

Youth Justice (Access by Accredited Media Entities) Amendment Regulation 2024

Explanatory notes for SL 2024 No 185

made under the

Youth Justice Act 1992

General Outline

Short Title

Youth Justice (Access by Accredited Media Entities) Amendment Regulation 2024

Authorising law

Section 289(i) and section 314 of the *Youth Justice Act 1992*.

Policy objectives and the reasons for them

The policy objective of the *Youth Justice (Access by Accredited Media Entities) Amendment Regulation 2024* (the Amendment Regulation) is to enable accredited media entities to know when and where particular Childrens Court criminal proceedings are to be heard, to enable media entities to observe and report on those proceedings.

Achievement of the Objectives

Subject to specified limitations, section 20 of the *Childrens Court Act 1992* allows media to be present in Childrens Court courtrooms for criminal proceedings, when the Court is closed to the general public. However, there is no express ability for media to know when and where a particular proceeding is to be heard.

The amendment will allow court staff to disclose confidential information about a child to

accredited media entities to the extent necessary to notify the accredited media entity of the time and place of a proceeding.

The words ‘to the extent necessary’ have the effect that the provision only allows the minimum disclosure necessary to achieve the purpose. In practice, media already have publicly available Queensland Police Service file numbers (QP numbers) relating to proceedings, and disclosures will detail the time and place for proceedings by QP number. This will be sufficient to achieve the purpose, and therefore no further disclosure (for example, names) will be permitted by the provision.

In the hands of media representatives who can enter the courtroom, this information is confidential as it is ‘likely to lead to the identification of the child’ (see the definitions of ‘confidential information’ in s.284 and ‘identifying information’ in schedule 4 of the *Youth Justice Act 1992* (the YJ Act)); but the absence of directly identifying details such as names will minimise the risk of unnecessary or inappropriate disclosures.

In this way, the policy objective is achieved while also protecting children’s confidential information, noting the inherent vulnerability of children and the highly stigmatising effect of a child’s criminal history information becoming public, which inhibits rehabilitation.

The Amendment Regulation will permit the disclosure of information that is reasonably necessary, given the limitations of information technology (IT) systems available. This is because the existing system is designed to produce court lists and it is not currently possible to separate information about charges, hearing type, court file number, and the initial of the child’s surname from QP numbers without a manual process, which would not be practicable on a daily basis. In these circumstances, the provision will allow disclosure of this additional information, but still no directly identifying information such as names. Should IT capability improve in future, so that the additional information can be removed without manual intervention, the effect will be that the scope of permissible disclosure automatically contracts to exclude the additional information.

Other safeguards include limiting the disclosures to entities accredited under the Supreme Court’s media accreditation policy, and a new offence of intentional or reckless on-disclosure. The penalty for the new offence is 20 penalty units, the maximum amount possible in a regulation. The new offence applies to the information disclosed to accredited media entities, and any other confidential information directly or indirectly derived from the use of the initial information – for example, any confidential information acquired by a journalist who attends the proceeding. The offence also applies to any person who acquires any of the above information, including someone to whom it is intentionally or recklessly on-disclosed.

The prohibition on publishing any confidential information under YJ Act section 301 will still apply.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the *Youth Justice Act 1992*.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways to achieve the policy objectives.

Benefits and costs of implementation

The benefit of implementation is greater transparency and public awareness of Childrens Court criminal proceedings, with minimal impact on children's privacy and prospects of rehabilitation.

There will be a minor administrative burden on court staff. This will be met from within the existing resources of the Department of Justice and Attorney-General.

Consistency with Fundamental Legislative Principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

The Department of Justice and Attorney-General consulted with media stakeholders in the course of the development of the Queensland Community Safety Bill 2024.

In accordance with the *Queensland Government Better Regulation Policy*, the Office of Best Practice Regulation (OBPR) was notified of the regulatory proposal and a Summary Impact Analysis Statement (IAS) prepared.

A copy of the approved Summary IAS will be published on the Department of Youth Justice website.