

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

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Making Queensland Safer (Adult Crime, Adult Time)

Amendment Bill 2025

Considerations regarding drug trafficking

Introduction

The Queensland Mental Health Commission (the Commission) welcomes the opportunity to make a submission to the *Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025* (the Bill).

The Commission is an independent statutory agency established under the *Queensland Mental Health Commission Act 2013* to drive ongoing reform towards a more integrated, evidence-based, and recovery-orientated mental health, alcohol and other drugs (AOD), and suicide prevention system in Queensland.

One of the Commission's primary functions is to develop a whole of government plan to improve the mental health and wellbeing of Queenslanders, particularly people living with mental health challenges, problematic AOD use, and those affected by suicide. *Shifting minds: The Queensland Mental Health, Alcohol and Other Drugs, and Suicide Prevention Strategic Plan 2023-2028 (Shifting minds)* is the current plan and is complemented by three sub-plans:

- *Achieving balance: The Queensland Alcohol and Other Drugs Plan 2022-2027 (Achieving balance)*
- *Every life: The Queensland Suicide Prevention Plan 2019-2029 (Every life)*
- *The Queensland Trauma Strategy 2024-2029 (Trauma Strategy)*.

This submission is based on the Commission's work regarding AOD and is not intended to be a comprehensive response to the Bill. In addition, the Commission does not seek to duplicate the work or role of other agencies. This submission should, therefore, be considered alongside the below reports, which broadly contain the Commission's position on youth justice reform:

- [Our submission](#) to the Making Queensland Safer Bill 2024
- [Our submission](#) to the Youth Justice Reform Select Committee
- [Our submission](#) on the Community Safety Bill 2024.

Amendments to include drug trafficking as a significant offence

The Bill proposes an expansion of the *Making Queensland Safer Act 2024* to include the offence of 'Trafficking in dangerous drugs' as a significant offence to which adult penalties apply. Specifically, the Bill amends Section 175A(1A) of the *Youth Justice Act 1992* to insert:

- *Also, this section applies if a court is sentencing a child for an offence against the *Drugs Misuse Act 1986*, section 5.*

'Trafficking in dangerous drugs' is defined under Section 5(1) of the *Drugs Misuse Act 1986 (Qld)* as:

- *A person who carries on the business of unlawfully trafficking in a dangerous drug is guilty of a crime.*

The term 'trafficking' is not defined under the *Drugs Misuse Act 1986 (Qld)*. The term as it applies to the act is defined by case law with a very broad scope. For example, this can include sale of a drug that:

- does not last indefinitely
- does not generate profit
- does not service more than one customer
- does not include payment for money.¹

¹ https://www.sentencingcouncil.qld.gov.au/data/assets/pdf_file/0020/555320/sentencing-spotlight-on-trafficking-in-dangerous-drugs.pdf

Resulting in, peer based supply between one or more children or young people can conceivably be considered 'trafficking' if it is repeated or systematic. The Queensland Sentencing Advisory Council notes that, "While trafficking typically involves selling, it has a wider meaning of knowingly engaging in the movement of drugs from one source to another."²

The Commission urges for further consideration of the implications of this change. Children and young people could likely be charged and sentenced as adults under one of Queensland's most severe criminal provisions, when it may not (in all circumstances) be reasonable to conclude that the minor is acting independently without other significantly influencing their actions. For example, where there is significant coercion by adults or criminal networks to traffic drugs.

Australian and international research has found that children involved with child protection and youth justice services are regularly subject to child criminal exploitation (CCE), such as being used or coerced to traffic drugs. Baidawi, Sheehan, and Flynn (2020) note that:

Adults exploiting children for criminal activity, to shield themselves from prosecution, is not a new phenomenon. . .

Policing concerns drive contemporary attention to CCE, with particular attention to children being used by gangs to traffic illegal drugs . . .

. . . children are used to transport, sell, and hide drugs and weapons (Ofsted et al., 2018, Windle et al., 2020). . .

. . . young people were often coerced into criminal activity by their own drug debts, some rejected the 'victim' label, while acknowledging they were being exploited'

These children and young people are often from disadvantaged backgrounds, with intersecting experiences of trauma, neglect, poverty, and systemic discrimination. Including drug trafficking in the proposed amendments provides no mechanism to address power imbalances, fear, coercion, or necessity, driving or contributing to the offending behaviour rather than calculated intent of the child. This amendment risks imposing significant consequences on children for behaviours originating in coercion, vulnerability, or lack of agency.

This highlights significant questions regarding the proportionality of response for young people who may be sentenced under the proposed amendment where children and young people, have been subject to coercion or engaging in social or experimental use, resulting in adult trafficking sentencing. Sentencing principles recognise that children and young people have reduced moral culpability and greater capacity for rehabilitation. The inclusion of this offence in the Bill exposes children and young people to an:

1. extended minimum sentence - from 1 year to 3 years.
2. extended maximum sentence – from 25 years to life imprisonment (excluding aggravating factors).

There is also the likelihood that young people engaged in peer based supply could be subject to aggravating sentencing factors. For example, where a young person who is supplied with a substance is under 16 or where supply occurs within an educational institution.

We note the potential for this amendment to widen the proportion of young people that serve their remaining sentence in adult prisons. For example, in cases where a young person has been sentenced to the minimum term for trafficking at 16 years of age:

- Under current arrangements – the young person serves full time in youth detention with release at 17 years of age
- Under proposed amendments – the young person serves part of time in youth detention until 18 years of age, where they are transferred to an adult prison within 30 days of their 18th birthday.

² https://www.sentencingcouncil.qld.gov.au/data/assets/pdf_file/0020/555320/sentencing-spotlight-on-trafficking-in-dangerous-drugs.pdf

