

Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025

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Queensland
Human Rights
Commission

Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025

Submission to Justice, Integrity and Community
Safety Committee

16 April 2025

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Introduction

1. Thank you for the opportunity to provide a submission on the Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025 (**the Bill**).
2. The Queensland Human Rights Commission (**the Commission**) is an independent statutory body established under the *Anti-Discrimination Act 1991*, with functions under that Act and the *Human Rights Act 2019* (**Human Rights Act**) to promote an understanding, acceptance, and public discussion of human rights in Queensland. This submission has been approved by the Queensland Human Rights Commissioner.
3. Queenslanders have a right to feel safe in their homes and communities, and the Queensland Government (**government**) has an obligation to protect them. At the same time, government has a responsibility to ensure that the policies it enacts are evidence-based and limit human rights no more than is necessary to achieve their purpose.¹
4. The government concedes the Bill is **incompatible with human rights** and that it will lead to sentences for children that **are more punitive than necessary to achieve the purpose of enhancing community safety**.²
5. In conceding this point, government has stated that the current situation with respect to youth crime in Queensland is an ‘exceptional crisis’ and **therefore the Human Rights Act will be overridden**.³
6. The Commission **finds no justification for overriding the Human Rights Act**. There is **entirely insufficient evidence that the current situation with respect to youth crime is an exceptional crisis**. In fact, crime statistics demonstrate **that youth offender rates are tending downwards**.⁴ Nor is Queensland in a unique position when it comes to youth crime. In 2023-24, Queensland’s youth offender rate was fifth in the nation, behind New South Wales, Northern Territory, Tasmania, and Western Australia.⁵ **Year-to-year increases in relation to discrete offence categories are insufficient to demonstrate any ‘exceptional crisis’ warranting broad override of the Human Rights Act**.

¹ *Human Rights Act 2019 (Qld)* s13.

² Statement of Compatibility, Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025,4.

³ Statement of Compatibility, Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025,4.

⁴ Australian Bureau of Statistics, *Recorded crime – offenders 2023-24 financial year* (Catalogue 4519.0, 6 March 2025).

⁵ Australian Bureau of Statistics, *Recorded crime – offenders 2023-24 financial year* (Catalogue 4519.0, 6 March 2025).

7. The available evidence suggests that **this Bill will make our community less safe**. Imposing harsher sentences does not deter or reduce crime.⁶ Moreover, by detaining more children for longer the Bill will harm those children, making them more likely to reoffend. These impacts will be substantially worse where children are detained in crowded detention facilities and watchhouses. There will also be negative impacts on staff working in these facilities.
8. The imposition of excessively punitive sentences via the Bill **will not increase community confidence in our justice system**. Research shows community confidence in sentencing decisions improves after the community is provided with sufficient information about the case, and the decision.⁷ This means **the blanket application of punitive sentences for children is unlikely to improve public satisfaction with the response to youth crime**.
9. In addition to being incompatible with human rights, and ineffective, **the Bill will come at a high cost to the Queensland taxpayer**. The harsh sentences in the Bill will disincentivise guilty pleas, leading to more criminal trials – which are costly. As noted above, it will also mean more children are locked up, and given current capacity, more detention facilities will be required – both will come at significant cost. This spending will divert funds away from approaches that work to reduce youth offending.
10. Finally, as noted above, the Bill is likely to lead to more offending, creating more victims, not less. Additionally, by disincentivising guilty pleas, the Bill will lead to delays in the finalisation of criminal and civil matters, meaning victims will have to wait longer for outcomes. Victims will also be more frequently required to be examined and cross-examined in court, which can re-traumatise victims. This is at odds with the government's commitments to support victims of crime.
11. In summary, the measures implemented by the Bill:
 - severely limit the fundamental rights of some of the most vulnerable children in Queensland in ways that are discriminatory and disproportionate
 - are counter to the evidence that deterrence through harsher sentences does not work to reduce youth crime and will lead to more crime, not less

⁶ See for example: Victoria Sentencing Advisory Council, 'Does imprisonment deter? A review of the evidence' (Web report, 2011) <<https://www8.austlii.edu.au/cgi-bin/viewdoc/au/other/vic/VicSAC/2011/2.html#>>.

⁷ Lynne D Roberts and David Indermaur, 'Predicting punitive attitudes in Australia' (2007) 14(1) *Psychiatry, Psychology and Law* 56, 61; Samuel Jeffs et al, 'Understanding of sentencing: Community knowledge of sentencing terms and outcomes' (Research brief No.3, Queensland Sentencing Advisory Council, April 2023, 3; Kate Warner et al, 'Public judgement on sentencing: Final results from the Tasmanian Jury Sentencing Study' (*Trends and Issues in Crime and Criminal Justice* No 407, Australian Institute of Criminology, 2011).

- are likely to expose more children, as well as staff in youth detention centres and watch houses, to serious harm in an overloaded system which is already at breaking point
- are likely to put significant further pressure on the courts – leading to more delays for victims of crime and greater potential for matters to be contested through trial and on appeal
- will combine to frustrate the government's efforts to implement policies on early intervention, diversion, rehabilitation, and reintegration that do work.

Recommendations

12. The Commission recommends:

- As the Bill is incompatible with human rights, the government should make a further exceptional circumstances statement as required by section 44 of the Human Rights Act (**RECOMMENDATION 1**).
- The Committee should recommend to parliament that this Bill not be passed (**RECOMMENDATION 2**).
 - Further, that the relevant sections of the MQS Act which are incompatible with the Human Rights Act be repealed (**RECOMMENDATION 2A**).
 - Alternatively, at a minimum, this Bill should be delayed until the impact of the MQS Act is independently reviewed within the broader context of youth justice reforms since 2020 (**RECOMMENDATION 2B**).
 - Government should engage the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (**QATSICPP**) and relevant community led organisation and peak bodies for disability services to assist to conduct the independent review of the MQS Act (**RECOMMENDATION 2C**).
- If the Bill proceeds, the Bill and the MQS Act should be amended to include an exception for offences that are committed without violence and to ensure the principles of detention as a last resort and preference for non-custodial orders are retained in relation to non-violent offences (**RECOMMENDATION 3**).
 - Additionally, the Expert Legal Panel should release its Terms of Reference and a report on the consultation undertaken by the Panel to facilitate the community to better understand and assess the reasoning for the inclusion of the additional 20 offences (**RECOMMENDATION 3A**).

- If the Bill proceeds, the Bill and MQS Act should be amended so that the increased maximum and mandatory penalties apply only to children aged 14 years and above (**RECOMMENDATION 4**).
- As recommended by the Queensland Sentencing Advisory Council (**QSAC**),⁸ the Government should support community confidence in the criminal justice system by undertaking targeted education and awareness strategies tailored to address knowledge gaps, developing products that translate complex legal sentencing terms into plain English, and publishing sentencing statistics in a clear transparent manner (**RECOMMENDATION 5**).
 - QSAC should be resourced to do this work (**RECOMMENDATION 5A**).
- The role and resourcing of the Queensland Government Statisticians Office (**QGSO**) should be expanded to allow the office to undertake public communication and education activities to improve the community's understanding of the rates and incidence of youth crime. (**RECOMMENDATION 6**).⁹
- The government should also take a leadership role in educating the community about the rate and incidence of youth crime, why it happens, and what works to reduce youth crime (**RECOMMENDATION 7**).
- Finally, to ensure an effective approach to responding to youth crime, the government should develop a youth justice strategy based on the wealth of available evidence for reducing youth crime and rehabilitating children who offend, including by:
 - investing in equitable access to services such as early childhood education, health services and educations
 - prioritising early assessment and intervention, and diversion from the criminal justice system
 - being guided by First Nations leaders and communities and fulfilling Queensland's obligations under the Closing the Gap National Agreement including the establishment of an Independent Accountability Mechanism¹⁰

⁸ Samuel Jeffs et al, 'Understanding of sentencing: Community knowledge of sentencing terms and outcomes' (Research brief No.3, Queensland Sentencing Advisory Council, April 2023, 2.

⁹ Youth Justice Reform Select Committee, Queensland Parliament, *Interim Report: Inquiry into ongoing reforms to the youth justice system and support for victims of crime* (Interim report, April 2024) 99.

¹⁰ *National Agreement on Closing the Gap: an Agreement Between the Coalition of Aboriginal and Torres Strait Islander Peak Organisations and All Australian Governments* (July 2020) cl 67.

- being guided by international human rights law commentary on children's rights
- establishing a co-ordinating agency within government with clear authority to hold agencies to account for implementation of identified strategies. (**RECOMMENDATION 8**)

Background

13. In 2024, the *Making Queensland Safer Act 2024* (**MQS Act**) amended the *Youth Justice Act 1992* (**Youth Justice Act**) to remove the restrictions on sentences for young offenders, making them liable to the same maximum penalties, mandatory sentences, and non-parole periods as adults for 13 prescribed offences.¹¹
14. The MQS Act additionally removed the principle that children should be detained as a measure of last resort and that a non-custodial order is better than detention in promoting a child's ability to reintegrate into the community.¹² The MQS Act also instructs the court not to have regard to any principle that children must be detained as a measure of last resort.¹³
15. The Bill adds a further 20 offences to the existing 13 offences in relation to which children will be sentenced as adults. The new offences are:
 - Going armed so as to cause fear (section 69, *Criminal Code Act 1899* (**Criminal Code**))
 - Threatening violence (section 75, *Criminal Code*)
 - Attempt to murder (section 306, *Criminal Code*)
 - Accessory after the fact to murder (section 307, *Criminal Code*)
 - Assaulting a pregnant person and killing, or doing grievous bodily harm to, or transmitting a serious disease to the unborn child (section 313(2), *Criminal Code*)
 - Torture (section 320A, *Criminal Code*)
 - Damaging emergency vehicle when operating motor vehicle (section 328C, *Criminal Code*)
 - Endangering police officer when driving motor vehicle (section 328D, *Criminal Code*)

¹¹ *Making Queensland Safer Act 2024 (Qld)* s19.

¹² *Making Queensland Safer Act 2024 (Qld)*, s15, 24, 37.

¹³ *Making Queensland Safer Act 2024 (Qld)* s15.

- Rape (section 349, Criminal Code)
- Attempt to commit rape (section 350, Criminal Code)
- Assault with intent to commit rape (section 351, Criminal Code)
- Sexual assault, if the circumstance in subsection (2) (involving any part of the mouth) or (3) (while armed, in company, or involving penetration) applies (section 352, Criminal Code)
- Kidnapping (section 354, Criminal Code)
- Kidnapping for ransom (section 354A, Criminal Code)
- Deprivation of liberty (section 355, Criminal Code)
- Stealing, if item 12 (a vehicle) or 14 (a firearm for use in another indictable offence) applies (section 398, Criminal Code)
- Attempted robbery, if the circumstance in subsection (2) (armed or in company) or (3) (armed and with violence) applies (section 412, Criminal Code)
- Arson (section 461 Criminal Code)
- Endangering particular property by fire (section 462 Criminal Code)
- Trafficking in dangerous drugs (section 5, *Drugs Misuse Act 1986* (**Drugs Misuse Act**))

16. For some of the new offences, the maximum penalty for a child will increase to life detention. 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.¹⁴ Additionally, for the prescribed 33 offences, the court will no longer be permitted to sentence the child to a restorative justice order.¹⁵ Where a child is sentenced to detention, the court will no longer be required to order that a child be released after serving 70 per cent of the detention, or after serving 50 per cent where there are special circumstances.¹⁶

¹⁴ Explanatory notes, Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025, 2.

¹⁵ Explanatory notes, Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025, 3.

¹⁶ *Youth Justice Act 1992 (Qld)* s227.

The Bill is not compatible with human rights

17. The Bill severely limits the fundamental rights of some of Queensland's most vulnerable children in a way that is disproportionate to the goal of enhancing community safety.
18. The Statement of Compatibility for the Bill concedes:
 - the amendments may lead to sentences for children that are more punitive than necessary to achieve community safety
 - the negative impact on the rights of children likely outweighs the legitimate aims of punishment and denunciation
 - there are less restrictive options available to achieve the stated purpose of improving community safety
 - the amendments may impose further strain on youth detention centres in Queensland possibly resulting in increased numbers of children in watchhouses for extended periods which is a direct limitation on the right to protection from cruel, inhumane or degrading treatment
 - the amendments are likely to have a more significant impact on Aboriginal and Torres Strait Islander children.¹⁷
19. Despite being incompatible with the Human Rights Act, the government has not made an exceptional circumstances statement. As the Bill is incompatible, the government should make a further exceptional circumstances statement as required by section 44 of the Human Rights Act. (**RECOMMENDATION 1**)
20. The Commission agrees with the assessment in the Statement of Compatibility that the Bill is not compatible with human rights. **The Commission does not agree that it is necessary or justifiable to override the Human Rights Act.**

No justification for overriding Human Rights Act

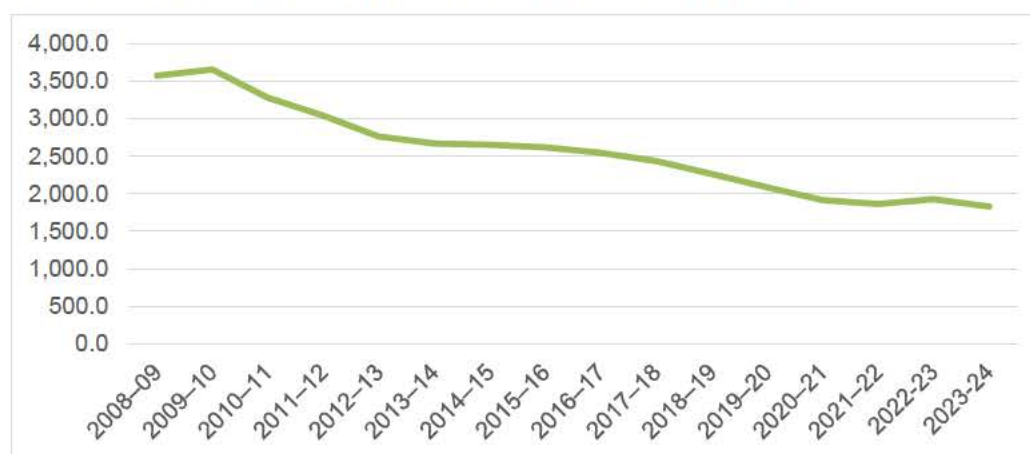
21. The Human Rights Act is a framework which supports robust decision-making. It seeks to ensure legislation is effective and does not create more harm than is necessary to achieve its purpose. The Human Rights Act upholds our democratic system by ensuring all parts of our community are considered in the development of policy and legislation. Human rights compatible approaches to youth crime will create more effective, sustainable solutions that will enhance community safety.
22. The Statement of Compatibility states that it is necessary to override the Human Rights Act because 'the situation with respect to youth crime in Queensland

¹⁷ Statement of Compatibility, Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025, 3,4.

presents an exceptional crisis situation constituting a threat to public safety'.¹⁸ The government has not provided an exceptional circumstances statement (as required by section 44 of the Human Rights Act) and as such has not provided any evidence to demonstrate that the situation with respect to youth crime is an exceptional crisis.

23. Overriding the Human Rights Act must only occur in exceptional circumstances such as where there is a war, state of emergency, or an exceptional crisis constituting threats to public safety or national security.¹⁹
24. There is insufficient evidence to suggest that Queensland is currently facing an exceptional crisis with respect to youth crime. Over the long term, between 2008-09 and 2023-24, Queensland's youth crime offender rate has fallen from 3575.8 offenders per 100,000 children to 1,828.1 offenders per 100,000 children aged 10-17 years (see **Table A**).²⁰ Over the short term, there was a decrease of 3 per cent (334 offenders) in 2023-24 compared to 2022-23.²¹ Accounting for population change, this is a decrease of 5 per cent from 2022-23.²²

Table A. Youth offender rate by principal offence from 2008-09 to 2023-24²³



¹⁸ Statement of Compatibility, Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025, 4.

¹⁹ *Human Rights Act 2019* (Qld) s 43(4).

²⁰ This is the child offender rate by principle 2008-09 to 2023-24. Drawn from Australian Bureau of Statistics, *Recorded crime – offenders 2023-24 financial year* (Catalogue 4519.0, 6 March 2025) Youth offenders: Table 20: Youth offenders, Principal offence, States and territories, 2008–09 to 2023–24.

²¹ Australian Bureau of Statistics, *Recorded crime – offenders 2023-24 financial year* (Catalogue 4519.0, 6 March 2025).

²² There were 10,544 offenders aged between 10 and 17 years in Queensland in 2023–24, a decrease of 3% (334 offenders) from 2022–23. Accounting for population change, the youth offender rate decreased from 1,925 offenders in 2022–23 to 1,828 offenders per 100,000 persons aged between 10 and 17 years in 2023–24. See: Australian Bureau of Statistics, *Recorded crime – offenders 2023-24 financial year* (Catalogue 4519.0, 6 March 2025).

²³ Drawn from Australian Bureau of Statistics, *Recorded crime – offenders 2023-24 financial year* (Catalogue 4519.0, 6 March 2025) Youth offenders: Table 20: Youth offenders, Principal offence, States and territories, 2008–09 to 2023–24.

25. The QGSO *Crime Report Queensland 2023-24 (QGSO Crime Report)* similarly finds that in 2023–24, the unique offender rate for children was 1,896.8 per 100,000 children, **a decrease of 30.4 per cent since 2014–15** and 2.2 per cent lower than in 2022–23.²⁴ This is the lowest unique child offender rate since 2014–15.²⁵
26. Queensland does not have more youth offenders than other states and territories.²⁶ In 2023-24, Queensland's youth offender rate was fifth in the country behind New South Wales, Northern Territory, Tasmania, and Western Australia.²⁷ Despite this, the incarceration of children in Queensland is increasing, while incarceration of children in other states and territories with higher youth offender rates is decreasing (e.g., in New South Wales and Western Australia).²⁸
27. In a recent media statement made by the government, the government states the QGSO Crime Report reveals that 'between 2014 and 2024, the number of youth charged with stolen cars and robbery tripled, and the number of youth charged with break-ins and assault doubled.'²⁹ However, these figures refer to the number of child offenders 'actioned by police' – meaning the figures may include youth who are subsequently acquitted of the alleged offences, or where charges are discontinued by prosecuting agencies.
28. Additionally, comparing offence numbers in one year to another year can be misleading. For example, it is also possible to show that 'unlawful entry with intent' offences have reduced from 2,025 in 2008-09 to 1,423 in 2023-24. Adjusted for population growth, that is a 43.05 per cent drop from 433.3 offences per 100,000 to 246.7 offences per 100,000.³⁰ Further, it would be possible to show that the rate of 'sexual assault and related offences' have decreased by

²⁴ Queensland Government Statistician's Office, *Crime report, Queensland, 2023–24* (Queensland Treasury, 2025) 47.

²⁵ Queensland Government Statistician's Office, *Crime report, Queensland, 2023–24* (Queensland Treasury, 2025) 47.

²⁶ Australian Bureau of Statistics, *Recorded crime – offenders 2023-24 financial year* (Catalogue 4519.0, 6 March 2025).

²⁷ Australian Bureau of Statistics, *Recorded crime – offenders 2023-24 financial year* (Catalogue 4519.0, 6 March 2025).

²⁸ Kenji Sato, 'Criminologists debunk claims of "youth crime crisis" as data shows dramatic declines', *ABC News* (online, 13 October 2024) <<https://www.abc.net.au/news/2024-10-13/criminologists-debunk-youth-crime-crisis-claims/104445432>>.

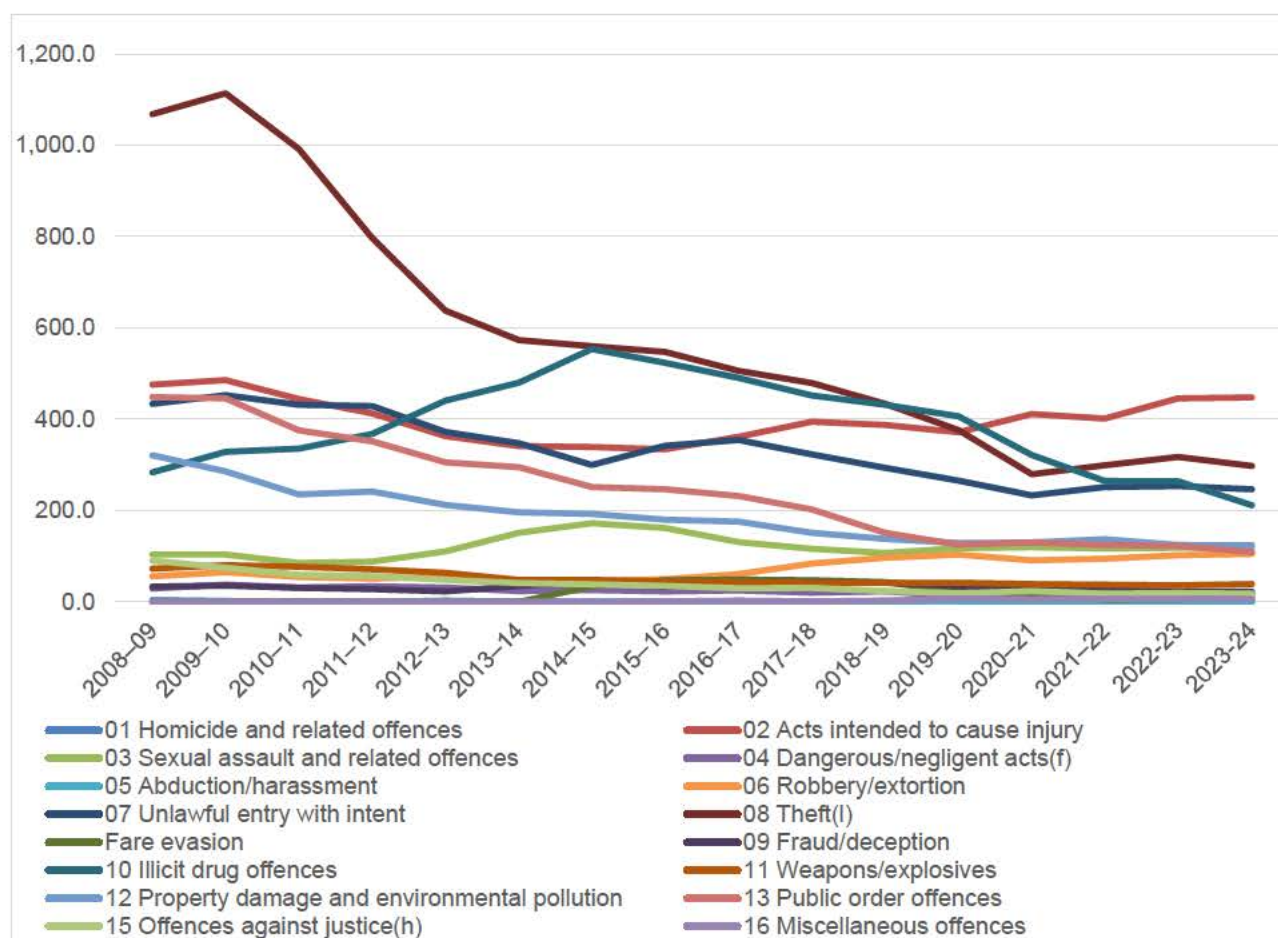
²⁹ Queensland Government, 'YOUTH CRIME BOMBSHELL: Decade of Youth Crime Crisis laid bare' (Media statement, 02 April 2025).

³⁰ Drawn from Australian Bureau of Statistics, *Recorded crime – offenders 2023-24 financial year* (Catalogue 4519.0, 6 March 2025) Youth offenders: Table 20: Youth offenders, Principal offence, States and territories, 2008–09 to 2023–24.

31.8 per cent from 172.7 per 100,000 in 2014-15 to 117.7 in 2023-24.³¹ However, this does not paint a complete picture of offence rates over time.

29. A more accurate way of demonstrating increases or decreases in offence rates is to observe how offending rates have changed over a prolonged period. The below table (**Table B**) shows the rate of youth offenders by principal offence between 2014-15 to 2023-24. Based on this data, there does not appear to be any spikes or increases which are demonstrative of an ‘exceptional crisis’.

Table B: Youth offenders in Queensland by principal offence between 2014-15 to 2023-24 (rate per 100,000 persons)³²



³¹ Drawn from Australian Bureau of Statistics, *Recorded crime – offenders 2023-24 financial year* (Catalogue 4519.0, 6 March 2025) Youth offenders: Table 20: Youth offenders, Principal offence, States and territories, 2008-09 to 2023-24.

³² Drawn from Australian Bureau of Statistics, *Recorded crime – offenders 2023-24 financial year* (Catalogue 4519.0, 6 March 2025) Youth offenders: Table 20: Youth offenders, Principal offence, States and territories, 2008-09 to 2023-24.

30. Academics have similarly debunked the Government's claims that there is a 'youth crime crisis' in Queensland.³³
31. Given this evidence, the Commission finds no justification for overriding human rights in relation to this Bill, nor the MQS Act. The Commission stresses that even if it is possible to point to year-to-year increases in relation to discrete offences, this is insufficient to establish that there is an 'exceptional crisis' with respect to youth crime warranting a broad and far-reaching override of human rights.
32. The Committee should recommend to parliament that this Bill not be passed (**RECOMMENDATION 2**). Further, that the relevant sections of the MQS Act which are incompatible with the Human Rights Act be repealed (**RECOMMENDATION 2A**). Alternatively, at a minimum, this Bill should be delayed until the MQS Act is independently reviewed within the broader context of youth justice reforms since 2020 (**RECOMMENDATION 2B**).
33. The government should engage QATSICPP and relevant community led organisation and peak bodies for disability services to assist to conduct the independent review of the MQS Act (**RECOMMENDATION 2C**).

The Bill will not make Queensland safer

The Bill will not improve confidence in the criminal justice system

34. The Statement of Compatibility states the Bill will enhance community safety by ensuring courts can 'impose appropriate penalties that meet community expectations... [which] will demonstrate to the community that youth offending is treated seriously... which will increase community confidence in the justice system'.³⁴
35. While the Commission agrees community confidence in the justice system tends to lead to lower offending and higher compliance, **the Commission does not agree this Bill will increase community confidence in the justice system in Queensland.**
36. Recent research published by QSAC suggests punitive attitudes toward sentencing largely stem from a lack of knowledge about sentencing and the criminal justice system.³⁵ When a community member is provided with accurate information about a case, they typically support the sentences imposed.³⁶ In fact,

³³ Kenji Sato, 'Criminologists debunk claims of "youth crime crisis" as data shows dramatic declines', *ABC News* (online, 13 October 2024) <<https://www.abc.net.au/news/2024-10-13/criminologists-debunk-youth-crime-crisis-claims/104445432>>.

³⁴ Statement of Compatibility, Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025, 1.

³⁵ Samuel Jeffs et al, 'Understanding of sentencing: Community knowledge of sentencing terms and outcomes' (Research brief No.3, Queensland Sentencing Advisory Council, April 2023, 2.

³⁶ See discussion in J Spigelman, "Sentencing guideline judgments" (1999) 73(12) *ALJ* 876; K Warner et al, "Public judgement on sentencing: final results from the Tasmania Jury Sentencing

many would impose a more lenient sentence,³⁷ and for non-violent offences, such as property crime or non-violent drug offences, the public typically agrees with the courts or leans toward non-custodial sentences.³⁸

37. As such, **it is unlikely that simply imposing harsher sentences on children will improve confidence in the criminal justice system, nor is it likely to appease Queenslanders' dissatisfaction with the response to youth crime.**
38. Additionally, instead of improving confidence in the criminal justice system, elements of the Bill and the MQS Act may undermine confidence in the system. While the respective seriousness of offences can be reasonably debated, there is general agreement that offences that involve violence and/or cause significant harm to a victim are more serious than those that do not.³⁹ Despite this, the prescribed list of offences includes a number of offences which do not involve violence or significant harm to the victim (e.g., stealing a vehicle, damaging emergency vehicle when operating motor vehicle, unlawful use of a motor vehicle).
39. A core tenet of the rule of law is that the law should apply equally with predictable outcomes based on established principles.⁴⁰ Because the prescribed offences do not follow broadly agreed principles in terms of seriousness, the law appears arbitrary. This risks undermining confidence in the justice system. Furthermore, even if harsh penalties could be said to have a deterrent effect – an argument which evidence and research does not support – an inconsistent approach to sentencing would diminish any such effect.
40. Additionally, the 'adult crime, adult time' policy creates a situation where children convicted of certain offences could now face harsher sentences compared to adults convicted of the same offences. Unlike children, adults will still benefit from sentencing principles that emphasise incarceration should be a last resort and the preference for non-custodial orders.⁴¹ Given the well-established evidence that a child's cognitive development and decision-making capacity is different to adults,⁴² this disparity can be seen as arbitrary and unreasonable.

Survey", *Trends & Issues in Crime and Criminal Justice*, No 407, Australian Institute of Criminology, Canberra, 2011.

³⁷ Sentencing Advisory Council, 'Public opinion about sentencing: A research overview' (Research paper, August 2019).

³⁸ Geraldine Mackenzie et al, 'Sentencing and public confidence: Results from a national Australian survey on public opinions towards sentencing' (2012) 45(1) *Australian & New Zealand Journal of Criminology* 5–6, 45, 55.

³⁹ Samuel Jeffs et al, 'Understanding of sentencing: Community knowledge of sentencing terms and outcomes' (Research brief No.3, Queensland Sentencing Advisory Council, April 2023, 2.

⁴⁰ Law Council of Australia, 'Rule of Law Principles' (Policy Statement, March 2011) <<https://lawcouncil.au/publicassets/046c7bd7-e1d6-e611-80d2-005056be66b1/1103-Policy-Statement-Rule-of-Law-Principles.pdf>>.

⁴¹ *Penalties and Sentences Act 1992* (Qld) s9(2)(a).

⁴² Committee on the Rights of the Child, *General Comment No. 24 (2019) on Children's Rights in the Child Justice System*, UN Doc CRC/C/GC/24 (18 September 2019) [2], [6].

41. The Commission urges the Committee to recommend that government rectify this issue by, at a minimum, amending the Bill and the MQS Act to include an exception for offences that are committed without violence and ensuring the principles of detention as a last resort and preference for non-custodial orders are retained in relation to non-violent offences (**RECOMMENDATION 3**).
42. Additionally, the Expert Legal Panel, which was appointed 'to provide advice on the next stages of reform... relevant to Adult Crime, Adult Time'⁴³ should release its Terms of Reference and a report on the consultation undertaken by the Panel. This would facilitate the community to better understand and assess the reasoning for the inclusion of the additional 20 offences (**RECOMMENDATION 3A**).
43. The Commission strongly warns the Committee against removing the principle of detention as a last resort and preference for non-custodial orders for adults. Doing so would undoubtedly place Queensland in an untenable position with respect to adult detention capacity – which is already at breaking point.
44. Community satisfaction with the response to youth crime is likely to increase if there is a reduction in youth crime. However, this Bill is likely to increase youth offending.

Harsher sentences do not deter youth crime

45. The theory of deterrence is that crime can be prevented through the fear of threatened or actual criminal sanction.⁴⁴ This relies on an assumption that people weigh up the costs and benefits of a particular course of action when making decisions.⁴⁵ Deterrent sentencing (imposing specific or harsher sentences with the aim of deterring a specific crime) additionally relies on knowledge of the possible criminal sanction.
46. The Commission has been unable to identify any evidence that deterrence works for children. This is because deterrence theory is at odds with the way children make decisions. As noted by QSAC:

'[w]e are even less certain if deterrence works for children as they are much less likely to think about the long-term effects of their behaviour. Even if they do know the risks of what they are doing, they may ignore those risks because

⁴³ Queensland Government 'Making Queensland Safer Laws: Expert Legal Panel appointed' (Media Statement, 12 February 2025).

⁴⁴ Victoria Sentencing Advisory Council, 'Does imprisonment deter? A review of the evidence' (Web report, 2011) <<https://www8.austlii.edu.au/cgi-bin/viewdoc/au/other/vic/VicSAC/2011/2.html#>>.

⁴⁵ Victoria Sentencing Advisory Council, 'Does imprisonment deter? A review of the evidence' (Web report, 2011) <<https://www8.austlii.edu.au/cgi-bin/viewdoc/au/other/vic/VicSAC/2011/2.html#>>.

they are more influenced by feelings and friends than by logic. This is because children's brains are not fully developed'.⁴⁶

47. Similarly, according to Dr Emma Antrobus et al., University of Queensland:

'...neuroscience tells us that even neurotypical brains are not fully developed until around age 25, and the pre-frontal cortex, which is responsible for decision making, is one of the last areas of the brain to develop.

Further, emerging evidence suggests that many young people in the youth justice system have neurodevelopmental disorders, further impacting their ability to rationally consider the long-term consequences of their actions'.⁴⁷

48. Moreover, even if it could be shown that the threat of criminal sanction deters children from offending, the overwhelming weight of evidence indicates that **increases in the severity of sentences do not have a corresponding increase in deterrent effect.**⁴⁸

Detention does not reduce offending

49. Not only will the Bill fail to reduce or deter crime **but by causing more children to be detained, the Bill is likely to increase youth crime.** This is because all detention is harmful to children, and the harms of detention – which are increased where children are detained in inappropriate facilities such as overcrowded detention centres and watchhouses – often lead children to reoffend.⁴⁹
50. The Statement of Compatibility for the Bill concedes the Bill will result in more children spending more time in detention.⁵⁰ Detention harms children by

⁴⁶ Queensland Sentencing Advisory Council, 'Myth #6 Mandatory sentencing/harsher penalties would deter children from committing crime', *Myths about sentencing children* (Web page, 2023) <<https://www.sentencingcouncil.qld.gov.au/about-sentencing/sentencing-myths/myths-about-sentencing-children>>.

⁴⁷ Dr Emma Antrobus, Dr Joseph Lelliott, and Dr Rebecca Wallis, 'Tackling youth crime: Why a 'crackdown' isn't the answer' (Opinion and analysis, University of Queensland) <<https://stories.uq.edu.au/contact-magazine/tackling-youth-crime/index.html#:~:text=Recent%20reporting%20in%20Queensland%20has,TV%20%E2%80%93%20is%20disproportionate%20to%20the>>.

⁴⁸ Victoria Sentencing Advisory Council, 'Does imprisonment deter? A review of the evidence' (Web report, 2011) <<https://www8.austlii.edu.au/cgi-bin/viewdoc/au/other/vic/VicSAC/2011/2.html#>>.

⁴⁹ Queensland Family & Child Commission, *Exiting youth detention* (June 2024) 12; Australian Institute of Health and Welfare (2023); Committee on the Rights of the Child, *General Comment No. 24 (2019) on Children's Rights in the Child Justice System*, UN Doc CRC/C/GC/24 (18 September 2019) [2], [22]-[23]. UN Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, UN Doc A/HRC/38/36 (10 April 2018) [63]-[69]. Juan E Mendez, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc A/HRC/28/68 (5 March 2015) 7 [33].

⁵⁰ Statement of Compatibility, Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025, 3.

undermining their psychological and physical wellbeing and compromising their cognitive development.⁵¹ **These harms increase the likelihood that a child will reoffend.**

51. As the Special Rapporteur on Torture has emphasised:

*Even very short periods of detention can undermine a child's psychological and physical well-being and compromise cognitive development. Children deprived of liberty are at a heightened risk of suffering depression and anxiety, and frequently exhibit symptoms consistent with post-traumatic stress disorder. Reports on the effects of depriving children of liberty have found higher rates of suicide and self-harm, mental disorder and developmental problems.*⁵²

52. Data published in 2023 demonstrates that detaining children typically leads to further offending. It shows **the percentage of children who reoffended within 12 months following release from Queensland youth detention centres was between 84 per cent and 96 per cent.**⁵³

Over-crowded youth detention facilities increase harm

53. The harms of detention are increased where children are detained in over-crowded detention centres or inappropriate facilities including adult watchhouses. The Statement of Compatibility for the Bill concedes the impact of the Bill may impose further strain on youth detention centres, possibly resulting in increased numbers of children in watchhouses for extended periods of time. This is **a direct limitation on the right to protection from cruel inhumane or degrading treatment.**⁵⁴
54. Conditions in overcrowded Queensland youth detention centres are unacceptable, with children experiencing:
- increasing amounts of time spent in lockdown (separated from other children in a locked room), generally as a result of staff shortages. In 2022-23,

⁵¹ Juan E Mendez, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc A/HRC/28/68 (5 March 2015) 7 [33].

⁵² Juan E Mendez, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc A/HRC/28/68 (5 March 2015) 7 [33].

⁵³ Queensland Family & Child Commission, *Exiting youth detention* (June 2024) 12; Australian Institute of Health and Welfare (2023). Also see: Young people returning to sentenced youth justice supervision, 2021-22 supplementary data tables, Table s17. Retrieved from <https://www.aihw.gov.au/reports/youth-justice/young-people-returning-to-sentenced-supervision/data>.

⁵⁴ Statement of Compatibility, Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025, 3.

children in Cleveland Youth Detention Centre spent 81 per cent of their time in lockdown.⁵⁵

- limited access to rehabilitation programs. For example, in Cleveland Youth Detention Centre, only 31 children completed rehabilitation programs in 2022 compared to 215 in 2018.⁵⁶
- very little provision of education. At Cleveland Youth Detention Centre, children had access to an average of 3 to 5 hours of face-to-face education a week (despite the target of 17 hours of education per week).⁵⁷

55. By increasing strain on youth detention centres, the Bill will increase children's exposure to harm, frustrating rehabilitation and reintegration efforts, which makes it more likely children will engage in further offending behaviour.

Watchhouse detention increases harm

56. As prefaced by the Statement of Compatibility for the Bill, crowded youth detention centres can also mean longer stays in watchhouse detention. Between 2018 and 2023, youth watchhouse admissions increased by 452 per cent and children being held in a watchhouse for more than 1 day has increased by 163 per cent.⁵⁸
57. While the recent opening of the Wacol Youth Remand Centre will assist with capacity in the short term,⁵⁹ the impacts of this Bill and other approaches taken by the government (including the Police Powers and Responsibilities (Making Jack's Law Permanent) Bill 2025) are likely to mean this additional capacity will be exceeded before long. Indeed, despite the opening of the Wacol facility in March 2025, as at 13 April 2025, there were still 13 children in watchhouse custody in Queensland.⁶⁰

⁵⁵ Queensland Audit Office, *Reducing serious youth crime* (Performance Audit Report 15: 2023–24, 28 June 2024) 31. See also Inspector of Detention Services, Queensland Ombudsman, *Cleveland Youth Detention Centre inspection report: Focus on separation due to staff shortages* (27 August 2024) 16-21.

⁵⁶ Statistics for other detention centres were not accurately recorded. See: Queensland Audit Office, *Reducing serious youth crime* (Performance Audit Report 15: 2023–24, 28 June 2024) 32.

⁵⁷ Queensland Audit Office, *Reducing serious youth crime* (Performance Audit Report 15: 2023–24, 28 June 2024) 31-32.

⁵⁸ Queensland Family & Child Commission, *Who's responsible: Understanding why young people are being held longer in Queensland watch houses* (30 November 2023) 4.

⁵⁹ Queensland Government, 'New Wacol Youth Remand Centre ready to hold young offenders' (Media statement, 29 March 2025).

⁶⁰ Queensland Police Service, 'Persons in Queensland Police Watch house Custody', *Watch house data* (web page, 13 April 2025, 11.57pm) < <https://open-crime-data.s3.ap-southeast-2.amazonaws.com/Crime%20Statistics/Persons%20Currently%20In%20Watchhouse%20Custody.pdf> >.

58. It is widely accepted internationally and in Queensland that watchhouses are not appropriate or humane places in which to detain children for any length of time, including because of the inescapable exposure to adult detainees, the inability of the built and operational environment to meet the child's needs, and the lack of specialised staff.⁶¹ Watchhouse staff 'are not given any specialist training geared towards working with children, let alone those with complex needs', and have few behavioural management tools and strategies available.⁶²
59. By taking a punitive approach to youth justice, which involves locking up more children in detention and in watchhouses, this Bill will lead to more offending, not less. As observed by the Bar Association of Queensland:

*mandatory minimum sentences proposed for murder... may in fact make the problem of violent young offenders a more serious one for the next generation of Queenslanders: a child imprisoned at 10 years of age is unlikely to turn out, newly-released into the community as a 30 year old, as anything other than a hardened, more dangerous criminal.*⁶³

60. This plays out in the data. As noted above, the percentage of children who reoffended within 12 months following release from Queensland youth detention centres was between 84 per cent and 96 per cent.⁶⁴ Additionally, from 2021–22 to 2022–23, there has been an increase in serious repeat offenders, from 17 per cent of young people accounting for 48 per cent of charges, to 20 per cent of young people accounting for 54.5 per cent of charges.⁶⁵
61. **This means our current approach of locking children up is harming them and turning them into more serious offenders. This is not an effective or cost-effective response to youth crime.**

⁶¹ Inspector of Detention Services, Queensland Ombudsman, *Cairns and Murgon watch houses inspection report: Focus on detention on children* (11 September 2024); *United Nations Committee on the Rights of the Child, General Comment No 24: Children's Rights in the Child Justice System*, UN Doc CRC/C/GC/24 (18 September 2019) [85]; Juan E. Méndez, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc A/HRC/28/68 (5 March 2015) [85(k)]; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Juveniles Deprived of Their Liberty Under Criminal Legislation*, extract from the 24th General Report of the CPT (published in 2015) [99]–[100]; Statement of Compatibility, Making Queensland Safer Bill 2024 (Qld) 4.

⁶² Inspector of Detention Services, Queensland Ombudsman, *Cairns and Murgon watch houses inspection report: Focus on detention on children* (11 September 2024) 59.

⁶³ Bar Association of Queensland, Submission No 165 to Justice, Integrity and Community Safety Committee, Parliament of Queensland, Inquiry into the Making Queensland Safer Bill 2024 (3 December 2024).

⁶⁴ Queensland Family & Child Commission, *Who's responsible: Understanding why young people are being held longer in Queensland watch houses* (30 November 2023) 62.

⁶⁵ Childrens Court of Queensland, *Annual report 2022–23* [3]–[4]. This definition of serious repeat offender is separate to a person who is declared a serious repeat offender by the Magistrates Court under s 150A of the *Youth Justice Act 1992* (Qld).

The Bill will come at a high cost to the taxpayer

62. **This Bill will come at a high financial cost to Queensland taxpayers.**
63. Mandatory or excessively punitive sentencing regimes reduce incentives for children (and adults) to plead guilty. This leads to more costly criminal trials. The Commission has been unable to identify the average costs of a criminal trial for a child in Queensland but notes the Productivity Commission has indicated the national average net cost per finalisation of a criminal matter is \$23,138 in Supreme courts, \$13,259 in District courts, and \$966 in the Magistrates courts.⁶⁶
64. As children who commit offences are more likely to be impacted by poverty and other forms of inequality,⁶⁷ this is also likely to have a significant impact on community legal services, such as Legal Aid Queensland and the Aboriginal and Torres Strait Islander Legal Service.
65. In terms of detention, in Queensland, the average cost per day for keeping a young person in detention is \$1,833.72.⁶⁸ This is significantly less than any other jurisdiction, and 65 per cent of the national average, suggesting that Queensland's spend is already inadequate to meet the rehabilitation and reintegration needs of children and stop reoffending. In contrast, the average cost per day per child for community-based supervision for 2022-23 was \$304.30.⁶⁹
66. These costs are likely to be in addition to substantial capital costs associated with building additional youth detention and youth remand facilities as facilities become even more overburdened.
67. As this Bill and the MQS Act propose to impose long sentences on children, these costs will also spread to the adult prison system, which is already operating at over 140 per cent capacity.⁷⁰
68. Time spent in detention can be traumatising for children. The more time a child spends in detention, the greater the exposure to trauma and harm. This has flow

⁶⁶ Productivity Commission, Report on Government Services 2024: Justice (part C) (Web Page, January 2024), 83.

⁶⁷ See for example: Queensland Family & Child Commission, Exiting youth detention (June 2024).

⁶⁸ Drawn from Productivity Commission (Cth), Report on Government Services 2024 (Web Page, January 2024) 'Table 17 A.20: Cost per young person under community-based supervision, 2022-23 dollars' and 'Table 17 A.21: Cost per young person under detention-based supervision, 2022-23 dollars'.

⁶⁹ Drawn from Productivity Commission (Cth), Report on Government Services 2024 (Web Page, January 2024) 'Table 17 A.20: Cost per young person under community-based supervision, 2022-23 dollars' and 'Table 17 A.21: Cost per young person under detention-based supervision, 2022-23 dollars'.

⁷⁰ Sean Parnell, 'State's prisons at 144 per cent capacity, made worse by housing crisis' *Brisbane Times*, (online, 27 July 2024) <<https://www.brisbanetimes.com.au/national/queensland/state-s-prisons-at-144-per-cent-capacity-made-worse-by-housing-crisis-20240727-p5jwzo.html>>.

on costs for Queenslanders as additional funding will be required for health and mental health services once the child leaves detention.

69. Detention of children in crowded detention centers and watchhouses also creates safety risks for watchhouse staff, police officers, and other service providers. Staff and service providers can also suffer vicarious trauma if they are exposed to children experiencing trauma and inhumane conditions. There are costs associated with this harm, including WorkCover claims.
70. **The high flow-on costs of this Bill will divert resources from strategies that are proven to enhance public safety**, like early intervention and diversion from the criminal justice system.

The Bill will have a disproportionate and discriminatory impact on the most vulnerable members of our community

Children

71. Treating children like adults is discriminatory. The right to equality under the Human Rights Act, like protections under the Anti-Discrimination Act, requires both formal and substantive equality before the law. Effective protection against discrimination may necessitate differential treatment.
72. Children differ from adults physically, psychologically, cognitively and emotionally. This affects their ability to make rational decisions, understand the impact of criminal proceedings, and withstand the effects of detention. These significant differences are the basis for having a separate youth justice system with a differentiated, individualised approach.⁷¹
73. Children are also in a position of dependance and disempowerment in relation to adults, which is why Article 3 of the *Convention on the Rights of the Child* requires all actions concerning children to have the best interests of the child as the primary consideration.
74. Best practice in youth justice works to accommodate the differences between children and adults who offend, for example by:
 - including a presumption that a child between the age of 10 and 14 years is *incapable* of committing a crime because they have not developed sufficient understanding of the difference between right and wrong (*doli incapax*)⁷²

⁷¹ *United Nations Committee on the Rights of the Child, General Comment No 24: Children's Rights in the Child Justice System*, UN Doc CRC/C/GC/24 (18 September 2019) [2].

⁷² In 2019, the Committee on the Rights of the Child recommended all countries raise the age of criminal responsibility to at least fourteen. See: *United Nations Committee on the Rights of the Child, General Comment No 24: Children's Rights in the Child Justice System*, UN Doc CRC/C/GC/24 (18 September 2019) [9].

- providing for different maximum penalties
- providing sentencing principles for children that acknowledge that children should only be detained as a last resort and for the shortest period of time.⁷³

75. The Bill (and MQS Act) overrides these standards, likely amounting to substantive discrimination of children on the basis of their age. The Bill directly discriminates against children by treating them less favourably than adults who, for non-violent offences, have the benefit of the sentencing principles that:

- a sentence of imprisonment should only be imposed as a last resort; and
- a sentence that allows the offender to stay in the community is preferable.⁷⁴

7.5 To align more closely to global best practice in relation to the age of criminal responsibility and the principle of *doli incapax*, at a minimum, the Bill should be amended so that the increased maximum and mandatory penalties apply only to children aged 14 years and above (**RECOMMENDATION 4**).

Aboriginal and Torres Strait Islander children

76. Aboriginal and Torres Strait Islander children – who are already disproportionately impacted by the youth justice system – will bear the brunt of this Bill.

77. The overrepresentation of Aboriginal and Torres Strait Islander children in youth detention is represented by the following statistics:

- On an average day over the last four years (prior to 2023-24), Aboriginal and Torres Strait Islander children accounted for between 65 and 71 per cent of young people in youth detention. This translates to Aboriginal and Torres Strait Islander young people being 29.1 times more likely than other young people to have been held in detention in 2023-2024 and this is the highest rate in the last four years.⁷⁵
- On an average night in the June quarter of 2024, Queensland had the second highest rate of First Nations young people aged 10-17 in detention at 42 per 10,000 – a substantial increase from 29 per 10,000 in the June quarter 2020.⁷⁶

⁷³ Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

⁷⁴ *Penalties and Sentences Act 1992* (Qld) s 9(2)(a); 9(2A).

⁷⁵ Childrens Court of Queensland, *Annual Report 2023-24* (Annual report), 7.

⁷⁶ Australian Institute of Health and Welfare (2023). Youth detention population in Australia 2023 <<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2023/contents/first-nations-young-people>>.

78. The reasons for Aboriginal and Torres Strait Islander young people's contact with the justice system are inextricably linked with dispossession, colonisation, discrimination, and experiences of systemic and institutional racism.⁷⁷
79. Colonisation and dispossession, which involved the forced removal of Aboriginal and Torres Strait Islander peoples from their lands, the attempted destruction of their cultures, and the introduction of discriminatory laws and policies, has led to profound and lasting inequalities that persist today. Practices such as the Stolen Generation, and exclusion from education, employment, entrenched systemic inequalities across generations of First Nations families. Today, these historical injustices are reflected in significant disparities in health, education and housing - which create the conditions conducive to youth offending.
80. Additionally, there is clear evidence of institutional racism within Australian criminal justice systems.⁷⁸ The Australian Law Reform Commission found that Indigenous children are more likely to be arrested than non-Indigenous children, 'even after factors such as the offence, offending history and background factors are taken into account'.⁷⁹ This is consistent with data reported by the Queensland Family and Child Commission in 2023, showing that First Nations children in Queensland 'are less likely to receive a diversion decision, and less likely to be granted bail', as well as being disproportionately exposed to the watchhouse system.⁸⁰
81. While the Bill applies equally to all children, it will nevertheless have a disproportionate and negative impact on First Nations children amounting to indirect discrimination. **In the context of existing concerns and commitments by the government to Close the Gap and reduce over-representation, this Bill constitutes a substantial regression.**
82. The government should engage QATSICPP and relevant community led organisations and peak bodies to assist to conduct the independent review of the MQS Act (**RECOMMENDATION 2C**).

Children with disabilities

83. Children with cognitive or intellectual disabilities are also overrepresented in youth detention in Queensland. In 2023, the Department of Youth Justice

⁷⁷ Youth Justice Reform Select Committee, *Inquiry into ongoing reforms to the youth justice system and support for victims of crime* (Interim Report, April 2024) 8; National Children's Commissioner, Australian Human Rights Commission, 'Help Way Earlier!' *How Australia can transform child justice to improve safety and wellbeing* (21 June 2024) 98–101.

⁷⁸ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Report No 133, 28 March 2018) 434.

⁷⁹ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Report No 133, 28 March 2018) 453.

⁸⁰ Queensland Family & Child Commission, *Who's responsible: Understanding why young people are being held longer in Queensland watch houses* (30 November 2023) 5.

reported that 44 per cent of young offenders had an assessed or suspected disability.⁸¹

84. It is likely that the numbers of children in detention in Queensland are even higher than these statistics indicate. The Disability Royal Commission found that, collection of data across Australia is inadequate, ‘...a significant majority of children in youth detention have at least one or more disability’.⁸²
85. According to the *Committee on the Rights of the Child*, children with developmental delays or neurodevelopmental disorders or disabilities should not be in the child justice system at all or, if not automatically excluded, should be individually assessed.⁸³ This is because:
- Children with disabilities may be incapable of having criminal responsibility or being fit for trial;⁸⁴
 - Children with disability could be arrested for offences arising from behaviours associated with their disability – for example, they become agitated or frightened when approached by police and react physically or run away – or take responsibility for offences they did not commit;⁸⁵
 - ‘The experience of custody can be significantly more severe for people with disability than for those without disability’,⁸⁶ and while in youth detention ‘they are exposed to substantial risks of violence, abuse and neglect’.⁸⁷
86. While the Bill does not propose to apply differently to children with disabilities, it indirectly discriminates against them by subjecting them to a system that unfairly disadvantages them.
87. The government should engage relevant community led organisations and peak bodies for disability services to assist to conduct the independent review of the MQS Act (**RECOMMENDATION 2C**).

⁸¹ Department of Youth Justice, *Youth Justice Pocket Stats 2023-2024* (Pocket statistics, 31 July 2024).

⁸² *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 81.

⁸³ *United Nations Committee on the Rights of the Child, General Comment No 24: Children’s Rights in the Child Justice System*, UN Doc CRC/C/GC/24 (18 September 2019) 7 [28].

⁸⁴ Youth Justice Reform Select Committee, *Inquiry into ongoing reforms to the youth justice system and support for victims of crime* (Interim Report, April 2024) 9, 70–1.

⁸⁵ *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 39–42.

⁸⁶ *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 5.

⁸⁷ *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 81.

The Bill will have adverse impacts on victims of crime

88. Contrary to the government's commitments to support victims of crime, this Bill is likely to have adverse consequences for victims of crime. In addition to causing more offending and making our community less safe, the imposition of mandatory or excessively punitive sentences on children is likely to result in fewer guilty pleas and therefore additional criminal trials and increased burdens on the justice system resulting in delays to the resolution of criminal (and civil) matters.⁸⁸
89. As a result, victims may experience lengthy delays before achieving an outcome. Victims and witnesses will also be more commonly subject to examination and cross examination which can be re-traumatising for victims, witnesses, and victims' families.

Evidence-based solutions will promote community safety and victims' rights

90. The Bill is contrary to evidence-based approaches that effectively enhance community safety. Queensland already detains more children than any other state, yet violent youth crime persists. Instead of perpetuating a cycle of harm, the government must prioritise sustainable, community-led solutions that align with human rights and deliver better outcomes for individuals and the broader community.
91. While criminal laws should generally align with community expectations, it is incumbent on the government to enact policies and legislation which are evidence-based and therefore likely to achieve their objectives. The government has an opportunity to show strength by bringing the community on a journey to understand what the effective solutions to youth crime are and invest in solutions that work.
92. The Commission acknowledges the government's intention is to concurrently implement non-legislative measures, including early intervention and rehabilitation programs. However, the harm that will be caused by this Bill (and the MQS Act) is likely to outweigh these efforts and undermine their intended outcomes.
93. The Statement of Compatibility states that the amendments will increase community confidence in the justice system by demonstrating to the community that youth offending is treated seriously by the courts. However, confidence in the

⁸⁸ Bar Association of Queensland, Submission No 165 to Justice, Integrity and Community Safety Committee, Parliament of Queensland, Inquiry into the Making Queensland Safer Bill 2024 (3 December 2024).

criminal justice system could be increased by alternative, more effective, and less harmful means.

94. To improve confidence in the criminal justice system and sentencing, as recommended by QSAC, the Government should support community confidence in the criminal justice system by undertaking targeted education and awareness strategies tailored to address knowledge gaps, developing products that translate complex legal sentencing terms into plain English, and publishing sentencing statistics in a clear transparent manner.⁸⁹ (**RECOMMENDATION 5**). QSAC should be resourced to do this work (**RECOMMENDATION 5A**).
95. A further way in which the government could realistically improve confidence in the criminal justice system is to address the way youth crime is reported in traditional and social media and by the government. In Queensland, reporting on youth crime is disproportionate to the actual incidence of youth crime.⁹⁰ A recent analysis of reporting on youth crime in Queensland identified that widespread concern and panic is being created through the media, with sensationalist headlines portraying youth crime as rapidly increasing both in incidence and severity - despite the absence of evidence that this is occurring.⁹¹ This has created unnecessary fear and anxiety amongst community members.
96. The government should additionally implement the recommendation made by the interim report of the *Inquiry into ongoing reforms to the youth justice system and support for victims of crime* to expand the role and resourcing of the QGSO to allow the office to undertake public communication and education activities to improve the community's understanding of the rates and incidence of youth crime. (**RECOMMENDATION 6**).⁹²
97. Additionally, the government should take a leadership role in educating the community about the rate and incidence of youth crime, why it happens, and what works to reduce youth crime (**RECOMMENDATION 7**).
98. Finally, to ensure an effective approach to responding to youth crime, the government should develop a youth justice strategy based on the wealth of

⁸⁹ Samuel Jeffs et al, 'Understanding of sentencing: Community knowledge of sentencing terms and outcomes' (Research brief No.3, Queensland Sentencing Advisory Council, April 2023, 2.

⁹⁰ Dr Emma Antrobus, Dr Joseph Lelliott, and Dr Rebecca Wallis, 'Tackling youth crime: Why a 'crackdown' isn't the answer' (Opinion and analysis, University of Queensland) <<https://stories.uq.edu.au/contact-magazine/tackling-youth-crime/index.html#:~:text=Recent%20reporting%20in%20Queensland%20has,TV%20%E2%80%93%20is%20disproportionate%20to%20the>>.

⁹¹ Stewart Riddle et al., 'Moving beyond deficit media figurations of young people: troubling the contemporary 'youth crime crisis' (2023), Vol. 37 No. 6, *Journal of Media and Cultural Studies*, 756-769.

⁹² Youth Justice Reform Select Committee, Queensland Parliament, *Interim Report: Inquiry into ongoing reforms to the youth justice system and support for victims of crime* (Interim report, April 2024) 99.

available evidence for reducing youth crime and rehabilitating children who offend, including by:

- investing in equitable access to services such as early childhood education, health services and educations
 - prioritising early assessment and intervention, and diversion from the criminal justice system
 - being guided by First Nations leaders and communities and fulfilling Queensland's obligations under the Closing the Gap National Agreement including the establishment of an Independent Accountability Mechanism⁹³
 - being guided by international human rights law commentary on children's rights
 - establishing a co-ordinating agency within government with clear authority to hold agencies to account for implementation of identified strategies.
- (RECOMMENDATION 8)**

⁹³ *National Agreement on Closing the Gap: an Agreement Between the Coalition of Aboriginal and Torres Strait Islander Peak Organisations and All Australian Governments* (July 2020) cl 67.