

Queensland

# Criminal Responsibility and Deterrence Youth Act 2021

Youth Act No. 7 of 2021

A Youth Act to improve the treatment of young people within the Queensland criminal justice system through extensive amendments to the Criminal Code Act 1899 and the Youth Justice Act 1992.

[Assented to 13 October 2021]



Queensland

# Criminal Responsibility and Deterrence Youth Act 2021

### Contents

#### Page

Part 1	Prelimir	nary				
1	Short titl	Short title				
2	Comme	Commencement				
3	Main pu	Main purpose of Youth Act				
4	Definitio	Definitions				
Part 2	Age of (	Age of Criminal Responsibility				
5	Amendn	Amendment to age of criminal responsibility				
5A	Exception	Exceptions to age of criminal responsibility				
6	Minor property damage offences					
	176B	Sentence orders – property damage	5			
7	Transition2Success Programs					
	181B	Transition2Success Programs	5			
Part 3	Cultura	Culturally Diverse Sentencing				
8	On Country Program as an alternate diversion program 7					
	39	On Country Program	7			
Part 4	Rehabil	Rehabilitation and Support				
10	Transitional period for youth sex offenders					
	231	Transition periods preceding release	8			
Part 5	Househ	Household Liability				
12	Placement of children from vulnerable situations					
	48C	Amendment of bail requirements	9			
12A	Educatio	Education of guardians of children in vulnerable situations				

[s 1]

The Youth Parliament of Queensland enacts—

### Part 1 Preliminary

#### 1 Short title

This Youth Act may be cited as the *Criminal Responsibility* and Deterrence Youth Act 2021.

#### 2 Commencement

This Youth Act commences on a day to be fixed by proclamation.

#### 3 Main purpose of Youth Act

The main purpose of this Youth Act is to create the best outcomes for young people by addressing aspects of the criminal justice system that jeopardise their chances of success, rehabilitation and reintegration.

#### 4 Definitions

In this Youth Act—

*cultural authority* means that a person has the right to speak on, make decisions and give guidance and advice about their culture, cultural protocol, customary lore and traditions. A person can only have cultural authority over their own Clan Group.

*culturally appropriate* means having regard to Aboriginal and Torres Strait Islander culture in a respectful and appreciative manner.

*customary lore* means the traditions and customs of a particular group in a specific region.

#### [s 5]

*minor property damage offence* means the injury or attempted injury to property or equipment with a recoverable value of less than or equal to \$5000. The injury must occur through negligence or with wilful intent. The amount of recovery for property damage may be established by evidence of replacement value, cost of repairs, loss of use until repaired or replaced, or by the court.

serious sexual offence means rape or attempted rape.

*Transition2Success program* means the Queensland Government training program by the same name, designed for young people who have challenges with mainstream education and employment pathways.

# Part 2 Age of Criminal Responsibility

### 5 Amendment to age of criminal responsibility

(1) Section 29 (Immature age) Schedule 1 Criminal Code Act 1899—

omit, insert—

(1) A person under the age of fourteen years is not criminally responsible for any act or omission.

### 5A Exceptions to age of criminal responsibility

- (1) The court must exclude from the effect of section 5 any serious act or omission, including—
  - (a) serious sexual offences;
  - (b) serious assault resulting in grievous bodily harm;
  - (c) murder; or
  - (d) manslaughter.
- (2) The court must provide mandatory rehabilitation options for persons under the age of fourteen committing serious offences.

#### 6 Minor property damage offences

(1) After section 176A (Sentence orders – graffiti offences) Youth Justice Act 1992—

insert—

### 176B Sentence orders – property damage

- (1) This section does not limit a court's power to make an order under section 176.
- (2) For a minor property damage offence, the child is exempt from criminal responsibility if—
  - (a) a child is found guilty of a property damage offence; and
  - (b) the child is taking permanent or temporary residence in—
    - (i) public housing;
    - (ii) emergency housing;
    - (iii) hospital;
    - (iv) mental health facilities; or
    - (v) residential care facilities.
- (3) The court must have regard to the damage to property that is of sentimental value to the owner.

### 7 Transition2Success Programs

(1) After section 180A (Combination of detention order and graffiti removal order) *Youth Justice Act 1992—* 

insert—

### 181B Transition2Success Programs

(1) This section applies where a court makes a detention order or a probation order for a single offence.

[s 7]

(2)	Within a detention order, the court may order that								
	the	offender	concurrently	participates	in	а			
	Trar	nsition2Suc							

- (3) The Transition2Success program as a probation order requires that—
  - (a) the offender has less than six months of a detention order remaining;
  - (b) the offender attend and engage in the program for at least six months on at least a part time basis; and
  - (c) the program coordinator report to the offender's probation officer fortnightly regarding engagement.
- (4) If the offender fails to meet the requirements of the Transition2Success program under their detention or probation order, the court may hold a review to—
  - (a) extend the length of the order under section 246; or
  - (b) change the nature and requirements of the order under section 193.
- (5) After satisfactory participation in the Transition2Success program, the court may order—
  - (a) a conditional release from the detention order under section 245; or
  - (b) an immediate release order or fixed release order from the probation order under section 322.

# Part 3 Culturally Diverse Sentencing

#### 8 On Country Program as an alternate diversion program

(1) After section 38 (General requirements of an alternate diversion program) *Youth Justice Act 1992*—

insert—

### 39 On Country Program

- (1) The On Country Program is the prescribed alternate diversion program for Aboriginal and Torres Strait Islander youth.
- (2) Kinship mapping must be carried out to ensure connection with an appropriate elder and/or Clan Group.
- (3) The On Country Program cannot be ordered by the Court without the guidance and supervision of a person who has cultural authority.
- (4) The On Country Program must be carried out by a person who has cultural authority.
- (5) All proceedings must be culturally appropriate with regard to cultural safety and customary lore.
- (6) Special consideration should be had to—
  - (a) Opportunities for a child's family members to actively engage with the On Country Program and healing; an
  - (b) Opportunities for the Elder of the child's Clan Group to remain an active part of the child's ongoing rehabilitation; and
  - (c) The need for consultation with the child as to jurisdictional issues.

#### Example of jurisdictional issue—

If a child lives in Queensland but their Clan Group is centrally located in Victoria.

[s 10]

### Part 4 Rehabilitation and Support

#### 10 Transitional period for youth sex offenders

(1) After section 230 Youth Justice Act 1992—

insert—

#### 231 Transition periods preceding release

- (1) Children sentenced to serve a period of detention for a sexual offence must undergo six months in a transitional facility prior to their release from detention.
- (2) A child is eligible for transfer to the transitional facility if they—
  - (a) have demonstrated good behaviour within the terms of their detention order; and
  - (b) have an anticipated release date less than one year from the date of assessment.
- (3) If a child who has participated in a transitional period program reoffends, the transitional program will be extended by six months per additional offence with the addition of—
  - (a) mandatory counselling sessions; and
  - (b) counselling sessions involving a parent or legal guardian.

Example of extension of transitional period—

- for one additional offence, the time spent in a transitional facility will be extended to one year.
- for two additional offences, the time spent in a transitional facility will be extended to one and a half years.
- (4) Within transitional facilities, rehabilitative services such as—
  - (a) clinical psychologists;
  - (b) education services; and

[s 12]

(c) career advisors

shall be made accessible internally.

- (5) In order to complete the transitional period program, the child must—
  - (a) have accessed at least three rehabilitation services; and
  - (b) be deemed safe to return to the community by a clinical psychologist.

### Part 5 Household Liability

### 12 Placement of children from vulnerable situations

(1) After section 48B Youth Justice Act 1992-

insert—

### **48C Amendment of bail requirements**

- (1) Young people deemed to live in a household unable to manage troubled youth should be placed in an alternative program as a bail condition.
- (2) Young people placed in such a program must participate in skills development programs, including—
  - (a) TAFE courses;
  - (b) apprenticeship and traineeship programs;
  - (c) high school studies;
  - (d) sport; or
  - (e) hospitality.

# 12A Education of guardians of children in vulnerable situations

(1) After section 48B Youth Justice Act 1992-

#### [s 12A]

insert—

- (1) The parents or legal guardians of children deemed to be in vulnerable situations must participate in an education course on parenting as a condition of their child's bail.
- (2) The course is to include programs that develop a guardian's ability to prevent their child from re-offending and engaging in dangerous criminal activity, including—
  - (a) Family therapy and counselling;
  - (b) Juvenile crime education; and
  - (c) Police officer consultations
- (3) In releasing the child from custody, the court may impose conditions that it considers necessary, including—
  - (a) Night time curfews, where the child cannot leave the house after 9pm unless accompanied by a parent or legal guardian.