

**Together submission to Queensland Parliament re *Youth Justice and Other Legislation Amendment Bill 2021***

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Submitted on behalf of Together by Rosa Sottile, Political Organiser.

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This submission is made on behalf of members of the Together branch of the Australian Services Union.

In summary, our union supports an approach to youth justice that focuses on the factors that many reports into the system recommend: early intervention, diversion and care for the young people involved. We are concerned that these proposed changes do not focus on these factors and do not have a demonstrated benefit to either the lives of the young people involved or improved community safety.

Our concerns are organised into topic areas relating to the impact of these laws, and the issues the laws are attempting to address.

Impact on Aboriginal and Torres Strait Islander children and families

These changes we believe will impact on Aboriginal and Torres Strait Islander children and families disproportionately – people who are already disproportionately represented in all parts of the Youth Justice system.

Together notes that the policy and legislative decisions which are made should consider the impact on Aboriginal and Torres Strait Islander young people and their families.

Aboriginal and Torres Strait Islander young people are currently overrepresented in the Youth Justice System, including the groups of young people who are expected to be most impacted by the changes contained in the Bill.

The *Department of Youth Justice Annual report 2019-2020* acknowledges the objective of addressing the over-representation of Aboriginal and Torres Strait Islander young people in Youth Justice system, and the measure to “Reduce the rate of Aboriginal and Torres Strait Islander young peoples in the youth justice system.” The report notes that “in 2019 59 per cent of young people either supervised in the community or in a detention centre or in a watch house were Aboriginal and Torres Strait Islanders.”

Consideration should be given to the investments in alternatives which increase the rehabilitative outcomes for young people to reduce offending over their lifetime and do not further contribute to increased representation in youth justice and adult justice systems.

Addressing youth offending effectively against perceptions of youth crime

The explanatory notes associated with this bill acknowledge a continued decrease in the number of unique youth offenders coming to the attention of police. Together understands from our members and from government statements that the overall rate of youth crime has also been consistently reducing over the past decade.



This is an indication that the current policies may be working to positively impact crime trends, and that more investment and resourcing of current youth justice programs within the existing legislation may continue to improve the rates of offending among young people and improve the safety of the community.

The reduced youth crime statistics over this period also indicates that there may be risks and/or limited benefit in making changes to legislation or policy without an evidence basis to demonstrate that the changes will be equally or more effective.

The Bill acknowledges that the measures are targeted at addressing the 390 individuals who account for 48 per cent of all youth crime. It also appears that these changes have been made in reaction to incidents in the community and media reports. Together is concerned that this approach to the youth justice system is not the most effective approach – it also contrasts with this government's previously considered and evidence based approach and its own long term planning approach (e.g. the Youth Justice Strategy referenced).

Impact on remand

Together notes that some of the measures contained in the Bill are expected to increase rates of remand for certain young people – the expansion of the presumption against bail in particular. We also note that remand is a suitable option in some circumstances.

Together understands that the rates of remand in Youth Justice continues to be one of the most significant issues affecting the youth justice system. This is an issue that our union have raised consistently for many years: there is a serious and ongoing issue of overcrowding, lack of adequate housing and appropriate programs and support for many young people who enter the Youth Justice system.

We understand that in Youth Detention approximately 80% of young people are on remand, and these high rates have been consistent over many years. Those 80% of young people in youth detention have not been convicted of a crime but remain in detention under the current legislation and sentencing arrangements.

The proposed legislation does not address the high rates of remand which continue to place pressure on the youth justice system.

Our union knows from our members' direct experience, that when numbers of young people accommodated in Youth Detention Centres has been at capacity, this has increased the complexity of working with young people and ensuring the security and safety of young people and staff on centre. The non-availability of beds in Youth Detention Centres has also increased the numbers of young people who are detained in less suitable accommodation in watch houses.

Together does appreciate the improved wording in relation to ensuring bail is not refused simply due to the housing status of a young person; however, there is no supporting evidence that this will do anything to relieve the pressure of remand on the system.

The Bill should consider additional or alternative measures to reduce remand where appropriate, to process young people more quickly and efficiently, to take pressure off the Youth Justice system. Resources could be reinvested in effective strategies to protect the community, such as through crime prevention strategies and the rehabilitation of young people to reduce their offending throughout their life. Instead, this Bill attempts to use the overstretched remand system to "prevent



crime” in the community with no explanation of how the changes will address the existing and serious remand problems in Youth Justice.

Parental or other support associated with youth bail

A significant proportion of the young people in the Youth Justice system (our members understand something in the area of 50% though this specific statistic is constantly moving and hard to confirm), are under the care and protection of Child Safety, and as legal guardian there are implications of the legislation on the department as the responsible party.

It is concerning that while previous government approaches to Youth Justice clearly articulated the relationship between Child Safety and Youth Justice (such as the Youth Justice Strategy), this explanatory note and speech does not address this significant issue.

The government has taken direct responsibility for many of these young people – how does it plan to ensure that their care is prioritised? As addressed below and above, this is a serious and significant part of any Youth Justice reforms, particularly in relation to early intervention.

Changes to position of Youth Justice and issues with existing practices not addressed

Together has concerns about the suitability assessment for wearing a tracker, which it is suggested in this Bill will be done by Youth Justice staff. This workload increase will put pressure on service centres. It is also unclear about how neutrality will be maintained in relation to the bail process. Youth Justice staff are supposed to maintain neutrality; however, they will be involved in determining suitability for a tracker which may be perceived as taking a position regarding suitability for bail.

Additionally, it is suggested Youth Justice and Police co-responder teams would be used to respond to potential breaches of bail, however it is not clear who is the applicant is for any breach. Will this still be Police or will Youth Justice be involved? Will Youth Justice be required to provide evidence in relation to the breach?

Trackers and the rights of Young People

In the principals of the *Youth Justice Act* – the new draft act has a schedule with the new principles – it includes right to be protected from identification. Together is seriously concerned that wearing an ankle bracelet in public, or in school, would be in contravention of the principles. This could create serious safety issues for young people.

Rehabilitation is essential to community safety

The goal of the former Department of Youth Justice (youthjustice.qld.gov.au/about-us) is to:

“... provide a fair and balanced response to young people in contact with the youth justice system. This response holds young people accountable for their actions, encourages their reintegration into the community and promotes community safety.”



This goal is effectively delivered by committed and professional staff within the Department. The work our members perform in Youth Justice is fair and balanced in meeting those three parallel principles relating to accountability, reintegration and community safety.

Community safety cannot be achieved through a punitive model. Our members advise that the community will not be safer by greater sentencing, except during the period of incarceration of an individual. The evidence shows that increased community safety is achieved through the rehabilitation of young people to reduce their offending throughout their life – this has been found by every investigation into Youth Justice in recent years, from the Northern Territory Royal Commission to the government's own reports.

Together members report concerns that the proposed legislative changes are focussed on offending and sentencing without the necessary focus and investment in rehabilitation and the safe reintegration of young people into the community.

Together notes that while there is mention of some increased funding for existing programs, it is not clear from the Bill or explanatory note where this funding will be directed, and how this funding will improve the investment in rehabilitative work with young people who have committed offences. The changes proposed should identify and demonstrate that there is a fair and balanced increase in investment in rehabilitative work with those young people to ensure that the bill provides for the reintegration of young people into a safer community.

Alternative ways of achieving policy objectives

'The Human Rights Statement of Compatibility discusses in detail whether there are any less restrictive (on human rights) and reasonably available ways to achieve the policy objectives underpinning the Bill. It is considered there are no such alternative ways to achieve the policy objectives.'

Together notes that the explanatory notes for the *Youth Justice and Other Legislation Amendment Bill 2021* state that *"it is considered that there are no such alternative ways to achieve the policy objectives."*

There are alternative options to improve community safety through legislative and youth justice measures which are not considered by this Bill. These include:

- Increasing the age of criminal responsibility from age 10 to 14 years including changes to the systems of care that invest in differently addressing behaviours and actions of those children. This change is consistent with international law and best practice.
- Investment in alternative programs and systems in relation to parents of young people who are repeated offenders, to reduce offending.
- Consideration of alternative measures to address offences performed by adults alongside young people, with a view to reducing offending by young people.
- As addressed above, addressing the remand system which is consistently in crisis, and investing in existing evidence based interventions being delivered by Youth Justice workers.

These alternatives should be considered as ways to also achieve the policy objectives.