

7 September 2026

Our ref: [BC:MC]

Committee Secretary
Justice, Integrity and Community Safety Committee
Parliament House
George Street
Brisbane Qld 4000

By email: [REDACTED]

Dear Committee Secretary

Breach Bail, Go to Jail and Other Legislation Amendment Bill 2026

Thank you for the opportunity to provide feedback on the Breach Bail, Go to Jail and Other Legislation Amendment Bill 2026 (**Bill**).

This response has been compiled with input from the Society's Criminal Law, Children's Law, Human Rights and Public Law and First Nations Legal Policy Committees. The Society's expert committee members have extensive and direct experience of the matters addressed in the Bill.

Introductory comments

The Society acknowledges the significant impact offending can have upon victims, their families and the broader community. We recognise community safety is a legitimate and important objective of the youth and criminal justice system and support measures that are evidence based and directed towards reducing recidivism and enhancing community safety. The Society further recognises that effective, evidence-based interventions for young people can contribute to safer communities, better outcomes for victims, and a reduction in future offending. Measures which successfully address offending behaviour, encourage rehabilitation and support long-term engagement with education, employment, family and community have the potential to achieve enduring benefits for both young people and the broader community.

However, the Society considers that the Bill overrides the *Human Rights Act 2019* (Qld) and significantly diverges from the tenor of the fundamental legal principles encapsulated in the *Legislative Standards Act 1992* (Qld), the *United Nations Conventions on the Rights of the Child* and other instruments such as the *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*¹. This makes it out of step with national and international best practice approaches to child justice and the approach recommended by the National Children's Commission of Australia.

¹ [United Nations Rules for the Protection of Juveniles Deprived of their Liberty | OHCHR](#)

Breach Bail, Go to Jail and Other Legislation Amendment Bill 2026

When it comes to the criminal justice system, there are some important basic safeguards. The presumption of innocence is central and is protected under section 32(1) of the *Human Rights Act 2019* (Qld). A charge is an unproven allegation. A person cannot be criminally punished (i.e. incarcerated) unless the offence charged against them is proved, beyond reasonable doubt. In this sense, the presumption in favour of bail operates as an extension to the presumption of innocence.

Bail is an important component of our justice system, reflecting the principle that individuals should not be deprived of their liberty solely on the basis of an allegation before their case has been properly determined.

No decision to grant bail is entirely without risk. The mechanism of bail recognises that some calculated risk must be taken to protect the rights of unconvicted accused. The *Bail Act* already contains a detailed framework that guides magistrates and judges in balancing the risks a grant of bail presents to the interests of a defendant and the community. The facts of each case must be individually examined in consideration that level of risk. As things now stand, bail can be refused if the police establish there is an unacceptable risk the defendant will fail to attend the court, commit an offence on bail, interfere with a witness or endanger the community. In many cases, the risks associated with a grant of bail can be met by the imposition of conditions, including curfews, residential conditions, reporting to police, medical examinations and sureties. The central concept to the refusal of bail is “*unacceptable*” risk. It would be wrong to deny a person bail because a level of risk is present.

The Society has long opposed mandatory sentencing². We have long defended the presumption of innocence. We have long insisted judicial discretion is not a technicality, but critical to just outcomes being achieved case by case, person by person. These are not merely theoretical concerns; they have significant practical implications for the legal profession and the administration of justice. The provisions in the Bill will be applied, in practice by the legal profession: by solicitors advising clients on bail overnight and under pressure, by duty lawyers running bail applications in busy Magistrates Courts across the state and by barristers and courts applying new and undefined tests with no settled jurisprudence as to their application. It will be the profession that will be left to apply these provisions in practice, whilst often carrying heavy workloads within an underfunded system.

The Society regrets the lack of a consultative process leading to the introduction of the Bill. The reforms proposed in the Bill are significant and will have wide-ranging implications for Queenslanders, in both the short-term and long-term. Meaningful and robust consultation with stakeholders before the introduction of a Bill yields the best legislation for the people of Queensland.

On balance, the Society does not support the passage of the Bill. It is our view that there are alternative ways of achieving the Bill’s objective that are consistent with long standing fundamental legal principles and supported by evidence. Better resourcing the courts, prosecution and legal assistance services to improve the efficient operation of existing laws,

² [Queensland Law Society Mandatory sentencing laws policy position](#)

including the early resolution of matters through fast-tracked sentencing would enable serious repeat offenders to be dealt with more swiftly, without the risk of unjustly punishing vulnerable and early-stage offenders.

Comments on the Bill

The Society welcomes the opportunity to comment on the Bill and recognises the legitimate interest in community safety and in ensuring that bail decision making appropriately accounts for the risk of further offending. However, for the reasons set out below, the Society does not support the passage of the Bill.

In summary, the Society key concerns can be summarised as: -

- (a) The new 'high degree of confidence' test in new sections 16AA of the *Bail Act 1980* (Qld) and 48AG of the *Youth Justice Act 1992* (Qld) introduces an unprecedented and conceptually unstable standard of proof into bail decisions.
- (b) The new section 29AA is procedurally unworkable in key respects and unlikely to achieve the stated purpose, instead capturing a much broader cohort of low-level offenders than intended.
- (c) The Bill resorts to broad and lengthy override of the *Human Rights Act 2019* (Qld) without adequate justification.
- (d) The weakening of the diversionary framework under the *Youth Justice Act 1992* (Qld) will undermine early intervention for young people, contrary to established evidence about what reduces offending.
- (e) The overburdening of already overcrowded custodial institutions so that they are unable to provide effective rehabilitation, leaving the community more vulnerable.

1. The new 'high degree of confidence' test – Section 16AA of the Bail Act and section 48G of the Youth Justice Act

The Bill introduces a requirement that, once a defendant has shown cause why their detention is not justified, the court or police officer must nonetheless refuse bail unless the defendant satisfies the decision-maker, to a high degree of confidence, that they will not commit a prescribed offence (adult) or significant offence (child) if released on bail.

The 'high degree of confidence' test has no clearly established meaning in criminal law. It does not correspond to any settled evidentiary standard, and the Bill and Explanatory Notes offer no guidance on how it is to be applied, proved or reviewed on appeal. The test is not defined in the Bill.

Before any question of section 16AA arises, section 16 of the Bail Act already requires that bail be refused if the court or police officer is satisfied there is an unacceptable risk that, if released, the defendant would fail to appear, commit an offence, endanger anyone's safety or interfere with witnesses or evidence, having regard to a wide range of matters set out in section 16(2). This is already a demanding and well understood standard. Section 16AA is therefore not filling

a gap in an otherwise permissive framework. We also note that section 16AA specifies no equivalent list of matters relevant to the ‘high degree of confidence’ threshold inquiry. It is therefore entirely unclear whether the further test is intended to apply the same considerations already assessed under 16(2). This uncertainty is compounded by placing the onus squarely on the defendant to discharge an evidentiary burden directed at proving a negative future event

The practical effect of section 16AA is to impose a materially more onerous test than the existing show cause requirement. Under the existing show cause test in section 16(3) of the *Bail Act*, a defendant need only show cause on the balance of probabilities, why their detention is not justified.

This is not merely a theoretical concern.

The similar test in New South Wales has caused real difficulty for courts asked to apply it. In *R v RB* [2024] NSWSC 471, Lonergan J described the ‘high degree of confidence’ formulation as a test unknown to the criminal law³, and observed that there was no guidance as to what the phrase means or what matters might properly inform that assessment. Her Honour further observed that the practical effect of the provision was to require an assessment verging on, without formally amounting to, certainty that a young person would not reoffend, a threshold with no counterpart in the ordinary bail regime that applies to adults, and one her Honour considered sat uneasily alongside the *Children (Criminal Proceedings) Act 1987* (NSW)⁴.

In *RB v R (No 2)* [2024] NSWSC 845, Walton J subsequently sought to give the phrase some interpretive content, holding a ‘high degree of confidence’ does not require the decision-maker to be certain and instead calls on a probabilistic assessment of the young person’s future conduct⁵.

We note the test in NSW is much narrower, and only applies to a child who is 14 – 17 years old who has been charged with a ‘relevant offence’, while on bail for a ‘relevant offence’. Data from the NSW statutory review⁶ of the operation of section 22C of the *Bail Act* is stark. Between April 2024, when section 22C commenced, and December 2025, the provision was applied to 454 first bail appearances. Bail was refused in approximately 70% of those cases. Aboriginal and Torres Strait Island young people accounted for 79% of all cases in which section 22C was applied, and for 84% of the cases in which bail was refused. The Society sees no reason to believe that the Bill’s effects in Queensland will be any less substantial. Rather, the scope and architecture of the Bill point to a real likelihood that its impacts will be more severe here.

We also note the Northern Territory has also introduced an equivalent ‘high degree of confidence’ test, inserted into the *Bail Act 1982* (NT) by the *Bail and Youth Justice Legislation Amendment Act 2025* (NT). That provision is presently the subject of a constitutional challenge before the High Court of Australia (Case no. D15/2025⁷). Given that the materially identical ‘high degree of confidence’ formulation is currently under active constitutional challenge before the High Court of Australia, the Society submits that considerable caution should be exercised before Queensland enacts an equivalent provision, and that the Committee, and its proponents, may wish to have regard to the outcome of that proceeding before the Bill is progressed.

³ [R v RB](#) [2024] NSWSC 471 at [6]

⁴ [R v RB](#) [2024] NSWSC 471 at [53] obiter

⁵ [RB v R \(No 2\)](#) [2024] NSWSC 845 at [69]

⁶ [Statutory Review of the Bail Amendment \(Extension of Limitation on Bail in Certain Circumstances\) Act 2025](#)

⁷ *North Australian Aboriginal Justice Agency Ltd v Northern Territory of Australia* (D15/2025).

The Society has particular concerns of this raised threshold for children to obtain bail. There have been a multitude of reforms to bail laws that have already resulted in significant increases of children being held on remand. There are currently over 50 children being held in adult watch houses throughout Queensland.

Given the significant uncertainty as to how section 16AA will operate in practice, and given the provision is said to be justified by exceptional circumstances, the Society strongly recommends the provision be subject to a sunset clause. This would ensure the test does not outlive the circumstances said to justify it and it does not become permanent without the evidence base this submission argues is currently missing.

2. The new section 29AA offence to commit particular offences while on bail, unlawfully at large or failing to appear

Scope

In the Society's view, the new section 29AA offence will not achieve the Bill's stated objective of reducing serious repeat offending. It risks doing considerable harm by entrenching a cohort of offenders in a criminogenic custodial environment, instead of seeking to provide rehabilitation.

The offenders whom the Bill is targeting, those who commit repeated serious offences while on bail, are in the ordinary course unlikely to obtain bail for underlying offending in the first place. Where such offenders are granted bail and go on to commit further serious offences, they will, in the ordinary course, already face terms of imprisonment upon conviction. The new offence is, however, squarely capable of capturing an entirely different and much larger cohort; that is, defendants on bail for comparatively minor matters who go on to commit further, unrelated prescribed or significant offences. This is because, as currently drafted, new section 29AA does not confine its application to breach of bail that was itself granted in respect of a prescribed or significant offence. The offence applies wherever a defendant commits a prescribed or significant offence while on bail for any offence, including bail granted for a minor, non-prescribed matters, unlawfully at large in respect of that bail, or having failed to appear in respect of a summons or notice to appear for any offence.

This is particularly concerning in respect of young people and first or early-stage offenders, who are demonstrably the cohort for whom early intervention, diversion and rehabilitative responses are most effective in reducing escalating and lifetime offending. The evidence base consistently shows that punitive, custodial responses to early-stage youth offending tend to entrench rather than reduce offending trajectories.

In addition, the Society is concerned that there is no consideration in the Bill for circumstances where a defendant is released on bail pursuant to section 11A of the *Bail Act 1980* (Qld). Release on bail under s. 11A is designed to ensure that persons who suffer from an impairment of the mind, who may not understand that their actions amount to an offence at law and may not have the capability to properly understand and comply with bail conditions are not set up to fail.

Complexity and timing problems

The Society is concerned about the complexity, and in key respects the workability, of new section 29AA which creates an offence of committing a prescribed or significant offence while on bail, unlawfully at large, or having failed to appear.

The provisions dealing with charging, joinder and timing are unusually intricate for the standalone offence carrying a mandatory minimum penalty of one year's imprisonment. Section 29AD deals with jurisdiction, section 29AC deals with timing of charge and the interaction with double jeopardy principles under sections 16 and 17 of the Criminal Code, and separate provisions govern joinder in the same complaint or indictment and the sequencing of pleas where the offence is joined with the underlying substantive charge. Taken together, these provisions require police, prosecutors, defence practitioners and the courts to navigate a genuinely novel procedural sequence with limited guidance as to how it will operate day-to-day.

One key concern in this respect is the interaction between section 29AC(2) and the ordinary criminal procedure. Section 29AC(2) provides, in effect, that a person cannot be charged with, or prosecuted for, the section 29AA offence after that person has been sentenced or otherwise dealt with for the underlying prescribed or significant offence. On its face, this appears to be a sensible limitation directed at preventing the section 29AA offence from being used to reopen matters that have already been finally determined.

However, in practice, this timing creates a procedural blind spot. It is entirely common for a defendant to enter a plea to a substantive charge at a comparatively early stage of proceedings, well before sentence, and often before prosecution has finalised its charges in respect of ancillary or related matters. In its current form, a defendant could plead guilty to, or be arraigned on, the underlying prescribed or significant offence at a point in time when no section 29AA charge has yet been laid. Nothing in the Bill prevents police or the prosecution from then laying a section 29AA charge in the period between arraignment or plea and sentence. That is, after the defendant's position on the substantive charge has already been fixed, but before a section 29AC(2) time bar takes effect.

The sequencing has serious implications for procedural fairness.

Disparate outcomes for co-offenders

A further practical injustice arises from the way section 29AA will operate where two or more offenders are jointly charged with, and convicted of, the same prescribed or significant offence arising from the same criminal conduct, but only one of them happened to be on bail, or unlawfully at large, or in breach of a notice to appear, at the relevant time. On conviction, that offender alone will be exposed to the concurrent section 29AA offence and its mandatory minimum of one year's imprisonment, while the other offender, convicted of the very same offence from the same conduct, does not face the same mandatory sentence.

This sits uneasily with the sentencing principle that co-offenders who play a broadly similar role in the same offending, should receive broadly comparative sentences. A co-defendant's bail history may properly be treated as an aggravating factor in sentencing.

Increase in delays and contested matters

The new offence will operate as a disincentive to resolve a matter by an early plea of guilty, with direct consequences for court delay, defendants and victims. The usual incentive for a defendant to plead guilty early is the prospect of a materially reduced sentence. Where a defendant faces a substantive prescribed or significant offence likely to attract a head sentence more than three years' imprisonment, the additional 12-month mandatory minimum for section 29AA cannot itself be reduced by an early plea and will apply regardless. A defendant in this situation has little practical incentive to plead early.

The consequence is an increase in the number of matters proceeding to trial that would have otherwise resolved by an early plea of guilty. An acquittal on the substantive offence would also dispose of the section 29AA offence, given its dependence on the conviction of the underlying offence. Even a modest prospect of that outcome, weighed against a mandatory minimum sentence will increase matters proceedings to trial. The costs of this consequence fall on a system with limited capacity to absorb them. For victims, this means a longer wait for resolution, a greater likelihood to give evidence and be cross-examined and prolonged uncertainty.

Mandatory minimum one year imprisonment

At a minimum we strongly submit the Bill should be amended to include a mechanism by which a sentencing court may depart from the mandatory minimum term of one year's imprisonment in exceptional circumstances.

As set out above, the practical operation of section 29AA is likely to capture a disproportionate number of early-stage and relatively minor offenders, rather than serious repeat offenders. Evidence consistently indicates that this early offending cohort has markedly elevated rates of cognitive impairment, intellectual disability and neurodevelopmental conditions such as foetal spectrum disorder, relevant to the general population.

Such impairments are well recognised as bearing directly on a person's capacity to understand and comply with bail conditions, to appreciate consequences of an offence warning under new section 29AB, and to make the very judgments, about risk, consequence and self-control, that the mandatory minimum penalty implicitly assumes they are capable of making. This is exacerbated for children. The Society strongly recommends that section 29AA be amended to permit a court to impose a lesser penalty, including a sentence other than imprisonment, in exceptional circumstances.

3. Displacement of double jeopardy laws – Sections 16 and 17 of the Criminal Code

The double jeopardy principle reflects a fundamental and longstanding protection against a person being punished more than once for what is, in substance, the same wrongdoing.

The Society considers a far more comprehensive explanation, with far greater particularity than the Explanatory Notes presently provide is necessary.

The displacement of ss 16 and 17 of the Criminal Code warrants substantially greater justification than is presently provided. Sections 16 and 17 should be nor simply procedural provisions, that if displaced, will result in little to no consequence.

Section 16 provides the statutory basis to a fundamental principle of criminal law namely that, that a person should not be punished twice for the same act or omission. The Queensland Court of Appeal has repeatedly recognised that s 16 operates independently of the traditional pleas and that its operation turns upon the substance of the underlying act or omission, rather than merely upon whether the offences are characterised as the same offence as a matter of law. The proposed s 29AA(5) nevertheless expressly provides that a person may be convicted and punished for the significant or prescribed offence which no regard to the fact that the person has already been convicted and punished for the significant or prescribed offence, the conviction of which constitutes the factual foundation of the new offence.

Proposed s 29AA(6) expressly excludes the operation of s 17. The Bill therefore does not merely create an additional offence carrying an additional consequence; it deliberately removes an

established statutory protection against double jeopardy consistent with the settled common law.⁸

The inclusion of s. 29AA(5) and (6) within the Bill are extraordinary and require justification by reference to why the s. 16 and s. 17 protections in the Code are required to be displaced in order to reduce recidivism, not simply by reference to the policy objective of deterring offending while on bail alone. The Society is of the view that the proposition that offending while on bail is particularly serious may justify the creation of a distinct offence. It does not, without more, explain why a person who has already been convicted and punished for the underlying act should be punished again for that same act. Nor does it explain why the ordinary operation of s 16 is considered inadequate to accommodate the legitimate sentencing consequences of offending while on bail.

The absence of a specific justification for overriding that established line of authority is particularly concerning given that the Bill simultaneously acknowledges the human rights incompatibility of the provision. The declaration in proposed s 29AA(8) does not itself provide the justification for the limitation; it makes the need for a rigorous justification more, rather than less, important.

4. New section 29AB - Offence warning

We assume the proposed requirement for a court or a police officer granting bail, to warn the defendant that committing particular offences while on bail is an offence carrying a mandatory minimum penalty of one year's imprisonment, is intended to serve as a genuine protective function. We support the underlying intent. A defendant should understand the gravity of what is being asked of them before being released into the community on that basis.

However, as presently drafted, section 29AB does not meaningfully achieve that purpose. The provisions require only that a warning be given in some form. For a child, subsection (3) requires only that the court or police officer 'have regard to principle 7 in schedule 1 of the Youth Justice Act', itself a general principle that young people should have matters explained to them in a way they can understand. There is no equivalent recognition at all for a child or adult defendant who has a cognitive impairment, intellectual disability, acquired brain injury or other condition affecting comprehension, notwithstanding that, as set out above, this is a cohort disproportionately represented among the very people most likely to be caught by the section 29AA offence. There is no requirement for an interpreter or a support person and no requirement that the giving of the warning be recorded.

The concern is compounded, rather than mitigated, by subsection (4), which provides that a failure to comply with the warning requirement does not affect the defendant's liability for a section 29AA offence, the validity of any proceeding, or any other matter, and is not available as a ground of appeal. The consequence of removing any legal effect from non-compliance is that section 29AB imposes no genuine incentive on a decision-maker to ensure the warning is actually understood.

5. Removal of mandatory requirement for police to consider diversionary options

⁸ *The Queen v Carroll* [2002] HCA 55.

The Society is troubled by the Bill's amendment of section 11 of the Youth Justice Act, which currently requires police officers to consider diversionary options before commencing proceedings against an alleged youth offender for certain offences, replacing that mandatory obligation with a discretionary power. Amending section 11 in this way is inconsistent with the principles of the Youth Justice Act.

The practical effect of converting a '*must consider*' obligation into a '*may consider*' discretion should not be understated. A mandatory requirement to turn the mind to diversion serves an important structural and cultural function. It ensures that diversion is considered as a matter of course in every relevant case, rather than only in those cases where an individual officer happens, on their own initiative, to turn their mind to it. Removing that requirement, particularly when combined with the related removal of section 59AA and amendment of section 59A concerning alternatives to arrest for alleged bail breaches, is likely to reduce the actual rate at which diversionary options are considered and used in practice.

The risk is heightened, not diminished, by the other changes proposed in the Bill. The cumulative effect is to narrow, rather than broaden, the range of circumstances in which a young person's first or early contact with the justice system results in a diversionary rather than punitive response. We strongly recommend the existing mandatory obligation to consider diversion be retained.

The removal of diversionary options and the introduction of mandatory terms of imprisonment will result in a greater number of matters coming before the Courts, stretching an already overburdened and under resourced system.

The Society is aware of the positive feedback from many victims who have participated in the restorative justice process. The discretion of the police to ignore this option would not seem consistent with upholding victim's rights and interests.

6. Remake and expansion of the human rights override declaration

The Society records its serious and repeated concern at the Bill's resort to override declarations under section 43(1) of the *Human Rights Act 2019* (Qld). This is a mechanism that Parliament recognised, at the time the Human Rights Act was enacted, should be used only rarely and in exceptional circumstances.

Notably, the Bill inserts new section 639AA into the *Police Powers and Responsibilities Act 2000* (Qld), excluding the operation of section 58 of the Human Rights Act in respect of acts and decisions concerning the management, control, and transfer of people detained in watch-houses, and couples this exclusion with a fresh override declaration under section 43(1). The Bill also remakes existing override declarations in section 56, 210, 262 and 262A of the Youth Justice Act, which govern the management of youth detention capacity and were otherwise due to expire on 31 December 2026.

The Society is deeply concerned by the extension of the override declarations for a further five years, the maximum period permitted under section 45, without any indication that the underlying operational pressures said to justify the extant declarations have been substantially addressed, which risks converting what was intended as an exceptional and time-limited measure into a de facto permanent feature of the law governing the treatment of some of the most vulnerable people in custody, including children in detention. The practice of allowing override declarations to approach expiry and then remaking them for a further maximum term,

rather than using the intervening period to implement *Human Rights Act* compliant alternatives, is inconsistent with Queensland's stated commitment to human-rights compatible governance.

The Society is particularly concerned by the justification advanced for these override declarations. An override declaration under section 43(1) of the Human Rights Act 2019 (Qld) is to be supported by a Statement of Exceptional Circumstances setting out the reasons said to justify it. In the Society's respectful view, the Statement accompanying the Bill does not meet the required standard. It relies on vague and unsubstantiated assertions without any accompanying evidence, data or reasoning capable of testing whether those assertions are properly characterised as exceptional. The Society's concern is most acute in relation to the mandatory minimum penalty in section 2AA. In our view, there are no expressly identified exceptional circumstances said to justify the mandatory minimum term of imprisonment itself.

7. Adult incarceration in Queensland, lack of functional capacity and risk to the community

The Queensland Audit Office's recent report into the Queensland's correctional system demonstrates that Queensland's prisons are already operating under significant and sustained population pressure.⁹ Whilst it is understood that announcements have been made regarding increases in bed capacity within certain Queensland Correctional Centre, the Society is of the view that prison capacity cannot be treated as a question of whether there is physically another bed available for a prisoner. The evidence demonstrates that functional capacity is considerably more than just bed numbers.

As at 30 June 2025, Queensland held 11,278 prisoners which is an increase of 54% in just ten years¹⁰. Unsentenced prisoners increased by 17%¹¹. Thirteen of Queensland's 20 correctional centres were holding more prisoners than originally intended, including 12 of the 13 high-security correctional centres¹². Queensland Corrective Services forecasts that the prisoner population will increase by a further 14 to 46 per cent by June 2035¹³. The issue is therefore not a question of hypothetical future capacity: the correctional system is already operating beyond the capacity for which many of its facilities were designed.

The consequences are not merely numerical. The Queensland Audit Office found that increasing prisoner numbers and limited infrastructure are placing pressure on staffing and facilities, heightening safety and security risks and disrupting routine prison operations. Overcrowding is directly impairing the ability of Queensland Corrective Services to provide the programs, education, employment and structured daily activities that are fundamental to rehabilitation and successful reintegration of prisoners upon their release back into the community. In some high-security correctional centres, prisoners may have only approximately four hours outside their cells because of restrictions on common-area capacity, incidents and staff shortages. The Audit Office also identified prisoners waiting for lengthy periods to access rehabilitation and wellbeing programs, with 1,016 prisoners on rehabilitation program waitlists as at 31 March 2026.

These findings are particularly significant in assessing any proposal that would substantially increase the number of people entering Queensland's correctional system, such as the proposed Bill. The evidence demonstrates that additional prisoners do not simply require an additional bed. They require additional custodial staff, infrastructure, program capacity,

⁹ See Queensland Audit Office, *Rehabilitating and reintegrating prisoners* (Report, 7 July 2026).

¹⁰ [Prisoners in Australia, 2025 | Australian Bureau of Statistics](#)

¹¹ [Prisoners in Australia, 2025 | Australian Bureau of Statistics](#)

¹² [Rehabilitating and reintegrating prisoners \(Report 1: 2026–27\)](#)

¹³ [Rehabilitating and reintegrating prisoners \(Report 1: 2026–27\)](#) at p.7

education and employment opportunities, health and support services, and sufficient physical space to operate prisons safely and provide meaningful rehabilitation. The Audit Office has expressly identified increasing prisoner numbers and demand on staff and facilities as an “inherent challenge” to Queensland Corrective Services’ ability to fulfil its rehabilitation and reintegration responsibilities.

Accordingly, any legislative proposal that is reasonably expected to increase the custodial population such as this should be accompanied by a transparent and comprehensive assessment of its impact on correctional capacity, staffing, infrastructure, prisoner safety and rehabilitation.

It is not sufficient to legislate for increased imprisonment while leaving the practical consequences to be absorbed by a correctional system which the Queensland Audit Office has already found to be operating under substantial and increasing pressure. To do so risks increasing the number of people in custody while simultaneously diminishing the system’s capacity to rehabilitate them and, ultimately, protect the community from reoffending.

Respectfully, the Society remains concerned that a key consequence of the Bill has not been sufficiently addressed: the prospect that more offenders will be released into the community at the completion of their sentences, having had limited opportunities for rehabilitation while in custody and without supervision by Community Corrections or oversight from the Parole Board of Queensland.

8. Youth incarceration in Queensland and lack of supports

Our concerns set out in this submission are reinforced by the broader state of youth incarceration in Queensland and availability of existing supports and diversionary pathways.

The Justice Reform Initiative’s 2025 overview of children’s imprisonment records that Queensland detained 301 children in custody on an average night, more than any other state or territory. Aboriginal and Torres Strait Island children in Queensland accounted for between 66 and 72 percent of young people in youth detention on an average day over the last four years and were 26 times as likely as other young people to have been in youth detention in 2024-2025¹⁴.

Queensland already has one of the highest rates of Aboriginal and Torres Strait Islander youth over-representation in detention of any Australian jurisdiction. Against this starting position and the broad design of the Bill will result in severe overcrowding and deterioration of custodial conditions. Aboriginal community-controlled early intervention and family support programs play a critical role in keeping Aboriginal and Torres Strait Island young people safe, connected and out of child protection and youth justice systems. However, these programs remain critically underfunded. SNAICC’s Family Matters Report 2025 highlights investment in Aboriginal, community-controlled services is essential to addressing the underlying factors that contribute to children and young people entering and remaining in the child protection and youth justice systems. Greater investment in culturally safe, community-led supports should form a central component of any response to youth offending.

The Society also notes that people living with disability are significantly over-represented in the criminal justice system, in particular Aboriginal and Torres Strait Island young people with cognitive and psychological disabilities¹⁵. This highlights the necessity to invest in the availability

¹⁴ [Childrens Court of Queensland Annual Report](#), [25]

¹⁵ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, “Final Report – Volume 8, Criminal justice and people with disability”, 29 September 2023.

and quality of services that connect young people with National Disability Insurance Scheme supports.

9. Further strain on preferred suppliers

The Society also considers it important to draw the Committee's attention to the mounting pressures facing the private profession in delivering legally aided criminal defence services. Those pressures are already affecting the system's capacity and are likely to be intensified by the implementation of this Bill. The Queensland Audit Office's Report 17: 2025 – 2026 records that LAQ relies on private law firms to deliver approximately 82% of its approved legal representation matters, the large majority of which are criminal law matters (82.2% of approvals in 2024-2025). Yet the number of private law firms undertaking LAQ work fell by 20.1% between 2021 and 2025, a decline the Auditor-General attributes principally to LAQ's hourly rate.

In this context, the untested and legally complex bail thresholds, novel offences and expanded mandatory minimum sentences this Bill seeks to introduce can only increase the time, complexity and risks involved in undertaking legally aided criminal defence work. The pool of practitioners willing to do that work is shrinking, and without any corresponding increase in remuneration, the real risk is that the profession's already diminishing capacity to service legally aided criminal matters will contract further, compounding rather than relieving the access to justice pressures this Bill's reforms will place on the system.

10. Review

If the Bill is passed, we recommend an independent review be conducted within one year to assess the efficacy of the amendments in achieving the stated objectives. Due to the significant nature of these reforms and the derogation of human rights, objective evaluation of the effectiveness of this legislation should be undertaken. This should include comprehensive and public consultation on the legislative scheme and policy.

The Society urges the Government to reconsider the Bill having regard to the concerns set out above.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [REDACTED]

Yours faithfully



Peter Jolly
President