

## Making Queensland Safer Bill 2024

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## **Queensland Youth Policy Collective**

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Submission to the Justice, Integrity and Community Safety Committee

Making Queensland Safer Bill 2024 (Qld)

3 December 2024

This submission was prepared to assist the Justice, Integrity and Community Safety Committee in consideration of the Making Queensland Safer Bill 2024 (Qld) ('the Bill'). The Queensland Youth Policy Collective ('QYPC') is a non-partisan and comprised of young people who want to contribute evidence-based, youth-led perspectives in public debate, particularly in the fields of human rights, climate change and youth justice.

QYPC notes that the Bill was introduced on Thursday 28 November 2024. These submissions are due Tuesday 3 December 2024 (i.e. three business days after the Bill's introduction). And the Committee's report is due on Friday 6 December 2024. Turnarounds of this nature are not conducive to a meaningful engagement and participation from the community and industry. The Government is urged against maintaining this timeframe and taking the necessary time and resources to conduct proper consultation of the community, industry experts and researchers.

**QYPC unequivocally rejects the Bill and strongly recommends that the Bill not be passed.**

QYPC acknowledges that the community and media response to specific tragic crimes is an understandable one. However, we urge the Queensland Government - which has available to it a vast array of resources, independently commissioned reports, evidence-based recommendations and the intrigue of the community to resolve the underlying issues - to avoid knee-jerk reactions to such responses. It is imperative that the actions taken by the Government are reflective of the extensive evidence in this field most recently summarised in the report of the National Children's Commissioner.<sup>1</sup> It is one thing for individuals who do not have the time and resources to delve into such research to make public comments based on a perceived youth crime crisis, and another for the Government to act on these comments when it has to hand resources and evidence that overwhelmingly counteract those comments and support an entirely different approach to the same issue.

The Government is also distinguished from individuals in that it holds significant responsibilities, not only under its own *Human Rights Act 2019* (Qld), but also international covenants on human rights including those of children. The Government must act in a manner compatible with these rights, unless there is some evidence-based reason otherwise. Plainly, this is not the case here. As the Attorney-General herself reflects:<sup>2</sup>

"I also recognise that, according to international human rights standards, the negative impact on the rights of children likely outweighs the legitimate aims of punishment and denunciation. The amendments will lead to sentences for children that are more punitive than necessary to achieve community safety."

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<sup>1</sup> Australian Human Rights Commission, *'Help way earlier!' How Australia can transform child justice to improve safety and wellbeing* (2024). Accessible at [https://humanrights.gov.au/sites/default/files/document/publication/1807\\_help\\_way\\_earlier\\_-\\_accessible\\_0.pdf](https://humanrights.gov.au/sites/default/files/document/publication/1807_help_way_earlier_-_accessible_0.pdf).

<sup>2</sup> Making Queensland Safer Bill 2024 (Qld), Statement of Compatibility, at page 11.

It is inconceivable that protections in the criminal justice system afforded to adults would not be afforded to children. It is inconceivable that the amendments present would render it possible that a child be sent to custody for something that an adult would not, due to the removal of the principle of detention as a last resort for children only.<sup>3</sup> And yet that is the proposed legislation. It flies in the face of the decades of careful research, advice and recommendations that industry experts have been providing the Government.

The proposal to promote the consideration of the impact of offending on victims - but only in respect of child defendants - is another clear inconsistency in the application of sentencing principles. Although the impact on the victim is a recognised aspect of sentencing, it is inherently not future-focused. To punish a child's past behaviour on the primary basis of the impact of their offending is to give insufficient regard to the child's circumstances, the rehabilitative steps taken since their offending, and the clear utilitarian benefit in ensuring the child has the necessary support and resources to never resort to criminality again.

An evidence-based approach to addressing youth crime must start with the plain fact that disadvantage is closely linked to youth offending. Homelessness, substance abuse, mental health issues, disengagement from education, child abuse and neglect are also all significant factors which contribute to an increased likelihood of youth offending. These factors create challenging circumstances for young people, contributing to their vulnerability, which often drives them towards criminal behaviour.

Children who engage with the youth justice system at a young age are also less likely to complete education and find employment, increasing the risk of offending. This is because retributive punishment against children is not effective at deterring offending. It has been recognised that recidivism (and disadvantage) of child defendants only increases with detention and incarceration.

The experience of Queensland itself is telling. Since the September quarter in 2020, Queensland has had the largest number of young people in detention on an average night among the states and territories. It has the second highest rate of young people in detention at 4.6 per 10,000. Young people in Queensland made up 30% of all young people in detention in Australia. Despite this, there is no clear evidence that this higher rate of detention has translated to lower crime rates. In fact, there has been a gradual increase in finalised charges against child defendants in all courts since 2012 (noting that it is not clear if this finalisation was a conviction or a not guilty verdict). If increased detention of children does not work, it is unclear why the Government decides to double down on this inefficient, expensive and ultimately traumatising exercise.

QYPC's previous submissions have delved in depth into the youth diversion programs, the importance and efficacy of therapeutic and rehabilitative models of youth justice, and the need for early interdisciplinary intervention.

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<sup>3</sup> *Penalties and Sentences Act 1992* (Qld) s 9(2).

Most relevant are the following submissions:

- QYPC submission to the Youth Justice Reform Select Committee Inquiry into youth justice reform in Queensland (1 March 2024). Accessible at <https://documents.parliament.qld.gov.au/com/YJRSC-6004/YJRSC-54D8/submissions/00000197.pdf>.
- QYPC submission to the Community Support and Services Committee Inquiry on the Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021. Accessible at <https://documents.parliament.qld.gov.au/com/CSSC-0A12/CLRARAB20231E4/submissions/00000066.pdf>.
- QYPC submission to the Australian Human Rights Commission project regarding Youth Justice and Child Wellbeing Reform Across Australia (29 June 2023). Accessible at [https://humanrights.gov.au/sites/default/files/queensland\\_youth\\_policy\\_collective\\_submission\\_redacted\\_0.pdf](https://humanrights.gov.au/sites/default/files/queensland_youth_policy_collective_submission_redacted_0.pdf).

There is limited new information that can be provided to this Committee, in the short timeframe allotted for proper consideration of the Bill, that has not already been extensively canvassed by a range of researchers, experienced advocates and authoritative bodies. The Government is itself aware that the Bill is antithetical to human rights, and has not provided any evidentiary basis for the proposals in the Explanatory Notes. There is no evidence demonstrating how this excessively punitive curtailment of children's rights is reasonably justified and proportionate to the apparent aims of the legislation.

The reality is that addressing the core concerns of the public - community safety, increasing involvement of children in the criminal justice system and a failure of the present system to adequately create change - requires sustained, and sometimes politically unpopular, commitment from policymakers, legislators and government representatives. This is often driven by media narratives that call for a punitive approach to youth justice, without acknowledging the context behind young people's offending or the impact of the youth justice system on youth offenders. The negative perception of young offenders is compounded by cultural and systematic biases within the youth justice system.

The Government must do better than treat individuals' anecdotal perspectives as evidence that the Bill will work to make Queensland safer. QYPC urges the Government to reconsider the passing of this Bill and to work with the numerous entities and experts that have been working in this area for decades. Solutions exist, and the Bill is not one of them.

QYPC also endorses the submission of Queensland Advocacy for Inclusion (QAI) to this Inquiry.

QYPC thank you for the opportunity to make this submission. Should you have any queries, please feel free to contact QYPC.