

## Making Queensland Safer Bill 2024

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**Submitted by:** Qld Network of Alcohol and other Drug Agencies (QNADA)  
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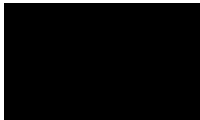
Dear Committee Members

Thank you for the opportunity to provide feedback on the *Making Queensland Safer Bill 2024*. The Queensland Network of Alcohol and other Drugs Agencies (QNADA) submission is attached.

QNADA represents a dynamic and broad-reaching specialist network within the non-government alcohol and other drug (NGO AOD) sector across Queensland. We have more than 55 member organisations, representing the majority of specialist NGO AOD providers. This submission is made following consultation with QNADA members.

QNADA is pleased to provide further information or discuss any aspect of this submission. Please don't hesitate to contact me at [REDACTED].

Yours sincerely



Rebecca Lang

**CEO**



## Submission to the Making Queensland Safer Bill 2024

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*December 2024*

This submission has been prepared by the Queensland Network of Alcohol and Other Drug Agencies (QNADA). Its content is informed by consultation with QNADA member organisations providing alcohol and other drug treatment and harm reduction services across Queensland, as well as a review of relevant research and reports.

This submission focuses on the challenges with:

- removing the principle of detention as last resort.
- allowing cautions and restorative justice agreements to appear on the criminal history of a child.
- equitable access to appropriate healthcare for young people engaged with the justice system.

QNADA is supportive of responses which are evidence informed and likely to increase individual and community safety, as outlined in our policy position paper on [System Responses: Young People and the Justice System](#). We are concerned that the proposed amendments will increase the number of young people in custody, without improving community safety.

The bill will certainly result in further criminalisation of young people who use drugs and is inconsistent with evidence-based strategies currently being implemented by government agencies like [Better Care Together](#) and [Shifting Minds](#). Punitive and incarceration-focused policies and practices directly undermine the key outcomes that governments are seeking to achieve through these policies, including those aimed at reducing recidivism and improving community safety.

There are important factors to consider when policing young people. Young people aged 15 to 24 years are more likely to be victims of crime, including of physical and/or threatened assault, than any other age group<sup>1</sup>. There is no real way to predict how these experiences will impact a child or young person's ongoing health and behaviour, however, for young people who do offend, there is a significant likelihood that they have been victims of more serious offences than they have committed, and that they have experienced multiple forms of disadvantage, abuse, and neglect.

During adolescence, the brain is undergoing extensive remodelling with the full development of the prefrontal cortex – the section that helps us to understand consequences, solve problems and control impulses – only finishing at age 25<sup>2</sup>. This impacts the way that children and young people make decisions, as well as their ability to fully comprehend the outcomes of their actions<sup>3</sup>.

### **Removing the principle of detention as last resort**

We are certain that removing the principle of detention as last resort will fail to have desired effect on crime and youth offending and will instead result in further harm to children and communities.

QNADA's member services work at the intersection of multiple systems and provide support to people who have had contact with, or are likely to have contact with, the youth justice system. Evidence from our member services is consistent - contact with agencies like police, justice and child safety are associated with a range of adverse outcomes, including treatment effectiveness through disruptions

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<sup>1</sup> Australian Bureau of Statistics, "Crime Victimisation, Australia, 2021-2022 financial year," (2023).

<sup>2</sup> Raising Children Network, "Brain development in pre-teens and teenagers," (2021).

<sup>3</sup> Ibid.

to access. It is widely agreed that early intervention and diversion into treatment are preferable to justice responses for young people<sup>4</sup>.

Young people who are caught up in these systems often become 'stuck' moving between these systems which can lead to compounding harm, exclusion and disadvantage that has detrimental impacts over the longer term, including by increasing the likelihood of further system engagement, limiting future employment and/or restricting access to secure housing. This is particularly the case for Aboriginal and Torres Strait Islander children and young people, who are over-represented across all youth justice systems in Australia and are detained in youth detention facilities at unacceptably high rates.

We note the National Closing the Gap targets include reducing the rate of young people (ages 10 to 17 years) in detention by 30% by 2031<sup>5</sup>. To meaningfully achieve this, we support the range of actions called for by the Queensland Aboriginal and Torres Strait Islander Child Protection Peak including:

- a significant long-term increase in community controlled youth services;
- delegating authority and appropriate functions to these services from youth justice;
- the implementation of community-led justice reinvestment approaches;
- intensive and culturally appropriate case management; and
- a long term commitment to achieve the changes required<sup>6</sup>.

It is critical that opportunities to minimise unnecessary contact with police and other justice agencies are optimised, including by ensuring that community controlled and non government services for young people are available, when and where they need them. Services must be acceptable and accessible to young people, and by investing in First Nations-led, local solutions, the number of young people interacting with the youth justice system can be minimised through solutions that prioritise the protective strengths of families and communities, and the value of independent, non-government diversion and bail support programs, who are better positioned to build trust and work with children and young people preventatively.

To support effective relationships and engagement, alcohol and other drug treatment and harm reduction services must be voluntary, confidential and delivered in a way that ensures that young people and their families feel safe. This is because most:

- have complex histories of abuse and trauma;
- prior poor experiences with police and other statutory bodies;
- a general distrust of services; and
- experience stigma and discrimination in their daily lives, including from police and the courts.

Strategies that focus on an intensified police presence and enforcement, only serve to increase the number of children and young people who are brought to the attention of the justice system who otherwise would not be. 'Over-policing' is the act of increasing resources, typically police, in an

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<sup>4</sup> Green, R., Bryant, J., Gray, R., Best, D., Brown, R., Rance, J., & MacLean, S. J. (2016). *Policing and Pathways to diversion and care among vulnerable youth people who use alcohol and other drugs*. Canberra: National Drug Law Enforcement Research Fund.

<sup>5</sup> [Closing the Gap targets - Closing the Gap - Australian Indigenous HealthInfoNet \(ecu.edu.au\)](https://www.ecu.edu.au/indigenous-healthinfo/indigenous-healthinfo/closing-the-gap-targets)

<sup>6</sup> Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited (2023) Youth Justice: Position Paper

attempt to reduce crime even though it is well known that this results in some communities being targeted and over-represented in child protection and justice systems.

The vast majority of people who use alcohol and other drugs do not experience problematic use and never come into contact with any services for reasons related to their use. This includes specialist health services like alcohol and other drug treatment and harm reduction services, as well as agencies like police, courts, child safety or youth justice. For people who do access specialist AOD treatment, contact with agencies like police, justice and child safety are associated with a range of adverse outcomes, including:

- on a person's disclosures with treatment services, with potential follow-on impacts for treatment effectiveness;
- heightened stress; and/or
- disruptions to treatment delivery, particularly during periods of imprisonment.

We are concerned that removing the principle of detention as last resort would have a significant net-widening effect which will disproportionately affect young Aboriginal and Torres Strait Islander people. While we know that a young person's substance use is often not the primary reason they come to the attention of police, over-policing and high visibility policing increases the risk of further engagement and subsequent over-criminalisation of young people.

Evidence domestically and internationally is clear, incarcerating young people who use drugs is associated with a host of negative outcomes including recidivism with the experience of being in a youth detention facility increasing the likelihood of future offending<sup>7</sup>. Incarcerating young people who use alcohol and other drugs is also certain to negatively impact long term health outcomes<sup>8</sup>. For young people who inject drugs, incarceration increases the risk of hepatitis C and other bloodborne virus transmissions due to increases in high-risk injecting behaviours such as needle sharing<sup>9</sup>.

Punitive responses to children and young people also impacts their willingness to report their experiences of victimisation to the police and erodes their confidence in an effective justice response. This point is important given that a key aim of the proposed Act is to "increase community confidence in the justice system."

### **Allowing cautions and restorative justice agreements to appear on the criminal history of a child**

We do not support the proposed removal of sections 15(3), 21(4), and 252G(3) of the Youth Justice Act, which currently prohibit cautions and contraventions of a supervised release order from appearing on the criminal history of a child.

We are concerned that the removal of these protections would have the effect of further criminalising young people's drug use. Earlier this year, the expanded Police Drug Diversion Program (PDDP) was introduced with the intention of diverting people away from the criminal justice system and this aspect of the proposed Act will directly undermine the programs stated intention. Allowing drug

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<sup>7</sup> PeakCare Queensland Inc. Youth Crime – Get Smarter, Not Tougher Youth Crime - Get SMARTER, Not Tougher (2023).

<sup>8</sup> Barnert, Elizabeth S., Rebecca Dudovitz, Bergen B. Nelson, Tumaini R. Coker, Christopher Biely, Ning Li, and Paul J. Chung. "How does incarcerating young people affect their adult health outcomes?." *Pediatrics* 139, no. 2 (2017).

<sup>9</sup> Australian Institute of Health and Welfare, "The health of people in Australia's prisons 2022" (2023).

diversions and cautions to form part of a child's admissible criminal history has the effect of criminalising their drug use.

We know from domestic and international evidence that criminalising drug use carries with it a range of negative consequences. Further, diversion from criminal justice systems has been recommended by the following Qld government inquiries and reports dating back to 2010:

- Hear her voice - Report two - Women and girls' experience across the criminal justice system (2022)
- Shifting Minds Strategy 2023-2028
- Inquiry into the Opportunities to Improve Mental Health Outcomes for Queenslanders (2022)
- Towards a healthier, safer more just and compassionate Queensland: decriminalising the offences affecting those most vulnerable (2022)
- Achieving balance: The Queensland Alcohol and Other Drugs Plan 2022-2027
- Qld Productivity Commission Inquiry into Imprisonment and Recidivism (Reducing Imprisonment) (2020)
- Women in Prison 2019: A human rights consultation report (Anti-discrimination Commission Qld)
- Report on Youth Justice (2018)
- Action on Ice: The Qld Govt's plan to address use and harms caused by crystal methamphetamine (2018)
- Drug and Specialist Court Review: Final Report (2016)
- Inquiry into cannabis-related harm in Queensland Report No . 10 (2010)

The Queensland government should, in keeping with bipartisan commitments under successive drug and alcohol strategies, aim to criminalise drug use as little as possible, including allowing cautions and diversions of children to be kept out of future proceedings.

### **Poor access to equitable and appropriate healthcare within Queensland prisons**

Despite the fact that most people who use drugs do not experience problems, many people involved with justice systems have poorer physical and mental health than the general population and a large proportion have a history of alcohol, drug use and dependence<sup>10</sup>. Considering that this Act will increase the number of young people who are incarcerated, challenges to equitable access to appropriate healthcare must also be addressed.

Periods of incarceration provide an opportunity for to provide health and support interventions, including identifying people with mental health and drug use issues and providing treatment. However, in practice, this opportunity is currently being squandered as Queensland prisons are desperately lacking in appropriate alcohol and other drug treatment and harm reduction programs. Our treatment and harm reduction facilities within correctional settings are under resourced and are

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<sup>10</sup> Snow, K. J., D. Petrie, J. T. Young, D. B. Preen, E. Heffernan, and S. A. Kinner. "Impact of dual diagnosis on healthcare and criminal justice costs after release from Queensland prisons: a prospective cohort study." *Australian Journal of Primary Health* 28, no. 3 (2022): 264-270.

often not connected to services delivered in the community. Without an increase in funding, our service sector will not be able to meet the inevitable higher demand brought on by these policies.

The 2022 Inquiry into the Opportunities to Improve Mental Health Outcomes for Queenslanders recommended “Increasing mental health and alcohol and other drugs service delivery in correctional facilities” (Rec 15). This recommendation was accepted in full, however the problem very much still exists. Expanding AOD treatment and harm reduction programs within Queensland correction settings was also recommended in the below reports and strategies:

- Achieving balance: The Queensland Alcohol and Other Drugs Plan 2022-2027
- Qld Corrective Services Drug and Alcohol Action Plan 2020-21
- Action on Ice: The Qld Govt's plan to address use and harms caused by crystal methamphetamine 2018
- Parole System Review 2016
- Women in Prison 2019: A human rights consultation report (Anti-discrimination Commission Qld)

This is of particular concern given that:

- People entering prison were more than 4 times as likely to report illicit drug use in the preceding 12 months as people in the general community (73% and 17%, respectively)
- Younger prison entrants were more likely to report current drug use than older entrants
- Almost one-third (29%) of prison entrants reported they had injected drugs at some stage in their lives
- Almost 2 in 5 (37%) prison discharges reported using illicit drugs in prison<sup>11</sup>
- Rates of recidivism are significantly higher for people with a history of substance dependence.<sup>12</sup>

Poor levels of access to services when imprisoned means that people receiving treatment or medication before going to prison don't always have access to these supports once they are imprisoned. This can leave them waiting for medication, leading to issues such as withdrawal or mental health instability<sup>13</sup>.

This lack of access to health care and AOD treatment increases the risk of:

- overdose
- self-harm
- suicide
- poorer health outcomes.<sup>14,15</sup>

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<sup>11</sup> Australian Institute of Health and Welfare, “The health of people in Australia's prisons 2022” (2023).

<sup>12</sup> Sullivan et al. “Recidivism, health and social functioning following release to the community of NSW prisoners with problematic drug use: study protocol of the population-based retrospective cohort study on the evaluation of the Connections Program.” *BMJ open* 9, no. 7 (2019): e030546.

<sup>13</sup> Australian Institute of Health and Welfare, “The health of people in Australia's prisons 2022” (2023).

<sup>14</sup> Ibid.

<sup>15</sup> Butler, Amanda, Jesse T. Young, Stuart A. Kinner, and Rohan Borschmann. “Self-Harm and Suicidal Behaviour among Incarcerated Adults in the Australian Capital Territory.” *Health & Justice* 6, no. 1 (2018): 1–6. <https://doi.org/10.1186/s40352-018-0071-8>.



We point to the provision of NSPs within QLD prisons as an illustrative example. There is a wealth of evidence which shows that NSPs within prisons lead to a marked reduction in the transmission of blood-borne viruses, reduce risk behaviours, reduce death, improve prison safety, and reduce rates of reoffending while there is no evidence to suggest that these programs have unintended negative consequences<sup>16</sup>. Having no access sterile injecting equipment means people in prison are at increased risk of contracting bloodborne viruses as a result of sharing injecting equipment, particularly hepatitis C. It is concerning then that data from AIHW shows that about 1 in 7 (14%) prison discharges<sup>17</sup> reported injecting substances in prison<sup>17</sup>.

Queensland Health must, as a matter of priority, work with QPS and QCS to ensure people in Queensland Watch Houses and Prisons have immediate access the full complement of treatment and harm reduction services delivered in the community by the non government sector.

In this context, it is clear that service commissioning and contract management processes through Youth Justice are problematic and not aligned with similar processes Health procurement. Planning and commissioning of health services should be undertaken by Queensland Health to ensure equitable access to health services (as required by the Queensland Human Rights Act 2019) and to provide some system level accountability to balance the operational requirements of youth justice facilities (such as suspended access to health or education services due to a lack of youth justice staff).

Detention centres and the broader youth justice system must also work more collaboratively with community-based support and treatment services, in a way that prioritises confidentiality, choice and continuity of care. Early coordinated planning with relevant service providers before a young person is released from custody is essential, including to address their housing, education and employment needs.

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<sup>16</sup> Rutter, S., Dolan, K., Wodak, A., & Heilpern, H. (2001). Prison-based syringe exchange. A review of international research and programme development. NDARC Technical Report No. 112.

<sup>17</sup> Australian Institute of Health and Welfare, "The health of people in Australia's prisons 2022" (2023).