

Youth Justice and Other Legislation Amendment Act 2021

The Working Together Changing the Story: Youth Justice Strategy 2019-2023 is underpinned by the four pillars recommended by Bob Atkinson:

- intervene early
- keep children out of court
- keep children out of custody
- reduce reoffending.

The Strategy and record investment in youth justice reform have had a positive impact on crime trends, with a continued decrease in the number of unique youth offenders.

There remains, however, a small, hard-core group of serious repeat youth offenders who present a genuine risk to the community and to themselves.

The *Youth Justice and Other Legislation Amendment Act 2021* (the Amendment Act) is intended to improve community safety by targeting this group of children who engage in persistent and serious offending.

The Amendment Act amended the *Youth Justice Act 1992* (YJA) to:

- provide that in certain circumstances, a young person charged with a prescribed indictable offence while on bail for an indictable offence may be required to **show cause** why they should get bail
- allow police and courts making a bail decision to consider an **indication of willingness** from a parent, guardian, or another person to provide support to a young person to comply with bail conditions, and/or to advise police or youth justice staff of any relevant changes in circumstances or of a breach of bail conditions and
- allow courts in prescribed locations to use **electronic monitoring** as a condition of bail for young people aged 16 and over, in certain circumstances.

The Amendment Act also further clarified existing youth justice legislation by:

- codifying the longstanding common law principle that committing an offence while on bail is an aggravating factor in sentencing
- amending the youth justice principles to specifically highlight that the community should be protected from recidivist high-risk offenders
- make clear that lack of accommodation and apparent family support cannot be the sole reason to keep a child in custody.

Show cause

For certain prescribed indictable offences committed whilst on release on bail, a court or police officer must not release the young person from custody unless the young person shows cause (provides good reasons) why their detention is not justified.

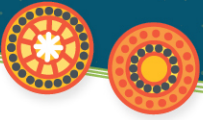
Prescribed indictable offences are:

- a life offence, or
- an offence which attracts 14 years imprisonment or more (with one exception), or
- certain other Criminal Code offences including dangerous driving and unauthorised use of a motor vehicle where the child is the driver.

This limited presumption against bail is intended to ensure that the community will be further protected from the risk posed by this small cohort of serious recidivist offenders.

Willingness to support

The amendments enable police and courts to consider whether a parent or another person has indicated a willingness to do one or more of the following:



- support a young person to comply with conditions of bail
- notify youth justice staff or police of a change in the young person's circumstances which may affect their ability to comply with bail
- notify youth justice staff or police of a breach of a bail condition.

This person may be anyone deemed suitable by the court, depending on the nature of the support the court considers is needed – which may be broad whole-of-life support, or support in relation to a specific issue such as remembering a court date.

The person may be a:

- grandparent
- older sibling
- other family member
- neighbour
- employer
- child safety officer
- staff member or volunteer from a support service.

No-one will be obliged to provide any particular kind of support.

Although there is no penalty for not doing something a person has indicated a willingness to do, parents and other persons should only indicate a willingness to do something if they are willing and able to do it.

For example, a parent or other person, including a representative of an NGO, may prefer not to indicate a willingness to report breaches of bail conditions to police.

Electronic monitoring

The amendments also include time-limited (two years) amendments to allow courts to impose electronic monitoring as a condition of bail for young people aged 16 years and over in certain circumstances.

A 12-month trial of electronic monitoring technology will be implemented in five sites:

- Townsville
- north Brisbane
- Moreton
- Logan
- Gold Coast.

To be eligible for an electronic monitoring device a young person must:

- be at least 16 years of age
- be appearing for a prescribed indictable offence (see definition under *Show cause* above)
- have previously been found guilty of at least one indictable offence, and
- live in one of the prescribed locations.

For more information see the [factsheet about electronic monitoring](#).

Extra services to support implementation

Extra monitoring and supervision services are being put in place for high-risk repeat offenders, including young people subject to electronic monitoring bail conditions.

Police and youth justice staff will provide high levels of monitoring and supervision, including on weekends and after hours with:

- 24/7 co-responder teams
- conditional bail program youth workers.

After-hours intensive support will also be available to families of these young offenders to help manage their child's compliance.

For more information see the [factsheet about new services](#).

How we will know if these reforms have worked

Mr Bob Atkinson will independently report to the Government in late 2021 about how the reforms have worked, including the electronic monitoring trial.