

## **Making Queensland Safer Bill 2024**

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Queensland Injectors' Voice for Advocacy and Action (QuIVAA) thanks the committee for the opportunity to respond to the proposed Making Queensland Safer 2024 Bill. As a Lived – Living Experience AOD organisation, QuIVAA identifies the following relevant conventions in making this submission.

#### Key considerations

The United Nations Convention on the Rights of the Child emphasizes that children interacting with the justice system should be treated in ways that uphold their dignity and worth, fostering respect for human rights and freedoms. This approach should be age-appropriate and aim to reintegrate children into society by promoting their constructive roles.

Legislative changes related to youth justice should be guided by a human rights framework to ensure that children are given special care and protection. Queensland's Human Rights Act upholds several crucial rights for children, including the right to protection in their best interest, the right to privacy, protection from torture or cruel treatment, and the right to treatment suited to their age when convicted of an offence.

The "Adult Crime, Adult Time" laws allow children to receive sentences similar to those given to adults for certain crimes. Youth offenders will now be sentenced under the Criminal Code rather than the Youth Justice Act. This change applies to serious offences such as murder, manslaughter, grievous bodily harm, burglary, robbery, and dangerous driving.

As a result, maximum sentences for young offenders convicted of these crimes will be significantly higher. For example, a child found guilty of dangerous driving causing death or serious injury could face up to 20 years in prison. A child convicted of a crime that carries a "life detention" sentence will serve a minimum of 15 years. A child found guilty of murder will serve at least 20 years in prison.

This approach, which can affect children as young as 10 due to Queensland's age of criminal responsibility, contradicts the provisions of the Human Rights Act, which asserts that children should receive age-appropriate treatment when convicted of an offence. The government has acknowledged that these laws are incompatible with human rights.

Given that children's decision-making capacity is different from that of adults and they face unique vulnerabilities, distinct approaches to rehabilitation, including therapeutic support, are necessary. The United Nations Committee on the Rights of the Child, in General Comment No. 24 (2019), advises that the child justice system should apply to all children under 18 and recommends raising the minimum age of criminal responsibility to at least 14, based on brain development research.

Furthermore, the proposal will not improve community safety. Studies, such as [Safety through Support: Building Safer Communities by Supporting Vulnerable Children in Queensland's Youth Justice System](#), highlight that 80% of children sentenced to detention return to youth justice supervision within 12 months. For younger children (10-12 years old), 94% will return. The effectiveness of harsher sentencing is questionable, and longer detention periods exacerbate issues like overcrowding in Queensland's youth detention facilities, which are already operating beyond safe capacity.

The proposed Bill seeks to eliminate the principle that detention should be a last resort from the Youth Justice Act's Charter of Youth Justice Principles. This principle was amended earlier under the Queensland Community Safety Act 2024, but the proposed Bill seeks its full removal. It also suggests that courts should prioritize the impact on victims over the principle of detention as a last resort and the preference for community-based sentences.

The removal of this principle sends a harmful message, especially given that Queensland already detains more children than any other Australian jurisdiction. This is particularly concerning when children are being detained in adult watch houses. Restoring and maintaining the principle of detention as a last resort is crucial to ensuring fair and humane treatment of children in the justice system.

The Bill also introduces a broader definition of a child's criminal history, including cautions, restorative justice agreements, and violations of release orders. It proposes that criminal histories be admissible in adult sentencing and limits the ability of Childrens Court judges to exclude individuals from proceedings. These changes may have unintended negative effects, particularly in cases involving complex family dynamics or trauma.

While open justice and victim access to proceedings are important, these proposed amendments do not adequately consider the unique challenges faced by children in the justice system, including trauma and vulnerability. These changes could hinder children's ability to move forward and re-integrate into society.

## Recommendations

Rather than implementing tougher laws, we call for reforms based on evidence of what actually makes communities safer while respecting the rights of children and victims.

The youth justice system disproportionately affects Aboriginal and Torres Strait Islander children. Over 70% of incarcerated youth in Queensland in 2022-2023 were Aboriginal or Torres Strait Islander, with the figure rising to over 80% for children aged 10-13. Queensland's Human Rights Act acknowledges the right to self-determination for First Nations Peoples, which must shape future reforms.

Children with disabilities are also disproportionately impacted by the youth justice system. Detention is particularly harmful to these children, and harsher sentencing approaches are unlikely to deter offending behavior, especially for those with disabilities. The government should collaborate with organizations experienced in supporting children with disabilities to provide more effective, supportive alternatives to detention.

The Queensland Youth Justice Strategy reveals that many youth in the justice system face challenges such as substance use, domestic violence, unstable housing, and mental health or behavioral issues. Rather than relying on harsher approaches, we propose:

- A review of the youth justice system to identify ways to improve effectiveness, with input from First Nations Peoples and a diverse range of community organizations.
- Ensuring that Aboriginal and Torres Strait Islander voices are central to policy decisions and service delivery.
- Prioritizing investments in community services, especially those led by Aboriginal and Torres Strait Islander organizations, to address the root causes of youth crime.
- Developing community service-led responses for children under 14 involved in the justice system, focused on support and rehabilitation rather than punishment.
- Ending the use of adult watch houses for children and creating alternative pathways for diversion and rehabilitation, including accessible community services for youth and families across Queensland.

Sincerely,

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QuIVAA Policy and Project Lead