

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

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Introduction

The Queensland Mental Health Commission (the Commission) welcomes the opportunity to make a submission on the *Expanding Adult Crime, Adult Time and Taking a Strong Stance on Drugs and Anti-Social Behaviour Amendment Bill 2026* (the Bill). The Commission is an independent statutory body established under the *Queensland Mental Health Commission Act 2013* (the Act) to drive ongoing reform towards a more integrated, evidence-based, and recovery-orientated mental health, alcohol and other drugs (AOD), and suicide prevention system in Queensland.

This submission highlights key areas of where the Bill's proposed amendments to the existing Queensland police drug diversion program and the evidence-base for responding to AOD concerns and other community health and social issues needs further consideration.

Health-based approaches to illicit drug use and possession, such as treatment, harm reduction, and measures that enhance safety, are widely recognised as more cost-effective and more likely to deliver positive community outcomes than criminal justice responses where possession of small quantities for personal use is the most serious offence.^{1 2}

The evidence demonstrates that well-designed diversion programs can reduce re-offending, improve access to treatment and support, and reduce long-term justice system costs. Importantly, evidence from Australian and international jurisdictions indicates that diversion is most effective where eligibility settings enable early engagement and, where necessary, repeated opportunities to connect people with health and social supports.

While the Bill does not entirely remove diversion pathways, the proposed amendments narrow eligibility by expanding exclusion criteria - including the shift from 'sentenced' to 'found guilty' and the proposed inclusion of spent convictions - and by limiting diversion to a single opportunity.

The combination of the proposed changes weaken alignment with the evidence base by reducing access to diversion for people who may continue to benefit from health-based intervention and support over time. Given that substance dependence often involves recurring or relapsing patterns, limiting diversion in this way is likely to reduce the effectiveness of diversion as a mechanism for improving outcomes and reducing long-term justice system demand.

¹ Blais E, Brisson J, Gagnon F, and Lemay S. Diverting people who use drugs from the criminal justice system: A systematic review of police-based diversion measures. *International Journal of Drug Policy*; 2022; 105.

² <https://s3.treasury.qld.gov.au/files/Imprisonment-Volume-2-final-report.pdf> (p. 584-552)

OVERARCHING ISSUES:

It is the Commission's assessment that the Bill is unlikely to achieve its identified objectives for the following reasons, which are discussed in greater detail throughout this submission:

1. The proposed amendments weaken alignment with the evidence base and are therefore inconsistent with Recommendation 13 of the *Parliamentary Inquiry into the opportunities to improve mental health outcomes for Queenslanders*.
2. The proposed amendments to diversion eligibility do not align with long established evidence that drug use and dependence often involve recurring or relapsing patterns, and that the need for support is not confined to people with no prior justice contact.
3. The shift 'sentenced' to 'found guilty' is likely to have net-widening effects by capturing a broader cohort, including people with unrecorded and spent convictions, and reducing access to diversion for people who would have previously remained eligible.
4. The Bill does not adequately account for disproportionate impacts on First Nations children and adults, and other already overrepresented cohorts, including women in relation to illicit drug offences.
5. Further consideration is warranted regarding the interaction between the proposed amendments and experiences of coercion and victimisation, particularly for children and young people.
6. The proposed amendments are likely to increase justice system and downstream service costs, and the available evidence does not clearly demonstrate commensurate social benefit.

Weakened alignment with the evidence base

In Queensland, the current police drug diversion program fulfils Recommendation 13 of the *Parliamentary Inquiry into the opportunities to improve mental health outcomes for Queenslanders*,³ which called on the Queensland Government to 'Strengthen illicit drug diversion initiatives.' Under the current framework, police are empowered to divert eligible individuals, who have not committed any other indictable offence, away from the justice system using a tiered approach established under Chapter 14, Part 4, Division 5 of the *Police Powers and Responsibilities Act 2000*.

A minor drugs offence is defined with reference to the *Drugs Misuse Act 1986*,⁴ with prescribed quantities for personal possession set out in regulation.⁵ Importantly, drug supply and trafficking remain serious criminal offences, carrying maximum penalties ranging from 15 years to life imprisonment. The current diversion framework therefore maintains a clear and deliberate distinction between possession of small quantities for personal use and commercial or supply-related activity.

This approach is consistent with Australia's *National Drug Strategy 2017–2026*⁶ and it reflects an evidence-informed balance between public safety, proportionality, and efficient use of justice system resources.

Diverting people away from the justice system where appropriate, can reduce 'unproductive contact with the criminal justice system that can lead to further offending', while creating opportunities to address underlying health and social factors.⁷ The current model enables eligible individuals to engage with health-based interventions for substance use concerns, while maintaining public safety and reducing avoidable costs to the criminal justice system.

³ <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5722t743/5722t743-64f1.pdf>

⁴ <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-1986-036>

⁵ <https://www.legislation.qld.gov.au/view/pdf/inforce/current/sl-1987-dmr>

⁶ <https://www.health.gov.au/sites/default/files/national-drug-strategy-2017-2026.pdf>

⁷ <https://s3.treasury.qld.gov.au/files/Imprisonment-Volume-1-final-report.pdf>

Internationally, police-based drug diversion programs have been widely implemented as an effective response to personal use and possession of illicit drugs. A 2022 systematic review of police-based drug diversion measures found that:

*‘ . . . police-based diversion measures are effective in preventing criminal offending and show promising results for improving participants’ health and diminishing social costs as well as costs associated with processing drug-related offenses’.*⁸

Diversion approaches exist in international jurisdictions such as Europe, North America, and New Zealand.

National evidence

Diversion programs for minor drugs offences have been nationally supported since the 1980s.⁹ Police drug diversion schemes currently operate in each state and territory. A 2008 evaluation of police drug diversion initiatives by the Australian Institute of Criminology stated that:

“As a whole, the findings were generally very positive. Across all jurisdictions, the majority of people who were referred to a police-based IDDI program did not reoffend in the 12 to 18-month period after their diversion.”

Individual evaluations have since occurred in select states and have similarly found police drug diversion to be effective.^{10 11} The University of New South Wales Drug Policy Modelling Program provides an up to date and comprehensive summary of approaches across Australian jurisdictions.¹² They note, since May 2024 non-criminal responses are available for both cannabis and other drugs in all states and territories.

Queensland

In May 2024, Queensland introduced a legislated Police Drug Diversion Program, expanding on an existing long term and well evidenced diversion initiative in relation to cannabis, which was established in June 2001.¹³ This program provides a positive evidence-based approach to dealing with minor drugs offences.

It aligns Queensland’s approach with other states and territories, which as noted above, have been offering diversion options for all drugs for a number of years. For example, South Australia and Victoria implemented more inclusive diversion initiatives in the early 2000s.¹⁴

University of Queensland is currently leading a two-year independent evaluation of the current program.¹⁵ Additionally, a recent study undertaken by Griffith University investigated the lived-experience of people who use drugs involved with the program.¹⁶ The research provides early indications of positive program impacts, including by enhancing both health and social outcomes.

Over time, a one-chance model is likely to place additional downstream pressure across multiple service systems, including health, housing, education, employment, and justice, by exacerbating issues such as housing instability, mental ill-health, disengagement from education, and reduced workforce participation, particularly for people with complex or co-occurring needs.

Misalignment between amended eligibility and evidence regarding use and dependence

⁸ <https://pubmed.ncbi.nlm.nih.gov/35489210/>

⁹ <https://www.aihw.gov.au/getmedia/f5ee6d15-e51b-4960-ab5b-ba1346aaba61/17904.pdf>

¹⁰ https://www.police.vic.gov.au/sites/default/files/2020-12/379729_VicPol_Drug%20Strategy_v31.pdf

¹¹ <https://ndarc.med.unsw.edu.au/sites/default/files/ndarc/resources/DPMP%20MONO%2025.pdf>

¹² <https://www.unsw.edu.au/content/dam/pdfs/ada/sprc/research-reports/dpmp-drug-summit-2024-explainers/2024-10-dpmp-bulletin-no-31-non-criminal-responses-to-drug-use-and-personal-possession-in-australia.pdf>

¹³ https://www.courts.qld.gov.au/_data/assets/pdf_file/0006/514725/dc-rpt-dscr-appendix-f.pdf

¹⁴ <https://www.aic.gov.au/sites/default/files/2020-05/monograph-31.pdf>

¹⁵ <https://about.uq.edu.au/experts/project/64289>

¹⁶ Piatkowski ., Kill E., Keating, C. Understanding the experiences of people who use drugs participating in Queensland’s new Drug Diversion Program. Brisbane, Australia: Queensland Injectors Voice for Advocacy and Action and Griffith University; 2024.

Evidence indicates that patterns of drug use,¹⁷ including dependence, are episodic and relapsing rather than linear. A 'one-chance' diversion model does not align with how substance use typically presents and is unlikely to prevent or reduce harm. Rather, it risks exacerbating drug-related harm by removing opportunities for early and proportionate intervention.

Limiting diversion to a single opportunity increases the likelihood that experimental, episodic, recurring, or dependent use is rapidly criminalised, rather than addressed through early intervention to reducing harm enhance access to options for treatment. It also increases the likelihood that people, particularly those who would benefit most from support, delay or avoid help-seeking due to fear of enduring legal and justice system consequences.

Evidence also shows that polysubstance use is common among people who use drugs. Treatment and research data consistently indicate that many patterns of use involve using multiple substances concurrently over a short period, which is associated with elevated health risks.

The proposed amendments move away from the current quantity-based diversion eligibility framework set out in regulation and introduce additional eligibility exclusions. This may reduce alignment with public health evidence supporting diversion for people experiencing drug dependence, including those who may present with more complex or polysubstance use. It does not reflect how substances are used and redefines risk, based on count rather than quantity, harm, or level of dependence.

A rule that disqualifies individuals from diversion solely based on more than one substance being present will exclude people from otherwise proportionate responses, increasing the likelihood of formal criminalisation, increasing pressure on the system toward more intensive and expensive downstream health care and justice systems responses, increasing avoidable pressure on other parts of the health and social services system.

Net-widening effects due to shift from 'sentenced' to 'found guilty'

The former Queensland Productivity Commission cautioned that policies which increase the number of people subject to formal justice system controls without a corresponding increase in offence seriousness can result in net widening.¹⁸ This occurs when individuals who would otherwise have exited the system are instead retained within it, increasing the likelihood of further contact, breach, and recidivism, without demonstrable public safety benefit.

Expanding consequences and eligibility thresholds from people who are sentenced to those found guilty will capture a larger group of people - including those who receive no conviction or sentence – increasing demand on the justice system..

A finding of guilt can occur without a conviction being recorded and without any custodial or community-based sentence, particularly for first-time offenders, low-level offences, or young people. Courts purposefully use these outcomes to limit long-term harm, support rehabilitation, and preserve access to pathways such as diversion.

Extending enduring consequences to findings of guilt creates downstream impacts, regardless of the court's determination that a conviction should not be recorded.

Between May 2024 and October 2025, Queensland Police recorded 26,427 diversion episodes, comprising:

- 15,821 Tier 1 diversions
- 2,684 Tier 2 diversions
- 7,855 Tier 3 diversions.

These figures demonstrate that diversion is a core system mechanism managing a substantial volume of low-level drug-related contact.

¹⁷ <https://www.aihw.gov.au/reports/illicit-use-of-drugs/illicit-drug-use>

¹⁸ <https://www.treasury.qld.gov.au/files/Imprisonment-Volume-1-final-report.pdf>

From a system efficiency perspective, this represents a movement away from early cost-effective responses toward late higher-cost downstream interventions, increasing pressure on police, courts, corrective services, and associated health and human services, without evidence of improved outcomes.

The former Productivity Commission noted that deeper or prolonged justice system involvement can increase the risk of reoffending, particularly where individuals are drawn further into the system without access to effective treatment and support.

Disproportionate impact on First Nations communities

The proposed amendments are likely to have disproportionate impacts on Aboriginal and Torres Strait Islander peoples, who are already significantly over-represented in the criminal justice system.¹⁹ National data consistently shows that First Nations people experience substantially higher rates of police contact, charges and imprisonment compared with non-Indigenous Australians.

Evidence indicates that AOD harms experienced by Aboriginal and Torres Strait Islander peoples are closely linked to broader social, cultural, historical and structural determinants of health. AOD treatment and diversion programs are widely recognised as more effective than criminal justice responses in addressing these underlying drivers and improving long-term outcomes.

These considerations are also relevant to the targets and outcomes under the National Agreement on Closing the Gap²⁰, particularly:

- Aboriginal and Torres Strait Islander people are not overrepresented in the criminal justice system (Outcome 10).
 - By 2031, reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent (Target 10).
- Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system (Outcome 11).
 - By 2031, reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30 per cent (Target 11).

Policies that increase the likelihood of criminal justice contact for low-level drug offences are likely to make progress toward these targets more difficult.

Consideration regarding experiences of coercion and victimisation, particularly for children and young people

Evidence indicates that AOD use and victimisation are closely interconnected.²¹ Experiences of violence and trauma can lead individuals to use substances, while AOD use may also increase vulnerability to exploitation, coercion and further victimisation. These dynamics are shaped by broader social and environmental factors, including housing instability, poverty, social isolation and the psychological impacts of trauma. Victim-survivors in this cohort frequently face significant barriers to accessing support, including stigma, service fragmentation and reduced trust in institutions. These conditions can increase vulnerability to substance dependence while simultaneously making it more difficult to seek assistance or exit harmful environments.

For victim-survivors who use illicit drugs, fear of criminalisation can create a significant barrier to reporting violence or seeking help. As a result, criminal justice responses to low-level drug offending can inadvertently discourage

¹⁹ <https://www.aihw.gov.au/getmedia/9e2c3486-1c45-40e6-883f-ed2d3e329da2/aihw-phe-342-the-health-and-wellbeing-of-first-nations-people-in-australia-s-prisons-2022.pdf?v=20240508153645&inline=true>

²⁰ <https://www.closingthegap.gov.au/national-agreement/targets>

²¹ de Lint, W., Marmo, M., Groves, A., & Pocrnic, A. (2017). Crime victims' self-medication: Findings from a study in South Australia. *International Review of Victimology*, 23(2), 159-177. <https://doi.org/10.1177/0269758016686280>

disclosure of victimisation and reduce engagement with support services. This risk is particularly relevant in contexts where substance use intersects with domestic and family violence (DFV), where coercion, manipulation and survival behaviours can shape offending patterns.

These dynamics are also relevant for children and young people, whose behaviour may be influenced by coercion, exploitation, fear or dependency on adults or criminal networks. Australian and international research demonstrates that children who come into contact with child protection and youth justice systems are disproportionately exposed to child criminal exploitation (CCE), including being used or coerced to transport or sell drugs.²² Many young people involved in such activity do not self-identify as victims, reflecting the power imbalance and constrained agency that characterises exploitation rather than voluntary criminal intent. These vulnerabilities are often compounded by experiences of trauma, family violence, neglect, poverty and systemic access difficulties.

There are also clear parallels between child criminal exploitation and the dynamics observed in domestic and family violence contexts, particularly for girls and young women. The Hear Her Voice reports highlight that women's and girls' offending often occurs in contexts of coercion, manipulation, survival strategies and ongoing exposure to violence and control.²³ Substance use and low-level drug offending frequently intersect with these dynamics, where women and girls may be coerced into possession, use or trafficking of drugs as part of abusive relationships or power-imbalanced arrangements.

This is also relevant to community safety outcomes. The former Productivity Commission has cautioned that deeper or prolonged involvement with the justice system can increase the likelihood of recidivism where underlying drivers of behaviour are not addressed. In this context, responses that increase justice system contact for low-level drug offending may risk entrenching criminalisation of vulnerable individuals rather than disrupting the exploitation and criminal networks that drive harm.

Likely increase in justice and downstream service costs without demonstrated social benefit

The proposed amendments are likely to cost more over time, by shifting people away from early low-cost diversion pathways and into late and more resource-intensive policing, court, corrective services, and downstream health and human service responses, without a clear mechanism for improved public safety outcomes.

By narrowing the scope of diversion, the proposed amendments are likely to increase the number matters proceeding through the justice system. This is likely to require additional public resources at multiple points, including police time to detect and process offences, court resources to prosecute matters, and corrective services to administer custodial or community-based penalties.

Prior to the expansion of the current police drug diversion program in May 2024, it was estimated that Queensland Government expenditure associated with policing activity for drug possession offences alone was approximately \$222 million per year.²⁴

Court data further indicates that almost two-thirds of drug matters finalised in the Magistrates Court in 2020–21 related to use or possession offences, reinforcing that a substantial proportion of the criminal justice workload was directed towards low-level drug offending that is likely to be more effectively addressed through health and diversionary responses rather than criminal justice processes.²⁵ During the period 2018 to 2021, there was also a 220 per cent increase in women imprisoned for illicit drug offences, with women accounting for approximately one-

²² <https://www.sciencedirect.com/science/article/abs/pii/S0190740920310148>

²³ <https://www.publications.qld.gov.au/dataset/womens-safety-and-justice-taskforce/resource/39caeea1-77f5-4317-9179-6a18b01762b1>

²⁴ <https://s3.treasury.qld.gov.au/files/Imprisonment-Volume-2-final-report.pdf>

²⁵ <https://6232990.fs1.hubspotusercontent-na1.net/hubfs/6232990/Achieving%20balance%20The%20Queensland%20Drug%20and%20Alcohol%20Plan%202022-2027.pdf>

third of growth in new prisoners for illicit drug offending over that period.²⁶ These trends raise concerns that narrowing diversion pathways may lead to a greater reliance on justice system responses for minor drug offences, with implications for both efficiency and proportionality.

Assuming the average cost of police responding to a minor drugs offence is comparable to the average cost of responding to other offences (estimated at \$3,759 per offence²⁷), and including only individuals accepting their first drug diversion warning, the current Queensland Police Drug Diversion Program has potentially avoided approximately \$59.5 million in direct policing costs between May 2024 and October 2025.²⁸

This estimate is conservative. It excludes individuals diverted at Tier 2 and Tier 3 and does not account for avoided costs associated with court proceedings, prosecution, legal assistance, corrective services, or downstream health and social service demand.

Taken together, this evidence strongly suggests that Queensland's current police drug diversion program represents a cost-effective approach, while reducing avoidable pressure on the criminal justice system. These benefits are likely to outweigh program costs and contribute to improved fiscal and social outcomes over time.

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²⁶ <https://6232990.fs1.hubspotusercontent-na1.net/hubfs/6232990/Achieving%20balance%20The%20Queensland%20Drug%20and%20Alcohol%20Plan%202022-2027.pdf>

²⁷ <https://s3.treasury.qld.gov.au/files/Imprisonment-Volume-2-final-report.pdf>

²⁸ Assumed average cost of policing minor illicit drug offences (\$3,759) multiplied by first drug diversion warnings offered in the period (15,821).