

Youth Justice (Circuit Breaker) Amendment Bill 2026

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Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to make a submission to the review of the [Youth Justice \(Circuit Breaker\) Amendment Bill 2026](#) (the Bill).

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997*, LAQ is established for the purpose of “giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way” and is required to give this “legal assistance at a reasonable cost to the community and on an equitable basis throughout the State”. Consistent with these statutory objects, LAQ contributes to government policy processes about proposals that will impact on the cost-effectiveness of LAQ’s services, either directly or consequentially through impacts on the efficient functioning of the justice system.

LAQ always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ’s lawyers in the day-to-day application of the law in courts, tribunals, and Ombudsman schemes. LAQ believes that this experience provides its lawyers with valuable knowledge and insights into the operation of the justice system that can contribute to government policy development. LAQ also endeavors to offer policy options that may enable government to pursue policy objectives in the most effective and efficient way.

This submission is provided in consultation with LAQ’s Youth Legal Aid (YLA) division which provides extensive advice and representation services to children across the full range of criminal law offences. YLA lawyers possess valuable knowledge and insight into the potential impacts of this policy on criminal legal practice and the practical implications for defendants.

Submission

LAQ has significant concerns about the Bill as drafted.

For children engaged with the youth justice system, around 44% have a mental health and/or behaviour disorder either diagnosed or suspected, 44% have a disability (assessed or suspected), 48% are disengaged from education, training or employment, 55% are First Nations, 30% are in unstable and/or unsuitable accommodation, and 53% have experienced or been impacted by domestic and family violence.¹ The children most likely to be subject to a circuit breaker condition or order are likely to themselves be some of the most disadvantaged in Queensland.

The call for submissions was received on the afternoon of 1 July, and the closing date for submissions set at 10 a.m. on 13 July. The following submissions are made noting the limited timeframe provided to comment on a proposed scheme with multiple and complex issues to consider.

Policy objectives

The overarching objective of this Bill is to remove children who are said to be high risk, from negative peer influences and environments that enable offending behaviour.² In practice, the circuit breaker program isolates high-risk children amongst the same offending peer group, in remote locations, and restricts access to positives in a child’s life, which may include family, sporting teams, community groups and other pro-social engagements.

A circuit breaker condition or order does not uphold the following Youth Justice Principles:³

- Principle 10(c): a child who commits an offence should be dealt with in a way that strengthens the child’s family.

¹ Department of Youth Justice and Victim Support, Youth Justice Pocket Stats September 2024.

² Explanatory Notes, Youth Justice (Circuit Breaker) Amendment Bill 2026 (Qld) 1.

³ *Youth Justice Act 1992* (Qld) Schedule 1 Charter of youth justice principles.

- Principle 12: a parent of a child should be encouraged to fulfil the parent's responsibility for the care and supervision of the child, and supported in the parent's efforts to fulfil this responsibility.
- Principle 18: a child should be dealt with under this Act in a way that allows the child—
 - a) to be reintegrated into the community; and
 - b) to continue the child's education, training or employment without interruption or disturbance, if practicable; and
 - c) to continue to reside in the child's home, if practicable.
- Principle 20: while a child is in detention, contacts should be fostered between the child and the community.
- Principle 21 (b): a child who is detained in a detention centre under this Act should be helped to maintain relationships with the child's family and community.

Consent of the child should be legislated

The imposition of a circuit breaker condition or order requires a suitability report to be prepared by the chief executive, which is only legislated to advise whether the child is suitable to participate in a circuit breaker program and the reasons for that assessment, and that there is a place available that is appropriate.⁴ While a report may contain any other relevant information to inform the court, there is no legislated requirement to consider the willingness of a child to adhere to a circuit breaker condition or order.

LAQ considers that the consent or willingness of the child to comply with the condition or order should be legislated. This is consistent with other sentencing order options, including intensive supervision orders.⁵

Child on a circuit breaker condition attending court

The Bill does not require a circuit breaker provider or the chief executive to make arrangements for a child to attend court in person for their trials or sentencing. Arrangements such as travelling and accommodation are likely to be necessary as a result of the remote or rural location required in new s282Q(1), and there should be a requirement for the chief executive to facilitate a child's appearance in person.

The *Youth Justice Act 1992* (Qld) provides that a child may be sentenced over audio visual link or audio link if the prosecutor and child agree to the use of the link.⁶ While the use of remote appearances by video-link facilities can be an effective mechanism to administer justice, there are significant risks of adverse outcomes for young people in the use of video-link technology, particularly surrounding sentencing proceedings.⁷

⁴ Youth Justice (Circuit Breaker) Amendment Bill 2026 (Qld) Clause 13 (ss 52AB(1) and 52AC) and clause 20 (ss 206B and 206C).

⁵ *Youth Justice At 1992* (Qld) s 203(1)(a). See also *Youth Justice At 1992* (Qld) ss 192(1)(b), 194 and 195(a). A statement as to whether the child consented to participate in a boot camp program was also required by the previous iteration of this proposed scheme, when introduced by the *Youth Justice (Boot Camp Orders) and Other Legislation Amendment Act 2012* (Qld).

⁶ *Youth Justice Act 1992* (Qld) s 159. See similar requirement in the granting of bail by audio visual link or audio link in *Youth Justice Act 1992* (Qld) s 53(1), which also requires ensuring that the child has received independent legal advice.

⁷ For a discussion on the use of video-link technology for children appearing in court, see Hutchinson, T. (2021) *Court appearances via video link for young people in detention in Queensland*, [Trends & issues in crime and criminal justice no. 63]. Canberra: Australian Institute of Criminology.

The participation in conferences and court appearances by children via remote means is contrary to the following Youth Justice Principles:⁸

- Principle 7: a child being dealt with under this Act should have procedures and other matters explained to the child in a way the child understands.
- Principle 8(b): if a proceeding is started against a child for an offence, the child should be given the opportunity to participate in and understand the proceeding.
- Principle 17: A child being dealt with under this Act should have access to legal and other support services, including services concerned with advocacy and interpretation.

In circumstances where a child is subject to a circuit breaker condition and has no control over the location of their program site,⁹ which is required to be rural or remote, there should be explicit provision for the chief executive to provide transport for children to attend their court events.

Communication with lawyers, family, and community

The requirement for a circuit breaker program to be in a remote or rural location will inevitably mean that a child will only be able to make contact with their lawyers and family via telephone and videoconference facilities. While there is a requirement for a circuit breaker provider to allow a lawyer access to a child at all times,¹⁰ the remote location of the programs will inevitably hinder physical access to a child and further be restricted by the availability of phone and internet services.

The experience of LAQ practitioners in accessing their clients in detention centres currently is that video-link facilities are often booked out weeks in advance. Such access issues are experienced by LAQ practitioners with clients working at the Julia Creek Work Camp, for example, who can only access their clients by pre-arranged telephone calls, usually a mobile number. In the experience of LAQ practitioners, these technological issues make it difficult to take instructions, are not best practice when covering sensitive, complex material and legal matters, pose significant confidentiality issues, and can lead to delays in legal proceedings.

Circuit breaker as a bail condition

A child's access to legal representation, and therefore the progression of their matters, are likely to be significantly delayed for children placed at the site on a circuit breaker condition, for the reasons outlined above.

LAQ is concerned that a circuit breaker condition can be imposed for the time the child is subject to the bail undertaking. There is no legislated maximum timeframe for a circuit breaker condition, as there is for an order. This will be particularly problematic in circumstances where proceedings are delayed (for example due to the issues identified above, or as a result of disclosure delays), resulting in children being detained at a remote or rural site for an extended period of time, which may be in excess of the 3 – 6 month timeframe provided for a circuit breaker order.

While the time a child is on bail subject to a circuit breaker condition must be counted as part of the program period for a circuit breaker order,¹¹ there are likely to be instances in which a child's time subject to a circuit breaker condition would exceed the program period under a circuit breaker order.

⁸ Youth Justice Act 1992 (Qld) Schedule 1 Charter of youth justice principles.

⁹ Youth Justice (Circuit Breaker) Amendment Bill 2026 (Qld) Clause 25 (s 282V) which provides that the chief executive decides the circuit breaker site a child is to participate in and can transfer them between sites during the program.

¹⁰ For example, Youth Justice (Circuit Breaker) Amendment Bill 2026 (Qld) Clause 25 (s 282ZC).

¹¹ Youth Justice (Circuit Breaker) Amendment Bill 2026 (Qld) Clause 20 (s 206G).

While there is the ability for a child to apply for the variation or revocation of bail under proposed s 52AE only where the child is not willing to comply with the condition, LAQ considers there should be a maximum time for a circuit breaker condition to operate, in addition to parties being able to apply to the court to vary or remove the condition. This would also avoid matters having to return to court to vary conditions where a child does satisfactorily participate in the program.

Combination of detention order and circuit breaker order

Proposed s 180B¹² allows for a combination of a detention order and circuit breaker order to be made where either the child is already subject to a detention order, or makes a detention order for one offence and a circuit breaker order for another offence. This combination of sentence orders can be problematic. There is a risk that a place in a circuit breaker program that is suitable and appropriate for the child may no longer be available or suitable at the expiration of the detention order. This could arise for several reasons, including fluctuations in staffing at circuit breaker sites, the suspension of a program by the chief executive due to concerns about the provider, natural disasters which can impact on access, and composition of sited cohort (age or sex disparity).

LAQ is concerned that there does not appear to be a mechanism to revisit the making of the circuit breaker order in circumstances where there is a delay before the child can participate, due to the detention order. This may result in a child being arbitrarily deprived of their liberty¹³ for unknown periods of time, if there are changes to program availability before their release from detention.

Availability of circuit breaker program spots

LAQ is concerned that a child can be detained in custody until they can start the journey to a circuit breaker site or can be fitted with a monitoring device.¹⁴ This will inevitably delay a child's release from custody for the chief executive or the non-government providers to be ready, and is also liable to be impacted by factors as outlined earlier, including the availability of an electronic monitoring device, or changes in availability at circuit breaker sites. Consideration should be given for provision to revisit the making of a circuit breaker order if there are delays in the child being transferred to a circuit breaker site.

Discharge of a circuit breaker order

LAQ is concerned that the amendments to s 245 provided in Clause 22 mean that a child does not have to express a willingness to comply with the varied circuit breaker order, when the court is dealing with a breach. There may be many legitimate reasons that a child does not want to continue to live on site - abuse, bullying, medical conditions, missing family, isolation, a wish to return to normal schooling or sports - all of these are things that children on other community-based orders are not forced to confront. This gives no consideration to the child's wellbeing or mental or physical health as required under the Youth Justice Principles.¹⁵ A child's willingness to comply should be considered.

Where the chief executive brings an application under s 247 *Youth Justice Act 1992* (Qld) to discharge the circuit breaker order¹⁶ the court may re-sentence the child to a period of detention. Where this occurs, the period of detention a child could be resented to upon discharge of the circuit breaker order should be limited to what time is remaining on the circuit breaker order. This would avoid children being detained for significant periods of time, particularly where they have shown significant progress on the order before becoming unsuitable.

¹² Youth Justice (Circuit Breaker) Amendment Bill 2026 (Qld) Clause 19.

¹³ In contravention of *Human Rights Act 2019* (Qld) s 29.

¹⁴ Youth Justice (Circuit Breaker) Amendment Bill 2026 (Qld) Clause 13 (s 52AB(3)(b)&(c)).

¹⁵ *Youth Justice Act 1992* (Qld) Schedule 1 Charter of youth justice principles.

¹⁶ Youth Justice (Circuit Breaker) Amendment Bill 2026 (Qld) Clause 23.

Requirements for, and the regulation of, circuit breaker programs

Circuit breaker programs are required to be held in remote or rural locations, with children who are highly vulnerable. Given those vulnerabilities, there should be rigorous criteria encapsulating the composition of the programs, how they are implemented, and their monitoring.

- There must be mechanisms that ensure that these programs are appropriately staffed, particularly considering the provider themselves being responsible for the security and management of the circuit breaker site, and the safety and wellbeing of the children.
- LAQ also considers there should be requirements ensuring that circuit breaker sites are single sex,¹⁷ and cater to particular age cohorts (so that a 10- or 11-year-old and a 17-year-old are not detained at the same circuit breaker site).
- There needs to be consistency between providers in terms of the rules governing the circuit breaker sites and the expectations of each program. There should be provision for transparency, particularly to legal representatives, so that they can appropriately advise children as to what is expected, and to appropriately facilitate any complaints.
- Trauma informed practices – the data indicates that the majority of children who will be subject to circuit breaker conditions and orders will have a mental disability or mental health issues related to trauma. There should be specific requirements that children have access to appropriate mental health services and supports whilst part of the program, in accordance with Youth Justice Principle 16.¹⁸
- Culturally appropriate programs – provision should be made to require that circuit breaker program services are culturally appropriate and comply with trauma-informed practice. A significant feature in the Final Report for the Evaluation of Queensland's Youth Boot Camps noted the importance of culturally appropriate/relevant programming and meaningful engagement with the Aboriginal and Torres Strait Islander community in the design of programs in increasing desired outcomes.¹⁹

Failure of provider to report harm

LAQ notes the maximum penalty for failing to report harm outlined in proposed s 282X²⁰ is only 20 penalty units. LAQ is concerned that this does not adequately incentivise providers to report harm that may occur to vulnerable children while participating in the circuit breaker program, particularly when having regard to the potential isolation of the circuit breaker sites, and the vulnerability of the children, who may be as young as 10-years-old.²¹ The remote and rural setting of these programs may also be a significant barrier to vulnerable children to report harm or wrongdoing.

LAQ is deeply troubled by the reasonable excuse provision in s 282X(4), where it is a reasonable excuse for the reporting entity not to report a matter [where it] might tend to incriminate the reporting entity. If a child suffers harm while participating in the provider's circuit breaker program, it will almost always likely incriminate the reporting entity in some way. It is also difficult to reconcile the reasonable excuse provision in s 282X(4) with obligations under s 229BC *Criminal*

¹⁷ See the concerns outlined in the *Final Report for the Evaluation of Queensland's Youth Boot Camps* (Final report by KPMG, July 2015) at page 44, which also noted reported incidents highlighting the risks of mixing genders.

¹⁸ *Youth Justice Act 1992* (Qld) Schedule 1 Charter of youth justice principles.

¹⁹ Department of Justice and Attorney-General, *Final Report for the Evaluation of Queensland's Youth Boot Camps* (Final report by KPMG, July 2015).

²⁰ Youth Justice (Circuit Breaker) Amendment Bill 2026 (Qld) Clause 25 (s 282X).

²¹ There appears to be no age limit with respect to the making of a circuit breaker condition or order.

Code 1899 (Qld), and is inconsistent with the right of a child to their protection without discrimination.²² This exception should be removed as a reasonable excuse.

Organisation	Legal Aid Queensland
Address	44 Herschel Street Brisbane QLD 4001
Contact number	██████████
Approved by	Nicky Davies, A/Chief Executive Officer
Authored by	Nikki Larsen - Policy and Law Reform (LAQ Crime Directorate); David Law, Jasmin Percy, Cassie Hollett – Youth Legal Aid

²² *Human Rights Act 2019* (Qld) s 26(2).