Expanding Adult Time, Adult Crime and Taking a Strong Stance on Drugs and Anti-Social Behaviour Amendment Bill 2026

Submission No: 084
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SUBMISSION

Justice, Integrity and Community Safety Committee

Inquiry into Expanding Adult Crime, Adult Time and Taking a Strong Stance on Drugs and Anti-Social Behaviour Amendment Bill 2026

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Dear Committee,

Please accept this submission in relation to the Expanding Adult Crime, Adult Time and Taking a Strong Stance on Drugs and Anti-Social Behaviour Amendment Bill 2026 (Qld) (the Bill).

Executive Summary

This submission supports the policy objectives of the Bill, including improving community safety, strengthening accountability for serious offending, addressing repeat drug-related offending, and equipping police with effective tools to respond to persistent anti-social behaviour.

Several targeted amendments are proposed to improve the proportionality, clarity, and legal durability of the framework, particularly where the Bill engages the *Human Rights Act 2019 (Qld)*. These amendments are not intended to weaken the legislation. Rather, they aim to ensure that the powers created by the Bill operate within clear statutory thresholds, structured discretion, and appropriate safeguards.

In relation to the expansion of Adult Crime Adult Time (ACAT) provisions, the submission supports stronger consequences for serious youth offending but recommends preserving judicial discretion and requiring courts to give reasons when imposing adult-equivalent penalties. These measures would help ensure that sentencing remains proportionate while maintaining the Bill's public safety objectives.

The submission also supports reforms to drug diversion arrangements, provided that at least one diversion opportunity remains available for eligible minor drug offences, with limited discretion for courts to grant further diversion in exceptional circumstances where rehabilitation and community safety would be better promoted.

The proposed Designated Business and Community Precinct (DBCP) policing powers are supported in principle. However, clearer statutory thresholds, recording requirements, and expedited review mechanisms would strengthen accountability and help ensure the powers are exercised proportionately.

Overall, the amendments proposed in this submission are intended to strengthen the operation of the Bill, improve its compatibility with the *Human Rights Act 2019 (Qld)*, and enhance the long-term legal durability of the legislative framework.

1. Position on the Bill

This submission supports the Bill's overall objectives. The policy goals of improving community safety, strengthening accountability for serious offending, addressing repeat drug-related offending, and equipping police with effective tools to respond to persistent anti-social behaviour are legitimate legislative objectives.

However, it is proposed that several targeted amendments be made to improve the proportionality, clarity, and legal durability of the Bill, particularly where it intersects with the Human Rights Act 2019 (Qld). These amendments are not intended to weaken the legislation. Rather, they are designed to ensure that the powers created by the Bill operate within clear statutory thresholds, structured discretion, and practical safeguards.

The central position advanced in this submission is therefore that the Bill should proceed, but with amendments that reduce unnecessary friction with the Human Rights Act 2019 (Qld) while preserving Parliament's intent.

2. Introduction

The Bill introduces reforms in three principal areas: the expansion of Adult Crime Adult Time provisions, changes to drug diversion frameworks, and the introduction of Designated Business and Community Precinct policing powers.

This submission addresses each of these areas in turn. While supporting the objectives of the Bill, the submission identifies several areas where modest legislative refinement could strengthen the framework and improve its compatibility with the Human Rights Act 2019 (Qld).

3. Human Rights and Legislative Framework

The Human Rights Act 2019 (Qld) provides that human rights may only be limited where the limitation is reasonable and demonstrably justified in a free and democratic society.[1] Section 13 establishes a proportionality framework requiring consideration of the importance of the

[1] *Human Rights Act 2019* (Qld) s 13

legislative objective, the relationship between the limitation and its purpose, and whether less restrictive means are reasonably available.

In assessing proportionality, courts examine the breadth of legislative powers and the extent to which they impose burdens on fundamental freedoms. Laws conferring broad coercive powers are more likely to withstand scrutiny where Parliament clearly defines the circumstances in which those powers may be exercised and provides safeguards against arbitrary enforcement.[2]

4. Adult Crime Adult Time (ACAT) Expansion

The expansion of the Adult Crime Adult Time framework reflects a policy judgment that serious youth offending should attract stronger legal consequences. This submission supports that objective.

However, preserving judicial discretion within the sentencing framework strengthens the scheme's proportionality and reduces potential friction with the *Human Rights Act 2019* (Qld). The Human Rights Act recognises that children in the criminal justice system are entitled to additional protections and that their treatment must take account of their age and prospects of rehabilitation. Where courts retain discretion to consider a child offender's individual circumstances, the sentencing framework is better able to ensure that penalties remain proportionate to both the seriousness of the offence and the offender's circumstances.

Judicial discretion, therefore, allows the legislative scheme to pursue its public safety objectives while ensuring that youth cases addressed within the Bill are dealt with closer to, if not consistent with, the *Human Rights Act 2019* (Qld).

Proposed Legislative Amendment - Sentencing Considerations

Youth Justice Act 1992 (Qld) – insert new s 175A(5A):

(5A) In sentencing a child for an offence to which this section applies, the court must have regard to:
(a) the age and maturity of the child;
(b) the child’s level of participation in the offence;

[2] *Brown v Tasmania* (2017) 261 CLR 328.

(c) whether the offence involved planning or coercion;
(d) the child's prior offending history; and
(e) the child's prospects of rehabilitation.

Proposed Legislative Amendment - Reasons for Sentence

Youth Justice Act 1992 (Qld) – insert new s 175A(5B):

(5B) Where a court imposes a sentence reflecting an adult penalty under this section, the court must state the reasons why that sentence is appropriate, having regard to the matters in subsection (5A).

5. Drug Diversion Reforms

This submission supports a framework in which diversion is generally available once for eligible minor drug offences. A single diversion opportunity recognises the value of rehabilitation while maintaining accountability for repeat offending.

Research examining Queensland drug court programs demonstrates that successful participants experienced substantial reductions in offending during treatment programs.[3] This evidence supports preserving at least one meaningful diversion opportunity.

Proposed Legislative Amendment - Diversion Discretion

Police Powers and Responsibilities Act 2000 (Qld) – insert provision:

(1) A person is ordinarily eligible for one diversion opportunity for an eligible minor drug offence.
(2) Despite subsection (1), a court may order a further diversion opportunity if satisfied that exceptional circumstances exist and that a further diversion would better promote rehabilitation and community safety.

[3] Jason Payne, *Queensland Drug Court: Recidivism and Program Outcomes* (Research and Public Policy Series No 83, Australian Institute of Criminology, 2008) 72.

6. Designated Business and Community Precincts (DBCPs)

The creation of Designated Business and Community Precinct powers represents a preventive policing measure intended to address persistent disorder and anti-social behaviour in specific locations.

This submission supports the concept of these powers. However, clearer statutory thresholds and safeguards would improve legal durability and public confidence in their operation.

Proposed Amendment - Move-on Directions

(1) Where a person complies with a direction to leave a designated business and community precinct, the exclusion period should ordinarily not exceed one hour.
(2) A longer exclusion period may be imposed where reasonably necessary, having regard to repeated return, disorderly conduct, intoxicated disruption, or threats to public safety.

Proposed Amendment - Banning Notice Threshold

A banning notice should only be issued where the officer reasonably believes the person's conduct poses an ongoing risk to public safety or the lawful use of the precinct.

Recording Requirements

A police officer issuing a banning notice or extended move-on direction should record:
(a) the conduct relied upon;
(b) Why escalation was necessary; and
(c) Why was a lesser response insufficient?

Expedited Review Mechanism

A person subject to a banning notice should be able to apply for expedited review before a Magistrates Court within 72 hours.

7. Human Rights Compatibility and Legislative Durability

The amendments proposed in this submission are intended to reduce unnecessary friction between the Bill and the Human Rights Act 2019 (Qld). By preserving discretion, clarifying thresholds, and introducing review safeguards, the framework becomes more proportionate and more consistent with the proportionality analysis required by section 13 of the Human Rights Act 2019 (Qld).

8. Parliamentary Override

The Human Rights Act 2019 (Qld) also recognises that Parliament retains the authority to legislate notwithstanding human rights incompatibilities by declaring an override mechanism. This reflects the principle of parliamentary supremacy within the Queensland constitutional framework.

Where Parliament determines that the objectives of public safety, victim protection, and community security justify strong legislative measures, it remains entitled to legislate accordingly. The amendments proposed in this submission are therefore not intended to prevent the Bill from operating, but rather to ensure that the legislative scheme is structured in a way that remains proportionate and legally durable.

9. Summary of Recommendations

1. Preserve judicial discretion in ACAT sentencing.
2. Require courts to give reasons when adult penalties are imposed on children.
3. Adopt a one-diversion model for minor drug offences with discretion for exceptional cases.
4. Introduce structured criteria for DBCP move-on directions.
5. Require conduct thresholds before banning notices are issued.
6. Introduce recording requirements for escalation decisions.
7. Provide expedited review mechanisms.
8. Require child-specific considerations before exclusion powers are applied.

10. Conclusion

The amendments proposed in this submission are not intended to frustrate the objectives of the Bill. Rather, they are designed to ensure that the legislation operates with clear statutory thresholds and structured discretion. Laws that confer broad coercive powers are more durable, more publicly credible, and more resistant to legal challenge when the circumstances in which those powers may be exercised are clearly articulated by Parliament.

Yours faithfully,

Brayden Kyte