

Making Queensland Safer Bill 2024

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**Submission to Justice, Integrity and Community
Safety Committee on Making Queensland Safer Bill
2024**

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Contents

1. About Amnesty International [3](#)
2. Acknowledgement [3](#)
3. Summary [3](#)
4. Recommendations [7](#)

About Amnesty International

Amnesty International is a movement of 10 million people which mobilises the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law, and are held to account.

We are impartial and independent of any government, political persuasion, or religious belief and do not receive funding from governments or political parties.

Amnesty International is a proud people-powered movement founded on the work of volunteers and activists all around the world. More than 500,000 Amnesty International supporters live in Australia.

In Australia, we are committed to advancing First Nations justice, with a focus on ending the disproportionate incarceration of Aboriginal and Torres Strait Islander children. Amnesty International Australia is working closely with First Nations communities and advocates to raise the minimum age of criminal responsibility and implement culturally safe, community-led solutions that support Indigenous children to thrive.

Acknowledgement

We acknowledge that the Lands across this vast continent are Aboriginal and Torres Strait Islander countries and pay our respects to their Elders, past and present, and thank them for their ongoing care for the Land, Waterways, and Skies. Sovereignty was never ceded, and this always was and always will be Aboriginal Land. We especially acknowledge, with respect, the tireless work of the Indigenous communities across what is now called 'Queensland' and stand in solidarity with them in their on-going fight for justice.

Introduction

We would like to thank the committee for the opportunity to submit our views on the proposed “*Making Queensland Safer Bill 2024*”. This bill represents a significant shift in how Queensland’s youth justice system addresses young offenders, and it is crucial that the voices of human rights advocates, legal experts, and community organisations are heard. The proposed changes have serious implications for children’s rights, and it is our belief that they fail to meet the standards set out by both Queensland’s *Human Rights Act 2019* and international human rights law, particularly the *United Nations Convention on the Rights of the Child* (CRC).

Children are some of the most vulnerable members of our society, and the government has a duty to protect and nurture them, especially those who come into contact with the justice system. This bill, however, risks further marginalising already vulnerable children, including those with developmental disabilities, trauma histories, and cognitive impairments.

Summary:

The proposed legislation in its current form represents a serious step backwards in terms of the human rights of children in Queensland. While the bill is presented as a tough-on-crime approach, it overlooks the very real vulnerabilities of children, particularly those from disadvantaged backgrounds or those suffering from trauma and developmental impairments.

One of the most glaring contradictions in the proposed bill is its application of adult sentences to children as young as 10 years old. In stark contrast, the Federal Government has recently raised the age of consent for social media use to 16 years¹, acknowledging that children under this age are not developmentally capable of handling the responsibilities of social media engagement. However, the proposed bill would allow these same children—who are deemed too young to engage in online platforms—to be subjected to adult criminal sentences, including mandatory detention for offences such as robbery. This contradiction highlights the absurdity of the proposed changes and underscores the lack of a coherent, child-centered approach to youth justice.

Attorney-General Deb Frecklington has acknowledged the incompatibility of the bill with both the Queensland *Human Rights Act 2019* and the *UN Convention on the Rights of the Child*. She states that the amendments will result in more children being detained for longer periods, which is a step in the wrong direction.²

We reject the claim that these measures will make Queensland safer; in fact, we believe they will have the opposite effect. There is a clear disconnect between the way this bill was sold to the public and how it is actually being implemented. The focus on punitive measures fails to address the root causes of youth crime and does little to offer meaningful rehabilitation or support for vulnerable children.

¹*Online Safety Amendment (Social Media Minimum Age) Bill 2024*

² *Making Community Safer Bill 2024*, Explanatory notes, Pg. 5

Furthermore, we have seen the effectiveness of community-based diversion programs which cost a fraction of the average \$1 million it takes to keep one child in detention for a year³ These programs are not only more cost-effective but are also far more likely to provide children with the support they need to turn their lives around. This is especially important given that half of the children in custody have limited or no access to education, further hindering their chances of rehabilitation and reintegration into society.

Human Rights Concerns:

The proposed legislation raises several human rights concerns, particularly in relation to children's rights under both *Queensland's Human Rights Act* and the *United Nations Convention on the Rights of the Child (CRC)*. The bill is incompatible with these frameworks and does not adequately address the unique needs and circumstances of children in contact with the justice system.

1. Right to Protection and Special Care:

Under both the *CRC (Article 3)*⁴ and *Queensland's Human Rights Act (Section 25)*⁵ children are entitled to special care and protection, particularly when they are involved in the justice system. The bill's application of adult penalties to children, including mandatory life sentences for offences such as murder, places children at a serious disadvantage, disregarding their developmental needs and vulnerability. Children, especially those under the age of 14, are in critical stages of emotional, psychological, and social development, and the imposition of adult sentences is not aligned with their best interests or rights to special protection.

2. Right to Age-Appropriate Treatment:

The bill's provisions fail to take into account the vast body of evidence demonstrating that children's cognitive and emotional development is still ongoing at the time of committing most offences. Children often lack the maturity and decision-making capacity of adults. As outlined by the United Nations Committee on the Rights of the Child, the justice system must treat children in a manner that promotes their reintegration into society and respects their dignity (*CRC, General Comment No. 24*). By imposing adult penalties on children as young as 10 years old, the bill contradicts this principle and risks exacerbating the trauma and vulnerability that many of these children already face.

3. Failure to Address Developmental Disabilities and Mental Health Issues:

The Queensland Youth Justice Strategy 2022-2023 highlights that a significant portion of children involved in the youth justice system experience developmental delays, cognitive impairments, mental health disorders, or have been exposed to significant trauma. The bill does not sufficiently account for these factors, and its punitive approach will likely deepen existing health disparities. Imprisonment, particularly in adult watch houses, can be particularly harmful to children with disabilities or mental health issues, violating their rights to treatment and care under the *Human Rights Act (Section 17)*.

4. Detention as a Last Resort:

³ [Article New Data shows youth incarceration costing public over 1 million](#)

⁴ CRC, Article 3

⁵ Human Rights Act Queensland (2019) S. 25

The bill's removal of the principle of detention as a last resort, which is currently enshrined in the *Youth Justice Act* and in international law (*CRC, Article 40*), is deeply troubling. The principle of detention as a last resort ensures that children are not incarcerated unnecessarily and that alternative forms of rehabilitation are prioritised. The proposed amendments contradict this principle and suggest that detention is an acceptable first resort, leading to increased rates of reoffending and worsening outcomes for vulnerable children. The state is failing to protect children's rights by removing this safeguard and opening the door for more children to face unnecessary detention.

5. Impact on Aboriginal and Torres Strait Islander Children:

The bill will disproportionately affect Aboriginal and Torres Strait Islander children, who are already overrepresented in the youth justice system. In 2022-2023, over 70% of young people incarcerated in Queensland were Aboriginal or Torres Strait Islander, with this figure rising to over 80% among children aged 10-13. This overrepresentation reflects a legacy of systemic disadvantage and discrimination. The bill fails to address the root causes of this overrepresentation, such as socio-economic disadvantage, intergenerational trauma, and the lack of culturally appropriate interventions.

6. International Human Rights Standards and the Example of Scotland

The Bill's proposed provisions also stand in stark contrast to progressive approaches adopted by other jurisdictions. For example, in Scotland, there has been a landmark move to stop the incarceration of children in youth offender institutions⁶ (YOIs). Since 28 August 2024, all children under the age of 18 previously detained in YOIs at Polmont have been moved to secure care settings, with £7 million funding being made available to support these placements and ensure the wellbeing of the children. This is in line with Scotland's commitment to the United Nations Convention on the Rights of the Child and its ongoing efforts to improve the treatment of children in the justice system. Scotland's legislative shift, encapsulated in the 2024 Children (Care and Justice) (Scotland) Act, underscores the international trend towards prioritising care, rehabilitation, and restorative justice over punitive measures for children. Queensland should follow this example.

7. First-Time Offenders in Watch Houses

The harshness of the Bill's provisions is especially concerning considering that many children currently detained in watch houses are first-time offenders. These children, many of whom have no prior history with the criminal justice system, are often detained inappropriately, which can cause long-term harm. Research shows that first-time offenders, particularly those aged 10-12, are highly likely to reoffend after experiencing detention, particularly in adult facilities (*Queensland Audit Office, 2024*). This raises serious questions about the effectiveness of punitive approaches and highlights the need for rehabilitative and diversionary measures instead.

Recommendations:

⁶ Scottish Government. (2024). *Children (Care and Justice) (Scotland) Act*.

To align the youth justice system with human rights standards and to better support the needs of vulnerable children, we make the following recommendations:

1. **Raise the minimum age of criminal responsibility** to at least 14 years, in line with the growing body of evidence on brain development and international human rights standards.
2. **Reinstate detention as a last resort**
3. **Ensure that rehabilitation and diversion programs** are prioritised over detention. The focus should be on community-based solutions, restorative justice, and mental health support, particularly for first-time offenders and those with developmental disabilities.
4. **End the use of adult watch houses for children**, providing children with access to age-appropriate, rehabilitative detention settings that focus on rehabilitation rather than punishment.
5. **Fund diversion and early intervention programs** that aim to address the root causes of youth offending, such as trauma, poverty, and lack of education. These programs should be culturally appropriate, particularly for Aboriginal and Torres Strait Islander children.
6. **Implement targeted measures to support children with developmental disabilities, mental health disorders, and histories of trauma.** These children must receive appropriate care and support, not punitive sentences that exacerbate their vulnerabilities.
7. **Monitor and evaluate youth justice reforms**
Any changes to youth justice laws should be subject to rigorous monitoring and evaluation. The Queensland Government should ensure that data is collected and used to assess the impact of reforms on youth outcomes, recidivism, and community safety, with a commitment to reviewing policies based on evidence of their effectiveness.
8. **Exclude non-violent crimes from adult sentencing**
The "Adult Crime, Adult Time" provisions should apply only to violent offences, as originally promised. Non-violent crimes should not be subjected to adult sentencing laws, as these measures fail to acknowledge the rehabilitative potential of children and the need for therapeutic interventions.

Conclusion:

The proposed "Making Queensland Safer Bill 2024" represents a regressive approach to youth justice that fails to take into account the complex and unique needs of children. By prioritising punitive measures over rehabilitation, the bill undermines Queensland's commitment to upholding the human rights of children. We urge the government to reconsider this legislation, ensuring that any changes to the youth justice system are grounded in a child-centred, human rights-based approach that prioritises rehabilitation, healing, and reintegration over punishment.

We thank the committee for considering our submission and look forward to further discussions on how we can better protect and support Queensland's most vulnerable children.

