

Youth Justice (Circuit Breaker) 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 Youth Justice (Circuit Breaker) Amendment Bill 2026.

In my opinion, the Youth Justice (Circuit Breaker) Amendment Bill 2026 (the Bill) is compatible with the human rights protected by the *Human Rights Act 2019* (Human Rights Act).

Overview of the Bill

During the 2024 State Election, the Making Queensland Safer Plan was announced by the Liberal National Party of Queensland. The Making Queensland Safer Plan seeks to create a safer community by holding offenders accountable and providing more support for victims and early intervention 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 initiative (Circuit Breaker), to be delivered through programs for eligible youth.

The overarching objective of the Bill is to reduce crime and protect the community by providing a program that removes youths from the community who are charged with, or have committed, offences and offers support, rehabilitation and community reintegration. It is intended that Circuit Breaker will be delivered by funded non-government service providers at two rural and remote locations where youth will receive round the clock supervision and participate in rehabilitation programs. 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, for example in agricultural activities or livestock management. 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 where the youth would otherwise have been kept or remanded in custody. The legislative framework will consist of the proposed new court orders and necessary functions and powers to enable the operation of Circuit Breaker.

The Bill will amend the *Youth Justice Act 1992* (Youth Justice Act) to allow:

- a) a court to order a Circuit Breaker condition on a grant of bail as an alternative to remanding a child in custody (this is called a Circuit Breaker condition in the Bill);
- b) a court to order Circuit Breaker as a sentence (this is called a Circuit Breaker order in the Bill);
- c) the establishment and operation of Circuit Breaker sites and delivery of Circuit Breaker programs by Circuit Breaker providers;
- d) a regulation-making power in relation to various Circuit Breaker matters, including the appointment of an entity as a Circuit Breaker provider.

The Bill also makes amendments to the *Child Safe Organisations Act 2024* to make a Circuit Breaker provider a child safe entity and a reporting entity under that Act.

The Bill also makes amendments to the *Public Guardian Act 2014* to include Circuit Breaker sites in the definition of a ‘visitable site’ under that Act.

Human Rights Issues

Amendments to the *Child Safe Organisations Act 2024*

The amendments to the *Child Safe Organisations Act 2024* (CSO Act) will mean that Circuit Breaker providers must:

- implement and comply with the child safe standards and the universal principle; and
- have systems in place to prevent the commission of reportable conduct by a worker of the Circuit Breaker provider.

In my opinion, the amendments to the CSO Act will not limit any human rights.

The amendments may potentially enhance the right to privacy (section 25(a)) by requiring processes to be implemented to protect a child’s physical and mental well-being, the right of a child to protection that is needed in their best interests (section 26(2)) and cultural rights (section 28) through the compliance with the universal principle.

Amendments to the *Public Guardian Act 2014*

The amendments to the *Public Guardian Act 2014* provide that Circuit Breaker sites will be ‘visitable sites’ for the purposes of that Act. These amendments mean that Circuit Breaker sites will be subject to oversight by the Office of the Public Guardian and will provide protections to youth, the Circuit Breaker provider and to the State.

In my opinion, the amendments to the *Public Guardian Act 2014* will not limit any human rights.

The amendments may potentially enhance the right to protection from cruel, inhuman or degrading treatment (section 17(b)), the right of a child to protection that is needed in their best interests (section 26(2)) and the right to humane treatment when deprived of liberty (section 30).

Amendments to the *Youth Justice Act 1992*

Clause 13 of the Bill inserts new sections 52AB-52AE. Section 52AB allows the court to impose a Circuit Breaker condition on a grant of bail to a child if the court would have otherwise made an order keeping or remanding the child in custody.

Section 52AB(3) requires that if a child is subject to a Circuit Breaker condition, the court must impose a condition that a child wear a monitoring device while released on bail, comply with the Circuit Breaker program, participate satisfactorily in activities and reside at the Circuit Breaker site and not leave without the prior approval of the chief executive.

Section 52AD deals with implementing a monitoring device condition, including the fitting and remote monitoring of a monitoring device and the sharing of information from a monitoring device.

Clauses 16 and 17 amend sections 175 and 175A to allow the court to impose a Circuit Breaker order on sentence of a child found guilty of an offence.

Clause 20 inserts new part 7, division 9A. New section 206D states the requirements for Circuit Breaker orders (see discussion above of section 52AB). New section 206E deals with matters necessary to implement the monitoring device condition.

Clause 25 inserts a new part 8B. The new part 8B comprises divisions 1-6. Division 3 deals with the administration of Circuit Breaker programs, including the establishment of Circuit Breaker sites in remote or rural locations (section 282Q) and the recording of images and sound in Circuit Breaker sites (sections 282T and 282U). Division 4 deals with children participating in Circuit Breaker programs including the ability of the chief executive to consent to the medical treatment of a child (section 282Y) and the admission or refusal of visitors to the Circuit Breaker site (including searching their possessions and removal using reasonable force if they refuse to leave when requested) (section 282Z). Division 5 deals with monitoring devices. A regulation may prescribe for section 52AD or 206E how information from a monitoring device is shared and stored. Division 6 deals with the approval of targeted physical intervention training for employees or contractors of a Circuit Breaker provider.

Clause 28 amends schedule 2 to provide regulation making power for matters associated with the Circuit Breaker program including:

- maintenance of good order and discipline in Circuit Breaker sites;
- the functions and powers of Circuit Breaker providers to detain children at Circuit Breaker sites;
- the conditions and circumstances for children to be granted leave of absence from Circuit Breaker sites;
- the provision of medical services to children participating in Circuit Breaker programs;
- searches of children and their possessions in Circuit Breaker sites.

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

In my opinion, the human rights relevant to the Bill are:

- Right to equal protection of the law without discrimination (section 15)
- Protection from cruel, inhuman or degrading treatment (section 17(b))
- Right not to be subjected to medical treatment without the person's full, free and informed consent (section 17(c))
- Right to freedom of movement and to choose where to live (section 19)
- Right to freedom of association (section 22)
- Right to property (section 24)
- Right to privacy (section 25(a))
- Protection of families and children (section 26)
- Cultural rights (sections 27 and 28)
- Right to liberty (section 29(1))
- Right to humane treatment when deprived of liberty (section 30)
- Rights in criminal proceedings (section 32(2)(b))
- Right to education (section 36).

The introduction of Circuit Breaker conditions and Circuit Breaker orders engage human rights in the following ways.

Recognition and equality before the law (section 15)

Section 15(3) of the Human Rights Act is known as the right to equality. It ensures that all laws and policies are applied equally, and do not have a discriminatory effect. Public entities, as well as courts and tribunals, are required to treat all people equally when applying the law. It also requires that the laws themselves provide equal protection for everyone. Sometimes it will be necessary for certain groups to be treated differently in order to have equal protection of the law.

Section 15(4) provides a right to equal and effective protection against discrimination. This includes protection against acts or decisions that have a disproportionate impact on people who have an attribute or characteristic, for example, age, sex, gender identity and race. The definition of discrimination under the Human Rights Act includes discrimination as defined under the *Anti-Discrimination Act 1991*.

Because this bail and sentencing option is only available for children and not adults, these amendments will treat children differently compared to adults in the same circumstances. However, Circuit Breaker is intended to break the cycle of crime for children and is designed to further the opportunities for children to participate constructively in society. As Circuit Breaker does not treat children less favourably, it is considered that Circuit Breaker does not discriminate on the basis of age.

It is also 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 creates a new sentencing order and bail condition that causes a deprivation of liberty, it could result in more Aboriginal and Torres Strait Islander children being removed from their communities to participate in a Circuit Breaker program. However, I am of the view that the

amendments will not directly or indirectly discriminate on the basis of race and therefore that the rights to equality and non-discrimination in section 15 will not be engaged on that basis.

Although not provided for in the Bill, it is anticipated that individual Circuit Breaker programs may have their own unique suitability requirements depending on the provider's program offerings. For example, some programs may only be available for males. This may restrict youths' ability to participate in a program based on a protected attribute. In this example, children would be prevented from participating in a program based on the protected attribute of sex, leading to potential discrimination against certain groups of youth.

This may mean that some children are unable to access the intensive rehabilitation that Circuit Breaker programs offer based on their sex. However, the amendments do not limit the right to equal protection of the law without discrimination in section 15(3) or the right to equal and effective protection against discrimination in section 15(4) of the HR Act, because the amendments do not directly or indirectly discriminate based on protected attributes. The Circuit Breaker conditions and orders apply equally to all youth who satisfy the conditions for the making of Circuit Breaker condition or order.

Right not to be subjected to medical treatment without the person's full, free and informed consent (section 17(c))

The chief executive has the ability under the Bill to consent to medical treatment of a youth participating in a Circuit Breaker program in place of a guardian in certain circumstances. The Bill also proposes a regulation-making power regarding provision of medical services to children participating in Circuit Breaker programs. The right may be limited where the youth is of sufficient age to give informed consent and refuses the medical treatment.

Freedom of movement (section 19)

The purpose of the right to freedom of movement is to protect the individual's right to liberty of movement within Queensland, and their right to live where they wish. The fundamental value which the right expresses is freedom, which is regarded as an indispensable condition for the free development of the person and society.

Youth offenders subject to Circuit Breaker will be required to reside at the Circuit Breaker site and will not be able to leave a Circuit Breaker location without prior approval of the Department of Youth Justice and Victim Support chief executive. Further, youths subject to a Circuit Breaker condition or Circuit Breaker order will be required to wear an electronic monitoring device, even when permitted to leave the site. This element limits youths' right to freedom of movement. Visitors to a Circuit Breaker site may be denied access which limits their right to freedom of movement.

Freedom of association (section 22)

The right to freedom of association protects an individual when, for whatever reason and for whatever purpose, they wish to associate with others. Association is indispensable to a functioning democracy and the pursuit of other rights and freedoms. 'The rights to assemble and associate with other persons do not just apply in the familiar contexts of association for

political and industrial purposes but also in the contexts of association for cultural, social and familial purposes.¹

This right is limited by the Bill as children will be required to reside at remote locations, removing them from their communities and preventing them from freely associating with other people. The remoteness of Circuit Breaker sites may significantly inhibit the ability of family, friends and other people to visit youths. It may also impact the ability of youths to contact others via other means of communication, such as telephone or video calls. As youths will be under supervision of Circuit Breaker providers, their opportunity to make or receive calls or otherwise communicate with others will be subject to the rules of the Circuit Breaker site.

Further, the ability of children to contact people outside of the Circuit Breaker site will depend on the communication capabilities of individual locations and internal rules regarding communication.

Right to property (section 24)

Section 24(2) provides that a person has a right to own property and not be arbitrarily deprived of their property. Property is a broad concept and includes personal property. The Bill proposes a regulation-making power for searches of youths and their possessions in Circuit Breaker sites. This will likely include the ability to confiscate personal property in certain circumstances. There may also be a prohibition on youth acquiring certain property.

Whether that property is deprived arbitrarily will depend on whether the entitlements are removed in a way that is capricious, unjust or unreasonable in the sense of being disproportionate to a legitimate aim sought. If an interference is proportionate under section 13 of the Human Rights Act, it will not be arbitrary. Accordingly, whether any deprivation of property is arbitrary will be addressed below when considering the factors in section 13.

Right to privacy (section 25(a))

Section 25(a) provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The right to privacy will only be limited if the interference with privacy is unlawful or arbitrary. The interference with privacy will be authorised by the Act and will therefore be lawful. Arbitrary means capricious, unpredictable, unjust, or unreasonable in the sense of not being proportionate to the legitimate aim sought. If an interference is proportionate under section 13 of the Human Rights Act, it will not be arbitrary. Accordingly, whether the interference with privacy is arbitrary will be addressed below when considering the factors in section 13.

The scope of the right to privacy is very broad. It protects personal information and data collection, for example. It also extends to a person's private life more generally, so protects the individual against interference with their physical and mental integrity, including appearance, clothing and gender, sexuality and home.

This right to privacy is limited by the amendments in various ways, three of which involve surveillance. First, the amendments require the supervision of youths at all times. Second, the amendments enable audio and visual recordings at Circuit Breaker sites. Third, a mandatory

¹*Woods v DPP (Vic)* (2014) 238 A Crim R 84, 91 [17].

condition or requirement of both the Circuit Breaker condition and order is that the youth must wear an electronic monitoring device.

These features enable the surveillance and recording of a youth's movements, whereabouts and private conversations. Also, the use of electronic monitoring devices can have deep impacts on the person being monitored. A youth wearing the monitoring device will be continuously aware of its presence, which will have a physical, psychological and emotional burden.

Further, the Bill proposes a regulation-making power for searches of youths and their possessions in Circuit Breaker sites. Conducting searches of youths would limit the right to privacy. A regulation-power is also proposed for the maintenance of good order and discipline at Circuit Breaker sites. If the imposition of discipline involves physical restraint of a youth this will interfere with their bodily integrity and limit their right to privacy.

The Bill also contemplates searches of visitors and their possessions when visiting a Circuit Breaker site which limits their right to privacy. Further, visitors who refuse to leave the site may be subject to removal using reasonable force by employees or contractors of a Circuit Breaker provider who have undertaken targeted physical intervention training. This will interfere with their bodily integrity.

Protection of families and children (section 26)

The right to protection of families (section 26(1)) recognises that families are the fundamental group unit of society and entitles families to protection by society and the State. The meaning of families is broad and recognises that families take many forms and accommodates the various social and cultural groups in Queensland whose understanding of family may differ. Cultural, religious and other traditions will be relevant when considering whether a group of persons constitute a 'family'. The Bill may limit the right to family as the remote or rural location may make it difficult for family ties to be maintained.

The right also entitles every child, without discrimination, to the protection that is needed by the child and is in the child's best interests (section 26(2)). This recognises the special vulnerability of children, and it is a right that is only held by children. The right requires the State to ensure the survival and development of every child to the maximum extent possible.

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).

Relevantly, the UNCRC provides that:

- the best interests of the child shall be a primary consideration (article 3(1));
- no child shall be subjected to arbitrary interference with his or her privacy, family, home or correspondence (article 16(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
- every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person...in particular, every child deprived of liberty...shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances (article 37(c))

- 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 youth as well as to the needs of the society (rule 17.1(a));
- deprivation of personal liberty shall not be imposed unless the youth 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 youth shall be the guiding factor in the consideration of her or his case (rule 17.1(d))

The right is engaged as youths in Circuit Breaker programs will be deprived of liberty, removed from family, friends and their community and will be required to wear a monitoring device and participate in programs which may not reflect the best interests of each individual youth.

Circuit Breaker sites will be in remote locations which could interfere with the youth's ability to regularly see their family or friends.

Given that the youth will be unable to leave Circuit Breaker sites, they will be deprived of liberty (as understood in human rights). Given the eligibility of bail and sentence cohorts to participate in the program, it is possible that these cohorts will be mixed at each location.

However, Circuit Breaker can only be imposed by a court order. In making the order, a court will have discretion to consider a range of factors. In this context, Circuit Breaker will only be ordered where it is a proportionate response to the circumstances and need to protect the community. In some cases, Circuit Breaker may be ordered where the alternative option open to the court may be detention. Circuit Breaker may offer a less significant limitation on the right to liberty than detention in a youth detention centre. Additionally, the 'hands on' component combined with wrap-around supports is intended to promote youths' rehabilitation through learning practical knowledge and skills and assuming a future constructive role in society in line with this right.

Cultural rights (sections 27 and 28)

Cultural rights protect a person's right, in community with other persons of their background, to enjoy their culture, to declare and practise their religion and to use their language. The right of Aboriginal peoples and Torres Strait Islander peoples to enjoy kinship ties (section 28(2)(c)) recognises the significance of family and community in Aboriginal and Torres Strait Islander culture. For a First Nations child, their kinship network will become one of the two key ways in which their identity is constructed (the other being connection to country in section 28(2)(d)).

This right is limited by Circuit Breaker as a child who is subject to a Circuit Breaker condition or order may be unable to participate in specific cultural activities or maintain their connection to country. However, youths are able to leave Circuit Breaker sites with the approval of the chief executive of the Department of Youth Justice and Victim Support. At the chief

executive's discretion, leave could be granted to participate in cultural activities where appropriate. The Bill also proposes a regulation-making power for conditions and circumstances for children to be granted leaves of absence from Circuit Breaker sites.

Right to liberty (section 29)

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.

Circuit Breaker limits the right to liberty as youth sentenced to a Circuit Breaker order or subject to a Circuit Breaker condition will be required to reside at the Circuit Breaker site and will not be allowed to leave without permission. These youth will be deprived of their liberty (for the purposes of human rights) in the sense that they will not be free to come and leave.

Further, the Bill enables powers to be prescribed in regulation that enable Circuit Breaker providers to detain youth at a Circuit Breaker site. These powers would place further limitations on this right.

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

The right to humane treatment when deprived of liberty recognises the particular vulnerability of persons deprived of liberty 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.

In particular, section 30(2) provides that an accused person who is detained or a person detained without charge must be segregated from persons who have been convicted of offences, except where reasonably necessary. Further, section 30(3) provides that an accused person who is detained or a person detained without charge must be treated in a way that is appropriate for a person who has not been convicted.

For conduct to amount to cruel, inhumane 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 Bill enables youth who have been convicted of offences (sentence cohort) and youth who have been charged but not convicted of offences (bail cohort) to participate in Circuit Breaker. Therefore, it is likely that the sentence cohort and bail cohort could attend the same Circuit Breaker site with little or no segregation. As the experience will be similar for the bail and sentenced cohorts, the imposition of a Circuit Breaker condition on bail may limit the right of an accused person to be treated in a way that is appropriate for a person who has not been convicted.

A key element of the Circuit Breaker program is enabling youth to gain knowledge and skills with 'hands on' learning including, for example, livestock management, crop-raising and

farming As this is likely to include physical activity and work which may not be suitable for all persons, it is intended that a youth's general health will be considered as part of the suitability assessment prepared by the Department of Youth Justice and Victim Support. Further, youth may be excused from physically strenuous activities in circumstances where it is unsafe for the youth to participate.

Rights in criminal proceedings (section 32(2)(b))

A person has the right to adequate time and facilities to prepare the person's defence and to communicate with a lawyer or advisor chosen by the person (section 32(2)(b)). The remote or rural location of the Circuit Breaker sites may also limit a youth's right to have adequate facilities to prepare their defence and communicate with their lawyer, although section 282ZC provides that a lawyer representing a child participating in a program is entitled to access to the child at all reasonable times.

Right to education (section 36)

The right to education provides that every child has the right to access primary and secondary education appropriate to their needs (section 36(1)) and that every person has the right to have access, based on their abilities, to further vocational education and training that is equally accessible to all (section 36(2)).

While school age youths subject to Circuit Breaker will have access to education, they may be deprived of the opportunity to continue the specific course of study they were undertaking or deprived of access to the educational institution they were attending prior to admission to the Circuit Breaker program. For example, where a youth has been at school or undertaking a vocational education program prior to commencing Circuit Breaker, this would necessarily disrupt their regular education. Further, they may be deprived of the opportunity to access all of the education opportunities which are accessible to youths based in the community; for example, particular vocational courses which may not be available at Circuit Breaker.

However, the Bill expressly provides that Circuit Breaker providers must facilitate access to education appropriate to the child's age and development and appropriately support the child's engagement in the education, which provides some protection of this right.

Regulation-making power

As discussed above, the Bill proposes to provide regulation-making powers in relation to Circuit Breaker matters that have the potential to impact on human rights. However, the making of any regulation will be subject to the requirement for a human rights certificate explaining and justifying any limitation on human rights.

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 of the *Human Rights Act*)

Any limits on these human rights are considered reasonable and justified under section 13 of the Human Rights Act as follows:

(a) the nature of the right

For each of the relevant rights, the nature and underlying values are as follows:

- Freedom from cruel, inhumane and degrading treatment and the right not to be subject to medical treatment without consent in section 17 protects the right of the individual to personal dignity and physical and mental integrity.
- Freedom of movement in section 19 protects against restrictions on movement falling short of physical detention. It is about freedom.
- Freedom of association in section 22 protects the ability of a person to maintain personal connections with others and associate with other people whenever and for whatever reason they wish.
- The right to property in section 24 protects the dignity of having the essentials of life and is necessary for the fulfilment of other rights.
- The right to privacy in section 25(a) protects personal information but also extends to an individual's private life more generally, including protection from interference with a person's physical and mental integrity. Privacy is about having control over one's own life and being let alone.
- The protection of children and families in section 26 is concerned with the protection of children and families by the State.
- Cultural rights in sections 27 and 28 preserve the ability of people of a particular background to enjoy their culture in community with others, including their ability to maintain kinship ties.
- The right to liberty in section 29 protects people from unlawful and arbitrary interference with their physical liberty.
- The right to humane treatment when deprived of liberty in section 30 respects the inherent dignity that people should be afforded as human beings.
- Rights in criminal proceedings (section 32(2)(b)) safeguard people charged with a criminal offence.
- The right to education (section 36) protects access to learning for every child and is necessary for the fulfilment of other rights. It is about empowerment.

(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 primary objective of the amendments is to improve community safety by reducing crime. The secondary purpose of the Bill is to support youth to break the cycle of offending and provide them with programs that will further the opportunities for youth to participate constructively in society.

Circuit Breaker is aimed at protecting the community. It will provide an option to the courts to significantly reduce the risk of youths offending in the community by removing high risk youths from negative peer influences and environments that enable offending behaviour, including in circumstances where the youth would otherwise be remanded in custody. As a sentence option, Circuit Breaker will also provide intensive rehabilitation to youth offenders to break the cycle of offending.

Seeking to reduce crime and protect the community is a proper purpose consistent with the expectations and 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 by removing youths from the community and providing intensive rehabilitation to youth offenders to reduce crime.

In addition to improving community safety, the purposes of providing support and or rehabilitation are intended to benefit the youth offenders. Circuit Breaker will only be available as a bail condition in circumstances where the alternative would be keeping or remanding the youth in custody. Reducing the number of youth in youth detention, where their rights and freedoms are subject to significant curtailment, is also a proper purpose.

(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

Circuit Breaker proposes to achieve the objective of improving community safety and reducing crime by removing youth charged or convicted of offences from the community where there may be negative peer influences and environments that enable offending behaviour. As a sentence option, it is intended to provide intervention and intensive rehabilitation to youth offenders in lieu of detention.

Placing youth in a new and structured environment is intended to disrupt patterns of offending behaviour. Removing youth at risk of offending from the community is a proven way of preventing offending and increasing community safety. This is reflected in the use of youth detention, which may occur as a result of bail refusal or on the imposition of a detention order.

Accordingly, it is my opinion that the introduction of Circuit Breaker will reasonably achieve the purpose of reducing crime and improving community safety.

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

There is no reasonably available alternative to achieve the community safety purpose of the amendments.

Current sentence alternatives available to the target cohort include community based orders such as probation and conditional release orders. However, as a result of the previous Government's failure to deal with youth offending and recidivism, a new response is required. Further, Circuit Breaker, in my opinion, limits human rights to a lesser extent than the alternative of being kept or remanded in custody (for the bail cohorts) or detention (for the sentence cohorts).

Limitations on human rights may be reduced if Circuit Breaker facilities operated out of less remote locations and by enabling youths to leave the Circuit Breaker site. However, the process of removing youths from the community is intended to reduce the risk of further offending in the community and assist in the rehabilitative process by preventing negative influences and placing youth in a new environment. Accordingly, this would not achieve the purpose of improving community safety to the same extent.

Limiting the duration of the Circuit Breaker order to less than three months is another alternative that may be less restrictive on human rights. However, a shorter program may prevent courts from imposing an appropriate sentence in the circumstances which adequately reflects the offending, addresses the risk to the community and enables sufficient time for rehabilitation. Accordingly, such an alternative would also not reasonably achieve the purpose of improving community safety. Requiring the bail cohort and sentenced cohort to be housed separately may also be less restrictive on human rights. However, having regard to the relatively small cohorts expected to be supported at each Circuit Breaker site, I consider that it would be reasonably necessary that the bail cohort and sentence cohort are not completely segregated. This supports the proper purpose of the efficient allocation of public resources, as it is not operationally viable or practical to require a provider to segregate youth based on if they are on bail or sentenced.

An alternative to using monitoring devices on Circuit Breaker participants would be to not include that requirement (in the same way that youth remanded in custody are not required to wear monitoring devices). However, recognising that the security infrastructure at a remand or youth detention facility is significantly higher (and with a higher impact on individual liberty), in circumstances where the Circuit Breaker sites will be in less secure, rural facilities, the use of monitoring devices is the appropriate way to enable Circuit Breaker program participants to participate in the program while maintaining appropriate safeguards, including for surrounding communities, as to their location if the youth were to seek to depart from the site without authorisation.

The proposal has in place several safeguards to ameliorate the impact of the limitation on human rights. Importantly, a Circuit Breaker condition or Circuit Breaker order can only be imposed by the court. In making such an order, the court must have regard to the usual sentencing principles or bail considerations (as applicable), as well as the youth justice principles.

For bail, this means that the court can only impose a Circuit Breaker condition if the court is satisfied that there is a risk that the youth would commit an offence that endangers the safety of the community if released, would not surrender into custody in accordance with a bail condition, would commit an offence or would interfere with a witness or otherwise obstruct the course of justice and the condition would mitigate this risk. This protects against the

limitation of rights whilst also ensuring that any limitation is aligned with the purposes of imposing a bail condition (i.e. flight risk, to protect witnesses and evidence, and to protect the community).

Further, a Circuit Breaker order or condition can only be imposed where specific eligibility and suitability criteria are met. In particular, these include a requirement that the chief executive of the Department of Youth Justice and Victim Support has advised that the youth is suitable to participate in the Circuit Breaker program and that there is a place available in a program that is appropriate for that youth.

A Circuit Breaker condition or order can only be imposed by the court where it considers it appropriate, having had regard to a number of factors, including the circumstances of the individual youth. This protects against arbitrary or inappropriate limitation of rights, including deprivation of liberty, freedom of movement and rights of children to protection in their best interest.

The Circuit Breaker condition has additional safeguards, as it can only be ordered where the court would have otherwise remanded the youth in custody. Further, the Bill provides that a child subject to a Circuit Breaker condition can bring an application to vary their bail conditions if they are no longer willing to comply with the condition. In this scenario, a court is required to consider the application and revoke bail or vary the conditions of bail. This provides some protection for the rights that may be limited by the imposition of a Circuit Breaker condition on bail.

It is also important to note that a Circuit Breaker order can only be imposed for a maximum duration of 6 months and cannot be imposed where a youth has previously been subject to a Circuit Breaker order. This significantly limits the duration to which human rights may be limited under a Circuit Breaker order.

Further, the legislation sets out clear minimum requirements and responsibilities of Circuit Breaker providers which may protect against the limitation of human rights. For example, the Bill requires Circuit Breaker providers to facilitate access to education appropriate to a youth's age and development and support engagement with education. The Bill also provides for limitations on the powers of providers. For example, it sets out limitations on audio and visual recordings in Circuit Breaker sites which reduces the limitations on the right to privacy. It also places an obligation on Circuit Breaker providers to report harm.

The Bill also contains provisions to ensure that the Department of Youth Justice and Victim Support can maintain oversight of various aspects of Circuit Breaker. For example, it sets out a general complaints mechanism for youths and their parents, as well as powers enabling the chief executive to direct Circuit Breaker providers to do certain things, like allow visitors into Circuit Breaker sites.

The Bill also provides regulation-making powers for Circuit Breaker, enabling further safeguards to be provided for in regulation.

Also, child safe standards and the reportable conduct scheme will be applicable to service providers. This oversight, recommended by the Royal Commission into Institutional Child Sexual Abuse, is critical to ensuring that the programs are delivered safely and misconduct from employees does not go unreported. Circuit Breaker will also have oversight from the

Office of the Public Guardian community visitor program, which safeguards the rights, interests, and wellbeing of children and young people in care or detention and provides a safe, transparent and independent mechanism of oversight.

Overall, no feasible less restrictive and reasonably available alternatives to Circuit Breaker have been identified. The alternatives that were identified in my view would not be as effective as Circuit Breaker in achieving the policy intent of community safety and breaking the cycle of offending. Also, Circuit Breaker has been carefully designed to include appropriate safeguards to ensure protection of human rights, with scope for further safeguards to be included in regulation and contracts.

(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

The primary purpose of the Bill, which is to reduce crime and improve community safety, is an important purpose. This purpose protects the rights and freedoms of others, including the right to life, property rights, and right to security of person. Crime prevention and community safety is a concern amongst Queenslanders, particularly with regard to youth offending. The secondary purpose of the Bill is providing opportunities for youth to break the cycle of offending through participation in Circuit Breaker and gain skills that will enable them to participate meaningfully in their communities. I acknowledge that the Bill does impose some significant limitations on the human rights of youth subject to Circuit Breaker conditions or orders.

However, a Circuit Breaker condition of bail can only be imposed where the youth would otherwise have been remanded in custody. A Circuit Breaker order also presents as an alternative to detention in a youth detention centre. Further, having regard to community concern around youth crime and community safety, I consider that on balance, the purpose of the Bill outweighs the limitations on human rights. As any impacts on the rights to privacy and property are proportionate, and thus are not arbitrary, those rights are not limited. As to the other rights, the limitation is reasonable and justified.

(f) any other relevant factors

Not applicable.

Conclusion

In my opinion, the Youth Justice (Circuit Breaker) Amendment Bill 2026 is compatible with the human rights protected by the *Human Rights Act 2019*.

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