

Making Queensland Safer Bill 2024

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Submitted by: Community Living Association Inc
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3rd December 2024

Committee Secretary

Youth Justice Legislative Reform Committee,

Re: Making Queensland Safer Bill to legislate the "Adult Crime, Adult Time" policy

Thank you for the opportunity to provide feedback on the Bill. Our submission responds to aspects of the proposed amendments to the Youth Justice Act 1992 (Qld).

Community Living Association Inc. (CLA) is a community organisation that has been operating since 1987. We are staffed by skilled professionals, predominantly social workers, who have specialised knowledge and skills in their specific areas of work. Since 1987, our three youth teams ARROS, BEROS and Community Connections, have developed and delivered specialised interventions to marginalised young people. A high proportion of which have experienced profound social disadvantages including extreme poverty, exposure to family violence, homelessness, Child Protection and Youth Justice orders, complex trauma and a number have intellectual or other cognitive disabilities.

ARROS works with 15-25 year old young people who have a cognitive and/or intellectual disability and are experiencing complex circumstances including homelessness, interaction with Youth Justice and Child Safety and coinciding mental health and/or substance use issues.

BEROS works with 12-18 year old young people who are in the care of Child Safety and are self-placing, often sleeping rough and couch surfing. Many BEROS young people are also on Youth Justice orders.

Community Connections works alongside 12-18 year old young people and their families/significant others where there is risk of homelessness and early school leaving. The programs at Community Connections have an early intervention and prevention focus.

Across all our teams we work with young people who have already become criminalised or who are at risk of coming into contact with the criminal justice system. Some of these young people will be directly affected by the Bill.

While CLA support the goal of creating safer communities in Queensland, we do not agree that the method outlined in the Bill is an effective way to reduce youth crime and the recidivism of the young people this Bill aims to address.

Community Living Association Inc. does not support the Bill for the following reasons:

Breach of human rights obligations according to Human Rights Act 2019 (Qld)

As acknowledged by the Attorney-General and Minister for Justice and Integrity in the Statement of Compatibility, this Bill is willingly incompatible with the human rights of children, will "directly discriminate on the basis of age" and "treat children less favorably than adults in the same circumstances." We are extremely concerned about the unforgiving nature of these statements and the lack of evidence for 'exceptional circumstances' to warrant disregard for children's human rights. We

do not agree that this Bill will deter young people from offending or make Queensland safer. According to the Queensland Governments own data from the QFCC (2024), this Bill will result in an increased likelihood of reoffending and entrenchment in the justice system. If using the same 'exceptional circumstances' reasoning used to justify the amendments (primarily concerned with increased crime rates) it will further endanger Queenslanders.

We are concerned with the lack of distinction between violent and non-violent crimes in the proposed amendments, particularly for burglary and unlawful offence categories. These offences have a broad spectrum of seriousness under Queensland's Criminal Code. When sentencing practices lack clear differentiation, they may lead to pulling children who commit minor offenses or are accessories to offences into the justice system and reducing chances for community-based support and rehabilitation. Since around 62 percent of young people involved in the youth justice system commit just one offense and do not reoffend, it is crucial to have laws that allow for fair and effective responses, preventing further entrenchment in the system. To ensure detention is not overused, CLA propose this Bill amend to explicitly distinguish between violent and non-violent offences.

Lack of evidence base

It is incorrectly presumed the proposed amendments will deter young people from offending. Current research in child development and neuroscience provides evidence that the capacity for abstract reasoning is not fully developed in children aged 12 and 13 (UN Committee on the Rights of the Child 2019). Given this, the amendments will likely fail to deter young people from offending, particularly those aged under 14 or with a disability that impacts capacity for abstract reasoning. The amendments are not informed by an evidence-based approach and, as stated by the Attorney-General, are more punitive than what's required to ensure community safety. CLA proposes the Queensland Government amend the legislation so that the new maximum penalties for 'Adult Crime Adult Time Offences' apply only to young people aged 14 and over with capacity for abstract reasoning.

Disability, Trauma and young people's experiences with Youth Justice

As stated above, the presumption that longer sentences will deter young people from offending is incorrect and inaccurate, particularly for those with disability who have impaired decision-making. Young people with disabilities may have impaired judgement that contributes to risk-taking behavior or be vulnerable to exploitation that sweeps them into the Youth Justice (YJ) system. This is evident by the over-representation of disability in the YJ system, which is alarming considering the significant under-identification of disability, indicating it's likely more than reported. As stated in the Youth Justice Strategy, young people with disabilities are highly vulnerable and over-represented in Queensland's YJ system. There's a causal link between disability and contact with the YJ system alongside heightened risk of violence, abuse, neglect and exploitation in criminal justice settings. The Justice Reform Initiative (2024) reported if disability needs are not responded to, it can hinder young people's engagement with YJ and result in enmeshment in the system. We are very concerned about the ambiguity of the rights of young people with disabilities in the proposed amendments to this Bill. The lack of allowance for young people impacted by disability risks increasing over-representation and entrenchment in the YJ system and detention.

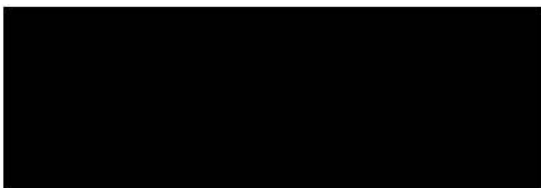
Our concerns come from young people's numerous experiences with the youth justice system that exhibit a lack of understanding of disability, trauma and associated unmet disability support needs. Some examples of young people's experiences include:

- When young people are assessed for fitness to plea, they may use masking techniques or be agreeable to hide their lack of understanding. Repeated court appearances and assessments allow them to learn the language of these processes without truly comprehending it. Young people with disabilities may not be making an informed decision when entering a plea and this may go undetected by the YJ system. We are concerned how this may impact young people charged with offences under the 'Adult Crime, Adult Time' category.
- Young people have said that if a disability-specific social worker is not present they do not understand conversation with their lawyer, police, magistrates, YJ officers and staff in detention. They often report being unable to access adequate support to understand information. This reiterates our concern that young people will be charged as adults despite not understanding the YJ system.
- Workers have sent in NDIS forms that need to be completed for the incarcerated young person to progress their NDIS application. This form was sent twice with a specific request to support the young person to complete. Over a 10-month period, this was not completed. The worker emailed the centre numerous times and received communication that it would be sent to centre management, this did not occur. They provided little to no support for the YP to make progress towards accessing NDIS which negatively impacts their ongoing rehabilitation post release.
- Young people's NDIS plans are paused during detention, despite their disability needs often increasing. Detention staff are expected to provide support, but young people report such support is limited and accessing it within prisons is often met with fear and obstacles. We are concerned if over-representation increases because of this Bill, more young people with disabilities will be unable to access the disability support they require to build capacity to live safe and meaningful lives as adults.
- Young people's interactions with the Police are often laced with judgement, assumptions and indicate a general lack of understanding of disability. For example, a young person with a disability was dysregulated and seeking safety after just escaping being captured by a violent partner. Police incorrectly assumed she was high and responded to her as a danger to the community, treated her harshly and dismissed her claims. Experiences like this raise concerns that young people with disabilities could be charged incorrectly and penalised harshly as adults.
- A young person experienced feeling assaulted by a male police officer after agreeing to a pat down search. This is due to lack of knowledge of disability resulting in the young person not understanding that she could request a female officer and was unable to speak up due to trauma. Young people with disabilities will often acquiesce to mask their lack of understanding as a strategy to navigate challenging situations and attempt to ensure their safety. We again raise our concern about how this may apply to the Bills proposed 'Adult Crime, Adult Time offences.'

These examples demonstrate limitations the YJ system has at various points of intervention for young people with disabilities, particularly youth detention at providing the support necessary to equip young people with disabilities to live safe and meaningful lives after detention. These young people are already facing the YJ system at a huge disadvantage and are reporting experiences that highlight reasons we may observe an increase in over-representation if these amendments are made. To ensure the proposed Bill diverts young people with disabilities away from the criminal justice system, we recommend additions to the amendments that include consideration for young people with disabilities that use evidence-based approaches to address the underlying causes of their offending.

We thank you for the opportunity to provide this written submission to share our knowledge of working in and around the youth justice system and to share young people's experiences of the youth justice system.

Kind Regards,



Tania Lawrie

Coordinator – Community Living Association Inc.