

Electoral Laws (Restoring Electoral Fairness) Amendment Bill 2025

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YOUTH ADVOCACY CENTRE

Submission to the

Justice, Integrity and Community Safety Committee

on

Electoral Laws (Restoring Electoral Fairness) Amendment Bill 2025

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Introduction

The Youth Advocacy Centre Inc (YAC) appreciates the opportunity to provide feedback on the Electoral Laws (restoring electoral Fairness) Amendment Bill 2025 (“the Bill”) .

This submission addresses specific matters that impact children and young people. These are the amendments contained in Sections 4-7 of the Bill prohibiting persons serving a sentence of imprisonment or detention of one year or longer from voting in State elections and referendums and local government elections.

The policy objectives of Sections 4-7 of the Bill are to refine the eligibility to vote to a narrower class of prisoners and persons serving sentences of detention, having regard to the culpability of their offending, to enhance civic responsibility. YAC is concerned that the Bill treats the offences committed by children in the same way as adults.

The Youth Justice Act 1992, (“the YJA”) consistent with international conventions. recognises the vulnerabilities of children, their right to ongoing development, and emphasises the reintegration of young people who offend back into the community.

YAC does not support the exclusion from voting by a person serving a sentence of detention of over 12 months for an offence committed whilst a child.

About the Youth Advocacy Centre

YAC is a community and social welfare agency for young people who are involved in, or at risk of involvement in, the youth justice and/or child protection systems (10-18 years old) and/or are homeless or at risk of homelessness (15-25 years old) – young people who are among the most marginalized and excluded by our community and often the most harshly judged.

Key Issues

1. Inconsistency with the principles of the Youth Justice Act 1992

Children and young people are susceptible to offending due to their ongoing brain development and lack of full maturity. This impacts their judgement and decision making. Most children who come into contact with the justice system have experienced childhood trauma and have complex and intersecting issues such as socioeconomic disadvantage, disrupted education and unstable housing. The Charter of youth justice principles which underlie the operation of the YJA recognises these vulnerabilities of children when they commit offences and that children tend to be dependent and immature.ⁱ

The YJA requires the state to provide a child with the opportunity to develop in responsible, beneficial and socially acceptable ways.ⁱⁱ Participation in the electoral process enables young adults to be educated and supported to engage in their civic responsibilities. Depriving adult of their right to vote based upon their childhood conduct reinforces perceptions of disempowerment, seclusion and stigma.

2. The threshold for the removal of the entitlement to vote is not met by the childhood sentences covered the Bill

The right to vote is a cornerstone of democracy, as reflected in the International Covenant on Civil and Political Rights (article 25), the International Covenant on the Elimination of Racial Discrimination (article 5(c)) and the Universal Declaration on Human Rights (article 21). As the High Court found when considering excluding the entitlement to vote

“the.rationale.for.the.exclusion.must.be.that.serious.offending.represents.such.a.form.of.civic.irresponsibility.that.it.is.appropriate.for.Parliament.to.mark.such.behaviour.as.anti-social.and.to.direct.that.physical.separation.from.the.community.will.be.accompanied.by.symbolic.separation.in.the.form.of.loss.of.a.fundamental.political.right.”ⁱⁱⁱ

The 2024 amendments to the Youth Justice Act removed detention as a last resort for children who offend^{iv} in Queensland and for thirty-three (33) “significant offences”^v increased the capacity of a magistrates to impose a period of up to three (3) years detention. Those offences include a number of property related offences. Therefore it likely there will be a greater number of children who will attain 18 years whilst in custody on a sentence of 12 months or longer. The Bill if passed, will prevent them from voting. Once a person is sentenced to detention and attained 18 years, community safety is best served by the young person’s effective rehabilitation and identification as member of the community. This is reflected in the careful and required consideration in determining if conviction should recorded for a childhood offence.^{vi} The threshold for disqualification from voting for offences committed whilst a child is not met by the proposed Bill.

3. Disproportionate application to Aboriginal and Torres Islanders

According to Department of Justice website^{vii} 4.6% of the population of Queensland are Aboriginal and Torres Islander yet represent 69% of young people held in Queensland’s Youth Detention population. The Bill will disproportionately restrict indigenous adult who offend as a child from voting. As Queensland was the first state to legislate to deny indigenous people the vote (1885) and the last state to allow Aboriginal and Torres Islander people to vote (1965)^{viii} additional disenfranchisement from participation in democratic process is of particular concern to YAC and is inconsistent with the objective of the YJA^{ix}.

ⁱ Sections 5 and 10 of Schedule 1 of the YJA

ⁱⁱ Sections 10 (b) of Schedule 1 of the YJA

ⁱⁱⁱ Roach v Electoral Commissioner [2007] HCA 43 para 12

^{iv} This also applies to children who are alleged to have offended but not yet convicted

^v See Section 175A of the YJA

^{vi} Sections 183 and 184 of the YJA

^{vii} <https://www.justice.qld.gov.au/about-us/services/first-nations-justice-office/priorities/better-justice-together-strategy>

^{viii} <https://www.nma.gov.au/defining-moments/resources/indigenous-australians-right-to-vote>

^{ix} Sections 4 of the YJA