

Parliamentary Committee briefing note

Making Queensland Safer Bill 2024

Overview and policy intent

Data

The Making Queensland Safer legislative amendments are intended to hold young offenders who commit offences (particularly serious offences) to account by ensuring that courts are considering the impacts of offending on victims and can impose appropriate penalties that meet community expectations. The following Department of Youth Justice and Victim Support (DYJVS) data provides more context for the tightened legislative stance:

- 46,130 finalised proven offences by young people in 2023-24 resulting in an increase in the number of victims.
- There has been an increase in the rate and volume of violent offending committed by young offenders. The rate of violent offending has increased by 8.3% since 2019, with the number of proven violent offences increasing by 553 or 21% from 2,616 to 3,169. This violent offending includes murder, manslaughter, serious assault, and robbery. The average number of proven offences per young person rose to 14.1 in 2023-24, compared with 7.8 in 2019.
- In 2023-24 there was a 12% increase in proven offences over the previous 12 months (an additional 4,975 offences), a 51% increase over the last five years (an additional 15,649 offences), and a 98% increase over the last 10 years (an additional 22,866 offences). Contributing to the overall increase in proven offences were increases in unlawful use of a motor vehicle offences (an additional 3,672 offences over five years).

A list of publicly available data sets that provide commentary on youth offending, youth crime and victims is at Attachment 1.

The Bill

The Bill amends the *Childrens Court Act 1992* (Childrens Court Act), the Criminal Code and *Youth Justice Act 1992* (YJ Act) to:

- provide that adult mandatory, minimum and maximum penalties apply for 13 prescribed offences (adult crime, adult time);
- provide that for young offenders, the principle of detention as a last resort is removed and primary regard must be had to the impact of the offending on the victim in sentencing;
- include cautions, restorative justice agreements and contraventions of supervised release orders on a child's criminal history;
- for a period of up to five years, make admissible a person's child criminal history when they are sentenced as an adult and allow that for dangerous operation of a vehicle, a relevant childhood finding of guilt, can be relied upon as a previous conviction;
- expand access to the Childrens Court for relatives of a victim and the media; and
- default to an opt-out requirement for victims on the eligible persons register.

The Bill also amends the YJ Act to enable the transfer of youth detention inmates to adult prisons upon reaching 18 years, and to ensure that 18-year-old offenders who breach community-based supervised youth justice orders and are sentenced to custody, or remanded by a court, are admitted to a corrective services facility rather than a youth detention facility.

Various other amendments of a minor, technical or consequential nature are also included in the Bill.

Amendments contained in the Bill

Key amendments contained in the Bill are outlined below.

Adult crime, adult time

Background and context

Current law

Generally, a child can be charged with committing the same offences as an adult. However, the available maximum sentences and the sentencing principles that apply to a child are generally different than those that apply to adults who commit an offence.

The sentencing framework that specifically applies to young offenders is contained in the YJ Act.

As well as placing limits on the types of orders and maximum periods of detention and probation (ss. 175 and 176) that a sentencing court can impose, the YJ Act renders any mandatory sentences inapplicable (s.155).

The Government has committed to enacting Making Queensland Safer Laws, which aim to deliver clear consequences to young offenders. The centrepiece of the policy is for young offenders who commit 13 prescribed offences impacting victims to face the same minimum, maximum and mandatory penalties as adult offenders.

Other Australian jurisdictions

Amendments related to ‘adult crime, adult time’ are unique to Queensland.

New South Wales (NSW) makes a distinction in sentencing young offenders for certain offences.¹ The Children’s Court must commit children’s **serious** indictable offences to a higher court to be dealt with ‘according to law’ under the *Crimes (Sentencing Procedure) Act 1999*. Children’s **serious** indictable offences are limited to the most serious offences and include offences that are punishable by up to 25 years imprisonment or life imprisonment. The Children’s Court has discretion when dealing with a child charged with an indictable offence (that is not a serious indictable offence) to commit that child to a higher court to be dealt with ‘according to law’ under the *Crimes (Sentencing Procedure) Act 1999* and must consider a range of factors including the nature and seriousness of the offence. Even where a child is dealt with ‘according to law’ mandatory and minimum sentences do not apply and neither do standard non-parole periods.

Amendments in the Bill (clauses 18-23, 26, 28, 29, 36, 38)

Adult crime, adult time: prescribed offences

The Bill removes the constraints in the YJ Act on the maximum penalties and sentencing orders that apply to young offenders for the following 13 Criminal Code offences (prescribed offences).

- murder
- manslaughter
- unlawful striking causing death
- acts intended to cause grievous bodily harm and other malicious acts
- grievous bodily harm
- wounding
- dangerous operation of a vehicle
- serious assault
- unlawful use or possession of motor vehicles, aircraft or vessels
- robbery
- burglary
- entering or being in premises and committing indictable offences
- unlawful entry of vehicle for committing indictable offence

¹ Part 2 Division 4 of the *Children (Criminal Proceedings) Act 1987*.

Adult crime, adult time: minimum, mandatory and maximum penalties

Under the reforms, a young offender found guilty of a prescribed offence will be subject to the same maximum, minimum and mandatory penalty as an adult.

Additionally, the YJ Act's restrictions on the length of detention and probation orders will be removed and restorative justice orders will cease to be a sentencing option for a prescribed offence.

These changes will align the available sentences that can be imposed on children with adult penalties for these prescribed offences.

Attachment 2 sets out for the prescribed offences, the existing maximum penalties for young offenders and the new minimum, mandatory and maximum penalties under the Bill. In summary, the applicable mandatory and minimum penalties are:

- mandatory life detention with a minimum non-parole period of 20 years for murder (or 25 years for murder of a police officer or 30 years for murder of more than one person or by a person with a previous murder conviction);
- if a child is sentenced to life detention (other than for murder), the child will be eligible for release after serving 15 years;
- if a child is sentenced to serve a period of detention for unlawful striking causing death, unless a conditional release order is made, the child must serve the lesser of 80% of the sentence or 15 years;
- detention must form whole or part of the punishment for dangerous operation of a vehicle with a circumstance of aggravation relating to previous conviction under section 328A(3) of the Criminal Code; and
- if a child is sentenced for an offence of grievous bodily harm, serious assault (in certain circumstances) or wounding committed in a public place while adversely affected by an intoxicating substance, they must be sentenced to a community service order. Consistent with what occurs for adults, there is no requirement for the child to consent to the community service order.

Adult crime, adult time: sentencing

The following existing provisions of the YJ Act will continue to apply to young offenders found guilty of the prescribed offences:

- the types of sentencing orders in section 175 such as probation, community service, intensive supervision and detention (excluding restorative justice orders);
- the sentencing considerations in section 150 as amended by the Bill, noting that the Bill removes the principles of detention as a last resort and that a sentence that allows the young person to stay in the community is preferable;
- the provisions providing for serious repeat offender declarations in sections 150A and 150B;
- the provisions providing for the making of a restitution or compensation order under section 181;
- the requirement to consider a pre-sentence report before making a detention order under section 207;
- the power when making a detention order to make a conditional release order under section 220;
- the considerations for the court when deciding whether or not to record a conviction under sections 183 and 184.

If the court orders detention (except where there is a mandatory non-parole period), a supervised release order can still be made. However, currently under section 227 of the YJ Act, the earliest that a supervised release order can be made is after the child has served 50% of the period of detention. The Bill will provide that this requirement does not apply when sentencing a young offender for a prescribed offence. This means that the supervised release order can be made at any point during the period of detention. This is broadly consistent with sentencing of adults.

Implementation

'Adult crime, adult time' reforms will apply prospectively to young offenders who commit a prescribed offence post commencement.

The ‘adult crime, adult time’ amendments to the YJ Act will commence on assent.

Removing detention as a last resort and primary regard to victims in sentencing

Background and context

Current law

The Charter of Youth Justice principles is a set of 21 principles underpinning the operation of the YJ Act. These principles, designed to guide the treatment of young offenders, are set out at schedule 1 to the YJ Act.

Principle 18 is that: *“a child should be detained in custody: (a) where necessary, including to ensure community safety, and where other non-custodial measures of prevention and intervention would not be sufficient; and (b) for no longer than necessary to meet the purpose of detention”*.

Section 150(2) of the YJ Act mandates that the court consider a range of special principles when sentencing a child, including:

- that a non-custodial order is better than detention in promoting a child’s ability to reintegrate into the community (s.150(2)(b)); and
- that a detention order should be imposed having regard to Principle 18 (s.150(2)(e)).

Section 208 of the YJ Act further requires that a court may make a detention order against a child only if, after considering all other available sentences and taking into account the desirability of not holding a child in detention, the court is satisfied that no other sentence is appropriate in the circumstances.

Currently the court sentencing a young offender must balance a range of factors to determine the appropriate sentence to impose. The impact of the offence on the victim is just one of these factors.

The Government has committed to removing detention as a last resort with respect to young offenders and putting victims at the heart of youth justice.

Other Australian jurisdictions

Most Australian jurisdictions (Victoria, Western Australia (WA), Tasmania, Northern Territory (NT), and the Australian Capital Territory (ACT)) have expressly incorporated the principle that a child should only be sentenced to detention as a last resort.

In NSW, the Children’s Court may only impose a sentence of detention on a child if they are satisfied that other, less serious sentences would not be appropriate. If a higher court is sentencing a child, a sentence of imprisonment must only be imposed if the court is satisfied, having considered all possible alternatives, that no penalty other than imprisonment is appropriate.

In South Australia, a court can only impose a sentence of detention on a child if they have been declared to be a recidivist youth offender, if they are a serious firearms offender, or if the court is satisfied that a non-custodial sentence would be inadequate due to the seriousness of the offence or the child’s pattern of reoffending.

All Australian jurisdiction reference victims in their equivalent charters of principles that underlie their youth justice framework. NSW, NT, Victoria, WA and Tasmania include a similar principle to Queensland’s existing principle 10 in relation to giving victims the opportunity to participate in the process of dealing with the child for the offence.

The NT and ACT include a principle that requires a balanced approach to be taken in considering the needs of the young offender, the rights of any victim of the youth's offence and the interests of the community.

While no jurisdiction explicitly provides that victims’ rights are to be considered above other principles, the ACT provides that it is a high priority that intervention with young offenders must promote their rehabilitation

and must be balanced with the rights of any victim of the young offender's offence and the interests of the community.

Most Australian jurisdictions (NSW, NT, Victoria, WA and the ACT) specifically provide that the effect or impact on a victim is a relevant factor when sentencing a child. No jurisdiction prioritises this sentencing consideration over all other considerations.

Amendments in the Bill (clauses 10, 11, 15-17, 24, 30-32, 34-37)

The Bill amends the YJ Act to direct that a court sentencing a child cannot have regard to any principle that a detention order should only be imposed as a last resort or that a sentence that allows the child to stay in the community is preferable. Sections 150(2)(b) and (2)(e) and Youth Justice Principle 18 are omitted from the YJ Act.

An amendment is also made to omit the current requirement (in section 208) that a court may make a detention order against a child only if, after considering all other available sentences and taking into account the desirability of not holding a child in detention, the court is satisfied that no other sentence is appropriate in the circumstances.

The Bill instead provides that the sentencing court must have primary regard to the impact of the offence on the victim. This will require the sentencing court to have greater regard to the impact on the victim over other factors when sentencing a young offender. The court will still be able to consider relevant mitigating and aggravating factors and impose a proportionate, appropriate penalty.

A new principle will also be included in the Charter of Youth Justice principles to specifically recognise the impact of offending on a victim as the second principle. The new principle says a child who commits an offence should be held accountable in a way that recognises the impact of the child's offending on any victim of that offending. The first principle (which remains unamended by the Bill) is that the community should be protected from offences and in particular recidivist high-risk offenders.

Implementation

The amendments to remove detention as a last resort and providing for primary regard to be had to victim impact in sentencing, will apply to offences committed after commencement. These amendments will commence on assent.

Contents and admissibility of child criminal histories

Background and context

Current law: contents of child criminal history

Currently under the YJ Act, police cautions, restorative justice agreements and contraventions of supervised release orders do not appear on a child's criminal history.

Current law: admissibility of child criminal history

Section 148 of the YJ Act provides that childhood findings of guilt are inadmissible against an adult, except where a conviction is recorded.

This means that currently, unless a conviction has been recorded, an entry on a person's childhood criminal history, is not admissible when they are an adult.

Current law: circumstances of aggravation for previous conviction for dangerous operation of a vehicle

The offence of dangerous operation of a vehicle (section 328A of the Criminal Code) has circumstances of aggravation relating to previous convictions, namely if the offender has been:

- previously convicted of a dangerous operation of a vehicle offence;
- previously convicted of a dangerous operation of a vehicle offence whilst adversely affected by an intoxicating substance;

- twice previously convicted of the same prescribed offence or different prescribed offence (where a prescribed offence includes dangerous operation of a vehicle or driving whilst under the influence)

The effect of these circumstances of aggravation is that the maximum penalty increases from three to five years imprisonment and in the last two scenarios the court must impose a period of imprisonment as whole or part of the punishment.

As noted above, due to the operation of existing section 148 of the YJ Act, unless a conviction has been recorded, a childhood finding of guilt cannot be used to prove these circumstances of aggravation against an adult.

This means that despite a history of repeated dangerous vehicular offending as a child, a young adult may be liable only for the non-aggravated form of dangerous operation of a vehicle.

Other Australian jurisdictions: contents of child criminal history

Australian jurisdictions have varying approaches to what is included in child criminal histories. In NSW, the fact that a person has been dealt with by warning, caution or youth justice conference is not admissible in any criminal proceeding subsequently taken against the person outside of the Children's Court. Similarly, in Victoria, a youth warning, caution or an early diversion outcome plan must not be recorded on a child's criminal record or form part of a child's criminal history.

Other Australian jurisdictions: admissibility of child criminal history

Australian jurisdictions also have varying approaches to the admissibility of juvenile criminal histories where convictions are not recorded, when sentencing an adult offender. In several jurisdictions, the admissibility can depend on the age of the child when they committed the offence, the passage of time between the juvenile sentence and adult sentence, what the juvenile sentencing order was, and whether the juvenile sentencing order was discharged or breached.

For example, limitations on the period that a child's criminal history can be admissible are found in NSW, WA and Victoria. NSW and WA have a two year limitation on admissibility of child criminal histories. In Victoria, childhood findings of guilt are admissible for up to 10 years after the relevant court order.

In the NT, only offences committed after the person turns 15 years of age appear on their criminal history when sentenced as an adult.

Amendments in the Bill (clauses 6 -8, 39-53, 58, 59)

Amendments in the Bill: contents of child criminal history

The Bill amends the YJ Act to provide that police cautions, restorative justice agreements and contraventions of supervised release orders will be included on the criminal history of the child.

The Bill also requires that, when a police officer is administering a caution or making a restorative justice referral, they must explain to the child that the caution and any restorative justice agreement will appear on their criminal history.

Amendments in the Bill: admissibility of child criminal history

The Bill enables a child's criminal history, inclusive of cautions, restorative justice agreements and contravention of supervised release orders, to be admissible on any sentence of the person as an adult for five years after the outcome of the last childhood offence.

Limiting the admissibility of a child's criminal history when the person is sentenced for any offence as an adult for a period of up to five years after the outcome for the last childhood offence will ensure that young adults with a youth criminal history are not treated as having no criminal history. This will enable the court to accurately contextualise the offender's recent criminal history. The older an adult is however, the less relevant their childhood criminal history is likely to be at sentence.

Amendments in the Bill: circumstances of aggravation for previous conviction for dangerous operation of a vehicle

The Bill amends the Criminal Code to provide that a previous childhood finding of guilt can be relied upon to prove the relevant circumstances of aggravation for dangerous operation of a vehicle identified above, against an adult.

The Bill provides that they can be relied upon in this way for up to five years. This aligns with the prescribed period for the other amendments in the Bill relating to the admissibility of child criminal histories.

Implementation

Transitional approach and commencement: contents of child criminal history

Those outcomes (cautions, restorative justice agreements and contraventions of supervised release orders) will appear on the criminal history of the child where the outcome occurred after commencement, irrespective of when the offence was committed.

These amendments will commence on proclamation.

Transitional approach and commencement: admissibility of child criminal history

The amendments enabling admissibility of a person's childhood criminal history will apply to proceedings started or on foot after commencement. However, they will not apply to appeals of sentences, where the sentence occurred before commencement.

These amendments will also commence on proclamation.

Transitional approach and commencement circumstances of aggravation for previous conviction for dangerous operation of a vehicle

The amendments relating to dangerous operation of a vehicle will apply to new offences committed after the commencement.

The amendments may make an adult liable to circumstances of aggravation relating to previous convictions, where childhood findings of guilt to prove those circumstances of aggravation occurred prior to commencement.

Opening up of the Childrens Court

Background and context

Current law

Currently under section 20 of the Childrens Court Act, the following persons may be present at the Childrens Court for proceedings other than on indictment:

- a victim, or a relative of a deceased victim, of the offence alleged to have been committed by the child;
- a person who is a representative of a victim, or of a relative of a deceased victim, of the offence alleged to have been committed by the child;
- a person who, in the court's opinion, has a proper interest in the proceeding; and
- an accredited media entity.

Further, under section 20(2) of the Childrens Court Act the court can make an exclusion order where necessary to either prevent prejudice to the proper administrative of justice or for the safety of any person with respect to:

- a representative of a victim or a representative of a relative of a deceased victim;
- a person who, in the court's opinion, has a proper interest in the proceeding; and
- an accredited media entity.

Other Australian jurisdictions

In Victoria, any person can be present during criminal proceedings against children unless the court orders otherwise. Similarly, in Western Australia, any person can be present unless the interests of the child may be

prejudicially affected. In other jurisdictions, criminal proceedings against children are generally closed to the public, however, victims, their support person and/or the media may be permitted to attend, subject to possible exclusion. No jurisdiction with closed Childrens Court proceedings specifically allows the victim's family members to attend (unless they are a support person, or the victim is deceased).

Amendments in the Bill (clauses 3-5)

The Bill amends section 20 of the Childrens Court Act to:

- ensure that the immediate family of a victim can be present during criminal proceedings against a child without being subject to an exclusion order; and
- remove the court's existing power to exclude any person who has access to the proceedings, on the basis that it is necessary to either prevent prejudice to the proper administration of justice; or for the safety of any person. This will mean victims' representatives and accredited media can no longer be subject to exclusion orders.

These amendments will not interfere with any existing power of the court to exclude persons under other laws (such as when a special witness is giving evidence or the court is dealing with a matter under section 172 or 173 of the *Mental Health Act 2016*), or their inherent ability to exclude persons for contempt of court.

Offences found in other Acts which prohibit the publication of certain information that may be heard by persons present during Childrens Court proceedings will continue to apply.

Implementation

Transitional approach and commencement

The amendments related to further opening the Childrens Court will apply to any proceedings on foot or started, after commencement. If there is an exclusion order with respect to a proceeding on foot, a person who is subject to the exclusion order may apply to the court to have the order set aside.

The amendments to the Childrens Court Act will commence on assent.

Defaulting to an opt-out requirement for victims on the eligible persons register

Background and context

Current law

Existing provisions in the YJ Act enable victims, or family members of deceased victims, of violent or sexual offences committed by a young person in detention to apply ('opt in') to be added to the 'eligible persons register' (the register). Persons on the register are kept informed about the relevant offender's custody movements, including for example any leave of absence, transfers between facilities, and release dates.

Specified other persons are also able to apply to be added to the register.

Other Australian jurisdictions

The amendments to default to an opt-out requirement for victims on the eligible persons register are unique to Queensland.

Amendments in the Bill (clauses 54-57)

The Bill amends the YJ Act to remove the requirement for a victim or family member of a deceased victim to 'opt in' to the eligible persons register to be kept updated on the offender's custody movements, including any leave of absence, transfers between facilities, and release dates.

The amendments move instead to an 'opt out' model for direct victims and immediate family members of deceased victims, so that those persons do not need to apply to be placed on the register. Once the necessary information is received by DYJVS, registration will be automatic, subject to specified safeguards.

The other categories of eligible persons will still be able to apply.

Implementation

Transitional approach and commencement

The amendments to the YJ Act to move to an opt-out system for the eligible persons register are to commence by proclamation, to enable implementation work to be undertaken.

Transfer of 18-year-old inmates to adult prisons

Background and context

Current law

Youth detention centres are not designed to detain adults. They are designed to detain children, male and female, aged 10 to 17. Currently, it is not uncommon for inmates (both on remand and sentenced) to continue to be detained in a youth detention centre (YDC) beyond their 18th birthday.

In 2023, on average there were 23 people 18 years of age each day in youth detention centres, of a total population of 309 detainees on an average day.

Other Australian jurisdictions

In Western Australia, under the *Young Offenders Act 1994*, a young person in custody, either on remand or serving a sentence order, will be transferred to an adult correctional centre within one month of their 18th birthday. Only the chief executive can prevent the transfer, and the decision cannot be reviewed by any court or tribunal (with the exception of judicial review on grounds of jurisdictional error).

The proposed changes are modelled on the Western Australian approach.

Amendments in the Bill (clauses 14, 33)

The Bill amends the YJ Act to ensure all YDC detainees are moved to an adult facility promptly on turning 18, regardless of whether they are on remand or sentenced.

The Bill provides for the default position that detainees are transferred to adult custody within 1 month after they turn 18 years of age, subject only to an exclusive chief executive discretion to direct otherwise, with no appeal or review (except for judicial review).

The chief executive may make a direction, for example, in cases where the detainee is to be released shortly after turning 18 years and 1 month, or where their unique needs are clearly being met in the YDC environment and would be unable to be met in the adult custodial environment, increasing the risk of reoffending post-release. In these cases, it may be in the best interests of the community, victims, Queensland Corrective Services, DYJVS, and the detainee, for the detainee to remain in a YDC. The chief executive would be able to revoke the direction, and therefore transfer the detainee to adult custody, at any time – for example, should the detainee's behaviour deteriorate.

This sole discretion for the chief executive and the unavailability of any appeal or review (except for judicial review) will allow timely certainty of all decisions, enhancing the chief executive's ability to ensure the security of YDCs, and the safety and wellbeing of children and staff.

Implementation

Transitional approach and commencement

The amendments to the YJ Act to enable transfer of 18-year-old inmates will commence on assent.

Consultation

External consultation was not undertaken on the Bill.

Fundamental legislative principles

Potential breaches of the fundamental legislative principles (FLPs) raised by the amendments are considered justified. The FLP issues and justifications for the potential breaches are outlined in detail on pages 9 to 11 of the Explanatory Notes to the Bill.

Human rights impacts

The impact of the reforms on human rights under the *Human Rights Act 2019* (HR Act) is detailed in the Statement of Compatibility (SoC). The SoC provides that the Bill is incompatible with human rights to the extent that it implements ‘adult crime, adult time’ and abolishes the principle of detention as a last resort for child offenders. The SoC concludes that the other amendments in the Bill are compatible with human rights.

The SoC notes that an override declaration has been included in respect of those amendments that are incompatible with the HR Act. A Statement of Exceptional Circumstances required to accompany the override declaration under section 44 of the HR Act was tabled alongside the Bill and SoC.

Department of Youth Justice and Victim Support: Service Delivery

Young people held in custody are provided with a range of assessments, rehabilitation and support when they leave custody. For those young people not held in custodial settings, programs are available to address the holistic needs of the young offender and in some cases their family, including evidence-based case management approaches.

DYJVS would be pleased to provide further information to the Committee as it considers related matters.

DYJVS operating arrangements

Responses to young people in contact with the youth justice system are delivered within a coordinated system of services and interventions. Queensland’s Youth Justice Services Centres (YJSCs) are responsible for the case management of young people subject to youth justice orders. The YJSC case management approach draws upon services and supports delivered by a range of other government and community-based agencies, ensuring the provision of holistic responses to meet a young person’s needs. Services and supports focus on behaviour change, family support, education, housing, child protection, mental health, general health and cultural connection.

Service centres

There are 26 YJSCs across Queensland, each comprising casework, cultural programs, and restorative justice conferencing. The primary function of YJSCs is to supervise and support young people’s compliance with their statutory orders and to deliver evidenced-based interventions designed to address the factors contributing to their offending. YJSCs are responsible for developing service Response Plans (Plans) for young people, based upon assessment of identified risks. The Plans outline agreed goals for the young person, targeted change-orientated interventions required to achieve these goals and the agencies responsible for each component of the Plans. The DYJVS provides outsourced service delivery funding to a broad range of community organisations, to assist in various aspects of service delivery to young people in the youth justice system. This includes funding for bail support services, diversion services, cultural programs, mentoring and personal development programs, family support programs and specialist counselling services.

In addition to the youth justice programs which are briefly mentioned below, DYJVS becomes officially involved with a young person once they have been charged with an offence. Identified staff of DYJVS have a key responsibility to support young people in court. Court coordinators will refer and connect young people to suitable community programs and services. In addition, the Queensland Police Service (QPS) can refer young people to a restorative justice process. At this stage, DYJVS will complete a brief risk screen and make referrals to appropriate services.

Research has shown that risk factors such as socioeconomic disadvantage, family dysfunction, substance abuse, and peer influence play a significant role in shaping a young person's likelihood of engaging in criminal behaviour. By identifying and addressing these risk factors, referral to appropriate supports and services are

known to assist in reducing the occurrence of youth crime in Queensland. Reengagement with education, employment, mental health, disability support, and family support for young people all have a significant impact on a young person's trajectory.

Frontline safety response

Responding to criminal behaviour by young people through early and holistic interventions provides an opportunity to teach them that every action has a consequence. Further, early interventions provide guidance, connection and discipline to get young offenders back on track. Effective community and government-led programs steer young offenders away from crime and put them back on the right path. Diversionary approaches can encourage some children to understand the impact of their actions on, and responsibilities to the community and their families. Diversion programs can be designed to support young offenders and victims of youth crime. These may include restorative justice conferencing, Early Action Groups and Youth Co-Responder Teams, where young people are referred by police and other first responders to support services.

Queensland police officers are well trained and equipped to protect victims of crime. High visibility police patrols and proactive policing, including through social media monitoring and engagement, support keeping the community safe.

Youth Detention Centres (YDC)

The DYJVS operates three YDCs across Queensland:

- Cleveland Youth Detention Centre in Townsville - 112 beds,
- Brisbane Youth Detention Centre (Wacol) - 162 beds, and
- West Moreton Youth Detention Centre (Wacol) - 32 beds.

Casework commences for each young person on admission to actively plan for supported release from a YDC. Casework staff complete offence specific risk assessments and refer young people to programs and intervention services to be completed while they are in a YDC that are tailored to meet their assessed needs.

Programs provided to young people to meet individual risk and needs cover:

- educational, vocational training and skills offered through Queensland Education,
- targeted cultural, speech and language programs,
- sport, recreation and fitness programs,
- life skills programs,
- targeted health programs offered through Queensland Health - including mental health, group therapy programs and substance use intervention,
- behavioural change programs focused on key issues including domestic and family violence, emotional regulation and aggression replacement programs.

The DYJVS is building two new YDCs at Woodford currently on track to be ready for operation in 2027. The YDC identified for location in the Cairns area is expected to come online later. Further, a new 50 bed youth remand facility at Wacol is expected to open in 2025 and will be utilised to support demand until the new YDCs open in Woodford and Cairns.

Youth Justice Programs, Services and Operations

It is critical that young people being held to account for their offending within the youth justice system are provided the opportunity to concurrently address the underlying causes of their offending. For the small group of young people who commit serious, repeat offences, the youth justice system delivers intensive responses and high levels of supervision, while providing evidence-based programs and multi-agency supports to address factors that have contributed to their offending.

In 2016, DYJVS established the *First Nations Action Board* (FNAB) to embed awareness of best practice; as well as the knowledge and wisdom of working in culturally appropriate ways with Aboriginal and Torres Strait Islander young people across youth justice service delivery, policy and practice. In addition, Indigenous Service Support Officers are identified First Nations staff members who assist YJSC staff in undertaking home

visits, providing contacts and support for young offenders and their families (for example, with critical appointments).

A comprehensive overview of DYJVS programs and services is available on the website: www.youthjustice.qld.gov.au

New election commitments and initiatives

Government election commitments including significant funding are designed to present medium to longer term opportunities in early intervention and prevention as an alternative to detention.

These initiatives include:

- **Staying on Track** – \$175 million investment providing 12-month post-release support, where a non-government organisation will work with young people while they are in a YDC, bridging the transition to community, offering stability, and a pathway to education and employment over the year after release.
- **Regional Reset Programs** – \$50 million investment in nine early intervention residential programs to provide 24/7 intensive support for at risk young people who require a higher level of care than some community-based programs can provide. These will be short-stay (one to three week) programs. A young person can be referred to the service from school, police, child safety or parents.
- **Circuit Breaker Sentencing** – \$80 million investment in a three-to-six-month rehabilitation program as an alternative to detention. Two programs will cater to up to 60 young people at any one time.
- **Gold Standard Early Intervention** – \$100 million investment into community-led initiatives focusing on reducing crime, boosting education, training and/or employment. It will include:
 - \$50 million kick-starter program to fund new ideas from Australia and internationally; and
 - \$50 million to expand proven initiatives with key performance indicators and regular reporting.

The DYJVS has commenced priority design and early market engagement to prepare for tender for both the Regional Reset and Staying on Track initiatives, which form part of the Government's 100-day priorities. Additional funded initiatives will progress further in early 2025, however these models will take time to design, tender, procure, commission, and commence operations. Program monitoring and evaluation will occur concurrently to assess efficacy and measure reductions in demand for remand or sentenced custody in the youth justice system over the medium to longer term. Despite the above initiatives, sustained efforts will be required to influence immediate to medium-term outcomes to address demand issues currently being experienced in Queensland. Continued work to drive solutions through other means likely to reduce demand will be needed to mitigate the need for additional investment in infrastructure.

ATTACHMENT 1
DATA AND STATISTICS

There are a range of publicly available data sets that provide commentary on youth offending, youth crime and victims including:

- Service Delivery Statement measures: <https://www.publications.qld.gov.au/dataset/youth-justice-service-standards>
- Key data sets: <https://www.publications.qld.gov.au/dataset/yj-pocket-stats>
- The then DYJ briefing paper to the Youth Justice Reform Select Committee: <https://documents.parliament.qld.gov.au/com/YJRSC-6004/YJRSC-54D8/Department%20of%20Youth%20Justice,%20Employment,%20Small%20Business%20and%20Training,%208%20November%202023.pdf>
- Report on Government Services: <https://www.pc.gov.au/ongoing/report-on-government-services/2024/community-services/youth-justice>
- Australian Institute of Health and Welfare: <https://www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-annual-report-2022-23/contents/fact-sheets/queensland>
- Queensland Government Statistician's Office: Crime Report Queensland: <https://www.qgso.qld.gov.au/statistics/theme/crime-justice/crime-justice-statistics/recorded-crime> noting all data featured in the report come from the QPS and focuses on individuals proceeded against by police (rather than charged or proven offences), that is, this data is not provided by DYJVS.

ATTACHMENT 2

ADULT CRIME, ADULT TIME

EXISTING AND PROPOSED MINIMUM, MANDATORY AND MAXIMUM PENALTIES

Criminal Code section	Offence	Current maximum / non-parole periods for young offenders	Adult crime, adult time maximum / mandatory sentence
302, 305	Murder	Maximum of 10 years detention or up to life detention if ‘particularly heinous in all the circumstances’, with a minimum non-parole period of 20 years if sentenced to life detention	Mandatory life detention with a non-parole period of 20 years. This means that a 16 year old young offender who is convicted of murder will not be eligible for consideration of release on parole until they are 36 years old.
303, 310	Manslaughter	Maximum of 10 years detention or up to life detention if ‘particularly heinous in all the circumstances’, with minimum non-parole period of 15 years if sentenced to life detention	Maximum of life detention, with minimum non-parole period of 15 years if sentenced to life detention
317	Acts intended to cause grievous bodily harm and other malicious acts	Maximum of 10 years detention or up to life detention if ‘particularly heinous in all the circumstances’, with minimum non-parole period of 15 years if sentenced to life detention	Maximum of life detention, with minimum non-parole period of 15 years if sentenced to life detention. If ordered to serve a period of detention less than life, the child must serve the lesser of 80% of sentence or 15 years detention before being released on parole. This means that if a young offender who unlawfully strikes another person in the head or neck and causes the death of another person and is sentenced to a term of 10 years detention, they must serve 8 years before they are released on parole.
314A	Unlawful striking causing death	Maximum of 10 years detention or up to life detention if ‘particularly heinous in all the circumstances’, with minimum non-parole period of 15 years if sentenced to life detention	Maximum of life detention, with minimum non-parole period of 15 years if sentenced to life detention. If ordered to serve a period of detention less than life, the child must serve the lesser of 80% of sentence or 15 years detention before being released on parole. This means that if a young offender who unlawfully strikes another person in the head or neck and causes the death of another person and is sentenced to a term of 10 years detention, they must serve 8 years before they are released on parole.
320	Grievous bodily harm	7 years detention maximum	14 years detention maximum
	Grievous bodily harm committed in a public place while adversely affected by an intoxicating substance	7 years detention maximum	14 years detention maximum Mandatory community service order
323	Wounding	3.5 years detention maximum	7 years detention maximum

Criminal Code section	Offence	Current maximum / non-parole periods for young offenders	Adult crime, adult time maximum / mandatory sentence
	Wounding committed in a public place while adversely affected by an intoxicating substance	3.5 years detention maximum	7 years detention maximum Mandatory community service order
340	Serious assault	3.5 years detention maximum	7 years detention maximum
	Serious assaults that assaults, resists, or wilfully obstructs, a police officer in course of duties or person aiding police officer or corrective service officer or public officer and: <ul style="list-style-type: none"> • bites or spits on the person or throws at, or in any way applies to, person a bodily fluid or faeces, • causes bodily harm to the person, or • is, or pretends to be, armed with a dangerous or offensive weapon or instrument 	7 years detention maximum	14 years detention maximum
	Serious assault that assaults, resists or wilfully obstructs a police officer in course of duties or person aiding police officer or a public officer in course of duties and: <ul style="list-style-type: none"> • committed in a public place while adversely affected by an intoxicating substance 	3.5 years detention maximum	7 years detention maximum Mandatory community service order
409, 411	Robbery	7 years detention maximum	14 years detention maximum
	Robbery: <ul style="list-style-type: none"> • while armed, in company, with personal violence, or with wounding 	Maximum of 10 years detention or up to life detention if ‘particularly heinous’, with minimum non-parole period of 15 years if sentenced to life detention	Maximum of life detention, with minimum non-parole period of 15 years if sentenced to life detention
419	Burglary	7 years detention maximum If certain circumstances ² apply, 3.5 years	14 years detention maximum
	Burglary:	7 years detention maximum	16 years detention maximum

² If the offence involved stealing or damaging/destroying property, or intent to steal or damage/destroy property, and the offender was not armed or pretended to be armed, and the value of any property stolen/damaged/destroyed was not more than \$1,000.

Criminal Code section	Offence	Current maximum / non-parole periods for young offenders	Adult crime, adult time maximum / mandatory sentence
	<ul style="list-style-type: none"> with particular publication of material 	If certain circumstances ³ apply, 3.5 years	
	Burglary and: <ul style="list-style-type: none"> entry was by means of a break, committed in the night, with violence, while armed, in company, with property damage, or commits indictable offence 	Maximum of 10 years detention or up to life detention if ‘particularly heinous’, with minimum non-parole period of 15 years if sentenced to life detention If certain circumstances ⁴ apply, 3.5 years	Maximum of life detention, with minimum non-parole period of 15 years if sentenced to life detention
421	Entering or being in premises and committing indictable offences	5 years detention maximum	10 years detention maximum
	Entering or being in premises and committing indictable offences and: <ul style="list-style-type: none"> commits an indictable offence 	7 years detention maximum If certain circumstances ⁵ apply, 3.5 years	14 years detention maximum
	Entering or being in premises and committing indictable offences and: <ul style="list-style-type: none"> gains entry to the premises by a break and commits an indictable offence 	Maximum of 10 years detention or up to life detention if ‘particularly heinous’, with minimum non-parole period of 15 years if sentenced to life detention If certain circumstances ⁶ apply, 3.5 years	Maximum of life detention, with minimum non-parole period of 15 years if sentenced to life detention
328A	Dangerous operation of a vehicle	1.5 years detention maximum	Maximum of 200 penalty units or 3 years detention
	Dangerous operation of a vehicle and: <ul style="list-style-type: none"> with particular publication of material 	2.5 years detention maximum	Maximum of 400 penalty units or 5 years detention
	Dangerous operation of a vehicle and: <ul style="list-style-type: none"> adversely affected by intoxicating substance, or 		

³ See above.

⁴ See above.

⁵ See above.

⁶ See above.

Criminal Code section	Offence	Current maximum / non-parole periods for young offenders	Adult crime, adult time maximum / mandatory sentence
	<ul style="list-style-type: none"> excessively speeding/racing, or previously convicted of offence 		
	Dangerous operation of a vehicle and: <ul style="list-style-type: none"> previous convictions for relevant offences 	2.5 years detention maximum	Maximum of 400 penalty units or 5 years detention Mandatory detention as whole or part of the penalty
	Dangerous operation of a vehicle and: <ul style="list-style-type: none"> causes the death of or grievous bodily harm to another person 	7 years detention maximum	14 years detention maximum
	Dangerous operation of a vehicle, causing death or grievous bodily harm to another person and: <ul style="list-style-type: none"> offender is adversely affected by intoxicating substance, was excessively speeding or racing; knows the other person has been killed or injured, and leaves before a police officer arrives; or commits an evasion offence before or while committing the offence 	7 years detention maximum	20 years detention maximum
408A	Unlawful use or possession of motor vehicles, aircraft or vessels	5 years detention maximum	10 years detention maximum
	Unlawful use of a motor vehicle and: <ul style="list-style-type: none"> for the purpose of committing an indictable offence; or with particular publication of material 	5 years detention maximum	12 years detention maximum
	Unlawful use of a motor vehicle and: <ul style="list-style-type: none"> committed in the night while armed, in company, with violence, with property damage 	7 years detention maximum	14 years detention maximum

Criminal Code section	Offence	Current maximum / non-parole periods for young offenders	Adult crime, adult time maximum / mandatory sentence
	<ul style="list-style-type: none"> • using an emergency vehicle 		
427	Unlawful entry of a vehicle for committing an indictable offence	5 years detention maximum	10 years detention maximum
	Unlawful entry of a vehicle and: <ul style="list-style-type: none"> • committed in the night; or • while armed, in company, with violence, with property damage; or • using an emergency vehicle 	7 years detention maximum	14 years detention maximum