

Making Queensland Safer Bill 2024

Submission No: 144
Submitted by: Independent Ministerial Advisory Council
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:

Our reference: IMAC-7229889

3 December 2024

Committee Secretary
Justice, Integrity and Community Safety Committee
Parliament House
George Street
Brisbane QLD 4001

Via email to: JICSC@parliament.qld.gov.au

Subject: Inquiry into the Making Queensland Safer Bill 2024

Dear Committee Secretary,

The Independent Ministerial Advisory Council (IMAC) welcomes the Queensland Government's commitment to advancing the rights of victim and victim-survivors of crime and the opportunity to make a submission to the Inquiry into the Making Queensland Safer Bill 2024 (the Inquiry).

About the Independent Ministerial Advisory Council

The IMAC was established to provide evidence-based, victim-centric advice to Queensland Government on criminal justice reforms, including improving support for victims and victim-survivors, particularly in relation to youth justice.

IMAC membership is broad and includes representation from victim-survivors, victim-advocates, peak advocacy bodies, First Nations representatives, academic and legal and expert practitioners. An overview of the membership of the IMAC can be found at Attachment 1. The IMAC is chaired by Ms Amie Carrington, Chief Executive Officer of the Domestic Violence Action Centre and, until recently, former Childrens Court Judge Mr John Robertson.

The diverse membership of the IMAC can result in differing views among members on particular issues. All IMAC members respect and value the unique views of the individual members of the Council. Some members of the IMAC have appeared before the Committee at a public hearing, and others may make their own written submissions regarding aspects of the Making Queensland Safer Bill 2024 (the Bill). These appearances and submissions are undertaken in a personal capacity or as representatives of other organisations. This submission only outlines the views and issues supported by the majority of IMAC members.

Response to the Bill

The Bill proposes significant reforms to the youth justice system and the important Parliamentary Committee process has been expedited. This has resulted in a significantly condensed timeframe for the public to consider the detail of the Bill and make submissions to the Inquiry. It is the view of the IMAC that the fast-tracked process for developing this legislation has not allowed for an appropriate and evidence-based consideration of complex issues and any potential unintended consequences of the Bill.

As a result of the limited time available to consider the Bill, this letter focuses on a range of high-level issues identified by the IMAC. In this letter, the terms ‘victims’ and ‘victim-survivors’ refer to the experiences of those with lived and living experience.

The IMAC encourages the Queensland Government to delay implementation of the proposed legislation to allow for a more fulsome consultation process and evidence-based examination of the critical issues identified with the Bill, including any unintended consequences of the Bill.

Human rights

The IMAC acknowledges the Queensland Government’s commitment to addressing growing community concern over crimes perpetrated by young people. However, as a Council who provides advice on victims and victim-survivors of crime experiences, early intervention and rehabilitation for people entering or in the criminal justice system, the majority of IMAC members are concerned by the Bill’s inclusions that expressly and intentionally infringe on the human rights of children.

It is deeply concerning that the Statement of Compatibility with the Human Rights Act for the Bill states 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. This is in direct conflict with international law standards, set out above, which provides that sentences for a child should always be proportionate to the circumstances of both the child and the offence – mandatory sentencing prevents the application of this principle”*.

The Queensland Government is urged to commit to reforming the youth justice system in a way that complies with legislated human rights. Upholding the human rights of **all** Queenslanders should underpin all youth justice system reforms in a progressive, rights-based society.

Restorative justice

Restorative justice has important benefits for victims and victim-survivors, young offenders and their families, and the community more broadly. The complete removal of restorative justice orders for the 13 serious offences outlined in the Bill is concerning and not supported by the IMAC. The ability to use restorative justice should be retained, where suitable, based on the individual circumstances of an offence.

By taking away restorative justice processes, this Bill removes options for victims and victim-survivors to recover from harm, voice their views about the offence and outcome, and understand more about the offence committed against them, ultimately leading victims to be empowered. The IMAC is also concerned that removing restorative justice options will disproportionately impact Aboriginal and Torres Strait Islander young people, victims and victim-survivors, as well as their families.

Through the IMAC’s visits to the Cleveland Youth Detention Centre, West Moreton Youth Detention Centre, Townsville and Cherbourg it was evident that the ability to have alternative pathways, including restorative justice, is important for young offenders, victims and the community. It was also identified that there needs to be a focus on re-engaging young

offenders in the community, ensuring they stay connected to their community and helping them to access the supports they need.

To help reduce the overrepresentation of Aboriginal and Torres Strait Islander children in the youth justice system, it is important to ensure a child's cultural needs are met. The involvement of Elders and communities in the restorative justice process can support a child's connection to their community and their broader cultural needs.

Rehabilitation

All IMAC members are concerned that the Bill will lead to a further increase in the number of children and young people held in detention and for prolonged periods, some of which are victims themselves who have experienced socioeconomic disadvantage, child maltreatment, other victimisation and have cognitive impairments. Responding to their offences in the same way as adult offenders will have serious consequences, including the creation of a cohort of individuals who are further disengaged from society and at higher risk of further offending.

The IMAC hold concerns that the proposed reforms in the Bill will also place further strain on the youth justice system in terms of delivering effective rehabilitation programs, re-entry planning and the provision of intensive supports. In turn, this will ultimately lead to increased victimisation. It is critical for the Queensland Government to invest in innovative and evidence-based solutions to support the rehabilitation of young offenders. This should include facilitating meaningful engagement with education and community, through individualised multi-systemic support that also addresses family-level disadvantage. Community safety can only be achieved if the cycles of trauma and offending among young people are broken. A range of rehabilitation options need to be available for young people, including place-based rehabilitation, with the Murri Court available as an option to address offending by young people, while providing cultural support and connection to the young offender.

Judicial considerations

The consideration of sentencing arrangements for young offenders is complex and has significant implications for victims, victim-survivors and offenders. Currently, equal consideration must be given to a range of issues when sentencing, including, but not limited to, special considerations such as:

- impact on the victim/s of the crime
- seriousness of the crime
- development level of the offender
- offenders' criminal history
- consideration of the offender's cultural background
- an offender's disability or impairment, and
- the offender's exposure to and experience of trauma and disadvantage.

While the IMAC welcomes the Queensland Government's commitment to advancing the rights of victim and victim-survivors of crime, the majority of members are concerned that the proposed legislation may place significant pressure on victim-survivors to evidence the impact of the offence. While it is understood that victims will not be cross examined on their victim impact statement, some members remain concerned that an unintended consequence of giving primacy to victim impact statements is that victims who are called as witnesses may

still experience adversarial questioning by defence lawyers to undermine the credibility of any subsequent victim impact statement should the offender be found guilty.

The IMAC acknowledges the need to reduce the number of victims and victim-survivors of crime and the importance for all Queenslanders to feel safe in their homes, places of business and communities. There are instances of serious offending that result in significant harm to their victim/s and the possibility of a continued significant safety risk to others. These circumstances and potential risk to ongoing community safety must be considered by the judiciary when sentencing offenders.

Additionally, some IMAC members have expressed concern about the provisions in the Bill that:

- redefine the criminal history of a child so that it includes cautions, restorative justice agreements and contraventions of a supervised release order.
- removes the section of the *Youth Justice Act 1999* that prohibits cautions and contraventions of a supervised release order from appearing on the criminal history of a child.

These amendments will limit a number of the human rights of child offenders, as outlined in the Statement of Compatibility with the Human Rights Act for the Bill. We reiterate our earlier statement that the Queensland Government is urged to commit to reforming the youth justice system in a way that complies with legislated human rights.

Opening the Childrens Court to victims and the media

The IMAC acknowledges that opening the Childrens Court to enable the victim-survivor and a relative of the victim-survivor to be present during criminal proceedings in the Childrens Court was designed to advance the rights of victim-survivors.

The experiences of victim-survivors are unique and varied because each person is affected differently depending on the nature of the crime, their personal circumstances and the support they receive. The unique circumstances of victim-survivors will determine their willingness to be present during criminal proceedings in the Childrens Court, and to engage in other opportunities afforded to them in the criminal justice process.

The IMAC is concerned about the potential for accredited media attending Childrens Court proceedings resulting in the re-traumatisation of victim-survivors. The Council is also concerned about impact that the opening of the Childrens Court to accredited media could have on the wellbeing, right to privacy, and access to justice for victim-survivors. More broadly, some IMAC members hold concerns about the impact of inaccurate reporting by media and the media's tendency to politicise issues and situations, which can lead to undesired attention to issues and increase in copycat offending behaviours.

It is also important that the child offender does not have their right to privacy (a legislated human right in Queensland) compromised or their identity released, including by anyone who attends Childrens Court proceedings, with particular concern for young offenders on child protection orders, whose identification would breach the *Queensland Child Protection Act 1999* and subsequently may place the child at risk of harm.

Concluding remarks

The Parliamentary Committee process is crucial for ensuring transparency, accountability and public participation in the legislative process. It also allows detailed consideration of proposed legislation by diverse stakeholders and assists the Parliament to make informed decisions on behalf of our community. As such, IMAC members are concerned about the rapid pace that the Parliamentary Committee and public consultation processes have occurred in relation to the Bill, particularly considering the significant reforms and acknowledged human rights infringements proposed by the Bill. The IMAC trusts that future Parliamentary Committee processes will be undertaken in a more appropriate way.

The IMAC provides this advice to the Inquiry with a view to amplifying the experiences of people impacted by youth crime, including victim-survivors and offenders, however, would prefer to engage with the government in a more considered and meaningful way about reforms to the criminal justice system.

The IMAC would welcome the opportunity to further discuss the content of this letter and can be contacted through the IMAC Secretariat at IMAC-Secretariat@justice.qld.gov.au or on [REDACTED].

Yours sincerely,

[REDACTED]

Amie Carrington
IMAC co-Chair

Enc. Attachment 1: IMAC Membership

Attachment 1: IMAC membership

Co-Chair	Position Vacant
Co-Chair	Amie Carrington is the Chief Executive Officer of the Domestic Violence Action Centre, providing specialist domestic, family and sexual violence services that create a meaningful impact to increase safety and healing for victim survivors of Domestic, Family and Sexual Violence. Amie holds influential positions as a Board Chair of WESNET (Women's Services Network) Inc. and Co-Chair of Ending Violence Against Women Queensland.
Member	Brett Thompson is the Chief Executive Officer of the Queensland Homicide Victims' Support Group. His role is focused on victim support, interagency systemic improvement, and advocacy for justice system reform.
Member	Christine Castley is CEO of Multicultural Australia and is a passionate advocate for equal access to justice and services for everyone. She regularly interacts with criminal justice agencies on the challenges faced in multicultural communities by both victims and offenders on a broad range of criminal matters.
Member	Chris Jones is a related victim and has joined the IMAC as a victim-advocate. He hopes to use the insights and empathy from his experience to help shape a wider understanding to make informed and considered policy and decisions that provide better support and justice for victims and their families.
Member	Elvie Sandow was the first female Mayor of Cherbourg and previously served as Chairperson of Youth and Community Combined Action, a juvenile crime prevention initiative.
Member	Ian Leavers has served the people of Queensland as a Police Officer since 1989. Ian was the General President and CEO of the Queensland Police Union and the National President of the Police Federation of Australia. Ian was appointed as the Queensland Cross-Border Commissioner in August 2024.
Member	Julie Arthur is the School Community Partnership Facilitator at Cloncurry State School and the former manager of the Cloncurry Justice Association, where her work focused on court innovation and working closely with the criminal justice system to support victims and offenders.
Member	Matilda Alexander is the CEO of Queensland Advocacy for Inclusion and a human rights lawyer with a lengthy history in the community legal sector. Matilda has won multiple awards for her work with vulnerable communities and holds an enduring passion for justice. Matilda is also

	on the management committee of the LGBTIQ+ Legal Service.
Member	Natalie Merlehan is a victim representative who has been working with Voice for Victims following her involvement in a highly publicised youth crime incident on 26 January 2021 which killed Matt Field, Kate Leadbetter and their unborn son. Ms Merlehan has a background in Criminology and is an advocate of restorative justice and justice system reform.
Member	Robert Keith Hamburger was Queensland’s first Director-General of the then Queensland Corrective Services Commission and led significant reform across Queensland’s prisons. Keith is a Queensland patron of the Justice Reform Initiative, established in September 2020 with a goal to reduce Australia’s reliance on incarceration.
Member	Professor Susan Dennison is a Professor in the School of Criminology and Criminal Justice and the Griffith Criminology Institute at Griffith University. She is currently Director of the Transforming Corrections to Transform Lives Centre, leading a transformative system of practice to better support mothers who experience incarceration, and their children.
Member	Timothy Grau is a practicing barrister at the private Bar in Queensland. His practice is based in Cairns and he works with clients from as far afield as the Torres Strait, Cape York, Cairns and Townsville and surrounding regions.
Member	Mr Zac Davidson was a Youth Parliamentarian with firsthand insight into the complexities surrounding youth-related crime. Zac believes bringing a youth perspective in addressing the youth crime crisis is of paramount importance.

**There are currently five membership vacancies on the IMAC.