



9 December 2011

Review of the YOA and the CCPA  
Legislation, Policy and Criminal Law Review  
Department of Attorney General

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## **Review of the Young Offenders Act 1997 and the Children (Criminal Proceedings) Act 1987**

### **Support for the principals and provisions of the Young Offenders Act**

We welcome the review of the *Young Offenders Act* (YOA) and the *Children (Criminal Proceedings) Act* (CCPA). UnitingCare Burnside is a leading child and family organisation in NSW, with over 13,000 services users in metropolitan, regional and rural communities. We work with young people at risk of homelessness, experiencing homelessness and living in Out-of-Home Care, many who are in contact with the juvenile justice system.

UnitingCare Burnside's experience as a child and family service provider gives us insight into the impacts of juvenile justice system on vulnerable children and young people. UnitingCare Burnside is a strong advocate for vulnerable and disadvantaged children and young people in the juvenile justice system, and has supported reforms that reduce the number of children and young people being placed in bail on remand unnecessarily.

Cautions, warnings and youth justice conferences have been a positive alternative to a court hearing for young people who are in working with our services. This is particularly relevant to those young people experiencing homelessness; mental health or cognitive impairment; or drug and/or alcohol abuse issues. Particularly, our services have found that young people have positive outcomes from participation in youth justice conferences, both as perpetrators and victims.

### **Expansion of the number of offences covered by the YOA**

We support the expansion of the number of offences covered by the YOA to include all offences, except serious children's indictable offences, as defined by Section 3 of the CCPA. There are a number of offences not currently covered by the YOA where children and young people would benefit from diversionary options.

This expansion of the offences covered by the YOA should include traffic matters, drug offences and offences covered by the *Crimes (Domestic and Personal Violence) Act*. While diversionary measures will not always be appropriate, giving the option of diversion for these offences will allow the police and courts to take into account the unique circumstances of children and young people.

### **Greater alignment between the YOA and the CCPA**

We do not support the merging of the YOA and the CCPA. However, there is a need for the pieces of legislation that cover children and young people to be better aligned. We support inserting a provision in the CCPA to the effect that a court must, as a matter of first principle, consider the diversionary options available through the YOA. This will create a stronger process for courts to consider, from diversionary options through to more serious sanctions covered by the CCPA.

### **The YOA supports children and young people and reduces reoffending**

The YOA is an effective tool to support vulnerable children and young people who are in contact with the juvenile justice system. Diversionary options included in the YOA offer many young people an opportunity for genuine change in their offending behaviour, while offering police and courts the discretion to take into account the circumstances of each individual offence. Appropriate use of the diversionary options available in the YOA is an important method of reducing the number of young people placed in bail on remand, and in reducing reoffending rates.

The positive outcomes of diversionary options are demonstrated in the reduced rates of reoffending of vulnerable children and young people who participate. For example, in 2010/11, the reoffending rate within two years for young people who participated in youth justice conferences were 40% in comparison to 61% for those who were placed in custody.<sup>1</sup> The outcomes of diversion in the appropriate circumstances are positive and we support an increased role for the YOA in the interaction between children and young people and the criminal justice system.

### **Youth Justice Coalition Submission Endorsement**

UnitingCare Burnside is a member of the Youth Justice Coalition, a network of youth workers, children's lawyers, policy workers and academics working to promote the rights of children and young people in New South Wales. The YJC promotes appropriate and effective initiatives in areas of law affecting children and young people and ensures that children's and young people's views, interests and rights are taken into account in law reform and policy debate. We support their submission to this review.

Yours sincerely

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<sup>1</sup> Department of Attorney General and Justice 2011, Budget Estimates 2010-2011, NSW Government, p. 2-8