

## **Inquiry into the Decriminalisation of Certain Public Offences, and Health and Welfare Responses**

**Submission No:** 30

**Submitted by:** Queensland Family & Child Commission

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**Submitter Comments:**

**Submitter Recommendations:**

# Queensland Family & Child Commission



Telephone: 07 3900 6000  
Reference: OoC – TF22/625 – D22/13278

Ms Corrine McMillan MP  
Member for Mansfield  
Chair  
Community Support and Services Committee  
Parliament House, George Street  
BRISBANE QLD 4000

Dear Ms McMillan MP

The Queensland Family & Child Commission (QFCC) welcomes the opportunity to provide a submission to the Community Support and Services Committee's Inquiry (the Inquiry) into decriminalisation of being intoxicated in a public place, begging in a public place and urinating in a public place (the three offences), and health and social welfare-based responses.

The QFCC is a statutory body of the Queensland Government responsible for promoting the safety, wellbeing and best interests of children, young people and their families.<sup>i</sup> This includes advocating for the voices of children to be heard and their views to be taken into consideration in all decisions affecting them.<sup>ii</sup>

## **Decriminalising public intoxication, begging and public urination**

The QFCC supports the three offences being decriminalised. The QFCC notes the harm that public drunkenness and public urination can have on children and their families. Children do not want to grow up in unsafe communities.

The QFCC encourages the Committee to hear from children and young people whilst conducting its Inquiry. Children and young people are an invaluable source of information on the issues that impact them. The QFCC has spoken with our Youth Advisory Council (YAC) about specific issues raised in the Inquiry.

YAC members were of the view that:

- The offence of begging should be decriminalised as this offence does not reflect the supportive society children and young people want to live in.

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- The offence of intoxication should be decriminalised provided responses are balanced with the need to maintain the safety of the community and the intoxicated person.
- Vaping is one issue which is increasingly impacting on children and young people and YAC members believe offences related to vaping should also have health and social welfare-based responses for the children and young people who engage in this behaviour:
  - YAC members reported police have been called out to attend schools in response to vaping allegations. However, this was not considered to be a meaningful or effective response; and
  - the Committee is asked to consider this issue in the context of the term of reference 'g' as it is relevant to the 'other drugs' component of this term.
- Messaging which simply says drinking alcohol, vaping or using other drugs is 'illegal' does not deter children away from these kinds of behaviours.
- Health and social-welfare responses which would assist children and young people include:
  - educational programs which explain the health impacts of alcohol and other drugs (including tobacco and marijuana associated with vaping) and the consequences of intoxication in the short term (for example the impacts on decision-making ability and physical functioning) and in the long term (the impacts on a person's health with regular or long term use);
  - education, information and support for children and young people to help them transition out of using alcohol, vaping or other drugs;
  - peer support to help children and young people overcome issues relating to the use of alcohol, vaping and other drugs; and
  - increased ability for young people in rural and regional areas to access support and information, both in person and online.
- Health and social welfare-based responses for children and young people should be designed in consultation with children and young people to effectively address their needs.

In terms of children coming before the Childrens Courts charged with any of the three offences, the Queensland Sentencing Information Service shows the following sentence outcomes following a plea of guilty:<sup>iii</sup>



Offence	Total Cases	Penalty	Indigenous status if known
Urinating in a public place	2	Both received a reprimand	1 Indigenous 1 non-Indigenous
Begging in a public place	1	Reprimand	1 Indigenous
Being drunk in a public place	12	10 x Reprimand 1 x Good Behaviour Order 1 x Probation with no conviction recorded	3 Indigenous 9 unknown
Total	15		5 Indigenous 10 non-Indigenous or unknown

These numbers, when compared to the charge data provided by the [Queensland Police Service's Answers to Questions taken on notice](#) suggest a large proportion of charges do not proceed to a final Court outcome, however, this does show children are having contact with the criminal justice system for minor offences.

Research shows the most effective way to improve outcomes for youth offending is to take a preventative and supportive approach, rather than a criminal justice response.<sup>iv</sup>

The QFCC has previously identified future opportunities for the Federal and State Governments to improve the youth justice system's responses to children, which include:

- the youth justice system would be more effective in improving the lives of vulnerable children and keeping the community safe if it viewed at-risk young people through a rights and well-being, rather than a criminal lens; and
- governments (both state and federal) need to make long-term, outcomes-based investments in prevention and early intervention in the health of children and families, with regular review points. Investment should not be siloed by agency but shift to person-centred care.<sup>v</sup>

It is also important to ensure decriminalisation of the three offences does not result in the unintended consequence of police exercising their discretion to charge the more serious offence of 'commit public nuisance' (which can also include behaviour such as public intoxication, begging or urinating in a public place).

The offence of public nuisance can attract a period of detention whereas the offences of being intoxicated in a public place and urinating in a public place are not punishable by imprisonment.

To ensure this does not occur, the Committee should consider police charging practices as part of its deliberations.

During the Committee's Public Briefing on 12 July 2022, diversion centres were discussed as a safe place for people to sober up and get support, however the Queensland Police Service informed the Committee that any person under 18 are not accepted at diversion centres.<sup>vi</sup> The QFCC is concerned that children will continue to be transferred to watchhouses when no other place of safety is identified.<sup>vii</sup>

Prior to the announcement of the Inquiry, the QFCC heard from stakeholders about the challenges children and young people face regarding alcohol and other drugs. The QFCC was told there is a lack of acute support for adolescent mental health and drug and alcohol recovery.<sup>viii</sup> In addition, we were told about the lack of public inpatient facilities for drug and alcohol rehabilitation for children in regional areas and in remote Indigenous communities.<sup>ix</sup> We anticipate the capacity of these services will need to be increased.

Aboriginal and Torres Strait Islander people are disproportionately impacted and overrepresented in the three offences being examined by the Committee.<sup>x</sup> Queensland Health stated in their briefing paper to the Committee that co-design with Aboriginal and Torres Strait Islander people is needed to develop meaningful and sustainable responses.<sup>xi</sup> The QFCC agrees with this approach and believes health and social welfare-based responses must be culturally safe and should be co-designed and developed by Aboriginal and Torres Strait Islander peoples.

If the Committee has any queries in relation to this submission, they may contact me on 07 3900 6000 or at [REDACTED].

Yours sincerely



**Luke Twyford**  
Principal Commissioner  
Queensland Family & Child Commission



**Natalie Lewis**  
Commissioner  
Queensland Family & Child Commission

<sup>i</sup> *Family and Child Commission Act 2014* (Qld), s.4.

<sup>ii</sup> United Nations 1989, *Convention on the Rights of the Child*, Article 12 accessed 11 August 2022  
<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>iii</sup> For the period November 2017 to October 2021

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<sup>iv</sup> Queensland Family and Child Commission, *Changing the Sentence Overseeing Queensland's youth justice reforms*, p. 4 accessed 15 August 2022 <https://www.qfcc.qld.gov.au/sites/default/files/2022-06/QFCC%20Changing%20the%20Sentence%20lo%20res%20spreads.pdf>

<sup>v</sup> Ibid, p.8.

<sup>vi</sup> Community Support and Services Committee, *Public Briefing – Inquiry into the decriminalisation of certain public offences and the health and welfare responses – Transcript of Proceedings Tuesday 12 July 2022*, p. 4 and 17 accessed 12 August 2022 <https://documents.parliament.qld.gov.au/com/CSSC-0A12/IDCPOHWR-FA50/Transcript%20-%202012%20July%202022%20-%20CSSC%20-%20Briefing%20-%20Inquiry%20into%20the%20decriminalisation%20of%20certain%20public%20offences%20and%20health%20and%20welfare%20responses.pdf>

<sup>vii</sup> Ibid, p. 2 and 3.

<sup>viii</sup> Queensland Family and Child Commission, *Changing the Sentence Overseeing Queensland's youth justice reforms*, p. 56 accessed 12 August 2022 <https://www.qfcc.qld.gov.au/sites/default/files/2022-06/QFCC%20Changing%20the%20Sentence%20lo%20res%20spreads.pdf>

<sup>ix</sup> Ibid, p. 83.

<sup>x</sup> Community Support and Services Committee, *Public Briefing – Inquiry into the decriminalisation of certain public offences and the health and welfare responses – Transcript of Proceedings Tuesday 12 July 2022*, p. 4, 9-10.

<sup>xi</sup> Queensland Health, *Briefing Paper – Queensland Health – 11 July 2022*, p. 2 accessed 12 August 2022 <https://documents.parliament.qld.gov.au/com/CSSC-0A12/IDCPOHWR-FA50/Correspondence%20%20E2%80%93%20Queensland%20Health%20-%202011%20July%202022.pdf>

## Attachment 1

### Queensland Family and Child Commission's Youth Advisory Council (YAC) Feedback

YAC members were of the view:

- The offence of begging should be decriminalised as this offence does not reflect the supportive society children and young people want to live in.
- The offence of intoxication should be decriminalised provided responses are balanced with the need to maintain the safety of the community and the intoxicated person.
- Vaping is one issue which is increasingly impacting on children and young people and YAC members believe offences related to vaping should also have health and social welfare-based responses for the children and young people who engage in this behaviour.

YAC members reported police have been called out to attend schools in response to vaping allegations. However, this was not considered to be a meaningful or effective response.

The Committee is asked to consider this issue in the context of the term of reference 'g' as it is relevant to the 'other drugs' component of this term.

- Messaging which simply says drinking alcohol, vaping or using other drugs is 'illegal' does nothing to deter children away from these kinds of behaviours.
- Health and social-welfare responses which would assist children and young people include:
  - Educational programs which explain the health impacts of alcohol and other drugs (including tobacco and marijuana associated with vaping) and the consequences of intoxication in the short term (for example the impacts on decision making ability and physical functioning) and in the long term (the impacts on a person's health with regular or long term use).
  - Education, information and support for children and young people to help them transition out of using alcohol, vaping or other drug.
  - Peer support to help children and young people overcome issues relating to the use of alcohol, vaping and other drugs.
  - Increased ability for young people in rural and regional areas to access support and information, both in person and online.
- Health and social welfare-based responses for children and young people should be designed in consultation with children and young people to effectively address their needs.

## CSSC Parliamentary Committee Inquiry

### Offences to consider for decriminalisation

Offence	Reference	Comment
<b>Parliamentary Committee's terms of reference</b>		
Being intoxicated in a public place	Section 10 <i>Summary Offences Act 2005</i>	Stated in Parliamentary Committee's terms of reference
Begging in a public place	Section 8 <i>Summary Offences Act 2005</i>	Stated in Parliamentary Committee's terms of reference
<b>Other offences linked to intoxication and begging offences</b>		
Urinating in a public place	Section 7 <i>Summary Offences Act 2005</i>	Discussed during public briefing on 12 July 2022 however not stated in Parliamentary Committee's terms of reference
<b>Similar offences impacting children and young people</b>		
Fare evasion	Section 218C <i>Transport operations (Passenger Transport) Regulation 2018</i>	
Public nuisance (disorderly conduct, offensive conduct)	Section 6 <i>Summary Offences Act 2005</i> Section 6(2)(a)(i) – disorderly conduct Section 6(2)(a)(ii) – offensive conduct	315 offences for disorderly conduct and 224 offences for offensive conduct reported to have proceeded by way of restorative justice conference in 2020-21 period according to Children's Court Annual <a href="#">Report</a> p25  'Public order offences' for children finalised in court – higher court 37 proven, 1 not proven; lower court 2,973 proven, 480 not proven according to QGSO Justice <a href="#">Report</a> 2020-21 p53  Appearances by children with Indigenous status 'public order offences' 160 were Aboriginal and/or Torres Strait Islander, 198 were not Indigenous and 5 did not state a status according to QGSO Justice <a href="#">Report</a> p69



**Youth support services in diversion centre locations**

Public intoxicating services include: cell visitor service (in correction centre), diversion centre, community patrol, reducing demand (culturally appropriate activities and support), managing public intoxication program (case management and outreach support) – these services are adult only and not available for children (see Department of Communities, Housing and Digital Economy [briefing paper](#))

Name	Relevant services offered	Comment
<b>Brisbane</b>		
<b>Caboolture/Sunshine Coast</b>		
<b>Cairns</b>		
Youth Empowered Towards Independence (YETI)	<ul style="list-style-type: none"> <li>• Drug and alcohol counselling (including remote support for those in Cape York and Torres Strait)</li> <li>• Youth support</li> <li>• Day program (drop in space)</li> <li>• Next Step Plus (transition to independent from care support)</li> <li>• Stronger Together (crime prevention initiative for at risk youth)</li> <li>• Just North (addressing volatile substance use)</li> <li>• Just North: Schools Up North (youth mental health capacity building)</li> <li>• SSAY-IT (support for LGBTQI+ young people)</li> <li>• Cairns and Yarrabah Youth Bail Support Service</li> </ul>	<a href="https://www.yeti.net.au/index.php">https://www.yeti.net.au/index.php</a>
<b>Mackay</b>		

<b>Mount Isa</b>		
<b>Palm Island</b>		
<b>Rockhampton</b>		
Darumbal Community Youth Service Inc.	<ul style="list-style-type: none"> <li>• Reconnect (case management and support for youth at risk of homelessness)</li> <li>• Budaroo House (supported accommodation for youth)</li> <li>• Darderrhi: Indigenous Youth Alcohol and Drug Treatment Service</li> <li>• Walali Bili</li> <li>• After-hours service and drop-in centre</li> </ul>	<a href="https://darumbal.org.au/">https://darumbal.org.au/</a>
<b>Townsville</b>		
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