THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: CLIC:JBjf040325

4 March 2025

The Hon. Michael Daley, MP
NSW Attorney General
GPO Box 5341
SYDNEY NSW 2001

Dear Attorney,

BAIL AMENDMENT (EXTENSION OF LIMITATION ON BAIL IN CERTAIN CIRCUMSTANCES) BILL 2025

The Law Society of NSW writes to express concern about the extension of what was intended to be a temporary, strict bail test applying to young people under section 22C of the *Bail Act 2013* (NSW) (**Bail Act**) proposed in the Bail Amendment (Extension of Limitation on Bail in Certain Circumstances) Bill 2025. For the reasons set out below, we do not support the further extension of section 22C of the Bail Act. This submission is informed by the Law Society's Children's Legal Issues, Criminal Law, Indigenous Issues and Human Rights Committees.

The Law Society's position

We are cognisant that there are genuine concerns in some regional areas in relation to youth offending behaviours, and that communities are seeking solutions. Nevertheless, the Law Society remains opposed to section 22C for the reasons expressed in our open letter to Members of the Legislative Council, dated 20 March 2024 (**enclosed** for convenience).

We consider the extension of section 22C to be an ineffective and inappropriate response to youth crime and community safety concerns. It is a measure that risks adverse impacts on vulnerable children, reduced rehabilitation prospects for children and young people engaged in anti-social or offending behaviours, and poorer outcomes for community safety in the medium and long term. We consider section 22C to be antithetical to principles contained in section 6 of the *Children (Criminal Proceedings) Act 1987,* inconsistent with Australia's obligations under international law,[1] and contrary to the NSW Government's commitments under the National Agreement on Closing the Gap, including Target 11.[2]

Section 22C was legislated to sunset after 12 months, to mitigate the 'risk of increasing the number of young people in detention and the ability for the Government to meet its Closing the Gap targets'[3]. We suggest that it does not accord with evidence-based law reform to extend section 22C for a further three years despite these

[1] See for example, *Convention on the Rights of the Child,* Article 37(b).
[2] By 2031, reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30%.
[3] NSW, *Parliamentary Debates,* Legislative Assembly, 12 March 2024, Mr Michael Daley, (14:30) online: https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/'HANSARD-1323879322-139003.

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recognised risks, and without publishing the evaluation of the provision that was promised to take place at the end of the initial 12-month period,[4] or any clear evidence that the provision has reduced youth offending. Our members report that in the past 12 months, section 22C has operated in a way that undermines proven and existing early intervention and rehabilitation initiatives that result in better outcomes for both children and community safety (more detail below).

We query the basis on which the NSW Government asserts that section 22C is 'working'.[5] Increased bail refusal of young persons accused of crime is, in our view, a short-term salve for community safety concerns and is likely to contribute to poorer outcomes for children and the safety of communities in the longer term. It is well established that the incarceration of children is associated with future offending behaviours and ongoing contact with the criminal justice system.[6] We suggest that the extension of section 22C is inconsistent with the Government's own recognition of the harm caused to children and communities by incarceration, that 'the best outcome for everyone is avoiding contact with the criminal justice system in the first place'.[7]

Inconsistent with principles of youth justice

Section 22C has been the subject of criticism from the Supreme Court of NSW since commencement in April 2024, particularly regarding the inconsistency between section 22C and section 6 of the *Children (Criminal Proceedings) Act 1987* (NSW). Lonergan J noted most recently in *TB* [2025] NSWSC 38 at [6]-[8]:

> As I already observed in April 2024 in *R v RB* [2024] NSWSC 471, and as observed by Rothman J in *R v TW* [2024] NSWSC 1504 and more recently by Yehia J in *R v BH* [2024] NSWSC 1577 ("*BH*"), the overarching obligations under s 6 of the *Children (Criminal Proceedings) Act* appear to have had violence done to them by the enactment of s 22C of the *Bail Act 2013* (NSW) last year.
>
> …
>
> Section 22C creates a tension for bail authorities, magistrates, and judges hearing release applications for children when they have been charged with certain identified types of offending whilst on bail. As each of Yehia J, Rothman J and I have observed as mentioned above, s 22C requires children to be treated less favourably, and their liberty treated less favourably, than if the same circumstances applied to a person aged 18 or older.

[4] Ibid.
[5] The Premier, Attorney General, 'Government introduces bill to extend strict bail test for young people', 19 February 2025, online: https://www.nsw.gov.au/ministerial-releases/government-introduces-bill-to-extend-strict-bail-test-for-young-people
[6] See for example, I Lambie and I Randell, 'The impact of incarceration on juvenile offenders' *Clinical Psychology Review,* Vol. 33 Issue 3, (April 2013) online: https://www.sciencedirect.com/science/article/abs/pii/S027273581300010X
[7] NSW, *Parliamentary Debates*, Legislative Assembly, 12 March 2024, page (Michael Daley, Attorney General) https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/'HANSARD1323879322-139003'.

From a rule of law perspective, we are concerned that the clear and consistent commentary from NSW's highest court that section 22C is at odds with legislated principles of youth justice appear to have had limited bearing on the proposal to extend section 22C.

Undermines Closing the Gap commitments and existing successful diversionary initiatives

In the past 12 months, section 22C appears to be preventing children from accessing existing, successful diversion and rehabilitation frameworks and services, which would otherwise contribute to community safety.

Members report that Indigenous children and young people refused bail under section 22C has caused otherwise eligible children to withdraw from participation in the Youth Koori Court, despite data demonstrating the Youth Koori Court achieves 'safety through the reduced likelihood of reoffending' by participants.[8]

Members also report that Indigenous children who have secured a bed in alcohol and other drug rehabilitation programs have been prevented from taking up these places and addressing their alcohol and other drug use in a safe setting, due to bail refusal under section 22C.

We are concerned that the extension of section 22C is proposed at a time when recent data has shown that the number of young people in detention has increased 31.6% from December 2023, an increase 'mainly due to the increase in young people on remand.'[9] Our members also report that section 22C is having a disproportionately adverse impact on Indigenous children and young people. Recent data has shown that the number of Indigenous children and young people in detention has increased since December 2023 by 21.7%, an increase wholly driven by a rise in the number of Indigenous children on remand.[10] We suggest that the significant increase in the remand population of Indigenous youth, contrary to the Government's commitment to Target 11 under the National Agreement on Closing the Gap, should instead provide further evidence for the need to replace section 22C with increased investment to support early intervention, diversion and rehabilitation in rural, regional and remote areas.

More effective approaches to youth offending and community safety

We suggest that sustainable community safety can best be achieved by supporting children and young people to find a better start to their lives, with committed investment into place-based and community-led programs that address the key drivers of youth offending. Recent data has shown that most children who come into contact with the criminal justice system in NSW exhibit intersecting and complex vulnerabilities; the majority have been victims of violence, have had significant contact with the child protection and out of home care systems, and have a parent with a history of offending.[11] We therefore suggest that to most effectively promote community safety the Government must prioritise addressing the drivers of youth crime (which are in

[8] Inside Policy, 'An evaluation of the Youth Koori Court Process', 6 June 2022, Online: https://childrenscourt.nsw.gov.au/documents/reports/An_evaluation_of_the_Youth_Koori_Court_Process.pdf
[9] BOCSAR (Jackie Fitzgerald), *Youth custody numbers in NSW up by almost a third since 2023 due to a rise in bail refusal* (BOCSAR press release, 18 February 2025).
[10] Ibid.
[11] BOCSAR (Jackie Fitzgerald), *The involvement of young people aged 10 to 13 years in the NSW criminal justice system* (BOCSAR press release, 14 August 2024).

many respects similar if not the same, as the drivers of child removal), including addressing poverty, family violence, and associated disadvantages in housing, healthcare, education and employment. As noted in our previous submissions, schools have been demonstrated to be a source of significant protective capital for vulnerable children.[12]

In this respect, we commend the Government's investment in early intervention and diversionary measures for young offenders, including the recent and welcome investment in community-led efforts to address regional youth crime in Bourke and Kempsey,[13] additional funding to support youth engagement in Moree and a new youth bail accommodation centre delivered by local Aboriginal Community Controlled Organisations.[14] However, we are concerned that the proposed extension of section 22C is likely to jeopardise, or undo, the benefits to be gained from these investments, including existing investments into successful diversionary and therapeutic services.

To more effectively address behaviours of concern and, in tandem, increase community safety in the long-term, we suggest the Government reconsider the proposed extension of section 22C. We suggest that a more effective approach could instead involve mandating and adequately resourcing intensive court-ordered bail supervision by Youth Justice for the targeted cohort of children and young people, if they are granted bail. We also support the continued investment in diversionary and early intervention measures, including investment in Aboriginal Community Controlled Organisations, consistent with NSW's obligations under Priority Reform 2 of the National Agreement on Closing the Gap.[15]

Proposed amendments to section 22C

If the proposed extension is to proceed, we suggest the Government consider, at a minimum, reducing the proposed period of extension to 12 months, together with amendments to the scope of section 22C as suggested in our previous letter. We would support the following amendments:

1. Narrowing the definition of 'relevant offences' captured by section 22C, to ensure the most serious offences of current concern to the community are targeted. It is our view that, currently, the class of offences to which the section applies is too wide, and inappropriately captures low level conduct.

   For example, the definition of 'motor theft offence' includes the offence of being a passenger in a stolen vehicle, contrary to section 154A(1)(b) of the *Crimes Act 1900* (NSW), notwithstanding that the criminality of being a passenger in a stolen vehicle is far less than that of being the driver, and that guilt is not often proven due to the difficulty of proving the passenger knew that the vehicle was stolen. Members report

[12] See for example, Law Society of NSW, *Inquiry into community safety in regional and rural communities* (Letter to Legislative Assembly Committee on Law and Safety, Parliament of NSW, 30 May 2024).
[13] The Premier, 'Local knowledge vital to addressing regional crime' (Media release, 12 February 2025).
[14] Department of Communities and Justice, 'More than $2 million in additional funding for Moree as Youth Justice NSW marks milestones' (Media release, 7 February 2025).
[15] Priority Reform 2: Increase the amount of government funding for Aboriginal and Torres Strait Islander programs and services going through Aboriginal and Torres Strait Islander community-controlled organisations.

that Children's Court Magistrates have expressed similar concerns about section 22C applying to offences under section 154A(1)(b).

2. Modifying the test to require the bail authority to consider whether the young person will commit a 'relevant offence', as defined in section 22C(6), instead of a 'serious indictable offence', per the current legislation.

   It is our view that 'serious indictable offence' captures too wide a net of offences, including less serious offences the community may not expect to be captured, such as shoplifting (section 117 of the *Crimes Act 1900*) and recklessly damaging property (s 195 of the *Crimes Act 1900*). By changing the test to "relevant offence", the provision will better target the specific offences of concern to the community.

3. Replacing "the high degree of confidence" test. We highlight the concerns expressed by Lonergan J in *RB* [2024] NSWSC 471, that:

   > The test - "a high degree of confidence" - is a test unknown to the criminal law. The test has significant potential to be unevenly applied, given the absence of any assistance as to what it means in the amending legislation, or elsewhere.[16]

   Further, this test, which is more onerous than the "show cause" test, requires the Court to treat children, a vulnerable cohort, more harshly than adults charged with the same crimes.[17] Such a result is contrary to Australia's obligations under the *Convention on the Rights of the Child* as well as youth justice principles legislated under section 6 of the *Children (Criminal Proceedings) Act 1987* (NSW).

The NSW Nationals' youth justice response

We note that the NSW Nationals have recently criticised section 22C as failing to have reduced youth crime in regional areas. The NSW Nationals have instead announced plans to put forward a Bill proposing changes to the Bail Act to stop courts granting bail to "serious repeat offenders"; changes to the principle of *doli incapax* (being the rebuttable presumption that a child aged over 10 and under 14 years is incapable of bearing criminal responsibility for their acts); and, amending the *Crimes (Sentencing Procedure) Act 1999* (NSW) to give more weight to the injury or harm suffered by the victim when sentencing offenders.[18]

From a rule of law perspective, the Law Society is unable to support these proposals. Such changes to youth bail laws would do further 'violence' to the overarching obligations under s 6 of the *Children (Criminal Proceedings) Act.* Further, the minimum age of criminal responsibility in NSW is already well below international standards,[19] and in this context, the long-standing presumption of *doli incapax* is an important safeguard from criminal sanction for children who do not have the cognitive capacity to understand the true implications of their conduct. The rehabilitation of children is best facilitated by family support and intensive

[16] See *R v RB* [2024] NSWSC 471 at [6].
[17] See *R v TW* [2024] NSWSC 1504 at [11].
[18] The Nationals, 'Nationals' plan to deal with regional crime crisis' (Media release, 24 February 2025).
[19] United Nations Committee on the Rights of the Child, *General comment No. 24 (2019) on children's rights in the child justice system* (18 September 2019) 6.

therapeutic services, not incarceration. Lastly, the emotional harm, injury, loss or damage suffered by victims of crime has long been recognised as an aggravating factor on sentence.[20] We suggest that community safety concerns are best addressed by evidence-based law reform and sustained investment in place-based, community-led programs addressing the key drivers of youth offending.

Thank you for your consideration of the issues raised in this letter. The Law Society remains available to assist in further consultations. Questions at first instance may be directed to Jade Fodera, Policy Lawyer, at jade.fodera@lawsociety.com.au or 9926 0218.

Yours sincerely,

Jennifer Ball
President

Attachment.

CC: Premier and Minister for Youth Justice.

[20] See *Crimes (Sentencing Procedure) Act 1999* s 21A(2)(g).

THE LAW SOCIETY
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Our ref: CCW:BMvk200324

20 March 2024

Open letter to Members of the Legislative Council
NSW Parliament House
6 Macquarie Street
Sydney NSW 2000

By email

Dear Members of the Legislative Council,

Bail and Crimes Amendment Bill 2024

We refer to the recent introduction of the Bail and Crimes Amendment Bill 2024 (**Bill**), and take the unusual step of addressing correspondence to all Members of the Legislative Council. Our submission is informed by the Law Society's Children's Legal Issues, Criminal Law, Indigenous Issues and Human Rights Committees.

The Law Society's position

The Law Society is cognisant that there are genuine concerns in some regional areas in relation to youth offending behaviours. We support the front-end initiatives announced by the Government in respect of strengthening social and well-being support services, as well as a roll-out of justice reinvestment grants as early as June 2024.[1] However, we are concerned that the nature of the proposed legislative reform will jeopardise any benefit arising from the early intervention approaches.

While the Government recognises that "the best outcome for everyone is avoiding contact with the criminal justice system in the first place,"[2] the proposed bail reforms are likely to achieve the opposite for as long as they are in force. We query the rationale that incarceration is an appropriate "circuit breaker" for children and young people[3] alleged to have committed particular offences, noting its inconsistency with most of the principles set out in s 6 of the *Children (Criminal Proceedings) Act 1987* (NSW), with Closing the Gap targets, and with the *Convention on the Rights of the Child*. Proceeding with the legislative reforms before any of the funding initiatives have had a chance to take effect suggests that Parliament is prepared to, in effect, sacrifice a cohort of children and young people to the long-term criminogenic effects of incarceration. We suggest that a likely unintended consequence of proceeding as proposed will be to further compromise community safety in the medium and long term.

[1] NSW, *Parliamentary Debates,* Legislative Assembly, 12 March 2024, page (Michael Daley, Attorney General) https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/'HANSARD-1323879322-139003'.
[2] Ibid.
[3] Ibid.

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In our view, the Bill is drafted too widely. In some instances, it will result in a more punitive approach than that taken for adults for equivalent offences,[4] and a number of concepts contained within it are unprecedented. The proposed test for bail is, arguably, more stringent than the "show cause" test applying to adults.

As currently drafted, it will likely result in the incarceration of children and young people who would otherwise not have been incarcerated. It is also likely to result in the incarceration of some children and young people who are unlikely to be found guilty of any offence. We note that, in practice, many charges against children and young people are ultimately withdrawn or dismissed, as they are not adequately supported by evidence. We query the wisdom of increasing the remand population of children in this way, particularly when the child remand population is already high.

In our view, the proposed reforms will also likely have the effect of adversely affecting the rehabilitation prospects for children and young people, including by blocking the ability of First Nations children and young people to access the Youth Koori Court (participants must be on bail to participate fully) or being bailed to attend rehabilitation services.

Further, from a human-rights perspective, we are concerned that restricting the ability of a young person to be granted bail in the manner proposed by the Bill may be inconsistent with Australia's obligations under the *Convention on the Rights of the Child*. Under Article 37(b), 'arrest, detention or imprisonment of a child…shall be used only as a measure of last resort and for the shortest appropriate period of time'. In our view, it is unclear whether the amendments proposed in the Bill meet this threshold. In particular, the limitation in the Bill i.e., the requirement for the bail authority to have a 'high degree of confidence' that the young person will not commit a serious indictable offence, will capture a far greater number of children and young people than those posing 'an immediate danger'.

In our view, a preferable approach would be to amend the legislation to mandate intensive court-ordered bail supervision by Youth Justice for the targeted cohort of children and young people, if they are granted bail.

For the reasons set out above, we oppose the passage of the Bill. However, noting its likely progression, we suggest some amendments for consideration.

Possible bail amendments

Class of offences

We submit that the class of offences to which the amendments apply is disproportionately and unnecessarily wide. In our view, the definition of motor theft offence in clause 22C(5) should be amended to remove reference to section 154A(1)(b) of the *Crimes Act 1900*, which relates to being a passenger in a stolen vehicle.

Further, subclauses 22C(1) and (2) should be amended to remove the references to "serious indictable offences" and replace them with references to "relevant offence".

In our view, the deletion of these references would mitigate the unacceptably broad net cast by clause 22C in respect of the class of offences affected.

[4] Inconsistently with s 6(e), *Children (Criminal Proceedings) Act 1987.*

Proposed test

The proposed “high degree of confidence” test that a child or young person will not commit a serious indictable offence is a new test in the criminal law, and it will be very difficult for bail authorities to engage with it with any certainty. This is likely to result in uneven applications of the test throughout the state. We note that such a test does not exist anywhere in the *Bail Act 2013*, the *Crimes Act 1900*, the *Crimes (Sentencing Procedure) Act 1999*, *Criminal Procedure Act 1986*, *Children (Criminal Proceedings) Act 1987* or the *Young Offenders Act 1997*.

The Government’s view is that this test is not to be a reverse onus test like the “show cause” test in the Bail Act.[5] We note the Government’s amendments, passed by the Legislative Assembly on 19 March, inserting a new clause 22C(2A) to clarify that the onus remains with the prosecution.[6]

It is worth noting that, in practice, the first bail authorities to apply the test will be police officers, who, in some rural and regional areas, are unlikely to be senior officers. In our view, the effect of the new test significantly increases the likelihood that young people will be kept in custody until they face a court, with the "contamination" effect that will result.

Further, in many places the practical result will be a young person being transported great distances, because of limited cell facilities at police stations and courthouses and the distance to the closest Youth Detention Centres. If a child or young person is subsequently granted bail, there is then the challenge of organising suitable transport to return them to their community.

In practice, even taking into account the proposed subclause 22C(2A), the new provision will likely operate more harshly than the “show cause” provisions, which at least allows for a range of factors to be considered, including factors subjective to the accused. In our view, this will have the effect of treating children and young people more punitively than the adult population (albeit in relation to remand), and will, in practice, make it more difficult for impacted children and young people to access bail than for an adult who commits a similar offence. As noted above, this is inconsistent with the established principles in s 6 of the *Children (Criminal Proceedings) Act 1987*.

The inclusion of serious indictable offences within this untested threshold broadens the net of this reform far wider than the stated intention. It would capture too wide a variety of offences, including numerous low level offences, such as shoplifting (s 117 *Crimes Act 1900*), “tap and go” credit card fraud (s 192E *Crimes Act 1900*) and recklessly damaging property (s 195 *Crimes Act 1900*). Among other things, we are concerned that the inclusion of serious indictable offences will have the effect of deepening social disadvantage, for example, if the bail authority has a concern that the child or young person might steal food while on bail, they may feel required to refuse bail.

Our members advise that, in their view, it is likely that this test will result in most, if not all, children and young people affected by new clause 22C being refused bail, including those who may not be found guilty of the alleged offences, and those who will not receive a custodial sentence even if found guilty.

[5] Second Reading speech, Attorney General, 12 March 2024.
[6] Government proposed amendments to the Bail and Crimes Amendment Bill 2024, moved in the Legislative Assembly, c2024-024G, 19 March 2024, online: https://www.parliament.nsw.gov.au/bill/files/18563/GOV%20-%20c2024-024G.pdf.

'Performance crime' offences

The Law Society is not persuaded that the creation of a new offence is necessary, nor that it will effectively address the conduct in question. We do not support creating additional complexity in what is already a complex framework of criminal offences.

The type of conduct to which the proposed offence is aimed would already constitute an aggravating feature in sentencing proceedings for any offence. At a minimum, it would be conduct relevant to a lack of remorse and the need for general and specific deterrence.

We also query the deterrent effect of the proposed new offence. Even if a person knew about the existence of the offence, if the prospect of being detected for the principal offence by advertising their participation in it does not deter an offender, an additional offence is similarly unlikely to.

If the Bill is to proceed, we suggest that the definition of "advertise" in clause 154K(4) be clarified to require an element of boasting or bragging. The proposed definition of "advertise" is currently drafted so broadly that it may catch, for example, posting on social media about conduct for which the child or young person is expressing remorse (or any other instance in which the child or young person is not seeking to glorify the conduct).

We note that this proposed offence is novel in Australian criminal law, and for this reason suggest that it be reviewed in, at most, 12 months. Clause 154L should be amended to reflect this.

Commencement

The Bill provides that, in relation to the proposed amendments to the *Bail Act 2013*, "an amendment made to this Act by the *Bail and Crimes Amendment Act 2024* extends to offences committed or alleged to have been committed, or charged, before the commencement of the amendment."

As a matter of principle and on a rule of law basis, the Law Society opposes retrospective application of legislation. In our view, this provision should be replaced by prospective transitional provisions. If the proposed amendments pass and are to commence, they should not commence until after the other proposed community building and support service initiatives have been progressed, and certainly no earlier than June 2024 (noting the proposed earliest roll out of justice reinvestment funding). We suggest that, in respect of youth offending, the more appropriate and effective circuit breakers have already been demonstrated by the success of initiatives such as the work undertaken by the community as a result of the Maranguka Justice Reinvestment project, and that initiatives such as these should be given time to take effect.

Legislative process

The Law Society takes this opportunity to express its sincere disappointment at the lack of a consultative process leading to the introduction of the Bill. Unfortunately, given the focus on rural locations, and the inevitable impact of new criminal procedural provisions on the disadvantaged, it is likely that First Nations children and young people will be disproportionately affected by the proposed reforms. We therefore query why this process has been conducted so inconsistently with the partnership and co-design requirements of the National Agreement on Closing the Gap, and seemingly without regard for the likely impacts on the Closing the Gap targets. Critically, consultation and co-design with Aboriginal community-controlled organisations (**ACCOs**) should have been an absolute priority in developing this reform.

Issues we have identified in this letter, including in respect of impacts on rehabilitation and restricting access to the Youth Koori Court, could have been identified and addressed if ACCOs had been engaged at an earlier stage.

An earlier and more comprehensive consultation process may have also assisted in the development of more nuanced measures to, for example, effectively engage with those impacted children and young people who are affected by domestic and family violence, or who have learning support needs, or who are in out-of-home care, or who may have significant underlying therapeutic needs, including intellectual or cognitive disabilities.

Opposition amendments

We note the Opposition moved amendments in the Legislative Assembly, although these were not passed.[7] We offer the following comments, in the event the amendments are moved again in the Legislative Council.

We agree with the need to review the impact of the Bill, but suggest that the remit of the Bureau of Crime Statistics and Research is insufficient for a meaningful review. A review of the nature proposed by the Opposition is likely to provide an incomplete picture that has limited utility for future effective policy and legislative decision making.

Review of the impacts should, in the shorter term, take into account the wider impacts on the entire Justice cluster, including the cost of increased levels of remand for children and young people. In the medium to longer term (after the expiry of the 12 month term), the impacts on affected families, communities and individuals of disconnecting incarcerated young people from their families and communities should be reviewed, including the criminogenic consequences of even short periods of remand custody. This should include impacts on Closing the Gap targets, as well as any impacts on the life expectancy gap itself, between First Nations and other Australians in the affected cohort of children and young people.

We oppose the amendments moved in respect of the proposed performance crime offences, aimed that expanding the new offence to serious indictable offences. In our view this is an unnecessary expansion, far beyond what was intended to be a targeted reform exercise, and will dramatically widen the impact of the negative aspects described above.

Thank you for your consideration of these issues. The Law Society reiterates its in-principle position that any proposal to make accessing bail more difficult for children and young people is a retrograde step. We remain ready to assist in respect of improving outcomes both for children and young people, and affected communities.

Yours sincerely,

Brett McGrath
President

[7] Opposition proposed amendments to the Bail and Crimes Amendment Bill 2024, moved in the Legislative Assembly, c2024-028E, 19 March 2024, online: https://www.parliament.nsw.gov.au/bill/files/18563/OPP%20-%20c2024-028E.pdf.