

Making Queensland Safer Bill 2024 (Qld)

Submission to the Justice, Integrity and Community
Safety Committee, Queensland Parliament

3 December 2024

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Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

The ALA office is located on the land of the Gadigal people of the Eora Nation.

¹ www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the opportunity to have input to the Justice, Integrity and Community Safety Committee ('Committee') as part of the Committee's inquiry into the Making Queensland Safer Bill 2024 (Qld) ('Bill'), designed to enshrine "adult crime, adult time" in legislation.²
2. However, we note that stakeholders have been two business days in total to provide written submissions to this inquiry. For changes which will have such a significant and detrimental effect on children in Queensland, the ALA submits that this consultation timeframe is entirely inappropriate. Playing politics is being put ahead of the needs of vulnerable children in Queensland and certainly ahead of the thorough scrutiny of legislation that the Queensland public expects of Queensland's unicameral Parliament.
3. These amendments, by the Queensland Government's own admission, "are specific to Queensland and not uniform with or complementary to legislation of the Commonwealth or another state".³ The ALA is deeply concerned about the serious deviation of Queensland from the accepted norms and principles underpinning justice approaches to children across Australia.
4. The ALA's submission will address:
 - a. community safety, the "Youth Crime Crisis" and confidence in Queensland's justice system;
 - b. the undermining of long-established sentencing principles;
 - c. the disproportionate effect on Aboriginal and Torres Strait Islander children in Queensland; and
 - d. overriding Queensland's *Human Rights Act 2019*.

² Explanatory Notes, Making Queensland Safer Bill 2024 (Qld) 1.

³ Ibid 11.

Community safety, the “Youth Crime Crisis” and confidence in Queensland’s justice system

5. The Queensland Government has stated that its intention is for the changes ushered in by this Bill to “restore community safety and turn the tide on the Youth Crime Crisis”.⁴
6. Further, the Explanatory Notes detail the following intention:⁵

The amendments in the Bill will demonstrate to the community that youth offending is treated seriously and will increase community confidence in the justice system.
7. The ALA contends that, based on all available evidence, the changes proposed by this Bill will not restore community safety. Further, rather than reducing the rates of crimes committed by children, these proposed changes will instead increase rates of crime and recidivism.
8. The ALA contends that youth detention in Queensland does not result in the rehabilitation of children or their safe reintegration into the community. On the contrary, the Queensland Family and Child Commission (QFCC) found that 84 and 96 per cent of youth released from youth detention in Queensland in 2023 reoffended within 12 months.⁶ Further, QFCC determined that “existing approaches to rehabilitation and reintegration are ineffective” within Queensland youth detention facilities.⁷
9. Youth detention in Queensland leads to an ongoing cycle of those children being in contact with Queensland’s criminal justice system and with the child protection system, especially if those children have a history of being abused or neglected.⁸

⁴ Premier David Crisafulli, Attorney-General and Minister for Justice and Minister for Integrity Deb Frecklington, Minister for Police and Emergency Services Dan Purdie, Minister for Youth Justice and Victim Support and Minister for Corrective Services Laura Gerber, ‘A fresh start for Queensland: Making Queensland Safer Laws to restore community safety’ (Media Statement, 28 November 2024) <<https://statements.qld.gov.au/statements/101648>>.

⁵ Explanatory Notes, Making Queensland Safer Bill 2024 (Qld) 1.

⁶ Queensland Family and Child Commission, Queensland Government, ‘Young people reveal solutions to reduce reoffending’ (Media Release, 21 June 2024) <www.qfcc.qld.gov.au/news-and-media/young-people-reveal-solutions-reduce-reoffending>.

⁷ Ibid.

⁸ Australian Institute of Health and Welfare, Australian Government, *Young people under youth justice supervision and their interaction with the child protection system 2022–23* (Report, 2024) <www.aihw.gov.au/reports/youth-justice/young-people-youth-justice-supervision-2022-23/summary>.

10. Therefore, we submit, these proposed legislative changes will not increase public confidence in Queensland’s justice system, as the promised outcomes of reduced crime and a restoration of community safety will not eventuate.
11. Alternatively, Australian research has demonstrated that early intervention and prevention programs reduce crime by between 5 per cent and 31 per cent, as well as reducing offending among vulnerable populations (including children and Aboriginal and Torres Strait Islander peoples) by 50 per cent.⁹
12. The Queensland Government has expressed its commitment to victim survivors and their rights.¹⁰ The ALA supports and actively advocates for the rights of victim survivors. Our members firmly believe, though, that this Bill will not have the intended effect of supporting victim survivors but will instead risk putting more Queenslanders at risk of being victims of crime, and will in reality undermine the experience for and healing of victim survivors through the criminal justice process.

Undermining of long-established sentencing principles

13. The Bill proposes to remove the principle of detention as a last resort and also “the principle that a non-custodial order is better than detention in promoting a child’s ability to reintegrate into the community”.¹¹
14. Further, the Explanatory Notes include this stark acknowledgement:¹²

Under international law, the United Nations Convention on the Rights of the Child, to which Australia is a signatory, requires that detention of children should only happen as a last resort, and for the shortest possible time, recognising that detention is inherently harmful for children and, by extension, the community as a whole.

⁹ Eden Gillespie, ‘Cost of keeping Queensland child in custody hits \$2,000 a day, report finds’, *The Guardian* (online, 30 May 2023) <www.theguardian.com/australia-news/2023/may/30/cost-of-keeping-queensland-child-in-custody-hits-2000-a-day-report-finds>.

¹⁰ Premier David Crisafulli, Attorney-General and Minister for Justice and Minister for Integrity Deb Frecklington, Minister for Police and Emergency Services Dan Purdie, Minister for Youth Justice and Victim Support and Minister for Corrective Services Laura Gerber, ‘A fresh start for Queensland: Making Queensland Safer Laws to restore community safety’ (Media Statement, 28 November 2024).

¹¹ Explanatory Notes, Making Queensland Safer Bill 2024 (Qld) 9; see: Making Queensland Safer Bill 2024 (Qld) cl 15, proposed amendment to s 150 of the *Youth Justice Act 1992* (Qld).

¹² Explanatory Notes, Making Queensland Safer Bill 2024 (Qld) 9.

15. The ALA strongly opposes legislation which undermines long-established principles, such as detention as a last resort.
16. We contend that the Queensland Government's response to youth crime must have close regard to what is best for children in Queensland and what is in compliance with international law (including but not limited to the United Nations Convention on the Rights of the Child) – that is: prevention, intervention, diversion and rehabilitation, with detention as a last resort.

Costs of detention

17. The Queensland Government has admitted that these proposed legislative “may increase the amount of time that young offenders spend in detention centres and corrective services facilities, increasing demand for these facilities”.¹³
18. The ALA notes that, according to the data from the Productivity Commission, youth detention costs the Queensland Government upwards of \$2,068.32 a day.¹⁴
19. The ALA submits that the Queensland public will not accept the burden on Queensland's Budget of more children in detention in Queensland for longer periods of time, especially when the intended outcomes of these legislative changes will not be achieved (as explained earlier in our submission).

Disproportionate effect on Aboriginal and Torres Strait Islander children in Queensland

20. The ALA is seriously concern about the disproportionate effect these proposed new laws will have on Aboriginal and Torres Strait Islander children in Queensland. We note that Aboriginal and Torres Strait Islander children already account for up to 62 per cent of children in detention in Queensland, despite Aboriginal and Torres Strait Islander youth making up only 7.8 per cent of youth in Queensland.¹⁵

¹³ Explanatory Notes, Making Queensland Safer Bill 2024 (Qld) 8–9.

¹⁴ Eden Gillespie, 'Cost of keeping Queensland child in custody hits \$2,000 a day, report finds', *The Guardian* (online, 30 May 2023).

¹⁵ Dechlan Brennan, 'Queensland bail laws driving kids to plead guilty to crimes they didn't commit', *National Indigenous Times* (online, 28 June 2023) <<https://nit.com.au/28-06-2023/6541/new-bail-laws-driving-kids-to-plead-guilty-to-crimes-they-didnt-commit>>.

21. Previous punitive responses to crimes committed by children in Queensland have resulted in disproportionate application on Aboriginal and Torres Strait Islander children.¹⁶
22. ALA members are very concerned that these proposed laws will only result in more Aboriginal and Torres Strait Islander children in Queensland’s prisons. Those Aboriginal and Torres Strait Islander children would instead benefit from the Queensland Government investing in culturally-informed justice reinvestment programs, as well as prevention, diversion and rehabilitation programs.

Overriding Queensland’s *Human Rights Act 2019*

23. The ALA notes that the Queensland Government has provided a *Statement about Exceptional Circumstances*, declaring that the *Human Rights Act 2019* (Qld) will not apply to the amended section 150 and to the new section 175A of the *Youth Justice Act 1992* (Qld).
24. The *Statement about Exceptional Circumstances* includes the following: “The Government accepts that these provisions are incompatible with human rights”.¹⁷
25. The ALA does not accept that progressing legislation that is objectively incompatible with human rights – both Queensland’s own legislative human rights instrument and international law – is appropriate or necessary.
26. All the more so in relation to this Bill, we contend, given the impact the Bill’s provisions will have on vulnerable children in Queensland, and with regard to how little time is being afforded to proper scrutiny and analysis of this proposed legislation.

¹⁶ Ibid.

¹⁷ Attorney-General Deb Frecklington, *Statement about Exceptional Circumstances* (2024) 1.

Recommendations

The Australian Lawyers Alliance recommends that:

1. the Queensland Government should withdraw the Making Queensland Safer Bill 2024 (Qld), which the Committee should recommend in the Committee's final report for this inquiry; and
2. the Queensland Government instead invests in and prioritises a response to crimes committed by children in Queensland that includes culturally-informed prevention measures, diversion programs, rehabilitation access and justice reinvestment programs.

Conclusion

27. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input to the Justice, Integrity and Community Safety Committee on the Making Queensland Safer Bill 2024 (Qld).

28. The ALA is available to provide further assistance to the Committee on the issues raised in this submission.



Sarah Grace

President, Queensland Branch Committee

Australian Lawyers Alliance