

# Expanding Adult Crime, Adult Time and Taking a Strong Stance on Drugs and Anti-Social Behaviour Amendment Bill 2026

## Statement of Compatibility

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019*, I, Laura Gerber MP, Minister for Youth Justice and Victim Support and Minister for Corrective Services, make this statement of compatibility with respect to the Expanding Adult Crime, Adult Time and Taking a Strong Stance on Drugs and Anti-Social Behaviour Amendment Bill 2026.

In my opinion, the Expanding Adult Crime, Adult Time and Taking a Strong Stance on Drugs and Anti-Social Behaviour Amendment Bill 2026 is not compatible with the human rights protected by the *Human Rights Act 2019*. The nature and extent of the incompatibility is outlined in this statement.

## Overview of the Bill

The Expanding Adult Crime, Adult Time and Taking a Strong Stance on Drugs and Anti-Social Behaviour Amendment Bill 2026 amends the *Youth Justice Act 1992* (Youth Justice Act) to:

- Introduce 12 further specific offences to section 175A; and
- Include general attempt, conspiracy and accessory after the fact offences of Adult Crime offences in section 175A, as well as the standalone offence of attempted robbery simpliciter.

These amendments will mean that children who are found guilty of these serious offences will be subject to the same minimum, mandatory and maximum sentences which currently apply to adult offenders.

The Bill also strengthens the capability of the criminal justice system by:

- repealing the current Police Drug Diversion Program (PDDP) and introducing a new Illicit Drug Enforcement and Diversion Framework (IDEDF); and
- introducing expanded police powers within prescribed Designated Business and Community Precincts.

## Expansion of Adult Crime, Adult Time to further offences

The Bill will amend section 175A of the Youth Justice Act to expand Adult Crime to further specific offences. These offences are:

- s.61(1) Riot, if the circumstance stated in paragraph (a) of the penalty for section 61(1) applies (offender causes grievous bodily harm to a person, causes an

- explosive substance to explode, or destroys or starts to destroy a building, vehicle or machinery).
- s.210 Indecent treatment of a child, if the circumstance stated in subsection (3) (child is under the age of 12 years) or (4A) (child is a person with an impairment of the mind) applies
- s.216 Abuse of persons with an impairment of the mind
- s.309 Conspiring to murder
- s.311 Aiding suicide
- s.315 Disabling in order to commit indictable offence
- s.315A Choking, suffocation or strangulation in a domestic setting
- s.316 Stupefying in order to commit indictable offence
- s.319 Endangering the safety of a person in a vehicle with intent
- s.322 Administering poison with intent to harm, if the circumstance stated in paragraph (a) of the penalty for the section applies (the poison or other noxious thing endangers the life of, or does grievous bodily harm to the person)
- s.339 Assaults occasioning bodily harm, if the circumstance stated in subsection (2) (offender publishes material on a social media platform or an online social network) or (3) (offender is or pretends to be armed with any dangerous or offensive weapon or instrument or is in company) applies
- s.359E Unlawful stalking, intimidation, harassment or abuse

*Inclusion of general attempt, conspiracy and accessory after the fact offences and attempted robbery (simpliciter)*

The Bill will further amend the Youth Justice Act to provide that general attempt, conspiracy and accessory after the fact offences under sections 535, 541, 542 and 544 of the Criminal Code committed in relation to Adult Crime, Adult Time offences will be included under Adult Crime, Adult Time. It will also provide that attempted robbery simpliciter under section 412 of the Criminal Code will be included in Adult Crime, Adult Time.

### **Illicit Drug Enforcement and Diversion Framework**

The Bill establishes a new IDEDF by amending the *Police Powers and Responsibilities Act 2000* (PPRA) and related legislation. The framework replaces existing diversion arrangements in the PDDP with a more targeted model that limits diversion to first time and low risk drug offenders through two distinct pathways for a minor cannabis offence or minor drug offence.

### *Minor Cannabis Offence Pathway*

A minor cannabis offence is defined as an offence against section 9 of the *Drugs Misuse Act 1986* (DM Act) for possession of not more than 50 grams of cannabis. An eligible adult who is arrested for, or is questioned about, a minor cannabis offence, must be offered the opportunity to complete a drug diversion program however, an officer retains discretion when responding to children noting other options under the Youth Justice Act may be more appropriate.

In line with existing legislative provisions, a person who agrees to complete a drug diversion program must sign a cannabis diversion agreement confirming their willingness to participate in and complete the program and authorising information to be shared between relevant entities regarding their completion or failure to complete the program. Additionally, a police officer must give the person a written requirement to participate in and complete the program and inform the person that failure to comply with these requirements is an offence against section 791 of the PPRA.

On signing the agreement, the relevant drug matter will be automatically forfeited to the State to enable an immediate disposal and if arrested, the person must be released at the earliest reasonable opportunity.

### *Minor Drug Offence Pathway*

If an eligible offender is arrested for, or is being questioned by, a police officer in relation to a minor drug offence, the new framework provides the police officer the discretion to issue the person a Penalty Infringement Notice (PIN) (prescribed at three penalty units, which is currently \$500.70) rather than commencing proceedings for the offence.

A minor drug offence is defined as an offence against section 9 of the DM Act or an offence against section 34(1) of the *Medicines and Poisons Act 2019*, if possession is not more than the prescribed quantity of a dangerous drug or schedule 4 or schedule 8 medicine.

Prescribed quantities of dangerous drugs and medicines are contained with schedule 1B of the *Police Powers and Responsibilities Regulation 2012* and for example, include small quantities of cocaine and 3,4-Methylenedioxyamphetamine (MDMA).

The Bill largely retains the current scheduled drugs and quantities, however, excludes cannabis and introduces the drugs 4-Hydroxybutanoic acid lactone (commonly referred to as Gamma-butyrolactone or GBL) and 1,4-Butanediol (1,4-BD), which are both common precursors for, and frequently sold as, Gamma-hydroxybutyrate (GHB).

Any person who is issued with a PIN for a minor drug offence will have 28 days from the date of issue to:

1. pay the fine in full or set up a payment plan; or
2. elect for the matter to proceed to court; or
3. elect to participate in and complete a drug diversion program.

If the person elects to participate in a drug diversion program and successfully completes the program within the specified period, payment of the PIN will be considered discharged, and no further action is taken against the person.

When issuing the PIN, the police officer must also provide the person with an information notice which communicates the details of this diversionary opportunity, including how the person may self-elect to participate in the drug diversion program, and the period in which they must complete the program.

An eligible offender will only be offered a single opportunity to receive a PIN for a minor drug offence as an alternative to commencing proceedings. It is irrelevant if the person does not elect to participate in the drug diversion program or fails to complete the program as no further opportunity is provided to receive a PIN for a minor drug offence.

If the person fails to respond to the PIN within 28 days from the date of issue, or fails to complete the drug diversion program within the specified period, proceedings may be commenced for the minor drug offence or the matter may be referred to the State Penalty Enforcement Register (SPER) for enforcement action. However, it is noted that the *State Penalties Enforcement Act 1999* (SPE) Act has limited application in relation to children.

The Bill also includes information sharing provisions to enable relevant entities involved in providing or administering the program, including the Commissioner of Police and the registrar under the SPE Act, to exchange information about the person's participation in the drug diversion program.

#### *Drug Utensil Offences*

The Bill excludes drug utensils from any diversionary pathways and instead provides police officers with the discretion to issue PINs for low-level offences involving the possession of a drug utensil for use in connection with the administration, consumption or smoking of a dangerous drug, under sections 10(4) or 10A(1)(a), (b) or (c) of the DM Act. The penalty for these new PINs will be two penalty units (currently \$333.80) and police officers will not be limited in the number of utensil related PINs which they can issue to a person. Therefore, police officers will retain discretion to determine the appropriateness of issuing a PIN on a case-by-case basis and have an alternative police response to this conduct instead of commencing criminal proceedings.

A person will not be able to discharge payment for a drug utensil related PIN by completing a drug diversion program and within 28 days, must either pay the fine in full (including making arrangements to pay by instalments) or elect to have the matter proceed to court.

#### **Designated Business and Community Precincts**

The Bill introduces reforms to address anti-social behaviour in central business districts and community spaces by enhancing police powers in areas prescribed by Regulation, referred to as *designated business and community precincts*.

Within a designated business and community precinct, police will be empowered to:

- use a hand held scanner to detect unlawful weapons, without a warrant;
- direct a person or group of persons to 'move on' and refrain from returning to the stated precinct for a period of up to 24 hours; and
- issue a banning notice, for a period of one month and up to three months, in circumstances where the individual has breached a move-on direction within a precinct or has received one or more move-on direction in a precinct within a 7-day period.

As part of the reforms, the Bill also:

- amends Chapter 19, Part 5A (Police banning notices) of the PPRA to remove restrictions on individuals who may be the subject of a banning notice to include children; and
- amends Chapter 2, Part 5 (Directions to move on) of the PPRA to authorise police to require a person to state their correct name and address when a police officer is about to give or is giving a person a move on direction.

## Human Rights Issues

### Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019*)

#### Expansion of Adult Crime, Adult Time to further offences

The human rights below are already limited by the provisions that provide for Adult Crime, Adult Time. The limitations on these human rights are broadened and deepened by the proposed amendments because they propose to expand the scope of Adult Crime, Adult Time to a broader range of offences.

The relevant human rights protected under the *Human Rights Act 2019* are:

- Right to equal protection of the law without discrimination (section 15(3))
- Right to equal and effective protection against discrimination (section 15(4))
- Right to protection from cruel, inhuman or degrading treatment (section 17)
- Right of children to protection in their best interest (section 26(2))
- Right to liberty and security of person (section 29(1))
- Right to humane treatment when deprived of liberty (section 30)

Applying the same penalties that apply to adults may expose children to mandatory sentences. This is because a number of the new offences have maximum penalties of life imprisonment. If a child is sentenced to life detention (other than for murder), the child will be eligible for parole release only after serving 15 years. For all new offences, children will be subject to higher maximum penalties than presently allowed by the Youth Justice Act. This will likely result in more children who are found guilty of these serious crimes being sentenced to, and spending more time in, detention.

#### (a) the nature of the right

- *Right to equal protection of the law without discrimination (section 15(3)) and right to equal and effective protection against discrimination (section 15(4))*

It is likely that Aboriginal and Torres Strait Islander children will be impacted more by these amendments, due to their overrepresentation in the youth justice system. As the Bill will increase maximum penalties for offences, it could result in more Aboriginal and Torres Strait Islander children being imprisoned for longer periods of time. However, I do not consider that the amendments limit the right to equal protection of the law without discrimination or the right to equal and effective protection against discrimination. I am satisfied that there is no direct or indirect discrimination on the basis of race, as the increased penalties will apply equally to all youth offenders who commit Adult Crimes. Further, the court can still consider cultural

considerations and submissions from a community justice group in relation to Aboriginal and Torres Strait Islander children when imposing a sentence (Youth Justice Act s.150(3)(ha) & (i)).

- *Right of children to protection in their best interest (section 26(2))*

This right reflects that children are more vulnerable because of their age and are entitled to special protections. The content of the best interests of the child is informed by the United Nations (UN) Convention on the Rights of the Child (UNCRC) and the UN Standard Minimum Rules for the Administration of Justice (Beijing Rules). I acknowledge that the proposed amendments are not consistent with international standards regarding the best interests of the child with respect to children in the youth justice system and are therefore incompatible with human rights.

Relevantly, the UNCRC provides that:

- the best interests of the child shall be a primary consideration (article 3(1));
- detention or imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time (article 37(b)); and
- a child recognised as having infringed penal law is to be treated in a manner...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 (article 40(1)).

The Beijing Rules provide that:

- the reaction taken shall always be in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and the needs of the juvenile as well as to the needs of the society (rule 17.1(a));
- deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response (rule 17.1(c)); and
- the well-being of the juvenile shall be the guiding factor in the consideration of her or his case (rule 17.1(d))

The proposed amendments will likely result in more children being sentenced under Adult Crime, Adult Time and therefore the imposition of detention orders. Further, in circumstances where a child is sentenced to life imprisonment, they will be subject to the mandatory minimum non-parole period. In those cases, consideration of the child's best interests will not form part of the court's consideration of the appropriate non-parole period. However, this mandatory non-parole period will only apply in circumstances where a court has already exercised discretion to decide that a sentence of life detention is most appropriate. Therefore, the amendments limit the rights of children to protection in their best interest to some extent.

- *Right to liberty and security of person (section 29(1))*

This right protects the physical liberty of all persons, including the right not to be arrested or detained except in accordance with the law. The fundamental value which the right to liberty expresses is freedom, which is acknowledged to be a prerequisite for equal and effective participation in society. The right is directed at all deprivations of liberty including, but not

limited to, imprisonment in correctional facilities. It may also include where persons are deprived of liberty through supervision, protection, treatment, guardianship, or similar orders made under various legislative schemes.

The proposed amendments will increase the prospects and periods of time spent in detention, which inherently limits the right to liberty. Further, children committing new Adult Crimes who are not sentenced to detention are more likely to be sentenced to more supervision orders.

- *Right to humane treatment when deprived of liberty (section 30) and right to protection from cruel, inhuman or degrading treatment (section 17)*

The right to humane treatment when deprived of liberty recognises the particular vulnerability of persons in detention and intends to ensure they are treated humanely. It means that individuals who are detained should not be subject to any hardship or constraint that is in addition to those inevitable constraints resulting from the deprivation of their liberty.

For conduct to amount to cruel, inhuman or degrading treatment, it does not need to involve physical pain and can include acts that cause physical and mental suffering. For example, treatment that humiliates or debases a person, or causes fear, anguish, or a sense of inferiority.

The amendments may result in the imposition of more frequent or lengthy detention orders. Although this has not occurred to date, this could potentially contribute to overcrowding in the future. For all of these reasons, the amendments limit the right to humane treatment when deprived of liberty and the right to protection from cruel, inhuman or degrading treatment.

- (b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The amendments will expand and strengthen the application of Adult Crime, Adult Time and consequently apply its original purposes of punishment and denunciation to a broader cohort of youth offenders. The Government is committed to ensuring that youth offenders who commit serious criminal offences are liable to be held accountable for their actions and the harm that they cause to others, and that courts can impose appropriate penalties that meet community expectations. The overarching objective is to enhance community safety and reduce crime. This is a proper purpose consistent with the values of society.

Victims of crime also have rights which must be respected, including right to life (section 16), property rights (section 24) and right to security of person (section 29(1)). These rights may be further promoted through the expansion of Adult Crime, Adult Time by reducing offending.

- (c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The expansion of Adult Crime, Adult Time to additional offences will achieve the purpose of punishment and denunciation because it will increase sentences for a wider range of offences.

Although Adult Crime, Adult Time has only been in force for a short time, early data suggests that Adult Crime, Adult Time is reducing the number of youths who are charged with offences. From December 2024 to December 2025, compared to that same period last year, there has been a 27% drop in the number of proven Adult Crime, Adult Time offences. This could

suggest that Adult Crime, Adult Time is effectively deterring criminality and is therefore having a positive impact on reducing crime and enhancing community safety. If Adult Crime, Adult Time is expanded to include the additional 12 specified offences as well as relevant ‘attempt’, ‘accessory after the fact’ and ‘conspiracy’ offences, it is anticipated that the deterrent effect will lead to a similar reduction in the number of offences committed and continued improvements in community safety. On that basis there is a rational connection between the limitations imposed by the amendments and their purpose.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

I recognise that there may be less restrictive options available to achieve the purposes of punishment and denunciation, reducing crime and enhancing community safety. Penalties could be increased for children for these offences but not so far as to match adult penalties, or the application of Adult Crime, Adult Time could be limited to children who have committed particularly heinous offences.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

I also recognise that, according to international human rights standards, the negative impact on the rights of children likely outweighs the legitimate aims of punishment, denunciation and community safety. This is in conflict with international law standards, set out above, which provide that sentences for a child should always be proportionate to the circumstances of both the child and the offence.

Some existing safeguards will be retained. Although the proposals will enable courts to impose higher sentences on new Adult Crime, Adult Time offences, sentencing discretion in relation to each individual case will ultimately remain with the courts and the courts will need to consider a variety of factors when imposing sentences.

While I acknowledge that these amendments are not compatible with human rights, Adult Crime, Adult Time and the purposes to which these amendments are directed are supported by Queenslanders and are a direct response to growing community concern and outrage over crimes being perpetrated by youth offenders.

The provisions inserted by the Bill are subject to the override declaration in existing section 175A of the Youth Justice Act which provides that the section has effect despite being incompatible with human rights, and despite anything else in the *Human Rights Act 2019*. I am of the view that the current situation with respect to youth crime in Queensland presents an exceptional crisis situation constituting a threat to public safety such that the addition of the new offences within the scope of the override declaration in section 175A of the Youth Justice Act is justified.

(f) any other relevant factors

Not applicable.

## Illicit Drug Enforcement and Diversion Framework

The human rights under the *Human Rights Act 2019* which may be affected by the proposed new IDEDF include:

- Right to a fair hearing (section 31)
- Rights in criminal proceedings (section 32)
- Right to equal protection of the law without discrimination (section 15(3))
- Right to equal and effective protection against discrimination (section 15(4))
- Right of children to protection in their best interest (section 26(2))
- Right to privacy (section 25(a))
- Right to liberty and security of person (section 29(1))

While the new framework may be perceived to engage several human rights, the initiative largely promotes a broad range of rights by reducing unnecessary criminalisation of low-level drug use and supporting proportionate, health-focused responses. Diversion avoids the stigma and long-term consequences associated with criminal charges and court processes, and facilitates access to health, education and treatment services. By prioritising early intervention, rehabilitation and support over punishment, drug diversion initiatives promote human dignity, protect family and social stability, and align with a public health approach that addresses underlying causes of drug use while reducing harm to individuals and the broader community.

### (a) the nature of the right

- *Right to a fair hearing (section 31) and rights in criminal proceedings (section 32)*

The right to a fair hearing protects the right of a person charged with a criminal offence to have the charge decided by a competent, independent and impartial court or tribunal after a fair and public hearing. Rights in criminal proceedings provides any person charged with a criminal offence is presumed innocent until proven guilty according to law and is entitled to minimum guarantees to ensure the process for determining the charge is fair.

Designating an offence as an infringement notice offence modifies the usual pathway to court determination, because proceedings are not automatically commenced. Instead, an alleged offender may discharge liability by paying the infringement notice without a court hearing. This may engage the right to a fair hearing because it creates a mechanism by which liability can be resolved without judicial determination. Additionally, a person's rights in criminal proceedings may be engaged because prescribing an offence as an infringement notice offence enables a PIN to be issued prior to any finding of guilt.

- *Right to equal protection of the law without discrimination (section 15(3)) and right to equal and effective protection against discrimination (section 15(4))*

The right to equality before the law and equal protection without discrimination requires that laws and enforcement mechanisms operate fairly in practice, not just in form. Infringement notice regimes may engage this right where their practical operation has the potential to disproportionately affect certain groups, such as people experiencing financial hardship, vulnerable persons, or children, even if the regime is neutral on its face.

Additionally, the proposed eligibility criteria for the new IDEDF introduces differential treatment of specific cohorts for comparable conduct. Diversionary opportunities will not be available to an offender if they have committed an indictable offence related to the relevant drug offence or if they have been previously found guilty (including unrecorded and spent convictions) for either trafficking, supplying, producing or possessing a dangerous drug or trafficking a relevant substance or thing under sections 5, 6, 8, 9 or 9D of the DM Act. Individuals who police reasonably believe to be in possession of multiple illicit drugs in the same instance or previously diverted through the same pathway will also be ineligible. Those offered with an initial or subsequent drug diversion assessment program under the current PDDP will also not be diverted.

The discretion provided to police officers may have disproportionate impacts on vulnerable groups. First Nations peoples, individuals with mental health conditions, those who are culturally and linguistically diverse and people with low socio-economic status face greater prejudicial bias. Providing police officers discretion to issue a PIN or commence proceedings may lead to these groups being inequitably diverted from the criminal justice system.

- *Protection of children's best interest (section 26(2))*

Every child has the right, without discrimination, to the protection that is needed by the child and is in the child's best interests.

The new IDEDF may be perceived to engage this right because under the minor cannabis offence pathway, police officers must offer an eligible adult the opportunity to participate in a drug diversion program rather than commencing proceedings for the offence, whereas the officer has discretion when considering whether to provide the same opportunity to an eligible child. There may be a perception that this discretion is inconsistent with the best interests principle, which underpins both section 26(2) of the HR Act and the youth justice principles in the Youth Justice Act, including that children should be diverted from the criminal justice system where possible and dealt with in a way that promotes rehabilitation rather than punishment.

- *Right to privacy (section 25(a))*

This framework impacts the right to privacy which protects a person's right not to have their privacy unlawfully or arbitrarily interfered with. In the context of personal information, this right is engaged by the collection, storage, use and disclosure of information that identifies, or could reasonably identify, an individual. The right protects individuals from unjustified intrusions arising from information handling practices, including the sharing of personal information within or between public entities. An interference with privacy may be lawful but still be arbitrary where it is unreasonable, unnecessary or disproportionate in the circumstances. While the right to privacy is broad, it is not absolute and may be subject to reasonable and demonstrably justifiable limitations in a free and democratic society based on human dignity, equality and freedom.

In relation to the new minor drug offence pathway, the Bill includes provisions to enable a relevant entity to disclose personal information or other relevant information about a person to another relevant entity involved in providing or administering the program, such as the Commissioner of Police. For example, personal information that may be shared includes a

person's name, address, phone number, date of birth or email address. A relevant entity may also disclose information in relation to the person's participation in the drug diversion program, including whether the person completed the program or failed to complete the program. Additionally, the cannabis diversion agreement makes clear that by signing the agreement, the person also authorises their personal information to be disclosed to another relevant entity for the purpose of facilitating their participation in the drug diversion program and confirming completion of the program.

- *Right to liberty and security of person (section 29(1))*

The Bill further engages the right to liberty and security through its prescription of GBL and 1-4BD as schedule two *dangerous drugs* within the *Drugs Misuse Regulation 1987*. These amendments consequently increase the custodial sentences a person is liable for when convicted of unlawfully trafficking, supplying, producing or possessing GBL or 1-4BD under sections 5, 6, 8 and 9 of the DM Act.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

Narrowing diversionary opportunities to eligible first-time offenders ensures that repeat and high-risk individuals are held criminally responsible for their behaviour. This delivers on the Government's commitment to making Queensland a safer place to live and holding perpetrators to account by providing clear consequences for criminal conduct and deterring illicit drug use.

The severe harms associated with non-cannabis illicit drug use also necessitates stricter messaging of deterrence through clear legislative consequences. Providing police officers flexibility to either commence proceedings or divert offenders for this conduct also ensures police officers can make the appropriate decision on a case-by-case basis.

Additionally, the infringement notice framework can avoid the automatic commencement of court proceedings, thereby reducing unnecessary exposure to formal criminal processes, conserving judicial and law enforcement resources, and enabling timely resolution of matters where prosecution is not warranted in the public interest.

This purpose is consistent with a free and democratic society based on human dignity, equality and freedom, as it seeks to limit the use of the criminal courts to circumstances where judicial determination is necessary, rather than as a default response. By allowing an alleged offender to discharge liability through payment of a PIN, the framework offers an administrative alternative that is less intrusive than prosecution.

Importantly, the infringement notice scheme does not extinguish or undermine fundamental procedural rights. A person who is issued with a penalty infringement notice retains the ability to elect to have the matter dealt with by a court, at which point the full protections associated with a fair hearing and criminal proceedings apply.

Additionally, payment of a PIN does not constitute a formal finding of guilty and failure to pay the fine does not result in automatic conviction but instead triggers ordinary enforcement or prosecution processes.

The rights of children are appropriately supported under this new framework. Police officer discretion regarding whether to offer a child an opportunity to participate in a drug diversion program in relation to a minor cannabis offence, is essential. Section 11 of the Youth Justice Act must also be considered. The Bill amends this section to also note that if the offence is for a minor cannabis offence, the police officer must also consider whether to offer the opportunity to participate in a drug diversion program. Therefore, this remains a mandatory consideration for a police officer amongst the other options available to them.

A legislative note is included under the new minor cannabis offence pathway and minor drug offence pathway so it is clear police officers must still consider other actions prior to commencing proceedings against a child. By providing police officer discretion when considering whether to offer an eligible child the opportunity to complete a drug diversion program rather than commencing proceedings, this reinforces to police officers that they can take other action that is in the best interests of the child.

The purpose of the information sharing provisions associated with the new minor drug offence pathway is to ensure the effective administration, integrity and operation of the drug diversion program. The limited collection, use and disclosure of personal information is intended to enable relevant entities to identify eligible participants, facilitate timely referrals, coordinate service delivery, and confirm whether a person has completed the program. Without the ability to share this information, relevant entities would be unable to appropriately administer the program.

Prescribing GBL and 1-4BD as schedule two *dangerous drugs* in the *Drugs Misuse Regulation 1987* (DM Regulation) ensures offenders are held to account for their criminal conduct. Offenders are unlawfully trafficking, supplying and utilising GBL and 1-4BD because these substances are metabolised into the schedule 2 *dangerous drug*, Gamma-hydroxybutyric acid (GBH), once ingested. Amending the scheduling of GBL and 1-4BD will harmonise the categorisation of these three substances and enable the successful prosecution of offenders with offences and penalties that correspond with their criminal conduct.

(c) the relationship between the limitation to be imposed by the Bill if enacted and its purpose, including whether the limitation helps to achieve the purpose

Narrowing the number of diversionary opportunities aligns the IDEDF with the Government's objectives of providing clear consequences for criminal conduct and deterring illicit drug use. Providing police officers discretion to divert individuals under the minor drug offence pathway also ensures that police can respond to this high-risk criminal conduct on a case-by-case basis.

By prescribing GBL and 1-4BD as schedule *two dangerous drugs*, offenders will face penalties that match the nature of their criminal conduct. Individuals who traffic, possess and supply GBL and 1-4BD face lower penalties than those convicted of trafficking, possessing or supplying GHB. This is despite GBL and 1-4BD being sold and utilised as GHB due to their chemical similarities.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There are no less restrictive and reasonably available way to meet the policy intentions of the new IDEDF. Only eligible first-time offenders should be diverted from the criminal justice system. Repeat and high-risk offenders should be held criminally responsible for their conduct.

Furthermore, there are no less restrictive and reasonably available ways to ensure offenders can be successfully prosecuted for their true criminal conduct other than by prescribing GBL and 1-4BD as schedule two *dangerous drugs* in the DM Regulation.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

In balancing the importance of the purpose of the IDEDF amendments against the importance of preserving the affected human rights, it is considered that any limitation imposed is proportionate and justified having regard to the nature and extent of the impact. The Bill pursues an important public interest objective by holding perpetrators to account whilst still enabling the effective operation of a health focused diversion framework that reduces unnecessary criminalisation of low-level drug offending, promotes early intervention, and supports the efficient administration of justice. While the information sharing provisions involve a limited interference with privacy, the extent of the limitation is constrained to what is reasonably necessary to administer the program and is confined to specific, purpose-based disclosures between relevant entities. The extent of any limitation to a person's human rights is minor and reasonably justified.

(f) any other relevant factors

Nil.

### **Designated Business and Community Precincts**

The expansion of police powers within designated business and community precincts engages the following rights under the *Human Rights Act 2019*:

- Freedom of movement (section 19)
- Liberty and security of person (section 29)
- Protection of families and children (section 26)
- Privacy and reputation (section 25)
- Property rights (section 24)

(a) the nature of the right

- *Freedom of movement (section 19)*

The right to freedom of movement protects a person's right to move freely within Queensland, enter and leave it, and choose where to live if they are lawfully within Queensland. The amendments may limit this right as police will have the power to stop a person and require them to submit to the use of a hand held scanner, to ascertain if the person has an unlawful weapon in their possession, and will be empowered to issue move on directions and banning

notices, excluding a person from a designated business and community precinct for a stated period of time.

- *The right to liberty and security (section 29)*

The purpose of this right is to protect people from unlawful and arbitrary interference with their physical liberty. It is not deprivation of liberty that is prohibited, but rather deprivation that is arbitrary or unlawful.

The right is focused on ensuring state authorities follow due process when exercising powers of arrest and detention. It applies to all forms of detention where a person is deprived of their liberty, not just criminal justice processes. It applies whenever a person is not free to leave a place by their own choice.

The power to scan a person without a warrant and without senior police officer approval may be deemed to interfere with a person's dignity and bodily integrity and therefore limits this right.

- *Protection of families and children (section 26)*

The right to the protection of families and children recognises that families are the fundamental group unit of society and entitles families to protection by society and the State.

The right also protects the right of every child, without discrimination, to the protection that is needed by the child and is in the child's best interests. This protection of children recognises the special vulnerability of children, and the additional protections that children are owed by the State. The right requires the State to ensure the survival and development of every child to the maximum extent possible, and to take into account the best interests of the child as an important consideration in all actions affecting a child.

The expansion of the police banning notice framework to children represents a limitation of this right.

- *Right to privacy and reputation (section 25)*

The right to privacy protects individuals against unlawful or arbitrary interference with their privacy, family, home, or correspondence (written or verbal). Privacy is generally understood to comprise of freedom from unwarranted and unreasonable intrusions into activities that society recognises as falling within the sphere of individual autonomy. The concept of lawfulness in the context of the right to privacy means that no interference can take place except in cases envisaged by the law, while the concept of arbitrariness extends to interferences that may be lawful but are capricious, unpredictable, unreasonable, and disproportionate.

To strengthen the enforcement of move on directions, the Bill authorises police to require a person to state their correct name and address when a police officer is about to give or is giving a person a move on direction, presenting a limitation of a person's right to privacy.

Additionally, it is likely that more people's privacy may be limited through the amendments to Jack's Law as scanning will be expressly authorised in designated business and community precincts therefore exposing more individuals to interactions with police and scanning.

- *Property rights (section 24)*

Property rights protect all people's right to own property alone or with others and that a person should not be unlawfully or arbitrarily deprived of the person's property. The term 'deprived' is not defined by the *Human Rights Act 2019*, however, deprivation in this sense is considered to include the substantial restriction on a person's use or enjoyment of their property, to the extent that it substantially deprives a property owner of the ability to use his or her property or part of that property (including enjoying exclusive possession of it, disposing of it, transferring it or deriving profits from it).

In the human rights context, arbitrarily is taken to mean capricious, unpredictable, unjust, and unreasonable in the sense of not being proportionate to a legitimate policy objective. This right may be limited as there is a possibility, that as a result of the hand held scanning, a police officer may locate a knife or other weapon and confiscate it, or an item may be forfeited, if the person is in unlawful possession of a knife or other weapons.

(b) The nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom.

The amendments to the move on direction and police banning notice frameworks will enable police to exclude a person from a specified designated business and community precinct for 24 hours and one month, respectively, with the ability for police to extend a banning notice to three months.

This will reduce the risk of the respondent's continued presence causing violence, impacting the safety of others or disrupting or interfering with the peaceful passage or reasonable enjoyment of others at designated business and community precincts. These frameworks provide police officers a tool to reduce the impact of anti-social behaviour on members of the public, including children, prevent escalation of risky behaviour and reduce the need for people to be dealt with through the criminal justice system. These objectives are significant and align with the State's obligations to protect the community and children.

The expansion of banning notices to children represents a limitation of the protection of a child's best interests, however, is considered justified as behaviour that is disorderly or violent, equally threatens the amenity of public places and community safety, whether committed by an adult or a child. A banning notice further provides an alternative to criminal proceedings against a child. The application of police banning notices to children is reasonable to achieve the policy intent and support police to respond to and disrupt anti-social behaviour committed by any person.

To strengthen the enforcement of move on directions, the Bill authorises police to require a person to state their correct name and address when a police officer is about to give or is giving a person a move on direction. This amendment will apply to all move on directions and is not exclusive to move on directions issued in a designated business and community precinct, presenting a limitation of a person's right to privacy, when required by police to provide name and address.

Enabling police to require a person's identifying information is reasonable to achieve the policy intent and address longstanding inefficiencies with move on directions, relating to the

identification of respondents and the detection of contraventions, supporting appropriate enforcement action, and the management of repeat disruptive behaviour contributing to community safety and the maintenance of social order.

The purpose of the amendments to Jack's Law so that hand held scanning can be expressly undertaken in designated business and community precincts is to minimise the risk of physical harm caused by knife crime by locating and removing knives in the community.

The powers exercised are limited to a cohort of people who are within a legislatively defined relevant place. Hand held scanning of the person can be completed in a short period of time and in a non-invasive manner. If the scanner indicates the presence of metal, the person will be required to produce any item likely to have caused the activation, after which the person may be scanned again. Additionally, the confiscation of an illegal knife, weapon, or item, promotes community safety and security by removing weapons that could be used in the commission of a violent offence.

Legislative safeguards exist within the Jack's Law framework to reduce the risk of unreasonable interference with an individual's rights and liberties, including that a police officer must:

- exercise the power under a hand held scanner authority in the least invasive way that is practicable in the circumstances;
- only detain the person for so long as is reasonably necessary to exercise the power;
- if requested by the person, inform the person of the police officer's name, rank and station, or in writing if requested;
- produce the police officer's identity card for inspection, unless the police officer is in uniform; and
- inform the person that the person is required to allow the officer to use a hand held scanner to determine whether the person is carrying and knife or other weapons.

While there are limitations on individual rights, the limitations maximise and promote community safety and security by enabling police officers to proactively conduct hand held scanning on individuals and enhance community safety.

(c) The relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose.

Amendments to the move on direction scheme are unlikely to adjust the scope of their application, noting the circumstances in which a police officer may consider a move on direction will remain unchanged. The exclusion period for a move on direction provided in a public place (other than a designated business and community precinct) will remain a reasonable time up to 24 hours, however, when a move on direction is provided in a designated business and community precinct, a police officer will be able to nominate a period of up to 24 hours, without a consideration as to reasonableness in the circumstances.

To maintain appropriate safeguards, police officers must explain the reasons for giving a move on direction and, under section 633 of the PPRA, must warn a person in contravention of a direction that it is an offence to fail to comply with the direction and the person may be arrested for the offence. Where a person contravenes a move on direction in a designated business and community precinct, police will be required to warn the person that their behaviour

may constitute a police banning notice. A police officer must also give the person a further reasonable opportunity to comply with the direction.

Further, all directions must be recorded on the Queensland Police Records and Information Exchange system, under section 680 of the PPRA, and the subject person may request a copy of all information recorded.

Amendments to the police banning notice framework represent a broadening of its application outside of Safe Night Precincts and licensed premises, however, continue to address misbehaviour where a person's continued presence at a designated and community business precinct poses an unacceptable risk of causing violence, impacting the safety of other persons or interfering with the reasonable enjoyment of others.

There are a number of safeguards that will be maintained within the police banning notice scheme to ensure a person's rights are limited to the least extent possible. These include the ability for a person to apply to the Commissioner of Police for an internal review of the banning notice and additional processes in which the Queensland Civil and Administrative Tribunal may review the Commissioner's decision.

In addition, police must explain the conditions of a police banning notice, the consequence of breaching a notice and inform the person of their ability to apply for an internal review. A police officer issuing a banning notice must also obtain the approval of a police officer of at least the rank of sergeant before giving the notice.

The threshold for when a banning notice may be issued will also be expanded to capture circumstances where, in relation to a designated business and community precinct, a person has contravened a move on direction and also where a person has received one or more move on direction in the previous 7-day period and is eligible for a second move on direction. While a move on direction can be issued when a reduced threshold of conduct is reached, the display of this conduct more than once in a 7-day period contributes to feelings of unsafety in designated business and community precincts and is arguably as equally unacceptable and disruptive as the behaviour that constitutes a police banning notice.

Move on directions and banning notices only restrict a person from entering or remaining in a designated business and community precinct and do not prohibit a person from entering the area where the person has a reasonable excuse for a move on direction, or where the person's residence, place of employment, or place of education is within the boundaries of the business area precinct for a police banning notice. The circumstances in which a person does not contravene a police banning notice have also been explicitly expanded to support respondents to lawfully return to an excluded area for the purpose of accessing support services, government services, such as Medicare, and essential services, such as grocery stores, petrol stations and medical services. It is also clarified a police banning notice does not prevent a person from complying with bail, parole or probation obligations or other requirements to present to a court or tribunal that may require a person to enter a banned area presenting a further balance against the limitation of a person's right to return to a designated business and community precinct.

Furthermore, there is a clear and rational connection between the power to issue banning notices to children and the objective of maintaining safety and order. Removing individuals

who engage in harmful or disorderly behaviour from high-risk environments is a preventative measure that directly supports the purpose of the amendment.

The amendment will achieve the purpose of reducing the risk of physical harm caused through knife crime by enabling police officers to proactively use hand held scanners in designated business and community precincts.

(d) Whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill.

Less restrictive measures, such as informal warnings or referrals, are already available to police when responding to children exhibiting anti-social behaviour and may be used where appropriate. However, these measures may be insufficient in cases of repeated or serious behaviour. The amendment provides an additional tool that can be applied proportionately and only when necessary and includes a safeguard that a parent or guardian of the child when a banning notice is issued. No equally effective but less restrictive alternative has been identified that would achieve the same protective outcomes.

There are no less restrictive and reasonable available ways of to enable police to obtain a person's correct name and address or to provide police officers with the flexibility to conduct hand held scanning in designated public places to enhance community safety and security.

Importantly, relevant legislative safeguards remain to ensure the use of hand held scanners will be used appropriately by police.

(e) The balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

On balance, the expansion of exclusion powers limits the rights of freedom of movement, right to liberty and security of person, and protection of families and children. However, I consider the limitation justified to provide an immediate response and deterrent to a person exhibiting disruptive behaviour that may be ongoing or repeated and provide immediate protection to members of the community. Further, there are a number of safeguards incorporated to ensure that a person's access to essential Government and non-Government services is not extinguished. This balance is further maintained by the continued opportunity for a person to apply to the Commissioner of Police for an internal review of the banning notice and additional processes in which the Queensland Civil and Administrative Tribunal to review the Commissioner's decision.

Banning a child from a geographical area limits several human rights, particularly the freedom of movement and the protection of families and children. However, on balance, the limitation of the rights on the child is justified in the interest of ensuring public safety and order, through prohibited a child from entering a particular area.

The use of hand held scanners in designated business and community precincts will limit human rights. The highest impost on human rights is that a police officer can arbitrarily stop and scan a person in a designated public place in the absence of any reason and without an authorisation from a senior police officer. However, the use of hand held scanning is designed

to be non-intrusive and for the shortest period possible, with no ancillary power to request a person's name. On balance, enhancing community safety and security outweighs the limitation of the rights on the individual who is subject to hand held scanning, particularly where the process of scanning is the least intrusive method to enhance community safety and the prevention of knife related crime.

(f) Any other relevant factors

Not applicable.

## **Conclusion**

In my opinion, part of the Expanding Adult Crime, Adult Time and Taking a Strong Stance on Drugs and Anti-Social Behaviour Amendment Bill 2026 is not compatible with the human rights protected by the *Human Rights Act 2019*.

In my further opinion, the remainder of the Bill is compatible with protected human rights because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

**Laura Gerber MP**  
Minister for Youth Justice and Victim Support and  
Minister for Corrective Services