



Queensland

Youth Justice (Conduct of Searches and Other Matters) Amendment Regulation 2024

Subordinate Legislation 2024 No. 232

made under the

Youth Justice Act 1992

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1 Short title

This regulation may be cited as the *Youth Justice (Conduct of Searches and Other Matters) Amendment Regulation 2024*.

2 Commencement

- (1) Sections 3 to 14 and 16 commence on 30 September 2024.
- (2) Section 15 commences on 1 December 2024.

3 Regulation amended

This regulation amends the *Youth Justice Regulation 2016*.

4 Insertion of new ss 11A–11C

After section 11—

insert—

11A Making nominations for searches

- (1) A child admitted to a detention centre may, in relation to any of the following searches, (each a ***relevant search***) nominate—
 - (a) for a search of the child under section 24 if the search involves touching the child and the chief executive is aware that the child identifies as transgender, intersex or otherwise not male or female—the sex of the person who is to conduct the search;
 - (b) for an imaging search of the child under section 24A—the sex of the person who is to view an image of the child produced by the imaging search;
 - (c) for a search of the child under section 25—the sex of the person who is to conduct the search;
 - (d) for a search of the child under section 26—the sex of the doctor who is to conduct

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the search and the detention centre employee who is to assist with the search.

- (2) The child must be given an opportunity to make the nomination before the end of the next business day after the child is admitted to the detention centre.
- (3) The nomination may state—
 - (a) different sexes for each relevant search; and
 - (b) more than 1 sex for each relevant search in an order of preference; and
 - (c) for a relevant search that may be conducted or provided in more than 1 way—different sexes for each way the search is conducted.
- (4) If the chief executive reasonably believes it is not likely to be reasonably practicable to comply with the nomination for a relevant search, the chief executive must—
 - (a) tell the child about the belief; and
 - (b) give the child an opportunity to make another nomination.
- (5) Also, if the nomination for a relevant search does not state male or female as a nominated sex, the chief executive must give the child an opportunity to make another nomination for the search.
- (6) The child may change the nomination at any reasonable time.

11B Deciding nominations for searches

- (1) This section applies if a child makes or changes a nomination under section 11A.
- (2) The chief executive must decide whether to accept or refuse the nomination as soon as practicable after the nomination is made.
- (3) The chief executive may refuse the nomination if

the chief executive reasonably believes the nomination—

- (a) is not associated with the genuine needs of the child; or
 - (b) is made for an improper purpose.
- (4) However, the chief executive must not refuse the nomination only because the chief executive reasonably believes it is not likely to be reasonably practicable to comply with the nomination.

11C Nominations in particular circumstances

- (1) This section applies if—
- (a) a child is admitted to a detention centre; and
 - (b) the chief executive is aware that the child identifies as transgender, intersex or otherwise not male or female; and
 - (c) the chief executive has not, after the child's admission to the detention centre, accepted under section 11B a nomination made by the child; and
 - (d) a search of the child under section 24, 24A, 25 or 26 is to be conducted.
- (2) Before the search is conducted, the child must be given an opportunity—
- (a) to nominate the sex of the person for the search; or
 - (b) for a child who has previously been a detainee—to affirm an earlier accepted nomination.
- (3) If, in the circumstances, it is not reasonably practicable to comply with the nomination, the chief executive must give the child an opportunity to make another nomination.

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5 Amendment of s 24 (Search not involving removal of clothes)

Section 24(2)(a) and (b)—

omit, insert—

- (a) for a child who has an accepted nomination if it is reasonably practicable to comply with the nomination in the circumstances—a detention centre employee of the sex stated in the nomination in accordance with the child's order of preference (if any); or
- (b) for a child to whom section 11C applies—
 - (i) for a nomination made by the child under that section if it is reasonably practicable to comply with the nomination in the circumstances—a detention centre employee of the sex stated in the nomination; or
 - (ii) otherwise—a detention centre employee who the chief executive considers appropriate to conduct the search; or
- (c) otherwise—a detention centre employee of the same sex as the child.

6 Insertion of new s 24A

After section 24—

insert—

24A Imaging search

- (1) If the chief executive reasonably believes it is necessary for the security of detention centre employees or children in the detention centre, the chief executive may direct a child to submit to an imaging search.
- (2) Before conducting the imaging search, a detention centre employee must—

- (a) explain to the child, in a way that is reasonable in the circumstances, the procedure for the search; and
 - (b) ask the child to cooperate with the search.
- (3) The chief executive must ensure that any image of the child produced by the imaging search is viewed only by—
- (a) for a child who has an accepted nomination if it is reasonably practicable to comply with the nomination in the circumstances—a detention centre employee of the sex stated in the nomination in accordance with the child’s order of preference (if any); or
 - (b) for a child to whom section 11C applies—
 - (i) for a nomination made by the child under that section if it is reasonably practicable to comply with the nomination in the circumstances—a detention centre employee of the sex stated in the nomination; or
 - (ii) otherwise—a detention centre employee who the chief executive considers appropriate to conduct the search; or
 - (c) otherwise—a detention centre employee of the same sex as the child.
- (4) The chief executive must ensure that any image of the child produced by the imaging search—
- (a) is viewed only by a person for the purposes of conducting the search; and
 - (b) is not copied; and
 - (c) is destroyed as soon as practicable after the search has been completed.

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7 Amendment of s 25 (Search involving removal of clothes)

Section 25(2)—

omit, insert—

- (2) The chief executive must direct the child to undress only in the presence of—
 - (a) for a child who has an accepted nomination if it is reasonably practicable to comply with the nomination in the circumstances—a person of the sex stated in the nomination in accordance with the child’s order of preference (if any); or
 - (b) for a child to whom section 11C applies—
 - (i) for a nomination made by the child under that section if it is reasonably practicable to comply with the nomination in the circumstances—a person of the sex stated in the nomination; or
 - (ii) otherwise—a person who the chief executive considers appropriate to conduct the search; or
 - (c) otherwise—a person of the same sex as the child.

8 Amendment of s 26 (Body search)

(1) Section 26(2)(a)—

omit, insert—

- (a) the doctor must be—
 - (i) for a child who has an accepted nomination if it is reasonably practicable to comply with the nomination in the circumstances—of the sex stated in the nomination in

accordance with the child's order of preference (if any); or

(ii) for a child to whom section 11C applies—

(A) for a nomination made by the child under that section if it is reasonably practicable to comply with the nomination in the circumstances—of the sex stated in the nomination; or

(B) otherwise—a doctor who the chief executive considers appropriate to conduct the search; or

(iii) otherwise—of the same sex as the child; and

(2) Section 26(7)(a) and (b)—

omit, insert—

(a) for a child who has an accepted nomination if it is reasonably practicable to comply with the nomination in the circumstances—of the sex stated in the nomination in accordance with the child's order of preference (if any); or

(b) for a child to whom section 11C applies—

(i) for a nomination made by the child under that section if it is reasonably practicable to comply with the nomination in the circumstances—of the sex stated in the nomination; or

(ii) otherwise—a detention centre employee who the chief executive considers appropriate to conduct the search; or

(c) otherwise—of the same sex as the child.

9 Amendment of s 27 (Record of searches)

(1) Section 27(1)—

insert—

(aa) an imaging search of a child under section 24A;

(2) Section 27(1)(aa) to (c)—

renumber as section 27(1)(b) to (d).

10 Amendment of s 28 (Property found during search)

Section 28(1), after ‘24,’—

insert—

24A,

11 Amendment of s 33 (Chief executive’s power to deal with property in detention centre)

Section 33(1)(e), after ‘24,’—

insert—

24A,

12 Amendment of s 35 (Child’s right to medical treatment and other health services)

(1) Section 35(2) and (3)—

omit, insert—

(2) The chief executive must ensure that, before medical treatment or another health service is provided to the child, the child is given an opportunity to nominate the sex of the person who will provide the treatment or service.

(3) If, in the circumstances, it is not reasonably practicable to comply with the nomination, the chief executive must give the child an opportunity to make another nomination.

(3A) Subsection (5) applies if—

- (a) the child does not make a nomination under subsection (2); or
- (b) the child makes another nomination under subsection (3) and it is not reasonably practicable to comply with the other nomination.

(3B) A person that the chief executive considers appropriate may provide the medical treatment or other health service to the child.

(2) Section 35(5)—

omit.

(3) Section 35(3A) to (4)—

renumber as section 35(4) to (6).

13 Amendment of s 36 (Reports of medical examination or treatment)

Section 36(4)—

omit.

14 Insertion of new s 40A

After section 40—

insert—

40A No power conferred for particular directions

Nothing in this part confers on the chief executive a power, for the conduct of a search or the provision of medical treatment or other health services—

- (a) to direct a person to disclose the person's sex; or
- (b) to direct a person to conduct the search or provide the medical treatment or health

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services in circumstances that would reveal the person's sex.

15 Amendment of sch 1 (Detention centres)

(1) Schedule 1—

insert—

2A Wacol Youth Remand Centre

24 Orford Drive, Wacol

(2) Schedule 1, sections 2A and 3—

renumber as schedule 1, sections 3 and 4.

16 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

accepted nomination, for a child, means a nomination made by the child under section 11A and accepted by the chief executive under section 11B.

health practitioner means—

- (a) a person registered under the Health Practitioner Regulation National Law to practise a health profession, other than as a student; or
- (b) a counsellor; or
- (c) a dietician; or
- (d) a social worker.

imaging search, of a child, means a search of the child using electronic imaging produced by a method of scanning the child, including, for example, using ionising or non-ionising radiation.

ENDNOTES

- 1 Made by the Governor in Council on 26 September 2024.
- 2 Notified on the Queensland legislation website on 27 September 2024.
- 3 The administering agency is the Department of Youth Justice.

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