Youth Justice (Electronic Monitoring) Amendment Bill 2025

Submission No: 029
Submission By: Community Justice Action Group Inc.
Publication: Making the submission and your name public

"Re-Imagining the Common Good"
Queensland

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20th January 2026

Tabled by: Aaron McLeod, CJAG
At: Cairns Public Hearing
Time/date: 21/1/26, 10.36 AM
Signature:

Chairman
Education, Arts and Communities Committee
Queensland Parliament
Cnr George and Alice Streets
Brisbane Qld 4000

Dear Chairman,

Submission to the Chairman, Education, Arts and Communities Committee Queensland Parliament
Re: Youth Justice (Electronic Monitoring) Amendment Bill 2026

Thank you for the opportunity to submit on the Youth Justice (Electronic Monitoring) Amendment Bill 2025. CJAG represents victims, survivors and communities demanding evidence-based measures that genuinely protect the public from youth reoffending.

The Bill seeks to make electronic monitoring devices (EMDs) a permanent bail condition and significantly expand eligibility. While the Nous Group evaluation shows EMDs can improve bail completion and modestly reduce reoffending in carefully selected cases (63% reoffending rate versus 81% in the comparison group), these figures still mean **nearly two in three** monitored young people reoffend, above the **two in four threshold** to reduce offender populations.

Scaling the program as intended would ensure sustainable reoffending and expose far more victims and innocent people to preventable harm.

Core Concerns

1. **High residual risk is unacceptable**
   A 63% reoffending rate under "virtual custody" is not a success story—it is evidence of ongoing danger to the community. Simple extrapolation from the trial (114 reoffending episodes from 139 orders) suggests that expanding participants could produce increasing levels of victimisation, especially as **bail creep** warms through the courts with a renewed appetite of unacceptable risk (community safety) mitigation by virtual EMD supervision as a condition.

   Equity quoters, court operational KPIs and the filibustering of the Fundamental Legislative Principals in the Legislative Standards of Parliament will drive the rights and liberties of innocent citizens, victims and offender-victims, put at unacceptable risk of self-harm on bail, into a form of executive, and potentially, judicial tyranny upon the community.

   The Committee accepting a 63% reoffending rate (two in three probability) of all EMD conditioned bail orders has a direct and intentional vicarious liberty impact on the community and a person's right to feel safe, and enjoy the liberty of having privacy protected from such overreach of executive powers.

   This Bill, if accepted, could potentially fail the "sufficient regard of liberties" test in law, by removing technological usage limitations and adopting a regime of executive assessment processes exclusively, explicitly expanding bail conditions and harmful reoffending stocks under State supervision and control with serious and inappropriate consequences on innocent people, victims and offender-victims.

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This blatant disregard of human life and liberty could be perceived as a wilful political attack on peaceful citizenry by a government weaponising parliamentary standards in a partnership of judicial and executive branches of the government against its own vulnerable citizens.

Unfortunately, the UNCRC and Beijing Rules and the Human Rights Act, insofar as protecting the rights of victims and innocent people, has no standing in the context of being community safety subjects impacted by declaration of The Honourable, Laura Gerber MP in the Minister's Statement of Compatibility tendered to the Committee.

The rights of the child however, are afforded all protections absolutely, while by misfortunate of foreign treaty protocols, this Bill presents further evidence that community safety is out of scope, context, risk assessment and sensitivity of innocent citizens in the political and legal compliance interests of the Minister and chief executive of Youth Justice.

This EMD policy framework and proposed Bill enshrining a corporate executive power as a fiduciary proxy of the State, namely the chief executive, tempting and tendering effectively of form arrangement or contract with the Courts, presents a perceived "soft corruption" risk exposure to bribery, extortion, personal beneficial interest or fraud by the parties, that also puts sovereign risk factors in view of integrity, in and of the separations of power in the Constitution.

Therefore, this Bill, if approved by the Committee, is a serious breach of the Human Rights Act and may become a matter of High Court writ and claim for compensation from the victims of a trojan form of State-sponsored terror, intentionally imposed on the domestic population.

This is not enhanced community safety; it is ostensibly incompetent or deliberate by intent of increasing unacceptable community risk, motivated by masking governance accountability, with all due respect, in Cabinet, Youth Justice chief executive commercial-in-confidence protocols, Children's Court president's and Chief Magistrate's chambers.

No derogatory or legal claims intended.

2. **Custody remains the only reliable way to eliminate situational risk**
The Bill conspicuously omits custody as a legitimate response to unacceptable risk. Instead, it entrusts secretive departmental suitability assessments—controlled by the Chief Executive and Director-General—to decide who receives virtual supervision rather than custody.

This bureaucratic gatekeeping substitutes judicial discretion with executive preference, creating a direct conflict between departmental incentives and public safety (perceived conflict of interest), and it risks further degradation of the public's trust in judicial authority, the validity of the rule of law and justice as cornerstone values of a modern society.

3. **Bail creep will follow expanded eligibility**
Magistrates already favour rehabilitation and EMDs plus wrap-around services as "supervision." The Statement of Compatibility explicitly requires the EMD to act as "supervision" in order that the human rights of the child are adhered to. Removing limits on eligibility will result in net-widening: more high-risk young people released into the community who would previously have been remanded.

The inevitable outcome is more victims, and most pertinent of all, the offender-victim nexus well known in criminology literature, would inevitable persist thereby growing offender populations.

4. **Prior "keep out of custody" policies proved disastrous**
Between 2019 and 2023, statutory and regulatory aversion to custody saw serious youth recidivism rise from the 300s to the 500s, while more than 30 innocent Queenslanders—including 14-year-old Cairns boy, Bradley Smith and the Garbutt Four of the same youthful ages in Townsville—lost their lives.

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Repeating the same philosophy under a new technological label is reckless and unconscionable in a population that emphatically rejected that "keep out of custody" youth justice strategy in the 2025 Queensland ballot.

Queenslanders set the ALARP (as low as reasonably practical) unacceptable risk definition for Community Safety by this ballot - Enough is Enough, Every Victim is Important, Everyone Deserves to Feel Safe and Zero Tolerance for Crime.

5. **EMDs depend entirely on intensive (and expensive) human intervention**
The Nous Report confirms EMDs achieve nothing without daily co-responder visits and wrap-around services. Far from reducing costs or correctional beds, the model expands public-sector intervention roles while failing to deliver equivalent community-safety outcomes.

Conclusion and Recommendation

Community safety and victim protection must be paramount. A tool that still permits reoffending in the majority of cases cannot responsibly replace custody for high-risk youth.

The Bill, as presently drafted, risks repeating the failures of the recent past by increasing community exposure to reoffending under the guise of innovation.

CJAG therefore urges the Committee to recommend that the Bill be amended, or not passed, unless it includes:

- strict legislative limits on eligibility (excluding repeat and high-risk categories);
- mandatory judicial—not departmental—determination of suitability; as courts are open to victims and media review unlike the unaccountable department agencies protected by Cabinet secrecy
- explicit recognition that custody, the context of CJAG's novel **sentencing bargaining** and custody innovation model (see submission to Making Queensland Safer Bill), remains the primary means of eliminating and mitigating unacceptable risk;
- full transparency of assessment criteria and outcomes to victims under the Charter of Victims' Rights
- mandatory parliamentary review every 12 months, including statutory reporting by Queensland Treasury and the Statisticians Office on the **Gross Domestic Victim Impact** captured from existing police, courts and corrections inflows and outflows that enables the indexing of the offender-victim nexus and inmate population thresholds.

Only these safeguards can prevent the legislation from becoming another chapter in Queensland's tragic history of underestimating youth recidivism at the expense of innocent citizens and victim-survivors.

We stand ready to provide further evidence or appear if required.
Yours sincerely,

[redacted]

Aaron McLeod
President
Ph: 0414590110

Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025

Submission No:	14
Submitted by:	Community Justice Action Group
Publication:	Making the submission and your name public
Attachments:	See attachment

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15th April 2025

Chairperson
Justice, Integrity and Community Safety Parliamentary Committee
Parliament House
George Street
Brisbane Qld 4000

Dear Mr Martin Hunt MP,

I hereby tender this letter my submission to the Justice, Integrity and Community Safety parliamentary Committee on the Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025.

With respect to the Adult Crime, Adult Time and Making Queensland Safer initiatives of the government, CJAG is favourable to the inclusion of higher adult penalties being applied in the proposed 33 offences in the Youth Justice Act.

These policies and proposed legislative changes are consistent with our long-standing crime prevention plan - priorities and policies. In particular priority 5 - "Justice for Individual Victims". Our policy is as follows;

> "5.1 Deliver in law the definition of 'serious offence' for youth offenders modelled on the existing Criminal Code for adult offenders. serving as a necessary deterrent for youth offenders committing indictable unlawful entry of a home or business, unlawful use of motor vehicle, assault causing grievous bodily harm. sexual assault, rape, armed robbery. manslaughter and murder."

This policy has been derived from contributions and feedback from our extensive reach with supporters and members in regional Queensland, including the 36,000 members on our social media platforms, hundreds of ordinary members, surveys of over 500 victims of crime and the consistent and committed leadership of the CJAG Management Committee.

Further reference to the priorities and policies of our crime prevention plan can be obtained at the following website:

https://cjag.org.au/our-crime-prevention-plan/

Our management committee has championed these proposed changes to the criminal code for serious youth offenders for over 4 years.

We are pleased that the government has listened to the voices of our members and the leadership team by introducing legislation that acknowledges our priority of justice for individual victims.

However, an increased penalty deterrent alone is not enough. The sentencing provision in law are needing further amendment to those proposed in the parliamentary committee's briefing paper and explanatory notes.

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That's why CJAG's public service and parent accountability priorities, and youth rehabilitation priority, needs legislative responses from government as keys to a broader strategic framework of youth justice reforms to make Queensland safer.

In particular, our Youth Restoration and Rehabilitation Academy (YRRA) policy goes hand in glove with the higher adult penalty and sentencing standards for serious youth offenders.

Within the context of this youth rehabilitation policy, two further amendments are needed in our opinion. And they are; the adoption of a "presumptive maximum penalty" or "alternative maximum sentence" in section 150 of the Youth Justice Act, and the implementation of the "Little Scandinavia" program model, a responsibility-centred offender re-entry model designed for modern detention facilities and education programs.

This detention education and rehabilitation model is a relatively fail-safe rehabilitation program that eliminates the recidivism risk of community-based court orders applicable to indictable offences.

Community safety is structurally designed into the presumptive maximum sentencing provisions, instead of being an aspiration in the definition of sentencing principles currently applied by judges, many of whom have lost the confidence of the ordinary person, that the presumption of certainty would be favourable to the public interest.

A substantial body of public interest comments pertaining to magistrates, judges and justices' sentencing decisions can be found at the following website:

https://www.facebook.com/cjagnq

The YRRA program also aims to maximise transformative behaviours in serious youth offenders as a mitigation to recidivism, upon the inevitable re-entry of the detainee into community, at the conclusion of their sentence.

The YRRA Program also provides a safeguard to children that would otherwise put themselves at risk in community under supervision of the courts, prescribed officers and corrective services staff implementing orders of the court. With youth recidivism rates quite high in Queensland, the current rehabilitation approach is either ineffective, especially under remand conditions, or lacks a prescriptive regime of diagnostics, coaching and mentoring in an adequately controlled yet progressively expansive domestic environment, that is empowering of individual responsibility.

It is anticipated that the controversial role of parole boards would become minimised with an emphasis on a new or enhanced administrative model of parole, or engagement of sentencing mitigation assessors, being carried out by local responsibility-centred detainee review panels.

It is a sad indictment on the parliament and the legal fraternity, but every Commissioner appointed by parliament to review the parole board have criticised the previous commissioner's undertakings for reform, including the latest review carried out by Mr Walter Sofronoff QC in November 2016.

In this progressively hard to soft detention rehabilitation model, reduced sentences and mitigated penalties are goal settings for detainees based on strict performance criteria across a spectrum of objective psycho-social and scientific measures focused on rewards and positive reinforcements. Yet the deterrent factor from an inbound offender's perspective towards a maximum sentence presumption presents a powerful pull factor in driving better crime prevention outcomes.

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Complex health supports must be concentrated in the program to treat patients with mental and physical health constraints and afflictions, to the determination of the proposed local detainee review panel, that the offender must meet the safeguards and fail-safe standards in qualifications for re-entry into community, and yield the rewards of progressive accommodations within the detention centre through the course of education.

Provision for a new court order, applicable to a serious repeat offender and the offences listed in 175a, should be added in Section 175 and 176 pertaining to a responsibility-centred rehabilitation order in detention empowered by the presumptive maximum sentencing option for magistrates and judges.

(See attached briefing letter to the Director General of youth Justice and Victim Support on the Little Scandinavia Program)

As this multi-functional reform program requires highly skilled and effective resourcing in corrective services, youth justice, DJAG, police, housing and health public services, the threshold of accountability within the various Public Service Acts should be changed from a "negligence" to a malfeasance standard.

In the absence of private enterprise managing youth detention (which we do not recommend), this public service reform is necessary to meet the overwhelming challenge of supervising serious youth offender behaviours within a secure rehabilitation framework that ensures community safety and treats detainees with optimum compassion. dignity and respect.

This responsibility-centred sentencing model must apply high standards of assurance that the core mentoring, coaching and discipline is delivered within the detention facility and education programs architecture.

A robust public service performance management framework is essential, backed up by a pathway of accountability to independent judicial oversight, where the threshold for civil proceedings better meets the public interest at a malfeasance standard, while the current parliamentary committee and public service protection chamber presents unsatisfactory risks of jerrymandering, filibustering and gaslighting corruption.

I trust this outlines a quick summary of the Community Justice Action Group's priority areas and policy positions for your information, which we hope could help in our advocacy for victims of crime, CJAG members and the community for whom we support voluntarily to improve safety and liveability in our neighbourhoods.

If you seek clarification or wish to discuss our submission, please let me know so I can be of further assistance.

[redacted]

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4th March 2025

Robert Gee
Director General
Department of Youth Justice and Victim Support
Queensland Government

Re: Little Scandinavia Prison Program

Dear ~~Mr Gee~~ Bob,

Thank you for your time meeting with myself and the Honourable Minister Laura Gerber in Cairns on 2nd March 2025.

As discussed, I am writing to present an overview of the "Little Scandinavia" prison program that I referenced at my deputation meeting with you at Brother Leagues Club in Cairns.

We believe this prison program is an innovative correctional initiative originating in the United States, inspired by Norway's penal systems where recidivism is dramatically lower than our youth justice system in Queensland.

This letter outlines, to the extent that public data is available, the program's hypothesis, background, purpose, scope, features, benefits, strengths, weaknesses, threats, opportunities, roles, responsibilities, budget, and current performance, with comparisons to community safety outcomes.

In our opinion, justice reform to sentencing legislation needs to provide underpinning judicial enforcement such that a key principle be adopted of a presumptive maximum or "alternative maximum" for designated serious recidivist offenders who have a history of violent offending.

My aim is to provide you with actionable insights that may inform Queensland's approach to youth justice and victim support, drawing on this pioneering model, and our own anecdotal engagements by the Community Justice Action Group in North Queensland, working pragmatically and respectfully with victims and offenders who themselves are survivors of criminal behaviour.

Hypothesis

The "Little Scandinavia" program is grounded in the thesis that adopting Scandinavian correctional philosophies—emphasizing rehabilitation, human dignity, and normality—can transform the prison experience in a punitive system like that of the United States. It posits that humane conditions, autonomy, responsibility and positive staff-resident relationships can reduce misconduct, enhance wellbeing, and ultimately improve community safety by preparing incarcerated individuals for successful reintegration.

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Background

Conceived in 2019, "Little Scandinavia" emerged from a collaboration between the Pennsylvania Department of Corrections (PA DOC), Drexel University, the University of Oslo, and correctional services in Norway (Kriminalomsorgen), Sweden (Kriminalvården), and Denmark (Kriminalforsorgen). Inspired by Scandinavia's low recidivism rates—approximately 20% in Norway and 30% in Sweden within three years, compared to over 65% in the U.S.—and humane prison conditions, the program sought to adapt these principles to a medium-security facility, State Correctional Institution (SCI) Chester, near Philadelphia. Launched in May 2022 after COVID-19 delays, it reflects a response to the U.S.'s high incarceration rate (629 per 100,000) and punitive culture, contrasting sharply with Norway's rate of 15 per 100,000.

Purpose

The program's purpose is to pilot a rehabilitation-focused model within a U.S. prison, aiming to reduce recidivism, improve staff and resident wellbeing, and provide evidence for broader reform of demonstrated responsibility for community reintegration. It seeks to align with Norway's vision of returning individuals as "good neighbours," enhancing community safety through rehabilitation and responsibility rather than punishment alone.

Scope

"Little Scandinavia" operates within a single housing unit at SCI Chester, accommodating up to 64 male residents (currently 55 as of 2023). Its timeline spans two phases: Phase 1 (2018-2022) involved planning and international exchanges, while Phase 2 (2022-2025) focuses on operations and evaluation. Residents, selected via lottery from the general population, represent diverse backgrounds, ensuring the model's applicability beyond specialised cohorts. Research, led by Drexel University and the University of Oslo, evaluates its impact on prison climate and community outcomes.

Features

The unit features single cells with Nordic-style furnishings, a communal kitchen, a grocery program, laundry facilities, and green spaces with amenities like a fish tank. Operationally, it maintains a high staff-to-resident ratio (1:8 vs. 1:128 in typical units), with officers trained in conflict resolution and rehabilitation support. The "normality" principle underpins daily life, granting residents autonomy in cooking and scheduling, mirroring external community living.

Benefits

For residents, the program fosters responsibility and skills for reintegration, reducing stress and enhancing safety perceptions. Staff report higher job satisfaction and lower stress due to improved interactions. Systemically, it offers potential cost savings through reduced recidivism and a model for reform, contributing to safer communities by lowering re-offense rates.

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Strengths

The program's strengths lie in its innovative design, blending physical and cultural changes, and its evidence-based approach, supported by international expertise. Notably, no violent incidents have occurred since its inception, despite residents' access to kitchen tools. Its adaptability to the U.S. context demonstrates resilience, offering a replicable framework.

Weaknesses

Its small-scale limits broader applicability, and cultural differences—such as the U.S.'s higher crime rates and punitive attitudes—pose challenges. Long-term recidivism data is unavailable due to residents' lengthy sentences (many serving life), and the resource-intensive model may strain scalability without significant investment.

Threats

Funding uncertainties threaten sustainability, with Pennsylvania lawmakers advocating permanence amid budget constraints. Political resistance to perceived "soft" approaches, prevalent in the U.S., could undermine support. Higher U.S. social issues, like poverty and violence, complicate replication, and staff burnout risks emerge from increased responsibilities.

Opportunities

Positive early results suggest opportunities for expansion within Pennsylvania or beyond, potentially influencing Queensland's youth justice strategies. It could professionalise correctional staff training and reduce community crime through lower recidivism, aligning with victim support goals by minimising future harm.

Roles and Responsibilities

The PA DOC oversees implementation and training, while Scandinavian partners provide mentorship. Drexel University and the University of Oslo drive research, collecting data via surveys and observations. Residents participate actively, some as mentors, and funders like Arnold Ventures and the Nordic Research Council support operations and evaluation.

Budget

Initial costs included unit redesign (estimated in the hundreds of thousands) and international exchanges (approximately $100,000+ for 20+ staff). Ongoing expenses reflect a higher staff ratio, likely exceeding the U.S. average of $31,000 per inmate annually, approaching Norway's $93,000 model. Exact figures remain undisclosed, funded by the PA DOC and external grants.

Current Performance Data

As of March 2025, "Little Scandinavia" shows promising results. Serious rule violations (e.g., violence, drug use) have nearly halved compared to control groups, per Synøve Nygaard Andersen's 2024 findings. Qualitative data indicates improved resident focus and staff morale,

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with no violence reported. Recidivism data is pending due to ongoing incarceration, but Pennsylvania's baseline (65% within three years) contrasts with Norway's 20%, suggesting potential community safety gains.

Comparison to Community Safety Results

In Scandinavia, low recidivism correlates with safer communities—Norway's crime rate has remained stable or declined despite reduced incarceration. In the U.S., high recidivism drives persistent crime; Pennsylvania's broader system sees 65% reoffending, impacting victim safety. "Little Scandinavia's" early misconduct reductions hint at safer prison environments, potentially translating to community benefits if scaled, though long-term data is needed.

Academic References

Key studies include:

- Pratt, J. (2008). "Scandinavian Exceptionalism in an Era of Penal Excess" (British Journal of Criminology).
- Andersen, S. N., & Hyatt, J. M. (2022). "The Scandinavian Prison Project" (Nordic Research Council).
- Hyatt, J. M., et al. (2021). "Transforming Correctional Culture" (National Institute of Justice). These works provide foundational and evaluative insights into the program's design and impact.

Conclusion and Recommendation

"Little Scandinavia" offers a compelling case for rethinking incarceration, tackling the re-entry challenge and balancing rehabilitation with community safety.

For Queensland, I recommend considering a pilot adapting these principles—single cells, staff training and detainee autonomy with a responsibility-centred assessment framework—for youth justice detention facilities, preferably in a rural or semi-remote setting.

Partnering with researchers to evaluate outcomes could align with your department's goals of reducing reoffending and supporting victims through your Making our Community Safer Plan.

I welcome the opportunity to discuss our initiatives further in the context of the policy position of the Community Justice Action Group for a Youth Restoration and Rehabilitation Academy (YRRA) outlined in our Crime Prevention Plan.

[redacted]

Aaron McLeod
President
Ph: 0414590110

Tabled: 5/6/25 1.04pm / Tabled with leave: Chair
Tabled by: Aaron McLeod
Doc No. 1
Committee Secretary:
@ Public hearing - QJ(JCAT)AB25)

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Aaron McLeod

Sentence Bargaining – A Transformative Approach to Youth Sentencing in Queensland

Author: Aaron McLeod

Institution: Community Justice Action Group

Date: 15th April 2025

Below is a detailed thesis paper on the proposed innovative concept of "sentence bargaining" for serious recidivist offenders in the context of Queensland's youth justice system. The paper explores its foundation in plea bargaining, introduces two distinct sentencing options for youth offenders, and integrates principles from the Little Scandinavia Prison Program to emphasise responsibility, rehabilitation, and community reintegration. It also examines the potential financial and systemic benefits, including court efficiency, remand minimisation, reduced legal aid costs, and improved detention staff safety, while offering conclusions and recommendations.

Abstract

This thesis proposes "sentence bargaining" as an innovative framework for youth sentencing in Queensland, inspired by plea bargaining principles.

Sentence bargaining introduces two sentencing options: a "presumed maximum sentence" for youth pleading not guilty but subsequently found guilty, resulting in the maximum detention period, and an "alternative maximum sentence" incentivising early guilty pleas and compliance with a responsibility-centred education and rehabilitation program modelled on the Little Scandinavia Prison Program.

By amending the *Penalties and Sentences Act 1992* (Qld) and *Youth Justice Act 1992* (Qld), this framework integrates contemporary rehabilitation, education, health, and wellness therapies to foster personal reform and facilitate safe community re-entry.

The paper evaluates the potential for sentence bargaining to minimise ineffective remand conditions, enhance court efficiency, reduce legal aid costs, minimise parole board reliance, lower detention staff health and safety incidents, and achieve financial savings.

Conclusions and recommendations highlight the framework's transformative potential and outline steps for implementation.

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1. Introduction

1.1 Background: Youth Justice in Queensland

Queensland's youth justice system, governed by the *Youth Justice Act 1992* (Qld), emphasises diversion, rehabilitation, and detention as a last resort (recently removed under the Making Queensland Safer laws) for young offenders aged 10 to 17. Despite these principles, recidivism rates remain high. with 65% of youth offenders reoffending within 12 months of release (Queensland Sentencing Advisory Council, 2022).

Overcrowded detention centres, strained court resources. and escalating legal aid costs highlight the need for innovative sentencing reforms. The current system often fails to address the root causes of youth offending, such as socioeconomic disadvantage, mental health issues, and lack of education, leading to cycles of reoffending and community harm.

1.2 Codification in Queensland: The Criminal Code Act 1899

Queensland's criminal justice system diverged from common law traditions with the introduction of the *Criminal Code Act 1899 (Qld)*, often referred to as the "Griffith Code" after Sir Samuel Griffith, its primary drafter. This codification fundamentally shaped the role of guilty pleas in Queensland:

- **Replacement of Common Law**: Unlike other Australian states like New South Wales and Victoria, which retained common law principles modulated by legislation, Queensland adopted a comprehensive criminal code that replaced judge-made law. The *Criminal Code Act 1899* explicitly defined offenses, procedures, and sentencing, including provisions for guilty pleas. From its enactment, no person could be tried or punished for an indictable offense except under the Code or other Queensland statutes.
- **Guilty Pleas in the Code**: The Code streamlined criminal procedure, formalising the process for guilty pleas. When an accused pleads guilty, the court proceeds directly to sentencing without a trial, consistent with common law practice but now legislatively enshrined. The *Justices Act 1886 (Qld)* and subsequent procedural laws further governed how pleas were entered in Magistrates Courts for simple offenses.
- **Influence of the Zanardelli Code**: Griffith drew inspiration from Italy's *Zanardelli Code*, which emphasised clear statutory definitions and procedural efficiency. This influence reinforced the Code's focus on expediting justice through guilty pleas, aligning with Queensland's need for a practical legal framework in a growing colony.
- **Presumption of Innocence and Voluntariness**: The Code upheld the common law principle of the presumption of innocence, requiring guilty pleas to be voluntary and informed. Section 16 of the *Criminal Code Act 1899* also codified protections against double jeopardy, ensuring that a guilty plea for an offense barred further prosecution for the same act.

1.3 Guilty Pleas in Practice: Queensland's Context

In Queensland's justice system, guilty pleas have been shaped by both legal principles and practical considerations:

- **Efficiency and Resource Constraints**: Queensland's vast geography and sparse population in the 19th and early 20th centuries necessitated efficient court processes. Guilty pleas reduced the burden on courts, particularly in remote areas where circuit courts operated. This practical need aligned with the Code's emphasis on procedural clarity.
- **Sentencing Incentives**: While formal plea bargaining is less explicit in Australia than in the United States, Queensland courts have historically considered guilty pleas as a mitigating factor in sentencing. A guilty plea demonstrates remorse and saves judicial resources, often leading to reduced sentences. This practice has roots in English common law but is now guided by the *Penalties and Sentences Act 1992 (Qld)*, which allows courts to consider early guilty pleas when determining penalties.
- **Aboriginal and Torres Strait Islander Offenders**: The application of guilty pleas to Aboriginal and Torres Strait Islander defendants has been problematic. Historical records indicate that systemic disadvantages, including lack of legal representation and cultural misunderstandings, often led to guilty pleas that were not fully informed. Modern reforms, such as submissions from community justice groups under Queensland's sentencing laws, aim to address these issues, though limitations remain.

1.4 Modern Developments

The role of guilty pleas in Queensland has evolved with broader criminal justice reforms:

- **Youth Justice**: The *Youth Justice Act 1992 (Qld)* governs young offenders, emphasising diversion and rehabilitation. Guilty pleas by children (aged 10–17) can lead to alternatives like restorative justice conferences, reflecting a shift toward restorative aims.
- **Restorative Justice**: Queensland has embraced restorative justice initiatives, such as victim-offender mediation and circle sentencing, particularly for Aboriginal and Torres Strait Islander offenders. Guilty pleas often facilitate these processes, allowing courts to focus on rehabilitation over punishment.
- **Human Rights Considerations**: The *Human Rights Act 2019 (Qld)* reinforces the right to a fair trial, ensuring that guilty pleas are voluntary and informed. This aligns with the common law principle of the presumption of innocence, which remains a cornerstone of Queensland's justice system.

1.5 Plea Bargaining and Its Limitations

Plea bargaining, a common practice in many jurisdictions, allows defendants to plead guilty in exchange for reduced charges or lighter sentences, enhancing court efficiency and reducing trial costs.

In Queensland, early guilty pleas can result in sentence discounts of up to 25% under the *Penalties and Sentences Act 1992* (Qld) (s 13). However, plea bargaining is criticised for potentially coercing innocent defendants to plead guilty due to the fear of harsher penalties after trial, raising ethical concerns about fairness and due process (ACLU, 2020).

Additionally, plea bargaining does not inherently address rehabilitation or recidivism, particularly for youth offenders who require tailored interventions.

However, this novel innovation of plea bargaining is offered in the context of restoration, rehabilitation while maintaining human rights standards and community safety imperatives.

1.6 Introducing Sentence Bargaining

Sentence bargaining builds on plea bargaining by offering youth offenders two distinct sentencing pathways:

1. a "presumed maximum sentence" for those pleading not guilty but subsequently found guilty, and
2. an "alternative maximum sentence" for those pleading guilty early and committing to a structured responsibility-centred detention rehabilitation program.

Modelled on the humane and rehabilitation-focused Little Scandinavia Prison Program, this approach incentivises accountability, personal reform, and community reintegration while addressing systemic inefficiencies in Queensland's youth justice system focused unequivocally on reducing recidivism and community victimisation.

It is intended that the scope of sentence bargaining applies to all 33 "adult crime, adult time" offences where an offender is declared a serious recidivist offender by a judge.

2. Conceptual Framework of Sentence Bargaining

2.1 Presumed Maximum Sentence

The presumed maximum sentence applies to serious recidivist youth offenders who plead not guilty but subsequently are convicted by a judge or jury. This option imposes the absolute maximum detention period allowable under the *Youth Justice Act 1992* (Qld) for the offense, reflecting the seriousness of denying responsibility, the resources expended on a trial and the malicious disregard for community safety.

For example, for an offense carrying a maximum of 10 years' detention, a serious recidivist youth found guilty after trial would receive the full 10 years, subject to judicial discretion in exceptional circumstances (e.g. mitigating factors like mental health issues).

This approach aligns with Queensland's principle that detention is a last resort (abolished under Making Queensland Safer 2024) as it applies to recidivist offenders only but ensures accountability for those dangerous offenders who contest charges, facts and evidence unsuccessfully.

A high security detention facility and program will apply in the first instance. However, eligibility for sentence bargaining during detention is optional, if at any time a guilty admission is sworn by the inmate, or 75% of the maximum sentence has been served.

The alternative maximum sentence principle may be ordered by a judge anytime or by the CEO of youth justice upon review after 12 months of a presumed maximum sentence period where an inmate has sworn an admission of guilt by law.

2.2 Alternative Maximum Sentence

The alternative maximum sentence incentivises early guilty pleas by offering a reduced detention period subject to performance criteria, contingent on the youth's compliance with a responsibility-centred education and reform program.

It is intended that the sentence bargaining periods (normally parole eligibility) in the alternative maximum sentence principles are not codified, or required to be disclosed at sentencing, for the purpose of motivating an early plea and bargaining, behavioural reform over strategic acquiescence or justice system negotiation.

This sentencing program, inspired by the Little Scandinavia model, includes strict behavioural criteria and therapeutic interventions. For instance, a youth pleading guilty to the same 10-year offence might receive a maximum of 6 years, with the possibility of further reductions (e.g., bargaining eligibility after 3 years) based on genuine remorse, program compliance, behavioural temperament and habitual engagements in the Little Scandinavia Program.

Unlawful conduct, non-compliance, incivility or anti-social behaviour should result in reversion to the presumed maximum sentence, ensuring accountability and mitigating community exposure to the safety risks of belligerent individuals.

2.3 The Little Scandinavia Prison Program as a Model

The Little Scandinavia Prison Program, implemented in facilities like Halden Prison in Norway, emphasises humane treatment, rehabilitation, and safe reintegration.

The Little Scandinavia Prison Program

The Little Scandinavia prison program, implemented also at SCI Chester in Pennsylvania, USA, is based on Scandinavian correctional practices emphasising rehabilitation over punishment. Key features include:

- Single cells with desks and small refrigerators.
- Shared kitchens and grocery programs for community living.
- Increased staff-to-resident ratios, with staff acting as counsellors, focusing on re-entry planning.
- Physical designs encouraging interaction, such as green spaces, and a focus on safety and transparency.

This model has shown success in reducing violence, with only one reported fight since implementation, and improving reintegration outcomes, with plans for expansion due to positive results (PRA Inc., 2023; PennLive, 2025).

Its principles of normality, rehabilitation, and community reintegration are adaptable for youth justice, particularly in reducing recidivism and enhancing staff safety.

Key features include:

- **Facility Design**: Single cells with desks and small refrigerators, shared kitchens and grocery programs for community living, increased staff-to-resident ratios, with staff acting as counsellors, focusing on re-entry planning and physical designs encouraging interaction, such as green spaces. and a focus on safety and transparency.

- **Normalised Living Conditions**: Inmates live in environments resembling community settings, fostering responsibility and social skills.
- **Education and Vocational Training**. Programs focus on academic qualifications and job-ready skills to reduce recidivism.
- **Therapeutic Interventions**: Mental health support, substance abuse treatment, and restorative justice processes address underlying causes of offending.
- **Dynamic Security**: Staff build positive relationships with inmates, reducing violence and improving safety.

This responsibility-centred program includes:

- Individualised case management, using models like Intensive Case Management (ICM), shown to reduce reoffending by 51% in frequency and 72% in person-harming crimes (Department of Youth Justice and Victim Support, 2022).
- Cultural support, particularly for Aboriginal and Torres Strait Islander youth, with programs of empowerment such as the Johnathon Thurston Academy and CJAG's You Grow Co. Initiative integrating on-country with nutritious foods.
- Education and vocational training, such as Get Set for Work and Youth Skills Program.
- Mental health and substance abuse treatment. including drug/alcohol counselling and Navigate Your Health.
- Health and wellness therapies, with sport/recreation and wellbeing programs designed to be trauma-informed and culturally appropriate.
- Community reintegration support, including a proposed 12-month post-detention transition program with family interventions and engagement in education, training, and employment (Queensland Family and Child Commission, 2024).

In Queensland, this model would be adapted to youth detention centres, creating rehabilitative environments that prioritise personal reform over punitive measures.

2.4 Legislative Integration into Queensland Law

To implement sentence bargaining, amendments to the *Penalties and Sentences Act 1992* (Qld) and *Youth Justice Act 1992* (Qld) are necessary.

Proposed changes include:

- **Section 13 (Penalties and Sentences Act)**: Expand provisions for sentence discounts to include sentence bargaining, specifying criteria for the "presumed maximum" and "alternative maximum sentence".
- **Part 7, Division 4 (Youth Justice Act)**: Introduce sentence bargaining as a sentencing option, outlining the presumed and alternative maximum sentences

and the responsibility-centred performance and reform program. Limitations on community-based sentencing, probation and intensive supervision orders are applicable due to the presumption principle targets serious offenders ordered to maximum or alternative maximum sentence in detention.
- **New Court Orders**: Establish judicial authority to mandate the new sentence bargaining options and participation in the responsibility-centred reform program, with compliance monitored by the Youth Justice CEO and Officers.

These amendments would align with Queensland's youth justice principles, particularly the focus on rehabilitation and diversion (s 3, Youth Justice Act).

3. Mechanisms of the Responsibility-Centred Program

3.1 Rehabilitation Therapies

The program incorporates evidence-based therapies to address criminogenic needs, including:

- **Cognitive Behavioural Therapy (CBT)**: Targets impulsive behaviours and distorted thinking patterns common among youth offenders.
- **Restorative Justice Processes** Facilitates victim-offender mediation to foster accountability and empathy, as permitted under the *Youth Justice Act* (s 22).
- **Substance Abuse Treatment**. Addresses drug and alcohol dependencies, which contribute to 30% of youth offenses in Queensland (Queensland Sentencing Advisory Council, 2022).

3.2 Education and Skill Development

Education is central to reducing recidivism. The program offers:

- **Academic Education**: Tailored curricula to achieve secondary qualifications, addressing the 40% of detained youths who lack basic literacy skills (ALRC, 2010).
- **Vocational Training:** Courses in trades like carpentry, hospitality, and IT, preparing youths for employment post-release.
- **Life Skills Workshops**: Training in financial literacy, communication, and conflict resolution to support community reintegration.

3.3 Health and Wellness Interventions

Health and wellness are critical for personal reform. Interventions include:

- **Mental Health Support**: Access to psychologists and counsellors to address trauma, prevalent in 70% of youth offenders (Queensland Government, 2022).
- **Physical Wellness Programs** Exercise, nutrition education, and mindfulness practices to improve physical and emotional well-being.
- **Cultural Programs**: For Aboriginal and Torres Strait Islander youths, culturally sensitive interventions, such as family responsibility commissioner and community justice group involvement, to address overrepresentation in detention (ALRC, 2018).

3.4 Behavioural Criteria and Compliance Monitoring

Compliance is assessed through strict behavioural criteria, including:

- **Program Participation**: Regular attendance and active engagement in therapies and education.
- **Behavioural Conduct**: Adherence to detention centre rules, with no violent incidents or rule violations.
- **Restorative Goals**: Demonstrated remorse and progress toward victim reconciliation, where applicable.

Youth Justice officers monitor compliance, providing quarterly reports to courts.

Non-compliance triggers a judicial review, potentially reverting the sentence to the presumed maximum.

4. Systemic and Financial Benefits

4.1 Court Efficiency and Early Guilty Pleas

Sentence bargaining incentivises early guilty pleas, reducing trial numbers. In Queensland, 60% of youth matters proceed to trial, clogging courts and delaying justice (Queensland Sentencing Advisory Council, 2021).

By offering a clear incentive (alternative maximum sentence), sentence bargaining could increase guilty pleas by 20–30%, mirroring plea bargaining outcomes in other jurisdictions (Reason Foundation, 2022). This reduces court backlogs, freeing resources for serious cases.

4.2 Mitigation of Ineffective Remand Rehabilitation

Lengthy delays in court proceedings cause serious recidivist youth offenders to be placed on remand where rehabilitation programs have limited effectiveness due to staff shortages, data collection constraints and poor reintegration supports.

34% of a sample 50 serious youth offenders had no record of receiving the mandatory CHART program, and 18% had no record of any rehabilitation programs (*Queensland Audit Office*).

Sentencing bargaining would mitigate remand with an early guilty plea and early access to YRRA Program based on the detention architecture of the Little Scandinavia Prison Program.

4.3 Reduction in Legal Aid Costs

Legal aid costs in Queensland exceed $200 million annually, with youth cases accounting for 15% (Legal Aid Queensland, 2024). Early guilty pleas reduce the need for prolonged legal representation and trial preparation, potentially saving $10–15 million annually.

Sentence bargaining's structured framework also minimises appeals, further lowering costs.

4.4 Minimising Parole Board Reliance

The alternative maximum sentence's focus on rehabilitation reduces reliance on parole boards. Compliant youth could transition directly to community reintegration programs, by-passing lengthy parole hearings.

In 2023, Queensland's parole board processed 1,200 youth cases, costing $5 million (Queensland Government, 2024). Sentence bargaining could reduce this by 25%, saving $1.25 million annually.

4.5 Detention Staff Health and Safety

Youth detention centres in Queensland report 300 staff injuries annually due to inmate violence (Queensland Corrective Services, 2024). The Little Scandinavia model's dynamic security approach, emphasising positive staff-inmate relationships, has reduced staff assaults by 50% in Norwegian facilities (Norwegian Correctional Service, 2023).

Implementing this in Queensland could save $2 million in workers' compensation and training costs.

4.6 Financial Savings

Collectively, sentence bargaining could yield annual savings of:

- **Court Efficiency**: $5–7 million (reduced trial costs).
- **Legal Aid**: $10–15 million.
- **Parole Boards**: $1.25 million.
- **Staff Safety**: $2 million.
- **Reduced Recidivism**: $10 million (lower reoffending rates reduce detention costs).

Total estimated savings: $28–35 million annually, offsetting program implementation costs (estimated at $15 million).

5. Challenges and Ethical Considerations

5.1 Coercion and Fairness Concerns

Sentence bargaining risks coercing guilty pleas, particularly among vulnerable youth fearing the presumed maximum sentence. To mitigate this, safeguards like mandatory legal representation and judicial oversight are essential. Transparency in plea negotiations and victim impact statements can further ensure fairness.

5.2 Resource Allocation and Implementation

Implementing the responsibility-centred program requires significant upfront investment in staff training, facility upgrades, and therapeutic resources. Queensland's budget

constraints may necessitate phased implementation, prioritising high-risk offenders initially.

5.3 Balancing Rehabilitation with Accountability

While rehabilitation is central, sentence bargaining must not undermine accountability for serious offences. The presumed maximum sentence ensures punitive consequences for non-compliant or unrepentant offenders, maintaining public confidence in the justice system.

6. Case Study: Hypothetical Application in Queensland

Consider a 16-year-old charged with heinous armed robbery (maximum life' detention). Under sentence bargaining:

- **Pleading Not Guilty, Found Guilty**: The youth receive the presumed maximum sentence of 15 years, with standard detention conditions and ordered to undertake the responsibility-centred reform program in detention.
- **Pleading Guilty Early**: The youth opt for the alternative maximum sentence of 12 years, enrolling voluntarily in the responsibility-centred reform program. They complete CBT, vocational training, and restorative justice sessions, earning sentence mitigation bargaining eligibility after 7.5 years. Compliance ensures eligibility and a volunteer or job placement upon release, reducing recidivism risk.

This case illustrates sentence bargaining's potential to balance accountability with rehabilitation, saving court resources, promoting positive outcomes and optimising community safety.

7. Conclusions and Recommendations

7.1 Summary of Findings

Sentence bargaining offers a transformative approach to youth sentencing in Queensland by incentivising early guilty pleas, fostering rehabilitation, and achieving systemic efficiencies.

By integrating the Little Scandinavia model, it addresses recidivism's root causes while delivering financial savings of $28–35 million annually. Despite challenges like coercion risks and resource demands, safeguards and phased implementation can ensure success.

7.2 Policy Recommendations

- **Legislative Amendments**: Enact changes to the *Penalties and Sentences Act 1992* and *Youth Justice Act 1992 section 175, 176 & 175A* to formalise sentence bargaining and the responsibility-centred program.
- **Pilot Program**: Launch a 2-year pilot in Brisbane and Townsville youth detention centres, targeting 100 high-risk offenders to assess outcomes.
- **Staff Training**: Invest $5 million in training Youth Justice officers in dynamic security and therapeutic interventions.

- **Community Partnerships**: Collaborate with NGOs and Aboriginal community groups to deliver culturally sensitive programs.
- **Evaluation Framework**: Establish metrics to measure recidivism, court efficiency, and cost savings, with annual reports to Parliament.

7.3 Future Research Directions

- Longitudinal studies on sentence bargaining's impact on recidivism rates.
- Comparative analysis with other jurisdictions adopting rehabilitation-focused sentencing.
- Exploration of sentence bargaining's applicability to adult offenders.

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