

Youth Justice (Electronic Monitoring) Amendment Bill 2025

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Queensland Aboriginal and Torres Strait Islander
Child Protection Peak Limited

Submission: Youth Justice (Electronic Monitoring) Amendment Bill 2025

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Acknowledgement of Country

QATSICPP acknowledges the Traditional Custodians across all the lands that make up the State of Queensland. We acknowledge the oldest living cultures of Aboriginal and Torres Strait Islander peoples and the continued connections to Country, language and tradition.

We pay our respect to Elders past and present and acknowledge future generations of Aboriginal and Torres Strait Islander children and young people and the bright future they will have.

About QATSICPP

The Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) is the peak body for Aboriginal and Torres Strait Islander community-controlled organisations delivering child, youth and family support services in Queensland. QATSICPP is also Queensland's Youth Justice Peak, collaborating with Aboriginal and Torres Strait Islander and non-Indigenous service providers to strengthen outcomes across the child protection and youth justice systems.

Our membership includes 38 Aboriginal and Torres Strait Islander community-controlled organisations (ATSICCOs), delivering vital services, guidance and culturally grounded supports to ensure the safety and wellbeing of Aboriginal and Torres Strait Islander children, young people and families.

QATSICPP's vision is that all Aboriginal and Torres Strait Islander children and young people are physically, emotionally and spiritually strong; live in safe, caring and nurturing environments within their families and communities; and are afforded the same life opportunities as other children and young people to reach their full potential.

Over its 21 years, QATSICPP has worked in partnership with Aboriginal and Torres Strait Islander leaders and the Queensland Government to promote approaches that are culturally responsive and community-led. With a strong history of collaboration, QATSICPP continues to lead the development of solutions that respond to the unique strengths and needs of Aboriginal and Torres Strait Islander children, families, and communities.



Introduction

The Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) welcomes the opportunity to provide a submission on the Youth Justice (Electronic Monitoring) Amendment Bill 2025 (the 'Bill'). As Queensland's Aboriginal and Torres Strait Islander child protection peak and Youth Justice peak, QATSICPP advocates for policies that prioritise culturally safe, community-led, and evidence-based responses to youth justice with a strong focus on improving outcomes for children, families and communities.

This Bill forms part of the Queensland Government's broader *Keeping Queensland Safe* reforms, including the *Adult Time*, *Adult Crime* framework, which seek to improve community safety through changes to the youth justice system. It proposes four key amendments that build on previous legislative changes and evaluations relating to the use of electronic monitoring under this reform program.

The overarching purpose of these reforms is to create safer communities by reducing offending and improving public confidence in the youth justice system. QATSICPP's submission is grounded in evidence, sector expertise, and the voices of Aboriginal and Torres Strait Islander communities, providing insights and recommendations to support the Queensland Government in achieving these objectives.

This submission has been developed through engagement with Aboriginal and Torres Strait Islander community-controlled organisations, youth justice service providers, sector peaks and frontline practitioners, alongside consideration of available evidence, evaluation findings and best-practice youth justice approaches.

QATSICPP has drawn on:

- sector insights and frontline experience regarding the practical impacts of electronic monitoring,
- analysis of the electronic monitoring trial and its evaluation, including acknowledged limitations,
- evidence on what works to reduce reoffending and improve long-term community safety,
- and alignment with Queensland, national and international policy and human rights frameworks.

QATSICPP provides evidence-informed, practical recommendations and analysis to assist the Government to refine the proposed amendments to more effectively support bail compliance, reduce reliance on custody, minimise harm, strengthen rehabilitation, and promote equitable outcomes for Aboriginal and Torres Strait Islander children and young people.

The goal of this submission, through these recommendations, is to support sustainable improvements to community safety now and into the future.



Our position

QATSICPP's position is the primary policy objective of youth justice reform must be early intervention, prevention and diversion through family support and community-led, culturally safe responses.

Evidence demonstrates that effective youth justice initiatives are those that are culturally safe, community-led, and supported by stable housing, wraparound services, and trusted relationships. Measures that focus primarily on surveillance or enforcement, without these foundations, are unlikely to achieve sustained reductions in offending or improved community safety.¹

However, QATSICPP supports the use of electronic monitoring in limited, appropriately targeted circumstances, where its short-term application enables access to bail, diverting a child from detention whilst enabling connection to family, community and culture and supporting community safety.

The use of electronic monitoring must be embedded within a broader package of culturally safe supports, including intensive case management, therapeutic and healing interventions and stable accommodation. It is not a suitable standalone condition or substitute for meaningful support.

The use of electronic monitoring must be carefully targeted, culturally safe, and designed to support rehabilitation and healing, with the child at the centre. Such measures should not exacerbate harm, trauma or further entrench the criminalisation of children.

Disproportionate and differential impacts for Aboriginal and Torres Strait Islander children, families and communities

The disproportionate and differential impacts experienced by Aboriginal and Torres Strait Islander children and young people must be a core consideration in any youth justice reform. Aboriginal and Torres Strait Islander children continue to be significantly over-represented at every stage of Queensland's youth justice system, including police contact, bail refusal, remand, detention and post-release supervision.²

However, the issue is not only one of numbers; Aboriginal and Torres Strait Islander children experience youth justice interventions differently, due to the cumulative effects of intergenerational trauma, racism, disability, historical and ongoing surveillance, and structural disadvantage. These impacts are compounded in regional and remote communities, where access to culturally safe services, infrastructure and supports is often limited.

Evidence consistently demonstrates that punitive, surveillance-heavy responses can deepen harm for Aboriginal and Torres Strait Islander children, reinforcing stigma, mistrust of authorities, and disconnection from family, culture and community.³ Conversely, culturally informed, community-led responses that prioritise healing, stability and connection have been shown to result in better outcomes for children, families and community safety over time.

¹ Australian Institute of Health and Welfare. (2024). *Youth justice in Australia 2023–24*. Canberra, ACT: AIHW.
Department of Youth Justice. (2023). *Youth justice framework for practice*. Brisbane, QLD: Queensland Government.
Department of Youth Justice. (2024). *Programs and initiatives*. Brisbane, QLD: Queensland Government.

² Australian Institute of Health and Welfare. (2024). *Youth justice in Australia 2023–24*. Canberra, ACT: AIHW.

³ Cunneen, C., Goldson, B., & Russell, S. (2018). *Human rights and youth justice reform in Australia*. Sydney, NSW: The Federation Press.



Recommendations relating to proposed amendments

1 Removal of the expiry provision

QATSICPP acknowledges the intent of removing the expiry provision is to provide certainty, consistency and continuity in the youth justice framework. QATSICPP does not oppose the removal of the expiry provision for electronic monitoring. Permanently embedding electronic monitoring within the *Youth Justice Act 1992* may support clearer system settings and enable community-based services to plan, resource and deliver supports around a stable and predictable framework.

The electronic monitoring trial was time-limited and applied to a specific cohort, and its evaluation acknowledged key limitations, including an inability to isolate the impacts of electronic monitoring from the effects of accompanying wraparound supports. As electronic monitoring moves from a trial to a permanent feature of the youth justice system, its outcomes will depend less on legislative settings alone and more on how it is implemented in practice — including policy settings, operational guidance, workforce capacity and the availability of culturally safe supports.⁴

To ensure that permanence supports the Bill's objectives and does not entrench unintended harm, **QATSICPP recommends that the removal of the expiry provision in section 52AA be accompanied by strong, ongoing oversight mechanisms, including sharing data on:**

- impacts on Aboriginal and Torres Strait Islander children;
- rates, drivers and consequences of technical breaches;
- impacts on remand and detention, including whether electronic monitoring is reducing custodial time; and
- community safety risks, including stigma, harassment or vigilante behaviour.

Embedding these accountability and review mechanisms alongside permanent legislative settings will support continuous improvement through policy and practice, while providing the certainty required for community-led services to plan and deliver effective, culturally safe supports.

2 Statewide application of electronic monitoring

QATSICPP recognises the intent of enabling statewide access to electronic monitoring to promote consistency and equity across Queensland. Achieving these outcomes, however, will depend on implementation being support-led rather than location-led.

Sector experience consistently indicates that the effectiveness of electronic monitoring is closely linked to the availability of infrastructure, reliable technology, workforce capacity and culturally safe supports, which vary significantly across locations, particularly in regional and remote communities.

To ensure statewide application supports bail compliance and community safety, QATSICPP recommends that amendments to section 52AA:

- make clear that electronic monitoring may be imposed only where appropriate supports, workforce capacity and infrastructure are available;
- explicitly preserve judicial discretion to decline electronic monitoring where local conditions would undermine compliance;

⁴ Productivity Commission. (2025). *Report on Government Services 2025: Youth justice*. Canberra, ACT: Australian Government.
Queensland Government. (2024). *Electronic monitoring trial evaluation*. Brisbane, QLD: Queensland Government.
Victoria Legal Aid. (2023). *A unique opportunity to better support children and young people in the justice system*. Melbourne, VIC: Victoria Legal Aid.

- provide protection against breach outcomes arising from technology failure, power disruption or infrastructure limitations.

These clarifications would support consistent outcomes across Queensland while reducing the risk of children being set up to fail due to circumstances beyond their control.

3 Removal of eligibility limits

Minimum age threshold

QATSICPP does not support the removal of the minimum age threshold for the use of electronic monitoring. Retaining the current minimum age threshold within section 52AA is an essential safeguard.

Evidence from developmental psychology and youth justice practice consistently shows that younger children often lack the developmental capacity to fully understand and comply with complex bail conditions, including those associated with electronic monitoring.⁵

The electronic monitoring trial and its evaluation did not include children under the current minimum age, and there is no evidence demonstrating that electronic monitoring is appropriate or effective for younger children.

Removing the age threshold would embed a legislative framework that permits the use of an intervention on a cohort for whom its effectiveness has not been established and for whom the risk of technical breaches and harm is heightened. This would be inconsistent with child-centred justice principles and is unlikely to support bail compliance or community safety objectives.

Offence-based and prior history thresholds

QATSICPP acknowledges the intent of increasing judicial flexibility by removing offence-based and prior history eligibility requirements. Where these thresholds are removed, their effective operation depends on the inclusion of clear statutory safeguards to guide proportionate decision-making.

To guide proportionate decision-making where offence-based and prior history thresholds are removed, QATSICPP recommends that section 52AA require courts to consider:

- whether electronic monitoring is likely to improve bail compliance for the individual child;
- the child's age, developmental capacity and cognitive ability;
- whether electronic monitoring may increase the risk of technical breaches unrelated to offending behaviour.

Embedding these considerations in legislation enables flexibility while reducing the risk of unintended net-widening.

4 Changes to court decision-making requirements

Given the potential for unintended and harmful impacts of electronic monitoring, efforts to streamline court decision-making must be carefully balanced with the need for sufficiently robust consideration to support bail compliance, community safety, and the protection of human and child rights. Decisions about electronic monitoring engage children's rights to liberty, family and cultural connection, and require a proportionate, least-restrictive approach that is consistent with the best interests of the child.

⁵ McCafferty, P., Ogloff, J. R. P., & Thomson, L. (2022). Developmental immaturity, cognitive impairment and youth justice system responses. *Psychiatry, Psychology and Law*, 29(3), 393–409; Australian Law Reform Commission. (2010). *Research on capacity* (ALRC Report 108); Sawyer, S. M., & Vijayakumar, N. (2024). *Can a 10-year-old be responsible for a crime? Insights into adolescent brain development and legal capacity*. Murdoch Children's Research Institute; Baidawi, S. (2024). *Children aged 10 to 13 in the justice system: Characteristics, alleged offending and legal outcomes* (Australian Institute of Criminology Report). Canberra: AIC.



Clear legislative guidance assists courts to apply electronic monitoring consistently and proportionately, and to ensure it remains a bail-enabling mechanism rather than a routine condition.

To support effective and proportionate use, QATSICPP recommends that amendments to section 52AA retain and clarify requirements that courts consider:

- that electronic monitoring must not be imposed where a child would otherwise be granted bail without it
- whether electronic monitoring is the least restrictive option available to support bail;
- will electronic monitoring improve bail compliance rather than simply increase monitoring;
- the availability and adequacy of bail and community supports;
- housing stability and safety;
- cultural safety and connection to family and community;
- practical feasibility, including charging and connectivity;
- the views of the child.

These considerations support informed decision-making and help ensure electronic monitoring is applied selectively, in circumstances where it is likely to support bail compliance and engagement with community-based supports.

Further recommendations: Supporting community safety and bail compliance

QATSICPP recognises that the amendments are intended to strengthen community safety and support bail compliance, particularly by reducing reliance on custody and watch house detention.

The following recommendations support electronic monitoring to be most effectively utilised through targeted, culturally safe application, where it can be part of a response that supports rehabilitation and healing, with the child at the centre, so that it does not exacerbate harm, trauma or further entrench the criminalisation of children.

5 Strengthen community safety through rehabilitation and stability

Long-term community safety is driven by rehabilitation, early intervention and stability, rather than surveillance alone. While short-term compliance measures may manage immediate risk, they do not address the underlying drivers of offending unless paired with meaningful supports.

To strengthen community safety outcomes, QATSICPP recommends that:

- Electronic monitoring must only be used as one component of a broader prevention and rehabilitation framework, including intensive bail support, case management and rehabilitation services.
- The expansion of electronic monitoring must be accompanied by sustained investment in community-led early intervention and diversion initiatives.

6 Improve bail compliance by ensuring electronic monitoring is used where it is likely to succeed

Bail compliance is most effective when conditions are realistic, understood and supported. Sector experience indicates that electronic monitoring improves compliance only where children have access to stable housing, consistent support and clear guidance.



Where these conditions are absent, electronic monitoring increases the risk of technical breaches unrelated to offending behaviour, undermining bail compliance and increasing remand.

To support genuine bail compliance, QATSICPP recommends that:

- Electronic monitoring only be imposed where adequate bail support, including after-hours services, is available.

Analysis and evidence informing the recommendations

This section outlines the evidence base and sector insights that inform QATSICPP's recommendations, with a focus on how electronic monitoring can either support—or undermine—the Government's objectives of community safety and bail compliance, depending on how it is implemented, the cohort to whom it is applied, and the supports available to children and families.

1. Bail compliance is driven by support and stability, not monitoring alone

Evidence from the Queensland electronic monitoring trial and broader youth justice research indicates that improved bail compliance outcomes are closely associated with the availability of wraparound supports, rather than surveillance in isolation.⁶ The evaluation found that outcomes attributed to electronic monitoring could not be separated from the impact of intensive case management, housing support and service engagement provided alongside monitoring. This limitation is significant, as it demonstrates that electronic monitoring alone is not sufficient to support compliance and should not be treated as a standalone mechanism. Sector experience consistently reinforces this finding.

Where children have access to stable accommodation, trusted adult relationships, after-hours support and clear guidance, compliance with bail conditions is more likely. Conversely, where these supports are absent, electronic monitoring increases the likelihood of technical breaches—such as charging failures, device malfunctions or misunderstandings of conditions—that do not reflect increased risk to community safety.⁷

2. Community safety is achieved through rehabilitation and reduced reoffending

Punitive or surveillance-heavy responses that do not address underlying drivers of offending—such as trauma, poverty, disability, housing instability and disengagement from education—have been shown to increase the likelihood of continued system contact and entrenchment in the justice system.⁸

Sector feedback indicates that while electronic monitoring may temporarily manage perceived risk, it does not in itself reduce offending behaviour. In some cases, electronic monitoring may undermine rehabilitation by increasing stress and anxiety for children and families, reinforcing stigma and isolation, limiting participation in education or employment, and escalating justice system contact through technical non-compliance.

3. Disproportionate and differential impacts must be central to implementation

Aboriginal and Torres Strait Islander children are significantly over-represented at every stage of Queensland's youth justice system and experience justice interventions differently due to historical and contemporary factors, including intergenerational trauma, racism, disability and cumulative surveillance.

⁶ Queensland Government. (2024). *Electronic monitoring trial evaluation*; AIHW (2023). *Youth justice in Australia 2022–23*; Australian Law Reform Commission. (2017). *Pathways to justice – An inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples* (ALRC Report No. 133)

⁷ Commissioner for Children and Young People Queensland. (2023). *Our rights, our justice: Youth justice reform in Queensland*; Cunneen, C., Goldson, B., & Russell, S. (2018). *Human rights and youth justice reform in Australia*

⁸ McAra, L., & McVie, S. (2017). The impact of system contact on patterns of desistance from offending. *European Journal of Criminology*, 14(4), 379–403

Evidence indicates that increased surveillance-based responses disproportionately affect Aboriginal and Torres Strait Islander children, reinforcing mistrust of authorities, stigma and disengagement from supports.⁹

Queensland's commitments under the *Human Rights Act 2019 (Qld)*, the *Closing the Gap* framework and the *United Nations Declaration on the Rights of Indigenous Peoples* require that youth justice reforms actively avoid measures that exacerbate inequity and instead prioritise culturally safe, community-led responses.¹⁰

4. Developmental capacity is critical to bail compliance

Evidence from developmental psychology and youth justice practice demonstrates that younger children, and children with cognitive or psychosocial disability, often lack the capacity to fully understand and comply with complex bail conditions.¹¹

The Queensland electronic monitoring trial did not include children under the current minimum age and did not examine impacts on children with disability. Expanding eligibility without safeguards therefore introduces significant risk. Where children lack the developmental capacity to comply, electronic monitoring increases the likelihood of non-compliance unrelated to risk or intent, and escalation to remand through technical breaches rather than offending behaviour.

Imposing conditions that children cannot realistically comply with undermines bail compliance and increases system contact, rather than improving community safety. This evidence supports the need for age-based thresholds and explicit consideration of developmental capacity in decisions about the use of electronic monitoring.

5. Infrastructure and technology failures undermine compliance and safety

Practical implementation issues raised by service providers—including unreliable technology, alarm malfunctions, power disconnection and connectivity limitations—directly affect compliance outcomes. Where technology fails or infrastructure is unstable, children may be placed at risk of breach through no fault of their own.

In regional and remote communities, these risks are amplified by infrastructure gaps, limited connectivity and reduced access to timely technical support.¹² Sector feedback and evidence indicates that these issues can result in breaches unrelated to offending behaviour, undermining confidence in electronic monitoring and increasing unnecessary justice system involvement.¹³

These implementation realities highlight the importance of a capacity-led approach to the use of electronic monitoring, including judicial discretion to decline its use where practical conditions for compliance are not present.

6. Human rights and child rights are evidence-based safety mechanisms

Evidence consistently links rights-respecting youth justice systems with improved engagement, reduced recidivism and stronger long-term outcomes.¹⁴ Approaches that are proportionate, least restrictive and focused on the best interests of the child are more likely to support rehabilitation and long-term community safety.

⁹ SNAICC – National Voice for Our Children. (2021). *Family matters report 2021*.

¹⁰ Queensland Government. (2020). *Closing the Gap in Queensland: Implementation plan*; United Nations. (2007). *United Nations Declaration on the Rights of Indigenous Peoples*.

¹¹ Walsh, Tamara, Beilby, Jane, Lim, Phylcia, and Cornwell, Lucy (2023). *Safety through support: building safer communities by supporting vulnerable children in Queensland's youth justice system*; McCafferty, P., Ogloff, J. R. P., & Thomson, L. (2022). Developmental immaturity, cognitive impairment and youth justice system responses. *Psychiatry, Psychology and Law*, 29(3), 393–409

¹² Queensland Audit Office. (2023). *Managing technology-enabled service delivery in Queensland Government*.

¹³ Australian Institute of Criminology. (2021). *Bail, remand and compliance in Australia*; Commonwealth Ombudsman. (2021). *Lessons from electronic monitoring and surveillance technologies*.

¹⁴ Victorian Sentencing Advisory Council. (2019). *Sentencing children and young people*; Queensland Family and Child Commission. (2018). *The age of criminal responsibility in Queensland*; McAra, L., & McVie, S. (2017). *The impact of system contact on patterns of desistance from offending*. *European Journal of Criminology*, 14(4), 379–403.

Queensland's legislative framework requires youth justice responses to be proportionate, least restrictive and in the best interests of the child.¹⁵ Embedding these principles into decisions about electronic monitoring supports fairer outcomes, reduces unnecessary system contact, and strengthens public confidence in the youth justice system. In this context, human rights and child rights protections operate as evidence-based mechanisms that support, rather than undermine, community safety objectives.

Conclusion

QATSI CPP supports the Queensland Government's objective of creating safer communities. Achieving this requires youth justice reforms that are evidence-informed, proportionate and capable of delivering sustainable reductions in reoffending, rather than short-term compliance outcomes alone.

If electronic monitoring is made permanent and expanded in scope, it is critical that the legislative framework includes clear safeguards, review mechanisms and decision-making requirements that preserve proportionality, protect against net-widening, and ensure children are not set up to fail due to developmental capacity, infrastructure limitations or lack of supports. In particular, careful attention must be given to the disproportionate and differential impacts of youth justice interventions on Aboriginal and Torres Strait Islander children, consistent with commitments under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Closing the Gap, and human rights obligations.

QATSI CPP's recommendations are intended to assist the Government to refine the proposed amendments in a way that strengthens bail compliance, reduces reliance on custody and watch house detention, and delivers long-term community safety outcomes.

QATSI CPP remains committed to working constructively with the Queensland Government, the youth justice sector and Aboriginal and Torres Strait Islander communities to ensure reforms are implemented in a way that is effective, equitable and centred on the best interests of children and young people.

¹⁵ Australian Institute of Criminology. (2022). *What works to reduce youth reoffending: Evidence review*.





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