

Youth Justice (Electronic Monitoring) Amendment Bill 2025

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

By online submission

Dear Committee Secretariat,

Re: Youth Justice (Electronic Monitoring) Amendment Bill 2025

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

HUB Community Legal is a Community Legal Centre situated in Inala, Brisbane, Queensland. Whilst we are primarily a generalist legal centre, we have operated a specific youth legal service since 2006. Our youth legal service regularly represents children with youth justice matters. This has included children who have been granted bail with an electronic monitoring condition.

We make the following submissions:

Statewide availability

HUB Community Legal supports the removal of the geographical limitations so that electronic monitoring is available for children across the state. Children should be treated equally before the law, regardless of where they live within the State. This is especially important for programs aimed at keeping children out of detention.

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EMPOWERING THE COMMUNITIES OF INALA AND SURROUNDING AREAS

Unintended consequences of electronic monitoring

The evaluation report identified the electronic monitoring trial has “*unintended outcomes both positive and negative*”¹. The report does identify concerns that *a young person may view the device as a “badge of honour” or experience stigma that discourages pro-social participation (e.g. in education).*²

Where children are of compulsory school age it must be expected that children will need to attend school whilst wearing this device. The device is visible when wearing a school uniform. Concerns are held for the wearer of an electronic monitoring device in a school environment as the child is likely to experience stigmatisation which may contribute to an early disengagement from schooling or have other unintended consequences.

The evaluation has not specifically examined any short nor long term effects on a child fitted with an electronic monitoring device in regard to their development of identity, feelings of self-worth, shame or suffering unintended negative or criminogenic consequences.

In our experience children wearing an electronic monitoring device reported being treated differently by others. Some were challenged to fights or expected to “be a badass” who engaged in anti-social behaviours.

It is submitted that further monitoring and evaluation of the short and long term, positive and negative, effects of the electronic monitoring device be conducted.

Removal of age limitations- concerns for children aged 10- 14 years

We do have concerns about the use of electronic monitoring for children aged less than 14 years of age. This age group was not included in the trial cohort which had a minimum age of 15 years.

Children aged 10, 11 and 12 years are within the cohort of children attending primary school. It is submitted that any negative consequences arising from stigma can be expected to have a stronger effect on younger children who are at an earlier stage of developing a sense of self identity.

Should electronic monitoring be ordered for a primary school aged child of 10-12 years, classmates and other children at the primary school (aged as young as 4.5 years) are likely to see the device. Siblings

¹ Evaluation of the Electronic Monitoring Trial: The Final Report, Department of Youth Justice and Victim Support, 9 October 2015 @p7

² Evaluation of the Electronic Monitoring Trial: The Final Report, Department of Youth Justice and Victim Support, 9 October 2015 @p7

and parents of other children are also likely to notice the device which will almost certainly be a cause for fear and concern in a primary school community.

Furthermore, Section 29 of the Criminal Code (Qld) requires that for children under the age of 14 years the child's capacity must be established before they can be criminally responsible.

These children because of their age must be considered less likely to be able to manage the demands of an electronic monitoring device. It is submitted that an electronic monitoring device is more likely to have unintended negative consequences for this younger age group. Children aged 14 and under were not included in the trial of electronic monitoring devices. There is no evidence as to the efficacy of the use of electronic monitoring for children aged under 14 years.

Removal of eligibility requirements in section 52AA

It is submitted that the eligibility requirements currently listed in section 52AA (b), (c) and (f) should remain.

Electronic monitoring should be used only as a direct alternative to being held in custody on remand. It should not be used for minor offences or first-time offenders. The following eligibility requirements contained in s52AA (b), (c) and (f) should be retained so that electronic monitoring is used only for children who are charged with prescribed indictable offences, or have in the last 12 months been charged with a prescribed indictable offence which is still pending and that the child has the capacity to understand the conditions for electronic monitoring.

Concerns re 24-hour curfews

The evaluation report found that 39% of children were subject to a 24-hour curfew. Having represented children subject to a 24-hour curfew we had concerns about these children who were not able to attend school and nor were they able to attend any rehabilitation programs. Such conditions amounted to home detention.

It is submitted that a standard exception to the curfew condition should be added so that the Department of Youth Justice can authorise a child to attend at a Youth Justice Service Centre to engage in rehabilitation programs even whilst on a 24-hour curfew.

Aboriginal and Torres Strait Islander Children

Hub Community Legal recognises the significant over representation of Aboriginal and Torres Strait Islander Children in the youth justice system. Specific consideration should be given to ensuring that these children are provided with culturally safe support services and community led holistic programs as part of the *wrap around* support programs. In geographical areas, where electronic monitoring is not available for technological or other reasons, alternative programs need to be implemented so that Aboriginal and Torres Strait Islander children are not disadvantaged.

Children subject to Child Protections Orders and children with disabilities

Children in the child protection system and children with disabilities are also overrepresented in the youth justice system. Many of these children will face significant challenges with an electronic monitoring device. Others will not be assessed as eligible for factors outside of their control such as lack of stable housing, lack of a supportive adult to assist them and a lack of capacity.

The need for ongoing review

The evaluation report is based on 116 children aged 15 and over. This is a small sample size and less than what was initially benchmarked. The report indicates that there is strong evidence that electronic monitoring should be combined with wrap around support services including therapeutic interventions to address the causes of offending. However, the report has not made specific findings as to what is required for an optimal result. It is also possible that the positive findings in the evaluation are primarily caused by the provision of support services rather than the electronic monitoring device.

There is the need for ongoing evaluation given the small sample size and the fact that the *Youth Justice (Electronic Monitoring) Amendment Bill 2025* intends to remove all limitations. This will mean electronic monitoring will be available for first time offenders, to children facing any criminal charge including more minor infractions of the law and to children as young as 10 years of age. These significant changes are worthy of ongoing review and evaluation.

Submission

Hub Community Legal supports a restricted use of electronic monitoring, only for children who would otherwise be held in detention instead of being granted bail.

It is submitted that the *Youth Justice (Electronic Monitoring) Amendment Bill 2025* be amended so that electronic monitoring does not apply to first time offenders, children charged with non-prescribed offences and children under the age of 14 years. In addition, the use of electronic monitoring devices should continue to be reviewed and evaluated.

Yours faithfully,

Carolyn Juratowitch

Principal Lawyer
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