




Speech By
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MEMBER FOR SOUTH BRISBANE

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CRIMINAL LAW (RAISING THE AGE OF RESPONSIBILITY) AMENDMENT BILL

 **Dr MacMAHON** (South Brisbane—Grn) (6.01 pm): The case for raising the age of criminal responsibility from 10 to 14—for not locking kids up in jail—is so clear. The chorus of credible voices calling for an end to this shameful practice has been growing louder. Instead of investing in housing, instead of fully funding our schools, instead of investing in support services for families, this government continues to send kids to jail.

It is really hard to ignore the juxtaposition today between the joy and the hope and the coming together around the Path to Treaty announcement with the government's refusal to take practical steps to eliminate racism from our legal system. It is staggering that Queensland allows children as young as 10 to be locked up. There is no question about who is going to jail under these laws. First Nations children aged 10 to 17 are 29 times more likely than non-Indigenous kids to be sentenced to detention in Queensland. On average, 84 per cent of kids aged 10 to 13 in a Queensland detention centre on any given day are Indigenous. We know that early contact with the criminal justice system has been shown to increase a child's likelihood of reoffending. Putting First Nations kids in jail directly ensures there is an overrepresentation of First Nations adults in jail.

Maggie Munn, a Gunggari gambi person who works for Amnesty, said at this morning's rally that the majority of kids who are locked up all around the country are black kids. They went on to say, 'I as a black person am pretty sick of going into institutions like this that are built on the oppression of my people and pleading for the humanity of my kids.'

If the Queensland government are genuinely committed to closing the gap, they need to raise the age. If the Queensland government are genuinely committed to stopping black deaths in custody, they need to raise the age. If the Queensland government are genuinely committed to justice for First Nations people, they need to raise the age. They need to redirect the money that is currently going towards criminalising children into housing, into schools, into health care and into frontline services.

Our current laws—which make 10 years the minimum age for criminal responsibility—are completely out of step with Australia's human rights obligations and out of step with what other countries around the world are doing. Despite the cheap political pointscoring around law and order that both of the major parties in here want to perpetuate, these laws are not working. We all want to keep communities safe. These laws do not do that.

Medical evidence shows that 10- to 13-year-olds do not have the developmental capacity needed to control impulses or foresee and understand consequences. Criminalising them like adults does not work, but there are things that work. We need to give kids the support that they need, rather than criminalising them. We need to guarantee that every child and their family has a safe place to call home. We need to lift families out of poverty with genuinely free state schools, free health care, free public transport and free child care and by raising JobSeeker. We need to invest in direct support for families before they get to crisis. Putting a 10- or 12-year-old child in a prison with older teenagers will not set them on a hopeful path. It is a criminogenic, dangerous environment.

As the Australian Association for Restorative Justice said in its submission, 'Keeping people out of jail keeps people out of jail.' Sexual abuse advocacy organisation knowmore in their submission noted that jail is an environment where young children are particularly vulnerable to abuse. They spoke about a case study from the Royal Commission into Institutional Responses to Child Sexual Abuse where an Aboriginal man from Queensland who grew up being bounced around the care system was first sent to detention at 11 years old for break and enter and stealing a car with a group of kids.

Mr Dametto interjected.

Dr MacMAHON: He was abused multiple times in detention.

Mr Dametto: Good reason not to go to jail.

Dr MacMAHON: I am sorry? Are you justifying his abuse in jail?

Mr DEPUTY SPEAKER (Mr Hart): Pause the clock. Member for South Brisbane and member for Hinchinbrook, you will not argue across the chamber or I will warn you both.

Dr MacMAHON: I would like to take the member's interjection and say that this child was abused multiple times in detention, and after his release he struggled with drug misuse and addiction. He was in and out of jail for years and said he lost his creativity and his connection to culture. It took him a long time to rebuild his identity and work on creating a stable life for himself. If he had not been criminalised so young, this might not have been the case. As Sisters Inside wrote in their submission—

Imprisoning children is neither necessary for community safety, nor effective in stopping behaviours that are deemed criminal by the State.

Prisons do not stop criminal "offending", on the contrary, evidence suggests that prisons are themselves criminogenic.

If your focus is on protecting the community, locking up kids does not work.

I want to turn now to how this bill actually impacts kids at risk of detention. I want to start by talking about Brandon who is nine. This is not his real name, but Youth Off the Streets gave details about what Brandon is going through in their submission to the inquiry on this bill. Brandon at nine is already on the radar at the Logan Central Police Station. He is the youngest of seven children. His parents and some of his siblings have spent time in jail. He has an extremely unstable home life and is no stranger to domestic and family violence and problematic alcohol and other drug use. His normal is a chaotic environment shaped by trauma, poverty and neglect. Brandon's school could not manage his unpredictable behaviour and he is now completely disengaged from education. He is hanging around with older kids who are known to the police for shoplifting. As Youth Off the Streets said—

If the criminal age of responsibility is not raised in Queensland, there is little doubt that Brandon will spend his next birthday in juvenile detention.

They went on to say—

If the criminal age of responsibility is raised to 14, community services will have an additional four years to support Brandon and his family, assisting them to build a strong and positive future and break Brandon's cycle of offending.

All we're asking for is an opportunity to go in and heal our own. If we raise the criminal age, it allows extra time for Aboriginal communities to heal our children so that they can be strong, so that they can dream.

Youth Off the Streets also said—

Instead of spending money on Aboriginal children in the justice system, use that money wisely and allow it to be put back into Aboriginal services, to allow us to go back into our community and repair what broke on that child's journey. Allow us to be the subject matter experts in our own community.

This bill sets out a framework for the kind of support that would actually help kids and their families. Most importantly, the bill raises the minimum age at which a person is criminally responsible for their actions from 10 to 14. It proposes an alternative staged model to replace the criminal system for kids under 14, including early intervention and prevention, therapeutic responses to antisocial behaviour and intensive case management for serious problematic behaviour.

A multidisciplinary expert panel would be established outside the Department of Children, Youth Justice and Multicultural Affairs to work with children and their families and refer them to support services, culturally appropriate community-led programs and restorative justice. Children's hearings, similar to a model that has been successfully used in Scotland, could be used to determine whether small-scale therapeutic supervision is necessary in rare cases.

I want to also say how shameful it is that just one member from the government is speaking on this bill—just one member—and I can only assume that the rest of you are struggling with your hypocrisy—

Mr DEPUTY SPEAKER (Mr Hart): Through the chair, please, member for South Brisbane.

Dr MacMAHON:—but I am not particularly surprised. This is a government criminalising poverty, trauma and disadvantage. One member—

Mr Harper interjected.

Mr DEPUTY SPEAKER: Order! Pause the clock! Member for Thuringowa, no more chances. You are on a warning.

Dr MacMAHON: This is a government criminalising poverty, trauma and disadvantage. This is a government condemning kids to a future of further criminalisation, incarceration and violence. This is a government ignoring over 300 submissions that supported raising the age of criminal responsibility—the same government overseeing an epidemic of child removals, a government now investing more money in building new prisons than in building new housing, the same government that refused to implement an affirmative model of consent despite overwhelming evidence and other states moving ahead of Queensland. We often do not have a problem being out of step with other states here in Queensland when we are on the back foot. This is a government that is systematically underfunding our state schools. This is a government that is prepared to spend billions of dollars to knock down and rebuild a stadium and threaten the local state primary school. This is a government that is shamefully underfunding our healthcare system.

Mrs D'ATH: Mr Deputy Speaker, I rise to a point of order on relevance. I ask that the member be brought back to the bill.

Mr DEPUTY SPEAKER: Member, I bring you back to the long title of the bill, please.

Dr MacMAHON: And this is a government that today will continue to lock up kids as young as 10 in the name of being tough on crime. In the next few years a bill will come back to this place raising the age of criminal responsibility, and all of you will get up and say, 'What a great job we have done.' My heart breaks for the children between now and then who will be in jail.

A government member interjected.

Dr MacMAHON: You have a choice today—

Mr DEPUTY SPEAKER: Member for South Brisbane.

Dr MacMAHON:—and you are making that choice to condemn children to incarceration.

Mr DEPUTY SPEAKER: Pause the clock!

Dr MacMAHON: I am finished.

Mr DEPUTY SPEAKER: Member for South Brisbane, you will direct your comments through the chair. Have you completed your contribution? You have.