

Youth Justice (Circuit Breaker) Amendment Bill 2026

Explanatory Notes

Short title

The short title of the Bill is Youth Justice (Circuit Breaker) Amendment Bill 2026.

Policy objectives and the reasons for them

During the 2024 State Election, the Liberal National Party of Queensland announced the Making Queensland Safer Plan. The Making Queensland Safer Plan seeks to create a safer community by holding offenders accountable, reducing reoffending, providing greater support for victims, and delivering early intervention and rehabilitation for at-risk youth. A key component of the Making Queensland Safer Plan is to deliver intervention and rehabilitation for youth offenders by establishing the Circuit Breaker program (Circuit Breaker).

The overarching objective of the Youth Justice (Circuit Breaker) Amendment Bill (the Bill) is to improve community safety and reduce youth crime by establishing a structured rehabilitation program that removes youth, who have been charged with, or have committed offences, from the community. It is intended that Circuit Breaker will be delivered by funded non-government service providers at two rural and/or remote locations where youth will receive round the clock supervision. These locations will provide a controlled setting that removes high risk youths from negative peer influences and environments that enable offending behaviour.

A key component of Circuit Breaker is structured activities and strict routines, including ‘hands-on’ learning where youth offenders can gain practical knowledge, skills and experience. The program will also provide education, training, mentoring, activities and programs to support reintegration into the community.

Circuit Breaker will be court-ordered and may be imposed on sentence or as a condition of a bail undertaking. The Bill provides for the proposed new court orders and necessary functions and powers to enable the operation of Circuit Breaker.

Achievement of policy objectives

The Bill will achieve its policy objectives by implementing the reforms outlined below.

Amendments to the *Youth Justice Act 1992*

The Bill amends the *Youth Justice Act 1992* (Youth Justice Act) to introduce Circuit Breaker as a bail condition and standalone sentence order, to provide courts with a new tool to respond to serious youth offending. Circuit Breaker is intended to provide youth offenders with a ‘last stop before detention’ by providing a program that prioritises support, rehabilitation and reintegration.

Circuit Breaker condition on a grant of bail

The Bill creates a new ‘Circuit Breaker condition’, which is a condition imposed on a bail undertaking granted to a youth. This condition requires the youth to participate in the Circuit Breaker program, including residing at the Circuit Breaker site, for the time they are subject to the bail undertaking.

The Bill provides that a court can order a Circuit Breaker condition on a grant of bail where the Department of Youth Justice and Victim Support has provided a suitability report advising that the child is suitable to participate in a Circuit Breaker program and that there is a place available in a Circuit Breaker program that is appropriate for the child, the child has not been previously sentenced to a Circuit Breaker order and the court is satisfied that such a condition is appropriate. Further, the amendments provide that a Circuit Breaker condition can only be imposed if the court would have otherwise made an order keeping or remanding the child in custody. The framework for granting bail to a child will continue to apply.

There are a number of mandatory conditions that must be imposed on a bail undertaking if the court imposes a Circuit Breaker condition. These are that the child wears a monitoring device, abstains from violation of the law, satisfactorily participates in activities as directed by the chief executive, complies with every reasonable direction of the chief executive, complies with the Circuit Breaker program and resides at the Circuit Breaker site, and does not leave without prior approval of the chief executive. The Bill provides that the court may also impose any other condition that it considers necessary to facilitate the operation of the monitoring device or the participation of the child in the Circuit Breaker program.

The Bill also requires the court to consider making an order to detain a child in custody until they start the journey to a Circuit Breaker site or can be fitted with a monitoring device. This is to allow risks to the community and other bail-related risks to be mitigated as appropriate.

If a child subject to a Circuit Breaker condition is unwilling to comply with the condition, the Bill provides that the child can make an application to the court to vary or revoke the bail. On such an application, the court must either revoke the bail or vary the bail to rescind the Circuit Breaker condition and may impose another condition.

Should a youth breach a condition of their bail undertaking, they may be charged with an offence of breaching a bail condition.

The Bill enables youths to receive credit similar to ‘remand credit’ for their time spent participating in a Circuit Breaker program prior to sentence. Where a youth is subject to a Circuit Breaker condition on bail for an offence and they are subsequently sentenced for that offence, the court could sentence the youth to continue in a Circuit Breaker program under a Circuit Breaker order. If this occurs, the Bill requires that the period the youth has already spent in the program is counted towards the total program period of the Circuit Breaker order imposed on sentence. Accordingly, youths who previously spent a period of time in a Circuit Breaker program on bail for an offence could continue the program as part of a sentenced Circuit Breaker order.

Where a youth is subject to a Circuit Breaker condition but sentenced to a different order, they will leave the Circuit Breaker program to complete their sentence, for example, probation or community service in the community or detention served in a detention centre. Where a youth is sentenced to detention, the time spent on a Circuit Breaker program prior to sentence for the offence can be counted towards the detention order imposed on sentence.

Circuit Breaker order imposed on sentence

The Bill creates a new order which can be imposed on a youth who is sentenced on conviction for an offence (called a Circuit Breaker order). Like for the Circuit Breaker condition, the Circuit Breaker order requires a youth to reside at a Circuit Breaker site and participate in a Circuit Breaker program.

Circuit Breaker orders are considered community based orders for the purpose of the Youth Justice Act. Therefore, existing provisions relating to community based orders will apply to Circuit Breaker orders, with some amendments.

As is the case for Circuit Breaker conditions, certain eligibility criteria must be met before a Circuit Breaker order can be imposed. These eligibility criteria include the same criteria as the ones that must be satisfied for the imposition of a Circuit Breaker condition: that the Department of Youth Justice and Victim Support has provided a suitability report advising that the child is suitable to participate in a Circuit Breaker program and that there is a place available in a Circuit Breaker program that is appropriate for the child and the child has not been previously sentenced to a Circuit Breaker order.

The Bill provides that Circuit Breaker orders must be imposed for a specified duration of at least 3 months but not more than 6 months. A youth who is subject to a Circuit Breaker order must comply with the requirements of the order for the entire duration of the order.

The Bill sets out a number of mandatory requirements that must be imposed when a youth is sentenced to a Circuit Breaker order. These are that the child reports to the chief executive within a certain timeframe after the order is made, unless they are at a Circuit Breaker site at the time the order is made because they are subject to a Circuit Breaker condition or in detention, that the child participates as directed by the chief executive in a Circuit Breaker program for the program period, and that during the program period, the child abstains from violation of the law, satisfactorily participates in activities as directed by the chief executive, complies with every reasonable direction of the chief executive, complies with the Circuit Breaker program, resides at the Circuit Breaker site and does not leave without prior approval of the chief executive and wears an electronic monitoring device. A court may impose additional requirements that it considers necessary or desirable.

Where a youth contravenes a condition of the Circuit Breaker order, they are to be dealt with under the existing provisions for contravention of community based orders, with some amendments provided for in the Bill.

A court dealing with the contravention may vary a requirement of the order, discharge the order and resentence the child for the offence for which the order was made, extend the period of the order (but not so that the total period is more than 6 months) or take no further action. The Bill makes minor amendments to section 245 of the Youth Justice Act to ensure that the child does not need to express a willingness to comply with a variation to a Circuit Breaker order.

The Bill also enables a court to vary the requirements of a Circuit Breaker order, discharge the order and resentence a child subject to Circuit Breaker order in the interests of justice under section 247 of the Youth Justice Act. This enables the chief executive to apply for such an order and the court may grant the application if it is in the interests of justice, having regard to the circumstances that have arisen or become known since the order was made. For example, this may be applicable if a child becomes unsuitable to participate in the Circuit Breaker program. The Bill amends section 247 so that a court may resentence a child subject to a Circuit Breaker order to a period of detention if it is in the interests of justice.

The Bill amends section 249 of the Youth Justice Act so that where a court discharges a Circuit Breaker order and resentsences the child to a period of detention, it must reduce the period of detention it would have otherwise made by a period that it considers just, having regard to the period that the

child was subject to the order. This ensures that the period of time spent out of the community under the Circuit Breaker order is taken into account by the court.

Establishment and operation of Circuit Breaker programs

The Bill inserts new Part 8B into the Youth Justice Act for the purpose of facilitating Circuit Breaker conditions or Circuit Breaker orders by providing for Circuit Breaker programs, prescribing entities as Circuit Breaker providers and providing for matters relating to monitoring devices.

Circuit Breaker providers will be prescribed in regulation, subject to the Minister being satisfied of the entity's experience or expertise, abilities and other relevant criteria. Circuit Breaker providers will be required to develop and implement Circuit Breaker programs, operate places in remote or rural locations for children in Circuit Breaker programs and facilitate the operation of a Circuit Breaker program.

The Bill provides that Circuit Breaker providers are responsible for the security and management of their Circuit Breaker site and the safety and wellbeing of children participating in their Circuit Breaker program. Providers are required to supervise children at all times, facilitate access to appropriate education and support engagement in education.

The Bill provides that a 'circuit breaker program' is an intensive residential program with structured activities and strict routines and conditions. It sets out a number of mandatory features that the Circuit Breaker program must provide. These include intensive and practical support for children, including education, training and mentoring, access to a rural property where children can gain knowledge, skills and experience, and activities and programs to support children to reintegrate into the community.

The Bill also provides that a Circuit Breaker site must have accommodation, services, facilities and activities necessary for the Circuit Breaker program, provided by the Circuit Breaker provider. Names and locations of Circuit Breaker sites are to be stated in regulation.

New Part 8B also includes various provisions on the operation of Circuit Breaker sites and requirements on Circuit Breaker providers. It enables Circuit Breaker providers to record images or sounds in Circuit Breaker sites and provides that they must do so at the direction of the chief executive. Various limitations and requirements are provided for, including restrictions on communications that can be recorded, a requirement on the chief executive to make guidelines in relation to the recording of images and sound, and a power for additional matters to be prescribed in regulation.

The Bill provides that the chief executive must monitor the operation of each Circuit Breaker program and site. The chief executive is also responsible for deciding the Circuit Breaker site at which a child subject to a Circuit Breaker order or Circuit Breaker condition will participate in the program and may direct that a child be transferred to another Circuit Breaker site.

The Bill creates an obligation for Circuit Breaker providers, employees or contractors to report any harm or suspected harm that a child has suffered whilst participating in the Circuit Breaker program. It imposes a maximum penalty of 20 penalty units for failing to do so. The Bill also provides for a general complaints process to enable children and parents to complain to the chief executive about a matter that affects a child.

The Bill includes various provisions that give powers to facilitate Circuit Breaker programs. It gives the chief executive powers to consent to medical treatment of a child participating in a Circuit Breaker program in certain circumstances, requires certain information to be given to children on entry to the program, requires Circuit Breaker providers to help children gain access to lawyers and offers

protection of lawyers. The Bill enables Circuit Breaker providers to allow visitors to enter Circuit Breaker sites and refuse entry, subject to restrictions and oversight. It also sets out regulation-making powers for various matters.

Amendments to the *Child Safe Organisations Act 2024*

The Bill also amends the *Child Safe Organisations Act 2024* to prescribe Circuit Breaker providers as child safe entities and reporting entities. This ensures that the child safe standards and reportable conduct scheme apply to Circuit Breaker providers.

Amendments to the *Public Guardian Act 2014*

The Bill also amends the *Public Guardian Act 2014* to prescribe Circuit Breaker sites as visitable sites so that the public guardian and community visitor (child) functions in relation to visitable sites apply to Circuit Breaker sites.

Alternative ways of achieving policy objectives

A legislative response is the most effective way to achieve the policy objectives and to ensure consistency with the Crisafulli Government's Making Queensland Safer Initiative. These laws and the purposes to which they are directed are a direct response to growing community concern over crimes perpetrated by youth offenders.

Estimated cost for government implementation

The Crisafulli Government has committed \$80 million over four years for Circuit Breaker to deliver intensive rehabilitation for youth offenders who have been sentenced. To the extent that any additional funding may be required, this will be subject to normal budget processes.

Operational requirements under the proposal may have a financial impact on the Department of Youth Justice and Victim Support, the Queensland Police Service, Department of Justice and Queensland Corrective Services.

Consistency with fundamental legislative principles

The Bill has been prepared with due regard to the fundamental legislative principles (FLPs) outlined in section 4 of the *Legislative Standards Act 1992* (Legislative Standard Act) by achieving the appropriate balance between individual rights and liberties and the protection of the broader Queensland community. However, there is a number of FLPs that may be perceived to be impacted by these amendments.

Under new section 52AB(1), a court may only impose a Circuit Breaker order or condition on a bail undertaking if the chief executive of Youth Justice has advised the court in a suitability report that the child is suitable to participate in a Circuit Breaker program. New section 52AC provides that the suitability report must include the chief executive's assessment on suitability, the reasons the chief executive made the assessment, advice on whether an appropriate Circuit Breaker program is available on the child's release on bail and that regulation may prescribe other matters the chief executive must or may consider in assessing a youth's suitability. There are no further provisions in the Bill setting out criteria for the chief executive's decision-making with regard to suitability.

The effect of these provisions is that the chief executive is given broad power to decide whether or not a court may impose a Circuit Breaker order or condition. This may be considered inconsistent with the FLP in relation to making rights and liberties, or obligations, dependant on administrative power only

if the power is sufficiently defined and subject to appropriate review (s4(3)(a) Legislative Standard Act). However, this is necessary to support the safety of the site as the Chief Executive will have discretion to consider a number of factors that may affect the safety of the site and the child's suitability for a Circuit Breaker program including age, gender, and whether the offending is violent.

The effectiveness of a Circuit Breaker order or condition relies on the presence of particular infrastructure and services to support youth offenders, including supporting the operation of the electronic monitoring device, the monitoring of the child and compliance with conditions. A court is not able to make a determination as to the suitability of a child to attend Circuit Breaker without the advice of the youth justice chief executive.

Also, new section 446 provides that a Circuit Breaker order or condition can be applied to a child charged with, or convicted of, an offence, whether the offence was allegedly committed, or the child was charged, before or after the commencement. This may be seen to have an adverse impact on an individual's rights and liberties insofar as it applies, to a degree, retrospectively (s4(3)(g) Legislative Standards Act).

In relation to the Circuit Breaker condition, the negative impact of this is considered minimal. Bail hearings are an interlocutory proceeding in which the court must consider, at the time of the bail application, whether a youth is an unacceptable risk to the community and if so, whether there are any bail conditions that sufficiently mitigate that risk. A Circuit Breaker condition offers an alternative to remand and therefore may promote, rather than adversely affect, the rights and liberties of children in the Circuit Breaker bail cohort. This 'retrospective' approach enables a court to consider the full suite of available bail conditions, including Circuit Breaker, for all youths from commencement, including those alleged to have committed some or all of their alleged offences before the commencement of the Bill. As such, any impact is considered justified, given that this approach offers a broader cohort an alternative to remand which is intended to be less restrictive on youths' rights and liberties.

Similarly, Circuit Breaker is also intended to offer a more desirable alternative to detention, providing rehabilitation and support to children. Having retrospective application ensures that a larger cohort is eligible to benefit from Circuit Breaker from the outset. It also ensures that youth who have been subject to a Circuit Breaker condition are not prevented from continuing the program on sentence due only to the transitional provision.

The amendments also engage the fundamental legislative principle that legislation must have sufficient regard to the rights and liberties of individuals, including children, under section 4(2)(a) of the Legislative Standards Act.

The amendments also engage fundamental legislative principles in relation to the regulation-making power, as the power authorises the regulation to provide for matters relating to restricting a child's liberty while they are at a Circuit Breaker site. This may impact on the rights and liberties of individuals.

However, the amendments provide that Circuit Breaker can only be imposed by a court in relation to youth who are charged with or convicted of offences. Accordingly, any limitations that Circuit Breaker may impose on the rights or liberties of children are balanced against the need for community safety and any arbitrary limitation of rights and liberties is safeguarded through judicial oversight. Further, strict suitability and eligibility criteria must be met before Circuit Breaker is imposed as a sentence order or condition of bail.

All of the requirements for imposing a bail condition in section 52A(2) of the Youth Justice Act will continue to apply, including that any condition must be necessary to mitigate an unacceptable risk, and that the conditions must not involve undue management and supervision of the child. Importantly,

the Charter of Youth Justice Principles underlies the operation of the Youth Justice Act and will continue to apply to decisions about Circuit Breaker orders and conditions.

Having regard to the potential impacts on the rights and liberties of individuals, the consequences imposed by the amendments are reasonable to achieve the policy intent.

Consultation

Consultation will occur through the parliamentary process.

Consistency with legislation of other jurisdictions

Circuit Breaker is specific to Queensland and not uniform with, or complementary to, legislation of the Commonwealth or another state.

Notes on provisions

Part 1 – Preliminary

Clause 1 provides that the short title of the Act is the *Youth Justice (Circuit Breaker) Amendment Act 2026*.

Clause 2 states that the Act commences on a day to be fixed by proclamation.

Part 2 – Amendment of Child Safe Organisations Act 2024

Clause 3 provides that this part amends the *Child Safe Organisations Act 2024*.

Clause 4 amends Schedule 1, section 8 to prescribe circuit breaker providers as child safe entities.

Clause 5 amends Schedule 2, section 8 to prescribe circuit breaker providers as reporting entities.

Part 3 – Amendment of the Public Guardian Act 2014

Clause 6 provides that this part amends the *Public Guardian Act 2014*.

Clause 7 amends section 51 (Definitions for ch 4) to provide additional definitions for chapter 4.

Subclause (1) inserts a definition of *circuit breaker site*, defined as a circuit breaker site under section 282Q(1) of the Youth Justice Act.

Subclause (2) amends the definition of *visitable site* to include a circuit breaker site where the child is staying. Subclause (3) rennumbers paragraphs (aa) to (d) in the definition of *visitable site*.

Clause 8 amends section 67 (power of entry – visitable site). Subclause (1) replaces subsection (5) so that subsection (5) also applies where the visitable site is a circuit breaker site, in addition to a corrective services facility or detention centre.

Subclause (2) replaces subsection (7) so that subsection (7) also applies where the visitable site is a circuit breaker site.

Clause 9 amends section 77 (Matters to which ss 74 and 76 are subject), subsection (2), to provide that if the visitable site under section 74 (Power of entry) or 76 (Powers in relation to staff members of visitable sites) is a detention centre or circuit breaker site, the exercise of power under the section is subject to any direction by the chief executive for the security and management of detention centres or circuit breaker sites and the safe custody and wellbeing of children detained in detention centres or residing at circuit breaker sites.

Clause 10 amends Schedule 1 (Dictionary) to insert a definition of *circuit breaker site*.

Part 4 – Amendment of the Youth Justice Act 1992

Clause 11 provides that this part amends the *Youth Justice Act 1992*.

Clause 12 inserts new section 46A (Definition for part) in Part 5 (Bail and custody of children), which provides a definition of *suitability report*.

Clause 13 inserts new sections 52AB – 52AE into the *Youth Justice Act 1992* to enable a court to impose a circuit breaker condition on a grant of bail to a child.

New section 52AB (Court may impose circuit breaker condition)

Subsection (1) of new section 52AB provides eligibility criteria that must be met before a court can impose on a grant of bail to a child, a condition that the child participate in a circuit breaker program while released on bail. These are that:

- the chief executive of the Department of Youth Justice and Victim Support (chief executive) has provided a report (suitability report) to the court which advises that the child is suitable to participate in a circuit breaker program and that there is a place available in a circuit breaker program that is appropriate for the child;
- the child has not been previously sentenced to a circuit breaker order; and
- the court is satisfied that imposing the circuit breaker condition is appropriate, having regard to the suitability report and any other matter the court considers relevant.

Subsection (2) provides that a court can only impose a circuit breaker condition on a child if the court would have otherwise made an order keeping or remanding the child in custody, had the court not imposed the circuit breaker condition.

Subsection (3) prescribes a list of conditions that a court must impose on grant of bail with a circuit breaker condition, as well as orders it must consider making. Subsection (3)(b) provides that the court must consider detaining a child in custody until the electronic monitoring device is fitted to the child and subsection (3)(c) provides the court must consider detaining a child in custody until their journey to the circuit breaker site commences.

The conditions that must be imposed on a grant of bail with a circuit breaker condition include conditions that, while released on bail, the child must:

- wear a monitoring device;
- abstain from violation of the law;
- satisfactorily participate in activities as directed by the chief executive;
- comply with every reasonable direction of the chief executive;
- comply with the circuit breaker program; and
- reside at the circuit breaker site as decided by the chief executive and not leave without the prior approval of the chief executive.

Subsection (3)(e) allows a court to impose any other condition that the court considers necessary to facilitate the participation of the child in the circuit breaker program or the operation of the monitoring device. Examples of conditions are included.

Subsection (4) provides that where a child is detained in custody under subsection (3)(b) or (c) that they may only be detained for the purpose of fitting the monitoring device or until the child can start the journey to the circuit breaker site and for the least time that is justified in the circumstances.

New section 52AC (Circuit breaker condition – suitability report)

Subsection (1) provides that a court, before imposing on a grant of bail to a child a circuit breaker condition, must order the chief executive to give the court a suitability report containing the chief executive's assessment of the child's suitability for a circuit breaker condition.

Subsection (2) sets out the contents of the suitability report and provides that the report must include:

- the chief executive's assessment of the suitability of the child for the imposition of a circuit breaker condition on the child;

- the reasons the chief executive made that assessment; and
- whether an appropriate circuit breaker program is available on the child's release on bail.

Subsection (3) provides that the suitability report may also contain any other relevant information that may inform the court of the appropriateness of imposing a circuit breaker condition on the child and subsection (4) provides that a regulation may prescribe other matters the chief executive may or must consider in assessing a child's suitability for a circuit breaker condition.

Subsection (5) provides that the suitability report must be provided to the court either within the period stated by the court under subsection (1) or where there is no period stated by the court, as soon as practicable after the court makes an order under subsection (1).

New section 52AD (Circuit breaker condition – implementing condition about monitoring device and other conditions)

Subsection (1) requires the chief executive to make all necessary and convenient arrangements to ensure the fulfilment of the circuit breaker condition, including the electronic monitoring condition as well as any other condition. For the performance of these functions, subsection (2) gives the chief executive power to ask a monitoring device entity to:

- fit or remove the monitoring device from the child;
- remotely monitor the monitoring device;
- contact the child, or circuit breaker provider, in relation to an alert or notification from the monitoring device;
- give information relating to alerts and notifications from the monitoring device to the chief executive or another monitoring device entity.

Subsection (3) provides that a monitoring device entity must comply with a request under subsection (2).

Subsection (4) enables the chief executive (corrective services) to delegate a function under subsection (2) to a corrective services officer. Subsection (5) provides that a monitoring device entity that is prescribed by regulation may delegate a function requested under subsection (2) to an appropriately qualified employee or a contractor who contracts with the entity to provide services relating to monitoring devices.

Subsection (6) clarifies that a court can not also impose on a grant of bail a monitoring device condition under section 52AA of the *Youth Justice Act 1992*. This also means that for a court to impose on a grant of bail a circuit breaker condition, which requires the imposition of a condition that the child wear a monitoring device, the requirements set out in 52AA do not need to be met in order for a circuit breaker condition to be imposed.

Subsection (7) provides that where a court imposes a circuit breaker condition, whether before or after a court imposes a condition on a grant of bail for that child in relation to another offence, the child is not required to comply with the other condition for the period of time that the child is subject to the circuit breaker condition. As such, the child does not need to comply with any conditions attached to a separate grant of bail to the bail with the circuit breaker condition, while they are subject to the circuit breaker condition. This reflects that children may be unable to comply with certain bail conditions whilst residing at a circuit breaker site. Subsection (7) does not prevent other conditions being imposed on a grant of bail for an offence where a circuit breaker condition is also imposed on the same grant of bail.

New section 52AE (Circuit breaker condition – variation or revocation of bail)

Subsection (1) provides that section 52AE applies where bail for a child is subject to a circuit breaker condition and the child is not willing to comply with the condition.

Subsection (2) provides that the child can make an application to the court that granted the bail to vary or revoke the bail.

On such an application, subsection (3) provides that the court must vary the bail to rescind the circuit breaker condition or revoke the bail. Subsection (4) provides that on a variation of the bail, a court may impose a condition other than a circuit breaker condition.

Subsection (5) provides clarification that this section does not affect the operation of section 30 of the *Bail Act 1980*. Where bail is granted to a child with a circuit breaker condition, a court may nonetheless vary or revoke the bail under the existing framework.

Clause 14 amends section 67 (Limitation on justices) to provide that where a Childrens Court is constituted by 2 justices, the justices can not make a circuit breaker order.

Clause 15 amends section 148C (Admissibility of evidence obtained while participating in particular programs) to include a circuit breaker program within the definition of ‘youth justice program’ so that section 148C applies to circuit breaker programs. This means that admissions, or evidence directly or indirectly derived from an admission, made by a child in the course of, for the purpose of, or as a condition of participating in a circuit breaker program is not admissible in evidence against the child in any civil, criminal or administrative proceeding.

Clause 16 amends section 175 (Sentence orders – general) to enable courts to make a circuit breaker order for a child on sentence.

Subclause (1) amends subsection (1) of section 175 to allow the courts to make a circuit breaker order for the child of a period of at least 3 months but not more than 6 months.

Subclause (2) amends subsection (2) of section 175 to provide that a circuit breaker order can only be made against a child found guilty of an offence that if committed by an adult, would make the adult liable to imprisonment.

Clause 17 amends section 175A (Sentence orders – significant offences to which adult penalties apply) to enable courts, when sentencing a child for an offence to which section 175A applies, to make a circuit breaker order for the child for a period of at least 3 months but not more than 6 months. This clause also provides for the provisions within section 175A(2) to be renumbered accordingly.

Clause 18 inserts new sections 179A and 179B.

New section 179A (Combination of circuit breaker order and probation order, intensive supervision order or detention order prohibited) provides that a court cannot make a circuit breaker order and probation order, intensive supervision order or detention order, for a single offence.

New section 179B (Combination of circuit breaker order and graffiti removal order) provides that where a court makes a circuit breaker order and a graffiti removal order for a single graffiti offence or multiple offences of which one is a graffiti offence, the graffiti removal order starts at the end of the program period for the circuit breaker order. Also, where a court makes a circuit breaker order for a child subject to one or more existing graffiti removal orders, the graffiti removal order is suspended until the end of the program period for the circuit breaker order. This is to reflect that a child may not be able to meet the requirements of a graffiti removal order while subject to a circuit breaker order.

Clause 19 inserts new section 180B (Combination of detention order and circuit breaker order). New section 180B provides that if the court makes a circuit breaker order for a child subject to a detention order or makes a detention order for a child for an offence and also makes a circuit breaker order for another offence, the circuit breaker order starts when the child is released from detention under the detention order.

Subsections (3) and (4) of new section 180B provide that where a court makes a detention order for a child subject to a circuit breaker order, the circuit breaker order is suspended until the child is released from detention under the detention order. Further, subsection (5) provides that the period for which the circuit breaker order is suspended is not to be counted as part of the program period of the circuit breaker order.

This prevents the overlap of detention orders and circuit breaker orders, as a child would be unable to comply with the requirements of a circuit breaker order while in detention.

Clause 20 inserts new part 7, division 9A (Circuit breaker orders), which includes new sections 206A – 206G.

New section 206A (Definitions for division)

New section 206A provides for definitions of *monitoring device condition* and *suitability report* for the purposes of division 9A.

New section 206B (Circuit breaker order)

New section 206B provides that a court may make a circuit breaker order for a child where the following eligibility requirements are met:

- the court has ordered, received and considered a *suitability report* prepared by the chief executive;
- the report contains advice from the chief executive that the child is suitable to participate in a circuit breaker program and that there is a place available in a circuit breaker program that is appropriate for the child; and
- the child previously has not been sentenced to a circuit breaker order.

New section 206C (Contents of suitability report)

New section 206C sets out the contents of the suitability report. Subsection (1) provides that the suitability report must include:

- the chief executive’s assessment of the suitability of the child for a circuit breaker order;
- the reasons the chief executive made that assessment; and
- whether a circuit breaker program that is appropriate for the child is available.

Subsection (2) provides that the report may also contain any other relevant information that may inform the court of the appropriateness of making a circuit breaker order for the child. Subsection (3) provides that a suitability report may be part of a pre-sentence report and subsection (4) provides that other matters that the chief executive must or may consider in assessing the child’s suitability for a circuit breaker order may be prescribed in regulation.

New section 206D (Circuit breaker orders – requirements)

New section 206D sets out the requirements imposed by a circuit breaker order. Subsection (1) provides that a circuit breaker order must require:

- that the child report in person to the chief executive within one business day after the order is made or any longer period that is specified in the order (unless that child is already at a circuit breaker site on a grant of bail or the child is subject to a detention order);
- that the child participate as directed by the chief executive in a circuit breaker program for the period of at least 3 months but not more than 6 months as stated in the order (this is the ‘program period’);
- that during the program period:
 - the child abstain from violation from the law;
 - the child satisfactorily participate in activities as directed by the chief executive;
 - the child comply with every reasonable direction of the chief executive;
 - the child comply with the circuit breaker program;
 - the child reside at the circuit breaker site as decided by the chief executive and not leave without the prior approval of the chief executive; and
 - the child wear a monitoring device (this requirement is referred to as the ‘monitoring device condition’).

Subsection (2) enables a circuit breaker order to contain other requirements or conditions that the court considers necessary or desirable, including any condition the court considers necessary to facilitate the operation of the monitoring device.

Subsection (3) provides that the program period for a circuit breaker program starts when the circuit breaker order is made and ends at the end of the last day of the period of the order, subject to section 180B(2).

New section 206E (Monitoring device condition)

New section 206E sets out the responsibilities of the chief executive or another monitoring device entity regarding a monitoring device condition in relation to a circuit breaker order.

Subsection (1) provides that the chief executive must make all necessary and convenient arrangements to ensure the fulfilment of the monitoring device condition. For the performance of the chief executive’s functions under subsection (1), subsection (2) gives the chief executive power to ask a monitoring device entity to:

- fit or remove the monitoring device from the child;
- remotely monitor the monitoring device;
- contact the child, or circuit breaker provider, in relation to an alert or notification from the monitoring device;
- give information relating to alerts and notifications from the monitoring device to the chief executive or another monitoring device entity.

Subsection (3) provides that a monitoring device entity must comply with a request under subsection (2).

Subsection (4) enables the chief executive (corrective services) to delegate a function under subsection (2) to a corrective services officer.

Subsection (5) provides that a monitoring device entity that is prescribed by regulation may delegate a function requested under subsection (2) to an appropriately qualified employee or a contractor who contracts with the entity to provide services relating to monitoring devices.

New section 206F (Suspension of circuit breaker program)

New section 206F provides that during the program period for a circuit breaker order, where a child for good reason is unable to participate in the circuit breaker program, the chief executive may suspend the program for a stated period. Subsection (2) provides that the period for which the order is suspended is not to be counted as part of the program period.

New section 206G (Period for which bail subject to circuit breaker condition counted towards program period for circuit breaker order)

New section 206G provides that the period for which a child was subject to a circuit breaker condition in connection with a charge of an offence, must be counted towards the program period for a circuit breaker order where the child is subsequently sentenced to a circuit breaker order in relation to the offence. This means that if a child is granted bail for an offence with a circuit breaker condition and is subsequently sentenced to a circuit breaker order for that offence, the period of time that they were subject to the circuit breaker condition while on bail must be counted towards the program period of the circuit breaker order. This provision applies for each offence for which the child may be granted bail with a circuit breaker condition.

Subsection (3) provides that if the child was subject to a circuit breaker condition for less than one day, that that period is not to be counted.

Clause 21 inserts new section 218A (Period for which bail subject to a circuit breaker condition to be treated as detention on sentence). This provides that where a child was subject to a circuit breaker condition in connection with a charge of an offence and the child is subsequently sentenced to detention for the offence, any period of time for which bail for the child was subject to the circuit breaker condition must be counted as part of the period of detention that is served in a detention centre or corrective services facility. This provision is intended to apply for each offence for which the child may be granted bail with a circuit breaker condition.

Subsection (3) provides that if the child was subject to a circuit breaker condition for less than one day, that period is not to be counted.

Subsection (4) provides that a period of time for which the child is also held in custody on sentence for another offence is not to be counted for the purposes of subsection (2). This means that where a child is in custody, but also subject to a circuit breaker condition, for example while awaiting transport to start their journey to the circuit breaker site, this period of time is only to be counted once.

Any period of time to which new section 218A applies, must be counted towards a detention order in addition to any period of time to which section 218 applies, to ensure that the whole amount of presentence custody is counted. For example, if a child spends four days in a watchhouse or detention before being granted bail with a circuit breaker condition, the period spent at the watchhouse and the period for which the child was subject to the circuit breaker condition should count towards the time served under a detention order imposed for the offences.

Clause 22 amends section 245 (Court's power on breach of a community based order other than a conditional release order) to provide for the courts' power on breach of a circuit breaker order.

Subclause (1) inserts new subsection (ca) in section 245(1) to enable a court acting under section 245 in relation to a contravention of a circuit breaker order to extend the period of the order, but not so that the total period of the order is more than 6 months.

Subclause (2) amends section 245(2) to insert the words ‘other than a circuit breaker order’, so that a court can vary a circuit breaker order regardless of whether the child expresses a willingness to comply with the order as varied. This is consistent with the eligibility requirements for the imposition of a circuit breaker order, as there is no requirement that the child expresses a willingness to comply in order for a circuit breaker order to be imposed.

Subclause (3) enables an order made under new subsection 245(1)(ca) to be made in conjunction with an order made under section 245(1)(d)(i).

Clause 23 amends section 247 (Variation, discharge and resentence in the interests of justice) to provide that where a child subject to a circuit breaker order is resented in the interests of justice under section 247, the court may resentence the child to a period of detention.

Clause 24 amends section 249 (Matters relevant to making further order) to provide that where a court decides to resentence a child under either section 245 or section 247 to a period of detention and the community based order is a circuit breaker order, that the court must reduce the period of detention by the period the court considers just, having regard to the period the child was subject to the circuit breaker order.

Clause 25 inserts new part 8B (Provisions about circuit breaker programs), including new sections 282N – 282ZF.

New section 282N (Purpose of part)

New section 282N provides that the purpose of new part 8B is to facilitate circuit breaker conditions or circuit breaker orders, by:

- providing for circuit breaker programs to protect the safety of the community and support, rehabilitate or reintegrate into the community children who are on bail for alleged offences or have committed offences; and
- prescribing entities as circuit breaker providers to develop and implement circuit breaker programs, operate places in remote or rural locations for children participating in circuit breaker programs, and facilitate the operation of circuit breaker programs; and
- providing for matters relating to monitoring devices that are to be worn by children participating in circuit breaker programs.

New section 282O (Circuit breaker providers)

New section 282O(1) provides that a regulation may prescribe an entity as a circuit breaker provider. Subsection (2) provides that the Minister may recommend to the Governor in Council that making of a regulation if the Minister is satisfied that the proposed circuit breaker entity has appropriate experience or expertise to be a circuit breaker provider, the ability to deliver a circuit breaker program in accordance with part 8B and satisfies any other criteria prescribed by regulation for this section.

New section 282P (Developing and implementing circuit breaker programs)

New section 282P sets out requirements relating to the development and implementation of circuit breaker programs.

Subsection (1) provides that a circuit breaker provider must develop and implement an intensive residential program with structured activities and strict routines and conditions, called a circuit breaker program.

Subsection (2) provides that a circuit breaker program must provide:

- intensive and practical support for children, including by giving the children education, training and mentoring; and
- access to a rural property where children can gain knowledge, skills and experience; and
- activities and programs to support children to reintegrate into the community.

Subsection (3) provides that a circuit breaker program may provide vocational education and training that enables a child participating in the program to attain a qualification.

New section 282Q (Circuit breaker sites)

New section 282Q provides that a circuit breaker provider must operate a place in a remote or rural location for the placement of a child in a circuit breaker program, called a circuit breaker site. Subsection (2) provides that a regulation must state the name and location of each circuit breaker site and subsection (3) provides that a circuit breaker provider must provide accommodation, services, facilities and activities necessary for the circuit breaker program at the circuit breaker site.

New section 282R (Monitoring circuit breaker programs and circuit breaker sites)

New section 282R provides for the monitoring of circuit breaker programs and circuit breaker sites by the chief executive. Subsection (1) requires the chief executive to monitor the operation of each circuit breaker program and circuit breaker site. Subsection (2) requires a circuit breaker provider to allow the chief executive to enter their circuit breaker site for the purposes of monitoring the operation of the circuit breaker program and site and providing support to a child subject to a circuit breaker condition or circuit breaker order. This may include for the purposes of supporting the child to comply with a different community based order which they are subject to.

New section 282S (Responsibilities of circuit breaker providers)

New section 282S sets out the responsibilities of circuit breaker providers. Subsection (1) provides that circuit breaker providers are responsible for the security and management of the provider's circuit breaker site and the safety and wellbeing of children participating in the provider's circuit breaker program. Subsection (2) and (3) provide that the circuit breaker provider must, for a child participating in the provider's circuit breaker program, supervise the child at all times, facilitate access to education appropriate to the child's age and development and appropriately support the child's engagement in the education. Subsection (4) provides that a regulation may prescribe other responsibilities of the circuit breaker provider.

New section 282T (Recordings in circuit breaker sites)

Subsection (1) provides that for carrying out the circuit breaker provider's responsibilities under new section 282S(1), the circuit breaker provider may record images or sounds in the provider's circuit breaker site.

Subsection (2) provides that the circuit breaker provider must not record a communication between a child and certain persons, including the child's lawyer, an officer of a law enforcement agency, the ombudsman, a community visitor (child), a child advocacy officer, the public guardian and the human rights commissioner.

Subsection (3) provides that a circuit breaker provider must not record a telephone conversation between a child and someone else unless the recording of the conversation is made for a purpose and in accordance with requirements prescribed in regulation and the conversation is not between a child and a person mentioned in subsection (2).

Subsection (4) provides that subsections (2) and (3) do not apply to the extent the use is inadvertent, unexpected or incidental to use while acting in the performance of the circuit breaker provider's duties.

Subsection (5) declares that subsections (1) and (2) are provisions authorising the use by a circuit breaker provider of a listening device for the *Invasion of Privacy Act 1971* section 43(2)(d).

Subsection (6) provides for definitions of *listening device* and *telephone conversation*.

New section 282U (Requirements in relation to recordings)

New section 282U sets out the requirements in relation to recordings. Subsection (1) requires the chief executive to make guidelines about the recording of images or sounds in circuit breaker sites under section 282T.

Subsection (2) allows the chief executive to direct a circuit breaker provider to record images or sounds in the provider's circuit breaker site and subsection (3) provides that a circuit breaker provider must comply with this direction.

Subsection (4) provides that a circuit breaker provider must ensure that a child subject to a circuit breaker condition or order who is residing at the circuit breaker site, employees or contractors of the circuit breaker provider and visitors to the circuit breaker site are advised that sounds and images at the site may be recorded under section 282T.

Subsection (5) provides that a regulation may prescribe the following matters:

- the management of access to images or sounds recorded in a circuit breaker site;
- the restrictions applying to the recording of the images or sounds;
- the purposes for which the images or sounds may be used;
- how the images or sounds will be stored;
- the period for which the images or sounds may be kept.

The existing provisions about disclosure of information under Part 9 of the Youth Justice Act will apply to information relating to recordings, including offence provisions as relevant.

New section 282V (Where children participate in circuit breaker programs)

New section 282V provides that the chief executive must decide the circuit breaker site at which a child subject to a circuit breaker condition or circuit breaker order is to participate and that the chief executive may also direct that a child be transferred to another circuit breaker site.

New section 282W (Child must be given information on entry to circuit breaker site)

Subsection (1) provides that a circuit breaker provider must, as soon as is reasonably practicable, ensure that the child who is participating in the circuit breaker program is given documentation that contains information about:

- the rules governing the circuit breaker site;
- the child's rights and responsibilities under the youth justice principles;
- how and to whom the child may make a complaint about a matter relating to the circuit breaker program;
- how the child can access legal services during the circuit breaker program;
- the obligation on an employee or contractor of a circuit breaker provider under section 282X to report any harm to the child;

- any other information the circuit breaker provider considers appropriate.

Subsection (2) requires the circuit breaker provider to ensure that this information is explained to the child orally in a way that is reasonable having regard to the child's age and ability to understand.

New section 282X (Obligation to report harm to children participating in circuit breaker programs)

New section 282X creates an obligation to report harm to children in circuit breaker programs and creates an offence for failing to do so. Subsection (1) provides that a circuit breaker provider or an employee or contractor of a circuit breaker provider (each a reporting entity) who becomes aware or reasonably suspects that a child has suffered harm while participating in a circuit breaker program, must report the harm or suspected harm to the chief executive immediately and in compliance with a relevant regulation (under subsection (3), unless there is a reasonable excuse). If any reporting entity fails to do so a maximum penalty of 20 penalty units applies.

Subsection (2) provides that it is immaterial how the harm was caused.

Subsection (3) provides that a regulation may prescribe the way the report must be given or the particulars that the report must include.

Subsection (4) provides that it is a reasonable excuse for the reporting entity not to report the matter where reporting the matter might tend to incriminate the reporting entity.

Subsection (5) clarifies that subsection (1) does not apply where the reporting entity knows or reasonably considers that the chief executive is aware of the harm or suspected harm.

Subsection (6) provides for a definition of *harm*.

New section 282Y (Chief executive may authorise medical treatment)

New section 282Y provides that the chief executive is authorised to give consent to any medical treatment of a child participating in a circuit breaker program where the medical treatment requires the consent of a guardian of the child, the chief executive is unable to ascertain the whereabouts of a guardian despite reasonable enquiries and it would be detrimental to the child's health to delay the medical treatment until the guardian's consent can be obtained.

New section 282Z (Ordinary visitor)

New section 282Z sets out provisions relating to the entry of visitors to circuit breaker sites. Subsection (1) lists people to which the section does not apply, which includes a community visitor (child), a child advocacy officer and the chief executive.

Subsection (2) provides that a circuit breaker provider may approve the entry of visitors to the provider's circuit breaker site generally or in a particular case. Subsection (3) provides that a circuit breaker provider may refuse entry to the provider's circuit breaker site to a person if—

- the person's presence in the circuit breaker site would prejudice the security or good order of the circuit breaker site;
- the person does not give their name, address or proof of identity on request; or
- the person refuses to comply with a request for a search made under subsection (5).

Subsection (4) provides that subject to section 282ZC, the circuit breaker provider may require a visit to the circuit breaker site to take place in the presence, or under the supervision, of an employee or contractor of the circuit breaker provider.

Subsection (5) provides that a circuit breaker provider may, on reasonable grounds, ask a visitor to the circuit breaker site to submit anything in the visitor's possession to a search by an employee or contractor of the circuit breaker provider.

Subsection (6) allows the circuit breaker provider to give a visitor a direction it considers necessary for the security or good order of the site.

Subsection (7) enables a circuit breaker provider to ask a visitor to leave immediately if they refuse to submit to a search under subsection (5) or fail to comply with a direction under subsection (6).

Subsection (8) provides that a police officer or an employee or contractor of the circuit breaker provider may, using force that is reasonable and necessary, remove a visitor who refuses to leave the site immediately where they have been requested to leave.

Subsection (9) provides that reasonable and necessary force can only be used to remove a visitor where the employee or contractor has completed physical intervention training approved by the chief executive and the employee or contractor reasonably believes the visitor will not leave the circuit breaker site unless the employee or contractor uses force.

New section 282ZA (Chief executive may direct circuit breaker provider to permit entry)

New section 282ZA enables a person who has been refused entry to a circuit breaker site to make a complaint to the chief executive about the refusal and enables the chief executive to direct a circuit breaker provider to permit entry of a person. Subsection (3) provides that the circuit breaker provider must comply with a such a direction.

New section 282ZB (Helping child gain access to lawyer)

New section 282ZB provides that a circuit breaker provider must ensure that where a child asks for help in gaining access to a lawyer, that the child is given help that is reasonable in the circumstances.

New Section 282ZC (Protection of lawyer representing child)

New section 282ZC provides for the protection of a lawyer representing a child. Subsection (1) provides that a lawyer representing a child participating in a circuit breaker program is entitled access to the child at all reasonable times.

Subsection (2) provides that the circuit breaker provider, or employee or contractor of the circuit breaker provider, must allow the lawyer to conduct an interview out of the hearing of any other person and must not open, copy, remove or read any correspondence from the child to the lawyer or the lawyer to the child. Subsection (3) provides that this does not prevent the circuit breaker provider from handling the correspondence to the extent necessary to give the child access to it or store it in a secure place, at the request of the child.

New section 282ZD (Complaints generally)

Subsection (1) of new section 282ZD enables a child or parent of a child participating in a circuit breaker program to make a complaint about a matter that affects the child.

Subsection (2) requires the chief executive to issue written instructions on how a complaint may be made and dealt with.

Subsection (3) provides that the chief executive does not have to deal with a complaint that the chief executive reasonably believes to be trivial or made only to cause annoyance and subsection (4) provides that the chief executive must tell the child how the complaint will be dealt with.

New section 282ZE (Information relating to monitoring devices)

New section 282ZE provides that a regulation may prescribe for section 52AD or 206E—

- how information relating to a monitoring device may be shared and with whom;
- the purpose for which the information is shared;
- the entity responsible for recording or storing the information; and
- how the information will be recorded or stored.

The existing provisions about disclosure of information under Part 9 of the Youth Justice Act will apply to information relating to monitoring devices, including offence provisions as relevant.

New section 282ZF (Approved targeted physical intervention training)

New section 282ZF enables the chief executive to approve targeted physical intervention training for employees or contractors of a circuit breaker provider who perform functions at the provider's circuit breaker site.

Clause 26 amends section 297D (Definitions for division) so that the definition of *service provider* includes a circuit breaker provider.

Clause 27 inserts new part 11, division 29 which provides for transitional provisions.

New section 446 provides that after commencement, a court may impose a circuit breaker condition on a grant of bail to a child in connection with a charge for an offence regardless of whether the offence allegedly happened before or after the commencement. Therefore, a court is not limited to imposing a circuit breaker condition only on an undertaking of bail in connection with offences allegedly committed after commencement.

New section 447 enables a court to make a circuit breaker order for a child after the commencement, regardless of whether the offence or conviction happened before or after the commencement.

Clause 28 amends schedule 2 (Regulation-making power) to expand the existing regulation making powers so that regulations can be made on issues relevant to circuit breaker. The amendments broaden the regulation-making power to include:

- Matters to be included in suitability reports under section 52AC to 206B;
- Forms, conditions, requirements, duties, functions and powers relating to circuit breaker conditions;
- The standards, management, control and supervision of circuit breaker conditions;
- The standards, management, control and supervision of circuit breaker orders;
- Standards, management, control and supervision of circuit breaker sites;
- Maintenance of good order and discipline within circuit breaker sites or at any other place where children are participating in circuit breaker programs;
- Functions and powers of circuit breaker providers to detain children at circuit breaker sites;
- Conditions and circumstances for children to be granted leave of absence from circuit breaker sites;
- Medical services to children participating in circuit breaker programs;
- Searches of children and their possessions in circuit breaker sites.

Subclause (10) renumbers items in schedule 2 accordingly.

Clause 29 amends schedule 4 (Dictionary) to amend or provide definitions for *circuit breaker condition*, *circuit breaker order*, *circuit breaker program*, *circuit breaker provider*, *circuit breaker site*, *community based order*, *monitoring device condition*, *monitoring device entity*, *program period*, *suitability report* and *targeted physical intervention training*. Most of these definitions derive from relevant provisions elsewhere in the Youth Justice Act.

The amendments broaden the definition of community based order so that it includes a circuit breaker order. The effect of this is that a circuit breaker order is treated as a community based order under the Youth Justice Act, including for the purpose of contravention of community based orders under Division 12.

Monitoring device entity is defined as any of the following entities; the commissioner of the police service, the chief executive (corrective services) and an entity prescribed by regulation for the definition.

Subclause (3) makes a consequential amendment to the definition of *detention order*.

Subclause (4) broadens the definition of *monitoring device* by substituting ‘or a monitoring device entity’ for ‘the Queensland Police Service, or the chief executive (corrective services)’.