

Our Ref: MN:JM

4 May 2026

Policy, Reform and Legislation
NSW Department of Communities and Justice

Via email: policy@dcj.nsw.gov.au

Dear Department of Communities and Justice,

Submission to the statutory review of the *Bail Amendment (Extension of Limitation on Bail in Certain Circumstances) Act 2025*

Knowmore does not support a further extension of section 22C of the *Bail Act 2013* (the Bail Act). In our view, section 22C of the Bail Act should be urgently repealed.

Knowmore is a nation-wide community legal centre providing multidisciplinary, trauma-informed and culturally safe support to victims and survivors of child abuse, including child sexual abuse. Knowmore has a significant client base in New South Wales – almost 1 in 4 (23%) of our clients reside in the state. We therefore have a strong interest in laws, policies and practices relevant to children and victims and survivors of child abuse in New South Wales.

Many of our clients experienced child sexual abuse while in prison. This includes child sexual abuse from adult perpetrators and other children in

prison.¹ We therefore have a strong interest in keeping children out of prison and ensuring that children are safe in all places.

In this submission, we have used the terminology of ‘additional bail limitation’, rather than ‘temporary bail test’, when referring to the bail test created by section 22C of the Bail Act.² Our terminology reflects our concern that the additional bail limitation – which we have opposed from the outset –³ keeps moving further away from its original purpose as a ‘short-term “circuit breaker”’.⁴ The additional bail limitation has now been in effect for over 2 years. In Knowmore’s view, the limitation must not become permanent through repeated extensions.

In conducting the statutory review of the *Bail Amendment (Extension of Limitation on Bail in Certain Circumstances) Act 2025* (the Bail Amendment Act), Knowmore urges the Department of Communities and Justice (the Department) to give great weight to the perspectives of people who have experienced the impacts of the criminal legal system as children, as well as the perspectives of community-based organisations that provide evidence-based support to children, families and communities.

We note that the Department has been asked to determine whether:

¹ See Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), *Final report: volume 15, contemporary detention environments*, December 2017, pp 81–82, <www.childabuseroyalcommission.gov.au/contemporary-detention-environments>.

² We acknowledge that this differs from the terminology used in the Consultation Paper for the review. See Department of Communities and Justice, *Statutory Review of the Bail Amendment (Extension of Limitation on Bail in Certain Circumstances) Act 2025 Consultation Paper* (Consultation Paper), April 2026, p 4, <www.nsw.gov.au/have-your-say/review-of-section-22c-bail-act-2013#consultation-methods>.

³ See Aboriginal Legal Service (NSW/ACT), *Open letter to NSW Premier Minns and the Labor Government from 560 lawyers, community workers and academics*, 18 March 2024, <www.alsnswact.org.au/open-letter-from-lawyers-community-workers-and-academics>.

⁴ Michael Daley MP, *Bail and Crimes Amendment Bill 2024: second reading speech*, 12 March 2024, p 19, <<https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/'HANSA RD-1323879322-139003>>.

- a) the policy objectives of the amendments remain valid, and
- b) the terms of the amendments remain appropriate for achieving the objectives.⁵

We understand the policy objectives for the additional bail limitation to include 'enhancing community safety'.⁶ As a nation-wide service assisting victims and survivors of child abuse, Knowmore strongly supports this policy objective. Knowmore has consistently advocated for reforms in all jurisdictions, including New South Wales, to keep children, victims and survivors safe from harm, to hold perpetrators to account and to provide redress, justice and healing for victims and survivors.⁷

We do not consider the additional bail limitation to be an appropriate way to enhance community safety for 2 reasons, which we outline below:

1. children in prison, including children on remand, experience a heightened risk of child sexual abuse
2. punitive responses to offending by children do not reduce offending and undermine community safety.

We have no concerns about our submission being published.

The heightened risk of child sexual abuse for children in prison

Knowmore has long held concerns about the heightened risk of child sexual abuse for children in prison, including children on remand. These concerns arise from findings of the Royal Commission into Institutional

⁵ Department of Communities and Justice, Consultation Paper, p 4. See also *Bail Act 2013* (NSW), section 22D(1).

⁶ Department of Communities and Justice, Consultation Paper, p 5.

⁷ See, for example, Knowmore, *Submission on NSW's draft Children's Guardian Amendment (Child Safe Scheme) Bill 2021*, February 2021, <knowmore.org.au/wp-content/uploads/2022/04/submission-draft-childrens-guardian-amendment-child-safe-scheme-bill-2021-nsw.pdf>; Knowmore, *Submission to the statutory review of NSW's Victims Rights and Support Act 2013*, July 2022, <knowmore.org.au/wp-content/uploads/2023/06/submission-statutory-review-victims-rights-and-support-act-2013-nsw.pdf>; Knowmore, *Submission to the inquiry into Australia's youth justice and incarceration system*, October 2024, <knowmore.org.au/wp-content/uploads/2024/10/submission-inquiry-into-Australias-youth-justice-and-incarceration-system-cth.pdf> .

Responses to Child Sexual Abuse⁸ and our experiences assisting many victims and survivors who experienced child sexual abuse while they were in prison. We have made detailed comments about the heightened risk of child sexual abuse for children in prison in our recent submission to the NSW Parliament's Select Committee on Youth Justice.⁹ We have attached a copy of this submission.

While the heightened risk of child sexual abuse for children in prison is relevant in all states and territories in Australia, this risk is particularly relevant in New South Wales – a state which has the second highest number of children in prison of all Australian jurisdictions and where the rate of children in prison has increased in recent years.¹⁰

In recent years, we have been concerned to see Australian governments, including the NSW Government, pursuing laws, policies and practices that are not supported by evidence, breach the human rights of children and place children at heightened risk of experiencing child sexual abuse in prison environments.¹¹ This has included the NSW Government passing laws that are likely to lead to an increase in the number of children in prison, despite the evidence that punitive responses to offending by children often undermine community safety (see pages 5 to 7 below) and put children at significant risk of harm.¹²

⁸ Royal Commission, *Final report: volume 15, contemporary detention environments*, pp 20–21.

⁹ Knowmore, *Submission to the inquiry into youth justice in New South Wales*, March 2026, pp 13–15, <knowmore.org.au/wp-content/uploads/2026/04/submission-inquiry-into-youth-justice-in-new-south-wales-nsw.pdf>.

¹⁰ From the June quarter 2021 to the June quarter 2025, the rate of young people in detention increased in New South Wales. See Australian Institute of Health and Welfare, *Youth detention population in Australia 2025: state and territory trends*, December 2025, <www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2025/contents/state-and-territory-trends>.

¹¹ See Knowmore, *Supplementary submission on Australia's youth justice and incarceration system*, December 2025, pp 7–12, <knowmore.org.au/wp-content/uploads/2026/01/supplementary-submission-australias-youth-justice-and-incarceration-system-cth.pdf>.

¹² See Knowmore, *Submission on Australia's youth justice and incarceration system*, pp 16–21, <knowmore.org.au/wp-content/uploads/2024/10/submission-inquiry-into-Australias-youth-justice-and-incarceration-system-cth.pdf>.

As a multidisciplinary service assisting many First Nations victims and survivors of child abuse, Knowmore is deeply concerned by the overincarceration of First Nations children in New South Wales. Recent data shows that First Nations children make up around 60% of the population in youth prisons in New South Wales, despite First Nations children representing around 8% of children in New South Wales.¹³ This is shameful.

Of particular relevance to the additional bail limitation, we note that most children in NSW prisons are held on remand, with more than 3 in 4 children in prison awaiting court in December 2025.¹⁴ We are particularly concerned about the impact of tighter bail laws on First Nations children, given that almost double the proportion of First Nations children were refused bail by NSW courts between 2014 and 2023, compared with non-Indigenous children.¹⁵

We have been particularly concerned to see tighter bail laws coincide with the national Productivity Commission's report that Australian governments are not on track to meet their targets under the National Agreement on Closing the Gap.¹⁶ This includes Target 11, which aims to end the overrepresentation of Aboriginal and Torres Strait Islander young people in the criminal legal system and significantly reduce their imprisonment.¹⁷

The impact of punitive responses to offending by children on community safety

As noted on page 3, Knowmore strongly supports the policy objective of enhancing community safety. We have therefore been concerned to see

¹³ See NSW Bureau of Crime Statistics and Research, *NSW youth detention numbers up 34% since 2023*, 14 August 2025, <bocsar.nsw.gov.au/media/2025/mr-custody-jun2025.html>.

¹⁴ NSW Bureau of Crime Statistics and Research, *Custody*, February 2026, accessed 24 April 2026, <bocsar.nsw.gov.au/statistics-dashboards/custody.html>.

¹⁵ Australian Institute of Criminology, *Bail and remand across Australia*, February 2026, accessed 24 April 2026, p 1, <www.aic.gov.au/sites/default/files/2026-02/ijc_bail_and_remind_across_australia.pdf>.

¹⁶ Australian Productivity Commission, *Closing the Gap annual data compilation report*, July 2025, p 3, <www.pc.gov.au/closing-the-gap-data/annual-data-report/2025/>.

¹⁷ Closing the Gap, *Closing the Gap targets and outcomes*, accessed 24 April 2026, <<https://www.closingthegap.gov.au/national-agreement/targets>>; Productivity Commission, *Closing the Gap annual data compilation report*, p 9.

Australian governments, including the NSW Government, pursue approaches to offending by children that are not supported by evidence.

Evidence shows that punitive responses to offending by children do not reduce offending and undermine community safety. For example, the Social Determinants of Justice Research Hub recently provided the following analysis to the NSW Parliament's Select Committee on Youth Justice:

Research and evidence have consistently shown that youth justice involvement, particularly incarceration, creates long-term, intergenerational cycles of disadvantage by causing severe educational, employment and social disruption. Evidence also shows youth detention increases recidivism, exacerbates mental health issues and can be retraumatising, making it ineffective for rehabilitation given the social needs profile of the children and young people incarcerated in NSW.¹⁸

This aligns with the reflections of the recent independent review of doli incapax in New South Wales (emphasis added):

*At present, criminal justice processes (such as charges, bail conditions or short-term remand) are sometimes utilised as a temporary circuit breaker or de-escalation tool where there are community safety concerns or alternative options are limited. While we understand why this approach may be taken, **using such processes in that way is unproductive for a variety of reasons, not the least of which is that they fail to provide a meaningful, long-term solution for the child and the community.**¹⁹*

¹⁸ Social Determinants of Justice Research Hub, *Submission to inquiry into evidence-based approaches to reducing the number of children in contact with the criminal justice system in New South Wales*, March 2026, p 18, <<https://www.parliament.nsw.gov.au/lcdocs/submissions/94843/0039%20Social%20Determinants%20of%20Justice%20Research%20Hub.pdf>>.

¹⁹ Geoffrey Bellew SC and Jeffrey Loy, *Review of the operation of doli incapax in NSW for children under 14*, August 2025, p 3, <dcj.nsw.gov.au/documents/legal-and-justice/laws-and-legislation/final-report-doli-incapax-review-29-august-2025.pdf>.

Further, the NSW Legislative Assembly's inquiry into community safety in regional and rural communities 'received extensive evidence' about the drivers of youth crime,²⁰ concluding that:

*Early intervention programs work in a cost-effective way to address the drivers of offending behaviour, which prevents crime and reduces rates of re-offending ... It is important to prevent young people from having contact with the justice system in order to reduce criminalisation and prevent re-offending.*²¹

Knowmore strongly agrees. We emphasise that this requires the NSW Government to ensure that children, their families and their communities have adequate access to support services in all parts of New South Wales. This should involve significant increases in funding for services to support children to remain safely with their families and communities, and to divert contact from the criminal legal system.

In particular, we recommend that the NSW Government adopt the three-point youth crime prevention plan (the three-point plan) developed by a coalition of Aboriginal and legal organisations in New South Wales, including the Aboriginal Legal Service (NSW/ACT).²² We have extracted the three-point plan below.

²⁰ NSW Parliament, Legislative Assembly Committee on Law and Safety, *Community safety in regional and rural communities, Interim report: addressing the drivers of youth crime through early intervention*, May 2025, p 8, paragraph 1.26, <<https://www.parliament.nsw.gov.au/ladocs/inquiries/3042/Report%20-%20Community%20safety%20in%20regional%20and%20rural%20communities%20-%20interim%20report%20addressing%20the%20drivers%20of%20youth%20crime%20through%20early%20intervention.pdf>>.

²¹ NSW Parliament, Legislative Assembly Committee on Law and Safety, *Community safety in regional and rural communities, Interim report: addressing the drivers of youth crime through early intervention*, p 30.

²² See Aboriginal Legal Service (NSW/ACT), *Aboriginal and legal groups horrified at secret plan to throw more children in jail*, 11 March 2024, <www.alsnswact.org.au/secret-plan-to-throw-more-children-in-jail>.

The three-point youth crime prevention plan

1. Resources allocated for local communities to support after-school, evening and weekend activities that engage at-risk young people.
2. Intensive and targeted programs and responses for at-risk children with appropriate referral services.
3. Formal community partnerships between police and Aboriginal controlled services.

The three-point plan was endorsed by 560 lawyers, community workers and academics in an open letter to the NSW Government, which opposed the initial proposal for the additional bail limitation.²³ Knowmore endorsed this open letter.

We also support the 4 priority areas identified by the Therapeutic Pathways for Children Project, which we have extracted below. The Therapeutic Pathways for Children Project is delivered by the Aboriginal Legal Service (NSW/ACT), as the justice peak on the NSW Coalition of Peak Organisations, in partnership with the Department.²⁴

²³ Aboriginal Legal Service (NSW/ACT), *Open letter to NSW Premier Minns and the Labor Government from 560 lawyers, community workers and academics*. For further discussion of the three-point youth crime prevention plan, see Knowmore, *Submission to the inquiry into youth justice in New South Wales*, pp 48-49.

²⁴ Aboriginal Legal Service (NSW/ACT), *Therapeutic pathways for children*, accessed 1 May 2026, <www.alsnswact.org.au/therapeutic_pathways_for_children>; Aboriginal Legal Service (NSW/ACT), *Therapeutic pathways for children project*, accessed 1 May 2026, p 1, <assets.nationbuilder.com/alsnswact/pages/4943/attachments/original/1776128880/Therapeutic_Pathways_for_Children_-_summary_document.pdf?1776128880>.

The 4 priority areas identified by the Therapeutic Pathways for Children Project

1. Ensuring children and young people are involved in making decisions that impact them.
2. Strengthening options to divert children away from the justice system and towards support in the community.
3. Prioritising a service system that supports children's wellbeing, instead of a criminal justice system response.
4. Ensuring the government works with ACCOs [Aboriginal Community-Controlled Organisations] in genuine partnership, providing them with meaningful funding to implement solutions.

Reforms of this nature would better achieve the policy objective of enhancing community safety than a further extension of the additional bail limitation in section 22C of the Bail Act.

We recommend that the NSW Government urgently repeal the additional bail limitation.

Should we be able to provide any further information, please do not hesitate to contact me on 03 8663 7400 or at jackie.mead@knowmore.org.au.

Yours faithfully,



JACKIE MEAD

Chief Executive Officer

ENCL.

- Attachment: Knowmore's submission to the inquiry into youth justice in New South Wales