YOUTH ADVOCACY CENTRE

Submission to the

EDUCATION, ARTS AND COMMUNITIES COMMITTEE

on the

Youth Justice (Electronic Monitoring) Amendment Bill 2025

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Youth Advocacy Centre

Level 4/ 16 Peel Street, South Brisbane, 4101

(07) 3356 1002

Contact: Ms Katherine Hayes, CEO

The Youth Advocacy Centre (**YAC**) thanks the Education, Arts and Communities Committee (the ***Committee***) for the opportunity to make a submission on the *Youth Justice (Electronic Monitoring) Amendment Bill 2025* (**the Bill**) which extends the scope and makes permanent the use of Electronic Monitoring Devices (**EMDs**).

YAC is a community legal centre which provides wrap-around social support including family, homelessness and bail support for children and young people aged 10-18, particularly those involved in, or at risk of involvement in the youth justice system.

Children in Australia aged 16 and under are now protected by world-leading legislation from the perceived dangers of social media. In contrast, this Bill seeks to subject children as young as 10 to the onerous bail condition of wearing an EMD. The justification for this is on the basis that the community is safer, but all evidence points to addressing the root causes of youth crime as the only effective mechanism for reducing offending.

The Evaluation of the Electronic Monitoring Trial: Final Report 9 October 2025 (**the Evaluation**) concluded that young people aged 15 and over with stable housing and other prosocial factors are less likely to reoffend with EMDs and wrap around support than those on bail without EMDs. The young people who are eligible for EMDs are often already well-placed to reduce their reoffending as they are more likely to have a higher level of support.

Consequently, YAC's view is that the use of EMDs for children 15 to 18 is preferable to youth detention in Queensland, where children can be held in harmful circumstances with inadequate access to sufficient supports, sometimes in inhumane conditions, with serious safety breaches by staff.[1] However YAC does not support the use of EMDs for children 14 or younger due to their particular developmental and personal circumstances.

Youth detention in Queensland is harmful

The Queensland Government has declined to remedy some of the worst aspects of detention, namely the excessive use of lockdown and the use of separation rooms without basic amenities. Further, the government has committed to building the Woodford Youth Detention Centre – estimated to cost around $1 billion with completion by 2028 without humane separation facilities.[2]

Due to ongoing staffing issues in Queensland's detention centres, solitary confinement continues to be a serious concern within the state's detention centres.

An internationally accepted definition of solitary confinement is the placement of a person in a locked room separate and apart from the normal routine of a facility for over 22 hours a day.[3] Such treatment is widely acknowledged as being damaging to children, who are less able than adults to cope with stressful situations and have lower impulse and emotional control. These characteristics are even more pronounced in the cohort of children held in detention.

In its November 2025 report, the Queensland Ombudsman raised serious concerns about the use of extended periods of separation and solitary confinement in Queensland detention centres.

A significant obstacle to addressing the high levels of separation and solitary confinement in Queensland's youth detention centres is the Queensland Government's continued downplaying of

[1] Combined inspection report for youth detention centres – November 2025 Queensland Ombudsman – various references throughout the report, but in particular page 84.
[2] Combined inspection report for youth detention centres – November 2025 Queensland Ombudsman – page 125.
[3] Tamara Walsh, 'Solitary Confinement of Unsentenced Children in Queensland Watchhouses, and Why It Might Be Unlawful' (2026) 49(2) Melbourne University Law Review (forthcoming).

the use of solitary confinement (regardless of how it is named). A recent and powerful example of the government's denial of the consistent use of solitary confinement of children in Queensland is contained in its response to Recommendation 8.3 of the *Disability Royal Commission Progress Report 2025,* which recommends prohibition of solitary confinement in youth detention. In its response, the Queensland Government stated that "*Queensland does not use solitary confinement practices*". This statement is misleading and deceptive.

It is in the context of a harmful and failing youth detention system that YAC cautiously supports the availability of EMDs where otherwise children and young people would be held on remand for long periods.

Wrap-around supports are vital

Wrap-around supports, in particular bail support services, are closely linked with higher rates of bail compliance and reoffending reduction. Bail support services support children to comply with bail conditions and help address the underlying causes of offending.

Many bail support services do not have funding certainty beyond 30 June 2026. These services are among those services the Evaluation concluded were 'critical to the success of EMDs'.[4] For EMDs to have the best chance of success the bail support services need to be given certainty, especially programs providing family support.[5]

YAC's experience with Electronic Monitoring Devices

Since the inception of the EMD legislation in May 2021, YAC's lawyers have received instructions from children aged 15 to 18 years to make applications for EMDs where the likely alternative is detention. There have been a number of occasions that these applications were opposed by police and/or rejected by the courts due to the young person's unsuitability for EMDs by virtue of a lack of stable accommodation, absence of a parent or guardian to assist with compliance, lack of mobile phone access etc. Paradoxically, children labelled 'serious repeat offenders' were often unlikely to meet the suitability criteria, which may be unchanged under the Bill due to the factors in s52A(2)(c) which require consideration of the child's maturity, cognitive ability, home environment and ability to comply with the condition.

YAC's clients' experiences have been both positive and negative. The positive experiences include:

1. A 16 year old boy with an intellectual disability found the EMD a physical reminder to stick to his bail conditions
2. Some young people have found it easier to resist to peer group pressure to offend
3. A 15 year old boy, who otherwise would have been in detention, had an EMD for 4 months and found it assisted him comply with his bail conditions and reduce offending. He had a supportive family and was motivated to comply. During this period, he improved his engagement in school attending 5 days a week, positively engaged with his YAC case worker and engaged with Youth Justice for support regarding an ADHD assessment. After 4 months he was placed on a residential curfew.

In contrast, the negative experiences include:

1. the EMDs can be physically uncomfortable and restrictive

[4] Evaluation of the Electronic Monitoring Trial: Final Report 9 October 2025 and page 10.
[5] Nous Group, Evaluation of the Electronic Monitoring Trial: Final Report, 9 October 2025 at page 10.

2. the EMDs can sometime be a barrier for fully engaging in the pro-social activities which can encourage positive reintegration in the community, such as sport and exercise
3. Some children can experience significant stress when the EMDs malfunction or fail to maintain charge (which has happened on numerous occasions) which places them in breach of their bail conditions
4. When the EMDs do malfunction, some children find it very stressful to attend police stations and/or watchhouses to have the device fixed, because of previous traumatic experiences with police
5. YAC's clients have also experienced challenges to employment and general social engagement due to the stigma. One 15 year old girl was stopped by two security guards when entering a suburban shopping centre in Brisbane where she worked because she was wearing an EMD. Another young female client was ashamed of the EMD and was resistant to applying for jobs because of it
6. One client had a concern about whether he could swim with his EMD (during very hot weather) and the various contacts in the relevant government departments were unable to provide an answer. The experience of being unable to obtain a clear answer to these types of questions has been common.

While there is a general perception in the community that these children 'deserve what they get', these negative experiences can provide further obstacles to successful positive engagement in the community, which is a key to reducing offending.

We have also received reports of children's families being stigmatised by the child's wearing of the EMD.

Children 10 to 14 years old

The use of EMDs on children aged 10 to 14 years is not evidence based, and can result in isolation, disengagement and disconnection. The Evaluation concerned 15 to 18 year olds only, producing no evidence that there would be a benefit in extending EMDs to 10 to 14 year olds. For EMDs to be associated with reduced offending in older children, protective factors are necessary, such as family involvement and wrap-around supports.[6] Children aged 10 to 14 who are engaged in the youth justice system are highly unlikely to have these supports: they are more likely to be involved with Child Safety, have experience of violence, lack a safe home or a pro-social adult. In these circumstances the EMD is unlikely to have a positive impact.

Children aged 10 to 14 in the youth justice system are also unlikely to be able to have the level of development needed to comply with the requirements of an EMD. 10- to 12-year-olds, in particular, have not developed the maturity to comprehend and competently engage in the criminal justice system.[7]

Non-compliance with the EMD conditions renders the child liable to be found to have breached their bail conditions, which is a criminal offence in Queensland that can result in the child's detention.

Best interests of the child

[6] Evaluation of the Electronic Monitoring Trial: Final Report 9 December 2025, Nous Group, pages 6 and 30

[7] [1] Elly Farmer, '*The age of criminal responsibility: developmental science and human rights perspectives*' (2011) 6(2) Journal of Children's Services, 86, 87.

YAC is also concerned that the application of EMDs to the 10 to 14 year old cohort breaches their right to protection in their best interest (section 26(2) of the *Human Rights Act*) as imposing an EMD as such a young age does not take into account their age or cognitive abilities, nor promote their reintegration in society. This is particularly the case given the deletion of the present requirement that the court is satisfied that **the child has the capacity to understand the condition, is likely to apply with the condition, and has a parent or other person who is willing to support the child comply** (current section 52AA(1)(f)).

This protective mechanism ensures that children are prescribed EMDs only where that are likely to be able to comply. There is no justification for removal of these requirements, and without them all children, but particularly children aged 10 to 14 are vulnerable to breaching their bail conditions, which is a criminal offence. This is a disproportionate response to 10 to 14 year olds' offending and is entirely without merit, and likely to assist in entrenching young children in the youth justice system.

Children aged 10 to 14 should be diverted from the youth justice system through early intervention and should not be held in detention nor subject to EMDs. This younger cohort in particular requires intensive wrap-around support, including family support, addressing mental health concerns, and ensuring a safe home. Punitive measures will only ensure that they become entrenched in the youth justice system, preventing them from assuming a constructive role in society.

While the Evaluation does suggest widening application of EMDs to additional offence types or additional locations, there is no consideration whatsoever of including children below 15 years of age.

Inadequate safeguards

The Bill removes the requirement for a child to have the capacity to understand the condition, and have a parent or other person willing to support the child to comply with the condition. These are important mechanisms designed to maximise compliance with the condition.

The Bill should contain a mechanism for regular review of the condition so that excessively long periods with EMDs are not possible – the Evaluation identified that one child had an EMD for over 400 days.

Bail conditions that restrict liberty make people more vulnerable to violence, especially domestic and sexual violence. Subjecting a child to 24/7 monitoring could also significantly impact a child's social, school and family life, particularly young person transitioning into adulthood. This would also significantly impact employment opportunities and prospects of meaningful reintegration into the community.

Breach of human rights and the Statement of Compatibility

In the Statement of Compatibility (**the Statement**), the Honourable Laura Gerber MP correctly conceded that the child's right to protection in their best interest is limited because electronic monitoring is an onerous bail condition. However, the Statement then incorrectly concludes that there were no less restrictive alternatives which would be as effective in achieving the purpose of reducing offending rates and keeping the community safe because it would confine electronic monitoring to a smaller cohort of offenders. This conclusion is wrong because:

1. there is no evidence that including 10 to 14 year olds would reduce offending. A viable alternative is therefore to maintain the application of EMDs to 15 to 18 year olds.

2. the most effective proven measure to reduce offending is to provide wrap-around supports addressing the root causes of offending. This is an effective alternative for younger children, those without supports and those with mental illness and capacity issues.

In relation to point 2 above, the Statement asserts that there is a rational connection between the limitations of human rights and keeping the community safer because EMDs were associated with reduced reoffending, with the Evaluation providing evidence of the effectiveness of EMDs. This assertion overstates the true position, which is that EMDs, when provided to a selective cohort of motivated children over 15 *with sufficient supports and capacity*, show a reduction in offending behaviour. There is no justification to extend the use of EMDs beyond this cohort.

The Statement also asserts that the principles in the United Nations Convention on the Rights of the Child (UNCROC) and Beijing Rules may be permissible if they respect the child's rights and are implemented in a way that prioritises the child's best interests. The use of EMDs on young children and those without supports and capacity is not supported by any evidence and is without justification. By passing this Bill the Queensland Government accepts that it will breach children's rights without justification.

Final Remarks

Children who offend are highly likely to have experienced family violence, poverty, neglect, trauma, unstable or unsuitable accommodation, substance misuse, and disengagement from education and employment. Furthermore, many children in the justice system have a serious disability or a health condition, often undiagnosed and untreated. It is these factors which need increased attention and investment, not reactive punitive actions that are not effective at reducing crime or recidivism and therefore do not increase community safety.

Please let us know if you have any questions regarding the above.

Katherine Hayes

CEO

Youth Advocacy Centre