

Youth Justice (Monitoring Devices) Amendment Bill 2025

Submission No: 14
Submitted by: Human Rights Law Centre
Publication:
Attachments: See attachment
Submitter Comments:

Human
Rights
Law
Centre.

Submission on Youth Justice (Monitoring Devices) Amendment Bill 2025

5 March 2025

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Human Rights Law Centre

The Human Rights Law Centre uses strategic legal action, policy solutions and advocacy to support people and communities to eliminate inequality and injustice and build a fairer, more compassionate Australia. We work in coalition with key partners, including community organisations, law firms and barristers, academics and experts, and international and domestic human rights organisations.

We acknowledge the lands on which we work and live, including the lands of the Wurundjeri, Bunurong, Gadigal, Ngunnawal, Darug, Wadawurrung, Jagera and Turrbal peoples.

We pay our respects to Elders both past and present, and acknowledge the ongoing work of Aboriginal and Torres Strait Islander peoples, communities and organisations to unravel the injustices imposed on First Nations people since colonisation. We support the self-determination of Aboriginal and Torres Strait Islander peoples.

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1. Executive summary

The Human Rights Law Centre thanks the Justice, Integrity and Community Safety Committee for the opportunity to comment on the Youth Justice (Monitoring Devices) Amendment Bill 2025 (**the Bill**).

The purpose of the Bill is to extend the trial of electronic monitoring as a bail condition for children by a further year, while evidence about the effectiveness of electronic monitoring is assessed.¹ The purpose of electronic monitoring is to reduce recidivism in a small cohort of young people who engage in specific offending behaviours.²

The Human Rights Law Centre opposed the trial when it was first introduced in 2021. At the time there was no conclusive evidence that electronic monitoring would reduce recidivism.³ Four years and one review later, there is still no conclusive evidence that electronic monitoring reduces recidivism. This ongoing lack of evidence raises major human rights issues. The Human Rights Law Centre again opposes this Bill.

Aboriginal and Torres Strait Islander children's rights are disproportionately impacted by the Bill, as Aboriginal and Torres Strait Islander children are overrepresented in the trial and the broader criminal legal system.⁴ We echo the negative impacts of electronic monitoring, and the systemic issues it ignores, raised in the Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd (**ATSILS**) submission.

We are extremely concerned that the government is establishing a track record of making discriminatory legislative changes that limit and even override human rights without sufficient evidence and subsequently searching for an evidence base once the changes are already in place.⁵

Without evidence to justify continuation of the trial, electronic monitoring is a surveillance tool that impacts marginalised children and their communities, further entrenches Aboriginal and Torres Strait Islander children in the criminal legal system, protects the government's desire to eventually make electronic monitoring permanent and is used to create a false perception of action to reduce crime.

As countless experts advised the Committee during the inquiry into the Making Queensland Safer Bill 2024, and as documented in the recent interim report of the Senate inquiry into Australia's youth justice and incarceration system,⁶ the evidence is that decarceration, keeping children out of the criminal legal system, addressing unmet needs and investing in community-led, self-determined supports and opportunities is what reduces crime.

It is time for the government to acknowledge that the trial period is over. We echo ATSILS' calls for government to invest in supported accommodation, community-based supports and preventative initiatives – particularly by local Aboriginal and Torres Strait Islander community-controlled organisations – instead of progressing the Bill.

¹ [Explanatory notes](#) (pg 2) and [statement of compatibility](#) (pgs 3-4) for the Bill

² [Explanatory notes](#) (pg 1) and [statement of compatibility](#) (pg 2) for the Youth Justice and Other Legislation Amendment Bill 2021

³ Legal Affairs and Safety Committee (57th Parliament) [report on the Youth Justice and Other Legislation Amendment Bill 2021](#), pg 15; [Human Rights Law Centre submission to the Committee](#), endorsed by Change the Record and Caxton Legal Centre, pg 10

⁴ [Electronic monitoring trial evaluation report](#), November 2022, pg 7; Australian Productivity Commission [Report on Government Services 2025](#), Part F, Section 17 (Youth justice services), tables 17A.5 and 17A.6

⁵ In addition to the contents of this submission we note the Making Queensland Safer Bill 2024, the human rights overrides within it and that in passing that legislation the government disregarded a wealth of well-established evidence presented to and reported by the Committee through the [parliamentary inquiry into the Bill](#)

⁶ Senate Legal and Constitutional Affairs References Committee [interim report on Australia's youth justice and incarceration system](#); [Human Rights Law Centre and Change the Record joint submission to the Senate inquiry](#)

2. Recommendations

The Human Rights Law Centre recommends that the Committee's report on the Bill make the following recommendations:

1. The Bill should not be passed. The government should instead invest in supported accommodation and community-based integrated services that address unmet need and the root causes of offending behaviours. This should include strong investment in existing initiatives led by Aboriginal and Torres Strait Islander community-controlled organisations that divert children away from the criminal legal system.
2. The government should also transfer decision-making power, control and resources to Aboriginal and Torres Strait Islander community-controlled organisations and communities to build alternative, self-determined supports for First Nations children.

We also request that the Committee put the following questions to the Department of Youth Justice and Victim Support to inform the Committee's report and recommendations, and to ensure accountability for the second review of the trial in the event that the Bill progresses:

1. What stages of the review have been completed since the swearing-in of government in October 2024?
2. What is the forward timeline for the review?
3. What indicative data justifies the review, noting that some data is already available?⁷
4. What points of data will the review consider when measuring recidivism, victim numbers and the seriousness of victimisation, noting reductions in these areas are the current benchmarks for the trial and the latter two areas are new benchmarks?⁸

3. Key concerns

Central to our key concerns is the overall inappropriateness of electronic monitoring. Shackling children with devices can impact their ability to engage positively with protective factors such as school, employment and community activities as well their practical ability to comply with onerous bail conditions. It can further criminalise children and subject them to offences and penalties they would not have otherwise faced, which is contrary to the government's stated goal of reducing recidivism. We refer to the many issues with electronic monitoring outlined by ATSILS and anticipate the Committee will receive various additional submissions outlining negative impacts of electronic monitoring. Electronically monitoring children can cause immense harm, and use of electronic monitoring must be justifiable with evidence and a sound human rights approach.

We understand that in some cases electronic monitoring may contribute to efforts to keep a child out of prison. However, therapeutic options such as supported accommodation and community-based integrated supports achieve this far more effectively. Government should be investing in these human rights compatible solutions instead of electronic monitoring.

3.1 Lack of evidence

There is no conclusive evidence, whether domestically or internationally, that subjecting children to electronic monitoring reduces recidivism. Stakeholders raised significant concerns about this before

⁷ [Statement of compatibility](#) for the Bill, pg 4

⁸ *Ibid*, pgs 3-4

the trial was introduced in 2021.⁹ We are not aware of any evidence of effectiveness that has emerged since then. Rather, there is a glaring absence of evidence.

The first review of the trial, released in November 2022, could not confirm that electronic monitoring reduces recidivism.¹⁰ In November 2023, the Queensland Police Service shared data showing that electronic monitoring has not prevented children from breaching bail.¹¹

The government has had access to electronic monitoring data since October 2024, when it was sworn in. Yet, the material tabled with the Bill does not include any indicative data. During the explanatory speech for the Bill, the Minister for Youth Justice and Victim Support and Minister for Corrective Services described the Bill's purpose with reference to its 'intention' and 'potential'.¹²

It is abundantly clear that electronic monitoring is not achieving the purpose of reducing recidivism. We note that the bail framework is designed around assessing and managing risk. At this point, it is inappropriate for electronic monitoring to be used as a bail condition for children because after four years, successive governments have not been able to demonstrate it reduces recidivism.

The statement of compatibility for the Bill flags that the motive of the second review is to 'inform a Bill that would establish permanent arrangements'.¹³ The statement of compatibility for the Bill also states that that data has 'accumulated' and is 'already available',¹⁴ however, as above, the details of this data have not been disclosed. The government appears to be prolonging the trial in the hope that it can produce data that it can use to justify permanent electronic monitoring and support its 'tough on crime' narrative. This is extremely concerning given the human rights implications of electronic monitoring.

3.2 Human rights incompatibility

The trial limits various human rights, as acknowledged in the statement of compatibility for the Bill. In the time available, we do not make any comment on these rights, any other rights that may be relevant or the extent of each right. Our main concern is the conclusion that limitations to these rights are justifiable under the *Human Rights Act 2019*. We consider that they are not.

Under section 13(1) of the Human Rights Act, human rights may only be subject to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom. In determining whether a limitation meets this threshold, it is relevant to consider the nature and purpose of the limitation (section 13(2)(b)), whether the limitation helps to achieve the purpose (section 13(2)(c)) and whether there are any less restrictive and reasonably available ways to achieve the purpose (section 13(2)(e)). The analysis requires consideration of proportionality.

The lack of evidence outlined above is extremely relevant to whether relevant rights can be limited under section 13(1). So too is the government's framing of the purpose of the limitation.

The statement of compatibility for the Bill frames the purpose of the limitation narrowly: to allow a comprehensive review of the trial to inform government decisions about longer-term use. This may conflate the purpose of the Bill with the purpose of the limitation. However, on any framing we have concerns that the Bill is incompatible with human rights.

Even on the government's framing of the purpose of the limitation (which is the same as the purpose of the Bill), serious questions arise including about the nature and purpose of the limitation, less

⁹ Legal Affairs and Safety Committee (57th Parliament) [report on the Youth Justice and Other Legislation Amendment Bill 2021](#), pg 15

¹⁰ [Electronic monitoring trial evaluation report](#), November 2022; Economics and Governance Committee (57th Parliament) [report on the Strengthening Community Safety Bill 2023](#), pg 19

¹¹ Queensland Police Service departmental [briefing to the Youth Justice Reform Select Committee](#), pg 19

¹² Minister for Youth Justice and Victim Support and Minister for Corrective Services, [Hansard record of proceedings, 20 February 2025](#) at [214]

¹³ [Statement of compatibility](#) for the Bill, pg 4

¹⁴ *Ibid*

restrictive and reasonably available ways to achieve the purpose and proportionality. Simply put, the trial has failed to demonstrate electronic monitoring reduces recidivism, Aboriginal and Torres Strait Islander children are overrepresented, we understand that some cases of electronic monitoring have had harmful impacts on children and no consideration appears to have been given to the proposed extension being shorter than a year. This is not consistent with the free and democratic society described in section 13(1) of the Human Rights Act, nor a proportionate approach.

In addition, the longer there is no conclusive evidence that electronic monitoring reduces recidivism, the more disproportionate the human rights limitations become. The Bill's statement of compatibility relies heavily on the statements of compatibility for previous legislation for the trial. However, the human rights analysis for the Bill must reflect the circumstances at this specific point in time. Previous human rights analyses reflected that government was trialling electronic monitoring to support a review of its effectiveness. The temporary, trial nature of electronic monitoring was central to the government's justification for limiting human rights. The current context is that government is seeking to continue limiting human rights despite no conclusive evidence about the effectiveness of electronic monitoring arising in four years. In the absence of any indicative data and the amount of time that has passed since trial started, we also consider that there is low likelihood of such evidence arising. This low likelihood further contributes to the disproportionate nature of the limitations.

Returning to the question of framing, if we consider the overarching purpose of the limitations, which is to reduce recidivism, instead of the purpose of the Bill, a major issue arises with the government's analysis under section 13. On this framing, the limitation clearly does not help to achieve the purpose because there is currently no conclusive evidence that electronic monitoring reduces recidivism in the relevant cohort of children. There is no nexus between the purpose of the limitation and the limitation achieving the purpose. This is a fundamental problem that means the human rights limitations created by the Bill cannot be reasonably justified under section 13(1) of the Human Rights Act.

We note that the concerns raised in this section are also relevant to analysis of fundamental legislative principles and suggest the Committee interrogate the Bill's consistency with fundamental legislative principles accordingly.

4. Alternatives

As noted above, the government should be investing in effective, human rights compatible solutions that support children to thrive with their families in the community, without electronic monitoring. The Department of Youth Justice and Victim Support recognises that electronic monitoring is not a single solution and other supports are required.¹⁵ In light of the lack of evidence to support continuation of electronic monitoring, we submit that electronic monitoring as a bail condition should not be part of the solution at all and the government should transfer all its efforts to supporting children, and keeping them out of custody, in therapeutic ways.

Rather than investing in GPS tracking devices and strategies that keep children in the criminal legal system, the government should be urgently investing in creating and expanding voluntary programs that target and address the individual needs of children. We strongly echo ATSILS' submissions about alternatives to the Bill, which is reflected in our recommendations.

¹⁵ Department of Youth Justice and Victim Support, 'Electronic monitoring trial evaluation <<https://www.youthjustice.qld.gov.au/our-department/research-evaluations/evaluations/electronic-monitoring-trial>>', acknowledging a key finding of the November 2022 [electronic monitoring trial evaluation report](#), at pg 6

Finally, we note that throughout the parliamentary inquiry process for the Making Queensland Safer Bill 2024 (now passed), as well as the Senate inquiry into Australia's youth justice and incarceration system, stakeholders repeated decades-long calls for decision-making power, control and resources to be transferred to Aboriginal and Torres Strait Islander community-controlled organisations and communities to build self-determined supports for First Nations children and divert them from the criminal legal system. The government must support First Nations-led alternatives to remanding children in custody and subjecting them to onerous bail conditions, as well as broader alternatives to any interaction with the criminal legal system. We refer to recommendation 2.