

The document was current at March 2023, and explains changes made at that time. For up-to-date information, please search 'Changes to the *Youth Justice Act 1992*'.

Electronic monitoring devices – information for legal stakeholders

Updated June 2023

The *Strengthening Community Safety Act 2023* (SCS Act) was passed by the Queensland Parliament on 16 March 2023 and commenced on 22 March 2023, making changes to the *Youth Justice Act 1992* (YJA), the *Bail Act 1980*, the *Police Powers and Responsibilities Act 2000* and the Criminal Code.

One of the major changes is the extension of the trial of electronic monitoring as a condition of bail until 30 April 2025 (YJA s.52AA(10) – four years from the provision's original commencement date in 2021).

The legislation gives the court the ability to impose a condition that a young person wear an electronic monitoring device while released on bail.

A monitoring device cannot be imposed as a condition of watchhouse bail (YJA s.52A(5)).

About electronic monitoring devices

An electronic monitoring device (sometimes referred to as electronic monitoring or GPS electronic monitoring) is a device fitted to a young person's ankle that:

- monitors their location using GPS coordinates
- provides real-time alerts of any unauthorised movements.

A beacon is located at the young person's home.

Eligibility

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

- be at least 15 years of age

- be appearing for a 'prescribed indictable offence' (see below)
- have previously been found guilty of at least one indictable offence
- live within one of the prescribed locations – see below.

Trial Sites

The young person must live in a geographic location prescribed by regulation (see *Youth Justice Regulation 2016* (YJ Reg) s.4B & schedule 1AA). Only prescribed courts can order electronic monitoring as part of bail (YJ Reg s.4B).

Five trial sites commenced 17 May 2021:

- Townsville
- North Brisbane
- Moreton
- Logan
- Gold Coast

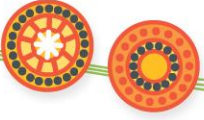
A further three sites commenced 19 June 2023:

- Toowoomba
- Cairns
- Mt Isa

Court must order a suitability assessment report

Before an electronic monitoring device is ordered as a condition of bail, the court must order the chief executive ('Youth Justice') to give to the court a suitability assessment report (YJA s.52AA(3)).

The suitability assessment report contains Youth Justice's opinion of the young person's suitability for a monitoring device. Youth



Justice must provide the report within the timeframe ordered by the court or as soon as practicable (YJA s.52AA(4)).

The assessment will consider:

- the young person's:
 - capacity to understand the bail conditions
 - ability to comply with the conditions (including if they have stable accommodation, a mobile phone, a reliable electricity supply, etc)
- the level of parental support (including a parent's willingness to support the young person's compliance, to inform Youth Justice or police of a change of circumstances or any breaches of the conditions)
- anything else the court considers relevant

Prescribed indictable offences

The SCS Act amended the dictionary (YJA schedule 4) definition of prescribed indictable offence for other purposes, but that does not apply for the purpose of electronic monitoring. In order to preserve the integrity of the trial. The original definition has been inserted into s.52AA (s.52AA(11)), to apply for electronic monitoring only.

A prescribed indictable offence for electronic monitoring purposes is:

- a life offence
- an offence which attracts 14 years imprisonment (other than low level drug possession), and
- specified other offences against the Criminal Code.

The SCS Act also created new circumstances of aggravation for the offence of unlawful use of a motor vehicle, some of which attract 14 years for an adult (Criminal Code s.408A(1C) – at night, with violence, armed, in company, and property damage). These are also

prescribed indictable offences due to their 14-year penalty.

Roles and responsibilities

QPS & QCS

If a monitoring device is ordered, the Queensland Police Service will fit and remove the device. Queensland Corrective Services will remotely monitor the device, contact the young person in relation to alerts and notifications from the device, and give relevant information to Youth Justice and QPS (YJA s.52AA(7) & (8)).

Youth Justice

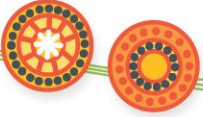
On request, Youth Justice court officers will prepare or arrange suitability assessment reports. These reports can take time to prepare (e.g. assessing the young person's home environment and identifying whether there is the necessary 3G coverage in places the young person will need to visit.

Youth Justice also has a significant role in supporting young people's compliance with electronic monitoring devices. This happens through Co-responder activities (with police) and other support from Youth Justice Service Centres.

Conditions that can be imposed on a bail undertaking

When a court makes a bail undertaking that imposes an electronic monitoring device, it can impose any condition it considers necessary to facilitate the operation of the monitoring device (YJA s.52AA(2)). This has not been changed by the SCS Act. Typical conditions include:

- You must attend at **<stated place>** to be fitted with a monitoring device at **<stated time/ timeframe>** . You must wear the monitoring device while you are released on bail and comply with the attached monitoring device conditions.
- You must wear the electronic



monitoring device tag on your ankle.

- You must look after all the electronic monitoring equipment police will provide to you – an ankle strap, an ankle smart tag, the charger, a charging dock and a radio frequency beacon.
- You must not break, cut, damage or remove, or allow anyone else to break, cut, damage or remove the device, or any part of the equipment provided with the device.
- A medical officer acting in an emergency, or a police officer, are the only people who can remove the device.
- You must charge the device for at least 2 hours continuously every day and make sure that it is always charged
- If the device or equipment does not work, you must call the watchhouse that supplied it.
- If a police officer asks to check the device or equipment you must allow them to do so.
- You must answer your mobile phone from the police or Queensland Corrective Services. They may text or call you.
- You must, if asked by a police officer or someone from Queensland Corrective Services *[which monitors the devices]*, do what is asked of you to make sure the device works properly.
- When you are no longer on bail you must go to the watch house to have the device removed and return all of the equipment to the police.
- *[If there is a curfew:]* You must notify the Youth Justice Co Responder Team **<(ph: local CRT number)>** before leaving home during **<curfew period>**,

when you are permitted to do so for an activity or in company with a person specified in the curfew condition *[this is so that police know not to respond to alerts generated by the device]*.

Evaluating the trial

A review of the trial conducted late in 2022¹ found that while there are some benefits associated with electronic monitoring, it was not possible to confirm its effectiveness in deterring offending behaviour, nor whether any changes to offending could be attributed to engagement with the trial, because of the small sample size up to that point.

However, the number of electronic monitoring conditions began to increase towards the end of the first two years, and there is reason to expect that a further trial period and the commencement of the additional sites (Mount Isa, Cairns, and Toowoomba) on 19 June 2023 will result in a sample size that will reveal more useful information.

A further review will be conducted towards the end of the extended period.

More information

For further information about the *Strengthening Communities Safety Act 2023* please email Youth Justice Policy, Strategy and Legislation (YJPSL) at OSED_YJPSL@cyjma.qld.gov.au.

YJPSL cannot give legal advice but may be able to assist with other questions.

¹ <https://www.cyjma.qld.gov.au/about-us/performance-evaluations/electronic-monitoring-trial-evaluation>