

Youth Justice (Circuit Breaker) Amendment Bill 2026

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Committee Secretary
Justice, Integrity and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

Via email: JICSC@parliament.qld.gov.au

Dear Committee Secretary

Thank you for the invitation to provide a submission to the Justice, Integrity and Community Safety Committee regarding the Youth Justice (Circuit Breaker) Amendment Bill 2026 (the Bill).

Relevant to this Bill, the Office of the Public Guardian (OPG) is an independent statutory office performing functions under the *Public Guardian Act 2014* (the Public Guardian Act) to promote and protect the rights and interests of children staying at visitable sites, including youth detention centres and police watch-houses. In undertaking community visiting and individual child advocacy functions, the primary principle as outlined by the Public Guardian Act is that the best interests of the child are paramount.

The Bill introduces a court-ordered intensive residential rehabilitation program as a 'last stop before detention' for repeat youth offenders. This circuit breaker program can be imposed either as a bail condition (where custody would otherwise apply) or as a standalone sentence order for 3–6 months. It will operate at two rural or remote sites with a combined capacity for up to 60 children, delivered by non-government providers, and will include mandatory electronic monitoring, structured activities, and 24/7 supervision. The Bill also amends the Public Guardian Act to designate circuit breaker sites as visitable sites and classifies providers as child safe entities and reporting entities under the *Child Safe Organisations Act 2024* (Child Safe Organisations Act).

The Explanatory Notes and Statement of Compatibility describe the program as rehabilitative and focused on community safety, with judicial oversight and suitability reports as key safeguards. The Statement of Compatibility concludes that the Bill is compatible with the *Human Rights Act 2019* (Human Rights Act) while acknowledging limitations on several rights. The program is framed as a less restrictive alternative to remand or detention.



From OPG's perspective, this initiative presents both opportunities and significant risks to children's rights and wellbeing, particularly given the remote locations, mandatory electronic surveillance, and reliance on regulation for core aspects of the program. While OPG notes the positive intent of the initiative, the following are potential issues that relate to how the statutory framework and its implementation may impact the children who are subject to the circuit breaker program.

Mandatory electronic monitoring (ankle monitors)

The Bill provides that every child participating in the circuit breaker program must wear an electronic monitoring device (sections 52AB(3)(a) and 206D(1)(d)), with the Chief Executive of Youth Justice (or delegate) responsible for fitting the monitoring device, monitoring its use, and facilitating the sharing of information generated by the device.

OPG is concerned that the use of electronic monitoring engages the child's rights under the Human Rights Act to privacy (section 25), liberty (section 29), freedom of movement (section 19), and humane treatment when deprived of liberty (section 30). Monitoring devices may also cause physical discomfort, stigma, sleep disruption, and psychological harm, particularly for children with trauma histories, disabilities, or cultural needs.ⁱ

The Statement of Compatibility justifies the use of electronic monitoring as necessary for site and community safety in less secure rural settings and as a proportionate alternative to custody. However, there is limited evidence supporting its effectiveness for youth rehabilitation, and the Explanatory Notes do not address long-term impacts arising from its use or less-intrusive alternatives for maintaining site security or safety.

Managing electronic monitoring in remote locations will be logistically challenging, with potential issues around signal reliability, maintenance, and false alerts, creating additional burdens for Youth Justice, providers, monitoring entities, and the children wearing the devices.ⁱⁱ

OPG is also concerned that governance of the data generated by monitoring devices is underdeveloped. While the Bill provides that a regulation may address data sharing and storage (section 282ZE), there are no statutory limits on retention, secondary use, or access, creating a significant privacy gap.

Harm reporting – self-incrimination exclusion

Section 282X of the Bill creates an obligation on the circuit breaker provider, their employee or contractor to report occurrences of harm to the Chief Executive. However, subsection (4) provides that it is a reasonable excuse not to report a matter where reporting the matter might tend to incriminate the provider, employee or contractor.

OPG is concerned that this exclusion is too broad in a residential program where staff have ongoing care responsibilities to vulnerable children and in circumstances where there may be a high risk of harm. This could discourage genuine harm reporting and reduce accountability of providers who are operating in very

ⁱ See for example Nous Group for the Department of Youth Justice and Victim Support, *Evaluation of the Electronic Monitoring Trial: Final Report* (9 October 2025); Department of Youth Justice, *Electronic Monitoring Trial* (November 2022).

ⁱⁱ See for example Bob Atkinson AO APM, *Report on Youth Justice* (8 June 2018); Nous Group for the Department of Youth Justice and Victim Support, *Evaluation of the Electronic Monitoring Trial: Final Report* (9 October 2025).



isolated environments. It may also impede OPG's child advocacy and community visiting role, which depends on robust information sharing to help facilitate complaints and raise issues on behalf of children.

OPG considers that the exclusion under subsection (4) is unnecessary because circuit breaker providers are also subject to the reportable conduct framework under the Child Safe Organisations Act, which also covers harm to children and does not have an exclusion against self-incrimination. It is creating two different compliance schemes in relation to the conduct, which is confusing for providers, children and regulators. OPG recommends the subsection (4) exclusion be omitted entirely and instead the Bill should outline how the information obtained can be used and shared.

Complaints framework – the trivial/annoyance exclusion

Section 282ZD of the Bill provides that complaints about matters affecting children in the circuit breaker program may be dismissed by the Chief Executive if deemed 'trivial or made only to cause annoyance.' This provision mirrors section 277 of the *Youth Justice Act 1992* (Youth Justice Act) in relation to complaints about youth detention centres.

OPG is concerned that this provision may cause children in these settings to feel powerless or frustrated, and dismissing grievances as 'annoying' undermines their right to be heard.ⁱⁱⁱ This issue carries higher risk in the context of locations that are proposed to be geographically isolated and therefore reduces contact and visibility of the children and adults outside of the program itself. OPG recommends that the Chief Executive's power to dismiss complaints under this provision should be qualified. At a minimum, written reasons for dismissing complaints should be provided to the child or complainant with internal and external review pathways available if the complainant is dissatisfied with the reason for the dismissal.

Recordings and surveillance – incidental recording exclusion

Section 282T of the Bill introduces broad recording and surveillance powers at circuit breaker sites. Subsections (2) and (3) include general prohibitions on recording certain communications and telephone conversations with a child participating in a circuit breaker program. However, subsection (4) excludes inadvertent, unexpected or incidental recordings from the prohibition against recording certain communications and telephone conversations.

Section 282T(4) appears to mirror section 263A(5) of the Youth Justice Act, which provides a similar exclusion that is limited to the use of body-worn cameras in youth detention centres. That section defines the word 'use' to mean the use of a body-worn camera (section 263A(8)). Because the Bill doesn't specify how the recording may be obtained in circuit breaker sites, the word 'use' in section 282T(4) is ambiguous. Consequently, subsection (4) creates a protective exclusion for providers that is wider than existing body-worn camera provisions in youth detention centres.

This ambiguity around how recordings are obtained and used in the circuit breaker program creates a risk of inappropriate scope creep. For example, the exclusion could allow incidental capture of private calls, legal advice, and family contact, raising significant privacy concerns. OPG recommends that the exclusion in section 282T(4) should be removed, as it is a significant overreach beyond what is permitted in youth detention centres.

ⁱⁱⁱ United Nations Convention on the Rights of the Child, Article 12; Human Rights Act, section 26.



Provider responsibilities to children

Section 282S of the Bill states that circuit breaker providers are responsible for the safety, wellbeing and education of children staying at their sites. OPG is concerned this wording is high-level and risks inconsistency in its application across providers. The Bill does not include standards of care for children staying at circuit breaker sites, such as minimum standards for accommodation, food, recreation, health services, disability supports (if required), family contact, cultural support, or reintegration planning. It does not align with the detailed charter of youth justice principles for children detained in youth detention centres. For example, the charter of youth justice principles includes a detailed list of entitlements for children in detention centres, including a safe and stable living environment, participation in decisions affecting the child's life, and access to specific services and education.^{iv}

To address this gap, OPG recommends that the Bill amend Schedule 1 of the Youth Justice Act to extend the application of youth justice principles 19–21 to include children staying at circuit breaker sites. Safeguards will also be required to facilitate the physical 'hands-on' learning contemplated by the circuit breaker program, including health, safety, education hours, and consent, to prevent exploitation of the children in an isolated environment.

Suitability reports and court consideration

The Bill requires the Chief Executive to prepare a report on a child's suitability for participation in a circuit breaker program when a court is considering a circuit breaker bail condition or sentence order for the child. However, the obligation on the court to take the report into consideration is inconsistent and inadequate – for bail conditions, the court must only 'have regard to' the report (section 52AB), and for sentence orders, the court must only 'receive and consider' the report (section 206B).

For bail matters, the timeframe for the Chief Executive to provide the report can be specified by the court or otherwise is 'as soon as practicable'. For sentencing matters, the Bill is silent on the timeframe for the report, but it may form part of a pre-sentence report under the Youth Justice Act. These open-ended timeframes risk the child being held on prolonged remand while the report is being prepared.

OPG recommends that the Bill be amended to provide that the court 'must consider and give appropriate weight to' the suitability report when making a circuit breaker bail condition or sentence order. There should also be a statutory maximum timeframe for provision of the report, or a requirement for the court to set a reasonable timeframe, in both bail and sentencing matters.

Reliance on regulation

The Bill provides that many core elements of the circuit breaker program will be prescribed by regulation (e.g. provider criteria, responsibilities, functions and powers; suitability report content; recordings and monitoring device data management and use; harm reporting; searches of children; leave of absence; medical services; good order/discipline).

This reduces parliamentary scrutiny and allows future changes to the circuit breaker program without the rigour of primary legislation. OPG submits that core elements of the program which impact children's rights and safety should be elevated to the Youth Justice Act or a schedule.

^{iv} Youth Justice Act, Schedule 1, principles 19–21.



Resourcing implications for OPG – new mandatory visitable sites

The Bill designates circuit breaker sites as visitable sites under section 51 of the Public Guardian Act, which extends the remit of OPG’s community visitor program and enlivens OPG’s powers of entry, inspection, advocacy, and complaints handling.

OPG considers that community visitor oversight is a critical safeguard for children at circuit breaker sites. The Statement of Compatibility acknowledges that OPG provides a safe, transparent and independent mechanism of oversight that enhances children’s rights under the Human Rights Act.

However, introducing a new type of visitable site adds to OPG’s already significant portfolio for visiting children (which includes youth detention centres, police watch-houses, authorised mental health services, residential care, and foster and kinship care homes).^v This creates immediate capacity issues for the program, with the remote locations increasing visiting costs (to travel to the sites) and complexity. The operationalisation of the programs and the number of children placed there over time will inform the resourcing impacts to the OPG community visitor program. Complaints volume and complexity may also increase in a residential rehabilitation setting with mandatory electronic monitoring and family separation. Without additional resources to facilitate the expansion of the community visitor program, OPG is concerned that oversight of existing sites may be diluted.

Broader strategic considerations

OPG has identified additional strategic considerations arising from the Bill:

Cohort mixing and segregation: It appears that children on bail (i.e. accused children) and sentenced children may be located together at circuit breaker sites. This engages section 30 of the Human Rights Act, which provides that accused persons must be segregated from persons who have been convicted of offences, unless reasonably necessary. There may be challenges in segregating these two cohorts at the sites, and it is uncertain whether their colocation would reach the threshold of reasonably necessary under the Human Rights Act.

Cultural rights and First Nations children: Remote sites and limited leave of absence risk severing kinship and connection to Country for First Nations children, their families and communities. Cultural rights provide critical safeguards for the wellbeing and development of First Nations children and are protected under section 28 of the Human Rights Act. Stronger statutory obligations for leave and cultural support are needed to ensure these rights are upheld and connection is maintained for First Nations children at circuit breaker sites.

Lawyer access and due process: Remote settings may hinder children’s rights to access their lawyer under section 32(2)(b) of the Human Rights Act, despite the specific protective provisions in the Bill (section 282ZB–282ZC). This will require a strong framework to ensure these rights are upheld in practice.

Evidence and evaluation: There is no requirement or commitment for an independent, rights-based evaluation of the circuit breaker program. Independent evaluation with child participation and feedback is

^v OPG also provides community visiting services to adults with impaired decision-making capacity at authorised mental health services, the forensic disability service, level 3 accredited residential services, live-in facilities funded or delivered by Health or Disability Services departments, and places where NDIS adult participants live and receive particular services or supports.



a critical process to assess the effectiveness of the program in achieving its intended outcomes and identify any unintended and unwanted outcomes

Need to prioritise primary intervention

OPG is concerned the proposed amendments could lead to further adverse impacts for Aboriginal and Torres Strait Islander children, children with confirmed or suspected disability, and children in the child protection system, particularly residential care, if they do not receive appropriate support to comply with the strict framework of the circuit breaker program. OPG considers there is a risk this initiative will contribute to children continuing in a cycle of contact with the youth justice system without support to address the underlying causes of their offending behaviours.

In OPG's experience, a significant proportion of children who engage with the youth justice system have a range of often prejudicial circumstances, resulting in unmet complex needs that manifest in offending behaviour. This is further exacerbated for children with neurodevelopmental disorders, who have commonly experienced multiple system failures in primary systems such as health, education, child protection and justice in identifying and responding to their needs and intervening before the child participates in criminal offending. If these complex needs continue to be unidentified and unmet while the child is residing at a circuit breaker site and after the child is released, the manifestation through offending behaviour is also highly likely to persist. With the information available, it is unclear whether the suitability assessment will identify that a child has a disability or mental health condition, or explore the extent to which it may affect the child's ability to engage with the circuit breaker program. Consequently, circuit breaker providers will need appropriate qualifications and skills to manage and respond to children's disability and mental health conditions, which may or may not be diagnosed when a child enters the program. This should include on-site or readily available access to allied health expertise to build the child's functional skills, independence, and emotional wellbeing.

There is significant evidence that a high percentage of children who come into contact with the youth justice system have a disability^{vi} or high and complex needs.^{vii} A 2023 Queensland study, *'Safety through support: building safer communities by supporting vulnerable children in Queensland's Youth Justice System'* reports that children who commit offences have higher rates of cognitive impairment, attention-deficit/hyperactivity disorder, autism spectrum disorder, traumatic brain injury and learning disorders.^{viii} The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability cited a study into the prevalence of Fetal Alcohol Spectrum Disorder (FASD) within a youth detention centre in Western Australia between May 2015 and December 2016. This study found that 89% of children in youth detention had at least one domain of severe neurodevelopmental impairment and 36% had FASD.^{ix} The presence of a disability or mental health condition that impairs child's cognition and/or functioning will also likely impact their capacity to engage and be compliant with the circuit breaker program and their interactions with other participants.

^{vi} Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report Vol 8.

^{vii} Walsh, T, Beilby J, Lim, P & Cornwell, L, 'Safety through support: building safer communities by supporting vulnerable children in Queensland's Youth Justice System' (2023), p 4 and p 18.

^{viii} Ibid, p 18.

^{ix} Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report Vol 8, p 7; Bower C, Watkins R & Mutch R, 'Fetal alcohol spectrum disorder and youth justice: A prevalence study among young people sentenced to detention in Western Australia' (2018), vol 8 (2), BMJ Open, p 7.



Youth offending is a complex and nuanced issue that requires a long-term, integrated multi-service system response to address underlying drivers to ensure a preventative approach, rather than relying on tertiary interventions after the offending has already occurred. Research shows that the best way to achieve community safety is ‘to focus on meeting children’s fundamental needs, and to divert them away from the criminal justice system whenever possible.’^x This includes addressing the deficiencies in primary systems including education, child protection, health, disability, and housing.

I trust this information is of assistance. Should you require further information regarding this matter, please contact [REDACTED], [REDACTED] by email on [REDACTED] or on [REDACTED]

Yours sincerely

A black rectangular box redacting the signature of Shayna Smith.

Shayna Smith
Public Guardian

^x Walsh, T, Beilby J, Lim, P & Cornwell, L, ‘Safety through support: building safer communities by supporting vulnerable children in Queensland’s Youth Justice System’ (2023), p 37; United Nations Committee on the Rights of the Child, General Comment No. 24 on children’s rights in the child justice system [3].

