

Disability Services (Restrictive Practices) and Other Legislation Amendment Bill 2024

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5 July 2024

Adrian Tantari MP
Chair
Community Support and Services Committee
Parliament House
George Street
Brisbane Qld 4000

Dear Mr Tantari,

**re: Disability Services (Restrictive Practices) and Other Legislation Amendment Bill 2024
(‘the Bill’).**

The Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) is the peak body representing thirty-eight (38) Queensland Aboriginal and Torres Strait Islander community-controlled child and youth support organisations in Queensland. In May 2024, QATSICPP was announced as the new Youth Justice Peak Body for Queensland. Our members dedicate their time to ensure that Aboriginal and Torres Strait Islander children and young people in Queensland can grow up physically, emotionally and spiritually strong and live in safe, caring and nurturing environments within their own families and communities. A commitment to upholding human rights is critical to ensuring the health, safety and wellbeing of all children and families in Queensland.

QATSICPP supports the reduction and elimination of the use of restrictive practices on people with disability who are receiving services from the National Disability Insurance Scheme (NDIS), or state disability services under the Disability Services Act 2006 (DS Act), and agrees that Queensland’s restrictive practices authorisation should be aligned with the NDIS (Restrictive Practices and Behaviour Support) Rules 2018.

We seek greater clarity in the explanatory notes that the implementation of this Bill and its regulation will apply to the justice system.

As highlighted by the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (DRC), restrictive practices are used too often and sometimes inappropriately. We agree with comments made by Minister Charis Mullens that restrictive practices “*can have substantial impacts on the rights and freedoms as well as the physical and emotional wellbeing of the person.*”ⁱ It is important to note that the DRC made particular reference to the over representation of First Nations people with cognitive disability, particularly in youth detention.

There were many heartbreaking stories from Aboriginal and Torres Strait Islander people within the DRC report, with many sharing stories of violence, abuse, harm that had occurred to them from within child protection and juvenile justice settings.

Dr Marshall Watson, Consultant Child and Adolescent Forensic Psychiatrist, observed that “*developmental trauma affects the majority if not all young First Nations people in custody.*”ⁱⁱ



Research conducted by the DRC on children with disability at the intersection of child protection and youth justice systems also concluded that neuro-disability and complex trauma were the most common disabilities seen among children in child protection systems who experience criminalisation. Unfortunately, many of these children were Aboriginal and Torres Strait Islander. We know that children with disability in youth detention have complex needs and are likely to have experienced multiple traumas. They are exposed to an increased risk of violence, abuse, neglect and exploitation while in detention.

Over the last three years (2020-2023), the rate of Queensland's Aboriginal and Torres Strait Islander children and young people in detention have increased by 40 percent (from 32.7 per 10,000 to 46 per 10,000), and of the children who are currently within detention, 44 percent have an assessed or suspected disability.ⁱⁱⁱ

We support the intent of the Bill to reduce the use of restrictive practices on children and seek clarification on whether this will also apply to children in the youth justice system. Additionally, QATSICPP would like assurance that if restrictive practices are deemed necessary for First Nations children, that the authorisation to use them should only be made by an appropriately qualified Aboriginal and Torres Strait Islander senior practitioner, or at the least, a non-Indigenous senior practitioner under the guidance of an Aboriginal and Torres Strait Islander person.

In conclusion, QATSICPP supports the Disability Services (Restrictive Practices) and Other Legislation Amendment Bill 2024 (the Bill) and welcomes its aim to improve safeguards for Queenslanders with disability where restrictive practices are required. However, we ask for reassurance that this legislation will apply to children with a disability in the youth justice system.

We look forward to the further development and implementation of the Bill as a meaningful way to improve the human rights of people with disability, ensuring the legislation applies to all Queenslanders, particularly our most vulnerable.

Sincerely,



Chief Executive Officer

ⁱ https://documents.parliament.qld.gov.au/events/han/2024/2024_06_14_WEEKLY.pdf#page=52 p:2369

ⁱⁱ <https://disability.royalcommission.gov.au/publications/final-report-volume-9-first-nations-people-disability> p: 141.

ⁱⁱⁱ <https://www.aihw.gov.au/reports/australias-welfare/youth-justice>;
https://desbt.qld.gov.au/_data/assets/pdf_file/0019/23581/yj-pocket-stats-2024.pdf