

# Magistrates (Childrens) Court

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## Practice Direction 2 of 2024

Issued: 13 December 2024

### Repeal of Practice Direction - Applications for exclusion orders – s.20(2) of the *Childrens Court Act 1992*

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#### Introduction

1. Practice Direction 1 of 2024 was issued on 3 September 2024, reflecting the amendments made to section 20 of the *Childrens Court Act 1992* (“the Act”) by section 112 of the *Queensland Community Safety Act 2024*. Those amendments provided limits on who may be present for a criminal proceeding when a Childrens Court is constituted by a Magistrate.
2. The amendments also provided a head of power enabling the Court on application by a party to the proceeding or on its own initiative to make an order excluding (“**an exclusion order**”):
  - A person who is a representative of a victim, or of a relative of a deceased victim, of the offence alleged to have been committed by the child; or
  - A person who, in the Court’s opinion, has a proper interest in the proceeding; or
  - An accredited media entity.<sup>1</sup>
3. On 12 December 2024 the *Making Queensland Safer Bill 2024* (“the Bill”) was passed by the Queensland Parliament.
4. The Bill received Assent on 13 December 2024. The *Making Queensland Safer Act 2024* amends section 20(1) to provide that the Court must exclude from the court room any person who is not:
  - a) the child; or
  - b) a parent or other adult member of the child’s family; or
  - c) a victim, or relative of a victim, of the offence<sup>2</sup> committed by the child; or
  - d) a relative of a deceased victim of the offence committed by the child; or
  - e) a person who is a representative of a victim, or of a relative of a deceased victim, of the offence committed by the child; or

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<sup>1</sup> **Accredited media entity** means an entity listed as an accredited media entity in the Supreme Court’s media accreditation policy in Supreme Court of Queensland Practice Direction Number 8 of 2014.

<sup>2</sup> **Offence**, committed by a child, includes an offence the child is alleged to have committed.

- f) a person who, in the court’s opinion, has a proper interest in the proceeding; or
  - g) a person holding media accreditation<sup>3</sup>; or
  - h) a witness giving evidence; or
  - i) a person who is an intermediary under the *Evidence Act 1977*, part 2, division 4C for a witness giving evidence; or
  - j) if a witness is a complainant within the meaning of the *Criminal Law (Sexual Offences) Act 1978* – a person whose presence will provide emotional support to the witness; or
  - k) a party or person representing a party to the proceeding, including, for example, a police officer or other person in charge of a case against a child in relation to an offence; or
  - l) a representative of the chief executive (child safety) or the chief executive (youth justice); or
  - m) the public guardian under the *Public Guardian Act 2014*; or
  - n) if the child is an Aboriginal or Torres Strait Islander person –
    - (i) a representative of an organisation whose principal purpose is the provision of welfare services to Aboriginal and Torres Strait Islander children and families; or
    - (ii) a representative of the community justice group in the child’s community who is to make submissions that are relevant to sentencing the child; or
  - o) an infant or young child in the care of an adult who may be present in the room.
5. The *Making Queensland Safer Act 2024* also amends section 20(2) of the Act to remove the head of power enabling the Court to make an exclusion order.<sup>4</sup>
  6. The amendments to section 20 of the Act apply whether the offence occurred prior to or after commencement.<sup>5</sup>
  7. Where an exclusion order was made by the Court under the former section 20<sup>6</sup>, a person who is subject to the exclusion order may apply to the court to have the order set aside. If the Court is satisfied the applicant is a person mentioned in the new section 20(1)(c), the court must set aside the exclusion order.<sup>7</sup>

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<sup>3</sup> **Media accreditation** means accreditation under the Supreme Court’s media accreditation policy.

<sup>4</sup> See, however, section 20(3) of the Act which requires the court to exclude persons mentioned in paragraph 4(c)-(g) above during a hearing under sections 172 or 173 of the *Mental Health Act 2016* unless it is in the interest of justice to permit the person to be present.

<sup>5</sup> See section 41 transitional provisions *Making Queensland Safer Act 2024*.

<sup>6</sup> **Former section 20** means section 20 as in force from time to time before commencement.

<sup>7</sup> See section 42 transitional provisions *Making Queensland Safer Act 2024*.

8. Restrictions on the publication of certain information regarding the child, the Court's general powers to deal with contempt or exclude persons when a special witness is giving evidence and persons required to be excluded for proceedings under the *Mental Health Act 2016* remain unchanged.<sup>8</sup>

### **Repeal of Practice Direction**

9. Accordingly, Practice Direction 1 of 2024 – Applications for exclusion orders – s.20(2) of the *Childrens Court Act 1992*, is now repealed.



**Anthony Gett**

Acting Chief Magistrate

13 December 2024

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<sup>8</sup> See Explanatory Notes, p.7.