



Young Futures (Rehabilitation and Proceedings) Youth Act 2025

Bill Proposed By: Youth Justice Committee

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I certify that this public Bill, which originated in the Youth Legislative Assembly, has finally passed the Youth Legislative Assembly of New South Wales.

Hamani Tanginoa, Youth Parliament Coordinator



NSW Youth Parliament

Young Futures (Rehabilitation and Proceedings) Youth Act 2025

Act no. 7, 2025

A Bill for

An Act to improve court proceedings and outcomes for young people in the criminal justice system across New South Wales, and other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by the Youth Legislative Assembly.

Lian Sequeira, Youth Governor of the NSW Youth Parliament

Explanatory Note

Summary

The object of this Bill is to improve Youth Justice proceedings and provide more suitable alternatives for rehabilitation, to prevent youth crime and protect youth rights within the justice system.

This Bill comes at a time where a concerning increase in juvenile incarceration is prevalent within the youth justice system, with an alarming rise in youth offences. Further, the rise in the use of illicit substances has reached heightened numbers among young people, without enough opportunity for rehabilitation. This Bill recognises that it is a crucial time for action to protect young people, especially whilst acknowledging the impacts of denied bail and limited rehabilitation on young people.

This Bill aims to protect the rights of young people by giving them a fair and equal opportunity for change and growth, done by improving bail laws, establishing separate branches in the drug court, and reforming and specifying aspects of rehabilitative sentencing.

Overall, the Bill offers young people the opportunity to grow and receive the support they require to prevent youth crime.

Overview of Provisions

Part 1 - Preliminary

Part 1 sets out the short title, commencement, objects and definitions of the Act.

Part 2 - Bail

Part 2 aims to decrease systemic bias and increase leniency on bail. It allows for the alternative to incarceration to be provided better for young people, including leeway to rehabilitative programs. It can a more balanced bail approach would protect community safety while ensuring young people are not subjected to premature and damaging incarceration.

Part 3 - Youth Drug Court

Part 3 ensures the protection of young people's rights within the justice system and court proceedings. It can establish a specified branch within the Children's Court to effectively manage youth justice proceedings. It incorporates the implementation of new rehabilitative programs to better support young people and decreases re-offending.

Part 4 - Rehabilitative Sentencing

Part 4 establishes the guidelines for such programs that foster rehabilitation, whilst also reforming legislation to better adapt to modern issues. It recognises the importance of community sentencing, such as circle sentencing, for those of Aboriginal and/or Torres Strait Islander descent and encourages the use of such methods where possible. It also supports the monitoring of young people during the rehabilitation period and encourages better access to such programs for young people. It can effectively specify all aspects of the rehabilitative program to ensure the elimination of gaps within the Act and provide effective support.

Rationale

Introduction

Youth justice policy and practice in New South Wales must uphold the principles of fairness, rehabilitation and the presumption of innocence, particularly when addressing bail laws, court systems, and sentencing outcomes for young people. The current legal framework too often prioritises punishment and detention over support and rehabilitation, with damaging consequences for vulnerable youth, especially indigenous young people.

Bail Laws

The purpose of bail is to balance the rights of the accused with community safety. However, the application of bail laws in NSW disproportionately affects young people, undermining their right to the presumption of innocence. As of 2024, 76% of the youth detention population (172 of 225 young people) were on remand, detained without being convicted. (BOCSAR, 2024) This reflects an alarming failure of the justice system to apply bail fairly and humanely. The amendment to Section 22C of the Bail Act 2013 (NSW) restricts bail for young people aged 1-18 charged with repeat offences, regardless of the individual circumstances. This rigid approach overlooks critical factors like poverty, trauma, and lack of support, which drive repeat low-level offending. Further, 100% of the 14-year-olds refused police bail between April and September 2024 were Aboriginal and/or Torres Strait Islander children (Youth Justice NSW, 2024), revealing deep systemic bias and racism within bail decisions. The rising youth remand rate is not only unjust, but also costly and ineffective. Incarceration costs \$2,814 per child per day, amounting to over \$223 million in protected spending between 2023 -2034 (NSW Government, 2023). A more balanced bail approach would protect community safety while ensuring young people are not subjected to premature and damaging incarceration.

Children's Court and the Drug Court

The Children's Court plays a vital role in protecting young people's rights and addressing the causes of criminal behaviour, but current structures fall short. The abolishment of the NSW Youth Drug Court in 2012, which previously supported 14018 year olds with serious drug-related offences, has left a gap in early, targeted intervention (NSW Law Reform Commission, 2012).

Evidence from the former Youth Drug Court shows significant success:

- Participants were 65% less likely to be reconvicted of a violent offence.
 - 37% less likely to reoffend overall.
 - 35% less likely to be reconvicted of a property offence
- (NSW Department of Justice, 2012)

Given that drug use is a key motivator for non-violent property offences among youth, reinstating a dedicated youth drug court would offer a trauma-informed, rehabilitative alternative to incarceration. This is especially important as illicit drug use among 14-17 year olds continues to decline (Australian Institute of Health and Welfare [AIHW], 2023), signalling the effectiveness of preventive and supportive measures over punitive ones.

Rehabilitative Sentencing

Long term data demonstrates that punitive approaches fail to break cycles of youth offending. 81% of young people convicted in 2010 were reconvicted within 10 years,

highlighting the urgent need for sentencing that focuses on healing, education, and reintegration, not punishment (BOCSAR, 2021). Current legislative tools, including Sections 10, 11, and 33c of the Children (Criminal proceedings) Act 1987 and crimes (Sentencing procedure) Act 1999, offer pathways for rehabilitative-based sentencing, yet are underutilised. Courts must expand the use of:

- Youth justice conferences (Under the Young Offenders act 1997) Which prioritise restorative justice and community accountability.
- Intervention programs, education pathways and mental health support as permitted under Section 11.

Rehabilitation is not just ethically necessary, it's effective. Programs that integrate treatment, education and support services dramatically reduce recidivism, improve community safety and empower young people to create better futures. As Judge McGuire aptly stated: "Detention will not work, if when they come out, they are more criminally inclined than when they went in." (McGuire, 2020)

Conclusion

To create a fair, equitable, and effective youth justice system, NSW must reform bail laws to uphold the presumption of innocence, re-establish a dedicated Youth Drug Court to address the root causes of offending, and prioritise rehabilitation over punitive sentencing. These measures will not only protect public safety but also uphold the rights, dignity and futures of young people, particularly those most vulnerable and disadvantaged.

Reference List

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The Youth Legislature of New South Wales enacts—

Part 1 Preliminary

1 Name of Act

This Act is the Young Futures (Rehabilitation and Proceedings) Youth Act 2025.

2 Commencement

The Act commences upon assent.

3 Objects

The objects of this Act are to—

- (a) provide a legal framework that fosters the support and rehabilitation of young people who are subject to the youth justice system; and
- (b) balance the rights of the accused and the community safety, while also providing rehabilitation opportunities for the accused; and
- (c) decrease rates of juvenile incarceration and provide alternatives that are more effective and efficient for both the accused and the community; and
- (d) aim to better bridge the gap in the use of illicit substances by young people by providing specified courts and training to those overseeing the case; and
- (e) provide targeted programs through accredited organisations to facilitate the rehabilitation of young people; and
- (f) break the cycle of incarceration and young people falling into the youth justice system by better integrating the community into sentencing, particularly for young people of Aboriginal and/or Torres Strait Islander descent; and
- (g) create a fair, equitable, and effective youth justice system

4 Definitions

In this Act—

Accredited Organisations are entities that have been formally recognised or certified by an accreditation body as meeting specific standards of competence and reliability in a particular field.

Community Sentencing is a non-custodial penalty imposed by a court that allows offenders to serve their punishment within the community instead of prison.

Circle Sentencing refers to the alternative sentencing option for First Nations people.

Incarceration is the act of being confined in a prison or jail.

Illicit Substances refer to any drug or chemical compound that is illegal by law to possess, manufacture, deal, or consume.

Psychoeducation is a structured educational approach aimed at increasing understanding of mental health conditions, while also providing support and educating communities about conditions, treatment and coping strategies.

Recidivism is the tendency for an offender to reoffend.

Rehabilitative Sentencing is the process of providing offenders rehabilitation to be integrated back into the community as a law-abiding citizen.

Young People refer to those between the ages of 11 and 18, excluding 11 and 18. rehabilitation refers to the process of helping an offender change their behaviour to prevent them from committing further crimes.

Note— The *Interpretation Act 1987* also contains definitions and other provisions that affect the interpretation of this Bill.

Part 2 Bail

5 Repeal Section 22C of the *Bail Act 2013*

- (1) Section 22C of the *Bail Act 2013* is repealed.
- (2) A court must not refuse bail to a young person solely on the ground that the young person is alleged to have committed a relevant offence while at liberty on bail in respect of another relevant offence, unless the nature of the alleged offence presents an immediate or future risk to community or the individual's safety.
- (3) Subsection (2) applies only after thorough and independent discretion by the court, in which the court may consider to dismiss—
 - a. the nature or seriousness of the alleged relevant offence committed while the person was on bail; and
 - b. any assessment or prediction as to the likelihood that the person may commit a serious indictable offence if released on bail
- (4) In determining a bail application by a young person, a court must give primary consideration to—
 - a. the availability of community-based supervision and support services, including consideration of the accessibility of such services in rural and regional areas; and
 - b. the young person's familial and communal circumstances; and
 - c. any rehabilitation or therapeutic programs suitable for the young person; and

- d. measures to address the underlying causes of alleged offending behaviour, the likelihood of recidivism in the alleged offender and the effect the individual has in regard to community safety; and
- e. prior convictions of the young person in which would justify reconsideration for their applicability for bail

6 Alternative to Incarceration

- (1) Reduce incarceration among young people by repealing s22c of the Bail Act (2013).
- (2) Increase efforts of rehabilitation programs to decrease rates of incarceration in young people and improve access to support.
- (3) Increase emphasis on support towards Indigenous young people and culturally appropriate sentencing.

Part 3 Children's Drug Court

7 Establishment of a Children's Drug Court in NSW

- (1) The Attorney General shall establish and maintain a drug court, with exclusive jurisdiction over drug-related offences where the accused was between 11 and 18 years at the time of the alleged offence.
- (2) Ensure this drug court is a sub-branch of the Children's Court, with specialised training provided to judges to handle relevant offences in an unbiased and proactive manner.
- (3) Implement a program for rehabilitation and processes for those who are—
 - a. between the ages of 11 and 18 years during the time of the alleged offence; and
 - b. reside in New South Wales, or had committed the offence within the New South Wales jurisdiction
- (4) Provide substantial support to those undergoing the program if they are—
 - a. as listed above in Section 3; and
 - b. a young person who is—
 - i. found in possession of illicit substances; and
 - ii. attempting to or has manufactured illicit substances; and
 - iii. under the influence of illicit substances; and
 - iv. attempting to or has distributed illicit substances

8 Drug Program Specification

- (1) Courts will be specially trained to handle relevant offences, including—

- a. diversion of young people from incarceration; and
 - b. providing support such as targeted conferences and rehabilitative processes; and
 - c. attempts towards decreasing drug-related dependencies for young people; and
 - d. the implementation of such rehabilitation programs in a directive approach while addressing substance abuse.
- (2) The Minister for Youth Justice may make regulations implementing or modifying procedure within the Children's Court concerning—
- a. judicial requirements of legal personnel involved in drug-related Children's Court cases; and
 - b. permit extension beyond 12 months only upon finding that such continuation is both proportionate and necessary to demonstrate rehabilitative progress supported by professional assessment and documented progress indicators as prescribed by regulation; and
 - c. obligation of assessment lies with the Children's Court, in who will oversee periodic judicial reviews in intervals of every three (3) months

Part 4 Rehabilitation Sentencing

9 Amend Section 33C of the *Children (Criminal Proceedings) Act 1987*

(1) Amend s33c of the Children (Criminal Proceedings) Act (1987) to—

- a. ensure that vulnerable youth are not excluded from rehabilitative pathways where bail has been refused under circumstances that would otherwise preclude assessment for rehabilitation; and
- b. permit extensions beyond 12 months where evidence supports ongoing rehabilitative progress, supported by professional assessment and documented progress indicators as prescribed by regulation; and
- c. require periodic judicial reviews of progress, involving caseworkers and support agencies to monitor outcomes more effectively.

10 Amend Section 50B of the *Children (Criminal Proceedings) Act 1987*

(1) Increase monitoring of the youth while they are undergoing the program, specifically through—

- a. increased follow-ups to ensure that resources are being used to benefit the youth; and
- b. the prescription of one-on-one consultations, through video chat, face-to-face sessions or appropriate alternatives approved by the Children's Court between the youth and professionally trained mental health advisors, to

effectively judge the progress of the young person in intervals of a session per week until the following ad-hoc court date, in which the magistrate exercise discretion to—

- i. resume, modify or terminate the rehabilitation program; or
 - ii. determine any subsequent action concerning the young person's case
 - c. the arrangement of ad-hoc court dates during the relevant bail time, for magistrates to interpret the data provided by the designated medical professional assigned to the case, in order to assess the efficacy of rehabilitative sentencing on the alleged offender and make decisions including—
 - i. whether the alleged offender should continue participation in the rehabilitative program without modification; and
 - ii. whether it is incumbent on the court to amend the current rehabilitation program in order to address identified deficiencies or emerging concerns; and
 - iii. whether the period of supervised rehabilitation should be extended beyond the initial time frame, where substantial progress is demonstrable yet incomplete; and
 - iv. whether the young person has achieved sufficient rehabilitative progress to warrant transition away from the supervised program, Whether circumstances warrant consideration of alternative sentencing options where rehabilitation has proven ineffective.
- (2) The magistrate shall, in exercising discretion under subsection (1)(c), have regard to the following—
- a. written reports from all designated medical professionals involved in the young person's rehabilitation, as approved by the court; and
 - b. evidence of the young person's compliance with prescribed rehabilitative interventions; and
 - c. assessments of risk factors and protective factors relevant to reoffending as provided by designated medical professionals; and
 - d. the young person's educational, vocational and familial circumstances, to ensure holistic considerations are made to the conditions influencing the young person's actions; and
 - e. any submission made by or on behalf of the young person regarding their rehabilitation progress and future support desiderata.
- (3) Any magistrate's decisions under subsection (1)(c) must be corroborated through the delineation of both—

- a. the criteria by which the magistrate's decision is predicated upon; and
 - b. the object of the magistrate's decision, ensuring that the decision is made in the best interests of the young person.
- (4) Offer better accessibility opportunities for youth to receive rehabilitative resources, including, but not limited to—
- a. mental health support from medical professionals, including counselling and behavioural therapy; and
 - b. psychoeducation support through funded organisations, and either online or in-person programs; and
 - c. access to mutual-help groups both online and in-person, depending on each young person's needs; and
 - d. increasing information related to substance abuse to reach a broader audience; and
 - e. offering substantial support to offenders to help break the cycle, including the identification of triggers and program plans; and
 - f. increase follow-ups and relapse prevention methods for substance abuse disorders and those who are more likely to relapse
- (5) Mandate institutions providing rehabilitative services to be accredited and undergo training to accurately provide beneficial support to offenders and increase tracking to ensure efficiency.
- (6) Offer culturally-based rehabilitative support to those who are of Aboriginal and/or Torres Strait Islander descent, including but not limited to—
- a. the use of circle sentencing to optimise culturally appropriate programs; and
 - b. increased trauma-informed, culturally appropriate programs; and
 - c. the inclusion of family and community, where appropriate, to aid in treatment processes involving Aboriginal and/or Torres Strait Islander young peoples

11 Amend Section 3 of the *Young Offenders Act 1997*

- (1) Amend Section 3C to offer youth justice conferences for select mid-range offences, where it has been ruled that rehabilitation is prospective.
- (2) Mandate police to consider diversion pathways before proceeding with formal charges while dealing with youth offenders.
- (3) Further reform Section 3C to encourage youth consultations to be accompanied by a multitude of follow-up mentoring and consultations, education, counselling, and other similar resources.

12 Implementation of Rehabilitative Programs

- (1) Establish a new drug rehabilitation program for young people who are—
 - a. between the ages of 11 and 18; and
 - b. a young person who is—
 - i. found in possession of illicit substances; and
 - ii. attempting to or has manufactured illicit substances; and
 - iii. under the influence of illicit substances; and
 - iv. attempting to or has distributed illicit substances
 - c. offered rehabilitation as a pathway by the court due to the severity of the offence and the degree of likelihood of recidivism.
- (2) Offer a variety of support to young people registered under the program, including—
 - a. one-on-one counselling sessions with a trained medical professional; and
 - b. psychoeducation programs, provided through funded organisations, either online or in person; and
 - c. mutual-help groups led by a trained professional, both online and in-person, depending on each young person's situation; and
 - d. increasing information related to substance abuse both in schools and in the wider community to reach a variety of audiences, and prevent offence and relapse; and
 - e. individually assessed program plans for each individual which is able to identify triggers, provide substantial support and rehabilitate young people in an effective and targeted approach.
- (3) Mandate accreditation of programs provided to young people, medical professional training, and training provided to courts regulating processes.
- (4) Increase the use of culturally accepted sentencing and appropriations while addressing Aboriginal and/or Torres Strait Islander offenders, including—
 - a. the increased use of circle sentencing and community sentencing; and
 - b. community-based approaches while managing rehabilitation; and
 - c. the inclusion of family and community while working with providing aid and treatment to Aboriginal and/or Torres Strait Islander young peoples

13 Rehabilitation Program Specifications

- (1) All resources must be increased in number, both physically and online, to ensure accessibility for all young people registered for the program.

- (2) Introduce specific requirements of minimum standards that must be met in order for accreditation, including requirements in—
- a. medical professionals; and
 - b. court professionals; and
 - c. rehabilitative programs; and
 - d. increasing information related to substance abuse in both schools, particularly those in areas with high-risk of offence, and in wider community to reach a variety of audiences, and prevent offence and relapse; and
 - e. organisations funding programs and resources

Produced for The Y NSW Youth Parliament