



18 December 2015

Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE Q 4000  
Email: [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear Sir/Madam

**Re: Youth Justice and Other Legislation Amendment Bill 2015**

We refer to the letter from the Chair dated 4 December 2015 seeking submissions on the above-mentioned Bill by 22 January 2016. Firstly, we would like to commend the current Government on their commitment to best practice youth justice legislation.

Protect All Children Today Inc. (PACT) is a non-profit community organisation established in 1986 as a service provider of court support as well as advocating on behalf of children young people and their families. PACT's Child Witness Support Program provides support for children and young people who are required to give evidence in the courts, either as victims of, or witnesses to, a crime.

We offer the following comments in relation to the proposed amendments to the Youth Justice and Other Legislation Amendment Bill 2015.

We would like to preface these comments by stating that sadly, child Defendants are often former victims of crime. Children tend to learn through observation and exposure. Therefore, the need for early intervention is critical.

**1. Remove boot camp (vehicle offences) orders and boot camp orders from the range of sentencing options for children.**

We strongly support the removal of boot camps orders in sentencing of children and young people as they are not cognitively equipped to foresee the consequences of their actions and need to receive warning about their behaviour, in order for it to act as a deterrent.

**2. Prohibit the publication of identifying information about a child dealt with under the Youth Justice Act 1992.**

PACT strongly supports this approach as we expressed concern that the identification of offenders could lead to victims or witnesses being identified. The former approach could potentially impact negatively on non-offending family members, such as siblings of the accused. This could then expose them up to unnecessary victimisation.

In addition, the past reform did not take into account a situation where a child is the co-accused. PACT support a number of children and young people who are victims or witnesses in one matter and an accused in another. Therefore, the release of personal information in these situations could result in the contravention of the Fundamental Principles of Justice for Victims of Crime.

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***Vice Regal Patron:*** His Excellency the Honourable Paul de Jersey AC, Governor of Queensland

PACT strongly supports the closure of courts for all sexually related matters to protect the victim. PACT believes that the court should be closed in every case in which the complainant or witness is a child, regardless of the crime. Should this not occur as a matter of course, then the nominated Police Prosecutor will need to inform victims of matters involving repeat offenders which may result in the court being open, so that they, or the Prosecutor advocating on their behalf, can apply for the court to be closed.

There also needs to be greater protection of all child victims and witnesses in Children's Court matters. The establishment of a sufficient number of Vulnerable Witness Suites should be considered so as to assist in addressing this issue. The provisions of the *Evidence Act* brought about by reforms to the *Evidence (Protection of Children) Amendment Act 2003* should ensure the use of CCTV to all child complainants and witnesses including non Affected Child Witnesses (ACWs), such as witnesses to violent offences where there is no prescribed relationship.

**3. Remove breach of bail as an offence for children.**

PACT is supportive of this amendment as PACT believed the former legislation provided a disincentive for an early plea to be made by a youth offender, which ultimately placed further burdens on the court process, members of the Judiciary and staff and lead to delays in matters being heard and dealt with.

**4. Make childhood findings of guilt for which no conviction was recorded inadmissible in court when sentencing a person for an adult offence.**

PACT strongly supports a child's history being inadmissible in court. We expressed concern that the former approach did not account for the fact that children and young people are not always equipped from a cognitive perspective, to foresee the consequences of their actions. Their lack of insight and maturity often leads to poor decision making and behaviour, being in the wrong place at the wrong time, being negatively influenced by their peer group and so on.

Many adults report to have done reckless things in their youth which they now regret and these should not be held against them as adults.

PACT does not believe that there is adequate justification to release information about past crimes, where no conviction has been recorded. This would appear to be contrary to a person's natural right to the fundamental principles of justice and contrary to the principle behind the discretion afforded to the Courts in determining whether a conviction should be recorded.

**5. Reinstate the principle that a detention order should be imposed only as a last resort and for the shortest appropriate period when sentencing a child.**

PACT strongly supports the approach and believes the imprisonment of children and young people should be the last resort wherever possible, with other forms of restorative justice being offered. Increase in the costs of incarceration is likely to lead to less funding being available for victim services and preventative and rehabilitation programs. Insufficient provision of these services and programs breaches international human rights obligations.

**6. Reinstate the Childrens Court of Queensland's sentence review jurisdiction and expand the jurisdiction to include Magistrates' decisions in relation to breaches of community based orders.**

Automatically transferring a child to an adult facility without appropriate transition measures and in the absence of any consideration of the individual's needs and level of functioning will expose young offenders to unnecessary stressors.

Moreover, in the absence of ongoing and appropriate rehabilitation programs, or the introduction of secure youth housing, youth offenders will be exposed to, and/or influenced by, adult criminals unnecessarily. The impact of this will be increased recidivism and/or will result in more youths becoming victims of violent crimes by older prisoners. The trauma and long term effects of this must be considered.

The increase in the costs of incarceration is likely to lead to less money being available for victim services and preventative and rehabilitation programs.

**7. Reinstatement into the *Penalties and Sentences Act 1992* the principle that imprisonment is a sentence of last resort and a sentence that allows the offender to stay in the community is preferable.**

Firstly, PACT raises the fact that the point at which a young person becomes an adult varies greatly; it is not the case that each young person is of adult mind and cognition from the age of 17.

The Queensland Criminal Justice System recognises that 17 year olds are of sufficient maturity to be held fully accountable for their actions. However, this is contrary to research undertaken by many youth development experts.

The age of the youth when committing the offence should definitely be taken into consideration, as significant development and growth occurs between the ages of 15 and 18.

The positive steps taken by a youth offender to rehabilitate whilst in detention should also be a considering factor.

Please note, the above comments reflect PACT's child focussed philosophy, which is mandated by:

**Convention on the Rights of the Child -**

- **Article 3.1** *"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration".*
- **Article 19** *"Children must be protected against all forms of physical and mental violence".*

**Section 21 AA of the Evidence Act 1997** – States that with respect to a child witness the court is; *"to require wherever practicable that an affected child's evidence be taken in an environment that limits, to the greatest extent practicable, the distress and trauma that might otherwise be experienced by the child when giving evidence."*

We greatly appreciate the opportunity to provide comment on these pieces of legislation and trust that our input has been of value.

Yours sincerely

  
Alexandra Marks  
Chairperson

  
Jo Bryant  
Chief Executive Officer