ChildProtectionPeak

Queensland Aboriginal and Torres Strait Islander
Child Protection Peak Limited

Making Queensland Safer Bill Submission

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Introduction

The Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) is the Child Protection and Youth Justice Peak Body for Queensland. Along with our 38 member organisations and partners, we are committed to creating safer communities by building strengthened partnerships with government, service providers and community organisations.

QATSICPP is deeply concerned about youth offending behaviours and the significant harm they create in communities across Queensland. We welcome the opportunity to provide a submission to the Making Queensland Safer Bill 2024 (the Bill).

Alongside the Queensland Government we look to address the underlying causes of youth offending, recognise and uphold the rights of victims, and effectively support children and young people to make positive contributions to their communities. We recognise an urgent need to implement support systems and timely interventions that will reduce recidivism rates for the small cohort of children and young people in contact with the youth justice system and therefore prevent the cycle of serious and repeat offending.

Of concern within the Bill is the legislative shift towards punitive sentencing. As acknowledged by the Attorney General in the Statement of Compatibility for the Bill (p.5): *"The amendments will lead to sentences for children that are more punitive than necessary to achieve community safety…mandatory sentencing prevents the application of this principle."*[1] Legislative changes which encourage more punitive punishments than are necessary risk significantly undermining the Queensland Government's stated aim, to create a world class early intervention system in Queensland.

We note that increasing the use of detention across the board is likely to result in many missed opportunities to address offending behaviour before it escalates. The proposed changes also risk undermining human rights and Close the Gap commitments by imposing developmentally inappropriate consequences on children, with particular respect to children under 14 and youth offenders who have committed non-violent offences.

Acknowledging that the legislation is likely to pass, our submission underscores a firm commitment to guiding its implementation in ways that support creating safer communities, provide consequences for action and mitigate unintended negative consequences.

This document represents our considered advice to the government, rooted in QATSICPP's dedication to ensuring evidence-based and effective policy frameworks. By proposing practical amendments and advocating for community-informed approaches, we aim to address potential risks proactively while supporting the goal of community safety.

Our submission highlights our understanding and solutions drawn from insights gained during our ongoing system improvement and reform work in the child, youth and family sectors, where we have heard firsthand about the barriers and enablers to positive outcomes for children and young people who are offending or at risk of offending.

Detention as a response to youth offending behaviours

QATSICPP acknowledges that the legislative amendments proposed are aimed at ensuring appropriate consequences for children and young people who engage in offending behaviour, creating harm to our community and to themselves. QATSICPP understands this approach and supports the overall intent of holding children accountable for their actions. However, evidence suggests that if overused, detention will further criminalise many children and young people, resulting in an overall reduction in community safety.[2] We acknowledge that whilst decisive and

drastic steps may feel like the right response to the distressing incidents of youth offending behaviours our community has experienced in recent years, we must be cautious not to create larger community safety risks through adopting approaches which remove access to rehabilitation and condemn children to lifelong involvement with the criminal justice system.

Research consistently shows that placing young people in detention without carefully exploring alternatives often fails to act as a deterrent and reduce reoffending, especially as it exposes first-time offenders to environments that may victimise them and normalise criminal behaviour.[3] For instance, Queensland has one of the highest youth detention rates in Australia, with approximately 80% of detained children reoffending within 12 months; indicating that detention is not an effective deterrent[4]. Studies suggest that young people who experience detention are more likely to reoffend upon release than those sentenced to community-based interventions. This is especially true for those without prior offences, as detention exposes them to institutionalisation and peer influences that can increase their likelihood of reoffending.

Removing detention as a last resort risks an over-reliance on custodial responses, which may unintentionally compromise long-term community safety by reinforcing and enabling repeat cycles of offending. This is because:

1. Children and young people often have limited ability to assess the outcomes of their behaviour (typically overestimating benefits and underestimating costs) and are susceptible to strong peer influence and biological disturbances, which can increase risk-taking behaviour.
2. As children and youth engage more frequently with the system, the youth justice system becomes more familiar and 'normal' to them, and therefore its deterrence value fades over time.
3. Enhanced penalties and deterrence are unlikely to reduce youth offending behaviours if the risk factors or root causes have not been addressed[5].

In 2021–2022 children in Queensland were imprisoned at more than twice the rate of children in New South Wales and Victoria, yet in the following year all three states had very similar, modest increases in youth offending behaviour rates. Many children who enter the youth justice system come from backgrounds where they have experienced disadvantage and trauma, with a significant number also having experienced placement in out-of-home care. As noted by the Justice Reform Initiative, these "children need family and community support, education, and life opportunities, not punishment that compounds disconnection and disadvantage."[6]

This is particularly concerning in the context of non-violent offences, such as burglary without aggravating circumstances. While these incidents are understandably distressing to victims, they often present an opportunity for diversion and intensive support rather than a detention approach which can compound offending behaviours. Data indicates that most children involved in non-violent burglaries act out of desperation or neglect, rather than with intent to harm. [7]

Timely and intensive early interventions have shown remarkable success in reducing reoffending rates. Programs such as Queensland's Youth Justice Intensive Case Management demonstrate significant reductions in offending frequency, with a 51% decrease overall and a 72% reduction in crimes against persons[8]. Comparable programs run by Aboriginal and Torres Strait Islander organisations in Victoria aimed at young men and boys have displayed similarly positive results.[9] By prioritising culturally safe, community-based interventions, we can disrupt trajectories of offending while addressing the root causes of criminal behaviours.

Despite intentions to create a rehabilitative environment, factors like solitary confinement, inadequate care, and the violent conditions of many correctional facilities often exacerbate pre-existing vulnerabilities in children rather than helping them overcome these challenges.

In Queensland, chronic staffing shortages in youth detention facilities have further compounded these issues. According to the Queensland Children's Court Annual Report 2022–2023, inadequate staffing levels, particularly at Cleveland Youth Detention Centre in North Queensland, have resulted in children spending extended periods locked in their cells.

These prolonged lockdowns have been widely criticised for their harmful impacts, including escalated behaviours, fractured relationships, and a breakdown of therapeutic alliances between staff and children. Research has shown that such isolation not only worsens behavioural issues but also hinders rehabilitation efforts, making it unlikely that increased use of detention will contribute to long-term community safety without substantial improvements in detention environments.

Bob Atkinson, in his *Report on Youth Justice*, highlighted the need to avoid such counterproductive practices. Atkinson's Four Pillars' approach urged early intervention, diversion from court, alternatives to custody, and a focus on reducing reoffending through rehabilitation and reintegration strategies. These principles underscore the necessity of fostering a truly rehabilitative environment and avoiding practices like extended lockdowns, which aggravate the very conditions that youth detention is intended to address[10].

The evidence and our own experience over the past 15 years tell us that a more nuanced approach will achieve an increase in community safety that all Queenslanders deserve whilst meeting community expectations.[11] The considerable evidence[12] about the significant limitations of detention to reduce crime in the long term suggests it is not judicial discretion or lenient sentencing that is the primary driver of serious youth crime in Queensland, but a range of system factors, including cost of living increases and the lack of sufficient and effective services to support at risk children and youth, many of whom have been victims of crime themselves.

Understanding the Victim-Offender Cycle

The relationship between victimisation and offending is deeply interconnected, particularly among children. However, young offenders are often reluctant to disclose critical personal information, such as experiences of trauma or neglect, which effects the court's ability to deliver informed and rehabilitative sentencing. Research by the Queensland Government Statistician's Office highlights that a significant proportion of individuals who have offended have also experienced victimisation, with this overlap being most pronounced among vulnerable populations, including Aboriginal and Torres Strait Islander children. For example, 51% of victims of personal crime have also been recorded as offenders, and this figure rises dramatically for Aboriginal and Torres Strait Islander children[13].

This data underscores the necessity of trauma-informed and rehabilitative approaches within the youth justice system. Measures that disregard these overlapping vulnerabilities risk perpetuating cycles of harm, as many children have histories of victimisation that directly contribute to their offending behaviours. Addressing these complex dynamics through early intervention and support services, rather than incarceration, is critical to breaking these cycles and thereby improving community safety.

Targeted Investment into Rehabilitation and Early Intervention

Evidence demonstrates that early intervention programs, particularly those that are culturally informed and trauma-responsive, are effective in breaking the cycle of offending and victimisation among children[14]. Without these measures, children with offending behaviours are more likely to reoffend, perpetuating harm to themselves and their communities.

Queensland needs approaches that more effectively address the factors driving young people's offending behaviours so that contact with the justice system is reduced. We are encouraged by the Government's commitment to establish alternative sentencing options to Queensland's current detention centre model and look forward to working with the Department of Youth Justice to co-

design and implement these models. In addition to this there are many other, non-legislative changes and reforms that will have more effective and far-reaching impacts than increasing the use of youth detention in Queensland[15].

Recent research published by Griffith University has revealed the long-term success of early prevention initiatives and community support for young children and families, reducing rates of involvement in serious youth offending behaviours.[16] A combination of effective early childhood education combined with support for families has been identified as particularly effective in assisting children to avoid lifelong criminal justice involvement.

Given the significant cross over between the child safety and youth justice systems and the disproportionate representation of First Nations children in these systems, there is an urgent need for investment in new models of caring for Aboriginal and Torres Strait children who are not able to be cared for by their parents[17]. Pressures on Queensland's current out-of-home care system have resulted in a dramatic increase in the use of non-family-based care options, such as residential care, which have proven to be generally ineffective at meeting children's needs and are likely to increase involvement with the youth justice system. 60% of Australian children in youth detention during 2020–2021 had some form of child protection contact, and 23.8% had been placed in out-of-home care (OOHC), in the previous five years.[18]

Effective responses for Aboriginal and Torres Strait Islander Children and Youth

There is understanding and commitment that early intervention is critical to reducing the incidence and impacts of youth offending behaviours across Queensland[19]. Given the over-representation of Aboriginal and Torres Strait Islander children and young people in contact with youth justice, including in detention, Aboriginal and Torres Strait Islander community organisations and Peak Bodies must be at the heart of designing and implementing new solutions. Our communities are best placed to take on the responsibility to support their children and young people on pathways to ensure they thrive[20].

Despite the numbers of First Nations children and young people who come into contact with the criminal justice system, current investment in Aboriginal and Torres Strait Islander community driven solutions is less than 10 percent of the current investment in the Youth Justice Departmental service provision[21]. To divert more children and young people from the youth justice system, we need to increase investment across all stages of service provision. This includes prevention, early intervention, and support for those transitioning back into the community after detention. By targeting our efforts in these areas, we can help ensure a safer and more supportive environment for young people.

Aboriginal and Torres Strait Islander services have proven that whenever we have been given the opportunity to innovate, we have delivered timely and practical solutions to support young people in reducing contact with justice systems. By addressing trauma, fostering meaningful relationships, and equipping children with life skills and opportunities, these models create enduring change and build safer communities[22].

Expanding and scaling these solutions statewide, particularly in regions with heightened vulnerabilities, is essential to achieving long-term reductions in youth offending. Such an approach not only benefits the individual children involved but also generates broader societal benefits by reducing the strain on the justice system and contributing to safer, more cohesive communities[23].

Why Invest in Aboriginal and Torres Strait Islander Led Models?

1. Effectiveness across the continuum of care:
   Increased investment in prevention, early intervention, and post-detention reintegration programs is critical to breaking the cycle of offending. These approaches support children in

transitioning safely back into their communities, addressing the factors that lead to reoffending, and ensuring they have the support needed to thrive.

2. Cost-efficiency:
   First Nations-led models consistently deliver better outcomes at lower costs compared to mainstream justice responses, particularly detention. Investing in these programs represents a cost-effective way to address systemic challenges while building community capacity[24].

3. A foundation for equity:
   Greater investment in First Nations-driven approaches is a step toward addressing historical underfunding and achieving a more equitable justice system.[25] It ensures Aboriginal and Torres Strait Islander voices are central to the design and implementation of solutions affecting their children and communities.

Investing in Aboriginal and Torres Strait Islander community-led models is not merely a policy choice; it is an imperative for justice, equity, and community safety. By prioritising these proven approaches, Queensland can break cycles of offending, foster resilience, and ensure more positive futures for its children while creating safer, stronger communities.[26]

Recommendation 1

The Queensland Government significantly increase investment in Aboriginal and Torres Strait Islander community-driven solutions to reduce numbers of First Nations youth in contact with the justice system. Funding must be targeted across the continuum of care, from prevention and early intervention to reintegration, prioritising First Nations-led models proven to deliver better outcomes at significantly lower costs[27].

Mitigating Potential Unintended Consequences

As the Government has acknowledged, detention alone will not resolve the youth offending behaviours crisis. The implementation of the Bill is likely to result in a significant increase in the number of children and young people detained in Queensland's youth justice system and carries the risk of compounding the factors that led to the individual's justice system involvement in the first place.

As advocates for community wellbeing and champions of the rights of children and young people, we have a responsibility to ensure that detention is a measure of last resort—one that genuinely balances the rights of the individual with the safety and expectations of the community. This balance demands a rigorous approach to addressing and mitigating any unintended negative consequences of the legislation.

QATSICPP offers the following advice to proactively address and reduce the primary potential adverse effects of the Bill, ensuring that the Bill's implementation supports victims and improves community safety while supporting positive outcomes for children, young people, and their communities. (Please see Appendix A for a list of suggested actions to mitigate the unintended consequences of this aspect of the Bill).

Adult Crime for Adult Time

The Bill proposes to apply adult sentencing penalties to children convicted of specific serious offences, removing rehabilitative principles foundational to the Youth Justice Act (the Act). This includes aligning sentencing guidelines for certain offences with those in the Criminal Code and the Penalties and Sentences Act. These changes allow courts to impose adult penalties, including longer detention periods, on children convicted of these offences, representing a significant shift in Queensland's youth justice and sentencing framework.

The stated aim of these amendments is to provide a strong deterrent against serious crimes and ensure consistency in sentencing by applying adult standards. However, this approach directly conflicts with international human rights principles, such as the United Nations Convention on the Rights of the Child, which emphasises that sentencing for children must always consider their developmental needs and focus on rehabilitation. By adopting an approach focused on deterrence and retribution, the Bill risks entrenching vulnerable children in the criminal justice system, diminishing their opportunities for reintegration into the community.

To preserve the rehabilitative intent of the youth justice system, the Act must retain its focus on tailoring sentencing responses to the unique needs of each child, young person and victim. This includes distinguishing between violent and non-violent offences and prioritising rehabilitative approaches for non-violent offending. For instance, differentiating primary offenders from accomplices in sentencing is critical, as accomplices are often more amenable to rehabilitation. As outlined earlier in this submission, targeted support and diversion programs for these children can yield significant social and economic benefits while reducing recidivism rates and improving community safety.

Through amendments to sentencing principles contained within Section 175 of the Act, the Bill proposes to remove an obligation on the court to consider rehabilitation of the child or young person when sentencing. Whilst rehabilitation is still in the in Charter of Principles, it is not meaningfully enacted if it is omitted from sentencing principles in the Act as these are what judges and magistrates must draw upon in formulating sentences.

The removal of rehabilitation-focused principles risks limiting opportunities for the preventive and supportive measures which are key to improving community safety over time, in favour of significantly increasing the numbers of children exposed to periods of detention, which evidence suggests is associated with increases in the likelihood of future offending. [28]

Recommendation 2

The Bill be amended to remove non-violent offences (e.g. unlawful use of a motor vehicle and non-violent burglary offences) from the list of 'Adult Crime Adult Time' penalties it is proposing in Clause 19 to ensure legislation that enables proportionate and rehabilitative sentencing.

Under Queensland's Criminal Code, offences such as burglary and unlawful use of a motor vehicle encompass offending across a broad spectrum of seriousness, from entering a house through an open door or stealing and driving a motor vehicle at non dangerous speeds, to violent, forcible break-ins during the night and 'joy riding''[29].

The broad categorisation risks overuse of punitive responses, such as detention, for non-violent offences. Without proper distinction, sentencing approaches may contribute to "net widening," drawing more children with minor offending behaviours into punitive systems, and effectively

removing opportunities for early intervention and rehabilitation**.** Given that approximately 62% of children and young people involved with the youth justice system only commit one offence and do not have any further involvement with the system, it is critical we have legislation that enables proportionate and effective responses.[30]

Rehabilitation is not just an act of support for the individual child—it is an investment in community safety. Rehabilitation and restorative justice provide evidence-based alternatives for addressing non-violent offences, offering both accountability and meaningful resolution without the long-term harm associated with detention[31]. Introducing a clear legislative distinction between violent and non-violent offences within this category would ensure proportionate responses, better aligning with international human rights standards and evidence supporting community safety through rehabilitation. [32]

Recommendation 3

Given the research about the links between early age and severity of involvement in the criminal justice system as precursor to system entrenchment, QATSICPP proposes the Queensland Government amend the Bill so that the new maximum penalties (Clause 19 of the Bill) apply only to young people aged 14 and over.

There is extensive evidence documenting that the younger the age of first contact with the youth justice system, the greater likelihood a child will become entrenched in the criminal justice system.[33] Known evidence also highlights that[34]:

- Children are less likely to engage in reoffending behaviours if system responses prioritise maximum diversion and minimal intervention.
- The earlier age a child receives a court sentence the more likely they are to reoffend, reoffend violently and continue their offending into adulthood.
- The younger children who received a youth justice supervision order were more likely to have received child protection services.

Given the particular vulnerabilities, the developmental considerations and the known evidence that disproportional intervention for under 14-year-olds increases the likelihood for reoffending behaviours, removing 10–13-year-olds from this sentencing regime and prioritising diversion to rehabilitation will enable more effective system responses for this cohort, creating greater community safety overall.

Removal of Detention as a Last Resort

The proposal to remove detention as a last resort from the Youth Justice Act is a step QATSICPP understands is aimed at ensuring appropriate consequences for offending behaviour. QATSICPP recognises the importance of community safety and accountability, particularly given the impacts of youth offending behaviours on victims. However, we are concerned that removing this safeguard could result in the overuse of detention, particularly for first-time and low-level offenders, without careful consideration of alternatives. The current provision in the Youth Justice Act, which states that "a child should be detained in custody, where necessary, including to ensure community safety, where other non-custodial measures of prevention and intervention would not be sufficient, and for no longer than necessary to meet the purpose of detention," helps balance accountability with a focus on rehabilitation. This balance is crucial for supporting young people in making positive life

changes, without inadvertently creating pathways to more serious offending or lifelong involvement with the justice system.

The removal of detention as a last resort contradicts overwhelming evidence demonstrating that punitive approaches for children are not only ineffective but harmful.[35] For example, research consistently shows that children subjected to detention are more likely to reoffend compared to those given community-based interventions. This is particularly concerning for First Nations children, who are disproportionately represented in the youth justice system and face higher risks of systemic disadvantage and over-policing.[36]

The proposed change is also in contrast to sentencing principles for adults. The *Penalties and Sentences Act* (1992) states that a sentence of imprisonment should only be imposed as a last resort for a wide range of non-violent offences. Therefore, if passed, this Bill would then result in a Queensland justice system where detention is a last resort is a principle applicable for adults in the criminal justice system, but not for children in the youth justice system.

The state has a fundamental responsibility to support children and young people, particularly when they lack a parent who is willing and able to do so. By removing the principle of detention as a last resort, there is a real risk of diminishing the Government's motivation to ensure that adequate placements and support systems are in place for children and young people, especially those in OOHC in Queensland.

The last resort principle has historically acted as a safeguard, pressing the government to prioritise appropriate, therapeutic, and community-based interventions over punitive measures. Without this accountability mechanism, children in OOHC may face increased vulnerability to further harm and systemic neglect, as the emphasis shifts away from providing holistic support toward reliance on custodial solutions focused on containment which often exacerbate rather than address dangerous behaviours.

The root causes of youth offending behaviours, including trauma, socio-economic disadvantage, mental health challenges, and lack of supportive networks, require responses that go beyond punitive measures. For example, programs like the On Country initiative demonstrate how culturally aligned, rehabilitative options can help address these underlying factors, reducing reoffending and give children and young people hope. In contrast, overusing detention for first-time or low-level offenders removes them from positive influences and opportunities for turning their lives around, with potentially long-term societal consequences.

QATSICPP supports a balanced approach that prioritises both safety and rehabilitation by keeping detention as a last resort, while expanding evidence-based alternatives and prevention programs that reduce repeat and serious youth offending.

Removal of Exclusion Orders

Recommendation 4

The Bill be amended to retain provisions within the current Children's Court Act allowing the Children's Court to make exclusion orders in cases where the presence of certain individuals or entities could risk the safety of a person or prejudice the proper administration of justice. Judicial discretion is critical to safeguarding procedural fairness and protecting the rights of children.

The proposed amendments in the Bill remove the ability for the Children's Court to make an exclusion order, even in circumstances where there may be a risk to the safety of a person or where it may prejudice the proper administration of justice. This change represents a significant departure from the principles of procedural fairness and judicial discretion that are fundamental to ensuring just outcomes in youth justice proceedings.

We are deeply concerned that this legislative amendment is likely to result in unjust criminal proceedings for children.[37] The inability to exclude individuals or entities in sensitive or high-profile cases may expose vulnerable children to situations where their safety is at risk or where the integrity of judicial processes is compromised. This risk is particularly acute for Aboriginal and Torres Strait Islander children, who already face systemic inequities within the justice system and are disproportionately involved in the youth justice system.

Allowing broader access to court proceedings, particularly for victim representatives, also raises the risk of vigilante behaviour. Historical examples highlight the dangers of community retaliation or vigilantism following highly publicised youth offences. For instance, in Queensland, past incidents of public outcry over youth crime have escalated into community-driven retaliation, targeting not only alleged offenders but also their families.[38] Such responses can result in further marginalisation of vulnerable children, exacerbating trauma and undermining the potential for rehabilitation. The presence of victim representatives in an open court may inflame these tensions, particularly in small communities where anonymity is difficult to preserve. This risk is heightened for Aboriginal and Torres Strait children, who often come from tight-knit communities where such exposure can have far-reaching consequences.

Judicial discretion to exclude parties in cases where their presence could harm the proper administration of justice is essential to maintaining fairness and protecting children's rights. The removal of this power undermines the foundational principles of the youth justice system, which are about rehabilitation, fairness, and the best interests of children[39].

Furthermore this amendment contradicts international human rights standards, such as the United Nations Convention on the Rights of the Child, which obligate states to protect children from all forms of harm and to ensure that judicial proceedings involving children are conducted in a manner that upholds their dignity and rights[40].

Removing access to Restorative Justice

Recommendation 5

QATSICPP recommends the Bill be amended to ensure restorative justice orders remain an available option for non-violent offences within the 'Adult Crime Adult Time' offences proposed in Clause 19. This ensures accountability and rehabilitation while reducing the overuse of detention for offences that can be effectively addressed through restorative justice solutions.

The Bill proposes removing restorative justice as an option for offences classified as "Adult Crime Adult Time," regardless of whether the offence is violent or non-violent. This removal undermines evidence-based approaches that have been proven to reduce reoffending and foster meaningful accountability. The exclusion of restorative justice processes for non-violent offences denies opportunities for victims to engage constructively with offenders and for offenders to be accountable in ways that promote rehabilitation and victims' voices.

Restorative justice processes are grounded in community-based principles that aim to repair harm through dialogue and mutual understanding. These processes allow victims and offenders to come together in controlled, supportive environments, encouraging meaningful resolution and fostering a sense of justice for victims. Evidence demonstrates that restorative justice yields measurable benefits, with studies showing that 77% of children reduce or cease offending after participating in restorative justice conferences.

QATSICPP strongly recommends that restorative justice remain an option for non-violent offences classified under the "Adult Crime Adult Time" category. For non-violent offences, where the risk to community safety is lower, restorative justice processes can provide an effective alternative to detention, addressing the underlying causes of offending behaviours and creating opportunities for rehabilitation. Restorative justice processes have also been shown to deliver better outcomes for victims, particularly those who value acknowledgment of harm and opportunities for resolution over punitive measures.

For Aboriginal and Torres Strait Islander children, who are disproportionately represented in the youth justice system, restorative justice processes further offer a culturally safe framework for accountability that aligns with community values and supports long-term rehabilitation.

Mitigating Unintended Consequences for Aboriginal and Torres Strait Islander Children

Murri Courts (Queensland) and Koori Youth Courts (Victoria) provide culturally responsive approaches to youth justice by incorporating the guidance of Elders and community representatives. These courts prioritise rehabilitation and accountability while addressing consequences of offending and the unique cultural needs of Aboriginal and Torres Strait Islander youth. Evidence from these programs show reduced recidivism rates and increased engagement with rehabilitative programs. These courts align with restorative justice principles by ensuring that cultural connection and community support are central to the judicial process. Expanding access to culturally tailored courts can complement broader reforms, addressing the overrepresentation of Aboriginal and Torres Strait Islander children in the justice system.[41]

Juvenile Criminal History

Recommendation 6

The Bill be amended to limit the admissibility of juvenile criminal history in adult proceedings to history involving serious and violent offences. This ensures that children with minimal contact with the justice system are not unnecessarily burdened by punitive legacies and preserves opportunities for effective rehabilitation and reintegration.

Whilst QATSICPP acknowledges the intention to ensure children and young people are accountable for their actions, there is a need to balance this desire with the consequences of children facing reduced lifelong opportunities on the basis of decisions they made before becoming adults. Furthermore, evidence points to the considerable long-term implications of such approaches on rehabilitation and reintegration. Criminal records, especially those from juvenile years, can perpetuate cycles of disadvantage by limiting access to meaningful opportunities that are crucial for rehabilitation[42].

Research consistently highlights the adverse impact of criminal history disclosure on young people's ability to secure employment, build stable lives, and reintegrate into society[43]. The inclusion

of minor and historic juvenile offences in adult criminal justice processes may disproportionately penalise individuals for actions undertaken during developmental stages marked by immaturity, limited foresight, and external pressures, such as socio-economic disadvantage or trauma.

A Collaborative Approach

QATSICPP is committed to partnering with the Queensland Government to create a youth justice system that prioritises community safety, supports children and families, and delivers meaningful outcomes for all stakeholders. Addressing the root causes of offending and systemic inequities requires reforms built on evidence-based practices and informed by the lived experiences of Aboriginal and Torres Strait Islander communities. These reforms must be appropriately resourced and co-designed with community leadership to ensure they are culturally safe, effective, and sustainable.

As the child protection and youth justice peak body for Queensland, QATSICPP brings a unique perspective to this collaboration. Our priorities include:

- Building the evidence base: Continuing to strengthen the understanding of what works in reducing serious offending behaviours and supporting early intervention strategies, with a focus on culturally responsive and evidence informed practices.
- Co-designing and scaling gold standard interventions: Working with the Queensland Government and community partners to innovate and improve service models that address the underlying causes of offending. QATSICPP brings to this work a wealth of experience from our member organisations in delivering services to children and young people and their families.
- Addressing the pipeline from out-of-home care to youth justice: Reforming the out-of-home care system to reduce its contribution to youth offending behaviours and promote stability for children and young people.
- Strengthening community partnerships: Leveraging the experience of our member organisations to co-develop solutions that are community led, trauma informed and grounded in cultural safety.

Implementation Recommendations

The changes outlined in the Bill represent a significant shift in focus for Queensland's youth justice system and it will be critical to monitor the implementation of these reforms to ensure they are achieving their stated aims. To this end QATSICPP makes the following recommendations:

- The impact of the 'Adult Crime Adult Time' **reforms should be regularly reviewed** using a sector of indicators and measures co-developed by the community and relevant experts. This should include monitoring future data against measures such as the current number of young people involved with the youth justice system who only commit one offence and do not have any further involvement with the system, as well as the reoffending rate.

- The Queensland Government commit to **reviewing the impact of the 'Adult Time for Adult Crime' laws after two years of implementation** and make changes to the legislation if the review suggests the changes are having a negative impact on Queensland children, families and communities.
- The Queensland Government **engage QATSICPP and other child, youth and legal experts as active participants in the panel** to be established to review the list of offences to be

included in the 'Adult Crime, Adult Time' legislative amendments. QATSICPP, through our connections with services across Queensland has significant knowledge and expertise relevant to this process that would assist to mitigate negative unintended consequences arising from implementation of the Bill.

- The **government co-design and deliver culturally safe, accessible resources** with community leaders and organisations to ensure families, children, and communities fully understand the laws and their intended outcomes. To ensure the success of the Bill's implementation, it is critical to provide clear, accessible information to children and families. Many families currently lack the resources needed to navigate legislative changes, which can exacerbate inequities and limit compliance. Co-designing these resources with community leaders will foster understanding and reduce unnecessary interactions with the justice system, ultimately contributing to safer communities.

Conclusion

QATSICPP is deeply aware of the profound and far-reaching impact of Queensland's youth justice system on communities across the state. The system influences not just individuals but also the collective wellbeing of our families and communities.

We welcome the opportunity to work collaboratively with the Queensland Government and stakeholders on the reform of the youth justice and child protection systems. Our shared goal must be to ensure that these reforms bring about genuine, positive change—preventing harm, fostering rehabilitation, and supporting young people to lead constructive lives connected to their culture and community. Together, we can build a system that not only addresses offending behaviour but also creates pathways to healing, growth and safer communities for all.

Appendix A: Mitigating Unintended Consequences

Unintended Consequence	Risk	Solution
Community Safety Risks:	While intended to enhance safety, focusing on punishment over prevention may lead to poorer reintegration outcomes, making it harder for young people to become constructive community members upon release.	• Expand culturally safe rehabilitation programs that integrate education, skills training, and mental health support. • Implement wraparound supports for post-detention reintegration, ensuring continuity of care and stable housing.[44] • Increase access to early intervention programs targeting youth at risk of offending.[45]
Strain on Resources: **Economic and Social Costs**:	An increased reliance on detention facilities, such as the upcoming Wacol remand centre, may divert resources away from prevention and rehabilitation programs. This shift could undermine efforts to implement early intervention and culturally safe practices. Increased detention rates can strain public resources, diverting funds from early intervention and prevention programs that have demonstrated better long-term outcomes for community safety.	• Redirect funding towards prevention and rehabilitation initiatives proven to reduce offending, such as mentoring and family support programs.[46] • Prioritise investment in low-cost, high-impact solutions such as education and family support services. Invest in cost-effective, community-led programs to divert children from the justice system. [47] • Increase transparency on detention costs to encourage investment in alternatives.
Stigma and Long-Term Alienation:	Opening Children's Court proceedings and allowing public and media access to identities could stigmatise young offenders, making reintegration difficult and potentially leading to recidivism due to a sense of exclusion and societal bias.	• Retain privacy protections for youth offenders to prevent stigmatisation and safeguard their future opportunities. • Promote restorative justice processes where harm can be addressed privately and constructively.[48] • Educate the public and victims on the benefits of rehabilitation over punishment to shift community perspectives.[49]
Increased Institutionalisation and Normalisation of Detention:	Overexposure to detention can make the justice system feel familiar rather than deterrent. Young people may become desensitised to incarceration, leading to greater entrenchment in the criminal justice system.	• Retain the detention as a last resort principle to ensure custodial sentences are only used for high-risk cases.[50] • Explicitly distinguish between violent and non-violent offences within burglary and unlawful use categories and ensure non-violent offences prioritise rehabilitative approaches over detention.

Impact on Mental Health:	Prolonged detention, especially for children from disadvantaged backgrounds, can exacerbate mental health issues, trauma, and developmental challenges, creating long-term societal costs.	• Address chronic staffing shortages in detention facilities to prevent harmful lockdowns and isolation.[51] • Ensure trauma-informed care and therapeutic services are available in detention and during reintegration. • Partner with health services to provide relevant assessments and ongoing mental health and disability support for detained and transitioning youth.
Recidivism and Disconnection:	Detaining children without addressing the underlying social, economic, and psychological factors may increase recidivism. Research has shown that punitive measures, especially for children, often fail to deter future crimes and may instead entrench criminal behaviour	• Implement rehabilitation-focused detention programs that address trauma, family disconnection, and socio-economic disadvantage. • Expand evidence-based diversionary models to provide pathways out of the justice system.[52] • Ensure post-detention follow-up services focus on employment, education, and community reintegration. [53]
Overrepresentation of Aboriginal and Torres Strait Islander Peoples:	These laws could disproportionately affect Aboriginal and Torres Strait Islander children, who are already overrepresented in the child protection and youth justice systems. Stricter laws may lead to higher rates of detention for minor or first-time offences.	• Co-design justice responses with Aboriginal and Torres Strait Islander communities to ensure cultural safety.[54] • Increase funding for community-controlled organisations to lead diversion and rehabilitation programs.[55]
Hindered Rehabilitation Opportunities:	Removing "detention as a last resort" could limit access to community-based and therapeutic interventions, leading to reduced opportunities for young people to address the root causes of their behaviour and reintegrate positively into society.	• Expand therapeutic interventions and rehabilitation programs available both in and out of detention.[56] • Strengthen partnerships with community organisations to provide integrated support for young offenders.

Appendix B: What is already working here in Australia

Here are some evidence-backed alternatives to detention for repeat offending behaviour, particularly for those children and young people with very high needs.

1. On-Country Programs
    - Example: The Jabalbina Yalanji Aboriginal Corporation delivers an intensive On-Country Youth Justice Program in Far North Queensland.
    - Effectiveness: These programs immerse participants in their cultural heritage, offering a structured environment for personal growth and community reintegration. Early indications suggest these programs significantly improve behavioural outcomes by leveraging cultural connectedness. [57]
2. Intensive Case Management Programs
    - Effectiveness: Programs in Queensland have shown a 51% reduction in offending frequency and a 72% reduction in crimes against individuals, such as assault. These outcomes are achieved through consistent mentoring, tailored interventions, and strong support networks. [58]
3. Restorative Justice Conferencing
    - Effectiveness: Nationally, restorative justice has reduced reoffending rates by fostering accountability and repairing harm caused by crime. Specific cultural adaptations for First Nations youth further enhance efficacy, ensuring community involvement and respect for cultural practices. [59]
4. Specialised Alternative Learning Programs
    - Locations: Delivered in Cairns, Townsville, Ipswich, and Mount Isa.
    - Effectiveness: These programs help youths transition out of detention or provide alternatives that maintain engagement in education and reduce reoffending rates.[60]
5. Justice Reinvestment Initiatives
    - Example: trialled in places like Bourke, NSW.
    - Effectiveness: Justice reinvestment strategies allocate funding for community programs addressing root causes of offending, leading to significant reductions in youth contact with the justice system. For instance, Bourke's Maranguka Justice Reinvestment reported a substantial decline in family violence and juvenile bail breaches. [61]
6. Sport and Recreation Programs
    - Example: Initiatives funded under the Youth Development Partnership Fund in Queensland.
    - Effectiveness: Engaging youth in physical and mental health activities reduces criminal behaviours by providing structured outlets for energy and fostering community connections. [62]
7. Therapeutic Residential Models
    - Effectiveness: These alternatives to traditional detention provide a supportive and rehabilitative environment. Trials in Queensland have begun to show success in transitioning children out of care and reducing recidivism. [63]

These examples highlight the critical role of culturally responsive, therapeutic, and community-driven initiatives in addressing youth offending behaviours. Each demonstrates effectiveness through statistical improvements in behavioural and reoffending metrics.

Appendix C: What is working internationally

Internationally, several programs have been demonstrated to provide effective alternatives to detention for repeat offenders, including those at the "pointy end" of youth justice. These approaches often blend restorative justice, community engagement, and tailored therapeutic interventions. These international programs demonstrate that addressing root causes, such as trauma, family dysfunction, and lack of community engagement, provides a more sustainable approach to reducing youth recidivism than detention. The key is tailoring programs to the unique cultural and social contexts of the participants. Programs evaluated to be effective include:

1. Multisystemic Therapy (MST) – United States

- Description: MST is a family and community-based program targeting chronic juvenile offenders. It addresses the root causes of offending by working with families, schools, and peers to create a supportive environment.
- Effectiveness: Studies show a 70% reduction in recidivism rates and sustained improvements in family functioning and school attendance. MST has been widely adopted across the United States and other countries with proven long-term benefits. [64]

2. Restorative Justice Programs – New Zealand

- Example: New Zealand's Family Group Conferencing (FGC) model integrates restorative practices by involving young offenders, victims, and community members to resolve conflicts and create accountability.
- Effectiveness: Offenders participating in FGC have shown a 25% lower recidivism rate compared to traditional justice processes. It is also culturally adapted for Māori youth, enhancing its impact within Indigenous communities. [65]

3. Youth Advocate Programs (YAP) – United States and Ireland

- Description: YAP provides wraparound support to high-risk youth, including mentoring, education, and employment support. Advocates work directly with the youth and their families to create stability.
- Effectiveness: In the United States, YAP participants experienced a 90% success rate in avoiding further contact with the justice system. Ireland's implementation also reports significant reductions in reoffending. [66]

4. Justice Reinvestment – United Kingdom

- Example: Initiatives in Greater Manchester and South London redirect funding from incarceration into community programs that address root causes of crime, such as substance abuse and unemployment.
- Effectiveness: Manchester saw a 33% reduction in youth offending behaviours and a drop in custody rates over five years, attributed to community engagement and support services. [67]

5. Nordic "Open Prisons" – Norway and Sweden

- Description: Facilities like Halden Prison in Norway focus on rehabilitation through education, vocational training, and maintaining family ties. Youth offenders participate in structured day programs rather than confinement.
- Effectiveness: Norway's youth recidivism rate is among the world's lowest, at 20%, compared to over 60% in many other countries, demonstrating the success of restorative and rehabilitative models. [68]

6. Cultural Rehabilitation Programs – Canada

- Example: Programs designed for First Nations youth in Canada, such as those under the Gladue Principles, incorporate cultural practices, ceremonies, and teachings to promote healing and reintegration.
- Effectiveness: First Nations-led programs have significantly reduced reoffending rates among youth by creating a sense of identity and connection to their heritage. [69]

7. Youth Engagement Projects (YEPs) – Scotland

- Description: A diversionary program focusing on mentoring, education, and personal development for high-risk youth.
- Effectiveness: YEPs report a 40% reduction in offending rates and higher rates of youth re-engagement in education or employment. [70]

8. Circles of Support and Accountability (CoSA) – Canada and United Kingdom

- Description: CoSA programs work with youth who have committed severe offences. Community volunteers form a "circle" around the individual, providing mentorship and accountability.
- Effectiveness: Youth in CoSA programs have a 50% lower reoffending rate compared to those who do not participate. [71]

9. Singapore's Enhanced STEP-UP Program

- Description: This program provides structured after-school activities, including counselling, academic support, and skills training.
- Effectiveness: Singapore has reported significant reductions in school dropouts and reoffending rates among participants. [72]

10. Youth Mental Health Courts – Canada and the United States

- Description: These courts address the mental health needs of youth in conflict with the law. Tailored treatment plans are developed to tackle underlying issues contributing to offending.
- Effectiveness: Evaluations show reduced reoffending rates and improved mental health outcomes for participants. [73]

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