

Youth Justice (Electronic Monitoring) Amendment Bill 2025

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Committee Secretary
Education, Arts and Communities Committee
Parliament House
George Street
Brisbane Qld 4000

By email: eacc@parliament.qld.gov.au

Dear Committee Secretary,

Re: Youth Justice (Electronic Monitoring) Amendment Bill 2025

Thank you for the opportunity to provide comments on the Youth Justice (Electronic Monitoring) Amendment Bill 2025 (**Bill**) which proposes to: make electronic monitoring as a condition of youth bail permanent; make electronic monitoring statewide unless the court is advised the child does not live in a location with services to support the condition; and remove the current eligibility criteria that applies, including that the child must be at least 15 years of age, charged with a prescribed indictable offence and previously charged with certain offences. ATSILS opposes the use of electronic monitoring (**EM**) on children and, therefore, does not support the Bill as drafted.

Preliminary consideration: Our background to comment

The Aboriginal and Torres Strait Islander Legal Service (Qld) Limited (ATSILS), is a community-based public benevolent organisation, established to provide professional and culturally competent legal services for Aboriginal and Torres Strait Islander peoples across Queensland. The founding organisation was established in 1973. We now have 25 offices strategically located across the State. Our Vision is to be the leader of innovative and professional legal services. Our Mission is to deliver quality legal assistance services, community legal education, and early intervention and prevention initiatives which uphold and advance the legal and human rights of Aboriginal and Torres Strait Islander peoples.

ATSILS provides legal services to Aboriginal and Torres Strait Islander peoples throughout Queensland. Whilst our primary role is to provide criminal, civil and family law representation, we are also funded by the Commonwealth to perform a State-wide role in the key areas of Community Legal Education, and Early Intervention and Prevention initiatives (which include related law reform activities and monitoring Indigenous Australian deaths in custody). Our submission is informed by over five decades of legal practise at the coalface of the justice arena and we, therefore, believe we are well placed to provide meaningful comment, not from a theoretical or purely academic perspective, but rather from a platform based upon actual experiences.

Comments on Bill

We understand that the Bill proposes to:

- make the Queensland EM trial for youth ‘permanent’ by removing the existing expiry provision;
- make electronic monitoring statewide unless the court is advised the child does not live in a location with services to support the condition; and
- remove the current eligibility criteria that the child must be at least 15 years of age, charged with a prescribed indictable offence and previously charged with certain offences.

ATSILS has historically opposed the use of EM as a condition of bail for youth. That position has not changed. Accordingly, we do not support the passage of the Bill.

Our position is outlined below.

Whilst we acknowledge that, when viewed in isolation, EM has the potential to have benefits as an alternative to incarceration of a child and the potential to reduce the numbers of children in custody on remand, which is an important priority, in practice, there are a number of obstacles which undermine the effectiveness of EM including: the impacts of housing instability which many at risk youth face, the impact of the breach of bail conditions offence (an offence which subsection 29 (3)(a) of the Bail Act acknowledges constitutes a breach of human rights); compromised effectiveness in rural, remote and regional communities; compromised effectiveness on children living with a disability/disabilities and/or those with a mental health condition or cognitive impairment/s; and the impacts of stigmatisation and marginalisation on at risk children.

Housing instability – The success of EM is predicated upon the child having stability of housing, amongst other things. Many at risk youth experience instability in housing and homelessness. This in and of itself might result in the child being deemed not to be suitable for an EM condition. For those that are deemed suitable and then go on to experience housing insecurity, it might be very difficult, if not impossible, to comply with curfew requirements and other relevant monitoring conditions. It might also significantly hinder a child's ability to keep the EM device charged. This can result in scenarios where children that do not have the ability to secure stable housing are penalised for the same through breach of their monitoring conditions. Further, the EM framework does not appear to consider that young people are less in control of their environment, including housing, than adults.

The breach of bail offence and potential for punitive outcomes – With the breach of bail conditions offence being re-introduced in Queensland, strict compliance with EM conditions exposes a child to the risk of being charged for even minor breaches, which could see them subject to a term of imprisonment, further entrenching the child in the criminal justice system. Additionally, such might expose the child to greater penalty than what they might have received if they were granted bail without an EM condition or if they were detained in custody on remand. Therefore, the effect of EM can be punitive on the child and entrench the child in criminal pathways.

Compromised effectiveness in rural, remote, or regional areas – Those living in rural, remote, or regional areas might experience limited network connectivity which can make EM devices unreliable. Inadvertent breaches could occur. For example, a person who is living on Country might inadvertently breach EM conditions by moving into geographical areas that have no GPS coverage for cultural practices or for any other legitimate purpose.

The effectiveness of EM on children living with a disability/disabilities or mental health issues/concerns is very limited – A significant proportion of our clients that seek representation for criminal law matters suffer from mental health issues/concerns and/or have cognitive or other impairments/disabilities. Many have Foetal Alcohol Spectrum Disorder (FASD). It can be very challenging for an individual experiencing such challenges to be able to sufficiently comprehend and/or comply with EM requirements. Inadvertent breaches might occur for reasons that they should not be penalised for.

Stigmatisation and marginalisation – Stigmatisation and/or marginalisation of individuals wearing a GPS tracking ankle bracelet is a reality, and in the case of children, it can be argued to be even more significant given their crucial age for

development and growth at this stage of their life. Having a GPS monitoring device strapped to a child's ankle can have negative impacts on their mental health, self-worth, self-image and potentially embed an identity linked with criminality, even though they have not yet been found guilty of any relevant charge. It also discourages some children from attending school out of shame. Further, EM devices have the potential to isolate a child by undermining their anonymity which is inconsistent with the fundamental right of the child to be presumed innocent until proven guilty of any relevant charge.

Intersectionality generally - The impact of EM is exponentially exacerbated for children that experience intersectional disadvantage. Take the example of a child living with FASD who is experiencing housing insecurity and lives in a rural, remote, or regional area.

Counter-intuitive impacts - In some instances, in particular, for at-risk youth, we have observed that EM devices might be seen as an initiation or a badge of honour and, therefore, the use of EM devices has the potential to be counterintuitive to reducing recidivism and instead has the potential to embed criminal pathways for a child.

EM devices do not change a child's lack of maturity, nor will it speed up their brain development. It will not necessarily address impulsivity, engaging in risky behaviour, influence by peer pressure, nor a failure to adequately think about consequences before taking a particular course of action, etc. This can only occur via providing wrap-around supports to the child to help address their needs and help them develop strategies for behaving in socially responsible ways.

Comments on the proposed amendments in the Bill in the context of the Evaluation of the EM Trial

Limitations in evidence to support the use of EM as a tool for children

The independent final report evaluating the EM trial, prepared by Nous Group for the Department of Youth Justice and Victim Support¹ (**Evaluation Final Report**) noted at page 6, 'Many stakeholders reported that outcomes were strongly influenced by the young person's intrinsic motivation, family environment and the presence of a role model. These differences highlight the importance of supportive factors including family involvement and wrap-around supports.' We also note that a 'combined view of EMDs and wrap-around supports' was listed as one of the limitations of the evaluation (see heading 2.3 of the Evaluation Final Report on page 18), with the

¹ Nous Group, *Evaluation of the Electronic Monitoring Trial: Final Report*, (9 October 2025), P9.

Evaluation Final Report further stating that ‘The evaluation was not designed to isolate the impact of EMDs from the impact of wrap-around supports.’ It is possible that, had the impact of wrap-around supports in isolation been measured, there might have been evidence to establish that the wrap-around supports in isolation are the key to better outcomes; however, as the evaluation was not designed to measure such, we cannot draw any conclusion on this point.

Operational demands of the EM trial and the associated resources required

The Evaluation Final Report states, at page 8:

EMDs introduce a requirement for 24/7 supervision of those wearing devices. As a result, the operation of EMDs is resource-intensive and can produce high volumes of alerts necessitating monitoring, maintenance and supervision responses, which is often inefficient. Over the course of the trial, EMDs triggered 5,667 confirmed alerts – averaging 50 alerts per order, or nearly one alert per day during the median 53-day order period. Of these, 70% were inclusion zone alerts and 16% were low battery alerts. Every alert required a response from QCS, QPS or YCRT. This led to frequent engagement with young people and families.

Core trial activities were often cumbersome and resource-intensive to deliver, with staff, families, and young people identifying several challenges. Device fittings were time-consuming and required substantial resources, and young people frequently described the devices as uncomfortable – particularly at night or when fitted poorly – though most eventually adjusted. Connectivity problems and false alerts were also common, leading to frequent follow-up calls and home visits from QPS and YCRT, which many participants found frustrating.

Additionally, staff described challenges with:

- Administrative burden: YJ staff reported excessive paperwork and expectations to support activities outside rostered hours. Only a small number of QPS and YJ staff agreed adequate resources were in place.*
- Alert response fatigue: QCS teams faced high volumes of alerts with limited staffing. YCRT and QPS staff reported frequent double-handling due to unclear responsibilities and inefficient escalation pathways.*
- Poor inter-agency coordination: Restrictive data-sharing (due to legal frameworks and the Memorandum of Understanding (MoU) that governs data sharing processes) and unclear roles delayed responses and led to duplicated alert response. Most QCS staff disagreed that inter-agency communication was effective (out of a small sample of staff surveyed).*

• *Training and role clarity gaps:* Rapid rollout of the EM trial left staff across YJ, QCS, QPS, and legal representatives with a limited understanding of how the trial was designed to operate.

These findings highlight that the operational demands of the EM trial are substantial and must be carefully weighed against its intended benefits when assessing the sustainability of the model.

Additionally, the Evaluation Final Report states, on page 10, that there are opportunities to ‘responsibly widen the usage’ of EM devices including by allowing more offence types or expanding to additional locations, etc, but also that, ‘It would be beneficial to improve stakeholder understanding and address operational challenges before expanding to new cohorts, locations or applications. This would help ensure the EM trial is consistently understood and effectively delivered, reducing the risk of compounding existing challenges and supporting more sustainable implementation over time.’ The Bill proposes to remove all eligibility criteria, thereby significantly widening the cohort of children that could be issued with an EM device. It is unclear whether or how the operational and resource challenges have been addressed.

Recommended alternative solutions

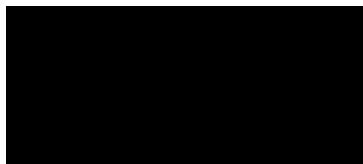
In our view, the following solutions will have a much more marked impact on youth offending and compliance with bail conditions than the use of EM:

- bail conditions need to be drafted more carefully with consideration of a level of flexibility, especially considering the particular situation of the individual involved including, relevantly, impacts of intersectionality, cultural practices, etc. so that individuals are not set up to fail;
- a network of bail supported accommodation throughout the State and other community-based alternatives for children on remand (for Aboriginal and Torres Strait Islander children, it is strongly recommended that these services be delivered by local community-controlled organisations for their best chances of success);
- there is a need for more holistic place-based supports/integrated services delivered by community-controlled organisations that address key needs of the child as required, for example, to address hunger, housing stability, homelessness, substance use/misuse, family disfunction, health (including mental health) and education (this would involve ensuring that such organisations are funded and that funding is maintained, to avoid the funding insecurity that we have seen in the past where great initiatives are halted in their tracks due to being de-funded);

- there needs to be ongoing training for police officers, courts/judicial officers, youth detention and correctional staff about the challenges faced by intersectional populations; and
- there must be a strong focus on prevention and early intervention initiatives that are aimed at addressing the root causes of offending and long-lasting investment and considered policy to improve social determinants including housing, health, employment and education, consistent with the government's obligations under the National Agreement on Closing the Gap.

We thank you for the opportunity to provide feedback on the Bill. I also take this opportunity to acknowledge the invaluable assistance of Ms Pree Sharma of our Brisbane office in relation to the original draft of this submission.

Yours faithfully,



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Acting Chief Executive Officer