



## COURT ORDERS

This sheet is intended to provide **general legal information** about the law in Queensland. **This information is not legal advice.** If you have a particular legal problem you should contact a solicitor for legal advice. At the end is a list of agencies that might be able to assist you, including legal agencies.

If you are under 18 and have to go to court, and you agree you did what the police say you did (plead guilty), or the court decides that you did it (finds you guilty), the court can carry out a number of Orders.

You must agree, before the court can order you to do any of the orders below, except for detention. If you do not agree, the court will give you another order which might include detention.

### Unsupervised Orders

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#### 1. Drug Assessment and Education Session

If you are charged for having under 50 grams of Cannabis, or a utensil, you may be eligible to attend a Drug Assessment and Education Session. You must agree to do this session before the court can order you to go to the session. The session with a drug counsellor for about 2 hours. You will be told at court the date and the place where you need to go to see the drug counsellor.

If you go to the session, then the matter will not go back to court and a conviction will not be recorded (see the '*What if I am convicted?*' factsheet for more information).<sup>1</sup> If you do not go to the session then you must go back to court and another Order can be made.

#### 2. Restorative Justice Process.

Instead of sentencing you, the court can order that you take part in a restorative justice conference or attend an alternative diversion program. At a restorative justice conference, you will have the opportunity to discuss the consequences of committing the offence with the people who were affected by it, such as the victim.

You have the right to have a lawyer, an adult member of your family or another adult of your choice with you (for example, a youth worker). Your parent can attend. The victim or their lawyer and a member of their family may also attend, but the victim does not have to attend. A convenor, who runs the conference, will also be present.

At the conference you will be asked to reach an agreement fix the impact of what you did.

For Example:

- agree to pay the victim some money
- apologise
- do some voluntary work
- get some counselling

An alternative diversion program is something designed to help you understand the harm caused by your behaviour and give you opportunity to take responsibility for the offence you committed. You must agree to do the program.

You can be taken back to court to be resentenced if you do not complete the diversion program, or if you fail to turn up at a conference, or an agreement cannot be worked out, or you do not do what you agreed. You should get legal advice about what a conference or alternative diversion program will mean for you.

#### 3. Reprimand.

This means a court gives you a warning about your behaviour. The court will usually only do this if it is your first time at court or the offence you committed was not very serious. No conviction will be recorded.

#### 4. Good Behaviour Order.

This requires that you to not break the law for a period of time up to one year. No conviction will be recorded. If you commit an offence while on a Good Behaviour Order, the court will consider that you did not stay out of trouble as you agreed when sentencing you for the new offence/s.

## 5. Fine.

If a court believes you have your own money (for example, because you have a job) then it may order you to pay a sum of money as a punishment. A conviction can be recorded against you. If you do not pay the money in the time given, the court may be able to order you to do some community service.

## Supervised Orders

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### 6. Graffiti Removal Order.

If you are at least 12 years old and found guilty of Wilful Damage by Graffiti the court MUST order you to do unpaid work to remove graffiti unless the court believes that, because of your physical or mental capacity, you are not capable of complying with the Order. The court may take into account your age, maturity and abilities when determining the length of your Order.

If the court orders that you be held in detention for a graffiti offence, then you have to do the graffiti removal work when you are released from detention.

Length	Conditions
Age 12 - maximum 5hrs	You must - not break the law
Age 13-14 - maximum 10hrs	- report to Youth Justice within 1 day of the Order being made - not leave the State of Queensland without approval of your Youth Justice caseworker
Age 15 or older - maximum 20hrs	- do as the caseworker tells you and perform the work in a satisfactory way and in the time set by the Order - tell the caseworker within 2 days if you change address.

### 7. Probation Order.

The court can order extra conditions to help stop you offending but only if you agree to do the things the court orders. If you do not do what the court has ordered, what your caseworker tells you or you do not comply with the conditions you can be taken back to court (breached) and another Order can be made. A conviction can be recorded against you. You will be supervised by a youth Justice caseworker while you are on the Order.

Length	Conditions
Maximum 1 year before a Magistrate	- Cannot break the law - Must follow the reasonable directions of Youth Justice - Must report to, and attend Programs as directed by Youth Justice
Maximum of 2 years before a Judge, unless a Serious Offence and then 3 years can be ordered.	- Cannot leave the State of Queensland without your caseworker's permission - Must supply change of address, school, or job to Youth Justice within 2 business days

### 8. Community Service Order.

A court can only give you a Community Service Order if you agree. If you do not finish the work or do not do it properly or do not comply with any of the other conditions in the Order then you may be taken back to court (breached) and another Order can be made. The court will only make this order if the court believes that you are suitable to do community service work *and* there is suitable work available for you to do. If you have got hassles about your community service and want extra help from your caseworker then it is up to you to ask for help. Also, if you have an interest in doing a particular kind of work, then you should talk to your caseworker to see if it is possible to do community work in this area.

Length	Conditions
Age 13 or 14: Up to 100 hours of community service	You must - not leave the State of Queensland without approval of your Youth Justice caseworker - not break the law - do as the caseworker tells you
Age 15 or older: Up to 200 hours of community service	- tell the caseworker if you change address, your school or job

### 9. Intensive Supervision Order.

If you are under 13, the court may make an Intensive Supervision Order. The court must first get a report about you from a Youth Justice caseworker. This is called a pre-sentence report. The report will outline what you will be required to do under the Order. This is called the 'program'. You need to understand what you will have to do under the program and you should ask a lawyer to explain the program to you. Before the court can make the Order, the court must know that you are willing to do the program.

Length	Conditions
The program may be for up to six months.	You must also comply with the other conditions of the Order: for example, you must: <ul style="list-style-type: none"><li>• not leave the State of Queensland without approval of your Youth Justice caseworker</li><li>• not break the law</li><li>• do as your caseworker tells you</li><li>• tell your caseworker if you change address, your school or job.</li></ul>

If you do not comply with the conditions of the Order including doing everything you are told to do by your caseworker and under the program then you can be brought back to court and another Order can be made.

### 10. Restorative Justice Order.

A court can also order that you take part in a restorative justice conference as part of a restorative justice order (see above Restorative Justice Process). This order will also require you to keep to the same conditions as a Probation Order, until you have done what you agreed to do at the conference.

If you fail to turn up at a conference, or an agreement cannot be worked out, or you do not do what you agreed, you can be taken back to court and given another order (including detention).

## Detention Orders

### 11. Conditional Release Order.

If a court thinks that you should be sentenced to detention but is prepared to 'give you a last chance to stay in the community' it may make a Conditional Release Order. This is a type of detention order that you do in the community rather than in the detention centre. Before giving you this order, the court must get a report about you from Youth Justice (this is called a Pre-sentence Report). You must agree to the Order. A conviction can be recorded against you. This Order will mean that you will have to take part in an intensive, strictly supervised community program.

If you do not do everything you are told to do by your caseworker or comply with the conditions of the Conditional Release Order then the court can order you to spend some time in a youth detention centre.

Length	Conditions
Up to 7 days per week, for a period not more than 6 months	You must <ul style="list-style-type: none"><li>- not break the law</li><li>- not leave the State of Queensland without approval of your Youth Justice caseworker</li><li>- do as your caseworker tells you</li><li>- tell your caseworker if you change address, your school or job.</li></ul>

### 12. Detention Order

A court can order you to spend time in a youth detention centre, which is a jail for people under 18. The court must first get a report about you from a Youth Justice caseworker. This is called a pre-sentence report. If you are found guilty of an offence by a Magistrate then generally you can be sentenced to detention for up to 12 months.

If you are found guilty of an offence before a Judge, depending on how serious the charge is, they can sentence you to a number of years in detention. The time varies and, in some circumstances, (for example, murder) you can be sentenced to life in detention.

If you are on a Detention Order less than life, you must be released from detention after being there for 70% of your sentence (for example, if sentenced to 12 months, you would spend 8.5 months in custody). A court can also order an earlier release date (up to 50% of your sentence).

When you are released, you will be put on a **Supervised Release Order**. You must also comply with the other conditions of the Order. For example you must:

- not leave the State of Queensland without approval of your Youth Justice caseworker
- not break the law
- do as your caseworker tells you
- tell your caseworker if you change address, your school or job.

If the caseworker believes you have not done what you were required to do under the Supervised Release Order or you do not comply with the conditions you may be required to go back to court. The caseworker must warn you before taking you back to court. The court may order you to spend the rest of your sentence in detention.

After you turn 18, if you have more than 2 months detention left to serve you will be transferred to an adult prison. See **'When can I be sent to jail?'** below.

If you have previously been sentenced to at least one detention order for certain serious offences, the Court may declare that you are a 'serious repeat offender'. The Court must consider the pre-sentence report and the following:

- your previous criminal and bail history
- attempts you have made to rehabilitate; and
- other factors the Court sees as relevant.

The Court after considering the above matters, can only declare that you are 'serious repeat offender' if it thinks there is a high probability you will commit a further offence. If you are declared a serious repeat offender, the declaration will remain current for 12 months. It will also impact how the Court sentences you especially if you commit further certain serious offences during this period.

## **Breaching an Order**

You may be required to go back to court (breached) if your caseworker believes that you have not done what you were supposed to do under your:

- Graffiti Removal Order
- Probation Order
- Community Service Order
- Intensive Supervision Order
- Conditional Release Order
- Supervised Release Order
- Restorative Justice Order

You should see a lawyer.

If the court believes that you breached your Order the court may:

- allow you to continue on the Order
- change the conditions of your Order or make it longer (except for a Supervised Release Order)
- make a different Order for your charges (except for a Supervised Release Order)
- for a Supervised Release Order, the court can return you to detention

## Questions?

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### What happens if I'm convicted?

If you **are found guilty** of an offence and a **conviction is recorded**, that is formally noted, you will have a criminal record. This means that even after you turn 18 people can be told about this offence. This may cause problems, for example, when you try to get a job or want to travel overseas.

If you do not break the law again for five years, in some situations you **may** be able to say that you have no conviction. You **must** see a lawyer before you say this to make sure this is correct for your situation as there are many circumstances after 5 years where this will not apply. You could be committing an offence of fraud by wrongly denying you have a conviction.

If you **are found guilty** of an offence but a **conviction is not recorded**, you will still have a court record in the Childrens Court as a child but once you turn 18 no-one generally needs to know about the matter.

### When can I be sent to jail?

You cannot be sent to an adult jail if you are under 18, but you can be sent to a youth detention centre. If you are in the youth detention centre serving a sentence and you turn 18 and have at least 2 months left to serve in detention you will be moved to an adult prison. If you are in youth detention and you are already 18 or older and sentenced to 2 months or more in detention for an offence you committed when you were under 18, you will be moved to an adult prison. Before being moved you will be given a written transfer direction telling you what day you will be moved and what prison you will go to. Once the transfer direction is made, there is no appeal and the direction cannot be changed or reversed even by a court but you can ask for the transfer to be delayed.

If you are moved to an adult jail, you must still be released on the date your Supervised Release Order would have started (see the section **Make a Detention Order**). You may be placed on parole. Parole means being allowed to live in the community under the supervision of a parole officer for the rest of your sentence. If you do not do what you are told by the parole officer or your Parole Order, you can be sent back to prison. If you are sentenced to life imprisonment, the rules for adults surrounding parole apply.

### Can I be made to go to Counselling?

If the court orders you to go to counselling (eg. for drugs/alcohol) then you must go, but the court will only make this type of order if you agree. If you do not agree, the court may consider another type of order, including detention. You may be ordered to attend counselling under the following:

- Drug Diversion Assessment Program
- Probation Order
- Conditional Release Order
- Intensive Supervision Order

### Can I be ordered to pay restitution or compensation?

A court can make you pay for any damage done, such as the cost of replacing damaged property or for medical costs or compensation for injury. A court can only do this if you have the money to pay for it. Restitution or compensation is not a sentence; it is for the victim of the offence to be paid for what they have lost or suffered and so the court can also make one of the other Orders listed above at the same time.

Your parents can also be ordered to pay for damage or injury caused by you if it seems you broke the law because your parents did not supervise you properly.

### Treated unfairly?

If you think that you were wrongly found guilty or that your sentence was unfair, you need to talk to your solicitor immediately about an appeal - getting a (different) Judge to look at your case again. You only have a short time to ask for this to happen.

If you think you are not being fairly treated on a Conditional Release, Probation, Community Service or Intensive Supervision Order, you should tell your caseworker. If you are still not happy you may wish to speak to a solicitor.

If you have a complaint about your treatment in detention, ask to speak to the manager, the community visitor or ask to contact your solicitor.

If you think that your solicitor has not done their best for you, talk to them about it. If you are still unhappy, you can complain to the Queensland Law Society - talk to one of the agencies under 'Who can help' about this.

## **Who can help?**

*Duty Lawyer at Court*

*Youth Advocacy Centre (YAC)*

[www.yac.net.au](http://www.yac.net.au)

**3356 1002**

*Hub Community Legal*

[www.hubcommunity.org.au](http://www.hubcommunity.org.au)

**3372 7677**

*Logan Youth & Family Legal Service*

[www.yfs.org.au](http://www.yfs.org.au)

**3826 1500**

*Legal Aid Queensland*

[www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au)

**1300 651 188**

*Youth Legal Advice Hotline (Monday - Thursday 8am - 9pm; Friday 8am - Sunday 5pm)*

**1800 527 527**

*Aboriginal & Torres Strait Islander Legal Service (24hrs 7 days a week)*

[www.atsils.org.au](http://www.atsils.org.au)

**3025 3888 or (free call) 1800 012 255**

*Translating & Interpreting Services (24hrs)*

**131 450**

*Community Legal Centres (CLCs) see [www.nacalc.org.au](http://www.nacalc.org.au) for your nearest CLC*

**This information was last reviewed and updated in April 2023. The Youth Advocacy Centre does not accept responsibility for any action or outcome as a result of anyone relying on the information provided.**