

## **Making Queensland Safer Bill 2024**

**Submission No:** 167  
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**Submitter Comments:**

My name is Emma Oosthuysen, I work as a Program Case Manager in a youth residential care service provider and I welcome the opportunity to make a submission concerning the newly proposed 'Making Queensland Safer Bill'.

My profession and passion centres around providing quality trauma-informed care and placement options for vulnerable, at-risk young people engaged with the Child Protection system. Within my role, I have promised to represent, support and advocate for the needs of the young people in our care and the decisions that will affect their lives. The 'Making Queensland Safer Bill' will have significant ramifications and impact on the young people involved with Child Safety and out-of-home care providers and it is imperative that their voice is heard and considered in this regard. Children and adolescents living in out-of-home care are widely considered one of the most vulnerable groups of young people in Australia and "are at risk of being left behind or falling through the cracks".

I do not support the 'Making Queensland Safer Bill' as it puts all Queensland children, but especially young people in out-of-home care at unacceptable risk of falling through the cracks of the Youth Justice system.

### **Key Issues**

#### **1. This Bill inappropriately sacrifices the rights of the child**

The 'Making Queensland Safer Bill' has been introduced in direct response "to growing community concern and outrage over crimes being perpetrated by young offenders". The Liberal National Party's trademark campaign slogan for the 2024 Queensland Election, "Adult Crime, Adult Time", refers to legislative amendments to the Youth Justice Act 1992 and the Childrens Court Act 1992 that are designed to "demonstrate to the community that youth offending is treated seriously and will increase community confidence in the justice system". While I recognise the importance of meeting these community needs and goals, I cannot accept the Attorney General's willingness to sacrifice the rights of the child. I do not accept the introduction of legislation that, to quote the Attorney General, is in direct "conflict with international standards regarding the best interests of the child with respect to children in the justice system, and are therefore incompatible with human rights".

Amy Skelton, the Chair of the United Nations Committee on the Rights of the Child has labelled this Bill a "flagrant disregard for children's rights under international law" for which there is no evidence consistent to constitute this (2024). The Attorney General argues "exceptional" circumstances to justify the introduction of this Bill, however the Queensland Government's Audit Office themselves have noted that youth crime has been steadily decreasing for over a decade. In 2022-23, young offenders contributed 13% of the total crime rates in Queensland, where they previously contributed 17% in 2011-12 (Queensland Audit Office, 2024). Prisons are a dangerous place for children that cause further lifelong trauma and death (Groarke, 2024). Investigations into overcrowded watch house conditions and treatment of children in overcrowded youth detention centres are already in progress across Queensland outlining that the Queensland Government is "knowingly perpetrating industrial scale child abuse" where "detained children in their care suffer extraordinary human rights violations" and "are subject to tortuous conditions and brutal assaults" (Amnesty International, 2024).

#### **2. Punishment and denunciation are not deterrents of youth crime**

The Attorney General states that the purpose of these amendments are "punishment and denunciation". I am interested to understand the evidence-basis that suggests that punishment and denunciation is an appropriate response strategy for young people. All expert, longitudinal research

collated in Australia demonstrates how “punitive, carceral responses to youth offending does not reduce rates of recidivism to make communities safer” (Amnesty International, 2024). There is a significant body of research which clearly and unequivocally states that “there is scant criminological evidence that deterrent sentencing works for children. The principles that underpin deterrent sentencing are at odds with the way children make decisions” (Croft, Delmage & Janes, 2022). The Sentencing Advisory Council Queensland (2023) has directly responded to the myth that governments can ‘scare’ children away from crime stating that “this type of approach doesn’t work for children who commit offences because they are usually already disadvantaged... instead, they can encourage aggression and lead to more offending”. The Queensland Police Union National Youth Crime Symposium report identified that “the punitive model for children is not effective” and the experience of being incarcerated only increases the likelihood of children re-offending (Peakcare, 2023). This is consistent with the statistical evidence that Queensland, who currently holds the national titles for detaining the highest amount of children on an average night and keeping children in custody for the highest number of nights in the country (100,425 total nights in 2022), still has a 90 per cent recidivism rate within a 12 month period following their release from detention (Child Death Review Board, 2024). If the Queensland Government’s ‘Tough on Crime’ approach has failed to reduce youth crime, where is the evidence to suggest that the even more extreme ‘Adult Time, Adult Crime’ approach will do anything except further entrench young people in a cycle of criminality and recidivism?

### 3. Out-of-home care children will continue to be forgotten and institutionalised

Children engaged in out-of-home care are over-represented in the criminal justice system in Australia (Australian Institute of Criminology, 2020) and underreported in Australian research. Historically referred to as the “Forgotten Australians”, young people placed in out-of-home care are 19 times more likely than the equivalent general population to be under youth justice supervision in the same year (Queensland Family & Child Commission, 2022). In 2014, the Department of Justice and Attorney-General identified that “76% of children known to the Queensland youth justice system were also known to Child Safety Services”. The criminalisation of children placed in out-of-home care is evidenced to result “from a complex interaction between trauma, mental health conditions, the care environment and difficulties in locating suitable accommodation” (Australian Institute of Criminology, 2020). It is recognised that due to the nature of out-of-home care, there is a high correlation between residential care placements and police call-outs to respond to behavioural incidents resulting in charges outlined within the Making Queensland Safer legislation. While I operate from a trauma-informed care framework that endeavours to reduce the number of police callouts, I am highly concerned that the young people in out-of-home care will be further criminalised for their pain-based behaviours as “children who are living in out-of-home care often receive harsher treatment when they come in contact with the criminal justice system compared to children not living in out-of-home care” (Queensland Family & Child Commission, 2022). Findings have shown that incarceration of these children serves to exacerbate the impacts of their trauma and alienation that lead to offending (Amnesty International, 2024). Policy and therapeutic interventions must be developed with an understanding of this context if reduction in youth crime rates wish to be achieved by the Queensland Government.

## Conclusion

Prison does not work to deter or rehabilitate youth crime and it does not work to make communities safer. As Di Farmer, the current Minister for Education and Minister for Youth Justice so wisely said in her former role as the Minister for Child Safety “if we persist with the lock them up and throw away the key approach with our young people, that is exactly what will happen. There’s an almost 100 per

cent chance that young people will reoffend". I stand alongside organisations including Queensland Council of Social Service, Youth Advocacy Centre, Queensland Family and Child Commission, Queensland Human Rights Commission, Change the Record, Human Rights Law Centre, Queensland Council for Civil Liberties and countless other community, organisational and legal voices to oppose the introduction of this Bill.

"Queensland has an obligation to protect children's rights, which includes prioritising their rehabilitation and supporting their development through safe, community-based alternatives" (Amnesty International, 2024). I do support the Queensland Government's initiative to invest in "gold-standard" early intervention, diversion and rehabilitation. I encourage the Queensland Government to invest their time, money and effort into the countless, under resourced, undervalued yet empirically proven alternatives to incarceration in Queensland outlined by the Justice Reform Initiative's 'Jailing is Failing' publication in May 2023.

I do however recognise that the balance of odds is not in our favour as the Queensland Government intends to fast-track this significant and impactful legislative amendment prior to Christmas, leaving little to no room for evidence-based amendments to be made. I call on the Queensland Government to listen to the national and international outrage this proposed legislation has ensued and take a more respectful, consultative process in future. I question the sensibility of this Bill progressing before the Australian Government has responded to the recommendations of the current senate inquiry into youth incarceration.

### **Recommended Amendments**

- The Bill be amended to explicitly distinguish between violent and non-violent offences to prevent the overuse of detention for non-violent offending.
- The Bill be amended so that the new maximum penalties for 'Adult Crime Adult Time Offences' apply only to young people aged 14 and over with a previous criminal charge. The Queensland Government should fund and implement an alternative, community service-led response to children under the age of 14 years old who are involved with the justice system.
- Include explicit protections for children in out-of-home care to safeguard against unnecessary criminalisation for behavioural issues typically managed by residential care staff.
- Amend the bill to ensure restorative justice options remain available for non-violent offenders. Removing these options contradicts evidence that restorative justice fosters accountability and reduces recidivism more effectively than detention.
- Amend the bill to explicitly ban the detention of children in adult watch houses due to well-documented human rights violations in these environments.
- The Queensland Government should introduce mandatory, well-funded post-detention programs that provide structured reintegration support, including education, employment pathways, and stable housing, to reduce the likelihood of recidivism.
- The Queensland Government commits to greater transparency and consistent data collection to ensure accountability and continuous improvement through annual public reporting directly on the outcomes of the bill's implementation, including data on youth incarceration rates, recidivism, and the use of detention for non-violent offences.
- Guarantee that all children impacted by these legislative changes have access to specialized youth advocates or legal representation trained in child development and trauma.

Thank you for considering this submission.

Emma Oosthuysen