

Queensland Family and Child Commission Submission

To: Legal Affairs and Community Safety Committee

Date: 9 May 2016

Topic: Youth Justice and Other Legislation Amendment Bill 2016

Submission summary:

The Queensland Family and Child Commission (QFCC) is pleased to have the opportunity to provide the Legal and Community Affairs and Community Safety Committee (the Committee) with information and advice relating to the Youth Justice and Other Legislation Amendment Bill 2016.

The QFCC has been an active participant in the Committee Review process completed to date. We have previously provided direct feedback, formal submissions to the Committee and appeared at the Legal Affairs and Community Safety Committee hearing in February, 2016.

This submission aims to provide the Committee with a short summary of our support of the objectives of the Youth Justice and Other Legislation Amendment Bill 2016.

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QFCC supports:

- Reinstatement of a court referred youth justice conferencing program with increased flexibility in the delivery of restorative justice
- Removal of 17 year olds from the adult criminal justice system and transition them into the youth justice system including the option to delay a young person's transfer for up to six months beyond their 18th birthday.
- The closure of Children's Magistrates Court when hearing all youth justice matters under the Children's Court Act 1992 and provide for victims or their representatives to be present in closed court.

QFCC recommends:

- A full and extensive review of youth justice policies and procedures should be considered following agreement to the Bill.

The QFCC supports the objectives of the Youth Justice and Other Legislation Amendment Bill 2016 (the Bill). These amendments will align Queensland with other jurisdictions.

In particular, the QFCC acknowledges the following:

- The Bill's intent to restore provisions within the *Youth Justice Act 1992* to reinstate restorative justice principles. This includes changes to Part 3, *Youth Justice Act 1992* to provide opportunities to young people to make their own decisions regarding participation in youth justice conferencing and the restorative justice process.
- The Bill's objective to transfer 17 year olds from adult corrections to youth justice and provisions to delay a young person's transfer to adult corrections (where appropriate). This is of particular significance as it recognises the Government's responsibilities under the United Nations Rights of a Child convention.
 - However, while we do support the delaying of a young person's transfer to 6 months beyond their 18th birthday we suggest this will require policy and procedures to be reviewed. This amendment may have potential to effect security requirements and require robust planning and case review, particularly for younger children.
- Amendments to Section 20, *Children's Court Act 1992 (the CC Act)* and relevant subsections, clearly account for appropriate parties to be present during proceedings while focussing on the best interests of a child or young person. The *CC Act* also adequately provides flexibility for circumstances where a child or young person is subject to a matter within another jurisdiction or under another act to provide for a young person's privacy.
- The continuation of the *CC Act* providing appropriate cultural considerations in relation to Aboriginal and Torres Strait children.
- Clause 29 to amend Section 252(5)(b) to restrict an amendment of the period of an order for community based orders. This distinctly separates community based orders from community service orders and restorative justice orders, which allow amendment to restorative justice orders when the Chief Executive and the child's consent.
- The insert of a new definition of parole order under Schedule 4 of the *Corrective Services Act 2006* to clarify parole provisions which apply to parole orders established under the *Youth Justice Act 1992*.