

Youth Justice and Other Legislation Amendment Bill, 2021

Submission from Amnesty International (Toowoomba Group)

Amnesty International (Toowoomba Group) has a mailing list of over 120 supporters and an active core group of approx. 10 people.

It is understandable that recent tragic events involving juvenile offenders in Brisbane and Townsville have elicited a strong community reaction. This has led to a stern response from individuals and community leaders, with politicians reverting to a 'get tough on crime' approach and a focus in this Bill of how to deal with the cohort of serious, recidivist youth offenders (approx. 390) responsible for 48% of all youth crime¹. However, with all due respect to the victims, families, friends and communities impacted by the recent events, we have grave concerns about the proposed Bill. We are concerned that it will undermine the constructive, effective, long-term policies being implemented following the *Changing the Story: Youth Justice Strategy 2019-2023*. In particular we will emphasise our concerns about the revised bail provisions.

Underlying our position is the principle that young people who offend should be kept out of prison. The majority of young offenders come from disadvantaged backgrounds where racism, poverty, poor health, inadequate housing, interrupted schooling, physical and sexual abuse and child protection issues are common factors.² Many young offenders have been offended against as young children, long before their involvement in crime. Approx. 60% of young offenders identify as having Aboriginal or Torres Strait Islander backgrounds, a sad fact of which Aboriginal and Torres Strait Islander communities are well aware and has led to positive and successful initiatives such as 'On Country' programs in Cairns, Townsville and Mt Isa and the Cherbourg Justice Reinvestment program. The concept of 'justice reinvestment' is about strengthening and supporting local communities to take responsibility for their young people and ensure that young people are accountable to their community for their behaviours and actions. The development of such programs is consistent with best practice and research both nationally and internationally and Queensland must not be diverted from this path³.

We wish to make the following comments about the proposed bail provisions:

1. Tracking devices are intrusive and have the potential to breach human rights, a fact acknowledged in the Bill's explanatory notes⁴. We are unaware of any information provided about their visibility on the body or effective outcomes in reducing youth crime elsewhere. How will the tracking system work? If the reliance is on phone reception, what does this mean for children returning to Country during the bail period?
2. Parental or other support associated with youth bail is a highly complex issue. Many young offenders come from disadvantaged backgrounds and do not have

¹ *Youth Justice and Other Legislation Amendment Bill 2021 Explanatory Notes* p.1

² *Changing the Story: Youth Justice Strategy 2019-2023* p.6

³ Outlined in the *Youth Justice Strategy 2019-2023*.

⁴ *Youth Justice and Other Legislation Amendment Bill 2021 Explanatory Notes* p.9

parents or other family who can support them – indeed, that can be one of the reasons they're involved in youth crime. Perhaps they are in care of the Department of Child Safety – who exactly will assume the parental role in those situations? There are specific and onerous responsibilities on those willing to provide bail support. Will penalties apply if those persons are judged not to have complied with the requirements?

3. The presumption against bail up-ends the previous presumption that children charged with offences should be released from custody. It is proposed that there will be a presumption AGAINST bail for a certain category of offenders. So where do they go? What facilities exist? It seems inevitable there will be more children detained in watch houses and detention centres and we have a sense of dread about a likely increase of 'deaths in custody'. There is a danger that young people will see this detention as a punishment or conviction in itself. The new Bill appears to make no provision for considering the welfare of this minority of children who, like their victims, are also in tragic situations.

Some of our group have been teachers and social workers who relate accounts of young people reverting to distressed, disturbed and vulnerable children when their crime spree spirals downward and comes to an end.

We consider that the presumption AGAINST bail will set children up to fail. It is a reactive approach that will not equate to crime prevention. On the contrary, children spending longer periods in detention are likely to experience more trauma, become more isolated from their families and communities and less likely to respond to opportunities for rehabilitation.

4. We agree that homelessness or lack of family support are not reasons in themselves for young people to remain in custody⁵. However, given the difficulties that already exist in finding accommodation for children on bail, this statement is meaningless unless further options are developed as a matter of priority.
5. In relation to scanning, we have a major concern about the potential for racial profiling. Young people naturally form groups on social occasions and are likely to do that more so when they are uncomfortable or anxious in their own home environments. We believe that the use of scanners should be carefully monitored and evaluated in the same way as proposed for tracking devices. For example, are scanners identifying dangerous weapons? And who is being scanned? And where? What issues are encountered in their use?

Thank you for the opportunity to provide a response to the proposed Bill. I will be pleased to expand on these points or provide further information if requested.

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⁵ Youth Justice and Other Legislation Amendment Bill 2021 Explanatory Notes p.5