



Attorney-General and Minister for Justice  
Minister for Women and Minister for the Prevention of  
Domestic and Family Violence

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16 SEP 2022

Mr Neil Laurie  
The Clerk of the Parliament  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Mr Laurie *Neil*

I refer to e-Petition 3756-22 and Petition 3794-22 tabled in the Legislative Assembly on 16 August 22 titled *Appeal Against Manifestly Inadequate Sentence*.

I would like to offer my sincere condolences to the friends and family of Kate Leadbetter and Matthew Field for their tragic loss. The death of a loved one in any circumstance is heartbreaking, but the loss of Kate, Matthew and their unborn child is devastating.

As I announced on 16 June 2022, I have appealed the sentence that was imposed on the juvenile defendant in relation to the deaths of Ms Leadbetter and Mr Field. As this matter is now before the courts, it is inappropriate for me to comment further.

This tragic incident has also renewed focus on a proposal to recognise unborn babies as legal persons (also known as Sophie's Law). Noting that the proposal raises highly complex legal issues, significant consequences for criminal liability, and far-reaching consequences for both the pregnant person and others, the Palaszczuk Government is currently considering the best approach to legislative reform to better recognise the death of an unborn child as a result of a criminal act.

### **Reducing youth offending**

Community safety continues to be a key priority for the Palaszczuk Government. That is why we are delivering a record \$3 billion Police Budget for 2022-23 to invest in better policing services. This is in addition to increasing funding by \$78.8 million over four years for reforms under the Youth Justice Strategy that aim to deliver evidence-based interventions that hold children accountable for their behaviour.

Reducing the rate of youth crime is a complex challenge. It requires a number of different social interventions, in addition to detention. We know that 46% of youth crime is committed by a small group of offenders, and we are taking action against this cohort. Last year, the Government strengthened youth justice laws to target recidivist high-risk youth offenders, including:

- creating a presumption against bail for youth offenders who are arrested for committing a prescribed indictable offence while on bail for another indictable offence;

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- allowing certain courts to impose electronic monitoring devices as a condition of bail for young people aged 16 and 17 years as part of a limited trial;
- allowing courts to take into account assurances from parents and persons supporting a young person that bail conditions will be met when granting a young person bail;
- codifying the sentencing principle that offending while on bail is an aggravating factor when determining the appropriate sentence; and
- amending the Charter of Youth Justice Principles to include a reference to the need to protect the community from recidivist high-risk youth offenders.

These laws are resulting in more serious repeat offenders being held in custody and for longer. The average number of children in custody rose by over 30 the month after these laws were introduced. This was 70 more children than the same month in the previous year. By September 2021 there were 100 more young people in custody than in the same month the previous year.

The Government will closely monitor trends in youth crime to make sure our approach to addressing serious repeat offending is effective. As part of this, the Youth Justice Taskforce was established to oversee the reforms, led by Assistant Commissioner Cheryl Scanlon APM. The Taskforce is focussed on building intensive multi-agency case management strategies for high-risk repeat youth offenders to break the cycle of crime.

To further ensure our investment is working, former Police Commissioner Mr Bob Atkinson AO APM has undertaken an independent review following six months of implementation of the reforms. Mr Atkinson's report is being considered by Government.

### **Reinstating the breach of bail offence**

I would also like to assure petitioners that legislating for the reinstatement of the offence of "finding of guilt while on bail", which was formerly part of the *Youth Justice Act 1992* (YJA), is not the solution to young people who commit crime.

That offence, which appears to be commonly referred to as the 'breach of bail offence', applied only where a young person was found guilty of an offence which was committed while the young person was subject to bail. It had no operation where it was alleged that a condition of bail (such as a curfew or residential condition) was breached.

The offence simply did not work to deter young people from crime. When the youth justice bail offence was in the YJA, we know that of the 185 offenders who were convicted of the offence when it was in effect between 28 March 2014 and 1 July 2016:

- more than 90% of offenders re-offended within 12 months; and
- 94% of offenders re-offended within 24 months.

In addition to not deterring young people from committing crime, the offence itself did not work.

The decision of the Childrens Court of Queensland in *R v S; R v L* [2015] QChC 3 found that a young person convicted of the youth justice bail offence could not be punished for it. The reason for this is that the youth justice bail offence breached one of the fundamental principles of criminal law, namely, that a person cannot be punished twice for the same act or omission. At paragraph 21 of the judgment, the Court found that "*the child's liability for*

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*conviction crystallises at the time and place he commits an offence whilst on bail for another offence*” and, as a result, the imposition of a penalty for the offence contravened the rule against double punishment. It was also found that the custodial penalty attached to the offence could not have been imposed in any event. The only penalties that could have been imposed for the offence were a fine, a reprimand or a good behaviour order.

Under our current laws, if a young person is contravening their bail conditions (such as having contact with a co-accused or breaching curfew), police can arrest that young person on the spot without a warrant. Police can arrest a young person who they reasonably suspect is likely to breach their bail before the breach has occurred. The young person can then be taken into custody and brought before a court where the young person’s bail undertaking can be varied or revoked.

While the Government has a strong focus on keeping our communities safe, it is important to recognise there will always be young people who still break the law, despite the best efforts of the Government and all the help available. We will continue to hold these young people to account.

I thank the petitioners for bringing their concerns to the attention of the House and I trust this information is of assistance.

Yours sincerely



**Shannon Fentiman MP**

Attorney-General and Minister for Justice

Minister for Women and Minister for the Prevention of Domestic and Family Violence

Member for Waterford