

Making Queensland Safer Bill 2024

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Dear Committee Members

Making Queensland Safer Bill 2024 ('the Bill')

Thank you for the opportunity to provide feedback in relation to the above.

About QCOSS

Queensland Council of Social Service (QCOSS) is Queensland's peak body for the social service sector. Our vision is to achieve equality, opportunity, and wellbeing for all Queenslanders.

Our sector delivers community-based interventions that deal with the root cause of crime, which are proven to improve the wellbeing of young people and reduce offending behaviour.

QCOSS' position

QCOSS strongly opposes passage of the Bill. The harsh measures contained in the Bill will not make the community safer and are likely to result in the detention of more children for longer. This Bill will cause harm to some of the most disadvantaged children in Queensland.

The youth justice system in Queensland has a particularly disproportionate impact on Aboriginal and Torres Strait Islander children and their families and these laws will compound this. It has been particularly painful for many to see the Bill introduced on the same day that Parliament repealed the *Path to Treaty Act 2023* without any Committee scrutiny nor opportunity for public comment.

We also raise concerns regarding the timeframes within which the Bill is passing through parliamentary processes. The legislative amendments proposed by the Bill are significant and should go through proper consultation processes. We note that this is just the first tranche of legislative changes proposed by the Government under the Making Our Community Safer Plan. We ask the Government to take a more consultative and measured approach in future.

We welcome recent commitments from the Queensland Government to invest in early intervention, diversion and rehabilitation. The harsh laws proposed by this Bill, however, will undermine those policies and investments.

In developing this submission, QCOSS has drawn upon our ongoing research and engagement with members of the community service sector and other stakeholders who have a deep understanding of best practice in supporting young people and families. QCOSS also works with our community service sector to coordinate the Queensland Raise the Age campaign, which calls for the minimum age of criminal responsibility to be raised to 14. Additionally, on Monday 2 December, QCOSS held a submission consultation session with a wide range of community service providers who expressed grave concerns on the likely impact of the Bill.



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Children should be treated differently from adults in the criminal justice system

The United Nations Convention on the Rights of the Child outlines that children in contact with the justice system should be "...treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society."

Legislative changes relating to youth justice should be guided by a human rights framework to ensure children are afforded special care in the protection of their human rights. Among other rights, the *Human Rights Act 2019* (Qld) ('the Human Rights Act') includes the right to protection needed by the child, in the child's best interest; the right to privacy; the right to freedom from torture and cruel, inhuman or degrading treatment; and a child's right to treatment which is appropriate to the child's age when they are convicted of an offence.¹

It is distressing to see another Bill that disregards the human rights of children in Queensland. We express our concern that in the Statement of Compatibility the Government has acknowledged that amendments in the Bill "...will lead to sentences for children that are more punitive than necessary to achieve community safety."²

Children do not have the same decision-making capacity as adults, are at a different developmental stage of their lives, and experience different vulnerabilities. This is why it's important to have different approaches for young people in contact with the criminal justice system compared to adults, including different approaches to rehabilitation that incorporate therapeutic supports to meet their specific needs.

Children who interact with the youth justice system have high rates of physical, cognitive, neurological disabilities, cognitive impairments, ADHD, autism spectrum disorder, traumatic brain injury, learning difficulties and mental health issues. National and international research indicates that more than 50 per cent of children in youth detention have severe speech, language, auditory, and literacy difficulties. These conditions are found to compromise a child's capacity to understand the consequence of their actions. Offending behaviours can be driven by issues relating to impulsivity, hyperactivity, risk-taking, and emotional regulation as symptoms of underlying, and possibly undiagnosed, disabilities and neurological conditions.

Children committing serious crime in Queensland are more likely to have been exposed to domestic violence, used drugs, and had limited access to education, housing and healthcare. Adverse childhood experiences result in physical changes to the brain and interruptions to the brain's normal development.³ Research suggests that children are more likely to commit offences, and re-offend, if they have experienced early childhood trauma and adversity. Studies indicate that developmental delays caused by domestic and family violence are compounded by a child's inability to understand that violence they may experience, or be exposed to, in their home is inappropriate or illegal in public.⁴

Presuming longer prison sentences or other tough measures will deter children from engaging in offending behaviour is flawed, particularly for children whose decision-making is impacted by their age, disability and exposure to violence and trauma.

¹ *Human Rights Act 2019* (Qld).

² Making Queensland Safer Bill 2024 Statement of Compatibility.
<https://documents.parliament.qld.gov.au/bills/2024/3232/Making-Queensland-Safer-Bill-2024---Statement-of-Compatibility-c348.pdf>

³ Walsh T, Beilby J, Lim P, Cornwell L. (2023). Safety through support: building safer communities by supporting vulnerable children in Queensland's youth justice system.
<https://espace.library.uq.edu.au/view/UQ:55d7b70>

⁴ Ibid.

As coordinators of the Queensland Raise the Age Campaign, it is our view that children under the age of 14 should not be subject to the criminal justice system. Additionally, the laws proposed by the Bill should not apply to any child.

Adult Crime, Adult Time laws

The Adult Crime, Adult Time laws are an unprecedented step in the wrong direction. They will not make communities safer, and they are not consistent with Queensland's human rights obligations to children, nor international best practice.

The Human Rights Act outlines a child's right to treatment that is appropriate to the child's age when they are convicted of an offence.⁵ The United Nations Committee on the Rights of the Child provided guidance on the application of the child justice system in their *General Comment No. 24 (2019) on children's rights in the child justice system*. They outlined "...the child justice system should apply to all children above the minimum age of criminal responsibility but below the age of 18 years at the time of the commission of the offence."⁶ The Committee recommended that any governments that limit the applicability of their child justice system should "...change their laws to ensure a non-discriminatory full application of their child justice system to all persons below the age of 18 years at the time of the offence."⁷ In the same General Comment, the Committee also urged governments to raise the age of criminal responsibility to at least 14 years based on established findings regarding brain development in children and young people.

The sentencing regime proposed by the Bill will apply to children as young as ten years old, due to the low minimum age of criminal responsibility in Queensland. This will include lengthy minimum periods of detention for children found guilty of murder, or sentenced to life imprisonment, and limits judicial discretion to make orders suitable to the circumstances of the situation. Our members have previously raised concerns that young children who are charged as an accessory to a crime are already swept into the youth justice system far too often. We therefore raise additional concerns about how the new sentencing regime will interact with children who may have simply been at the wrong place at the wrong time, or whose role in an offence was very small.

Removal of the principle of detention as a last resort

We note the Bill seeks to remove the principle of detention as a last resort from the Charter of Youth Justice Principles in the *Youth Justice Act 1992* (Qld) ('the Youth Justice Act').⁸ This principle was already amended by the Queensland Community Safety Act 2024 (Qld) earlier this year. Previously the principle required that "a child should be detained in custody for an offence, whether on arrest, remand or sentence, only as a last resort and for the least time that is justified in the circumstances."

Following recent amendments, it currently reads as follows:

"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."

The Bill proposes to remove the principle all together and removes other provisions from the Youth Justice Act that also reflect the principle. Additionally, the Bill seeks to add a specific requirement that in sentencing a child for an offence a court must not have regard to any principle that a detention order should only be imposed as a last resort or any principle that a sentence that allows the child to stay in the community is preferable.

⁵ *Human Rights Act 2019* (Qld) s 33(3).

⁶ United Nations Committee on the Rights of the Child. (2019). *General Comment No. 24 (2019) on children's rights in the child justice system*. CRC/C/GC/24. <https://digitallibrary.un.org/record/3899429?v=pdf>

⁷ *Ibid.*

⁸ *Youth Justice Act 1992* (Qld) Sch 1.

The government has acknowledged that the removal of the principle of detention as a last resort is not compatible with human rights.

We do not support the removal of, nor prior amendments to, the principle of detention as a last resort. This principle is derived from the UN Convention on the Rights of the Child. Removing the principle from the Youth Justice Act sends a troubling signal into a system that already detains more children than any other Australian jurisdiction on an average night.⁹ The removal of this safeguard is particularly concerning in the context of detention of children in adult watch houses. The principle should be fully restored and maintained.

Expanding access to Childrens Court Proceedings

The proposed amendment to expand access to Childrens Court proceedings may result in unintended negative consequences. This is particularly the case where matters may involve complex relationships, or where the nature of matters discussed warrants nuanced consideration of who can be present during proceedings. Open justice and access for victims and victims representatives in legal processes is important, including in a youth justice setting. However, these changes have the potential to impact children who often have significant challenges, including experiences of complex trauma and poverty.

This amendment will undermine the Court's role in conducting proceedings that promote the child's sense of dignity and worth, which reinforce the child's respect for the human rights and fundamental freedoms of others, and take into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society, in line with the UN Convention on the Rights of the Child.

Expanding the scope and application of children's criminal histories

Proposed changes regarding children's criminal history do not sufficiently respect the human rights of children and undermine the ability of children in contact with the justice system to effectively move forward with their lives. Members have provided feedback that young people with lived experience of the youth justice system already face barriers to taking positive next steps due to their criminal history, such as barriers to obtaining a blue card. Additionally, we have received feedback that expanding the scope of what will be included in a child's criminal history may remove the incentive for children to plead guilty when interacting with the Queensland Police Service, adding further strain to the justice system.

Provisions focussed on victims' rights

We note the Bill will require the Courts to have primary regard to the impact on victims when sentencing young people, and that the Bill introduces an opt-out (rather than an opt-in) process in relation to the victim information register.

QCOSS agrees that more support is needed for victims of crime to ensure they experience a fair process. However, the amendments in the Bill do not deliver evidence based initiatives that effectively empower victims and reduce reoffending. It is not appropriate, nor necessary, to put the rights of victims above the rights of young people in contact with the criminal justice system. The system should operate such that the needs of victims are met while also respecting the human rights of children.

The Victims' Commissioner should be central to the development and consultation on any legislative changes aimed at improving the rights and experiences of victims. However, the details of the Bill have only been publicly available for less than a week before submissions are due. The Women's Safety and Justice Taskforce recommended that the Victims' Commissioner should undertake a review of the Charter of Victims' Rights.¹⁰ The Victims' Commissioner and their office should be

⁹ Australian Government. (2024). *Report on government services 2024: youth justice services, Table 17A.5*. Productivity Commission

<https://www.pc.gov.au/ongoing/report-on-government-services/2024/community-services/youth-justice>

¹⁰ Women's Safety and Justice Taskforce. (2022). *Hear Her Voice Report Two*. Recommendation 19. <https://www.womenstaskforce.qld.gov.au/publications>

supported to conduct a review, consulting comprehensively with community organisations, into priority areas as needed with reasonable time frames.

We recommend prioritising investment and support for processes that have been demonstrated to help achieve good outcomes for both children in contact with the criminal justice system and victims. Restorative justice conferencing provides a safe environment for the victim to discuss the impacts of crime. The child has the opportunity to take responsibility, learn from their mistakes, and understand the impacts of their behaviour. A 2016 evaluation of restorative justice conferencing over a six-month period in Queensland found that 59 per cent of children who participated in the program did not reoffend within the six months following their conference, 18 per cent showed a decrease in post-conference offending magnitude, and 22 per cent had an equivalent or increased post-conference offending magnitude.¹¹ These are much stronger results compared to outcomes following periods of time served in detention. It is concerning that the Bill proposes to limit restorative justice sentencing options available to the Courts.

The Bill will disproportionately impact Aboriginal and Torres Strait Islander children, children with disability, and culturally and linguistically diverse children

The criminal justice system has a disproportionate impact upon Aboriginal and Torres Strait Islander children and their families. Of the young people who were incarcerated in the 2022-23 financial year in Queensland, over 70 per cent identified as Aboriginal and/or Torres Strait Islander. Within the 10–13-year-old age group, this figure increases to over 80 per cent.¹² The right of First Nations Peoples to self-determination, which is acknowledged in the preamble of Queensland’s Human Rights Act, must shape the way forward.

Children living with disability are also disproportionately impacted by the youth justice system. While estimates are that 44 per cent of children in the youth justice system have one or more disabilities, our members believe this figure may be an underestimate due to undiagnosed needs.

Our members have also emphasised the disproportionate impact of the youth justice system upon children who are culturally and linguistically diverse, noting that their needs are not being met within the youth justice system and who need more targeted, community-led support.

The Bill will place further strain on an already over-burdened youth justice system

The cumulative impact of the measures proposed by the Bill will place further strain on an already over-burdened youth justice system. As highlighted by the Queensland Audit Office:

“Queensland’s youth detention centres are consistently operating above their safe capacity. The department’s procedures state that a safe capacity is achieved when no more than 85 per cent of beds are utilised. It requires a ratio of one youth worker to 4 young offenders when in open spaces. Where a young offender is a threat to the safety of others in the centre, they may require one-on-one supervision.

Between April 2022 and March 2023, the average utilisation rates were:

- Brisbane Youth Detention Centre – 94 per cent
- Cleveland Youth Detention Centre – 88 per cent
- West Moreton Youth Detention Centre – 95 per cent.

Operating beyond the safe capacity increases the risk of safety incidents, including assaults on detention centre staff.”¹³

¹¹ Department of Child Safety, Youth and Women (2018). Restorative Justice Project: 12-month Program Evaluation. <https://www.youthjustice.qld.gov.au/media/documents/our-department/research-and-evaluations/our-evaluations/restorative-justice-conferencing-program-evaluation/restorative-justice-evaluation-report.pdf>

¹² Australian Government. (2024). *Report on government services 2024: youth justice services*, Table 17A.9. Productivity Commission <https://www.pc.gov.au/ongoing/report-on-government-services/2024/community-services/youth-justice>

¹³ State of Queensland. (2024). *Reducing serious youth crime (Report 15: 2023-24)*. Queensland Audit Office. <https://www.qao.qld.gov.au/reports-resources/reports-parliament/reducing-serious-youth-crime>

The Queensland Ombudsman has released the *Cleveland Youth Detention Centre inspection report: Focus on separation due to staff shortages*. Among other things, they principally raised concerns on the use of 'separation' due to staff shortages that can impact children's mental wellbeing and reduce access to services within the centre, including education.¹⁴ The Queensland Family and Child Commission have also raised concerns regarding youth detention centres operating above safe capacity, and concerns on staff shortages.¹⁵

Alarming, the Statement of Compatibility acknowledges that the Adult Crime, Adult Time amendments "...may result in children being held in watchhouses for extended periods of time."¹⁶ We share the same concerns but argue that this outcome cannot be justified.

Our members include organisations who continue to witness the appalling conditions children are experiencing in watch houses. The Youth Advocacy Centre has noted in relation to watchhouses "...there are extremely limited facilities for visits by family; there are often no facilities for exercise or other age-appropriate activities; many children are staying for two weeks and in isolated incidents they may be staying for as long as five weeks; the children are being held in close proximity to adult prisoners; the police working in the watch houses often have no training in dealing with troubled young people."¹⁷

Ongoing media coverage has shed further light on the damaging practice of holding children in adult watch houses. For example, reports of a 17 year old who had been incarcerated in a watch house for 32 days,¹⁸ reports of another 17 year old who was struck three times with a police baton,¹⁹ and reports of a 14 year old girl with foetal alcohol spectrum disorder and other intellectual disabilities who was injured when police were moving her into an isolation cell.²⁰ The ABC has also published a number of case studies described as *The Watch House Files*, which provide further details of devastating and utterly unacceptable scenarios.²¹

Recently the Queensland Ombudsman, in their capacity as Inspector of Detention Services, released their *Cairns and Murgon watch-houses inspection report: Focus on detention of children*.²² The report highlights several concerns including unsuitable infrastructure, inadequate admission processes, children being held in isolation, along with irregular and inconsistent access arrangements for important service providers.²³

¹⁴ Queensland Ombudsman. (2024). *Cleveland Youth Detention Centre inspection report: Focus on separation due to staff shortages*.

<https://www.ombudsman.qld.gov.au/detention-inspection/inspections-and-reports>

¹⁵ Queensland Family and Child Commission. (2023). *Who's responsible: Understanding why young people are being held longer in Queensland watch houses*, pp 49-54.

<https://www.qfcc.qld.gov.au/sector/monitoring-and-reviewing-systems/young-people-in-youth-justice/who%27s-responsible>

¹⁶ Making Queensland Safer Bill 2024 Statement of Compatibility.

¹⁷ Youth Advocacy Centre. (2019). *Orange Paper 1: The use of Queensland Watch houses to hold children*.

<https://yac.net.au/wp-content/uploads/2022/10/YAC-Orange-Paper-1-QLD-Watch-Houses.pdf>

¹⁸ Smee, B. (27 August 2023). 'I'll never forget': after 32 days without sunlight in a Queensland watch house, Nick's hair was falling out. *The Guardian*.

<https://www.theguardian.com/australia-news/2023/aug/27/queensland-watch-house-laws-teenagers-experience-human-rights-act>

¹⁹ Blucher, A. (10 July 2024). "Jason" was beaten repeatedly with a baton in a watch house. An investigation found the use of force was 'reasonable'. *ABC News*.

<https://www.abc.net.au/news/2024-07-10/indigenous-teenager-beaten-brisbane-police-watch-house-cctv/104070840>

²⁰ Luu J, Elias M. (18 July 2024). 'Unfit for court with the capacity of a 5-year-old: The kids being locked up in a crime crackdown'. *SBS News*

<https://www.sbs.com.au/news/the-feed/article/unfit-for-court-with-the-capacity-of-a-5-year-old-the-kids-being-locked-up-in-a-crime-crackdown/3vh6kffav>

²¹ Willacy M. (13 May 2019). *The Watch House Files: Detention centres full, children locked in Queensland's police watch houses*. *ABC News*.

<https://www.abc.net.au/news/2019-05-13/hold-the-watch-house-files/11046190>

²² Queensland Ombudsman. (2024). *Cairns and Murgon watch-houses inspection report: Focus on detention of children*.

<https://www.ombudsman.qld.gov.au/detention-inspection/inspections-and-reports>

²³ Ibid.

The youth justice system is already operating under immense stress resulting in unacceptable outcomes for children. Further pressure should not be placed on this system.

Current funding approaches disproportionately favour punitive responses

The current approach to government expenditure under the Department of Youth Justice and Victim Support is heavily skewed to government run programs creating a costly and ineffective system that do not address the root causes of youth crime and do not reduce offending.

The annual cost per child in detention for the 2022/23 financial year in Queensland was \$669,308.²⁴ There are three proposed new detention facilities coming at a cost of hundreds of millions of dollars. The previous Government committed more than \$260 million in funding in late 2023 to construct the new Youth Remand Centre at Wacol and close to \$150 million over three years to operate the facility.²⁵ The projected construction cost of the Woodford Youth Detention Centre is up to \$627.61 million,²⁶ while \$261.4M over four years has been allocated to establish and support the therapeutic operating model at the Woodford Youth Detention Centre.²⁷ There is also a proposal to build a detention centre in the Cairns region.²⁸

The Queensland Audit Office found that between 2018-19 and 2022-23, the department spent \$1.38 billion on youth justice. Approximately 90 per cent of this (\$1.25 billion) was spent on internal department programs and services, including in operating detention centres. In comparison, approximately 10 per cent (\$134 million) was invested into non-government organisations (\$92 million) and Aboriginal and Torres Strait Islander community-controlled organisations (\$42 million).²⁹ Their report also highlighted that investment in programs and services was not sufficiently strategic or appropriately evaluated.

The previous youth justice strategy, *Working Together to Change the Story Youth Justice Strategy 2019-2023*, was a sound strategy. It centred upon the four pillars of intervening early, keeping children out of court, keeping children out of custody, and reducing re-offending. A key finding of the Queensland Audit Office, reinforced by the views of our members, was that the strategy was not sufficiently supported through implementation.

The community services sector holds the experience, expertise, and community connections to deliver evidence based, effective programs that support young people and families. The comparative lack of funding for these services significantly reduces the capacity for community organisations to meet the needs of young people engaged in, or at risk of engaging, with the justice system.

QCROSS recently published the *State of the Sector 2024* report, based on extensive feedback provided by community services across Queensland.³⁰ Only 7 per cent of respondents to our community sector survey felt they were able to meet service demand. 40 per cent reported that their organisation turned people away due to lack of capacity and 33 per cent reported that staff worked

²⁴ Australian Government. (2024). *Report on government services 2024: youth justice services*, Table 17A.21. Productivity Commission

<https://www.pc.gov.au/ongoing/report-on-government-services/2024/community-services/youth-justice>

²⁵ The Hon Steven Miles, the Hon Cameron Dick, the Hon Mark Ryan and the Hon Di Farmer. *Community Safety Plan for Queensland: Construction progressing on Wacol Remand Centre*. (23 September 2024)

<https://statements.qld.gov.au/statements/101419>

²⁶ The Hon Steven Miles and the Hon Di Farmer. *Construction starts on youth detention facility at Woodford*. (27 February 2024)

<https://statements.qld.gov.au/statements/99792>

²⁷ State of Queensland. (2024). *Community Safety Plan for Queensland*, p 23.

<https://www.qld.gov.au/about/community-safety>

²⁸ State of Queensland. *New Youth Detention Centre in Cairns*. Department of Youth Justice and Victim Support. (Accessed 2 December 2024).

<https://www.youthjustice.qld.gov.au/our-department/strategies-reform/new-youth-detention-centres/cairns>

²⁹ State of Queensland. (2024). *Reducing serious youth crime (Report 15: 2023-24)*. Queensland Audit Office, pp 20-21.

<https://www.gao.qld.gov.au/reports-resources/reports-parliament/reducing-serious-youth-crime>

³⁰ Queensland Council of Social Service. (2024). *State of the Sector 2024*.

<https://www.qcross.org.au/publication/report-state-of-the-sector-2024/>

unpaid hours to meet demand. An overwhelming number of survey respondents reported an increase in the complexity of need among service users (84 per cent), as well as levels of poverty and disadvantage among service users (83 per cent).

Tough laws and policies are not effective and do not address the root causes of youth crime

On an average night in Queensland, there are 305.8 incarcerated children and young people.³¹ This is a higher nightly average than any other State or Territory in the country. Queensland also has the second highest rate of children's incarceration on a per capita basis in Australia, after the Northern Territory.³² The *Children's Court of Queensland Annual report for 2022-23* outlined that 8,119 children spent time in adult watch houses over the year. The report detailed that "...close to 1,000 children spent five or more days in the watchhouse and 146 of those children spent 15 or more days in the watchhouse."³³

Queensland has an over-reliance on detaining children despite clear evidence that this approach is not effective. As explored in recent research, of the children who are sentenced to detention in Queensland, 80 per cent will return to youth justice supervision within 12 months. The younger a child is when they are first sentenced, the more likely they will be to return to youth justice supervision again during childhood. Of the children ages 10 to 12 years who receive a supervised sentence, 94 per cent will return to youth justice supervision at some point.³⁴

Responses to youth crime in Queensland must respond to the root causes and complex drivers of offending behaviour. In response to a recent Queensland Inquiry on youth justice, a community worker shared their reflections with QCOSS on the importance of holistic approaches to supporting young people:

"It is important to get in early to break the cycle. I have seen children dragged away from school and through the courts for stealing a sausage roll and a drink. Sometimes children go through a treadmill of court over months for a small shoplifting offence. Children are getting sucked into the system with prolific offenders... It perpetuates the cycle. I would like to see more wrap around services for each young person...so the child isn't put through court and dragged out of school. These children need support to get into school, more boots on the ground to help them, help to go to footy training, basic dental health, grocery support to get food on the table and support for families."

International and Australian research paints a clear understanding of the causes that lead to youth crime. Poverty, disadvantage, trauma, disability, exposure to violence, and drug and alcohol use are all drivers of a young person's interaction with the justice system. Punitive responses, including inappropriate and unsuitable detention facilities, exacerbate these issues while community organisations can provide the therapeutic interventions to support these needs and reduce offending rates.

Children who are involved with, or at risk of involvement with the justice system, often have a disability and multiple physical and mental health challenges associated with trauma and entrenched disadvantage.³⁵

³¹ Australian Institute of Health and Welfare. (2023). *Youth detention population in Australia 2023: Table S1 – Table 15*.

<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2023/data>

³² Productivity Commission. (2024). Report on government services 2024: youth justice services, Table 17A.5.

<https://www.pc.gov.au/ongoing/report-on-government-services/2024/community-services/youth-justice>

³³ State of Queensland. (2023). *Childrens Court of Queensland Annual Report 2022-23*. Childrens court of Queensland.

https://www.courts.qld.gov.au/_data/assets/pdf_file/0010/786466/cc-ar-2022-2023.pdf

³⁴ Walsh T, Beilby J, Lim P, Cornwell L. (2023). Safety through support: building safer communities by supporting vulnerable children in Queensland's youth justice system, p 14.

<https://espace.library.uq.edu.au/view/UQ:55d7b70>

³⁵ McArthur, M., Suomi, A., & Kendall, B. (2021). Review of the service system and implementation requirements for raising the minimum age of criminal responsibility in Australian Capital Territory (p. 7). *Australian National University*. https://www.justice.act.gov.au/_data/assets/pdf_file/0006/2072364/Raising-the-Age-Final-Report.PDF

The Queensland Youth Justice Strategy outlines that "...of the young people in the youth justice system in 2022-2023:

- 81 per cent have used at least one substance
- 53 per cent are impacted by domestic and family violence
- 48 per cent are not enrolled in education, training or employment
- 30 per cent are in unstable and/or unsuitable accommodation
- 38 per cent of youth in custody have used ice/methamphetamine in the past
- 25 per cent have a parent who has been in custody
- 44 per cent have one or more mental health disorders and/or behavioural disorders (diagnosed or suspected)
- 44 per cent have one or more disabilities
- 16 per cent have one or more psychological behavioural issues."

An Australian study identified the following key social determinants increase the risk of incarceration:

- Experiencing out of home care
- Experiencing educational barriers
- Early contact with police
- Unsupported mental health and disability
- Problematic alcohol and drug use
- Experiencing homelessness or unstable housing
- Living in a disadvantaged location.³⁶

This is reinforced by an assessment of 99 children in youth detention in Western Australia, which found that 89 per cent had at least one severe neurodevelopmental or mental health disorder. These disorders included Foetal Alcohol Spectrum Disorder, intellectual disability, ADHD, trauma/attachment disorders, depression, anxiety, learning difficulties and speech and language disorders.³⁷

In relation to education, it has been identified that the absence of a positive connection to school at age seven is a predictor of later offending behaviours.³⁸ School disciplinary absences and lack of supervision has been shown to increase the likelihood of students becoming involved in the youth justice system.³⁹

International evidence shows that childhood homelessness strongly increases risk of involvement in the youth justice system and is often linked to trauma.⁴⁰ As of June 2023, there were 25,364 applications on the waitlist for the Queensland Social Housing Register, representing 41,484 people. There were 5,384 single parent family household applications. In the past five years alone, advertised median rents have increased throughout Queensland by more than 50 per cent on

³⁶ McCausland, R. & Baldry, E. (2023). Who does Australia Lock Up? The Social Determinants of Justice. *International Journal for Crime, Justice and Social Democracy*, 12(3) (pp. 37-53). doi: 10.5204/ijcjsd.2504.

³⁷ Bower C, Watkins RE, Mutch RC, et al., (2018). Fetal alcohol spectrum disorder and youth justice: a prevalence study among young people sentenced to detention in Western Australia, *BMJ Open* 2018 (p. 5).

³⁸ Homel, R., Freiberg, J. & Branch, S. (2013). *Creating the conditions for collective impact: Transforming the child-serving system in disadvantaged communities*. Griffith University.

³⁹ Hemphill, S., Broderick, D. & Heerde, J. (2017). *Positive Associations between school suspension and student problem behaviour: Recent Australian findings* (p. 5). Australian Institute of Criminology. <https://www.aic.gov.au/sites/default/files/2020-05/tandi531.pdf>

⁴⁰ Thompsom, S. et. al. (2013). Explaining homeless youths criminal justice interactions: childhood trauma or surviving life on the streets. *Community Mental Health Journal*.

average.⁴¹ The most recent census data found that 23 per cent of all people experiencing homelessness were aged from 12 to 24 years.⁴² Estimates from leading housing academics indicate there are about 150,000 households across Queensland whose needs for affordable housing are currently unmet.⁴³

Our members operating in the domestic and family violence sector report soaring levels of demand along with increased complexity of need. Of all Queensland DFV occurrences between 2016 and 2022, 31 per cent involved children. This has resulted in children as young as 8 being on the streets at night for safety reasons.^{44,45,46} The Queensland Audit Office has identified that there are few domestic and family violence supports available for children, especially in regional areas, and multi-agency, holistic case management is needed.⁴⁷ In the 2023-24 financial year domestic and family violence offences accounted for 56.9 per cent of total assault offences in Queensland.⁴⁸ Most domestic violence offences are committed by adult males, and the victims are usually women and children.^{49,50} Children exposed to adverse childhood experiences and domestic and family violence (DFV) are also far more likely to become involved in the youth justice system.⁵¹

In 2020-2021, 10-to-17-year-olds from the lowest socioeconomic areas in Australia were five times more likely to be under youth justice supervision than those from the highest socioeconomic areas.⁵² QCOSS recently released a report, *Living Affordability in Queensland 2024*, which sought to establish whether five modelled low-income households in Queensland can afford a basic standard of living. The report documents the financial stress and deprivation faced by vulnerable households in Queensland. It found that none of the households with children were able to afford a

⁴¹ State of Queensland. (2024). *Median value of weekly rent paid for new tenancies commencing in each quarter*. Residential Tenancies Authority

<https://www.rta.qld.gov.au/forms-resources/median-rents-quick-finder/median-rents-quarterly-data>

⁴² Australian Government. (2023). *Estimating Homelessness: Census*.

<https://www.abs.gov.au/statistics/people/housing/estimating-homelessness-census/latest-release>

⁴³ Pawson H, Clarke A, van den Nouwelant R, Petersen H, Moore J, Sigler T. (2024). *Breaking Ground, progress update and assessment of Queensland's housing crisis*, p 4.

https://www.qcoss.org.au/wp-content/uploads/2024/06/Report_Breaking-Ground_Progress-update-of-Queensland-Housing-Crisis_web.pdf

⁴⁴ Dwyer, M. in Queensland Police Service. (2022). *Rise in domestic violence occurrences prompts safety messages from police and support services*. <https://mypolice.qld.gov.au/news/2023/03/01/rise-in-domestic-violence-occurrences-prompts-safety-message-from-police-and-support-services/>

⁴⁵ Queensland Audit Office. (2022). *Keeping people safe from domestic and family violence: Report on a page*.

https://www.gao.qld.gov.au/sites/default/files/2022-11/Report%20on%20a%20page_Keeping%20people%20safe%20from%20domestic%20and%20family%20violence%20%28Report%205_2022%E2%80%9323%29.pdf

⁴⁶ Gillespie, E. (2023) *Children as young as eight 'out on the streets' due to domestic violence, Queensland Inquiry hears*. The Guardian. <https://www.theguardian.com/australia-news/2023/mar/01/children-as-young-as-eight-out-on-the-streets-due-to-domestic-violence-queensland-inquiry-hears>

⁴⁷ Queensland Audit Office. (2022). *Keeping people safe from domestic and family violence, (Report 5: 2022–23)*. (pp. 5,19, 21).

https://www.gao.qld.gov.au/sites/default/files/2022-11/Keeping%20people%20safe%20from%20domestic%20and%20family%20violence%20%28Report%205_2022%E2%80%9323%29_0.pdf

⁴⁸ Minister for Police and Community Safety, the Hon. Mark Ryan. *Latest Crime Statistics from Queensland Police Service*, (July 26, 2024).

<https://statements.qld.gov.au/statements/100936>

⁴⁹ Australian Institute of Health and Welfare. *Family, domestic and sexual violence*. (Accessed October 9, 2024).

<https://www.aihw.gov.au/family-domestic-and-sexual-violence/resources/fdsv-summary>

⁵⁰ State of Queensland. (2023). *Gender Equality Report Cards 2023, Queensland Women's Strategy 2022-27*.

<https://www.aihw.gov.au/family-domestic-and-sexual-violence/resources/fdsv-summary>

⁵¹ Ogilvie, J., Thomsen, L., Barton, J., Harris, D. A., Rynne, J., & O'Leary, P. (2022). *Adverse childhood experiences among youth who offend: Examining exposure to domestic and family violence for male youth who perpetrate sexual harm and violence*. Australian National Research Organisation for Women's Safety.

<https://anrowsdev.wpenginepowered.com/wp-content/uploads/2022/07/RP.20.07-RynneRR2-Young-men-HSB.pdf>

⁵² Australian Institute of Health and Welfare. (2022). *Youth justice in Australia 2020–21* (p.15).

<https://www.aihw.gov.au/getmedia/10da194d-5756-4933-be0a-29d41743d79b/aihw-juv-138.pdf?v=20230605182446&inline=true>

basic standard of living.⁵³ Raising the rate of income support above the poverty line is essential to ensure low-income families in Queensland can afford a basic standard of living.

Drug and alcohol disorders are highly represented in the child justice population, with one report indicating that as many as 64 per cent of those in child justice systems have a drug and alcohol disorder compared to 5.1 per cent in the community.⁵⁴ A four-year study of the connection between AOD treatment and youth justice systems in Australia found that 21 per cent of young people who access AOD treatment have also had youth justice supervision. Similarly, 33 per cent of young people on youth justice supervision have accessed AOD treatment in their recent past.⁵⁵ In the Australian AOD system there is a general lack of services appropriate for younger people and fewer still for young people aged 16 years or less. Geographic access issues are also present alongside broader issues of service capacity and availability.⁵⁶ In the context of AOD, reports across multiple jurisdictions note that routine screening for AOD issues is inconsistent and that in the event where screening is undertaken, there is often inadequate treatment support within youth justice systems.⁵⁷

Further investment is needed in effective evidence-based programs and services

We are pleased the Queensland Government has committed to investing in “gold-standard” early intervention, diversion and rehabilitation. We encourage the government to focus on this commitment rather than investing time and resources in the harmful measures contained in this Bill.

QCOSS members have consistently advocated for greater investment in case management programs, 24-hours safe accommodation options, disability and therapeutic support options, education support and alternative education, and community-led restorative justice conferencing as elements of a service system response that will reduce crime.

Government investment should be targeted to the programs that address the root causes of crime and deliver the evidence-based supports that are clearly recognised across Queensland and international research. The Queensland Audit Office found that there has never been a systems-wide investment analysis to inform funding decisions related to youth justice services. The government should undertake a detailed analysis of youth crime rates by location, type of offences, offences and severity of offences, service provider capability, capacity and other relevant trends and plan and invest to reduce youth crime. Given the over-representation of First Nations children in the justice system, this investment planning should be done in partnership with community-controlled organisations.

There are several examples of effective, community-based programs to indicate the types of services that should be funded across Queensland. These include:

On Country Program

The On Country program seeks to strengthen young people’s cultural and family connection and engage young people with education, training and employment through healing camps and cultural mentoring. The On Country program in Cairns, delivered by Jabalbina Yalanji Aboriginal Corporation (Jabalbina) has been praised by the Director General of Youth Justice for its positive results.⁵⁸

In a 2023 QCOSS webinar, ‘*Diverting all young children from jails, watch houses and courts*’ workers from Jabalbina shared a positive case study of a young boy involved in crime who

⁵³ Queensland Council of Social Service. (2024). *Living Affordability in Queensland 2024*.

https://www.qcoss.org.au/wp-content/uploads/2024/09/Report_Living-Affordability-in-Queensland-2024_web.pdf

⁵⁴ Atkinson, B (2018). Report on Youth Justice. <https://www.youthjustice.qld.gov.au/media/documents/our-department/strategies-and-reform/changing-the-youth-justice-story/youth-justice-report.pdf>

⁵⁵ AIHW. (2018). *Overlap between youth justice supervision and alcohol and other drug treatment services - 1 July 2012 to 30 June 2016*. Canberra: Australian Government.

⁵⁶ AADC (2023). Submissions to the Australian Human Rights Commission: Youth Justice and Child Wellbeing Reform across Australia. <https://aadc.org.au/resources/>

⁵⁷ Ibid

⁵⁸ Gee, B. in Queensland Government. (2023). *Estimates – Education, Employment and Training Committee-Education; Industrial Relations; Racing*. (p.85). https://documents.parliament.qld.gov.au/com/EETC-797A/C20232024-1AA0/2023_08_03_Estimates%20EETC.pdf

participated in cultural mentoring, support and healing camps and has grown to become an employee of Jabalbina who mentors young children entering the program.⁵⁹

Youth and Family Service (YFS) Resolve Program

YFS deliver the Resolve program, an early intervention case management and diversion program in Logan for children aged 12 to 16 years old displaying early signs of anti-social and offending behaviours. An interim evaluation by Griffith University from June 2022 to April 2024 found that the program delivered 2,382 outreach contacts across seven locations. Of the young people who completed the program:⁶⁰

- 77 per cent had met their goals or needs
- 96 per cent improved their level of hope
- 78 per cent improved their life skills
- 87 per cent improved their wellbeing.

The evaluation identified success factors including:

- transport assistance for facilitating access
- engaging, interest-based and recreational activities for youth engagement
- the development of respectful, trusting and constructive relationships
- the accessibility, flexibility and reliability of coaches
- one on one coaching tailored to the individual goals, needs and circumstances of each participant
- building young people's personal, social and relational capabilities as the foundation for tangible outcomes in engagement in education, training and employment
- soft entry approaches to intensive support
- interagency collaboration
- embedding the program in a larger, well-established service (YFS) with strong community links and opportunities for ongoing service provision.

The evaluation found Resolve was highly effective and could serve as a role model for similar initiatives aimed at engaging disenfranchised youth. This program was funded by the Federal Government under a pilot program and provides a strong example of the types of services that the Queensland Government should be investing in based on their robust evaluation of outcomes.

Youth Foyers

Queensland currently has three youth foyers in Townsville, Logan, and the Gold Coast. Accredited youth foyers complete robust evaluations to measure how safe and stable accommodation with integrated community-based support delivers solutions to address the root causes of youth crime. The national evaluation of Youth Foyers found that they reduced the likelihood of involvement with the justice system by 60 percent while increasing the likelihood of completing education and accessing employment.⁶¹ The independent economic analysis of these models showed a 6.1 return on investment for governments in addition to an average reduction in costs to the youth justice system of \$34,516 per young person.⁶²

Fire program

⁵⁹ QCOSS. (2023). *Diverting all young children from jails, watchhouses and courts webinar* (video). <https://www.youtube.com/watch?v=MmpYXoRHYlc>

⁶⁰ YFS. (2023). *Evidence, Learning and Evaluation Summary, Resolve*.

⁶¹ Foyer Foundation. (2023). Under One Roof: The social and economic impact of Youth Foyers.

https://foyer.org.au/wp-content/uploads/2023/04/FoyerFoundation_UnderOneRoof_FULLLReport2023.pdf

⁶² Ibid.

The Fire program is delivered by Harbrow Mentoring in Cairns as a prevention and early intervention strategy to divert young people away from problematic behaviour and hot spots. Over 20 weekends from 26 May 2022, the program engaged with 1,920 young people, 1,341 of whom were diverted from the CBD hotspot and transported out of the area.⁶³

Horse Whispering Youth Program

The Horse Whispering Youth Program delivers trauma informed, equine assisted programs for young people aged 12 to 18 who are at risk of disengaging from school, engaging in anti-social behaviours and/or interacting with the youth justice system. Survey responses from young people identified:⁶⁴

- 40 per cent improved engagement with educational/vocational opportunities and positive social interactions
- 22 per cent improved attentional focus
- 22 per cent improved emotional regulation
- 18 per cent improved communication
- 30 per cent improved trust and connection
- 35 per cent improved behaviour
- 28 per cent improved self-confidence.

Ted Noffs Foundation

Ted Noffs Foundation provide programs that help young Australians move beyond drugs, alcohol and youth justice involvement in locations such as Logan, Gold Coast, Caboolture and Townsville. An Australian evaluation of their PALM program in Sydney and Canberra (noting the program also operates in Caboolture), found that there was a significant reduction in crime amongst high-risk young people who engaged in their program.⁶⁵

Youth Bail Support Service

The Cairns and Yarrabah Youth Bail Support Service (CYYBSS) seeks to reduce the number of young people entering detention through legal support, advocacy and by supporting young people's needs. The initiative is a partnership between Youth Empowered Towards Independence, Gindaja Treatment and Healing, and the Youth Advocacy Centre. The program provided 3,899 hours of court support on 2,649 occasions for 148 young people during the 2021-22 financial year, with 24 percent of these young people aged 12-14 years.⁶⁶ CYYBSS supported young people via case management to reduce the likelihood of them entering the youth justice system in the future.

Our recommendations

In addition to other recommendations made in our submission, and in light of the expansive evidence that tough-on-crime approaches to young people in contact with the criminal justice system do not work, we recommend:

- The Queensland Government review the operation of Queensland's youth justice system to identify immediate opportunities to streamline and improve the effectiveness of responses across the continuum. This must start by engaging with First Nations Peoples and a diverse range of organisations and community leaders to chart a way forward.
- The voices of Aboriginal and Torres Strait Islander children, families, and communities must be central to all policy and service delivery decisions. The youth justice system must be co-

⁶³ James Cook University. (2022). *Fire project evaluation: Final report (unpublished)*.

⁶⁴ Horse Whispering Youth Program. (2023). *Horse Whispering Youth Program Impact Measurement*. (Unpublished).

⁶⁵ Whitten, T. et. al. (2022). Influence of a residential drug and alcohol program on young people's criminal conviction trajectories. *Journal of Criminal Justice*. <https://www.sciencedirect.com/science/article/pii/S0047235222001519>

⁶⁶ Youth Empowered Towards Independence. (2023). *YETI: Annual Report 2021-2022*. https://yeti.net.au/wp-content/uploads/2023/02/YETI_AnnRep2022_FINAL.pdf

designed with Aboriginal and Torres Strait Islander leaders, ensuring that decisions reflect the priorities, knowledge, and cultural practices of those most affected by the system.

- Prioritise investments and policies that enable the community services sector, with a particular focus on Aboriginal and Torres Strait Islander community-controlled organisations, to lead the way in addressing the root causes of youth crime and make all Queenslanders feel safe in their communities.
- Fund and implement an alternative, community service-led response to children under the age of 14 years old who are interacting with the justice system. The response must be supportive and therapeutic in nature. It should also adopt principles of restorative justice, ensuring that the needs of victims continue to be met.
- End the use of adult watch houses for the detention of children and create viable pathways for diversion and rehabilitation, including community services available 24/7 for young people and families across Queensland.
- Work with the Queensland Family and Child Commission, the community service sector, and Queensland Aboriginal and Torres Strait Islander Child Protection Peak as the youth justice peak body for Queensland to design, develop and deliver a holistic 12-month post detention transition program for young people leaving youth detention.

Conclusion

Many in the community services sector are increasingly distressed by the current rhetoric and policies that de-humanise some of the most disadvantaged children in Queensland. It is fundamentally important to ensure communities feel safe, but the punitive measures contained in the Bill will not improve community safety.

Thank you again for the opportunity to provide our submission.

Yours sincerely



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