenced; 24
25
26
- (b) the day that is 1 month after the commencement. 27
28
- (3) In deciding when it is reasonably practicable to release the person from detention or custody, the chief executive must have regard to the welfare of the person, including whether the person will have access to the following things from the day 29
30
31
32
33

-
- the person is released— 1
- (a) appropriate accommodation; 2
 - (b) support from a consistent parent or guardian; 3
4
 - (c) any health or other services the person 5
required while in detention or custody. 6
- (4) Subsection (3) does not prevent the chief 7
executive releasing the person from detention or 8
custody merely because the person will not have 9
access to a thing mentioned in that subsection. 10
- (5) In making arrangements for the release of the 11
person from detention or custody, the chief 12
executive— 13
- (a) may consult with the chief executive (child 14
safety); and 15
 - (b) must, in consultation with the chief 16
executive (child safety), make all reasonable 17
efforts to ensure the person has access to the 18
things mentioned in subsection (3)(a) to (c); 19
and 20
 - (c) may, for the consultation mentioned in 21
paragraph (a) or (b), share any confidential 22
information about the person with the chief 23
executive (child safety). 24
- (6) While the person is waiting to be released from a 25
detention centre, the person continues to be 26
subject to the rules governing the detention 27
centre. 28
- (7) This section does not apply if, on the 29
commencement, the person is also serving a 30
period of detention in a detention centre, or 31
otherwise being held in custody in a detention 32
centre, in relation to an offence committed when 33
the person was 14 years or older. 34
- (8) In this section— 35
-

[s 5]

confidential information means confidential information to which part 9 applies. 1
2

411 Destruction of things collected by forensic procedures 3
4

- (1) This section applies if, before the commencement, any of the following things happened in relation to the offence— 5
6
7
- (a) identifying particulars of the person were taken or photographed under the *Police Powers and Responsibilities Act 2000*, chapter 17, part 4; 8
9
10
11
 - (b) a DNA sample was taken from the person under the *Police Powers and Responsibilities Act 2000*, chapter 17, part 5; 12
13
14
15
 - (c) another forensic procedure was performed on the person under the *Police Powers and Responsibilities Act 2000*, chapter 17. 16
17
18
- (2) The commissioner of the police service must, within a reasonable time after the commencement, ensure that each of the following things is destroyed in the presence of a justice— 19
20
21
22
- (a) the identifying particulars; 23
 - (b) the DNA sample; 24
 - (c) the results of any DNA analysis of the DNA sample; 25
26
 - (d) the results of any analysis of the forensic procedure; 27
28
 - (e) the record of any information collected from the forensic procedure. 29
30
- (3) Also, subsection (4) applies if a police officer caused any information collected from the identifying particulars, DNA sample or forensic 31
32
33

procedure to be entered into a database or record. 1

(4) The commissioner of the police service must, 2
within a reasonable time after the 3
commencement, ensure the information is 4
removed from the database or record. 5

(5) In this section— 6

DNA sample see the *Police Powers and 7
Responsibilities Act 2000*, schedule 6. 8

forensic procedure see the *Police Powers and 9
Responsibilities Act 2000*, schedule 6. 10

identifying particulars, of a person, see the *Police 11
Powers and Responsibilities Act 2000*, schedule 12
6. 13

412 Records of convictions and related actions 14

(1) This section applies if, before the 15
commencement, the person was convicted of the 16
offence. 17

(2) On the commencement, the conviction is 18
expunged. 19

(3) The person need not, and any other person must 20
not, disclose that the person was convicted of the 21
offence. 22

(4) A record of any of the following matters must not 23
be disclosed in any court proceeding to which the 24
person is subject— 25

(a) action taken by a police officer against the 26
person for the offence, including, for 27
example, administering a caution or 28
arresting the person; 29

(b) a failure of the person to comply with a 30
direction made, in relation to the offence, by 31
a police officer or other person under this 32
Act or another Act; 33

[s 5]

- | | | |
|-----|--|---------------------|
| (c) | action taken by a court against the person for the offence, including, for example, granting bail or convicting the person; | 1
2
3 |
| (d) | a failure of the person to comply with an order made by a court in relation to the offence. | 4
5
6 |
| (5) | A record of a matter mentioned in subsection (4) must be amended to omit the matter. | 7
8 |
| (6) | In this section—
<i>convicted</i> , of an offence, means found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction was recorded. | 9
10
11
12 |