

Police Powers and Responsibilities and Other Legislation Amendment Bill 2023

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Submission

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Submitted on behalf of Unharm, a social justice organisation campaigning for drug law reform.

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Scope

This submission addresses the following aspect of the proposed Bill: 'enhance the Police Drug Diversion Program through introducing drug diversion warnings, allowing an eligible person an opportunity to participate in a subsequent drug diversion assessment program and the expansion of minor drug offences to include the possession of prescribed quantities of any type of dangerous drug and certain pharmaceuticals.'

'Enhancing' the drug diversion program

The proposed expansion of the drug diversion program in this Bill is welcome to the extent that it implicitly acknowledges that criminalising people for using drugs is harmful. But the proposed expansion of the drug diversion program reflects an intent to increase the efficiency of policing operations, rather than being a serious attempt to improve fairness and wellbeing. An alternative approach, of decriminalising drug use, would enable Queensland to address the substantial harms that flow from the criminalisation of drug use, and make the state a better and fairer place.

'Net widening'

Diversion schemes like that proposed in this Bill have been operating in most parts of Australia for up to two decades. While these schemes are often framed in therapeutic terms, they make it administratively easier for police to stop and search members of the public. Over the period that drug diversion programs have operated in Australia, police have massively increased the number of drug consumer arrests - doubling, for example, in the last decade to more than 145,000 per year.¹

¹ Australian Criminal Intelligence Commission, *Illicit Drug Data Report 2010-11* and *Illicit Drug Data Report 2019-20*.

The illegality of drug possession gives police a pretext to stop and search members of the public at will. In effect, diversion schemes exacerbate the over-policing of already-disadvantaged and targeted communities like First Nations people and people experiencing homelessness. That over-policing is a key factor in driving the over-incarceration of First Nations people in this country. And for people experiencing homelessness, being constantly stopped and searched for drugs by police is humiliating and alienating.

Opportunity cost

The 'enhanced diversion' process in the proposed Bill includes mandatory health interventions for drug use. This risks criminalising people for non-compliance and taking resources and attention from what is really required: funding the treatment system to meet demand from people who actually experience drug-related health problems.

Exclusion of affected communities

One of the harms that flows from the criminalisation of drug use is that people who use drugs are socially marginalised. This includes being treated as less than full citizens when it comes to development of policy that affects them. The risk of admitting to punishable behaviour is a further barrier to participation in policy that affects them. We are concerned that these harms are being perpetuated in that the process of developing the Bill has provided no meaningful opportunity for participation by people whom these laws directly affect. In addition, the proposal to keep punishing drug use through stop and search, confiscation, mandatory treatment interventions, and criminalisation for repeated detections, will maintain a substantial barrier to participation. An alternative that properly decriminalises drug use as we propose below will conversely support social inclusion and participation.

Alternative proposal

Our proposal is that Queensland instead engage in an appropriate policy development process that includes people directly affected by the criminalisation of drug use. We recommend that the policy development process consider the Australian Capital Territory's recent decriminalisation of cannabis possession as a model for decriminalisation of personal possession of other drugs in Queensland. The decriminalisation of cannabis possession in the ACT entailed inserting exceptions, for adults in the ACT, into the [Drugs of Dependence Act 1989](#), 171AA(3).