



Youth Parliament of Western Australia

Justice and Policing Reform Omnibus Bill 2024

Explanatory Memorandum:

The purpose of the justice system and corrective services in Western Australia has, for a long time, been focused on punishing the guilty and providing safety to the community. Yet in that singular drive to appear “tough on crime,” that system has seen many of our state’s most vulnerable young people treated as a problem to be locked up and forgotten, rather than as people in desperate need of help. For a young person to return to the courts for a second time is a failure of our state’s legal, judicial and prison systems.

This Bill aims to reform the entire justice and corrective service system, from start to finish, and ensure that no West Australian who enters the states juvenile detention system ever needs to return.

Firstly, this Bill improves our Police Force’s training when interacting with our state’s Aboriginal and Torres Strait Islander, and culturally and diverse communities, from the first day in the academy to throughout their careers. This ensures that our police officers can better protect all our vibrant communities across this vast state.

Secondly, our reforms of the court system raise the age of criminal responsibility from 10 to 14, makes the granting of bail easier for non-violent offenders and provides a radical change to the way juries deliberate and present their sentencing of their fellow citizens.

Finally, this Bill lays the groundwork for getting young West Australians out of Banksia Hill and Unit 18, using community-led diversion programs that truly focus on rehabilitation, humane treatment, addressing the traumatic root causes of criminal behavior in youth and laying the groundwork for their future prosperity and inclusion back into our society.

To truly ensure that fewer young West Australians are not simply locked up and forgotten, our Bill addresses their journey at every stage of the justice system and their detainment. These changes will ensure that a young West Australian should never be detained and forgotten a second time.



Western Australia

Justice and Policing Reform Omnibus Bill 2024

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Justice and Police Reform Omnibus Bill 2024

No. 4 of 2024

A Bill for

An Act —

to ensure that at every stage of the justice and reform system people are treated humanely, with the emphasis placed on rehabilitation and care for this vulnerable part of the state's population.

[Assented to 29 JULY 2024]

The Youth Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short Title

This is the *Justice and Policing Reform Omnibus Bill 2024*.

2. Commencement

This Act comes into operation on the day on which this Act receives the Youth Governor's Assent.

3. Terms used

In this Act—

Bail means to be released, with or without conditions, from the custody of the state while awaiting a court appearance;

Chief executive officer means the chief executive officer of the Department;

Community-led diversion program means a diversion program run from the community;

Community-led diversion program means a diversion program run within a community by that local community;

Court means any court vested with judicial authority in Western Australia;

Culturally and Linguistically Diverse means to someone who is from a country other than Australia; or is from a different cultural background; or can speak languages other than English; or follows different religions, traditions, values and beliefs.

Diversion means intervention approaches that redirect youths away from formal processing in the justice system, while still holding them accountable for their actions;

Diversion program means intervention approaches that redirect youth away from formal processing in the justice system, while still holding them accountable for their actions;

Faith-based means affiliated with, supported by, or based on a religion or religious group;

Faith-based means affiliated with, supported by, or based on a religion or religious group;

Jury means a body of civilian members that is vested with the ability to decide the verdict of a criminal or civil trial;

Lock-up means a lock-up as defined in the *Court Security and Custodial Services Act 1999*;

Penance means punishment inflicted on oneself as an outward expression of repentance for wrongdoing;

Penance means punishment inflicted on oneself as an outward expression of repentance for wrongdoing;

Rehabilitation means the action of restoring someone to health or normal life through training and therapy during imprisonment, addiction, or illness;

Stakeholders means any individual or group that has an interest in or are affected by the activities and decisions of an organisation;

Trauma-informed means practice that is grounded in the understanding that trauma exposure can impact an individual's neurological, biological, psychological & social development, as well as physical & emotional wellbeing. To provide effective services with a rehabilitation orientation, we need to understand the person's life situation;

Young person means—

- (a) a person who has not reached the age of 18 years; or
- (b) a person to whom this Act applies because of section 4.

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Part 2 — Police Training Reform

Division 1 — Mandatory training programs

- 4. Aboriginal and Torres Strait Islander Cultural Awareness and Response Training (“ATSICaRT”)**
- (1) The Aboriginal and Torres Strait Islander Cultural Awareness and Response Training will be composed of one (1) mandatory two-week training course paid for under the positions' appropriate award level and pay schedule.
 - (2) The training will be a requirement for the following positions within the West Australian Police Force—
 - (a) recruits undertaking training in the WA Police Academy and;
 - (b) current officers with a period of two years to do so from assent.
 - (3) The training must adhere to the following criteria:
 - (a) Provide evidence based, trauma informed education that is co-designed with ATSI stakeholders and lived experience experts for the purpose of providing general awareness and response training for ATSI communities; and
 - (b) provide specific training about at least one (1) ATSI community and include time spent in that community.
 - (4) The development of the Aboriginal and Torres Strait Islander Cultural Awareness and Response Training will be advised by and co-delivered with The Aboriginal Advisory Council of Western Australia (“The Council”).
 - (5) In its co-delivery capacity of ATSICaRT courses, the Aboriginal Advisory Council of Western Australia may—
 - (a) monitor, review and recommend updates to the ATSICaRT directly to the Commissioner of Police

and/or Attorney General, in alignment with current community needs; and

- (b) provide annual, publicly available reports on the content, implementation and effectiveness of the ATSiCaRT to the following:
 - (i) Western Australian Police Force; and
 - (ii) ATSI Stakeholders; and
 - (iii) Co-develop policies for the purpose of but not limited to ATSiCaRT training.
- (6) Policies proposed by The Council shall be reviewed in a timely manner by the Police Commissioner or Attorney General.
- (7) ATSiCaRT will be valid for five years only. Refresher courses of one-week duration are required every five years following initial ATSiCaRT certification.

5. Cultural and Linguistic Diversity Awareness and Response Training (“CaLDaRT”)

- (1) The Cultural and Linguistic Diversity Awareness and Response Training must be composed of two mandatory training courses, each of one-week duration, in two different communities.
- (2) The training will be a requirement for the following positions within the West Australian Police Force:
 - (a) Recruits undertaking training in the WA Police Academy; and
 - (b) current officers.
- (3) The training must adhere to the following criteria:
 - (a) Provide general awareness and response training for culturally and linguistically diverse communities; and
 - (b) provide specific training in at least two culturally and linguistically diverse communities and include time spent in those communities.

- (4) The development of the Cultural and Linguistic Diversity Awareness and Response Training (“CaLDaRT”) will be co-delivered with The Office of Multicultural Interests.
- (5) In its co-delivery capacity of Cultural and Linguistic Diversity Awareness and Response Training courses, the Aboriginal Advisory Council of Western Australia may—
 - (a) monitor, review and recommend updates to the CaLDaRT directly to the Commissioner of Police and/or Attorney General, in alignment with current community needs;
 - (b) provide annual publicly available reports on the content, implementation and effectiveness of the multiculturalism portfolio to the following—
 - (i) Western Australian Police Force; and
 - (ii) Relevant community stakeholders;and
 - (c) Co-develop policies for the purpose of but not limited to CaLDaRT training.
- (6) Policies proposed by OMI shall be reviewed in a timely manner by the Police Commissioner or Attorney General.
- (7) Cultural and Linguistic Diversity Awareness and Response Training will be valid for five years only. Refresher courses of one-week duration are required every five years following initial Cultural and Linguistic Diversity Awareness and Response Training certification.

Division 2 — Change of postings and Station Checks

6. Refresher change of posting training

- (1) Officers before going to any change of posting must complete the refresher cultural awareness unit before being assigned.

- (2) Officers will further be required to complete an additional unit learning about the Indigenous peoples of that area.
- (3) This unit for regional/remote communities will be compiled of targeted information compiled by AACWA, with a unit for each boundary to be determined based on where stations currently are and other factors (e.g., population, multiple communities etc.).
- (4) This unit will be no longer than 2 weeks.
- (5) This unit must be completed every 5 years if the officer continues to work in a regional or remote station.

7. Random checks of stations and officers

- (1) The Corruption and Crime Commission (CCC) will be responsible for handling of complaints and reporting of officers and stations, including regional and remote stations.
- (2) The CCC will conduct reports of police behaviour and conduct of officers including stations in regional and remote areas
- (3) The reports written by this body must—
 - (a) Be publicly available digitally, and by mail if requested; and
 - (b) have the option for officers to remain anonymous.
- (4) If ongoing complaints occur and are not resolved within 6 months after the report by the CCC has been taken, the CCC will open a formal investigation in a timely manner
- (5) If a formal investigation is opened any resident wishing to make a complaint within that area shall be made aware of methods to do so and be connected to legal and mental health services.
- (6) If a formal investigation is opened, all residents within that area shall also be supplied with both electronic, where it is possible, and physical copies of methods to make a complaint, and support materials directing them to legal and mental health services.

Part 3 — Court and Justice

Division 1 — Raising the age of criminal responsibility

8. Act amended

This Division amends the *Criminal Code Compilation Act 1913*.

9. Part I, Chapter V, section 29 amended

In section 29—

- (a) delete “A person under the age of 10 years is not criminally responsible for any act or omission” and insert:

“A person under the age of 14 years is not criminally responsible for any act or omission”

and

- (b) delete “A person under the age of 14 years is not criminally responsible for any act or omission, unless it is proved that at the time of doing the act or making the omission, he had capacity to know that he ought not to do the act or make the omission.”

Division 2 — Provision of juror support due to disability

10. Act amended

This Division amends the *Juries Act 1957*.

11. Part II Section 6 inserted

- (1) This section applies if a judge is satisfied that a person summoned or appointed to attend to serve as a juror, and who has not claimed an exemption or otherwise been excused from attendance, may be unable to properly discharge the duties of a

juror, because the person is living with a mental or physical disability.

- (2) The judge must—
 - (a) consider if support would enable the person to properly discharge the duties of a juror;
 - (b) consider if support can reasonably be given; and
 - (c) if satisfied that support that would enable the person to properly discharge the duties of a juror can reasonably be given, make a direction that the support be given.
- (3) Examples of supports to be considered include but are not limited to—
 - (a) an Auslan interpreter;
 - (b) an assistance animal;
 - (c) a support person.
- (4) To determine if support can reasonably be given, the judge may consider the following:
 - (a) whether the support would impose a disproportionate or undue burden on court resources, facilities and time frames;
 - (b) if the support would require a non-juror being present during jury deliberations, whether the non-juror's presence would inhibit or restrict discussion, or unduly pressure or influence any juror;
 - (c) any other issue the judge considers relevant.
- (5) If the judge makes a direction allowing an interpreter or support person to assist the person in properly discharging the duties of a juror—
 - (a) the common law rule against having a non-juror in the jury room is not a relevant consideration; and

- (b) a direction to allow a non-juror to be present during jury deliberations must be solely for assisting the person to properly discharge the duties of a juror; and
- (c) the direction is subject to the interpreter or support person agreeing and proceeding to make an oath or affirmation in one of the two forms stated below:

Supporter's oath

“I swear (or the person taking the oath may promise) by Almighty God (or the person may name a god recognised by the person's religion) that I will well and truly support the juror to discharge the juror's duties, and that I will not otherwise participate in the jury's deliberations or disclose anything about those deliberations, except as allowed or required by law.”

Supporter's affirmation

“I solemnly and sincerely declare and affirm that I will well and truly support the juror to discharge the juror's duties, and that I will not otherwise participate in the jury's deliberations or disclose anything about those deliberations, except as allowed or required by law.”

- (6) If the judge is not satisfied that support that would enable the person to properly discharge the duties of a juror can reasonably be given, the judge may discharge that person from further attendance requirements to court under the relevant summons or appointment.

12. Part I, Section 43B inserted

After section 43A, insert:

43A. Jurors compelled to provide reasons for verdict

- (1) At or around the same time as the jury, or a representative thereof, delivers their verdict to the court, the jury, or a representative thereof, shall present reasons for their verdict.
- (2) Upon receipt of the jury's reasons, the judge, or a court officer, shall convey the jury's reasons to all parties to the trial in a written format.
- (3) The reasons shall—
 - (a) include the reasons of the jury as to why they reached their verdict;
 - (b) identify the particular items of evidence of which contributed to the jury reaching their verdict, and how those items of evidence influenced the verdict;
 - (c) not identify any juror within the reasoning; and
 - (d) be provided by the jury in every trial that occurs in which a jury decides the verdict.
- (4) The reasons of the jury shall not—
 - (a) be made available, in a written format or otherwise, to any member of the public; or
 - (b) be published in a media publication.
- (5) The reasons of the jury may be used as grounds for appeal by either party to the trial, where there is a reasonable belief that the jury has erred on one or more point(s) of fact and/or point(s) of law, that affected the verdict of the jury.
- (6) Jurors may request the assistance of a court officer in the preparation of their reasons. The court officer assisting the jury must only assist in the written preparation of their reasons, and must not express, to

the jury, their own opinion or reasoning regarding the verdict or defendant, and must not seek to influence the jury's reasoning or verdict in any way.

- (7) Jurors, court officers, judges, and other persons involved in the authorised preparation, authorised publication, and authorised conveying of the reasons provided by the jury for their verdict in a trial must not be prosecuted for offences relating to the preparation, publication, and/or conveying (where it is authorised under this section), under this Act or any other Act of the Parliament of Western Australia.

Division 3 — Presumption of bail for non-violent adult offenders

13. Act amended

This Division amends the *Bail Act 1982*.

14. Schedule 1, Part C, section 2A inserted

In Schedule 1 Part C after section 2 insert:

2A. Qualified right to bail for adult offenders

- (1) In this section—

physical harm means damaging, destroying, assaulting, wounding, killing, or disturbing in some way so as to cause a wound;

violent offence means an offence which involves the causing of, or threatening to cause, physical harm or damage to another person, animal, place, or object;

- (2) An accused who is in custody charged with the following crimes has the right to be granted bail:

- (a) A single offence within the summary jurisdiction of a summary court (which in this section takes the meaning of summary court per section 6A); and
 - (b) more than one offence where all offences are within the summary jurisdiction of a summary court
- (3) This right can be invalidated if—
- (a) The offence of which the accused who is in custody is accused of a violent offence or an offence which involves the threatening of physical harm; or
 - (b) In the opinion of the judicial officer or authorized officer in whom jurisdiction is vested—
 - (i) The accused is dangerous, and a risk is posed to themselves, or the wider community by granting bail, which must be proven in a summary court.
 - (ii) there is no condition which they could reasonably impose under Part D which would satisfy the relevant provision of Section 1(e).
- (4) An accused who is or was in custody must be granted bail relative to their financial status or earnings.
- (5) An offender can be granted bail a maximum of 3 times, any later offense shall be declined.

Part 4 — Drug Decriminalisation

15. Act amended

This Division amends the *Misuse of Drugs Act 1981*.

16. Schedule I amended

In Schedule 1, delete Item 5.

17. Schedule II amended

In Schedule II, delete Item 3.

18. Schedule III amended

In Schedule III, delete Items 25, 26 and 27.

19. Schedule IV amended

In Schedule IV, delete Item 3.

20. Schedule V amended

In Schedule III, delete Items 25, 26 and 27.

21. Schedule VI amended

In Schedule III, delete Item 3.

22. Schedule VII amended

In Schedule VII, delete Items 2, 3, 4.

23. Schedule VIII amended

In Schedule VIII, delete Item 1.

24. Regulation of the sale of cannabis

All provisions for the sale of tobacco products under the Tobacco Products Control Act 2006, will apply to the sale of

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cannabis products, with a separate retailer's licence to be established for the sale of cannabis.

Part 5 — Incarceration and Rehabilitation Reforms

18. Act amended

(1) This section amends the *Prisons Act 1981*.

(2) In section 3—

(a) insert:

“a prison is a rehabilitation space that focuses on rehabilitation and preparing the prisoner for reintegration into society”

(b) delete “a person committed to prison for punishment” and insert:

“a person committed to prison for rehabilitation and reintegration into society”

(c) delete “to be kept in strict custody” and insert:

“to be kept in strict trauma-informed custody”

(d) insert:

“diversion”

(e) insert:

“community-led diversion program”

(f) insert:

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“penance”

(g) insert:

“faith-based”

and

(h) insert:

“trauma-informed”

(3) In section 5 insert:

“No convicted juveniles will be permitted to be detained within an adult prison for any length of their sentence.”

(4) In section 7(2)(c) delete “any accident, serious irregularity, or any other unusual event which affects the good order or security of a prison” and insert:

“any accident, serious irregularity, suicide attempt, suicide, or any other unusual event which affects the good order or wellbeing of a prisoner, including unnecessary or unprovoked physical and psychological harm inflicted by prison officers”

(5) In section 7(2)(a)—

(a) delete “The chief executive officer may” and insert:

“The chief executive officer must”

- (b) delete “in any way that the chief executive officer considers expedient for the purpose of the performance of functions under this Act” and insert:

“in any way that the prisoner and / or medical officer considers necessary for the successful rehabilitation of the prisoner”

- (c) insert:

- (c) allow faith-based rehabilitation programs to operate in the prison.

- (3) In section (7)(3) insert:

- (i) It is compulsory for the chief executive officer to act on an order or direction from a superintendent or medical officer if, in not doing so, could result in, or has already resulted in, physical or psychological harm to a prisoner.

19. Part 3, section 14 amended

- (1) In section 14—

- (a) delete “has a responsibility to maintain the security of the prison where he is ordered to serve; and” and insert:

“has a duty of care for the prisoner and is responsible for the prisoners safety; playing an integral role in the rehabilitation process where he is ordered to serve, and”

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- (b) delete “is liable to answer for the escape of a prisoner placed in his charge or for whom when on duty he has a responsibility; and” and insert:

“is liable to answer for the escape of a prisoner or attempted suicide of a prisoner placed in his care or for whom when on duty he has a responsibility; and”

and

- (c) delete (d) and insert:

- (d) penance must not go beyond what is needed for the detainee to receive help.

- (2) In section 95(1) delete “the chief executive officer may arrange” and insert:

“it is compulsory for the chief executive officer, or the delegate of the chief executive officer, to arrange”

- (3) In section 95(2)—

- (a) delete “may” and insert:

“must”

- (b) delete (a) and insert

- (a) promoting the rehabilitation of prisoners and their reintegration into society

and

(c) insert:

- (i) from the prisoners first day in prison, they are appointed an officer or prison guard to help assist in rehabilitation

(4) In section 95(2)(b)—

- (a) delete “that will assist them to adopt law abiding lifestyles on release; and” and insert:

“that will assist them in overcoming trauma and finding their motivation and passion”

and

(b) insert:

- (i) through a trauma informed and culturally aware practice of services;

(5) In section 95(2)(c) delete “on release” and insert:

- (i) progression through a sentence is to assist a prisoner in re-entering into the community;
- (ii) proceed towards gradual release from high security prisons to lower security prisons, through to halfway houses; and
- (iii) finally, execution of the sentence outside of prison unless security reasons dictate otherwise.

(6) In section 95(2)(d) delete “and” and insert:

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- (i) crucial services for reintegration are delivered to the prison by local and municipal service providers;
- (ii) prisons do not have their own prison staff delivering medical, educational, or library services; these are imported from the community; and
- (iii) different faith and clergy services are provided through the community.

(7) In section 95(2)(f) delete “and” and insert:

- (i) all prisoners have a right to education, whether that be formal, distance education, primary school, high school or vocational education;
- (ii) the Department of Education to be an integral role in the delivery;
- (iii) education is available at all times, for everyone who enters into prison, no matter his/her legal condition;
- (iv) courses provided must offer a certification or qualification upon completion; and
- (v) prisoners can choose between school or work duties.

(8) In section 95A(2) delete (a) and insert:

- (a) all prisoners have the same right to health care as other residents living in the state, including access to Medicare funded services;
 - (b) if the prisoner cannot be examined or suitably treated in the prison by a medical officer, a medical professional shall be engaged to conduct the examination and/or course of treatment;
 - (c) if a prisoner is showing signs of self-harm or attempted suicide—
 - (i) a mental health professional is to be contacted immediately;
 - (ii) the prisoner is not to remain in solitary confinement; and
 - (iii) the prisoner to have access to calls and support services until the situation has eased.
- (9) In section 95A(3) insert:
- “subject to sub-section 2”

Part 6 — Community-Led Diversion Programs

Division 1 — Detained young people

20. Act amended

This Division amends the *Young Offenders Act 1994*.

21. Part 2, section 7 amended

- (1) In 7(a) delete “there should be special provision to ensure the fair treatment of” and insert:

“there should be trauma-informed and culturally aware rehabilitative support to”

- (2) In 7(b) delete “a young person who commits an offence is to be dealt with, either formally or informally, in a way that encourages the young person to accept responsibility for his or her conduct; and” and insert:

“a young person who commits an offence is to be seen as a child that needs support, but is to be encouraged to accept responsibility for his or her conduct; and”

- (3) In 7(c) delete “not to be treated more severely because of the offence than the person would have been treated if an adult; and” and insert:

“is to be seen as a child that needs help and support through trauma-informed care”

- (4) In 7(d) delete “and” and insert:

“and be an integral part of the young persons rehabilitation and reintegration back into community”

(5) In 7(f)—

(a) delete “should be” and insert:

“must be”

(b) delete ‘and’ and insert:

“by”

and

insert:

(iii) being provided free counselling services for both the responsible adult and the young person being referred to a community-led diversion program;

(6) In 7(g) delete “and” and insert:

(iii) this includes referral, and or, mandatory participation to a community-led diversion program;

(7) In 7(h) delete “and” and insert:

(i) The young person must not be in a prison cell unless they have been taken into custody for a violent offence;

- (ii) the young person is allowed to make a phone call, until a responsible adult is informed of their whereabouts; and
 - (iii) the young person must be referred to a local service provider or community-led diversion program
- (8) In 7(i) delete "although a young person who has reached the age of 16 years may be held in a prison for adults but is not to share living quarters with an adult prisoner; and" and insert:
 - (i) the place of lock-up must have
 - (ii) access to running water;
 - (iii) basic 'bedroom' furniture, including at least one bed, mattress, and desk;
 - (iv) at least one window of at least 30 squared centimetres in size that allows sufficient natural light to reach the inside of the place of lock-up, unless it is determined impractical due to the structural configuration of the building
- (9) In 7(j)—
 - (a) delete “punishment” and insert:

“penance”
 - (b) delete “should be designed so as to give the offender an opportunity to develop a sense of social responsibility and otherwise to develop in beneficial and socially acceptable ways; and” and insert:

“must be designed and focused on rehabilitation and re-integration back into local community and society”

- (2) In 11B(b) after “after escape of a detainee” insert:

“or attempted suicide”

- (3) In 11B delete (d) and insert:

- (d) may issue to a detainee such orders as are necessary for the rehabilitation and support purposes of this Act.
- (e) Penance must not go beyond what is needed for the detainee to receive help.
- (f) Detainees are prepared for their release from their very first day in a facility or detention centre.’

24. Part 3, division 4, section 11C amended.

- (1) Delete (1).

- (2) Delete (2) and insert:

- (2) a custodial officer must not use force on a young offender except in self-defence.

- (3) Insert:

- (3) If unnecessary force is used upon a detainee, the custodial officer shall be legally accountable for his or her actions.

25. Part 3, division 4, section 11D amended

Delete *section 11D*.

26. Part 3, division 4, section 11D amended

Delete *section 11E*.

**Division 4 — Dealing with young offenders without taking
court proceeding**

27. Act amended

This Division amends the *Young Offenders Act 1994*.

28. Community-led diversion programs

After section 40, insert:

40A. Operation policies

(1) Participant requirements can include—

- (a) admission to the illegal behaviour that led to a referral to diversion;
- (b) acceptable demeanour when meeting with the diversion program contact;
- (c) attendance;
- (d) absence of new arrests;
- (e) consent to participate in diversion; and
- (f) signing of diversion agreement.

(2) Participant agreement should include—

- (a) measurable objectives and conditions to be met by the youth (for example, agreement to participate in services and hours of community services, exact amount of restitution). These

conditions should be defined in detail and provide a time-line for completion;

- (b) a formal process for reviewing and monitoring compliance;
 - (c) a system of rewards for compliance and sanctions for non-compliance;
 - (d) a statement of the agreement's duration;
 - (e) verification that victim input was sought and taken into account; and
 - (f) verification that the youth and caretaker were notified of their right to refuse diversion.
- (3) Failure to comply to conditions and responsibilities associated with program participation may result in termination from the diversion program.
- (4) These conditions should be clearly reflected in a formal written agreement between the youth, the family, and the diversion program.

40B. Services

- (1) Building coalition by taking inventory of what services the diversion population in the community likely needs and what the community actually has to offer by way of these services, which may include—
- (a) family interventions, including family counselling, multi-Systemic Therapy, Functional Family Therapy, and other family-based interventions;
 - (b) On-Country programs run by Aboriginal Elders learning about culture and country;
 - (c) self-admission to a Drug Reform Centre;
 - (d) mental health treatment, ranging from individual psychotherapy and counselling to

more intensive mental health services, as well as services that are not “diagnostically specific”—for example, anger management programs;

- (e) mentoring, referring to a range of services that focus on connecting youth with caring adults who can provide positive one-on-one “big brother” and “big sister” types of relationships;
 - (f) life-skills training, referring to programs that teach skills related to the workplace and to roles as caretakers and partners;
 - (g) religious or spiritual practice, programs and study;
 - (h) educational assistance programs, including a range of services that assist youth in improving their study and comprehension skills; and/or
 - (i) job placement services, which can help youth find casual and part-time employment.
- (2) Implementation of Services as stated in 40B(1) can be administered—
- (a) directly through the youth entering the program;
 - (b) the service provided in-house and or at another approved location; or
 - (c) in concert with other formal youth service programs.
- (3) These programs will set up agreements with certain service providers in the community for diversion.

40C. Incentives

- (1) No further action:

- (a) Once a program has been successfully completed, the original cause of action will be dismissed.
 - (b) No further action should be taken, and the juvenile's participation in the program may not be used against him/her in future proceedings.
- (2) Expungement of the youth's record upon successful completion of the diversion program.

40D. Program completion and exit criteria

- (1) Time-based criterion: the diversion program to specify the length of time that all youth must participate in the program.
- (2) Performance-based criteria:
 - (a) The youth's agreement establishes goals that are measurable and are evaluated regularly.
 - (b) When these goals have been accomplished, the youth exits the program.
- (3) Failure to Comply criterion: certain unacceptable behaviours may be stated, with an infraction regarding any of these behaviours signalling exit from the program.

40E. Consequences of failure to comply

- (1) Options of consequences for failing to comply can be—
 - (a) dismissal from Program with Formal Processing, which entails rescinding diversion and return the youth to formal juvenile justice processing; or
 - (b) Dismissal from Program without Formal Processing, wherein if a youth fails to abide by

the requirements of the program or is unreliable in accessing the services that were offered, the youth will be dismissed from the program without formal processing.

40F. Legal protections for information use

- (1) Confidentiality with Incriminating Statements:
 - (a) An incriminating statement made by a juvenile participant during diversion or informal processing shall not be used later against the juvenile participant.
 - (b) Any potentially incriminating statements made by the juvenile participant will not be subsequently used against them.
 - (c) This protection extends to the entire duration of the diversion process.
- (2) Confidentiality When Required to Admit to Offense:
 - (a) The youth is required to admit to the offense as a prerequisite for the program.
 - (b) Programs require participants to accept responsibility for their actions.
- (3) Written Policies and MOUs Concerning Confidentiality: confidentiality policies formalized by developing a Memorandums of Understanding (MOU) between relevant stakeholders involved.
- (4) Therapist-Patient Confidentiality: information (such as information collected during screening, assessment, and treatment) are to be kept confidential.

40G. Quality

- (1) Program development:

- (a) Programs should proceed from a clear statement of their goals, objectives, and desired outcomes.
 - (b) The design of the program involves several evidence-based components offered by one provider or may involve referring youth to one of several different service providers, each of which offers just one evidence-based component.
 - (c) Support from stakeholders from entities that will refer youth to the program.
 - (d) Clear, well-reasoned policies and procedures.
 - (e) Training that covers the policies and procedures that govern the operation of the program.
 - (f) Training to cover topics that help practitioners to understand the characteristics of, risks presented by, and service needs of youth served.
 - (g) Data collection for program evaluation.
- (2) Quality assurance:
- (a) Internal monitoring processes based on ongoing data collect.
 - (b) Monitoring program fidelity through process evaluation.
 - (c) An external monitoring process which includes provision of periodic reports to an advisory board or panel, the funding sources, and local governing bodies.
 - (d) All staff to have Working With Children Check and police clearance.

40H. Outcome evaluation

- (1) Diversion programs must have more than one objective or a combination of different goals; thus, more than one of the following may apply—
 - (i) reduction in recidivism;
 - (ii) provision of services;
 - (iii) reduction in system costs;
 - (iv) increased successful outcomes for the child;
 - (v) increased accountability;
 - (vi) reduction in labelling and its effects on delinquency; and/or
 - (vii) reduction in unnecessary social control.
- (2) Failure to meet requirements in 40G renders programs unfit to operate.