



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

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Submission Cover Sheet

Inquiry into Justice (Age of Criminal Responsibility)
Legislation Amendment Bill 2023

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Public Health Association
AUSTRALIA

ACT Legislative Assembly
Standing Committee on Justice and Community Safety
GPO Box 1020, Canberra ACT 2601

By email LACommitteeJCS@parliament.act.gov.au

5 June 2023

JUSTICE (AGE OF CRIMINAL RESPONSIBILITY) LEGISLATION AMENDMENT BILL 2023

Dear Committee Members,

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public's health in Australia, and seeks to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

PHAA welcomes the opportunity to provide input to the present Bill. We have been a long-standing member of the campaign to [Raise The Age](#) of criminal responsibility in Australia to 14.

Our views on the subject are set out at length in our submission in February 2020 to the Council of Attorney-General (as it then was), available [here](#).

We note these words in the Bill's explanatory memorandum:

Australia is a signatory to the *United Nations Convention of the Rights of the Child* which stipulates that prison sentences should be used as a last resort for children and that a minimum age should be established. This has recently been expanded upon, and the United Nations has advised that the MACR should sit at a minimum of 14 years old with 16 years old being the preference.

Australia is out of step with United Nations' recommendations, and current practice internationally regarding the minimum age of criminal responsibility. Since ratification of the 1989 UN Convention on the Rights of the Child, 50 countries have raised their minimum age. The most common internationally is now 14 years.¹ The UN Committee on the Rights of the Child concluded in 2007 that 'a minimum age of criminal responsibility under the age of 12 years is considered by the Committee not to be internationally acceptable'.²

The most recent Committee on the Rights of the Child General Comment on children's rights in the child justice system specifically recommends 'at least 14 years of age' in line with child development and neuroscientific evidence.¹

The current age of criminal responsibility in Australia is in direct contravention of this recommendation, which has been specifically noted by the UN Committee's 2019 period report on Australia.³ The situation is unacceptable and requires urgent attention at Federal and State levels.

Delay in giving effect to the necessary law reform renders young people in contact with criminal justice systems in Australia at risk of significant developmental harm – with damaging implications for their health and wellbeing across their life course.

Children who come into contact with the criminal justice system as early as age 10 are mostly from disadvantaged backgrounds characterised by histories of abuse and neglect with significant mental health needs. Imprisonment likely exacerbates the risk of mental ill health, alienation from education and employment and early death.⁴

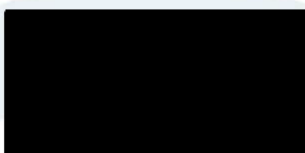
We note that the Bill takes a ‘staged approach’, first raising the age of responsibility to 12, with a view to raising it to 14 by 1 July 2025. We appreciate that the political process sometimes involves delays and exceptions before a principle comes to be fully embraced, and we accept that 1 July 2025 is only two years away. But we do point out that the powerful arguments relating to the development of children that support a general use of 14 as the threshold for criminal responsibility are true today, and do not logically support delay and exception.

We also note that among the elements of the ACT Government’s policy-making has been the importance of establishing programs for the diversion of the children concerned into safe and appropriate ways to address their behaviour, as well as the importance of addressing the harms suffered by victims of offending behaviour. Both problems call out for the development and resourcing of effective programs. But it is legitimate to query whether it is necessary for such programs to be in place as a precondition for the principled legal reform relating to age 14 to be implemented. Given the small number of cases involved, we urge against any needless delay in the implementation of the legislation’s main purpose.

For these reasons, we urge the ACT Legislative Assembly to press on as speedily as possible to legislate for the age of criminal responsibility to be raised generally from 10 to 14.

Please do not hesitate to contact me should you require additional information or have any queries in relation to this submission.

Yours Sincerely,



Terry Slevin
Chief Executive Officer

¹ United Nations Committee on the Rights of the Child. General comment No. 24 (2019) on children's rights in the child justice system. CRC/C/GC/24.
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/GC/24&Lang=en: United Nations; 2019.

² United Nations Committee on the Rights of the Child. General Comment No. 10 (2007) Children's rights in juvenile justice. Committee on the Rights of the Child Forty-fourth session. CRC/C/GC/10.
<https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>: UN; 2007.

³ United Nations Committee on the Rights of the Child. Concluding observations on the combined fifth and sixth periodic reports of Australia. CRC/C/AUS/CO/5-6.
https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/AUS/CRC_C_AUS_CO_5-6_37291_E.pdf: UN; 2019.

⁴ Borschmann R, Janca E, Carter A, Willoughby M, Hughes N, Snow K, et al. The health of adolescents in detention: a global scoping review. *The Lancet Public Health*. 2020;5(2):e114-e26.