



Diversiónary options for young offenders in Queensland

Date: Monday November 6, 2023

The *Youth Justice Act 1992* (Qld) ('the Youth Justice Act') provides a Charter of the Youth Justice principles for Queensland. The fifth principle of the Charter refers to diversionary options for young offenders. Basically, this means that when it is appropriate to do so, a child who has criminally offended should be diverted away from the criminal justice system unless the nature of the offence and the child's criminal history indicate that a proceeding for the offence should be started.

Put simply, a diversion means that a child is not given a formal sentence by a Court. Youth justice diversion programs are aimed at keeping children away from formal involvement in the criminal justice system in an effort to rehabilitate children.

Police diversion of young offenders

The police can divert a child by:

- not taking any action in relation to the offending;
- cautioning the child (formal warning);
- offering the child to attend a [drug diversion program](#) (if appropriate to do so)
- referring the offence to a [restorative justice process](#) (mediation process) only if the child admits to the offence and is willing to participate in the process;
- providing the child with an opportunity to attend a graffiti removal program.

The Youth Justice Act stipulates that a police officer when deciding whether to impose a diversionary option, should consider the following:

- The circumstances of the alleged offence;
- A child's prior criminal history; and
- Any previous cautions administered to the child for an offence and if the child has been dealt with for an offence under any Act, those other dealings.

If a police officer is satisfied that a diversionary option is not appropriate, they can issue a child with a notice to appear before a Childrens Court or arrest a child.

If you are seeking advice about potential diversionary options for your child, you should speak to a criminal lawyer experienced with Youth Justice matters.

[Speak with a youth justice lawyer: 07 3361 0222 \(available 24/7\)](tel:0733610222)

How do the Courts consider diversionary options for children?

If a child has been formally charged with an offence and is brought before the Childrens Court, the Court is empowered to consider diversionary options.

If a child is entering a plea of guilty to an offence, the Magistrate has the option, in some circumstances, to divert the child rather than impose a formal sentence.

The options available to the Court are as follows:

- The Childrens Court may dismiss the charge instead of accepting a plea of guilty if it is accepted that a child should have been cautioned instead of being charged or if no action should have been taken against the child.
- Refer the offence/s to a restorative justice process (mediation process), but only if the child admits to the offence and is willing to participate in the process. If the process is successful, the charge/s will not form part of the child's criminal history.
- Refer an eligible offence to a drug diversion and educational session if the child agrees to the diversion. If they attend the session successfully, no further action is taken, and the matter will not form part of the child's criminal history.

Get help from a youth justice lawyer

The lawyers at Gilshenan &Luton have expertise in this specialised and complex area of the law and can provide representation for your child or a child you care for at any stage of a criminal matter.

The legal system can be an intimidating and confronting process, especially for a child. It is vital that you obtain advice and assistance from knowledgeable lawyers with expertise in this area at the earliest opportunity.

Contacting Gilshenan &Luton Criminal Defence Lawyers

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This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.