

The Queensland Commission for Children and Young People and Child Guardian

promoting and protecting the rights, interests and wellbeing of all Queenslanders under 18

Advice to: Senate Legal and Constitutional Affairs Legislation Committee
Topic: Crimes Amendment (Fairness for Minors) Bill 2011
Date due: 31 January 2012

Thank you for the opportunity to provide comment on the Crimes Amendment (Fairness for Minors) Bill 2011.

This submission is made on behalf of the Queensland Commission for Children and Young People and Child Guardian, Western Australian Commissioner for Children and Young People, Tasmanian Commissioner for Children, South Australian Guardian for Children and Young People, Victorian Child Safety Commissioner, New South Wales Commission for Children and Young People, Australian Capital Territory Children and Young People Commissioner and the Northern Territory Children's Commissioner. These Commissioners and Guardians have a legislated responsibility to promote and protect the rights and wellbeing of children and young people under the age of 18 in their respective jurisdictions.

The Children's Commissioners and Guardians recognise the significant concerns which have arisen regarding the current techniques used to assess the ages of people suspected of committing offences under the *Migration Act 1958*. The Children's Commissioners and Guardians are particularly concerned that the current age assessment processes may lead to young people under the age of 18 being detained in adult correctional facilities.

The Children's Commissioners and Guardians note that the Australian Human Rights Commission is currently undertaking an inquiry into the treatment of individuals suspected of people smuggling offences who say that they are children. The Children's Commissioners and Guardians recommend that any proposed legislative amendments have regard to the findings of the Inquiry and any recommendations made as a result. The Children's Commissioners and Guardians also recognise the importance of applying the principles in the United Nations Convention on the Rights of the Child in any decision-making impacting on the rights of children and urge that any legislative amendments have regard to these principles.

The Children's Commissioners and Guardians' position:

The Children's Commissioners and Guardians note and support the intention of the proposed amendments to the *Crimes Act 1914* which seek to remedy the current lack of legislative procedures around the treatment of children suspected of committing offences under the *Migration Act 1958*.

The Children's Commissioners and Guardians support the provisions in the Crimes Amendment (Fairness for Minors) Bill 2011 which enshrine greater legal protections for children who are suspected or accused of being involved in 'people smuggling' offences under the *Migration Act 1958*.

Please do not hesitate to contact
Research Program
of this advice require clarification.

, A/Senior Policy Officer, Policy, Strategic Policy and
should any aspects