

Youth Justice and Other Legislation Amendment Bill (QLD) 2019

Mission Australia is a national, non-denominational Christian charity that has been helping vulnerable Australians move towards independence for more than 160 years. In the 2017-18 financial year we supported over 120,000 individuals through 461 programs and services across Australia.¹ Mission Australia provides diversionary programs, alternatives to incarceration and pre and post release support services, as well as services addressing various forms of disadvantage experienced by young people and their families. Currently we deliver a number of youth programs across QLD including the Bail Support Service Townsville, Strong, Together and Resilient (STAR) and Supervised Community Accommodation Townsville (SCAT).

Mission Australia welcomes the opportunity to provide input into the Youth Justice and Other Legislation Amendment Bill (the Bill). This submission is based on insights from direct service provision in QLD.

Mission Australia is largely supportive of the proposed amendments outlined in the Bill, including proposed changes to Section 49 which commits to reducing the period of time in which proceedings in the youth justice system are finalised. Limiting the time young people spend in custody before being brought before the Children's court should contribute to a reduction in the demand for youth detention and watch house facilities.

Mission Australia is also in support of the removal of legislative barriers that will enable more young people to be granted bail, allowing for young people to be released rather than being remanded into custody unnecessarily. We are encouraged by the proposed amendment to Section 48(4) of the Youth Justice Act, which clarifies that a court or police officer should not detain a young person in custody on the basis of the young person not having any, or adequate, accommodation or no apparent family support, if released.

Bail Support Program in Townsville - QLD

Mission Australia delivers the Bail Support Program in Townsville, providing support to young people to reduce the use of custodial remand. The program supports young people and their families to deal with issues such as family dysfunction, poor school attendance, alcohol and drugs, mental health, financial budgeting and recidivism. Bail support services and programs have been an important component of the strategy aimed at reducing the use of custodial remand for young people in QLD and will remain to be of importance, with the proposed amendments to the Youth Justice Bill.

We are encouraged to note the emphasis on 'detention as a last resort' when deciding whether to remand a young person or to release them on bail. Refusing bail solely on the basis of welfare concerns is not a legitimate reason for holding children and young people on remand. Any period of being held in remand can have significantly detrimental effects on children and young people.

Section 48 of the amendment Bill will have implications within the youth justice system, including having the potential to reduce the number of children and young people being held in police watch

¹ Mission Australia, Annual Report, 2018, accessible at: <https://www.missionaustralia.com.au/publications/annual-reports/annual-report-2018/809-annual-report-2018/file>

houses. This amendment also signifies the need for safe and accessible housing for young people that are in contact with the justice system, so that they are not exited from the justice system into homelessness. There is a need for greater funding to youth justice and diversionary programs and services which provide housing and other forms of support to young people in QLD.

Supervised Community Accommodation Townsville (SCAT) - QLD

The Supervised Community Accommodation Townsville (SCAT) model provides accommodation for 14 - 17-year-old young people in Townsville who are leaving detention and were experiencing homelessness or at risk of homelessness. Approximately 95% of them identify as Aboriginal or Torres Strait Islander people. SCAT has a very low proportion of young people re-offending post placement.

Young people are provided with accommodation for up to six months and receive tailored case management support to assist them in achieving their personal, developmental and welfare goals, and developing the skills they needed to transition to semi-independent and independent housing. They are also supported to reconnect with their family. Aboriginal and Torres Strait Islander mentors are available and the team holds cultural camps every three months.

Case Study

Matt,* a sixteen-year-old Aboriginal male was referred to the Mission Australia Bail Support Program for his first offence – a domestic violence matter involving his mother and sister. The needs assessment with Matt and his family identified that he was at risk of homelessness due to his long-term threatening behaviour towards his mother and sister. As part of the case plan process, Matt and his family identified that Mission Australia's Supported Community Accommodation Townsville (SCAT) was the most appropriate housing service for him, and a referral proposal was sent to the Townsville Youth Justice Service.

The SCAT program worked with Matt to identify his individual goals and then worked with him to achieve these. They included life-skills training; appropriate, non-violent, respectful, culturally appropriate relationships between male and females; anger-management techniques; and communication skills. Some of these referrals resulted in the young person developing a strong relationship with the local PCYC boxing program, connected him with Aboriginal mentors, and being involved in billycart building and other local community services initiatives. His day included boxing training, visiting his mother, and returning to the SCAT at night for curfew. Over the course of the next 6 months, Matt's communication skills improved, he gained confidence, began to speak to female staff, and respectfully communicate with his mother and sister.

During his stay at SCAT, Matt also took part in the first Cultural Camp run by Mission Australia and Aboriginal and Torres Strait Islander Legal Service (ATSILS). Following the successful and continuous participation in the Cultural Camps, Matt has not re-offended, his relationships with his family continues to improve, and, he continues to have a strong relationship with 3 of the

camp volunteers. Matt discussed cultural and spiritual concerns with these mentors, and has re-established connections with Elders from within his family.

*name has been changed for privacy

We are encouraged by the commitment to a child-focused bail decision-making framework that is outlined in the Bill. However, the lack of appropriate community services to support young people to obtain bail and meet bail conditions has been identified as potentially contributing towards the increased number of young people on custodial remand, particularly Aboriginal and Torres Strait Islander young people.

The disproportionate number of Aboriginal and Torres Strait Islander children and young people within the justice system needs to be addressed as a matter of priority and in greater detail. While the Bill makes reference to Aboriginal and Torres Strait Islander children and young peoples' need to retain their connection to community, family and kin, it fails to acknowledge that Aboriginal and Torres Strait Islander young people are significantly over-represented in youth justice system and in youth detention.² Although the draft Bill is expected to achieve the policy objective of reducing reoffending set out in the Youth Justice Strategy, it is important to note that in order to achieve long-term sustainable outcomes, the over-representation of Aboriginal and Torres Strait Islander children and young people in the justice system should be addressed through a range of strategies including legislative intervention.

There is a need to develop further policy objectives that are directed at prioritising services which target the intersectional disadvantage experienced by Aboriginal and Torres Strait Islander children and young people, including systemic and entrenched racial discrimination, economic disadvantage, over-representation in out of home care (OOHC) and disengagement from education. There should also be support for diversionary and early intervention programs that are community-led, targeted and culturally appropriate.

We are also in support of the inclusion of the principle in the Charter of youth justice principles in the *Youth Justice Act*, which states that; 'it is desirable, if practicable, to allow the education or employment of a child to proceed without interruption'. Increased connection between the education and justice systems will improve the outcomes for young people. As well as this tailored support is necessary to ensure young people in supervised and community accommodation can continue to engage with or re-engage with education, vocational education and training. Mission Australia also supports the inclusion of Clause 30 in relation to the information sharing framework, with the objective of increasing information sharing between government agencies and non-government service providers subject to the legislative protections under the privacy legislation. Allowing for the greater communication and sharing of information will assist in the planning and delivering of programs and services to support young people in the youth justice system.

It is concerning that the Bill does not exempt children under 12 from the application of the section 9 of the *Penalties and Sentences Act 1992* (PSA). Irrespective of the safeguards mentioned in the explanatory memorandum, Mission Australia firmly believes that the Bill should exempt the application of section 9 of PSA for children and young people.

² Youth Justice Taskforce, Report on Youth Justice Version 2, Department of Child Safety, Youth and Women, 2018

Mission Australia also holds concerns in relation to the proposed provisions in relation to terrorism related offences and recommends exempting children and young people from being subjected to punitive bail conditions.