



Speech By  
**Hon. Yvette D'Ath**


**MEMBER FOR REDCLIFFE**

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Record of Proceedings, 17 June 2016

**YOUTH YOUTH JUSTICE AND OTHER LEGISLATION AMENDMENT BILL 2015;  
JUSTICE AND OTHER LEGISLATION AMENDMENT BILL 2016**

**Second Reading (Cognate Debate)**

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (9.00 pm): I move—

That the bills be now read a second time.

**Mr SPEAKER:** Leader of the House and Leader of Opposition Business, bearing in mind that it is Friday and I do not know how long we may sit, if members have their speeches prepared I am happy for them to be incorporated in recognition of the fact that we have been sitting all week. It is under the same provision as we have just been through with the Appropriation Bill. I would expect that government members have their proposed speeches looked at by members on the speaker's panel and opposition members likewise.

**Mr Dick** interjected.

**Mr SPEAKER:** I do not need your assistance. I am merely dealing with what may be a long sitting.

**Mrs D'ATH:** I rise tonight to take the final steps in the long process of restoring and strengthening the Queensland youth justice system after it was seriously and shamelessly attacked by the previous government. The Youth Justice Act was subjected to two raids under the leadership of the former premier and his disastrous attorney-general, the member for Kawana. To repair the damage done I introduced the Youth Justice and Other Legislation Amendment Bill 2015 into parliament on 1 December 2015 and the Youth Justice and Other Legislation Amendment Bill 2016 on 21 April 2016. The bills were referred to the Legal Affairs and Community Safety Committee, with the committee tabling their reports on 1 March 2016 and 1 June 2016 respectively.

Twenty-six submissions were made in relation to the 2015 bill and 13 in relation to the 2016 bill. The extensive consultation with key legal and youth justice stakeholders had also taken place prior to the bills being introduced. I would like to acknowledge the efforts of those who took part in that consultation, those who made submissions on the bills to the committee and those who took the time to give evidence at the committee's public hearings. The overwhelming majority of submissions were in support—strongly in support—of the bills. In fact, the overwhelming majority of submissions to the committee when the Youth Justice Act was under attack in 2012 and again in 2014 were fundamentally opposed to those bills. In this context it is disappointing but not surprising that the committee could not reach a recommendation in support of either bill.

The focus of the bills on restoring legislative provisions to give effect to common law principles and effective legislative and rehabilitative responses to children and young people is directly aligned with the feedback received as part of the former government's own *Safer streets crime action plan—youth justice* and comments made by the President of the Childrens Court in the Childrens Court of Queensland Annual Report 2013-14. This feedback indicated support for efficient and accountable court practices in the form of the reinstatement of sentence reviews together with a call for broader evidence based rehabilitative responses that allow for an increased focus on addressing identified risks of offending, including disengagement from education, poor health and complex family support needs.

Those attitudes have not changed. As recently as last week I was in Townsville for a youth justice forum which was organised and driven by the members for Thuringowa, Mundingburra and Townsville. It was a great opportunity to meet with members of the local community to hear their concerns about youth offending and hear what they considered to be important in tackling it. It was clear from listening to the local community that they were genuinely interested in preventative and reinvestment strategies that would see young people turn away from crime. The great thing is that this is consistent with what the experts tell us works most effectively for young people who become involved in crime. There was strong support for ensuring that victims could face offenders and making sure that they understood the damage they were doing to individuals and to the community. I can honestly say that I was pleased to explain that the 2016 bill was doing just that. The forum was a great success and a testament to the commitment of local members to meaningfully engage with their constituents. I thank the members for Thuringowa, Mundingburra and Townsville and I thank the community of Townsville for their genuine and constructive contribution on this important issue.

These bills deliver in full the government's commitment to repeal amendments made to the Youth Justice Act 1992 by those opposite me in 2012 and 2014. The bills specifically reinstate the sentencing principle in the Youth Justice Act 1992 that a detention order and detaining of a child in custody for an offence whether on arrest or sentence should only be imposed as a last resort and for the shortest appropriate period; amend section 9 of the Penalties and Sentences Act 1992 to reinstate the sentencing principle that prison is a sentence of last resort for all offenders aged 17 years or over—except those convicted of offences of violence, child sexual abuse or conduct involving child exploitation material; omit the provisions in the Youth Justice Act that childhood findings of guilt for which no conviction was recorded are admissible in court when sentencing a person for an adult offence; omit breach of bail as an offence against the Youth Justice Act; reinstate the offence provisions relating to publishing identifying information of any young person in the youth justice system unless allowed by court order for those who have committed particularly heinous and violent offences and where the publication is in the public interest under the Youth Justice Act; reinstate the Childrens Court of Queensland's power to review sentences handed down by the Childrens Court magistrates—this will include expanding the definition of a sentence order so as to allow new sentences imposed as a result of a child's contravention of their original sentence order to be reviewable under the Youth Justice Act; close the Childrens Court when hearing all youth justice matters under the Childrens Court Act 1992 and provide for victims or their representatives to be present in closed court; increase the age at which children and young people subject to periods of detention under the Youth Justice Act are to be transferred to adult corrections from 17 to 18 and empower a court on application to delay a young person's transfer for up to six months; provide certainty to 18-year-olds who are transferred to adult corrections by declaring that a parole order issued in relation to a prisoner in adult corrections who was sentenced under the Youth Justice Act 1992 is a parole order for the purposes of the Corrective Services Act 2006; and reinstate an expanded court referred youth justice conferencing program to allow for increased flexibility in the delivery of restorative justice interventions as part of police referred and court referred conferencing.

The former government's amendments were not evidence based. The bills before the House today reflect the research and evidence on what actually supports a reduction in youth offending, with a longstanding body of national and international evidence showing that increasing the severity of the punishment is a blunt and ineffective tool when it comes to reducing recidivism, particularly with respect to children and young people. The bills usher in a reform agenda that is about real impacts and changes—changes not just for children and young people but also for local communities and the broader Queensland community, as whole.

There is no doubt that a focus on reducing offending by children and young people must include a clear and comprehensive focus on reducing the overrepresentation of Aboriginal and Torres Strait Islander young people in the criminal justice system. It is for this reason that all interventions within the youth justice system to divert and reduce offending, including current and planned activities, are interventions that have and will continue to have direct application to Aboriginal and Torres Strait Islander people. We know that Aboriginal and Torres Strait Islander children and young people

especially are missing out on the benefits of early diversionary approaches. As part of the suite of legislation before the House, this issue will be specifically addressed with a new referral pathway created to catch those who have fallen through the cracks in the past.

I would like to address inaccuracies purported to be true by opposition members as part of the committee's examination of the bills. Firstly, there is no evidence to show that the 2014 amendments were a catalyst for reduced offending by children and young people. A review of youth justice data over six years shows that the number of young offenders has decreased by 19 per cent since 2009-10. This trend clearly shows that a pattern of reduced youth offending existed and preceded the 2014 amendments.

I will address comments about the supposed positive impacts of the former government's youth boot camp trial. In Townsville and Cairns where boot camp programs were introduced in 2014, unlawful use of a motor vehicle offences were showing a decrease in numbers prior to the announcement of the boot camp programs. It was further noted that during the period of the boot camp programs motor vehicle offending started to increase, rather than decrease. An independent evaluation of the trial commissioned by the government was comprehensive. There was limited evidence to indicate that the sentence youth boot camp was having a significant impact on offending behaviour. Furthermore, the cost of the trial had blown out by \$16.7 million over three years, which is more than eight times the \$2 million cost announced by the former attorney-general when establishing the trial in November 2012.

We have sought to glean important learnings from the boot camp trial, with enduring practices put in place during and following the trial by the hardworking youth justice staff, particularly in the north of the state. In particular, the trial once again highlighted the critical importance of the involvement of family and other support services in all phases of youth justice programs. In short, programs that remove young people from their home environments for short periods with little or no provision for follow up and consolidation of support when they return do not work. They do not reduce offending, they do not make our communities safer and they do not provide young people with real opportunities to improve their lives.

The government is committed to building a youth justice system that adopts a balanced evidence-based approach to reducing youth offending. This means supporting young people involved in the youth justice system to attend school, get into training and find work. A compelling example of this commitment is the Transition to Success or T2S initiative. Transition to Success is an alternative education and vocational training program currently being delivered to young people aged 14 to 18 years in a community setting. The program is currently being trialled from within existing resources, in partnership between Youth Justice, Education Queensland, local secondary schools, registered training organisations, not-for-profit organisations and local businesses.

Transition to Success is demonstrating success in education, training and employment outcomes in reducing recidivism. One example I am happy to share is of one young person from a highly traumatic background, with a serious history of offending that included violence and gang-related activity, and who had spent time in detention. Over an 18-month period, that young person had completed a number of certificate III based qualifications through T2S, was given the opportunity to engage in work experience with a local business and gained paid part-time employment as a result. That young person continues to participate in a certificate III course and is now aspiring to go on to university. Importantly, their offending behaviour has turned around. They have a path and a future life without offending.

This is evidence based. This is achieving community safety. This is what this government is doing at a very practical level to address youth offending. I can confirm that the government remains committed to a comprehensive staged reform of the youth justice system. The reforms brought forward in these bills are to be complemented by broader government policy and more immediate changes in programs and practices, with steps already being taken to change the way children and young people within the youth justice system are assessed and responded to so as to reduce future offending. These changes in practices will be further supplemented through the government's current work and planned release of a draft whole-of-government youth justice policy later this year.

I look forward to continuing to work with our partner agencies across government, non-government organisations and the community in the delivery of innovative and locally responsive services as part of this strategy. I acknowledge the Minister for Education who is here in the chamber with me this evening. It is so important that we work hand in hand. It became very clear at the Townsville meeting, and we know it to be true, that early intervention and prevention is the only way to turn these kids' lives around. That is what the people of Townsville were calling for. We need to ensure that we identify those children early. When they start offending or they start missing school and we see absenteeism happening, we must intervene early and provide the necessary supports. If we invest

early, we save in the long run. If we invest early, we save taxpayers' dollars from youth justice, the adult correctional services, income support and the ongoing consequences of crime. We know that overall our community benefits socially, as well. It is in the best interests of everyone that we have restorative justice and justice reinvestment programs.

I say to the people of Queensland that an evidence based response—

**Opposition members** interjected.

**Mrs D'ATH:** And I do hear those who are intervening across the chamber—to reducing youth offending does not equate to a soft option or light-touch response to offending. Under our legislative and broader system reforms, the courts and police will continue to have the necessary powers to act swiftly in responding to offending behaviour by children and young people. We will also have a deliberate and necessary focus on justice reinvestment. Justice reinvestment, including rehabilitation and diversion of children from further involvement in the justice system, is the focus of this government.

I refer to the committee's report on the 2016 bill, which highlights the evidence given to the committee by a number of legal stakeholders on the strength of youth justice conferencing. A senior lawyer from Legal Aid Queensland advised that the Youth Justice Act referred to making a child responsible for their offending and said—

... there is no more powerful tough-on-crime measure than making a child sit opposite their victim and apologise. I have been to hundreds of conferences and they can be very powerful ways for a child to make amends to the community in general. There are some children—

**Mr Costigan** interjected.

**Ms Jones** interjected.

**Mr Bleijie** interjected.

**Madam DEPUTY SPEAKER** (Ms Farmer): Order! The minister has the call. Thank you to the Minister for Education and the member for Kawana, but the Attorney-General has the call.

**Mrs D'ATH:** I will pick up that interjection. To say that this is a waste of time, to say that they get paid for it—the children do not get paid to go to those conferences—is just offensive.

**Mr Bleijie** interjected.

**Mrs D'ATH:** I was not referring to the member for Kawana.

**Mr COSTIGAN:** I rise on a point of order. I think the Attorney-General is looking across the chamber, suggesting that I am saying that it is a waste of time. I did interject and I said, 'Why do some people think it is a waste of time?'

**Madam DEPUTY SPEAKER:** There is no point of order.

**Mrs D'ATH:** It seems quite an odd interjection to say, 'Why do some people think it is a waste of time?' I hope that the member on the other side is now saying that he thinks it is a good use of time and that it is a beneficial exercise to go through, because everyone else in the legal fraternity certainly believes it is and so do the courts.

**Mr Bleijie:** It's a waste of time.

**Mrs D'ATH:** The member for Kawana says, 'It's a waste of time'. That is why the member for Kawana is sitting over there and we are now in government—

**Mr Bleijie** interjected.

**Ms Jones** interjected.

**Madam DEPUTY SPEAKER:** Order! Minister for Education and member for Kawana, the Attorney-General has the call. Please allow her to speak.

**Mrs D'ATH:** It is the view—held not just by the member for Kawana but certainly led by the member for Kawana when in government—of the LNP and their arrogance in government about how to deal with youth justice that has led them to where they are today. Their views are not reflective of the general community. They are not in touch with the general community. That is why they are sitting on the opposition benches today. They showed it time and time again when in government and they are showing it again tonight in this debate.

I will repeat the quote of a senior lawyer from Legal Aid Queensland. That lawyer stated—

... there is no more powerful tough-on-crime measure than making a child sit opposite their victim and apologise. I have been to hundreds of conferences and they can be very powerful ways for a child to make amends to the community in general. There are some children who do have a poor attitude. There are always going to be those children, it is just part of nature.

The Queensland Law Society agreed and advised the committee that youth conferencing—

Is often a very beneficial thing for the victim as well to be able to meet the offender and develop a bit of a broader understanding about some of the reasons why that young person has committed that offence.

We are talking about a vulnerable, often seriously disadvantaged, group in our society. Asking children and young people to come face to face with victims through the reinstated court referred conferencing can be confronting for an offender. Asking them to really think about, acknowledge and address the reasons for their offending is a positive approach for both the victim and the offender. It is an approach that can result in lasting change.

It is also one which resonates with victims of crime. Prior to the former government's axing of the court ordered youth justice conferences, victims were given the opportunity to make comments about the process through a satisfaction survey. I will read some examples of comments made in the free text section of those surveys. One comment reads—

I think that this is a wonderful thing. Youth justice conferencing gives the victim a face and shows the offender that it is not just them who is suffering but they have caused the victim and their family to suffer also. Thank you to all.

Another comment reads—

It is worthwhile to come face to face to understand all the facts, not just mine, e.g. the effects this has on everyone, because you can tend to be tunnel vision at times.

Another comment reads—

I was hesitant about this process but now feel that it's an extremely valuable process for all involved with a good outcome.

Another comments reads—

Enjoyed the opportunity to hear exactly what happened and why it happened. Plus to sort out issues related to the incident. Great!

Another comments reads—

I found it rewarding as I felt as though the offender actually acknowledged what he had done was wrong and inconvenient for the victims and he seems to be improving with his social wellbeing.

Another comment reads—

I feel like I can get over the past and move on.

Another comment reads—

Better than a court case. Quicker, fairer and more say on both sides.

In my view, the words of these victims of crime speak volumes about exactly what it is that restorative justice seeks to achieve. The bills before the House address the significant breaches of international conventions introduced with the 2014 changes. Those changes put Queensland at significant odds with practice in other jurisdictions. They did so because they were not based on evidence, but politics. This Labor government rejects that approach.

I will move a number of amendments during consideration in detail, which are predominantly technical in nature. They have already been circulated in this chamber. They seek to provide further clarity of the application of referrals. I am proud to be part of a Labor government that recognises restorative justice for our youth and that is acting on this belief through these two bills. I commend the bills to the House.