



# Youth Sentencing

## Criminal Laws (Amendment) Bill 2024

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### What is the Aim of Youth Justice?

The principal aim of the youth justice system is to prevent offending by youths and re-offending by young offenders. The law requires all persons and bodies performing functions in relation to the youth justice system to have regard to this aim.

An important part of achieving the principal aim of the youth justice system is the diversion of children and young people away from being prosecuted in court and towards supportive measures that will help prevent offending.

Criminalising children and young people can have a significant impact on their wellbeing, development and education and employment opportunities. This in turn can increase the risk of re-offending later in life. It is in the best interests of children, young people and wider society to divert children and young people away from this outcome by providing intervention and support services. There is strong evidence from around the world to suggest that diversion from prosecution reduces reoffending, lowers costs, and leads to better outcomes for children, young people and society as a whole.

### Is there a current diversion scheme in place?

The Probation Service currently operates a Youth Diversion Scheme. This is a voluntary scheme to which the Royal Falkland Islands Police and the Prosecution Service can direct children and young people as an alternative to prosecution.

The scheme aims to provide children and young people with early intervention to prevent harm and reduce the risk of offending by providing a tailored approach that takes into account the child or young person's particular circumstances and focuses on the specific identifiable causes of offending related behaviour.

Currently, there is no legal mechanism available to the Youth Court to divert children and young people to the Youth Diversion Scheme. Once criminal proceedings have commenced all available sentencing outcomes result in a conviction which is recorded on the child or young person's record and may be disclosable when travelling outside of the Falkland Islands or when seeking future employment.

### What does the Bill aim to do?

The Bill gives the Youth Court the option, in appropriate cases, to adjourn the case for a period of 4 months to enable the child or young person to engage with the Youth Diversion Scheme. If the child or young person completes the diversion scheme to the satisfaction of the court, then the court has the power to discharge the alleged offence without any finding of guilt and without convicting the child or young person.

If the child or young person does not complete the diversion scheme to the satisfaction of the court, the case proceeds as normal and may conclude with the child or young person being convicted of the offence. The court then has available the full range of sentencing options.

The purpose of this mechanism is to create a further opportunity for a child or young person to avoid a conviction and to receive intervention and support to prevent further offending.

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