

**BRIEFING NOTE TO THE
JUSTICE, INTEGRITY AND COMMUNITY SAFETY COMMITTEE
REGARDING THE
MAKING QUEENSLAND SAFER (ADULT CRIME, ADULT TIME) AMENDMENT BILL
2025**

BACKGROUND

The *Making Queensland Safer Act 2024* (MQSA), the first tranche of the Government's Making Queensland Safer Laws (MQSL), was passed by the Queensland Parliament in December 2024. The 'Adult Crime, Adult Time' provisions inserted into the *Youth Justice Act 1992* (the YJ Act) commenced on assent on 13 December 2024, making young offenders liable to the same maximum, minimum and mandatory penalties as adults for 13 specified offences.

The Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025 (the Bill) expands the list of offences that are subject to the Adult Crime, Adult Time sentencing scheme.

The minor and technical amendments to be progressed ensure consistent application of legal principles under the Making Queensland Safer Laws.

Other Australian jurisdictions

The amendments relating to Adult Crime, Adult Time are specific to Queensland.

In New South Wales, the Children's Court must commit 'children's serious indictable offences' to a higher court to be dealt with 'according to law' under the *Crimes (Sentencing Procedure) Act 1999* (NSW). Children's serious indictable offences are limited to the most serious offences and include, for example, those punishable by 25 years or life imprisonment. The Children's Court has discretion when dealing with a child charged with an indictable offence to commit that child to a higher court to be dealt with 'according to law' under the *Crimes (Sentencing Procedure) Act 1999* (NSW) and must consider a range of factors including the nature and seriousness of the offence. Even where a child is dealt with 'according to law', mandatory and minimum sentences do not apply and neither do standard non-parole periods.

POLICY DRIVERS, CURRENT AND PROPOSED ARRANGEMENTS UNDER THE ACT

Government election commitments during the 2024 State election campaign included legislating the Making Queensland Safer Laws, including Adult Crime, Adult Time; and that an expert panel with representatives from law enforcement, the legal fraternity and victims groups would be created to assess which other offences should be included as part of the Adult Crime, Adult Time policy. The Bill follows advice from the panel, which was considered by Cabinet when it considered the Bill.

The objective of the Bill is to enhance community safety by prescribing these new offences, and to make minor amendments to ensure the recently introduced Making Queensland Safer laws operate as intended.

CURRENT AND PROPOSED ARRANGEMENTS UNDER THE ACT

The Bill proposes to add 20 further offences (including three where only certain aggravated forms of the offences are prescribed) to section 175A of the *Youth Justice Act 1992*.

This would have the effect that children who are found guilty of these prescribed offences are liable to the same penalties as adults. The offences are:

Criminal Code:

s.69	Going armed so as to cause fear
s.75	Threatening violence
s.306	Attempt to murder
s.307	Accessory after the fact to murder
s.313(2)	Assaulting a pregnant person and killing, or doing grievous bodily harm to, or transmitting a serious disease to the unborn child
s.320A	Torture
s.328C	Damaging emergency vehicle when operating motor vehicle
s.328D	Endangering police officer when driving motor vehicle
349	Rape
s.350	Attempt to commit rape
s.351	Assault with intent to commit rape
s.352	Sexual assault, if the circumstance in subsection (2) (involving any part of the mouth) or (3) (while armed, in company, or involving penetration) applies
s.354	Kidnapping
s.354A	Kidnapping for ransom
s.355	Deprivation of liberty
s.398	Stealing, if item 12 (a vehicle) or 14 (a firearm for use in another indictable offence) applies
s.412	Attempted robbery, if the circumstance in subsection (2) (armed or in company) or (3) (armed and with violence) applies
s.461	Arson
s.462	Endangering particular property by fire

Drugs Misuse Act 1986

s.5	Trafficking in dangerous drugs
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Attachment 1 lists all the offences with their current maximum penalties for children and adults.

The effects of prescribing these offences in s.175A are as follows:

- If a court is sentencing a child for one of the offences, the court may order that the child be placed on probation for a period not longer than three years or detained for a period not more than the maximum penalty that an adult convicted of the offence could be ordered to serve (capped at three years if dealt with by a magistrate, an increase from one year for other offences). This lifts the maximum periods of probation and detention orders that could

previously be imposed for these offences under sections 175 or 176 of the YJ Act to align with adult penalties.

- For some of the new offences, the maximum penalty for a child will increase to life detention (where that is currently only the maximum penalty if the offence is particularly heinous and involves the commission of violence against a person). For those offences, if a child is sentenced to life they will be liable to the same 15 year mandatory minimum non-parole period that applies to an adult.
- The court can still make a conditional release order under section 220 of the YJ Act, even where a mandatory sentence applies.
- A court sentencing a child for one of the offences will apply the sentencing considerations under section 150 of the YJ Act, and in sections 150A and 150B if the child is or has been declared a serious repeat offender.
- Sections 183 (Recording of conviction) and 184 (Considerations whether or not to record conviction) of the YJ Act continue to apply.
- The court can still sentence the child to a sentence order under section 175 of the YJ Act, such as community service. However, the court can no longer sentence the child to a restorative justice order under sections 175(1)(da) or (1)(db), as this sentencing order is not available for adults.
- The court must still consider whether to make a court diversion referral or a presentence referral to a restorative justice process under section 163 of the YJ Act, having regard to the nature of the offence, the harm suffered by anyone because of the offence and whether the interests of the community and the child would be served by having the offence dealt with under a restorative justice process. This is because adult restorative justice conferencing is available for adult defendants.
- Before a court can impose a period of detention for one of the offences, a pre-sentence report must still be ordered and considered pursuant to section 207 of the YJ Act.
- Where a child is sentenced to detention, the court must order that the child be released from detention after serving whatever period of detention that the court considers appropriate. This means that the requirement in section 227 of the YJ Act that the child must serve 70% of the detention, unless the court orders they be released after serving 50% or more of the detention, does not apply. Rather, for consistency with sentencing of adults, the court has discretion as to the release date.
- The *Penalties and Sentences Act 1992* (PS Act), including the Serious Violent Offence scheme and indefinite sentence provisions under Parts 9A and 10, does not apply when sentencing a child for one of the offences (other than by express reference – for example, PS Act provisions about victim impact statements apply – see YJ Act s.256A).
- Where a Childrens Court magistrate sentences a child for one of these offences, the order can still be subject to a sentence review under section 118 of the YJ Act.

These amendments will apply to sentences for offences committed after commencement.

The Bill may, in the long term, increase demand for courts, police, the legal profession, corrective services, and youth justice. The Bill may also, in the long term, increase the amount of time that young offenders spend in detention centres and corrective services facilities, increasing demand for

these facilities. The Government will monitor demand and the impacts of the legislative amendments. Any cost impacts will be dealt with as a part of normal budget processes.

The impact of the Bill is hard to model at this stage. We can expect the data to be available in the coming months for offences dealt with summarily (by magistrate) over the next year, but significantly later for the more serious offences that are dealt with in the higher courts. These are fewer in number but attract longer penalties.

The minor and technical amendments are necessary to legislative consistency. They address the following:

- The new ‘opt out’ legislated arrangements for the register of eligible persons (the ‘victims register’), which are yet to commence, should be clear that a direct victim can nominate a person to receive information on their behalf.
- Section 50(3) of the YJ Act provides for when a child is released under *Police Powers and Responsibilities Act 2000* s.378, but s.378 was repealed in 2024 and not replaced. The Bill omits the reference to s.378.

FUNDAMENTAL LEGISLATIVE PRINCIPLES

Although incompatible with human rights, it is arguable that the addition of the new offences is not inconsistent with the fundamental legislative principles (FLPs) outlined in the *Legislative Standards Act 1992*. The explanatory notes for the Making Queensland Safer Bill concluded that the consequences imposed by that Bill (Adult Crime Adult Time, removal of the principle that detention is a last resort, and other measures) were reasonable to achieve the policy intent as they were limited to certain serious offences. The explanatory notes for this Bill reach the same conclusion, because of the targeted nature of the 20 offences included in the Bill.

HUMAN RIGHTS

Adding offences which have a maximum sentence of life detention will expose young offenders to the mandatory minimum non-parole period which applies if sentenced to life. In those cases, consideration of the child’s best interests will not form part of the court’s consideration of the appropriate non-parole portion of a life sentence. The amendments therefore impose limitations on the right to liberty (*Human Rights Act 2019* (HR Act) s.29(1)) and the right of children to protection in their best interests (HR Act s.26(2)).

Over time, the amendments may impose further strain on youth detention centres in Queensland. Wacol Youth Remand Centre is now operational, taking the total available youth detention centre (YDC) bed capacity to 382. Construction of the 112 bed Woodford YDC is continuing and the staged availability of beds commences in 2027.

The impact of the reforms on human rights under the HR Act is detailed in the Statement of Compatibility (SoC). The SoC provides that the Bill is incompatible with human rights to the extent that it implements ‘adult crime, adult time’. The SoC concludes that the other amendments in the Bill are compatible with human rights.

The Government acknowledges that these amendments are not compatible with human rights, but states that they are clearly supported by Queenslanders, and are a direct response to growing community concern and outrage over crimes perpetrated by young offenders.

The provisions inserted by the amendments will be subject to the override declaration in the existing section 175A of the YJ Act, which provides that the section has effect despite being incompatible with human rights, and despite anything else in the HR Act.

The other minor and technical amendments do not require an override.

CONSULTATION

The Department of Youth Justice and Victim Support consulted relevant Government agencies in the development of the Bill. No consultation was undertaken with external stakeholders.

New offences: child and adult maximum penalties

Offence (all Criminal Code except where indicated)		Maximum Penalties	
		Child Maximum	Adult Maximum
Going armed so as to cause fear	s69		
1. Simpliciter		1. 1 year imprisonment	1. 2 years imprisonment
2. Circumstance of aggravation in section 52B (motivated to commit the offence by hatred or serious contempt for a person or group of persons)		2. 1½ years imprisonment	2. 3 years imprisonment
3. Circumstance of aggravation – publishes material on a social media platform or an online social network		3. 1½ years imprisonment	3. 3 years imprisonment
Threatening violence	s75		
1. Simpliciter		1. 1 year imprisonment	1. 2 years imprisonment
2. Circumstance of aggravation in section 52B (motivated to commit the offence by hatred or serious contempt for a person or group of persons)		2. 1½ years imprisonment	2. 3 years imprisonment
3. At night		3. 2½ years imprisonment	3. 5 years imprisonment
Attempt to murder	s306	10 years imprisonment unless court considers particularly heinous – then life imprisonment	Life imprisonment
Accessory after the fact to murder	s307	10 years imprisonment unless court considers particularly heinous – then life imprisonment	14 years imprisonment

Offence (all Criminal Code except where indicated)		Maximum Penalties	
		Child Maximum	Adult Maximum
Killing unborn child, second limb: unlawfully assaulting a pregnant person and destroying the life of, or doing grievous bodily harm to, or transmitting a serious disease to, the child before its birth	s313(2)	10 years imprisonment unless court considers particularly heinous – then life imprisonment	Life imprisonment
Torture	s320A	7 years imprisonment	14 years imprisonment
Damaging emergency vehicle when operating motor vehicle	s328C	7 years imprisonment	14 years imprisonment
Endangering police officer when driving motor vehicle	s328D	7 years imprisonment	14 years imprisonment
Rape	s349	10 years imprisonment unless court considers particularly heinous – then life imprisonment	Life imprisonment
Attempt to commit rape	s350	7 years imprisonment	14 years imprisonment
Assault with intent to commit rape	s351	7 years imprisonment	14 years imprisonment

Offence (all Criminal Code except where indicated)		Maximum Penalties	
		Child Maximum	Adult Maximum
Sexual assault			
(2) if the indecent assault or act of gross indecency includes bringing into contact any part of the genitalia or the anus of a person with any part of the mouth of a person	s352(2)	7 years imprisonment	14 years imprisonment
(3) any of the following:	s352(3)	10 years imprisonment unless court considers particularly heinous – then life imprisonment	Life imprisonment
(a) immediately before, during or immediately after, the offence, the offender is, or pretends to be, armed with a dangerous or offensive weapon, or is in company with any other person; or			
(b) the indecent assault includes the person who is assaulted penetrating the offender's vagina, vulva or anus to any extent with a thing or a part of the person's body that is not a penis;			
(c) the act of gross indecency includes the person who is procured by the offender penetrating the vagina, vulva or anus of the person who is procured or another person to any extent with a thing or a part of the body of the person who is procured that is not a penis.			
Kidnapping	s354	3½ years	7 years

Offence (all Criminal Code except where indicated)		Maximum Penalties	
		Child Maximum	Adult Maximum
Kidnapping for ransom	s354A		
(2) simpliciter		(2) 7 years	(2) 14 years
(3) person unconditionally set at liberty without GBH		(3) 5 years	(3) 10 years
(4) attempted kidnapping for ransom		(4) 3½ years	(4) 7 years
Deprivation of liberty	s355	1½ years	3 years
Stealing			
.12 vehicle	s398.12	7 years imprisonment	14 years imprisonment
.14 firearm for use in another indictable offence	s398.14	7 years imprisonment	14 years imprisonment
Attempted robbery			
(2) if the offender is or pretends to be armed with any dangerous or offensive weapon or instrument, or is in company with 1 or more other person or persons, the offender is liable to imprisonment.	s412(2)	(2) 7 years imprisonment	(2) 14 years imprisonment
(3) If the offender is armed with any dangerous of offensive weapon, instrument or noxious substance, and at or immediately before or immediately after the time of the assault the offender wounds, or uses other personal violence to, any person by the weapon, instrument or noxious substance.	s412(3)	(3) 10 years imprisonment unless court considers particularly heinous – then life imprisonment	(3) Life imprisonment
Arson	s461	10 years imprisonment unless court considers particularly heinous – then life imprisonment	Life imprisonment

Offence (all Criminal Code except where indicated)		Maximum Penalties	
		Child Maximum	Adult Maximum
Endangering particular property by fire	s462	7 years imprisonment	14 years imprisonment
<i>Drugs Misuse Act 1986:</i>			
Trafficking in dangerous drugs	s5	10 years imprisonment	Life imprisonment