



Person aged 18 or over remanded in custody for a child offence – information for legal stakeholders

Background

The *Strengthening Community Safety Act 2023* was passed by the Queensland Parliament on 16 March 2023 and commenced on 22 March 2023, making changes to the *Youth Justice Act 1992*, the *Bail Act 1980*, the *Police Powers and Responsibilities Act 2000* and the Criminal Code.

Included are amendments to the *Youth Justice Act 1992* with respect to people aged 18 years or more when they are remanded in custody in relation to a child offence (and not already being held in a detention centre in relation to the offence or any other matters).

Such a person will usually be held in a corrective services facility. The court has a discretion to remand the young person in a detention centre (s.136(3)) but only if it is satisfied it:

- would be in the interest of justice; and
- would not prejudice the security or good order of the detention centre at which the applicant is, or is to be, detained; and
- would not prejudice the safety or wellbeing of any detainee at the detention centre at which the applicant is, or is to be, detained.

In reaching this decision, the court must consider any:

- vulnerability of the young person, and
- interventions, rehabilitation or similar activities being undertaken by the young person and the availability of those activities if remanded in a corrective services facility.

Process

The need for a decision under s.136 is most likely to arise following a fresh arrest,

meaning there will be limited time to gather the information that the court may need to consider.

The young person and their lawyer may wish to obtain their own information in relation to the matters and criteria in s.136(3) and (4), but Youth Justice can assist, including by obtaining information from Queensland Corrective Services (QCS). The QCS information may be general in nature as the young person may not be known to QCS.

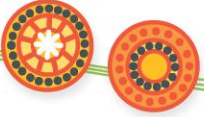
If bail is to be opposed, the court coordinator will offer to discuss the differences between a youth detention centre and an adult prison to the young person and their lawyer.

It will be helpful if the Youth Justice court officer is made aware at the earliest possible time:

- **by the prosecution: whether bail is opposed, and**
- **by the defence: whether, if bail is refused, the young person will seek an order that they be remanded in a detention centre.**

If the court is of the view that more information is needed for a decision, the matter could be stood down until later in the day and if possible, Youth Justice will endeavour to assist.

If the matter is adjourned and the young person remanded in custody without a decision under s.136(2), then s.136(2) means they will be held in a corrective services facility.



Prison Transfer Notice (transfer of persons remanded in custody)

If the court makes an order under section 136(2), the chief executive may later issue a prison transfer notice under section 276H informing the young person that they are being considered for transfer to an adult correctional facility.

However, the chief executive may not issue a prison transfer notice within the first three months following the order, unless the chief executive believes there is a significant change in the circumstances of the young person. If there is a significant change, the chief executive must state this in the prison transfer notice.

See separate fact sheet on transfers to adult custody.

Further information

For further information about the *Strengthening Communities Safety Act 2023* please email Youth Justice Policy, Strategy and Legislation (YJPSL) at OSED_YJPSL@cyjma.qld.gov.au.

YJPSL cannot give legal advice but may be able to assist with other questions.