

Making Queensland Safer Bill 2024

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To Queensland Parliament Committees,

Submission: Recommendations on the Proposed Amendments to the Criminal Justice System (Inquiry into Making Queensland Safer Bill 2024).

Introduction

Redcliffe Area Youth Space (RAYS) respectfully submits the following recommendations regarding the proposed amendments to the criminal justice system, particularly in relation to the treatment of non-violent offenders, the involvement of young people in the system, and the use of detention. These recommendations are based on extensive research and best practice evidence, which advocate for a more rehabilitative and restorative approach to justice.

Retention of Restorative Justice Orders for Non-Violent Offences under the "Adult Crime, Adult Time" Category

RAYS recommends that restorative justice orders remain an available option for non-violent offences within the "Adult Crime, Adult Time" category. The removal of restorative justice as an option for these offences, as proposed in the Bill, undermines established evidence-based practices that have proven effective in reducing reoffending and fostering rehabilitation.

Restorative justice processes offer an opportunity for offenders to take accountability for their actions in a manner that is constructive and supportive of rehabilitation. Additionally, these processes enable victims to engage meaningfully with offenders, helping to heal harm and promoting restorative outcomes. The proposed exclusion of restorative justice for non-violent offences denies both victims and offenders the opportunity to participate in a system that focuses on healing, accountability, and rehabilitation.

Restriction of Maximum Penalties for "Adult Crime, Adult Time" Offences to Young People Aged 14 and Over

RAYS proposes that the Queensland Government amend the legislation so that the new maximum penalties for "Adult Crime, Adult Time" offences apply only to individuals aged 14 and over. Research consistently shows that early interaction with the criminal justice system significantly increases the likelihood of long-term system entrenchment.

Specifically:

- Children are less likely to reoffend if responses from the system prioritise diversion and minimal intervention.
- The earlier a child receives a court sentence, the more likely they are to reoffend, particularly in violent ways, and continue their criminal behaviour into adulthood.
- Children who have had contact with child protection services are disproportionately likely to receive youth justice supervision orders.

Given the significant risk of entrenchment, RAYS urges that maximum penalties be reserved for those aged 14 and older to avoid further involvement of younger children in the justice system, which could have long-term negative effects on their development and life outcomes. Not to mention the long-term financial costs to the state.

Clear Distinction Between Violent and Non-Violent Offences in Burglary and Unlawful Offence Categories

RAYS further recommends that the proposed Bill be amended to clearly distinguish between violent and non-violent offences within the burglary and unlawful use of a motor vehicle categories. Under Queensland's Criminal Code, offences such as burglary and unlawful use of a motor vehicle cover a broad range of behaviours, from low-level offences (e.g., entering a property through an open door or stealing a vehicle at non-dangerous speeds) to more serious, violent crimes (e.g., forcible break-ins or "joyriding"). Without an explicit distinction between violent and non-violent offences, there is a risk of overusing punitive responses, such as detention, for less serious offences.

This broad categorisation may contribute to "net widening," where children involved in relatively minor offences are drawn into the punitive justice system, depriving them of opportunities for community-based intervention and rehabilitation. Given that approximately 62% of young people in the youth justice system commit only one offence and do not reoffend, it is essential that the legislation focuses on proportionate, rehabilitative responses rather than punitive measures that increase the likelihood of system entrenchment.

Retention of Exclusion Orders in Youth Justice Proceedings

RAYS strongly recommends that the Bill retain provisions that allow the Children's Court to make exclusion orders in cases where the presence of certain individuals or entities could jeopardise the safety of a person or prejudice the proper administration of justice. Judicial discretion is essential to ensuring fairness and safeguarding the rights of children involved in youth justice proceedings.

The proposed amendments in the Bill would remove the ability of the Children's Court to issue exclusion orders, even in situations where there is a risk to an individual's safety or where it may undermine the integrity of the judicial process. This change represents a significant departure from the principles of procedural fairness and judicial discretion that are fundamental to ensuring just outcomes in youth justice cases.

We are deeply concerned that this legislative change, as acknowledged in the Statement of Compatibility, could result in unjust proceedings for children. The inability to exclude individuals or entities in sensitive or high-profile cases increases the risk of exposing vulnerable children to

situations that threaten their safety or compromise the integrity of judicial processes. This risk is particularly pronounced for First Nations children, who already face systemic inequities within the justice system and are disproportionately represented in the youth justice system.

Further, the proposed expansion of access to court proceedings, particularly for victim representatives, raises concerns about the potential for vigilante behaviour. Historical examples demonstrate the dangers of community retaliation following highly publicised youth offences. In Queensland, there have been incidents where public outcry over youth crime has led to community-driven retaliation, targeting not only the alleged offenders but also their families. Such responses can lead to further marginalisation and trauma for vulnerable children, undermining their prospects for rehabilitation.

The presence of victim representatives in open court may exacerbate these tensions, particularly in smaller communities where anonymity is difficult to maintain. This concern is particularly relevant for First Nations children, who often come from tightly-knit communities where exposure in such contexts can have profound and far-reaching consequences for both the child and their family. In light of these concerns, RAYS urges that the Bill preserve the provision for exclusion orders to protect vulnerable children, ensure procedural fairness, and uphold the integrity of the judicial process.

Addressing Inconsistencies in Child Development Understanding Across Legislation

RAYS advocates for a more coherent and developmentally informed approach to how children and young people are treated within the justice system. It is crucial to acknowledge that current legislative frameworks often demonstrate a lack of consistent understanding of children's cognitive, emotional, and social development, which varies significantly from adults.

For instance, the national ban on children under 16 using social media platforms is based on the understanding that young people are not yet sufficiently mature to make well-informed decisions about the consequences of their actions online. This precautionary stance aligns with the growing body of research on adolescent brain development, which shows that children's decision-making abilities and impulse control continue to mature well into their twenties.

However, this understanding appears to conflict with other legislative frameworks, such as the Making Queensland Safer legislation, which treats children as young as 10 as capable of making adult decisions, thereby subjecting them to adult legal penalties. This discrepancy suggests a lack of coherence in the application of developmental science across laws that govern the treatment of children, particularly when it comes to whether children should be held accountable in the same way as adults.

RAYS proposes that Queensland's youth justice laws align more closely with established research on child and adolescent development, which indicates that children and young people are still developing the cognitive and emotional skills needed to make fully informed, adult-level decisions. The current approach risks undermining the rehabilitation potential of the youth justice system and overlooks the opportunity to intervene in ways that would foster positive long-term outcomes.

Concerns Regarding the Automatic Transfer of 18-Year-Olds to Adult Correctional Centres

Redcliffe Area Youth Space (RAYS) submits concerns regarding the proposed amendments to the Youth Justice Act (YJ Act) that mandate the automatic transfer of detainees from youth detention centres to adult correctional facilities upon turning 18. The Bill establishes a default position for transfer within one month, subject only to the discretion of the chief executive, with no appeal or review process, except judicial review.

The automatic transfer could disrupt young people's rehabilitation by removing access to programs vital for their mental health, education, and reintegration. This disruption risks reversing progress made during their time in youth detention and may increase the likelihood of reoffending. A more flexible, case-by-case review process is needed to assess the ongoing rehabilitative needs of 18-year-olds transitioning into adult correctional facilities. RAYS recommends reconsidering the automatic transfer provision, as it fails to account for individual circumstances critical to a young person's rehabilitation. While the Bill allows limited discretion, it does not consider the impact on young detainees who may lose access to essential rehabilitative programs, therapeutic supports, and services available in youth detention but not in adult facilities.

Conclusion

In light of the proposed amendments to Queensland's criminal justice system, Redcliffe Area Youth Space (RAYS) urges a comprehensive and thoughtful approach to the treatment of young people within the justice system. Our recommendations emphasise the need for a balanced, rehabilitative, and restorative approach to justice, with particular attention to non-violent offenders, young people, and the overall impact of detention.

RAYS strongly advocates for the retention of restorative justice orders for non-violent offences, as they have proven to be effective in reducing reoffending and fostering healing for both victims and offenders. Additionally, we recommend amending the legislation to apply new maximum penalties only to those aged 14 and over, in line with evidence suggesting that early interactions with the justice system increase the likelihood of long-term negative outcomes for younger individuals. It is also crucial that the Bill clearly distinguishes between violent and non-violent offences to avoid over-punitive measures for less serious crimes, particularly among youth. We also raise concerns about the removal of exclusion orders in youth justice proceedings, urging the preservation of judicial discretion to protect vulnerable children, ensure fairness, and safeguard the integrity of the judicial process. Furthermore, RAYS stresses the importance of aligning Queensland's youth justice laws with the latest research on child and adolescent development to promote rehabilitation and positive outcomes for young offenders.

Finally, the automatic transfer of 18-year-olds to adult correctional facilities poses significant risks to the rehabilitation of young people. RAYS recommends a more flexible, case-by-case approach to transitioning detainees to adult facilities, ensuring that young individuals continue to receive the support they need to reintegrate successfully into society.

By implementing these recommendations, Queensland's criminal justice system can better support rehabilitation, reduce recidivism, and prioritise the long-term well-being of young people, ultimately leading to a safer and more just society.

Kind regards,



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CEO

Redcliffe Area Youth Space (RAYS)