

Youth Justice (Monitoring Devices) Amendment Bill 2025

Explanatory Notes

Short title

The short title of the Bill is the Youth Justice (Monitoring Devices) Amendment Bill 2025.

Policy objectives and the reasons for them

Section 52AA of the *Youth Justice Act 1992* (the YJ Act) allows a court, in certain circumstances, to impose on a grant of bail to a child who is at least 15 years, is charged with a prescribed indictable offence, and has either been charged with an unrelated prescribed indictable offence in the preceding twelve months or has been previously found guilty of at least one indictable offence, a condition that the child must wear a monitoring device while released on bail. The criteria were designed to target serious repeat offenders.

Section 52AA was introduced in 2021 to facilitate a trial of electronic monitoring as a bail condition and included a two-year sunset clause. The explanatory notes for that Bill provided that the electronic monitoring trial was intended to give the then Government enough time to conduct an evaluation and consider its findings.

A 2022 review found that the initial trial failed to confirm the overall effectiveness of electronic monitoring in deterring offending behaviour, among other things, due to the low numbers of children ordered on a monitoring device, and that there was a need for further research with a larger sample size.

The *Strengthening Community Safety Act 2023* kept electronic monitoring as a trial, expanded the trial to include 15-year-olds and extended it for a further two years to the current expiry date, 30 April 2025; and the *Youth Justice (Monitoring Device Conditions) Amendment Regulation 2023* added three new trial sites. Further measures to increase the number of participants in the trial were progressed in the second half of 2024. The *Youth Justice (Monitoring Device Conditions) Amendment Regulation 2024* added a further five sites commencing 28 August 2024, and from 30 August 2024 the *Queensland Community Safety Act 2024*:

- expanded the list of prescribed indictable offences under section 52AA to include specified offences involving violence or threats of violence; and
- expanded the criteria to include children who have been charged with a prescribed indictable offence in the preceding 12 months.

Trial sites are prescribed by the *Youth Justice Regulation 2016*, and currently include Townsville, North Brisbane, Moreton, Logan, Gold Coast, Toowoomba, Mount Isa, Cairns, South Brisbane, Ipswich, Fraser Coast, Mackay, and Rockhampton.

There was never going to be adequate time to evaluate data arising from the August 2024 amendments before the trial expired, which would have resulted in electronic monitoring of child offenders ending without an adequate assessment of the use of electronic monitoring in the youth justice system.

The Bill will enable a substantive review of the trial to be completed, including drawing as far as practicable on data accumulated as a result of the August 2024 amendments. This comprehensive review will inform government decisions about electronic monitoring for child offenders.

Achievement of policy objectives

The Bill extends the electronic monitoring trial period by one year, to allow time for a comprehensive review to be completed to inform government decisions about electronic monitoring for child offenders.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objective of this Bill.

Estimated cost for government implementation

Costs arising from the extension of the trial will either be met from existing agency resources or be dealt with as part of normal budget processes.

Consistency with fundamental legislative principles

The Bill has been drafted with due regard to the fundamental legislative principles (FLPs) outlined in the *Legislative Standards Act 1992* (LSA) by achieving the appropriate balance between individual rights and liberties and the protection of the broader Queensland community.

The Bill engages the FLP that legislation must have sufficient regard to the rights and liberties of individuals (LSA s4(2)(a)), including children and victims.

The Bill extends the existing trial. It does not alter the way the trial operates or affect any impact the trial has on children or on victims.

The Bill will enable courts to continue to impose electronic monitoring if certain prerequisites are met, including that it is necessary to mitigate a risk (YJ Act s52AA(1) and 52A(2)(a)), and after considering a suitability assessment prepared by the Department of Youth Justice and Victim Support (YJ Act s52AA(3)-(5)). This is justified having regard to promoting compliance with bail conditions, which are aimed in part at protecting the community. These matters are also discussed in the Human Rights Statement of Compatibility.

Consultation

No external consultation has been undertaken prior to introduction of the Bill. Consultation will occur during the Parliamentary Committee process.

Consistency with legislation of other jurisdictions

Three Australian jurisdictions (Western Australia, Northern Territory and South Australia) permit electronic monitoring of young offenders in certain circumstances.

Electronic monitoring is also used in New Zealand for young people on bail.

The South Australian electronic monitoring program caters for bail conditions including twenty-four-hour curfew monitoring, curfew between specified hours, and gradual release from detention as a way to reintegrate young offenders into the community.

In Western Australia, electronic monitoring is only available for a sentenced child and may be used for supervised release orders.

Electronic monitoring in the Northern Territory may be used for children on bail or on sentence.

Notes on provisions

Clause 1 provides the short title of the Act is the *Youth Justice (Monitoring Devices) Act 2025*.

Clause 2 states that the Act amends the *Youth Justice Act 1992*.

Clause 3 amends section 52AA (10) to extend the operation of the section to five years from the commencement of the *Youth Justice and Other Legislation Amendment Act 2021*, which will be 30 April 2026.

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