

Youth Justice (Electronic Monitoring) Amendment Bill 2025

Submission No: 017

Submission By: YFS Legal

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

Online submission

Dear Committee,

Re: Youth Justice (Electronic Monitoring) Amendment Bill 2025

Thank you for the opportunity to provide a submission in response to the Youth Justice (Electronic Monitoring) Amendment Bill 2025 ("the Bill").

YFS Legal is a community legal centre based in Logan, providing advice, representation, and duty lawyer services to young and vulnerable people aged 10 to 25 in criminal courts, including the Children's Court duty lawyer service at Beenleigh. Our advocacy is informed by direct experience supporting young people and families, sector collaboration, and the findings of the Department of Youth Justice and Victim Support's Electronic Monitoring Trial: Final Report (October 2025).¹

Context and Purpose of the Bill

The Bill proposes amendments to the *Youth Justice Act 1992 (Qld)* and seeks to:

- Make electronic monitoring (EM) as a condition of youth bail permanent;
- Expand the legislation statewide, subject to service availability;
- Remove eligibility criteria (age, offence type, prior charges);
- Amend the matters a court must consider when determining appropriateness of EM.

¹ *Electronic Monitoring Trial: Final Report*, Department of Youth Justice and Victim Support, Queensland Government, October 2025, available at: <https://www.youthjustice.qld.gov.au/our-department/research-evaluations/evaluations/electronic-monitoring-trial> (accessed January 2026).

Findings from the Electronic Monitoring Trial: Final Report (October 2025)²

The Final Report found that:

- EM was most effective when paired with intensive wraparound supports, such as bail support, youth co-response teams, and culturally safe interventions.
- Positive outcomes (e.g., high bail completion, reduced reoffending) were linked to these supports, not EM alone.
- Uptake of EM was limited by housing instability, lack of service infrastructure, and concerns about stigma and technical breaches.
- Aboriginal and Torres Strait Islander children and children with disability faced additional barriers and required tailored, culturally safe supports.
- The evaluation recommended ongoing review, targeted investment in community-led programs, and safeguards to prevent net-widening and unintended harms.

Summary of YFS Legal's Position

YFS Legal supports the use of EM only in limited, short-term circumstances, where robust safeguards are in place and EM serves as a mechanism to keep children out of custody and watch houses, while maintaining their connection to family, community, culture, and community-based supports. We do not support the normalisation or standalone use of EM, particularly where it risks increasing justice system contact through technical breaches or retraumatising children and families.

Overarching Recommendation

We recommend that the Bill's objects clause and explanatory notes clearly state that EM is intended to operate as a short-term, targeted, bail-enabling mechanism—not as a punitive or default response. This clarification should explicitly recognise the disproportionate and differential impacts of youth justice interventions on Aboriginal and Torres Strait Islander children and emphasise that EM should only be used where it supports reduced remand, cultural connection, rehabilitation, and access to appropriate community-led supports.

Feedback on Key Provisions

Safeguarding the Purpose and Oversight of Electronic Monitoring

YFS Legal supports EM only as a short-term, targeted mechanism to keep children out of custody and connected to family, community, and culture—not as a default or punitive response. While we recognise the Government's intent to provide certainty

² *Electronic Monitoring Trial: Final Report*, Department of Youth Justice and Victim Support, Queensland Government, October 2025, available at: <https://www.youthjustice.qld.gov.au/our-department/research-evaluations/evaluations/electronic-monitoring-trial> (accessed January 2026).

and continuity in bail responses, we caution against the normalisation of EM, particularly where it risks increasing justice system contact through technical breaches or retraumatising children and families. To ensure EM delivers consistent and just outcomes, we recommend embedding structured review and refinement mechanisms alongside permanence. Specifically, the Bill should require periodic independent review of the EM framework (with reviews tabled in Parliament), considering effectiveness, compliance outcomes, equity impacts (including for Aboriginal and Torres Strait Islander children), and access to wraparound supports. Additionally, the Bill should introduce a complaints/issues register and a mechanism for monitoring vigilante behaviour towards children with EM devices.

Permanence and Statewide Expansion of Electronic Monitoring

YFS Legal supports equitable access to effective bail options across Queensland, provided that EM is only implemented in locations where appropriate supports, workforce, and technology are in place to ensure children's safety and success. Making EM permanent risks entrenching it as a default or punitive measure. To safeguard against this, we recommend that the Bill require periodic independent review of the EM framework, with findings tabled in Parliament. Reviews should assess effectiveness, compliance, equity impacts—especially for Aboriginal and Torres Strait Islander children—and access to wraparound supports. Additionally, the Bill should introduce a complaints/issues register and a mechanism for monitoring vigilante behaviour towards children with EM devices, ensuring that all locations are adequately resourced and supported for consistent, just, and safe outcomes statewide.

Eligibility Criteria and Judicial Decision-Making

YFS Legal supports flexible judicial discretion in the application of EM, but emphasises that such discretion must be guided by clear suitability thresholds, particularly for younger children. With the removal of minimum age and offence/history thresholds, it is essential that courts are required to consider a child's developmental capacity, disability, understanding of conditions, and likelihood of compliance before imposing EM. In addition, courts should expressly consider the common law presumption of *doli incapax* (for children aged 10–13) and whether the child is *fit for trial*, noting that EM is inappropriate where criminal responsibility has not been rebutted or where the child cannot adequately understand and participate in proceedings. Furthermore, decision-making should explicitly take into account the availability of bail and community supports, housing stability, cultural safety, and whether EM is the least restrictive option available to support bail. Embedding these safeguards will ensure EM is applied appropriately and equitably, supporting positive outcomes for children without reintroducing rigid eligibility limits.

Additional Reflections

Disproportionate Impact on Aboriginal and Torres Strait Islander Children

YFS Legal recognises the significant over-representation of Aboriginal and Torres Strait Islander children in Queensland's youth justice system and the unique, often harmful, impacts of justice interventions on these children due to intergenerational trauma, racism, historical surveillance, and structural disadvantage. These factors

must be central to any consideration of EM. The Bill must explicitly recognise and address these realities, ensuring that EM does not further entrench disadvantage or increase system contact for these children.

Housing Instability and the Need for Wraparound Supports

Many young people eligible for EM lack access to stable housing, which significantly increases their risk of breaching conditions and reduces their eligibility for EM. Addressing housing instability is essential for compliance and long-term success, and requires a coordinated, whole-of-government approach. EM should only be implemented alongside intensive, community-led interventions that provide holistic support to young people and their families. Investment in culturally safe programs—particularly those led by Aboriginal and Torres Strait Islander organisations—is critical to ensuring that EM supports, rather than undermines, positive outcomes for vulnerable children.

Evaluation and Attribution

Any extension of EM must be accompanied by a comprehensive review to determine whether reductions in reoffending are attributable to the monitoring device itself or to the presence of wraparound support services.

Alternatives to Electronic Monitoring

Queensland should continue to invest in evidence-based solutions such as restorative justice, diversion programs, and on-country initiatives, all of which have demonstrated success in reducing the use of detention and supporting positive outcomes for young people.

Primary School Context and Appropriateness of EM Devices

It is inappropriate and potentially harmful for a primary school-aged child to wear an electronic monitoring device (EMD) in the school environment. The visible presence of an EMD risks stigma, bullying, social exclusion, and negative impacts on the child's learning, wellbeing, and development. It may also affect other children at the school by normalising surveillance and creating fear or confusion. Where a child is of primary school age, courts should consider developmental appropriateness, least-restrictive alternatives, and school-based safety plans before any EM is contemplated; in most cases, EM will not be suitable for children in primary school.

Conclusion

YFS Legal supports the Bill only if it is amended to ensure that electronic monitoring is used as a short-term, bail-enabling tool with robust safeguards, periodic independent review, and a strong commitment to culturally safe, community-led supports. EM must not become a default or punitive response. The Bill must embed clear safeguards, require ongoing oversight, and prioritise investment in alternatives that address the underlying causes of youth offending and support the wellbeing of Aboriginal and Torres Strait Islander children. We further recommend express consideration of *doli incapax* and fitness for trial in any EM decision, and caution that EM is generally inappropriate for primary school-aged children.

We urge the Committee to adopt these recommendations to ensure that any expansion of electronic monitoring is just, effective, and consistent with Queensland's human rights obligations.

Yours faithfully



Ash Simpson
Chief Impact Officer



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