

# Youth Justice (Electronic Monitoring) Amendment Bill 2025

**Submission No:** 026

**Submission By:** Natalie Lewis, Aboriginal and Torres Strait Islander Children's Commissioner, Queensland Family and Child Commission

**Publication:** Making the submission and your name public

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Policy Submission

# Inquiry into the Youth Justice (Electronic Monitoring) Amendment Bill 2025

12 January 2025



## ACKNOWLEDGEMENT OF COUNTRY

The Office of the Aboriginal and Torres Strait Islander Children's Commissioner acknowledges Aboriginal and Torres Strait Islander peoples as the Traditional Custodians across the lands, seas and skies where we walk, live and work.

We recognise Aboriginal and Torres Strait Islander people as two unique peoples, with their own rich and distinct cultures, strengths and knowledge. We celebrate the diversity of Aboriginal and Torres Strait Islander cultures across Queensland and pay our respects to Elders past, present and emerging. We acknowledge the important role played by Aboriginal and Torres Strait Islander communities and recognise their right to self-determination, and the need for community-led approaches to support healing and strengthen resilience.

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Reference: TF25/1758 – D25/18046

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## Introduction

Thank you for the opportunity to make a submission on the *Youth Justice (Electronic Monitoring) Amendment Bill 2025* (the Bill). My submission focuses on:

- the removal of age and offence requirements for electronic monitoring device (EMD) conditions
- the effect of EMDs versus increased wraparound support.

I note the Bill follows an evaluation of the EMD trial, in which the final report was released in October 2025. The trial was undertaken from 2021, when the Queensland Government allowed the courts to impose an EMD as a bail condition for children aged over 16 years charged with a prescribed indictable offence and living within five specific areas of Queensland. In 2023, the age requirement was reduced to 15 years and the trial expanded from five to eight sites. In 2024, the number of trial sites increased to 13, and eligibility expanded to include children charged with a prescribed indictable offence in the previous 12 months. The trial was then extended at the beginning of 2025.

The current Bill seeks to:

- make the EMD condition permanent
- expand the condition to be statewide, dependent on required technology
- remove the requirements for a child to be aged over 15 years, be charged with a prescribed indictable offence and have been previously found guilty of or charged with such an offence
- remove the matters prescribed in the *Youth Justice Act 1992* for court consideration when determining appropriateness of an EMD.

## Summary

This submission outlines my significant concern with the proposed changes outlined in the Bill.

Removing the age and offence requirements for EMD eligibility will have a net-widening effect, increasing children's criminalisation and entrenchment in the youth justice system. This will not enhance community safety but instead undermine it by increasing the likelihood of ongoing contact with the youth justice system. This is in direct contradiction to the government's obligations under the *Human Rights Act 2019* and the government's purported commitment to rehabilitation.

Section 26(2) of the *Human Rights Act 2019* outlines the right for children to protection in their best interests.<sup>1</sup> The *Statement of Compatibility* considers that EMD conditions may limit this right due to a prioritisation of community safety over the individual best interests of a child, but ultimately determined that the Bill is compatible with the *Human Rights Act 2019*.<sup>2</sup> This is despite the *Statement of Compatibility* not thoroughly considering the changes this Bill will bring about for young children, children who are alleged to have committed a less serious offence, or children who do not meet the current criteria assessed in the legislated suitability assessment.

Predominantly, the expansion of the EMD condition will impact Aboriginal children and Torres Strait Islander children, who are disproportionately represented in the system. Removing the age requirement specifically will have significant consequences for Aboriginal and Torres Strait Islander children between 10- and 14-years-old, as these children are even more disproportionately represented than older children. Children of this age do not understand the full consequences of their actions and need

<sup>1</sup> Human Rights Act 2019 (Qld). <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2019-005>

<sup>2</sup> Queensland Parliament. (2025). *Youth Justice (Electronic Monitoring) Amendment Bill 2025: Statement of compatibility*. <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5825T1984/5825t1984.pdf>

guidance and support to address the underlying factors contributing to offending behaviour, not punitive responses. Concerns about the impact of EMDs on Aboriginal and Torres Strait Islander children were raised by submitters at the beginning of the EMD trial in 2021,<sup>3</sup> but were not considered in either the evaluation or the Bill.

The Bill's proposal to remove the prescribed matters for consideration by the courts when determining the appropriateness of an EMD condition for a child will further compound the impacts of the age requirement removal, meaning children without the capacity to fully understand the condition and without strong parental support to comply may receive an EMD, putting them at further risk of criminalisation for offences such as breach of bail.

Further, the evaluation of the EMD trial showed that children who engaged with services were less likely to reoffend during their EMD episode than those who did not engage. These results provide an opportunity for the Queensland Government to genuinely consider whether wrap-around support services should see increased investment, rather than EMD expansion. The Queensland Government has already committed funding to a justice reinvestment approach that intends to support Aboriginal and Torres Strait Islander community-led prevention, early intervention and reintegration programs, which could be expanded with greater investment. Embedding community-led support for children within Queensland will not only assist in diverting children from the youth justice system, but support all children within the community.

I am pleased that consultation with children was undertaken as part of the evaluation and encourage the Government to continue to consult with those most impacted by the youth justice system, though care must be taken to ensure participants reflect the population of children involved with youth justice.

This submission calls for the Queensland Government to reconsider the proposals contained in the Bill and focus on increasing wrap-around support services that help uphold children's rights, genuinely address the underlying causes of offending, and in turn keep the community safer.

## Recommendations

1. The Queensland Government does not proceed with the expansion of EMD conditions unless and until it can be demonstrated, that such measures are necessary, proportionate, time-limited and the least rights-restrictive means of achieving a legitimate aim, in accordance with the *Human Rights Act 2019*.
2. The Queensland Government retain the current eligibility requirements for EMD conditions, including age and type of offence/prior history, recognising that the restriction of liberty and breach of privacy of younger children and those charged with less serious offences is incompatible with the *Human Rights Act 2019*.
3. The Queensland Government does not progress any youth justice reform that results in foreseeable and disproportionate impacts on Aboriginal and Torres Strait Islander children and ensure that all proposed measures are assessed for indirect discrimination.

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<sup>3</sup> Aboriginal and Torres Strait Islander Women's Legal Services North Queensland. (2021). *Submission to inquiry into the Youth Justice and Other Legislation Amendment Bill 2021*. Parliament of Queensland. <https://documents.parliament.qld.gov.au/com/LASC-C96E/RN757PYJOL-951C/submissions/00000077.pdf>; Queensland Aboriginal and Torres Strait Islander Child Protection Peak. (2021). *Response to Youth Justice and Other Legislation Amendment Bill 2021*. Parliament of Queensland.

<https://documents.parliament.qld.gov.au/com/LASC-C96E/RN757PYJOL-951C/submissions/00000053.pdf>; Sisters Inside. (2021). *Sisters Inside submission to Legal Affairs & Safety Committee: Youth Justice and Other Legislation Amendment Bill (Qld) 2021*. Parliament of Queensland. <https://documents.parliament.qld.gov.au/com/LASC-C96E/RN757PYJOL-951C/submissions/00000074.pdf>

4. The Queensland Government retains the matters currently prescribed in the *Youth Justice Act 1992* for court consideration including a child's developmental capacity, likelihood of compliance, living circumstances, and availability of parental or carer support as mandatory safeguards to prevent inappropriate and harmful use of electronic monitoring. The impact of EMDs on participation and continuity of prosocial activities, and relationships should also be considered by the court, as well as the availability of requisite reports in the child's geographic area.
5. The Queensland Government instead prioritises and invests in rights-compliant, support based responses that are shown to promote reintegration and long-term community safety, including diversion, intensive bail support, Aboriginal and Torres Strait Islander community-led programs and partnerships with communities, and justice reinvestment initiatives.
6. The Queensland Government regularly and meaningfully involve children, including Aboriginal children and Torres Strait Islander children, in the design, assessment and review of youth justice responses, while ensuring participation is culturally safe, representative and not mediated solely through youth justice services.
7. That any use of EMDs for children be subject to independent oversight, regular review and transparent public reporting, including disaggregating data on age, Aboriginal and Torres Strait Islander identity, disability and geography to ensure ongoing compliance with children's rights. Reporting should include the number and nature of breaches of bail associated with EMD conditions.

## Removal of age, and offence requirements

### Age requirement

The Bill's proposed removal of the age requirement, allowing EMDs for children as young as 10 years old, is incompatible with the *Human Rights Act 2019*.<sup>4</sup>

Although viewed as an alternative to traditional incarceration, EMDs still deprive children of their liberty, especially when used alongside a curfew. The *Youth Justice Act 1992* specifically states that sentencing must not consider the principle of detention as a last resort.<sup>5</sup> Eliminating the principle of detention as a last resort does not eliminate the responsibility of the Queensland Government to make informed, evidence-based decisions. That is a valid community expectation and critical to achieving safety in all communities and for all Queenslanders. The evaluation of the EMD trial does not constitute adequate evidence for the proposed reforms in this Bill.

Further, for children aged between 10 and 13 years, the *Criminal Code Act 1899* states:

*A person under the age of 14 years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission the person had capacity to know that the person ought not to do the act or make the omission.*<sup>6</sup>

This legal presumption, known as '*doli incapax*', means that for a child younger than 14, the prosecution must prove the child has capacity to understand their actions were wrong in order to be found responsible for an offence. Until this point, a child younger than 14 is presumed not to have capacity. Before capacity is proven, any deprivation of liberty for children under 14, including through the provision of an EMD, should be considered unsuitable. It is known and recognised that children younger than 14 are unlikely to recognise the impact of their actions, comprehend criminal proceedings, or understand

<sup>4</sup> Human Rights Act 2019 (Qld). <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2019-005>

<sup>5</sup> Youth Justice Act 1992 (Qld). <https://www.legislation.qld.gov.au/view/pdf/inforce/2025-04-28/act-1992-044>

<sup>6</sup> Criminal Code Act 1899 (Qld). <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-1899-009>

bail requirements,<sup>7</sup> including EMD conditions, making the use of EMDs incongruent with child development and neurodevelopmental science.

Compounding the impacts of the removal of the age requirement, the Bill proposes the removal of the court's specific consideration of:

- the child's capacity to understand the condition
- the child's likelihood of complying with the condition, considering their personal circumstances such as stable accommodation
- the child's parent or guardian's willingness to support the child to comply with the condition.

If the Bill is to pass, the legislation would still require the youth justice chief executive to complete a suitability assessment for the courts, but there would be no requirement to explicitly consider capacity, likelihood of compliance or parental support regarding an EMD condition. Considering both the presumption of *doli incapax* and the final report on the EMD trial, which highlighted that effectiveness of EMDs was affected by the maturity of the child and the child's willingness to comply with the condition,<sup>8</sup> removing this requirement from the legislation alongside the age requirement will likely lead to young children without the capacity to understand the condition to be fitted with EMDs, resulting in non-compliance and further entrenchment in the justice system due to breach of bail offences.

Section 32(3) of the *Human Rights Act 2019* states:

*A child charged with a criminal offence has the right to a procedure that takes account of the child's age and the desirability of promoting the child's rehabilitation.*<sup>9</sup>

The *Human Rights Act 2019* also asserts that a person has the right to their privacy not being arbitrarily interfered with.<sup>10</sup> The Bill's *Statement of Compatibility* defines arbitrary interference as 'when something is lawful, but also unreasonable, unnecessary or disproportionate'.<sup>11</sup> EMDs clearly violate this right to privacy, through both constant surveillance and the visibility of EMDs resulting in stigmatisation. General Comment 24 of the *United Nations Conventions on the Rights of the Child* highlights the impact of stigmatisation on a child's ability to access education, work, housing or safety.<sup>12</sup> This significantly impedes the reintegration of a child into community and goes against the Queensland Government's purported focus on rehabilitation.<sup>13</sup>

Another significant concern is that the people most affected by the removal of the age requirement will be Aboriginal children and Torres Strait Islander children. Aboriginal and Torres Strait Islander children are disproportionately represented in the youth justice system, but especially in the younger age groups.

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<sup>7</sup> Youth Advocacy Centre. (2022). *Raising the minimum age of criminal responsibility (MACR)*. <https://yac.net.au/wp-content/uploads/2022/10/YAC-Orange-Paper-3-MACR.pdf>

<sup>8</sup> Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support. <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>

<sup>9</sup> Human Rights Act 2019 (Qld). <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2019-005>

<sup>10</sup> Human Rights Act 2019 (Qld). <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2019-005>

<sup>11</sup> Queensland Parliament. (2025). *Youth Justice (Electronic Monitoring) Amendment Bill 2025: Statement of compatibility*. <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5825T1984/5825T1984.pdf>

<sup>12</sup> United Nations Committee on the Rights of the Child. (2003). *General comment No. 24 (2019) on children's rights in the child justice system (U.N. Doc. CRC/C/GC/24)*. United Nations.

<sup>13</sup> Queensland Government. (2025, June 24). *Making Queensland Safer by restoring safety where you live* [Media statement]. <https://statements.qld.gov.au/statements/102860>

In 2024-25, Aboriginal and Torres Strait Islander children comprised 83 per cent of convicted 10- to 11-year-olds, 72 per cent of 12-year-olds and 63 per cent of 13-year-olds.<sup>14</sup>

The foreseeable and disproportionate impact of the proposed removal of the age requirement on Aboriginal and Torres Strait Islander children raises serious concerns of indirect discrimination. While the Bill is framed in neutral terms, its effects will be borne overwhelmingly by Aboriginal and Torres Strait Islander children due to their systemic overrepresentation in the youth justice system. This is inconsistent with section 15(3) of the *Human Rights Act*, which requires public entities to treat all people equally when applying the law.<sup>15</sup>

The evaluation of the EMD trial did not consider the impacts of EMDs on Aboriginal children and Torres Strait Islander children. The evaluation did mention Aboriginal and Torres Strait Islander children facing a possible barrier to EMD eligibility due to cultural practices where children may move between multiple homes, and the smaller effect EMDs had on reoffending for Aboriginal and Torres Strait Islander children during the trial, but did not explore these issues further.<sup>16</sup> Due to this, the Statement of Compatibility only briefly considered the unique impact of EMDs on Aboriginal or Torres Strait Islander children.<sup>17</sup>

Many concerns were raised in submissions made to the *Youth Justice and Other Legislation Amendment Bill 2021* when the EMD trial was first introduced, presenting an opportunity for the Queensland Government to consider these concerns in the evaluation. Neither the evaluation nor the Bill considered these concerns, which included:

- the disproportionate impact of EMD conditions on Aboriginal and Torres Strait Islander children due to overrepresentation in the youth justice system
- further targeting, stigmatisation and criminalisation of Aboriginal and Torres Strait Islander children
- potential damage to family relationships and cultural ties due to carers being responsible for supporting and monitoring compliance
- compounding trauma for Aboriginal people and Torres Strait Islander people by reflecting colonial values and practices.<sup>18</sup>

Although I note the positive work of the evaluation in consulting with 25 children, there is no information regarding the demographics of these children, specifically how many were Aboriginal or Torres Strait Islander, and few direct views of these children were published. The final report also recognises the potential selection bias in these consultations due to children being recruited through youth justice and

<sup>14</sup> Childrens Court of Queensland. (2025). *Annual report 2024–2025*. Queensland Courts. [https://www.courts.qld.gov.au/\\_data/assets/pdf\\_file/0010/891640/cc-ar-2024-2025.pdf](https://www.courts.qld.gov.au/_data/assets/pdf_file/0010/891640/cc-ar-2024-2025.pdf)

<sup>15</sup> *Human Rights Act 2019* (Qld). <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2019-005>

<sup>16</sup> Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support. <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>

<sup>17</sup> Queensland Parliament. (2025). *Youth Justice (Electronic Monitoring) Amendment Bill 2025: Statement of compatibility*. <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5825T1984/5825t1984.pdf>

<sup>18</sup> Parliament of Queensland. (2021). *Tabled paper: Report No. 7, 57<sup>th</sup> Parliament, Youth Justice and Other Legislation Amendment Bill*. Queensland Government. <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5721t461/5721t461.pdf>; Aboriginal and Torres Strait Islander Women's Legal Services North Queensland. (2021). *Submission to inquiry into the Youth Justice and Other Legislation Amendment Bill 2021*. Parliament of Queensland. <https://documents.parliament.qld.gov.au/com/LASC-C96E/RN757PYJOL-951C/submissions/00000077.pdf>; Queensland Aboriginal and Torres Strait Islander Child Protection Peak. (2021). *Response to Youth Justice and Other Legislation Amendment Bill 2021*. Parliament of Queensland. <https://documents.parliament.qld.gov.au/com/LASC-C96E/RN757PYJOL-951C/submissions/00000053.pdf>; Sisters Inside. (2021). *Sisters Inside submission to Legal Affairs & Safety Committee: Youth Justice and Other Legislation Amendment Bill (Qld) 2021*. Parliament of Queensland. <https://documents.parliament.qld.gov.au/com/LASC-C96E/RN757PYJOL-951C/submissions/00000074.pdf>

therefore being more likely to be engaged with services, and most children being concentrated in South-East Queensland, limiting the understanding of the views of children from outside this region.<sup>19</sup>

### Removal of offence requirements

Currently, to be eligible for an EMD, a child must be granted bail for a prescribed indictable offence and must have been either found guilty of or been charged with a prescribed indictable offence within the previous 12 months.<sup>20</sup> I strongly object to the Bill's proposed removal of this requirement.

*The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) Rule 5.1 states:*

***The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence.***<sup>21</sup>

This calls into question whether allowing EMDs as a bail condition for children who have not been charged with a prescribed indictable offence, or who have not previously committed a prescribed indictable offence, is proportionate to the circumstances.

Not only is an EMD a disproportionate response to more minor crimes committed by children, but it also increases the risk of children being charged with further offences, especially breach of bail offences. The final report evaluating the EMD trial found that breach of bail occurred in approximately 52 per cent of EMD episodes, with over half of these occurrences resulting in variation of bail or bail revocation.<sup>22</sup> The report does not specifically state how many of these breaches resulted in a charge.

Allowing EMDs as a bail condition for children who have not been charged with a prescribed indictable offence and have not previously been charged or found guilty of one of these offences results in net-widening, where children who would typically be managed with less restrictive approaches are instead further entrenched within the justice system. Children should be supported to address the underlying reasons for committing offences and kept out of the criminal justice system. This is reinforced by section 32(3) of the *Human Rights Act 2019*, which states that procedures against children charged with a criminal offence should promote the child's rehabilitation.<sup>23</sup>

### The effect of EMDs versus increased wraparound support

The final report evaluating the EMD pilot found that children with EMDs who were engaged with Youth Co-responder Teams (YCRTs) or Intensive Bail Initiatives (IBIs) saw lower recidivism rates during their EMD period than those who were not engaged with these services.<sup>24</sup> When considering reoffending, the

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<sup>19</sup> Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support. <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>

<sup>20</sup> Youth Justice Act 1992 (Qld). <https://www.legislation.qld.gov.au/view/pdf/inforce/2025-04-28/act-1992-044>

<sup>21</sup> United Nations. (1985). Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). <https://www.ohchr.org/en/instruments-mechanisms/instruments/standard-minimum-rules-administration-juvenile-justice-beijing-rules>

<sup>22</sup> Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support. <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>

<sup>23</sup> Human Rights Act 2019 (Qld). <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2019-005>

<sup>24</sup> Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support. <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>

children with an EMD who were not engaged with YCRTs saw similar rates of reoffending while on bail as those without an EMD.<sup>25</sup> Specifically:

- 64 of the 104 children with an EMD condition who engaged with YCRT reoffended during the EMD period
- 8 of the 10 children with an EMD condition who did not engage with YCRT reoffended during the EMD period
- 36 of the 64 children with an EMD condition who engaged with IBI reoffended during the EMD period
- 36 of the 52 children with an EMD condition who did not engage with IBI reoffended during the EMD period
- 1107 of the 1368 children in the comparison group without an EMD condition reoffended during their bail period.<sup>26</sup>

These results raise the question of the true effectiveness of EMDs, in comparison to increased access to and engagement with wrap-around support services. It must also be recognised that results need to be considered alongside other factors that contribute to reoffending. There are a number of variables that have influence on a child's likelihood of reoffending, including age, capacity, support, relationships, and prosocial engagement.

It was recognised in the final report evaluation that EMDs do not, on their own, address the factors that lead children to commit offences,<sup>27</sup> and this appears to be reflected in the data above, particularly for children who were not engaged with YCRTs. A limitation of the evaluation was that it was not designed to distinguish between the effects of EMDs and wrap-around supports such as YCRTs and IBIs.<sup>28</sup> Without appropriately canvassing this, attribution of reduced reoffending to EMD conditions is problematic and does not provide sufficient evidence to justify the extreme measures proposed by the Bill. This is inadequate when considering the seriousness of the impacts on children.

Further, the evaluation of the EMD trial found that children with poor mental health saw little improvement in reoffending outcomes when fitted with an EMD.<sup>29</sup> It is likely that EMDs contribute to further mental health concerns for these children, considering EMDs are reported by children to be uncomfortable especially at night, possibly impacting sleep, may cause stigma, limiting pro-social participation such as attending school, and are almost always prescribed alongside a curfew.

In 2024, the Queensland Family and Child Commission spoke to children in detention as part of *Exiting youth detention: Preventing crime by improving post-release support*. As part of these consultations, children told us that bail conditions, specifically curfew, were difficult to comply with and extremely challenging for both children and their families. 24-hour curfews particularly were discussed as difficult

<sup>25</sup> Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support. <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>

<sup>26</sup> Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support. <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>

<sup>27</sup> Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support. <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>

<sup>28</sup> Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support. <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>

<sup>29</sup> Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support. <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>

and children stated that they felt it 'set them up to fail', especially considering breach of bail offences. Children recounted making the difficult decision to be held on remand instead of applying for bail and facing curfew conditions, to avoid being charged with further offences such as breach of bail. This was despite sharing that remand has significant negative impacts on their mental health.<sup>30</sup>

Aboriginal and Torres Strait Islander children also saw a smaller improvement in reoffending outcomes when fitted with an EMD, in comparison to non-Indigenous children.<sup>31</sup> Considering Aboriginal and Torres Strait Islander children are disproportionately represented in the youth justice system, with 68 per cent of children under youth justice supervision being Aboriginal or Torres Strait Islander in 2023-24,<sup>32</sup> the Queensland Government should reconsider whether EMDs would be the best investment for reducing reoffending and overrepresentation.

In 2025, the Queensland Government committed \$5 million over three years towards justice reinvestment focusing on First Nations-led, place-based solutions to addressing the causes of crime and reducing Aboriginal and Torres Strait Islander representation.<sup>33</sup> This funding is intended to be distributed to Aboriginal and Torres Strait Islander communities through grants to support initiatives addressing:

- prevention and early intervention including:
  - access to mental health and foetal alcohol spectrum disorder assessments
  - trauma-informed programs and mentoring activities
  - housing support.
- successful transitions out of the youth justice system
- family support and empowerment
- support and recognition of the essential role of Elders in improving justice outcomes.<sup>34</sup>

Considering the poor outcomes of the EMD trial for Aboriginal and Torres Strait Islander children, the cost of making EMDs permanent and expanding throughout the state would be better invested into the justice reinvestment approach to allow greater reach and subsequently greater impact for children. From a community safety perspective, the evidence indicates that sustained reductions in offending are more likely to be achieved through rights-compliant, support-based interventions than through surveillance-focused measures such as electronic monitoring. Community safety is best achieved when children are supported to desist from offending, remain connected to family, education and community, and are not unnecessarily drawn deeper into the justice system. Measures that undermine these goals are neither rights-compliant nor effective. They are not in the interests of children nor in the interests of justice.

<sup>30</sup> Queensland Family and Child Commission. (2024). Exiting youth detention report June 2024.  
<https://www.qfcc.qld.gov.au/sites/default/files/2024-06/Exiting%20youth%20detention%20report%20June%202024.pdf>

<sup>31</sup> Nous Group. (2025). *Evaluation of the Electronic Monitoring Trial: Final Report*. Department of Youth Justice and Victim Support.  
<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>

<sup>32</sup> Australian Institute of Health and Welfare. (2025). *Youth Justice in Australia 2023-24*. Australian Government.  
<https://www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-2023-24/contents/state-and-territory-overviews/queensland#sentenced>

<sup>33</sup> Queensland Government. (2025, November 11). New justice grants to make Queensland safer and support local communities [Media statement]. <https://statements.qld.gov.au/statements/103908>

<sup>34</sup> Queensland Aboriginal and Torres Strait Islander Child Protection Peak. (2025). *Queensland justice reinvestment framework*. Queensland Government. <https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/6ed4e825-09b9-41a6-97d7-bb56e786cf86/queensland%20justice%20reinvestment%20framework.pdf?ETag=afd34a1a7f83455e27349dff2b666685>

## Expansion of EMD conditions

While I do not support the expansion of EMD conditions as a permanent and statewide bail option, if Parliament is to proceed with this reform, then the Bill must be altered to keep current safeguards and add additional measures to prevent foreseeable and ongoing violations of children's rights, including:

- an absolute minimum age of 16, consistent with international standards requiring deprivation of liberty to be used only for older children and as a measure of last resort
- a limitation of eligibility for only serious indictable offences to prevent net-widening and disproportionate responses
- legislated and mandatory suitability assessments conducted by an independent and qualified entity that prohibit the provision of EMD conditions if the criteria are not met, including:
  - capacity to understand and comply with the condition
  - disability, cognitive impairment, neurodevelopmental conditions or significant mental health need
  - living circumstances
  - availability of parental or carer support
  - access to requisite supports.
- strict and short duration limits with mandatory and frequent review to ensure the measure remains necessary and proportionate
- independent oversight of the use of EMDs including access to complaint mechanisms, data transparency and regular public reporting on breaches of bail and EMD impacts, disaggregated by age, Aboriginal and Torres Strait Islander status, disability and geography.

## About the Office of the Aboriginal and Torres Strait Islander Children's Commissioner

Under the *Queensland Family and Child Commission Act 2014* the Aboriginal and Torres Strait Islander Children's Commissioner is granted functional and operational independence in the exercise of their powers and functions. Our vision is that:

*Aboriginal and Torres Strait Islander children grow up strong in their identity, culture, and community, free from systemic racism and discrimination. They are safe, nurtured, and thriving in their families, with systems designed to support, not separate. They exercise their rights, participate in decision making, and contribute to solutions that are aligned to their identities and aspirations. The child protection and youth justice systems are defined by early intervention, Aboriginal and Torres Strait Islander family-led solutions, and culturally safe care. The Queensland Government strengthens accountability by integrating child rights into policy, legislation and service delivery.*