

Making Queensland Safer Bill 2024

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Mr Marty Hunt MP
Member for Nicklin
Chair Justice, Integrity and Community Safety Committee
Brisbane Queensland 4000

Sent via email: JICSC@parliament.qld.gov.au

To Mr Hunt and the Justice, Integrity and Community Safety Committee

Feedback on *Making Queensland Safer Bill 2024*

1. Introduction

1.1. Act for Kids Limited (**Act for Kids**) welcomes the opportunity to submit urgent feedback to the Justice, Integrity and Community Safety Committee on the *Making Queensland Safer Bill 2024* (the **Bill**) with Amendments to the *Youth Justice Act 1992*.

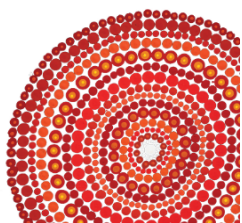
1.2. Act for Kids is a nationwide organisation that uses evidence-based practices to support children, young people and their families who have experienced or are at-risk of harm. In 2023-24 we supported more than 36,000 people, including 21,111 children. Many of these children and young people experienced trauma from abuse, neglect and family violence and as a result often become disengaged from society.

1.3. Act for Kids' feedback is focussed on the following keys areas:

- A child's life circumstances and Human Rights;
- Child development
 - Cognitive development and decision-making
 - The impact of custody on a child's cognitive, social and emotional development
- Likelihood of increasing crime and reducing community safety

2. About Act for Kids

2.1. Act for Kids is a for-purpose organisation that delivers evidence-led professional therapy and support services to children and families who have experienced or are at risk of harm. Our purpose is to help keep kids safe, heal from trauma, and lead happy lives.



- 2.2. Established in 1988, its dedicated team of allied health practitioners, family support and residential care workers have helped hundreds of thousands of children and families for over 35 years.
- 2.3. Act for Kids team members are developmental experts including a number of people with PhDs in child development and nationally more than 400 psychologists, occupational therapists, social workers and speech pathologists - all specialists in child development, trauma and wellbeing.
- 2.4. Support Act for Kids provides ranges from protective behaviours education to intensive therapeutic support for children who have suffered neglect, and physical, sexual, and emotional abuse and domestic and family violence. Over the past six years alone, these services have supported over 300 thousand children and families.

3. Act for Kids' feedback on the *Make Queensland Safer Bill 2024*

3.1. *A Child's Life Circumstances and Human Rights*

3.1.1. We are deeply concerned that the proposed *Adult Crime Adult Time Laws* have a disregard for the circumstances of a child's upbringing despite extensive evidence demonstrating that an overwhelming number of young offenders are victims of trauma and crime. The ***Queensland Youth Justice Strategy Report 2023-2024*** outlines that 53 per cent of young offenders had been impacted by domestic and family violence, 30 per cent are living in unstable accommodation and at least 25 per cent had a parent who had been in custody. Many young offenders have also experienced abuse and neglect and statutory child protection interventions. Therefore, these children are victims of crime, yet their rights are deemed lesser than adults' rights.

3.1.2. Act for Kids acknowledges that detention can be a valuable tool when a young person is an immediate threat to the community or themselves, however an amendment to the *Youth Justice Act*, particularly when applying an adult sentence to a child as young as ten, does not allow scope to address or take into consideration a child's own life experiences, including being victims of crime, and the root causes of their offending and disengagement from society. Instead, it can be the catalyst to re-offending and cause more harm by undermining their rights as a child and by removing detention as a last resort, it overrides the *Queensland Human Rights Act 2019*.

3.1.3. The ***Making Queensland Safer Bill 2024 Statement of Compatibility*** clearly acknowledges that the removal of detention as a last resort discriminates against children. As only one example on page 6:

The amendments will treat children less favourably than adults in the same circumstances and therefore directly discriminate on the basis of age, limiting their right to enjoy their right to liberty without discrimination (section 15(2) of the HR Act), their right to equal

*protection of the law without discrimination (section 15(3) of the HR Act), and their right to equal and effective protection against discrimination (section 15(4) of the HR Act). **This will, in essence, create a sentencing system where adults are better protected from arbitrary detention than children.***

3.2. Child Development

3.2.1. Act for Kids has extensive expertise in child development and the impact of trauma on child development. At this time in Australia, we are perplexed by the lack of political understanding about child development, in particular, children's cognitive development and decision-making capabilities at different ages. The demonstrated lack of understanding must lie in political expediency because there is ample research evidence on child development to inform evidence-based legislative reforms.

3.2.2. The recent passing of the federal parliament's *Online Safety Amendment (Social Media Minimum Age) Bill 2024* to prohibit children under 16 years of age from using social media platforms would suggest that children up to 16 years of age do not have the cognitive decision-making capabilities or understanding to determine what is safe and not safe for them and their development. For the drafting of this law it was accepted that children under the age of 16 years undergo rapid brain development and are in their most vulnerable developmental stage. The explanatory memo for the Social Media Bill states:

...advice from the US Surgeon General states that social media exposure during this period of brain development warrants additional scrutiny. A minimum age of 16 allows access to social media after young people are outside the most vulnerable adolescent stage¹.

3.2.3. In Australia, by law, persons are children for democratic and governance purposes until they turn 18 years of age. Therefore, we deem them incapable of making decisions about which political party should be in office at any level of government. Yet in Queensland, the proposed Bill defies all the logic at the national level about children's cognitive decision-making capabilities, and the decades of international research on children's brain development.

3.2.4. The Bill also ignores all the international research evidence showing the negative impact on brain development from the experiences of trauma, disability and disadvantage of young offenders. The Bill **Statement of Capability** does not address the rights of children with vulnerabilities and undiagnosed disabilities as the majority of the majority of children in the youth justice system are likely to be due to their life experiences.

¹ [ParlInfo - Online Safety Amendment \(Social Media Minimum Age\) Bill 2024](#)

- 3.2.5. The Bill does not acknowledge the developmental impacts of the experiences of children in Queensland's youth justice system. Early exposure to domestic and family violence (53% of young offenders) results in impaired cognitive functioning, behavioural, social and emotional problems².
- 3.2.6. Act for Kids acknowledges that the new measures will see children incarcerated for much longer periods of time. We believe this shows a real lack of consideration and knowledge about a child's cognitive, social and emotional development by assuming children have the capacity to understand the nature of the crimes that they have committed. It is irresponsible to assert that the recognition of the vulnerability and unique circumstances of offenders undermines the reasonable rights of victims. As stated in a number of reports many young offenders have mental health issues, disabilities and/or behavioural disorders, which the legislation fails to address or consider. This exemplifies the real need for a holistic approach to sentencing children who have committed a crime.
- 3.2.7. Research also shows that the younger a child is when they are sentenced, the higher the chance that they will return to youth justice supervision during their childhood. This can cause significant poor long-term outcomes, such as re-traumatisation, inter-generational trauma, significant mental health impacts, poverty and an increased risk of reoffending into adulthood. ***The Safety through support: Building Safer Communities report by Supporting Vulnerable Children in Queensland's Youth Justice System*** found that of children aged 10 to 12 years who receive a supervised sentence, 94 per cent will return to youth justice supervision at some point. There is strong evidence to show punitive measures such as long-term detention is not the appropriate measure to better protect the community and prevent young people from committing crimes and can instead cause higher reoffending rates.

3.3. *Likelihood of Increasing Crime and Reducing Community Safety*

- 3.3.1. Youth crime and the numbers of children in detention and on youth justice orders has been steadily decreasing over the last decade in Queensland and nationally.³ Published data have shown there has not been a noticeable increase in youth crime, rather it is inflammatory media driving community alarm. The Bill proposes measures which are disproportionate to the magnitude of the problem.
- 3.3.2. Queensland, national and international reports on youth justice and research on outcomes would indicate that child victims of crime who have

² [Children's exposure to domestic and family violence | Australian Institute of Family Studies.](#)

³ Report on Government Services 2024, Australian Government Productivity Commission (22 January 2024) (<https://www.pc.gov.au/ongoing/report-on-government-services/2024/community-services/youth-justice>) (**ROGS 2024**)

not received adequate or appropriate supports as outlined in the stated objectives for youth justice of all governments,⁴ who are then sentenced under the *Adult Crime Adult Time* laws are more likely to become life-long criminals.

- 3.3.3. Increased numbers of children in detention, treated as adult criminals will increase crime in Queensland. The Bill ***Statement of Compatibility***, page 5 agrees:

The amendments will lead to sentences for children that are more punitive than necessary to achieve community safety.

- 3.3.4. Act for Kids believes that victims of crime should be heard and supported and communities should be safe. We applaud the Queensland Government's stated intention to invest in prevention and early intervention and an evidence-based approach to children and families and see this Bill as opposite to that intention and likely to negate all evidence-based interventions with the result of increasing crime in Queensland.

4 Recommendations

- 4.1. Act for Kids is strongly urging the Committee to reconsider the age of children who will face *Adult Crime Adult Time* to ensure children as young as ten have their upbringing, life experiences and developmental capability considered when in the justice system.
- 4.2. Notwithstanding the seriousness of some offences and community safety as a key priority, Act for Kids supports further amendments to the Bill, which removes the *Adult Crime Adult Time* sentencing regime for children who have committed non-violent offences under the 13 prescribed offences. This would allow for more evidence-based intervention programs and community approaches to address the cause of a child's offending rather than relying on long-term incarceration for their rehabilitation. This measure would also reduce the overrepresentation of children in detention.
- 4.3. Act for Kids also recommends restorative justice remain a vital option for children who have committed offences that fall under the *Adult Crime Adult Time* category allowing an opportunity to face real accountability by engaging with the victims.
- 4.4. In terms of prevention, we strongly urge the Queensland Government to ensure there are evidence-informed intervention pathways available as soon as a child commits a crime. An immediate holistic intervention program would help to address a child's circumstances prior to their disengagement from the community. Children are less likely to reoffend if the system can respond promptly and prioritise a child's needs, diverting them from being in custody for extended periods of time for a crime they may not cognitively understand. We believe by prioritising prevention

⁴ ROGS 2024.

over detention there will be far better outcomes for the community and children in Queensland.

5 Conclusion

This submission is prepared with the combined expertise of the Act for Kids team of developmental and trauma experts. If you require further information on the feedback provided by our organisation, please contact Dr Katrina Lines on [REDACTED]

Yours sincerely

[REDACTED]

Dr Katrina Lines
Chief Executive Officer

Consent for submission to be published

We, Act for Kids, consent for our submission to be published under the organisation's name.

Signed on behalf of Act for Kids Limited:

[REDACTED]

Dr Katrina Lines
Chief Executive Officer