

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, December 2024*



Queensland

**No.
A BILL for**

An Act to amend the Childrens Court Act 1992, the Criminal Code, the Youth Justice Act 1992 and the legislation mentioned in schedule 1 for particular purposes



Queensland

Making Queensland Safer Bill 2024

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2024

A Bill

for

An Act to amend the *Childrens Court Act 1992*, the Criminal Code, the *Youth Justice Act 1992* and the legislation mentioned in schedule 1 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Making Queensland Safer Act 2024*.

2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) part 3;
- (b) part 4, division 3.

Part 2 Amendment of Childrens Court Act 1992

3 Act amended

This part amends the *Childrens Court Act 1992*.

4 Amendment of s 20 (Who may be present at a proceeding)

(1) Section 20(1)(c)(i) to (iv)—

omit, insert—

- (i) a victim, or a relative of a victim, of the offence committed by the child; or
- (ii) a relative of a deceased victim of the offence committed by the child; or

- (iii) a person who is a representative of a victim, or of a relative of a deceased victim, of the offence committed by the child; or

Examples for subparagraph (iii)—

- a person who provides support or assistance to a victim, or a relative of a deceased victim, in relation to the proceeding
- a member of an organisation that is providing support or assistance to a victim, or a relative of a deceased victim, in relation to the proceeding

- (iv) a person who, in the court's opinion, has a proper interest in the proceeding; or

- (v) a person holding media accreditation; or

- (2) Section 20(2) to (4)—

omit.

- (3) Section 20(6), 'subsections (1) and (2)'—

omit, insert—

subsection (1)

- (4) Section 20(9), definitions *accredited media entity*, *criminal proceeding* and *relative*—

omit.

- (5) Section 20(9)—

insert—

criminal proceeding means a proceeding under the *Youth Justice Act 1992* in relation to an offence committed by a child, and includes an appeal proceeding, a sentence review or a proceeding for the sentencing of a child.

media accreditation means accreditation under the Supreme Court's media accreditation policy.

offence, committed by a child, includes an offence the child is alleged to have committed.

relative—

[s 5]

- (a) of a victim of an offence committed by a child, means—
 - (i) a spouse, child, step-child, parent, step-parent, sibling, step-sibling, aunt, uncle, grandparent or grandchild of the victim; or
 - (ii) a child, other than a child mentioned in subparagraph (i), for whom the victim has parental responsibility; or
 - (iii) a person who, under Aboriginal tradition or Island custom, is regarded as a person mentioned in subparagraph (i) or (ii); or
 - (b) of a deceased victim of an offence committed by a child, means a person who would be a relative mentioned in paragraph (a) if the victim were not deceased.
- (6) Section 20(5) to (9)—
renumber as section 20(2) to (6).

5 Insertion of new pt 7, div 7

Part 7—

insert—

Division 7 Transitional provisions for Making Queensland Safer Act 2024

40 Definition for division

In this division—

new section 20 means section 20 as in force from the commencement.

41 Application of new s 20

Subject to section 42, new section 20 applies in relation to a proceeding whether the proceeding was started before, or is started after, the commencement of this section.

42 Existing exclusion orders

- (1) This section applies in relation to an exclusion order made by the court under former section 20 if the order—
 - (a) was in effect immediately before the commencement; and
 - (b) applies in relation to a proceeding that has not been decided, discontinued, finalised or withdrawn immediately before the commencement.
- (2) A person who is subject to the exclusion order may apply to the court to have the order set aside.
- (3) If the court is satisfied the applicant is a person mentioned in new section 20(1)(c), the court must set aside the exclusion order.
- (4) In this section—

former section 20 means section 20 as in force from time to time before the commencement.

Part 3 Amendment of Criminal Code

6 Code amended

This part amends the Criminal Code.

7 Amendment of s 328A (Dangerous operation of a vehicle)

Section 328A(6)—

[s 8]

insert—

previously convicted, for an offender who is an adult, includes a previous finding of guilt, within the meaning of the *Youth Justice Act 1992*, schedule 4, against the offender as a child.

Note—

See the *Youth Justice Act 1992*, section 148B in relation to the admissibility of evidence about a previous finding of guilt.

8 Amendment of s 590AH (Disclosure that must always be made)

- (1) Section 590AH(2)(b), after ‘criminal history’—

insert—

, and the accused person’s childhood criminal history information,

- (2) Section 590AH(4)—

insert—

childhood criminal history information, of an accused person, means a document containing any evidence the prosecution intends to adduce under the *Youth Justice Act 1992*, section 148A or 148B in relation to the accused person’s criminal history as a child.

Part 4 Amendment of Youth Justice Act 1992

Division 1 Preliminary

9 Act amended

This part amends the *Youth Justice Act 1992*.

Division 2 Amendments commencing on assent

10 Amendment of s 13 (Police officer’s power of arrest preserved in particular general circumstances)

Section 13(1)(a)(iv), note—

omit.

11 Amendment of s 48AA (Matters to be considered in making particular decisions about release and bail)

Section 48AA(4)(b)(i)—

omit.

12 Amendment of s 56 (Custody of child if not released by court)

(1) Section 56(2)—

insert—

Note—

However, subsection (2)(b) stops applying if a child is in custody in a watch-house and the child turns 18 years. See section 276A.

(2) Section 56—

insert—

(4A) However, in deciding the date, the chief executive must not have regard to the effect of section 276A.

(3) Section 56(6), ‘section 136, 137 or 138’—

omit, insert—

section 135

[s 13]

13 Amendment of s 134 (Offender treated as child)

Section 134, ‘division,’—

omit, insert—

division and part 8, division 2A,

14 Replacement of ss 135–139

Sections 135 to 139—

omit, insert—

135 Offender to be remanded in a corrective services facility

(1) This section applies if—

(a) both of the following apply—

- (i) a court remands an offender in custody in connection with a charge of an adult offence;
- (ii) the offender is already being held on remand in the chief executive’s custody or serving a period of detention in connection with a child offence, or otherwise being held in custody in a detention centre; or

(b) both of the following apply—

- (i) a court remands an offender in custody in connection with a charge of a child offence, or both a child offence and an adult offence;
- (ii) the offender is not already being held on remand in the chief executive’s custody or serving a period of detention in connection with a child offence, or otherwise being held in custody in a detention centre; or

(c) both of the following apply—

- (i) a court remands an offender in custody in connection with a charge of a child offence;
 - (ii) the offender is already being held on remand, serving a term of imprisonment, or otherwise being held in custody, in a corrective services facility.
- (2) The offender must be held on remand in a corrective services facility, unless a direction by the chief executive under section 276D is in effect for the offender.
- (3) Subsection (4) applies if an offender mentioned in subsection (1)(a) is sentenced to a term of imprisonment for the adult offence.
- (4) If a direction by the chief executive under section 276D is in effect for the offender, the offender must serve the term of imprisonment in a detention centre while the direction is in effect.
- (5) The part of a term of imprisonment served in a detention centre under subsection (4) must be counted as part of the term of imprisonment.
- (6) Subsection (7) applies if an offender mentioned in subsection (1)(b) or (c) is sentenced to a period of detention for a child offence.
- (7) The offender must serve the period of detention as a term of imprisonment in a corrective services facility.

136 Application of Corrective Services Act 2006

- (1) This section applies if, under section 135(2) or (7), an offender is required to be held on remand or serve a period of detention for a child offence as a term of imprisonment in a corrective services facility.

[s 15]

- (2) For holding the offender at a corrective services facility—
 - (a) the offender is taken to be a prisoner under the *Corrective Services Act 2006*; and
 - (b) any rights, liberties or immunities of the offender as a detainee under this Act in relation to the child offence are not preserved, transferred or otherwise applicable for the offender as a prisoner; and
 - (c) if the offender is serving a period of detention, or liable to serve a period of detention—
 - (i) the offender is liable to serve a term of imprisonment equal to the period of detention the offender remains liable to serve when the offender enters the corrective service facility under section 135(7)(b); and
 - (ii) the day the offender would otherwise have been released under section 227, for the period of detention, is the day the offender is to be released on parole under the *Corrective Services Act 2006*.
- (3) However, the release of the offender under subsection (2)(c)(ii) is subject to the *Corrective Services Act 2006* as if granted under a court ordered parole order (the **statutory parole order**) and the provisions of that Act applying to parole orders also apply to the statutory parole order.

15 Amendment of s 150 (Sentencing principles)

- (1) Section 150, before subsection (1)—

insert—

- (1AA) In sentencing a child for an offence, a court must

not have regard to—

- (a) any principle that a detention order should only be imposed as a last resort; or
- (b) any principle that a sentence that allows the child to stay in the community is preferable.

(1AB) In sentencing a child for an offence, a court must have primary regard to any impact of the offence on a victim, including harm mentioned in information relating to the victim given to the court under the *Penalties and Sentences Act 1992*, section 179K.

(2) Section 150(1)—

insert—

(ba) the matter to which the court must have primary regard under subsection (2); and

(3) Section 150(1)(c), ‘subsection (2)’—

omit, insert—

subsection (4)

(4) Section 150(1)(j)—

omit.

(5) Section 150(2)(b) and (e)—

omit.

(6) Section 150(4), ‘subsection (1)(i)’—

omit, insert—

subsection (3)(i)

(7) Section 150—

insert—

(5) For the purposes of the *Human Rights Act 2019*, section 43(1), it is declared that subsection (1) has effect—

[s 16]

- (a) despite being incompatible with human rights; and
- (b) despite anything else in the *Human Rights Act 2019*.

Note—

Under the *Human Rights Act 2019*, section 45(2), this subsection expires 5 years after the commencement.

- (8) Section 150(1AA) to (6)—
renumber as section 150(1) to (11).

16 Amendment of s 150A (Serious repeat offenders)

Section 150A(3)—

insert—

- (f) the matter to which the court must have primary regard under section 150(2).

17 Amendment of s 150B (Court must rely on earlier serious repeat offender declaration)

Section 150B(2), ‘to (e)’—

omit, insert—

to (f)

18 Amendment of s 175 (Sentence orders—general)

- (1) Section 175(1)(d)(i), after ‘judge’—

insert—

and section 175A does not apply

- (2) Section 175(1)(d)(ii), ‘section 176 does not apply’—

omit, insert—

neither section 175A nor 176 applies

- (3) Section 175(1)(g)(i), after ‘judge’—

insert—

and section 175A does not apply

- (4) Section 175(1)(g)(ii), ‘section 176 does not apply’—

omit, insert—

neither section 175A nor 176 applies

19 Insertion of new s 175A

After section 175—

insert—

175A Sentence orders—significant offences to which adult penalties apply

- (1) This section applies if a court is sentencing a child for an offence against any of the following provisions of the Criminal Code—
- (a) sections 302 and 305;
 - (b) sections 303 and 310;
 - (c) section 314A;
 - (d) section 317;
 - (e) section 320;
 - (f) section 323;
 - (g) section 328A;
 - (h) section 340;
 - (i) section 408A;
 - (j) sections 409 and 411;
 - (k) section 419;
 - (l) section 421;
 - (m) section 427.
- (2) The court may—

[s 19]

- (a) order that the child be placed on probation for a period not longer than 3 years; or
- (b) order that the child be detained for a period not more than—
 - (i) if the court is not constituted by a judge—3 years; or
 - (ii) if the court is constituted by a judge—the maximum term of imprisonment that an adult convicted of the offence could be ordered to serve.
- (3) Section 155 does not apply to the court.
- (4) A requirement under the Criminal Code that a term of imprisonment must be the penalty, or a part of the penalty, for the offence is taken to be a requirement that a period of detention must be the penalty, or a part of the penalty, for the offence.
- (5) A requirement under the Criminal Code that a minimum term of imprisonment must be served for the offence is taken to be a requirement that a minimum period of detention must be served for the offence.
- (6) The court may make a detention order—
 - (a) with or without a conditional release order under section 220; and
 - (b) if section 234 applies—with or without an order under that section.
- (7) If the court is sentencing the child to detention for life on a conviction of murder—
 - (a) the Criminal Code, section 305(2), (3) and (4) applies; and
 - (b) for that purpose, a reference in the Criminal Code, section 305 to imprisonment is taken to be a reference to detention.

Note—

For the child's parole eligibility, see section 233 of this Act and the *Corrective Services Act 2006*, section 181.

- (8) Section 175(1)(da) and (db) does not apply to the court.
- (9) If the offence is a prescribed offence under the *Penalties and Sentences Act 1992*, section 108A, then part 5, division 2, subdivision 2 of that Act applies—
 - (a) as if a reference in that subdivision to a community service order were a reference to a community service order under this Act; and
 - (b) as if a reference in that subdivision to a graffiti removal order were a reference to a graffiti removal order under this Act; and
 - (c) as if a reference in that subdivision to the period mentioned in section 103(2)(b) of that Act were a reference to the period within which the number of hours stated in the community service order must be performed under this Act; and
 - (d) as if a reference in that subdivision to serving a term of imprisonment in a corrective services facility were a reference to serving a period of detention.
- (10) Section 195(a) does not apply to the making of a community service order under subsection (9) but subsection (9) applies subject to section 195(b) and (c).
- (11) This section—
 - (a) applies despite anything else in this Act; and
 - (b) subject to subsection (8), does not limit a court's power to make an order under section 175.

[s 20]

(12) For the purposes of the *Human Rights Act 2019*, section 43(1), it is declared that this section has effect—

(a) despite being incompatible with human rights; and

(b) despite anything else in the *Human Rights Act 2019*.

Note—

Under the *Human Rights Act 2019*, section 45(2), this subsection expires 5 years after the commencement.

20 Amendment of s 176 (Sentence orders—life and other significant offences)

(1) Section 176, heading, ‘life and’—

omit.

(2) Section 176(6) to (8)—

omit.

(3) Section 176(10), definition *relevant offence*, before paragraph (a)—

insert—

(aa) an offence mentioned in section 175A(1);

(4) Section 176(10), definition *relevant offence*, paragraph (b)—

omit.

(5) Section 176(10), definition *relevant offence*, paragraphs (aa) and (a)—

renumber as paragraphs (a) and (b).

(6) Section 176(9) and (10)—

renumber as section 176(6) and (7).

21 Amendment of s 181 (Other orders)

Section 181, after ‘175’—

insert—

, 175A

22 Amendment of s 183 (Recording of conviction)

Section 183(3), ‘or 176’—

omit, insert—

, 175A, 176

22A Amendment of s 186 (Reference of case to Childrens Court judge for sentence)

Section 186(3), after ‘section 175’—

insert—

or 175A

23 Amendment of s 192A (Preconditions to making restorative justice order)

Section 192A(1)—

insert—

Note—

For a court sentencing a child for an offence under section 175A, see section 175A(8).

24 Omission of s 208 (Detention must be only appropriate sentence)

Section 208—

omit.

[s 25]

25 Amendment of s 210 (Detention to be served in detention centre)

(1) Section 210(2)—

insert—

Note—

However, subsection (2)(b) stops applying if a child is in custody in a watch-house and the child turns 18 years.
See section 276A.

(2) Section 210—

insert—

(4A) However, in deciding the date, the chief executive must not have regard to the effect of section 276A.

25A Amendment of s 214 (Limitation on cumulative orders)

Section 214—

insert—

(1A) Subsection (1B) applies if a court constituted by a Childrens Court magistrate—

(a) makes 1 or more detention orders under section 175 and 1 or more detention orders under section 175A against a child on the same day or in the same proceedings; or

(b) makes 1 or more detention orders under section 175A against a child on the same day or in the same proceedings.

(1B) The court is not to direct that a detention order be served cumulatively with another of the detention orders if the total period of the detention orders would exceed 3 years.

26 Amendment of s 227 (Release of child after service of period of detention)

(1) Section 227(1), after ‘subsection (2)’—

insert—

or (4)

(2) Section 227—

insert—

(3A) If a court orders a child to serve a period of detention under section 175A—

(a) subsections (1) to (3) do not apply; and

(b) the court must order the child to be released from detention after serving the proportion of the period of detention that the court considers appropriate, subject to any requirement under the Criminal Code mentioned in section 175A(5) that relates to the offence.

(3) Section 227(3A) and (4)—

renumber as section 227(4) and (5).

27 Amendment of s 228 (Chief executive’s supervised release order)

Section 228(2), ‘section 227(4)’—

omit, insert—

section 227(5)

28 Amendment of s 234 (Court may allow publication of identifying information about a child)

(1) Section 234—

insert—

(1A) This section also applies if—

[s 29]

- (a) a court sentences a child for an offence under section 175A; and
- (b) the offence involves the commission of violence against a person; and
- (c) the court considers the offence to be a particularly heinous offence having regard to all the circumstances.

(2) Section 234(1A) to (5)—
renumber as section 234(2) to (6).

29 Amendment of s 245 (Court’s power on breach of a community based order other than a conditional release order)

Section 245(1)(a), after ‘175(1)(d),’—
insert—

175A(2)(a),

29A Amendment of s 249 (Matters relevant to making further order)

Section 249—
insert—

- (2A) If the community based order is a community service order made under section 175A(9), the court need not, when resentencing the child for the offence for which the order was made, make another community service order.

29B Amendment of s 252D (General options available to a Childrens Court magistrate on chief executive’s application)

(1) Section 252D(4) and (5), ‘1 year’—
omit, insert—

the prescribed period

(2) Section 252D—

insert—

(6) In this section—

prescribed period means—

- (a) for a sentence imposed under section 175A—3 years; or
- (b) otherwise—1 year.

29C Amendment of s 252E (General options available to a court if child found guilty of indictable offence)

(1) Section 252E(3)(b) and (c), ‘1 year’—

omit, insert—

the prescribed period

(2) Section 252E(6)—

insert—

prescribed period means—

- (a) for a sentence imposed under section 175A—3 years; or
- (b) otherwise—1 year.

30 Amendment of pt 7, div 15, hdg (Application of Acts applying to victims)

Part 7, division 15, heading, ‘Acts applying to victims’—

omit, insert—

legislation relating to victims

31 Insertion of new s 256A

After section 256—

[s 32]

insert—

256A Penalties and Sentences Act 1992, pt 10B

The *Penalties and Sentences Act 1992*, part 10B applies in relation to the sentencing of a child for an offence mentioned in section 179J of that Act.

Note—

the *Penalties and Sentences Act 1992*, part 10B (Victim impact statements)

32 Amendment of s 263 (Management of detention centres)

Section 263(5), ‘principles 3, 16’—

omit, insert—

principles 4, 17

33 Replacement of pt 8, div 2A (Transfer of detainees to corrective services facilities)

Part 8, division 2A—

omit, insert—

**Division 2A Persons to be detained in
corrective services facility**

**Subdivision 1 When persons must be
detained in corrective
services facility**

**276A Persons who turn 18 years before delivery
into custody of chief executive**

(1) This section applies if—

(a) the commissioner of the police service takes immediate custody of a person under section

- 56(2)(a) or 210(2)(a) to deliver the person into the custody of the chief executive; and
- (b) the person is in custody in a watch-house.
- (2) If the chief executive becomes aware that the person is likely to turn 18 years before the chief executive has decided the custody transfer date for the person, the chief executive must notify the commissioner of the police service and chief executive (corrective services) that the person is likely to be delivered into the custody of the chief executive (corrective services) under this section.
- (3) If, on the day the person turns 18 years, the chief executive has not decided the custody transfer date for the person, sections 56(2)(b) and 210(2)(b) stop applying in relation to the person.
- (4) On the day the person turns 18 years—
- (a) the *Corrective Services Act 2006*, section 6 applies to the person; and
- (b) the period mentioned in section 6(2) of that Act is taken to have started on the day the person was taken into custody in a watch-house under section 56 or 210.
- (5) Within 1 business day after the day the person turns 18 years, the chief executive must give the commissioner of the police service and chief executive (corrective services) a notice stating the following—
- (a) the person's name;
- (b) if the person has been remanded in custody by a court—that the person is to be held on remand in a corrective services facility;
- (c) if the person has been sentenced to serve a period of detention—

[s 33]

- (i) that the person is to serve the period of detention as a term of imprisonment in a corrective services facility; and
 - (ii) the period of detention the person is liable to serve; and
 - (iii) the day on which the person is required to be released from detention under section 227.
- (6) In this section—
- custody transfer date*, for the delivery of a person into the custody of the chief executive, means—
- (a) if section 56 applies—the date the chief executive is required to notify the commissioner of the police service for accepting custody of the person under section 56(3); or
 - (b) if section 210 applies—the date the chief executive is required to notify the commissioner of the police service for accepting custody of the person under section 210(3).

276B Persons who turn 18 years before period of detention begins

- (1) This section applies if—
- (a) a detention order is made against a person for an offence committed by the person as a child; and
 - (b) the person is 18 years or more when—
 - (i) the person's period of detention under the detention order begins; or
 - (ii) the person returns to detention to continue or complete a period of detention under the detention order,

including, for example, because of a contravention of a conditional release order or supervised release order.

- (2) The person must serve, continue or complete the period of detention under the detention order as a term of imprisonment in a corrective services facility.
- (3) The chief executive must, as soon as practicable after becoming aware that a person is to enter a corrective services facility under this section, give the chief executive (corrective services) a notice stating the following—
 - (a) the person's name;
 - (b) the period of detention the person is liable to serve;
 - (c) the day on which the person is required to be released from detention under section 227.

276C Persons who turn 18 years while held on remand or serving period of detention

- (1) If a person turns 18 years while being held on remand or serving a period of detention in a detention centre, the person must be transferred to a corrective services facility to be held on remand or to serve the remaining period of detention as a term of imprisonment.
- (2) The transfer under subsection (1) must be made—
 - (a) if a direction about the person is given under section 276D and the chief executive revokes the direction—within 30 days after the direction is revoked; or
 - (b) otherwise—within 30 days after the day the person turns 18 years.
- (3) A failure to comply with subsection (2) does not affect—

[s 33]

- (a) the requirement to transfer the person under subsection (1); or
 - (b) the validity of a transfer under subsection (1).
- (4) The chief executive must, as soon as practicable after becoming aware that a person is likely to be transferred under this section, give the chief executive (corrective services) a notice stating the following—
- (a) the person's name;
 - (b) the day the transfer is likely to occur;
 - (c) if the person is serving a period of detention—
 - (i) the period of detention the person remains liable to serve when the notice is given; and
 - (ii) the day on which the person is required to be released from detention under section 227.
- (5) The chief executive must, as soon as practicable after the day of the transfer is known, give the chief executive (corrective services) a notice stating the following—
- (a) the person's name;
 - (b) the day of the transfer;
 - (c) if the person is serving a period of detention—
 - (i) the period of detention the person remains liable to serve after the day of the transfer; and
 - (ii) the day on which the person is required to be released from detention under section 227.

Subdivision 2 Chief executive may direct detainment in detention centre

276D Chief executive may direct particular person be detained in detention centre

- (1) This section applies in relation to a person mentioned in section 276C(1) who is, or is to be, transferred to a corrective services facility.
- (2) The chief executive may, in writing, direct that the person is to be held on remand or detained in a detention centre.
- (3) In giving the direction, the chief executive—
 - (a) must have regard to—
 - (i) the interests of the person; and
 - (ii) the interests of other detainees and staff at the detention centre; and
 - (b) may have regard to any other matter the chief executive considers appropriate.
- (4) If a direction under subsection (1) is in effect the person the subject of the direction is to be held on remand or detained in a detention centre under the direction.
- (5) The chief executive may, in writing, revoke the direction at any time.
- (6) The chief executive must notify the person to whom the direction relates that the direction has been made or revoked for the person under this section.
- (7) The chief executive is not required to provide procedural fairness in giving or revoking a direction under this section.

Subdivision 3 Application of Corrective Services Act 2006

276E Application of Corrective Services Act 2006

- (1) This section applies if—
 - (a) a person is delivered into the custody of the chief executive (corrective services) under section 276A(5)(a); or
 - (b) a person is detained in a corrective services facility under section 276B; or
 - (c) a person is transferred to a corrective services facility under section 276C.
- (2) For holding the person at a corrective services facility—
 - (a) the person is taken to be a prisoner under the *Corrective Services Act 2006*; and
 - (b) any rights, liberties or immunities of the person as a detainee under this Act are not preserved, transferred or otherwise applicable for the person as a prisoner; and
 - (c) if the person is serving a period of detention, or liable to serve a period of detention—
 - (i) the person is liable to serve a term of imprisonment equal to the period of detention the person remains liable to serve when the person is delivered under section 276A, detained under section 276B or transferred under section 276C; and
 - (ii) the day the person would otherwise have been released under section 227, for the period of detention, is the day the person is to be released on parole

under the *Corrective Services Act 2006*.

- (3) However, the release of the person under subsection (2)(c)(ii) is subject to the *Corrective Services Act 2006* as if granted under a court ordered parole order (the *statutory parole order*) and the provisions of that Act applying to parole orders also apply to the statutory parole order.

34 Amendment of s 289 (Recording, use or disclosure for authorised purpose)

Section 289(c)(ii), ‘section 150(1)(i)’—

omit, insert—

section 150(3)(i)

35 Amendment of s 301A (Protection from liability)

Section 301A(1)(b)(ii), ‘section 150(1)(i)’—

omit, insert—

section 150(3)(i)

36 Insertion of new pt 11, div 25

Part 11—

insert—

**Division 25 Transitional provisions for
Making Queensland Safer
Act 2024**

429 Definitions for division

In this division—

amending Act means the *Making Queensland*

Safer Act 2024.

former, for a provision of this Act, means the provision as in force immediately before the commencement.

new, for a provision of this Act, means the provision as in force from the commencement.

430 Application of new pt 6, div 11

New part 6, division 11, subdivision 3 applies in relation to an offender from the commencement, whether the offence for which the offender is charged was committed before or after the commencement.

431 Application of former ss 135 and 136 for person detained in detention centre before commencement

- (1) This section applies if, immediately before the commencement, an offender is serving a term of imprisonment, or is being held on remand, in a detention centre under former section 135(3) or 136(2).
- (2) New part 8, division 2A applies in relation to the offender as if the offender had turned 18 years on the commencement.

432 Applications made under former s 139 before commencement

- (1) This section applies if—
 - (a) before the commencement, an application to be held in a detention centre was made under former section 139; and
 - (b) immediately before the commencement the application was not decided.

- (2) On the commencement, the application lapses.

433 Application of new pt 7 and sch 1

- (1) New part 7, other than new sections 210 and 256A, and new schedule 1 apply in relation to an offence only if the offence was committed after the commencement.
- (2) Despite the amending Act, former part 7 and former schedule 1 apply in relation to an offence committed before the commencement.
- (3) New section 256A applies in relation to an offence whether committed before or after the commencement.

434 Application of Criminal Code, s 305

- (1) This section applies for the purpose of applying the Criminal Code, section 305(2) and (3) (the *Code provisions*) to a child under section 175A(7) of this Act.
- (2) The court, in applying the Code provisions, may have regard to an offence of murder that was committed before the commencement, whether the conviction or sentence for the murder happened before or happens after the commencement.
- (3) Subsection (2) applies even if the offence of murder is an offence—
 - (a) for which the court is also sentencing the child; or
 - (b) that the court is taking into account on the sentence of the child.

435 Application of new pt 8, div 2A

- (1) Subject to sections 436 and 437, new sections 56

[s 36]

and 210 and new part 8, division 2A apply—

- (a) in relation to a person mentioned in section 276A(1) whether the person started to be in the custody of the commissioner of the police service before or after the commencement; and
 - (b) in relation to a person mentioned in section 276B(1), whether the person was sentenced to the period of detention before or after the commencement; and
 - (c) in relation to a person mentioned in section 276C(1), whether the person started to be detained or remanded in custody before or after the commencement.
- (2) If a person mentioned in subsection (1) turned 18 years before the commencement, for applying new part 8, division 2A, the person is taken to have turned 18 on the commencement.

436 Continued application of former pt 8, div 2A for existing decisions by chief executive about prison transfer notices

- (1) This section applies if—
- (a) before the commencement, the chief executive had given a detainee—
 - (i) a notice of a decision to temporarily delay giving, or not to give, the detainee a prison transfer notice under former section 276D(2); or
 - (ii) a prison transfer notice under former section 276F; and
 - (b) for a notice mentioned in paragraph (a)(i)—the date specified in the notice occurs after the commencement; and

- (c) immediately before the commencement—the detainee is detained in a detention centre.
- (2) Former part 8, division 2A continues to apply in relation to the person as if the amending Act had not been enacted.

437 Continued application of former pt 8, div 2A for existing court applications

- (1) This section applies—
 - (a) if—
 - (i) before the commencement, an application to a court for a temporary delay under former section 276P had been made; and
 - (ii) immediately before the commencement the court had not decided the application; or
 - (b) if—
 - (i) before the commencement, an application to the Childrens Court for a review of the chief executive’s decision under former section 276T had been made; and
 - (ii) immediately before the commencement the court had not decided the application.
- (2) The court may continue to hear and decide the application under former part 8, division 2A as if the amending Act had not been enacted.
- (3) Former part 8, division 2A continues to apply in relation to the person to whom the decision under subsection (2) relates as if the amending Act had not been enacted.

[s 37]

441 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which—
 - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the former provisions of this Act to the operation of the new provisions of this Act; and
 - (b) this Act does not provide or sufficiently provide.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day this section commences.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire on the day that is 1 year after the day this section commences.

37 Amendment of sch 1 (Charter of youth justice principles)

- (1) Schedule 1—

insert—

 - 1A A child who commits an offence should be held accountable in a way that recognises the impact of the child's offending on any victim of that offending.
- (2) Schedule 1, item 18—

omit.
- (3) Schedule 1, items 1A to 17—

renumber as items 2 to 18.

38 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions *detainee*, *prison transfer notice*, *review application* and *temporary delay*—

omit.

(2) Schedule 4—

insert—

detainee means a person—

- (a) being held on remand, in the chief executive's custody, in connection with a charge of an offence; or
- (b) serving a period of detention, in a detention centre, for an offence; or
- (c) otherwise being held in custody in a detention centre.

(4) Schedule 4, definition *detention order*, after '175(1)(g)'—

insert—

, 175A(2)(b)

(6) Schedule 4, definition *probation order*, after '175(1)(d)'—

insert—

, 175A(2)(a)

(7) Schedule 4, definition *sentence order*, paragraph (b)(i), after '175'—

insert—

, 175A

Division 3 Amendments commencing on proclamation

39 Insertion of new s 6

After section 5—

[s 39]

insert—

6 Meaning of *criminal history* of a child

- (1) In this Act, *criminal history*, of a child, means—
 - (a) each caution administered to the child for an offence; and
 - (b) each finding of guilt against the child for an offence, other than a finding of guilt that is set aside or quashed; and
 - (c) each restorative justice agreement made by the child for an offence; and
 - (d) all decisions, findings and orders made, and actions taken, by a court, Childrens Court judge, Childrens Court magistrate or other judicial officer—
 - (i) under section 245, 246 or 246A in relation to the child's contravention of a community based order; or
 - (ii) under section 247 on an application made by the child or the chief executive in relation to a community based order made against the child; or
 - (iii) under section 252D, 252E or 252F in relation to the child's contravention of a supervised release order.
- (2) If a child fails to comply with a restorative justice agreement that forms part of the child's criminal history, the child's criminal history also includes any action taken by a police officer under section 24(3).
- (3) This section applies despite the *Criminal Law (Rehabilitation of Offenders) Act 1986*.
- (4) In this section—

action includes a decision to take no further action.

child—

- (a) in relation to a child against whom a community based order has been made, see section 236; and
- (b) for a child on release from detention under a supervised release order, see section 252A.

40 Amendment of s 11 (Police officer to consider alternatives to proceeding against child)

Section 11(2)(b), ‘, any previous cautions administered to the child for an offence’—

omit.

41 Amendment of s 15 (Police officer may administer a caution)

Section 15(3)—

omit.

42 Amendment of s 18 (Caution procedure must involve explanation)

Section 18(1), after ‘effect of the caution’—

insert—

, including the effect on the child’s criminal history

43 Amendment of s 20 (Child must be given a notice of caution)

Section 20(2)(h), after ‘effect of a caution’—

insert—

, including the effect on the child’s criminal history

[s 44]

44 Amendment of s 21 (Childrens Court may dismiss charge if caution should have been administered or no action taken)

Section 21(4)—
omit.

45 Amendment of s 22 (When police officer may refer offence for restorative justice process)

Section 22(5)—
omit, insert—

- (5) The police officer must inform the child—
- (a) generally of the restorative justice process and potential consequences for the child of failing to properly participate in the process; and
 - (b) that the making of a restorative justice agreement will form part of the child's criminal history.

46 Amendment of s 36 (Conference agreement)

Section 36—
insert—

- (6) However, the conference agreement is not evidence that the child committed the offence.

47 Amendment of s 148 (Evidence of childhood finding of guilt not admissible against adult)

(1) Section 148(1)—
omit, insert—

- (1) Subject to sections 148A and 148B, in a proceeding against a person who is an adult for an offence, there must not be admitted against the

person evidence that the person was found guilty as a child of an offence if a conviction was not recorded.

(2) Section 148(3)—

omit.

(3) Section 148(4)—

renumber as section 148(3).

48 Insertion of new ss 148AA and 148AB

After section 148—

insert—

148AA Admissibility and use of childhood criminal history in sentencing adults

- (1) This section applies in relation to a court that is sentencing a person who is an adult for an offence.
- (2) During the prescribed period—
 - (a) section 148 does not prevent the court admitting evidence that the person was found guilty as a child of an offence without the recording of a conviction; and
 - (b) the court may admit other evidence from the person's criminal history as a child; and
 - (c) a previous finding of guilt, other than an excluded previous finding of guilt, against the person as a child, for an offence without the recording of a conviction that forms part of the person's criminal history as a child is taken to be a previous conviction of the person.
- (3) Also, section 148 does not prevent the court from receiving information about any other sentence to which the person is subject under this Act if that

[s 48]

is necessary to mitigate the effect of the court's sentence.

(4) In this section—

excluded previous finding of guilt means a finding of guilt to which section 148B(2) applies.

prescribed period, for a person, means a period of 5 years starting on the latest day that a matter became part of the person's criminal history as a child.

148AB Admissibility of childhood finding of guilt against adult for particular purposes

(1) This section applies to—

(a) a proceeding before a court to hear and determine a charge against a person who is an adult of an offence under the Criminal Code, section 328A, on indictment or summarily, alleged to have been committed after a previous conviction mentioned in that section; or

(b) a proceeding before a court for the sentencing of a person who is an adult—

(i) convicted of an offence under the Criminal Code, section 328A(2)(c); or

(ii) convicted of an offence to which the Criminal Code, section 328A(3) applies.

(2) Section 148 does not prevent the court admitting a previous finding of guilt against the person, as a child, for a relevant offence without the recording of a conviction if the finding of guilt—

(a) forms part of the person's criminal history as a child; and

(b) was made during a period of 5 years before the offence mentioned in subsection (1) was committed.

(3) In this section—

relevant offence means an offence mentioned in the Criminal Code, section 328A(2)(c) or (3).

49 Renumbering of ss 148AA–148A

Sections 148AA to 148A—

renumber as sections 148A to 148C.

50 Amendment of s 150 (Sentencing principles)

(1) Section 150(3)(e), as renumbered by this Act, ‘previous offending’—

omit, insert—

criminal

(2) Section 150, as renumbered by this Act—

insert—

(8A) Without limiting the matters a court may have regard to in sentencing a child for an offence, the court may have regard to any relevant matter on the child’s traffic history under the *Transport Operations (Road Use Management) Act 1995*.

51 Amendment of s 150A (Serious repeat offenders)

Section 150A(2)(c)(i) and (3)(e), ‘previous offending’—

omit, insert—

criminal

[s 52]

52 Omission of s 154 (Finding of guilt as child may be disclosed while a child)

Section 154—

omit.

53 Amendment of s 252G (Matters relevant to making further order)

Section 252G(3)—

omit.

54 Replacement of ss 282A and 282B

Sections 282A and 282B—

omit, insert—

282A Eligible persons register

- (1) The chief executive must keep a register of persons who are eligible to receive information (*detainee information*) under section 282F about a child who is serving a period of detention in a detention centre for a violent offence or a sexual offence.
- (2) Subsection (3) applies if the chief executive receives relevant information for the following persons from the commissioner of the police service or director of public prosecutions, in relation to an offence mentioned in subsection (1)—
 - (a) a victim of the offence;
 - (b) if a victim is deceased because of the offence—an immediate family member of the deceased victim.
- (3) Subject to subsections (5) to (9), the chief executive must register the person as an eligible person in relation to the child detained for the

offence.

- (4) Also, the chief executive may register a person who applies for registration under section 282BA as an eligible person.
- (5) The chief executive must not register a person as an eligible person unless the person, and any nominee for the person, has given a declaration under section 282B.
- (6) The chief executive may decide not to register a person as an eligible person if the chief executive reasonably believes releasing detainee information to the person may endanger—
 - (a) the security of a detention centre; or
 - (b) the safe custody or welfare of a child detained in a detention centre; or
 - (c) the safety or welfare of another person.

Example—

Releasing detainee information to a child who is also detained in a detention centre may endanger the safe custody or welfare of the child sentenced to detention for the offence.

- (7) The chief executive may register a child as an eligible person only if it is in the child's best interests.
- (8) If the chief executive proposes to register a child in care as an eligible person, the chief executive must consult with the chief executive (child safety) before deciding what is in the child's best interests under subsection (7).
- (9) Before registering an eligible person under subsection (3), the chief executive must give the child detained for the offence a reasonable opportunity to make a submission to the chief executive about why the victim or immediate family member should not be registered as an eligible person.

(10) In this section—

child in care means a child—

- (a) who is in the custody or guardianship of the chief executive (child safety); or
- (b) who, under an agreement entered into by the chief executive (child safety) and a parent of the child, has been placed in the care of a person other than a parent of the child.

relevant information, for a person, means—

- (a) the name and contact details of the person; and
- (b) the person's consent to being registered as an eligible person.

sexual offence see the *Corrective Services Act 2006*, schedule 4.

violent offence means an offence in which a victim suffers actual or threatened violence.

282B Requirement for non-release declaration

The chief executive may register a person as an eligible person only if the person, and any nominee of the person, has signed a declaration stating that the person or person's nominee will not disclose detainee information received by the person or nominee other than as permitted under section 282G(3).

282BA Applying for registration as an eligible person

- (1) The following persons (each an *applicant*) may apply in writing to the chief executive to be registered as an eligible person in relation to a child mentioned in section 282A(1)—

- (a) if a victim is a child—the child’s parent;
- (b) if a victim is an adult with legal incapacity—the adult’s guardian or attorney appointed for the person under an enduring power of attorney under the *Powers of Attorney Act 1998*;
- (c) another person who satisfies the chief executive the person’s life or physical safety could reasonably be expected to be endangered because of—
 - (i) the child’s history of violence against the person; or

Example—

a domestic violence order has been made against the child under the *Domestic and Family Violence Protection Act 2012* for the benefit of the person

- (ii) a connection between the person and the offence.
- (2) The application must be accompanied by documentary evidence satisfying the chief executive of the applicant’s identity.
- (3) The applicant may nominate a person (a *nominee*) to receive the detainee information for the applicant.

Example—

a victim support worker from a victims’ support agency

- (4) Before deciding an applicant is eligible under subsection (1)(c) to make the application, the chief executive must give the child a reasonable opportunity to make a submission to the chief executive about why the applicant should not be registered as an eligible person.

[s 55]

55 Amendment of s 282D (Deciding application)

(1) Section 282D(1), ‘section 282A(2)’—

omit, insert—

section 282BA(1)

(2) Section 282D(2) to (5)—

omit, insert—

(2) However, the chief executive may refuse the application if the chief executive considers the person should not be registered as an eligible person because of the application of section 282A(5) to (9).

56 Amendment of s 282E (Removing details from eligible persons register etc.)

Section 282E(4) and (5), ‘section 282A(4)—

omit, insert—

section 282BA(3)

57 Amendment of s 282F (Releasing information)

Section 282F(2), ‘section 282A(4)—

omit, insert—

section 282BA(3)

58 Insertion of new ss 438–440

After section 437—

insert—

438 Admissibility and use of childhood criminal histories in sentencing adults

(1) This section applies in relation to a proceeding against an adult for an offence.

- (2) The former Act applies to a proceeding for an appeal from a sentence that happened before the commencement.
- (3) Subject to subsection (2) and section 438A, the new Act applies in relation to a proceeding for an offence—
 - (a) whether the proceeding was started before, or is started after, the commencement of this section; or
 - (b) whether the offence was committed before, or is committed after, the commencement of this section.
- (4) In this section—

former Act means this Act as in force immediately before the commencement of the amending Act, part 4, division 3.

new Act means this Act as in force from the commencement of the amending Act, part 4, division 3.

438A Admissibility of childhood findings of guilt against an adult for particular purposes

- (1) New section 148B applies to a proceeding before a court in relation to an offence under the Criminal Code, section 328A only if the offence is committed after the commencement.
- (2) In this section—

new section 148B means section 148B as in force from the commencement of the amending Act, part 4, division 3.

438B Application of new s 150

- (1) New section 150(3)(e) and (8A) applies in relation to the sentencing of a child for an

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offence—

- (a) whether the offence was committed before, or is committed after, the commencement of this section; or
- (b) whether the finding of guilt against the child for the offence occurred before or after the commencement of this section.

(2) In this section—

new section 150(3)(e) and (8A) means section 150(3)(e) and (8A) as in force from the commencement of the amending Act, part 4, division 3.

438C Application of new s 150A

(1) New section 150A(2)(c)(i) and (3)(e) applies in relation to the sentencing of a child for a prescribed indictable offence—

- (a) whether the offence was committed before, or is committed after, the commencement of this section; or
- (b) whether the finding of guilt against the child for the offence occurred before or after the commencement of this section.

(2) In this section—

new section 150A(2)(c)(i) and (3)(e) means section 150A(2)(c)(i) and (3)(e) as in force from the commencement of the amending Act, part 4, division 3.

439 Criminal histories

(1) In new section 6—

- (a) a reference to a caution does not include a caution administered to a child before the commencement; and
 - (b) a reference to a finding of guilt includes a finding of guilt against a child that occurred before the commencement; and
 - (c) a reference to a restorative justice agreement does not include a restorative justice agreement—
 - (i) made by a child before the commencement; or
 - (ii) made by a child on or after the commencement as a consequence of a referral of an offence for a restorative justice process that was made before the commencement; and
 - (d) a reference to a decision, finding, order or action of a court, Childrens Court judge, Childrens Court magistrate or other judicial officer in relation to a community based order or a supervised release order for a child does not include a decision, finding or order made, or action taken, before the commencement unless—
 - (i) an order was made for the resentencing of the child for an offence; and
 - (ii) the court ordered that a conviction be recorded against the child in relation to the offence as part of the resentencing of the child.
- (2) New section 6 applies in relation to a person—
- (a) whether the person is a child or an adult on the commencement; and
 - (b) whether an offence committed by the person as a child was committed before, or is

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committed after, the commencement of this section; and

- (c) whether a proceeding for an offence against the person as a child was started before, or is started after, the commencement of this section.
- (3) For applying section 11 of the Act in relation to a child after the commencement, a reference to a child's criminal history is taken to include any previous cautions administered to the child for an offence.
- (4) In this section—
new section 6 means section 6 as in force from the commencement.

440 Release of information to eligible persons

New part 8, division 7 applies in relation to detainee information about a child whether the violent offence or sexual offence for which the child has been detained was committed before or after the commencement.

59 Amendment of sch 4 (Dictionary)

- (1) Schedule 4—
insert—
criminal history, of a child, see section 6.
- (2) Schedule 4, definition *applicant*, 'section 282A(2)'—
omit, insert—
section 282BA(1)
- (3) Schedule 4, definition *nominee*, 'section 282A(4)'—
omit, insert—
section 282BA(3)

Part 5 Other amendments

60 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 60

Corrective Services Act 2006

1 Schedule 4, definition *parole order*, note—

omit, insert—

Note—

Under the *Youth Justice Act 1992*, sections 136 and 276E, the provisions of this Act that apply to a parole order also apply to a statutory parole order under those sections of that Act.

Dangerous Prisoners (Sexual Offenders) Act 2003

1 Section 5(6), definition *prisoner*, paragraph (b), ‘section 138(3)’—

omit, insert—

section 135(7)

Evidence Act 1977

1 Section 132C(5), definition *allegation of fact*, paragraph (b), ‘section 150(4A)’—

omit, insert—

section 150(9)

Penalties and Sentences Act 1992

1 Section 179J—

insert—

Note—

Under the *Youth Justice Act 1992*, section 256A, this part also applies in relation to an offender who is a child.

2 Section 179K(3), note, paragraph (b), ‘section 150(1)(j)’—

omit, insert—

section 150(2)

Police Powers and Responsibilities Act 2000

1 Section 365(3), note—

omit.

Youth Justice Regulation 2016

1 Section 38(1)(a)(ii), ‘principle 3, 16’—

omit, insert—

principle 4, 17

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