

Youth Justice (Electronic Monitoring) Amendment Bill 2025

Submission No: 022

Submission By: Queensland Council of Social Service (QCOSS)

Publication: Making the submission and your name public

12 January 2026

Education, Arts and Communities Committee
Parliament House
George Street
Brisbane Qld 4001

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Dear Committee Members

Youth Justice (Electronic Monitoring) Amendment Bill ('the Bill')

Thank you for the opportunity to provide feedback in relation to the above.

About QCOSS

Queensland Council of Social Service (QCOSS) is Queensland's peak body for the social service sector. Our vision is to achieve equality, opportunity, and wellbeing for all Queenslanders.

QCOSS' position

QCOSS holds considerable concerns about the negative impacts of using an electronic monitoring device ('EMD') as a condition of bail in a youth justice setting, and the extensive way in which the Bill proposes to expand usage of EMDs.

The current trial enabling orders for an EMD as a condition of bail in Queensland has most recently applied to children in particular locations aged 15 to 17, charged with a prescribed indictable offence, and previously charged with certain offences, ('the Trial'). An evaluation of the Trial was recently released, ('the Evaluation').¹ QCOSS sincerely appreciates the public release of the Evaluation.

QCOSS notes that the Bill seeks to make powers to order electronic monitoring as a condition of bail permanent without further review, expand the legislation to apply statewide, significantly widen eligibility criteria, and change the matters a court must consider when determining if electronic monitoring is appropriate.

If the Committee does recommend for the Bill to pass, we urge close consideration of a range of amendments.

Submission development

In developing this submission, QCOSS has drawn upon our ongoing research and engagement with Queensland community service organisations who have a deep understanding of best practice in

¹ Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support, p 18.

<https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/b3372b00-0d4b-454d-b416-da51bbf0279b/electronic-monitoring-outcome-evaluation-final-report.pdf?ETag=f061967f32ee22ff21db67328c9a0168>



supporting young people and families. We have also conducted specific consultation activities with community service organisations in relation to the Bill.

Law and policy guided by a commitment to human rights

QCOSS is proud to represent the community service sector across Queensland – a human rights jurisdiction.² Queensland's commitment to upholding human rights requires policy and law-makers to be guided by human rights principles. The expanded use of EMDs on children as proposed by the Bill deepens limitations on a range of rights protected by the HR Act. This includes the right to protection needed by a child in the child's best interests, the right to protection of families, the right to equality before the law, the right to freedom of movement and freedom of association, the right to privacy, cultural rights, the right to liberty and security of person, and the right to education. It is our view that the limits to human rights posed by the Bill are not justified, particularly the significant proposed expansion of EMD usage.

The United Nations Convention on the Rights of the Child also recognises "...the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society."³ We note that the HR Act also adopted similar wording in relation to children's rights in connection with criminal proceedings,⁴ and in relation to children who have been convicted of an offence.⁵

Taking a human rights-based approach to the development of new laws ensures people's rights and needs are appropriately met and balanced.

Youth justice law and policy can have complementary policy objectives of community safety and uphold the rights of children, families and victims. To address youth crime and its impacts, approaches must be targeted towards the root causes of offending. Approaches that are overly restrictive, punitive or harmful can result in worse outcomes for children, families and communities.⁶

Many of the young people involved or at risk of involvement in the youth justice system are also victim-survivors themselves – Children who have experienced trauma and need access to healing-centred support. Other major drivers include housing insecurity, poverty and mental health concerns – all of which similarly require therapeutic and supportive responses for children and families, and can be compounded by punitive policies.⁷

Significant benefits of culturally safe, trauma-informed, community-led support and potential over-stated effectiveness of EMDs

QCOSS welcomes recent investment into community services who work with children and young people involved or at risk of involvement with the youth justice system. We encourage the Government to further explore funding opportunities for community services in this setting to provide culturally safe, trauma-informed, therapeutic and community-led support for children and families.

We also urge further investment to address other factors associated with youth crime, including housing, mental health, and domestic and family violence to address key drivers of criminal offending among young people. Due to the disproportionate impact of the youth justice system on Aboriginal and Torres Strait Islander children, investment in the Aboriginal and Torres Strait Islander

² *Human Rights Act 2019 (Qld) s 3.*

³ United Nations Convention on the Rights of the Child Article 40(1).

⁴ *Human Rights Act 2019 (Qld) s 32.*

⁵ *Human Rights Act 2019 (Qld) s 33(3).*

⁶ Walsh T, Beilby J, Lim P, Cornwell L. (2023). Safety through support: building safer communities by supporting vulnerable children in Queensland's youth justice system, pp 4-21.

<https://espace.library.uq.edu.au/view/UQ:55d7b70>

⁷ *Ibid.*

Community-Controlled sector is particularly vital. This is also in line with Queensland's commitments under the National Closing the Gap Agreement.

The Statement of Compatibility to the Bill outlined:

“...an alternative to opening up the eligibility criteria for electronic monitoring would be providing additional supports to children on bail. This alternative alone would not reduce offending. Instead, it is proposed that supports be provided alongside electronic monitoring.”⁸

QCOSS respectfully disagrees with this conclusion. Whether or not EMDs have a continued role in the youth justice system, it is important to acknowledge that additional supports provided to children on bail can be effective and valuable in the absence of an order to wear an EMD. This must be front of mind in considering whether and to what extent EMDs should be used in a youth justice setting.

The benefits of wrap-around supports are well-established. In contrast, considerable concerns regarding the impact of using EMDs in a youth justice setting remain, (explored further below). The effectiveness of EMDs in reducing offending is also not without question. Significantly, in reviewing the Trial, the Evaluation “...was not designed to isolate the impact of EMDs from the impact of wrap-around supports.”⁹ Given the value of wrap around supports for children on bail, this limitation is considerable. The Evaluation also outlined that greater awareness and usage of wrap-around supports was needed.

Other notable limitations of the Evaluation included differences between EMD and comparison groups, limited representation of participant sub-groups such as those outside of South East Queensland, potential selection bias in consultation with young people and families, and limits to the generalisability of the results to broader populations.¹⁰ Given the extensive expansion of EMD usage proposed by the Bill, it is significant to note that the Trial and its findings applied to an intentionally narrow group of eligible children.

While QCOSS appreciates comments in the Explanatory Notes and in the Evaluation regarding the importance of wrap-around supports *in connection* with EMDs, we also add that there is an ongoing need for wrap-around supports that are provided as a stand-alone measure. Additionally, we encourage the Committee to engage closely with the Evaluation's own stated limitations and analysis to ensure that interpretation of the Evaluation's findings regarding EMD effectiveness is not over-inflated.

Considerable concerns on electronic monitoring remain

QCOSS acknowledges mixed views within the community service sector regarding the limited use of EMDs as a bail condition in certain circumstances. However, we stress that community services who have indicated some level of support for EMD usage also often emphasise the need for additional wrap around supports, realistic bail conditions, careful implementation, robust safeguards, and limited eligibility.

Cautious support for EMDs from community services is generally limited to the extent that EMDs can enable an alternative to incarceration, in situations where a young person would not have otherwise received bail and not as an additional punitive measure. Limited support is also currently

⁸ State of Queensland. (2025). *Youth Justice (Electronic Monitoring) Amendment Bill 2025 Statement of Compatibility*, p 7.

<<https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5825T1984/5825t1984.pdf>>

⁹ Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support, p 18.

<<https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/b3372b00-0d4b-454d-b416-da51bbf0279b/electronic-monitoring-outcome-evaluation-final-report.pdf?ETag=f061967f32ee22ff21db67328c9a0168>>

¹⁰ Ibid.

contextualised by unacceptable conditions children endure when incarcerated in adult watch houses or youth detention centres,^{11,12} which must also be addressed.

Some community service organisations do not support EMD use in a youth justice setting in any circumstance.

During QCOSS consultation activities, representatives from community service organisations raised significant concerns about the impact of using EMDs on children, which require consideration prior to passing the Bill. Concerns included:

- Due to their high visibility and the impacts of additional 24-hour surveillance, EMDs can result in feelings of stigma, shame and anxiety, as well as further isolation and disconnection. This can lead to disengagement from social supports, pro-social activities, education, and employment. Children may also fear the kinds of assumptions which will be made about their own circumstances, given that many people associate EMDs with very serious offending, such as offending which is violent or sexually violent.
- Safety risks for children, including vulnerability to harassment or vigilante behaviour.
- Adverse criminogenic impacts of wearing an EMD.
- Incompatibility with trauma informed practices for supporting children whose offending is often linked to traumatic experiences.
- Further criminalisation of children due to the operation of breach of bail laws under the *Youth Justice Act 1992* (Qld).
- Unsuitability for children with limited cognitive capacity.
- The imposition of barriers in circumstances where children need to escape violence while on bail, including domestic and family violence and sexual violence. Of the young people in youth justice custody during the Youth Justice Census in 2024, 70 per cent had experienced or been impacted by domestic and family violence.¹³ Community service providers frequently suggest this figure may be an underestimation.
- Inconsistency with disability standards for education.
- Technical issues with the devices.
- Difficulties using EMDs in regional and remote areas.
- Impacts on families.
- Fire risk associated with charging devices.

In addition, the Evaluation outlined:

“Negative unintended outcomes included technical issues (e.g., cancelled alerts), difficulty complying with strict curfews, physical discomfort, stress for family-members, and increased risk of incarceration for young people without stable housing (due to suitability criteria).

Broader concerns included EMDs being viewed as a ‘badge of honour’, and EMDs creating stigma that limited pro-social participation (including in education). Some YJ staff held a view

¹¹ Queensland Ombudsman. (2024). *Cairns and Murgon watch-houses inspection report: Focus on detention of children*.
<https://www.ombudsman.qld.gov.au/detention-inspection/inspections-and-reports>

¹² State of Queensland. (2025). *Combined inspection report for youth detention centres, A report on our 2024 inspections of 3 Queensland youth detention centres – West Moreton, Brisbane and Cleveland*. Office of the Queensland Ombudsman.
<https://www.ombudsman.qld.gov.au/publications/detention-inspection-reports/ydc-inspections-combined-report-2025/ydc-inspections-combined-report-2025>

¹³ State of Queensland. (2024). *Youth Justice Census Summary – Youth Justice Custody*. Department of Youth Justice and Victim Support.
https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/a6c6dbcf-b18f-413c-a2fb-9cd1b7bc4c84/yj_census_summary_custody_2018-2024.pdf?ETag=5bbf485bdae5a619f572ac92d294030b

that lawyers may also progress legal matters less urgently (because young people with EMDs are not in custody)."¹⁴

The Evaluation also outlined that views on the cultural safety of EMDs varied. While these critical issues were acknowledged in the evaluation, they were not explored comprehensively.

The proposed expansion of electronic monitoring is not responsible or safe

There are mixed views within the community service sector in relation to the Trial, and the concept of EMD usage in limited circumstances. However, there has been consistent feedback that the expansion of the Trial as proposed by the Bill is very concerning.

If EMDs continue to be used, feedback has highlighted a need for the legislation to clearly articulate a targeted purpose and parameters for the use of EMDs. For example, reflecting principles that EMDs should be used in limited circumstances; should only be ordered where they are the least restrictive option available to provide a genuine alternative to incarceration, enable bail, reduce remand, support cultural connection, support rehabilitation and access to appropriate supports; and they should not be used for the purposes of further punishment. Specific concerns regarding the proposed expansion of their use includes:

- **Eligibility and age:** the use of EMDs to include younger age groups, including children as young as ten years old.
- **Eligibility and offending:** the use of EMDs in connection with all offence types, including first time offences and low-level offences. QCOSS notes that the Statement of Compatibility to the Bill concluded:

that an alternative to expanding eligibility would be "...to confine the availability of electronic monitoring to charges for more serious offences. This alternative would not be as effective in achieving the purposes of reducing offending rates and keeping the community safe, because it would confine electronic monitoring to a smaller cohort of offenders."¹⁵

This conclusion minimises and underestimates the risks and impacts of using EMDs extensively across a range of circumstances, age groups and offending types, and likely over-estimates EMD effectiveness within broader cohorts.

- **Factors to be considered when ordering an EMD as a condition of bail:** the seriousness, complexity and risk of such an order should be reflected in the process for making an order and included in the legislation authorising the order. Specific feedback suggested that considerations should include:

- The views and willingness of the child and their family in relation to the order should be a factor the Court must consider. Of note, the Evaluation found that the willingness of the child to wear an EMD may be a significant factor in their effectiveness,¹⁶ and that "outcomes were strongly influenced by the young person's intrinsic motivation, family environment and the presence of a role model."¹⁷

¹⁴ Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support, p 31.

<https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/b3372b00-0d4b-454d-b416-da51bbf0279b/electronic-monitoring-outcome-evaluation-final-report.pdf?ETag=f061967f32ee22ff21db67328c9a0168>

¹⁵ State of Queensland. (2025). *Youth Justice (Electronic Monitoring) Amendment Bill 2025 Statement of Compatibility*, p 7.

<https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5825T1984/5825t1984.pdf>

¹⁶ Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support, p 12, 30.

<https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/b3372b00-0d4b-454d-b416-da51bbf0279b/electronic-monitoring-outcome-evaluation-final-report.pdf?ETag=f061967f32ee22ff21db67328c9a0168>

¹⁷ Ibid, p 30.

- Whether the young person has the capacity to understand their obligations and comply with those obligations if the order is made. Where applicable, feedback suggested linking individual assessments of cognitive capacity to understand and comply with an EMD to existing assessments which have already taken place with those children, such assessments regarding cognitive capacity in educational settings.
- Whether electronic monitoring is the least restrictive option available to support bail.

QCOSS also notes the Bill refers to specific sections of the HR Act in relation to matters the court may consider relevant. Those specific references do not include several relevant human rights, including the right to education,¹⁸ and the right to recognition and equality before the law.¹⁹

- **Further review and careful monitoring:** If the Trial continues or if the Bill is passed, there is a need for further review, which should be legislatively required. This is particularly important if the usage of EMDs is expanded. The review should include examination of the negative impacts and risks of EMDs, as well as further safeguards and supports that are required. Further review of the use of EMDs should engage more closely with the particular perspectives and experiences of Aboriginal and Torres Islander Peoples, people with disability, people who are culturally and linguistically diverse, and girls. The review should also continue to involve community service provider perspectives, comprehensively explore the effectiveness of EMDs, and seek to determine the effectiveness of EMDs in comparison to stand-alone wrap-around supports.

Ongoing monitoring and evaluation should incorporate a complaint and issues register for children and families impacted by EMDs. Children's experiences of harassment and vigilante behaviour due to the devices should also be carefully monitored.

Services are additionally concerned that proposed expansion of EMD usage:

- Could normalise the practice, resulting in children ordered to wear an EMD in circumstances where they would currently and safely receive bail without such an order.
- Will become a routine requirement of bail, which would result in overuse of EMDs and could simultaneously pose barriers to receiving bail where an EMD is not suitable to a child's circumstances.
- Will increase the risk of criminalisation of young people.

QCOSS acknowledges the Evaluation found opportunities to refine and responsibly widen the usage of EMDs. However, the expansion proposed by the Bill is not responsible. The Evaluation did not suggest the degree of expansion proposed by the Bill. The Evaluation did not make a specific recommendation to expand the usage of EMDs to children as young as ten years old.²⁰

The Evaluation suggested consideration for widening eligibility to other offence types, but it did not suggest expanding eligibility to *all* offence types.²¹ Significantly, the recommendations and findings of the Evaluation were over-simplified in the Explanatory Notes to the Bill and Statement of Compatibility.

Limited Bill consultation processes

QCOSS is concerned about the brief consultation period for the Bill. The Parliamentary Committee system in Queensland fulfils an important role in providing oversight and scrutiny of policy and

¹⁸ Human Rights Act 2019 (Qld) s 36

¹⁹ Ibid, s 15.

²⁰ Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support, p 10.

²¹ <<https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/b3372b00-0d4b-454d-b416-da51bbf0279b/electronic-monitoring-outcome-evaluation-final-report.pdf?ETag=f061967f32ee22ff21db67328c9a0168>>

Ibid.

legislative processes. Public consultation, debate, and scrutiny is an essential part of the policy and law-making processes. In this instance, many organisations who would have helpful feedback on the Bill were closed for holidays during the consultation window. This limited the community's ability to engage with legislative processes meaningfully.

In addition, due to the disproportionate impact of the youth justice system upon Aboriginal and Torres Strait Islander children and children with disability, it is particularly important to conduct consultation processes that facilitate genuine participation and leadership of these groups and their communities. In the 2023-24 financial year, of the children and young people who were imprisoned in youth detention in Queensland, nearly 70 per cent identified as Aboriginal and/or Torres Strait Islander.²² Of the young people in youth justice custody during the Youth Justice Census in 2024, 54 per cent had at least one mental health and/or behavioural disorder (diagnosed or suspected), and 71 per cent had at least one of the following disabilities (diagnosed or suspected):

- Fetal Alcohol Spectrum Disorder
- Attention Deficit Hyperactivity Disorder
- Autism Spectrum Disorder
- Developmental/Language Disorder
- Cognitive/Intellectual
- Physical
- Sensory (visual or auditory).²³

These figures may also be an underestimation. Sector feedback has also highlighted an ongoing issue where it is determined that a child does not have capacity to stand trial, however, they are continually cycled through earlier criminal processes such as arrest and incarceration in watch houses.

It is vital to embed self-determined approaches to the youth justice system which are shaped by those who are the most impacted by that system. It is also important to particularly consider the impact of measures in the Bill upon girls and upon culturally and linguistically diverse children.

QCOSS appreciates the Committee is limited by the timeframes they are also required to work towards. However, we encourage the Committee to explore additional avenues of consultation and engagement, and to engage closely with submissions representing key groups impacted by the Bill, including submissions made to previous parliamentary inquiries on this topic.

We also encourage the Committee to engage closely with the community service sector. The community service sector fulfils a vital role across Queensland, including a deep understanding of the needs and experiences of particular groups. The sector's expertise can provide considerable benefits in considering changes to laws which will directly impact their communities.

Conclusion

We urge the Committee to closely examine the considered and nuanced recommendations that will be made by organisations who work directly with children who are involved or at risk of involvement with the youth justice system, and to explore opportunities for substantial amendments.

The seriousness of using EMDs on children should not be minimised or underestimated. Similarly, their effectiveness should not be overstated. QCOSS acknowledges there are mixed views in the community service sector on the limited use of EMDs in certain circumstances within a youth justice setting. However, we urge the Committee to engage closely with the considerable and complex concerns raised about the Bill. Cautious support and support with significant qualifications should not be overstated, nor over-simplified. At a minimum, if the Bill does pass, substantial amendments

²² Australian Government. (2025). Report on government services 2025: youth justice services, Table 17A.9. Productivity Commission.

<<https://www.pc.gov.au/ongoing/report-on-government-services/2025/community-services/youth-justice>>

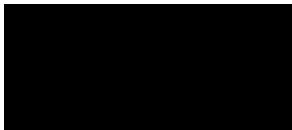
²³ State of Queensland. (2024). *Youth Justice Census Summary – Youth Justice Custody*. Department of Youth Justice and Victim Support.

<https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/a6c6dbcf-b18f-413c-a2fb-9cd1b7bc4c84/yj_census_summary_custody_2018-2024.pdf?ETag=5bbf485bdae5a619f572ac92d294030b>

should be incorporated to reflect the seriousness of EMDs and the foreseeably harmful and negative consequences which can result from their use on children.

Thank you again for the opportunity to provide our submission.

Yours sincerely



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