

Inquiry into Youth Justice (Circuit Breaker) Amendment Bill 2026

Submission to the Justice, Integrity and
Community Safety Committee

23 July 2026

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Acknowledgement of Country

The Australian Human Rights Commission acknowledges the Traditional Custodians of Country throughout Australia, and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders – past and present.

About the Australian Human Rights Commission

Our vision for Australia is one where everyone can live free and equal in dignity and rights as part of a strong, healthy democratic society.

We have 4 core functions under our legislation:

- Access to justice: We help people to resolve complaints of discrimination and human rights breaches through our complaint handling services.
- Fairer laws, policies and practices: We review existing and proposed laws, policies and practices and provide expert advice on how they can better protect people's human rights. We help organisations to protect human rights in their work. We publish reports on human rights problems and how to fix them.
- Education and understanding: We promote understanding, acceptance and public discussion of human rights. We deliver workplace and community human rights education and training.
- Compliance: We are the regulator for positive duty laws requiring employers and others to address sexual harassment, sex discrimination and other unlawful conduct.

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Executive summary

1. The Australian Human Rights Commission (Commission) makes this submission to the Justice, Integrity and Community Safety Committee in relation to its inquiry into the Youth Justice (Circuit Breaker) Amendment Bill 2026 (the Bill).
2. The Commission is opposed to the amendment of the *Youth Justice Act 1992* to introduce Circuit Breaker as either a bail condition or standalone sentence order.
3. The Circuit Breaker proposes removing children, who have been charged with or have been found guilty of offences, from their communities, and placing them in rural or remote sites where they cannot leave without permission. The program is intended to operate both as a pre-sentencing and post-sentencing option. By applying the same intervention in both contexts, it fails to distinguish between measures aimed at diverting children from formal judicial processes and sanctions imposed following a finding of guilt. This conflation subjects children who have not yet been sentenced to restrictions comparable to those imposed as a penalty after conviction.
4. The Bill directly breaches human rights, in particular the *Human Rights Act 2019* (Qld), the *UN Convention on the Rights of the Child* (CRC), the *United Nations Declaration on the Rights of Indigenous Peoples* and the *Convention on the Rights of Persons with Disabilities*.
5. The breaching of the human rights of children is unacceptable and contrary to the evidence which shows that justice systems based on ‘punishment and denunciation’¹ do not work to prevent crime by children.²
6. Crime by children is a ‘symptom’ of underlying issues and complex unmet needs. These are children in the most vulnerable of circumstances and making the justice system tougher does not work to either improve the lives of vulnerable children or prevent crime. It is essential to understand and address the unmet needs of these children, many of whom have disabilities and mental health issues, and are victims of maltreatment.³
7. Many children in contact with the criminal justice system are dealing with multiple and complex issues including neurological disabilities, cognitive and learning problems and mental health disorders.
8. Poverty, intergenerational trauma, violence and abuse, racism, homelessness, contact with the child safety system, and inadequate healthcare are contributing factors in their contact with the justice system. These social determinants limit how children are able to enjoy their rights on a non-discriminatory basis, including the right to education, health, and an adequate standard of living, as well as the right to live in safety and to fully enjoy their culture.⁴

9. This Bill, if passed, will impact all children subjected to it, including Aboriginal and Torres Strait Islander children and young people, who continue to be overrepresented in the criminal justice system, and will be impacted disproportionately.
10. The Commission's *Help Way Earlier!* (HWE) report showed how an evidence and human-rights-based approach to child justice reform will contribute to reduced child offending.⁵
11. Preventing crime by children requires a public health approach to reform systems including health, education, housing and child protection, in order to address the underlying causes of crime, as set out in the HWE report.⁶
12. Research shows that key principles of good practice in community based therapeutic alternatives to detention include small-scale facilities, locally sited, and integrated with communities, occurring in safe, person-centred environments where security is achieved through trusted relationships, tailored risk management, and a building design that supports therapeutic treatment and wellbeing. Specific models of good practice are provided in a supplementary report to the HWE report published by the Commission in October 2025 ([*Evidence-based approaches to child justice. Supplementary paper to 'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing*](#)).
13. Community concerns about crime are genuine and the voices of victims must be heard. Victims of crime advocates interviewed for the HWE report expressed frustration that their calls for more effective prevention and early intervention were not being acted on by governments.⁷
14. This Bill does not address the underlying causes and unmet needs of children; it breaches the human rights of children and is not consistent with the evidence of what works.
15. We urge the Queensland Government to take a human rights approach and apply the evidence about what works to support children's wellbeing, prevent crime and make communities safer.

Recommendations

1. The Commission recommends that the Youth Justice (Circuit Breaker) Amendment Bill 2026 is not passed.
2. The Commission recommends that the Committee endorses the 24 recommendations for reform in the report *Help Way Earlier! How Australia can transform child justice to improve safety and wellbeing*.⁸

1 Key human rights concerns with the Bill

The proposed Circuit Breaker program in the Bill is inconsistent with Australia's obligations under the Convention on the Rights of the Child (CRC) and may disproportionately harm Aboriginal and Torres Strait Islander children. This section discusses these concerns.

Criminal justice responses for children must be age-appropriate, proportionate, and rehabilitative

16. The CRC recognises that childhood is separate from adulthood and lasts until 18. It is a special, protected time, in which children must be allowed to grow, learn, play, develop and flourish with dignity.
17. This is reflected in article 40 of the CRC that requires Australia to ensure its criminal justice responses for children are age-appropriate, proportionate, and rehabilitative.
18. Article 3(1) of the CRC requires that the best interests of the child be a primary consideration in all actions concerning children. Deprivation of liberty; removal from family and community; privacy intrusions through surveillance and electronic monitoring; and constraints on cultural connections are clearly not in the best interests of children, nor are they rehabilitative.
19. Children in the proposed Circuit Breaker program are deprived of liberty because they must live at the site and cannot leave without permission. Participation in the Circuit Breaker program can be imposed either as a bail condition or as a sentence for a period of at least 3 months but not more than 6 months. There are no timeframes specified on circuit breaker conditions which means that the condition can be imposed for the time that the child is subject to the bail undertaking. This could result in extended periods of time longer than 6 months. Article 37(b) of the CRC provides that the detention or imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time. Circuit Breaker is a form of custodial intervention which risks expanding the use of liberty-restricting measures rather than using detention-like arrangements as a last resort.
20. Using Circuit Breaker as a pre-sentencing option as well as a post-sentencing option does not distinguish between measures designed to avoid unnecessary judicial intervention and those sanctions imposed following a finding of guilt. This compromises a child's right to have detention used only as a last resort and to receive responses tailored to their rehabilitation and reintegration. General Comment No. 24 of the Committee on the Rights of the Child emphasises that child justice systems should adopt a differentiated and individualised approach focused on rehabilitation and reintegration. A single program applied equally

before and after conviction fails to recognise the fundamentally different legal status and needs of these children.

21. Article 37(c) of the CRC requires that children deprived of liberty maintain contact with their families through visits and correspondence except in exceptional circumstances. Circuit Breaker sites will be in rural or remote areas which will reduce opportunities for family visits and ongoing contact with family, and community.
22. It also means that children will no longer be able to attend their regular schools or educational institutions or, where relevant, attend their workplaces.
23. Article 16 of the CRC protects children from arbitrary interference with privacy, family and correspondence. The Bill requires continuous supervision, electronic monitoring, audio and visual surveillance at sites, searches of children and their possessions. These measures involve extensive monitoring of children's movements and activities and therefore engage privacy rights protected by the CRC.
24. Article 40(1) of the CRC requires children in conflict with the law to be treated in a manner that promotes their dignity, reintegration and constructive participation in society. Placement in remote, highly supervised facilities with electronic monitoring resembles punishment and social exclusion rather than community-based reintegration.
25. Additionally, the Bill allows the chief executive to consent to medical treatment for a child in certain circumstances. This raises concerns in relation to Article 12 of the CRC which recognises children's evolving capacities and right to participate in decisions affecting them, particularly where a child is mature enough to make their own informed medical decisions.

Aboriginal and Torres Strait Islander children's rights

26. If this Bill is passed, there are risks that, because the legislation will disproportionately impact certain racial groups including Aboriginal and Torres Strait Islander children, it will breach the *Racial Discrimination Act 1975*.
27. Indirect discrimination occurs when a measure (in this case using Circuit Breaker as a bail condition or a standalone sentence order for children) applies to everyone equally but disadvantages a particular group on the basis of their sex, age, race, or disability status protected under discrimination law (in this case Aboriginal and Torres Strait Islander children) and the measure is not reasonable.
28. Given that Aboriginal and Torres Strait Islander children are overrepresented in the child justice system, these impacts may fall disproportionately on them.

29. Articles 30 and 8 of the CRC recognise the rights of Aboriginal and Torres Strait Islander children to enjoy their culture and maintain their identity.
30. This Bill will limit cultural rights by separating Aboriginal and Torres Strait Islander children from their families and cultural communities; restricting their participation in cultural practices; and disrupting their connection to Country and cultural identity.
31. There is ample evidence that the answer to reducing offending by Aboriginal and Torres Strait Islander children is to address the disadvantage and racism that they and their communities face and to put in place measures to protect their human rights. Further eroding human rights is a retrograde measure that will only do more harm.
32. In April 2025, an urgent complaint was made to the United Nations Committee on the Elimination of Racial Discrimination about Australia's discriminatory child justice systems and how they seriously violate the human rights of Aboriginal and Torres Strait Islander children.
33. Associate Professor Hannah McGlade and Scientia Professor Megan Davis with the support of the Human Rights Law Centre submitted the complaint. The submission was endorsed by Professor Eddie Cubillo, the National Children's Commissioner, the National Aboriginal and Torres Strait Islander Social Justice Commissioner, the Australian Human Rights Commission, National Aboriginal and Torres Strait Islander Legal Services, and SNAICC – National Voice for our Children.
34. The complaint has been submitted under the Committee's Early Warning and Urgent Action procedure, which is reserved for serious violations of the Convention on the Elimination of Racial Discrimination that are escalating and/or require immediate attention. The full complaint can be accessed at https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/67ea290c1c3aff78641d7e91/1743399185829/United+Nations+CERD+complaint_youth+justice+in+Australia.pdf
35. It is also relevant to point out that Queensland is party to the National Agreement on Closing the Gap. Target 11 is that Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system. The target is to reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30 per cent by 2031. The approach being taken by the Queensland Government is in direct contradiction to this agreed target.

2 A national, child rights-based approach to reform

The Commission's HWE report sets out a reform agenda grounded in extensive Australian and international evidence.

The report calls for nationally coordinated action alongside evidence-based reforms by states and territories.

This section summarises this reform agenda.

36. The Commission's HWE report outlines an approach to reform that is based on decades of international and Australian evidence.
37. The HWE report identifies critical steps for nationally coordinated action and makes recommendations for evidence-based actions that should be independently pursued by states and territories.⁹ Similar key actions have been recommended in numerous previous reports, inquiries and reviews of child justice and child protection systems.
38. Reform requires placing children and their wellbeing at the centre of policymaking and service delivery; empowering Aboriginal and Torres Strait Islander children, families and communities; optimising community-based action; building a capable and child specialised workforce; basing systems on data and evidence; and embedding accountability for the rights of children. Some recommendations in the HWE report for achieving this include:
 - Recommendation 5:** Australian Governments provide integrated, place-based health, education and social services for both children and their families.
 - Recommendation 7:** Australian Governments urgently prioritise access to safe and affordable housing for children and families, including those in the child protection and justice systems.
 - Recommendation 8:** Australian Governments prioritise access to comprehensive and culturally safe healthcare, including for children with multiple and intersecting needs.
 - Recommendation 9:** Australian Governments resource schools to be community hubs integrated with health services and providing flexible learning options.
 - Recommendation 10:** Australian Governments prioritise investments in prevention and early intervention through Aboriginal Community-Controlled Organisations.

Recommendation 11: Australian Governments improve availability of free and accessible community sport, music, other social activities, and cultural programs, addressing barriers such as lack of public transport.

Recommendation 12: Australian Governments resource and expand the availability of evidence-based diversionary programs for children, including those by Aboriginal and Torres Strait Islander Community-Controlled Organisations, and other culturally safe programs.

Recommendation 13: Australian Governments invest in restorative justice conferencing to be available across Australia, ensuring culturally appropriate approaches for First Nations children and communities.

Recommendation 14: Australian Governments resource the redesign of services to be place-based and informed by evidence and local community priorities, in line with Priority Reform 1 of the *National Agreement on Closing the Gap*.

Recommendation 15: Australian Governments develop nationally consistent minimum training requirements for workforces in the child justice and related systems, including child protection and police. Training should include child rights, child development, mental health, neurodevelopmental disabilities, cultural competence, and trauma-informed practice.

Recommendation 16: Australian Governments ensure that all child justice matters are heard in specialised Children's Courts or by child-specialist magistrates.

Recommendation 17: Australian Governments collect key data on children in the child justice system, disaggregated by age, sex, disability, geographic location, ethnic origin, and socioeconomic background, including data disaggregated at the local level to support service design and delivery. This data should be publicly available and accessible.

Recommendation 20: Australian Governments raise the age of criminal responsibility in all jurisdictions to 14 years and undertake a review of the application of the presumption of *doli incapax*.

Recommendation 23: Australian Governments conduct Child Rights Impact Assessments on laws and policies that affect children.

3 Evidence-based approaches to child justice

The Commission's supplementary paper, *Evidence-based Approaches to Child Justice*, provides examples of child justice reforms in Australia and overseas and highlights approaches that can improve community safety and child wellbeing.

Effective reform focuses on prevention, early intervention, therapeutic responses, and community-led solutions rather than punitive measures.

Three alternative models to Circuit Breaker are provided.

39. In October 2025, the Commission published [*Evidence-based approaches to child justice. Supplementary paper to 'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing*](#). This supplementary paper seeks to fill some gaps in knowledge and public understanding by providing examples of approaches to child justice from Australia and overseas that are based on evidence. The proposed Bill is completely inconsistent with what we know works.
40. The supplementary paper highlights 6 initiatives that demonstrate holistic and evidence-based approaches to child justice reform:
 - **Scotland's Whole System Approach**, aiming to divert children away from the justice system through multi-agency coordinated work to address children's needs early. Since June 2018, Scotland has appointed a Minister responsible for children and young people and has fully incorporated the *Convention on the Rights of the Child* into its legislation (finalised in August 2024), as well as having a Children's Act.
 - **Pathways to Prevention Project**, a pilot project conducted in Queensland, Australia, based on primary prevention of child offending by supporting children's positive development in early childhood.
 - **Baulaarr Bagay Warruwi Burranba-li-gu** (Two River Pathway to Change), an Aboriginal led, community and place-based initiative in Walgett, NSW, Australia.
 - Small-scale, community based and therapeutic alternatives to detention, as modelled in three initiatives in the **Netherlands, Missouri (USA) and Spain** (Diagrama model).
41. Evidence-based practices highlighted in these 6 initiatives include:
 - positioning children and families at the centre of decision-making in policy and service design and delivery
 - investing in reform of upstream service systems for primary prevention and early intervention

- using community-led and place-based knowledge to empower local communities, especially Aboriginal and Torres Strait Islander communities, to lead initiatives tailored to local needs
- embedding culturally safe practices for Aboriginal and Torres Strait Islander children and families
- integrating multi-agency collaboration across health, education, justice, and social services to meet the needs of children and their families
- using holistic and therapeutic responses to address underlying causes of offending through integrated services
- identifying the competencies and skills of individuals and organisations involved to ensure their readiness and willingness for implementing reform
- building capability and a skilled, child specialised workforce with training in trauma-informed and relational practices
- prioritising alternatives to detention by using small-scale facilities, locally sited, and integrated with communities, designed to promote relational and differentiated security and encompassing therapeutic design characteristics
- ensuring robust data collection and evaluation frameworks to generate quantitative and qualitative insights into 'what works, when and for whom' and using this information to engage in continuous quality improvement
- aligning legislation and government policies with a human rights framework, with the best interests of children the primary consideration
- committing to longer-term reform, recognising that systems reform takes place in stages and over time.

42. Section 5 in the supplementary report highlights the effectiveness of small-scale, community based and therapeutic alternatives to detention currently being used in the Netherlands, Missouri (USA) and Spain (Diagrama model). These should be considered as alternatives to Circuit Breaker.

43. However, as noted by the Law Council of Australia to the Senate Legal and Constitutional Affairs References Committee in October 2024:

Any pilots or responses adopted must have the backing of First Peoples leaders and build on their existing expertise in responding to the needs of the children and young people in their communities.¹⁰

44. Summaries of the models used in the Netherlands, Missouri and Spain (Diagrama model) are provided below.

Netherlands model: The Netherlands introduced a small-scale, community-integrated youth justice model through pilot facilities in Amsterdam, Nijmegen and Groningen from 2016. Accommodating up to eight young people close to their home communities, the model emphasises individualised care, family involvement, access to local education and health services, and relational

security which involves building safety through positive relationships rather than coercion. Evaluation findings showed high rates of continued engagement in education, employment and support services, low levels of violence and absconding, and strong support from young people, families and professionals. The model was adopted nationally in 2019 and is now part of the Dutch youth justice continuum.

Missouri model (USA): Originally, developed in the 1970s, the Missouri model replaced large juvenile correctional institutions with small, therapeutic, community-based facilities focused on rehabilitation. Its six core elements are small facilities close to home, individualised care within group treatment, relationship-based safety, education and skill development, family engagement, and strong aftercare support. The model is widely regarded as a leading youth justice approach in the United States due to consistently low reoffending rates, strong educational outcomes and high levels of productive involvement in education or employment following release. Its success is attributed to strong leadership, staff training, therapeutic practice and ongoing commitment to continuous improvement.

Diagrama model (Spain): The Diagrama Foundation operates youth educational centres across Spain that focus on rehabilitation, education and community reintegration rather than punishment. Children and young people progress through stages from induction to autonomy, supported by small living units, intensive education and vocational programs, family engagement, and multidisciplinary teams led by social educators, psychologists and social workers. Relationship-based practice and emotional development are central to the model, with security measures used only as a last resort. Although long-term outcome data are limited, available evidence suggests relatively low rates of re-entry to custody. The model is widely viewed as a promising example of child-centred youth justice reform.¹¹

45. Please see the supplementary paper for more detailed information on each initiative.

Endnotes

- ¹ Queensland Parliament, *Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025, Statement of Compatibility*, at: <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5825T0284/5825t284.pdf> (accessed 9 April 2025).
- ² Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (2024) 105 at <https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>.
- ³ Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (2024) 14 at <https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>.
- ⁴ Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (2024) 8 at <https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>.
- ⁵ Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (2024) 9 at <https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>.
- ⁶ Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (2024) 54–56 at <https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>.
- ⁷ Australian Human Rights Commission, *Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (2024) 109 at <https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>.
- ⁸ Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (2024) 12–13 at <https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>.
- ⁹ Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (2024) 12–13 at

<https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>.

- ¹⁰ Law Council of Australia, *Australia's Youth Justice and Incarceration System* (Submission to the Senate Legal and Constitutional Affairs References Committee, 22 October 2024) 19 <<https://lawcouncil.au/resources/submissions/australias-youth-justice-and-incarceration-system>>.
- ¹¹ ACT Custodial Inspector, *Healthy Centre Review of Bimberi Youth Justice Centre* (2024) 14 <<https://www.ics.act.gov.au/reports-and-publications/healthy-prison-reviews/healthy-prison-reviews/healthy-centre-review-of-bimberi-youth-justice-centre-2024>>; Kate Bjur, *The Donald Mackay Churchill Fellowship to Investigate Effective Responses to Youth Gangs for Use in Youth Detention Centres* (Churchill Trust, 2022) 32 <<https://www.churchilltrust.com.au/qld/project/the-donald-mackay-churchill-fellowship-to-investigate-effective-responses-to-youth-gangs-for-use-in-youth-detention-centres/>>; Law Council of Australia, Submission No 195 to the Legal and Constitutional Affairs References Committee, *Australia's Youth Justice and Incarceration System* (2024) 19 <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Incarceration47/Submissions>; Northern Territory Legal Aid Commission, Submission No 86 to the Australian Human Rights Commission, *Youth Justice and Child Wellbeing Reform Project* (June 2023) 10 <<https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier/submissions>>.