

Queensland Community Safety Bill 2024

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Committee Secretary

Email: CSLAC@parliament.qld.gov.au

Community Safety and Legal Affairs Committee

Parliament House

George Street

Brisbane Qld 4000

Dear Colleagues,

RE: Queensland Community Safety Bill 2024

About TASC National Limited

TASC Legal and Social Justice Services is a not-for-profit organisation that serves over 3,000 people per year across more than 400,000 square kilometers of Ipswich and Southwest Queensland. Now in our 42nd year, TASC has developed from a small community legal center to a committed provider of high-quality legal advice, social justice, and advocacy services. TASC is one of the largest regional community legal and advocacy services in Queensland, where the community and staff work together in partnership to continue to enable justice and change lives.

We are focused on social justice and support, and advocate for our clients, who are culturally and linguistically diverse, and come from the most vulnerable and marginalised sectors of our community. They include First Nation people, refugees and those with disabilities, mental illness, and financial disadvantage. We do our best to support the community we work with to promote, protect, and preserve their legal and human rights.

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TASC Legal and Social Justice Services welcomes the opportunity to provide a submission to the Community Safety and Legal Affairs Committee in relation to the consideration of the Queensland Community Safety Bill 2024.

Insufficient Timeframe for Submissions

A meaningful submission contributing to legislative change and law reform requires the analysis of extensive and stringent research, reliable and credible data and statistics, and ample time for consideration, reflection, and recommendation. TASC recognises and seeks the Committees understanding, that the provided timeframe for submissions is vastly inadequate weighed against the necessary time required, to traverse the voluminous quantity and variable quality of information, and previous reports, to form conclusive, significant, recommendations.

Some of the proposed legislative changes in the *Queensland Community Safety Bill 2024*, were previously considered at length by the Legal Affairs and Community Safety Committee for the *Youth Justice and Other Legislation Amendment Bill 2015*.¹ The lead time for consultative process and submissions on that was six weeks, allowing for the opinion of a broad range of stakeholders, with notable experience working, caring, and advocating for children and young adults. This appropriate deadline for submissions allowed for thoughtful, evidence-based, responses to the Committee, who were in turn afforded significantly more time to table their report.

The current consultative process for this *Queensland Community Safety Bill 2024*, allows only ten days to submission, and less than one month, for the Committee to table their report. TASC has significant concerns with respect to both the quantity and quality of recommendations able to be provided and considered by the Committee under such time constraints.

Human Rights

¹ Parliamentary Committees, "Youth Justice and Other Legislation Amendment Bill 2015" (Legal Affairs and Community Safety Committee, Report 22, March 2016).

The proposed changes which the Committee is tasked to consider involves our most vulnerable citizens, children, and as such, should take the responsibility to consider their human rights very seriously. The Australian Human Rights Commission recognises that not only are children and young people entitled to the inalienable rights laid out in the Universal Declaration of Human Rights, they require additional, special, protection, to assist them in developing to their full potential in adulthood.² The Convention on the Rights of the Child provides those extra protections for children and young people, such as the right to live and grow up healthy, the right to education, and, importantly and relevantly to this issue, the right to be treated fairly, and to have a say about decisions that affect them.³

1. Recording Youth Detainee Phone Calls

TASC supports the protection of the community from harm and work in hand with victims of crime to ensure they are protected from further harm. However, the rights of youth must also be taken into account. Article 16 of the United Nations Convention on the Rights of Child (the “Convention”) states:

“1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

Australia is a signatory to this convention and has ratified as law⁴ and is required to comply with them. The status of these rights is seen under section 25a of the *Human Rights Act 2019* (Qld) where all persons have the right to not have their right privacy or correspondence unlawfully or arbitrarily interfered with.

² The Australian Human Rights Commission, “What are Children’s Rights” (Australian Human Rights Commission, Education) [What are Children's Rights? | Australian Human Rights Commission](#).

³ Ibid.

⁴ United Nations Treaty Collection, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4.

It is firmly rejected that the correspondence of youth be monitored, and the position of TASC is that the monitoring of the phone calls of children is contrary to the Charter of Youth Justice Principles⁵ (“the Charter”). The second principle of the Charter states the youth justice system should “*uphold the rights of children, keep them safe and promote their physical and mental wellbeing*”. Should the Government continue with its’ plan to monitor children then it is unclear how the principles of the Charter are being upheld. Furthermore, formulating trust and a relationship in custodial settings between children and staff is a strategy which the government should focus on, as an understanding of youth in custody enables staff to better identify the risks, issues and needs of those children⁶. Whether youth in detention can formulate trust with youth detention employees when they believe they are monitoring their personal phone calls, is questionable and the writer believes this will not contribute to the rehabilitation of youth in detention.

2. Expanded Bail Requirements

As previously advised, Qld is required by law under the *Human Rights Act 2019* (Qld) to protect the rights of adults and children. Section 29(2) of the *Human Rights Act 2019* (Qld) provides a person must not be subject to arbitrary arrest or attention and article 37 of the Convention provides enshrines the same right if not further expanded. Queensland is bound to protect and enshrine these rights under law.

The Government’s continuing reform of youth justice legislations represents either a misunderstanding, ignorance or complete disregard of the rights of children to not be subject to arrest arbitrary. The focus on keeping children in custody as a deterrent to crime is incorrect as it does not decrease recidivism and keeping people out prison does not increase recidivism⁷. Therefore, it is unclear what evidence is driving the decision to restrict bail for youth.

⁵ *Youth Justice Act 1992* (Qld), schedule 1.

⁶ Oostermeijer, S, Tongun, P, Johns, D, 2024, Relational security: Balancing care and control in a youth justice detention setting in Australia, Volume 156, 107312, p2.

⁷ Muntingh, L, 2008, *Punishment and Deterrence*, SA Crime Quarterly No.26, pp 3, 6-7.



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The Government must refocus its' efforts on rehabilitation as it has the biggest impact on reducing recidivism⁸. The focus of the Government should be why it is unsafe for youth to be released, rather than simply legislation they should be placed in custody should support be lacking to facilitate their release. It is the responsibility of the Government to protect children and their rights under the law and to not implement quick and populist policies which will not benefit the community.

TASC recommends:

1. TASC recommends the Government reconsider its' plans to monitor children in detention.
2. TASC recommends the Government reconsider its militant response to the media reported youth crime wave and that they return to the position of youth rehabilitation as they held when elected in 2015.

Amendments to the Domestic and Family Violence Protection Act 2012

Enable police to nominate the first mention date of a police protection notice.

To impose a Police Protection Notice for extended periods of time, unnecessarily delays the matter, as the Magistrates Courts has the power to hear these matters urgently. Should there be concerns around the Courts being able to hear domestic violence matters, then a solution should include Court resources being expanded to allow matters to be heard more expeditiously.

Police Protection Notices, which can, restrict contact to children, or oust a respondent from a particular place of residence, may be necessary, however, it should be the determination of the Court to decide whether this should occur other than for a short-term period.

⁸ Howells, K and Day, A, 1999, Australian Institute of Criminology, *The rehabilitation of offenders : international perspectives applied to Australian correctional systems*, No. 112, p 1-2.

Our Government needs to ensure the Executive Branch is not avoiding the oversight of the Judiciary by not bringing matters forth in a timely manner. A failure to do so not only infringe on the rights of all parties to ensure matters are heard promptly, but also to ensure the Judiciary is able to effectively oversee the law and to ensure compliance.

TASC recommends; further consultation and investigation before this proposed legislative change occurs.

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