

Sponsor: Skyline Foundation

Refuter: Melbourne High School (Changemakers)

A Bill for an Act relating to Raising the Age of Criminal Responsibility.

To be enacted by the YMCA Victoria Youth Parliament;

Raising the Age of Criminal Responsibility Bill 2021

A Bill for an Act to raise the age of criminal responsibility from 10 to 14 and seek to establish a Victorian Youth Justice and Advocacy Body to process and review current and emerging child offenders. This Bill aims to reduce the number of children in juvenile detention as well as establishing rehabilitation initiatives and education reforms to reduce the rate of reoffending amongst children.

This Bill seeks to address the lack of rehabilitative and support programs within Victoria's juvenile detention system, as well as the issue of the age of criminal responsibility; ultimately, raising the standard in which juvenile detention systems operate and thus reducing the chances of children reoffending.

PART I—Preliminary

Clause 1 Purpose

The main purposes of this Act are—

- (a) to increase the age of criminal responsibility from 10 to 14;
- (b) to remove children between ages the of 10 and 14 from the juvenile detention system;
- (c) to create pathways for children to reintegrate into wider society;
- (d) to create appropriate support networks which foster growth and development in children.

Clause 2 Commencement

This Bill shall commence upon receiving assent from the Youth Governor of Victoria.

Clause 3 Definitions

In this Bill, we define the following to mean—

- (a) **child** means a person who is aged above 14 and under 18 at the time where they were alleged to have committed an offence;
- (b) **criminal responsibility** means the age in which a child is considered by the law to have understood that the actions they have committed are wrong and can face criminal charges;
- (c) **DJCS** means Department of Justice and Community Safety;
- (d) **juvenile detention system** means youth detention centres and the juvenile justice system;
- (e) **child offender** means children that have been found guilty in a court of law;
- (f) **major offences** means Category A and B serious youth offences as per section 3(1) of the **Sentencing Act 1991**;
- (g) **minor offences** means all other offences not classed as a major offence;
- (h) **VYJAB** means the Victorian Youth Justice and Advocacy Body.

Part II—Establishment

- Clause 4 Raising the age of criminal responsibility from 10 to 14 in Victoria**
- 4.1 All children under the age of 14 shall no longer be charged under criminal responsibility.
- 4.2 All children under the age of 14 alleged to have committed a criminal offence shall not be detained in the juvenile detention system.
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- Clause 5 Establish a Victorian Youth Justice and Advocacy Body**
- 5.1 The Victorian Youth Justice and Advocacy Body (VYJAB) shall be established and contain members from each of the following—
- (a) Department of Justice and Community Safety (DJCS);
 - (b) Department of Families, Fairness and Housing (DFFH);
 - (c) Parkville College collaborators;
 - (d) Victorian Aboriginal Heritage Council;
 - (e) Youth Affairs Council Victoria.
- 5.2 VYJAB shall have the right to process and review current and subsequent child offenders, and any child deemed at risk of offending.
- 5.3 VYJAB reserves the right to research and implement innovative juvenile reforms which promote rehabilitation.
- 5.4 If VYJAB finds a charge proven against a child it may, whether or not it proceeds to conviction, do one or more of the following—
- (a) For minor offences undertake a compulsory rehabilitation program as outlined in Clause 8 with the option to attend the educational reform outlined in Clause 9 at the discretion of the child;
 - (b) For major offences undertake a compulsory rehabilitation program as outlined in Clause 8 AND attend educational reform outlined in Clause 9.
- 5.5 VYJAB reserves the right to determine the minimum length of time a child must participate in educational reform.
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- Clause 6 Children currently detained in juvenile detention system**
- 6.1 All persons between the ages of 10 and 14 who are currently incarcerated in the juvenile detention system shall have their cases reviewed by VYJAB
- 6.2 All cases shall be assessed on individual merit for appropriate rehabilitation programs as outlined in Clause 8.
- 6.3 The VYJAB shall allow for disputes of final decisions, with a separate independent team to make the final decision.

Clause 7 Children in the process of being admitted to juvenile detention system

- 7.1 All persons between the ages 10 and 14 that have an ongoing court case shall have their trial carried out to completion—
- (a) any child found guilty shall be reviewed by VYJAB on a case by case basis and shall then be assessed and processed in line with Clause 8.

Clause 8 VYJAB Rehabilitation Program

- 8.1 VYJAB shall create a rehabilitation day program catering to all child offenders and at-risk children between the ages of 10 and 14—
- (a) the program shall be structured to provide ongoing psychological and social support to each participant.
- 8.2 The rehabilitation program shall be flexible in catering for the different physical, mental, socioeconomic, and cultural needs of each child.
- 8.3 The rehabilitation program shall assign a social worker who shall work closely with each child to establish an individual-specific plan including rehabilitation goals and steps—
- (a) the social worker shall monitor the child's development with periodic check-ins within the program, including at-home visits to review the child's safety, well-being and progress;
 - (b) the check-ins shall occur on a monthly basis with additional check-ins as deemed necessary by the social worker.
- 8.4 The rehabilitation program shall provide and assign a clinical or developmental psychologist to each child—
- (a) psychologists shall conduct psychological evaluations every three months to track the individual's progression;
 - (b) psychologists shall provide appropriate therapy suited towards each child. This may include individual or group counselling, family therapy, and behavioural programs as suitable on a case-by-case basis.
 - (c) appropriate therapy can include but is not limited to—
 - (i) intensive multimodal cognitive behavioral therapy;
 - (ii) anger management programs.
- 8.5 The rehabilitation program shall provide tools and opportunities for children to connect with and build support networks within the community.

Clause 9 Access to an education for child offenders between age 10 and 14

- 9.1 Child offenders between the ages of 10 and 14 shall be guaranteed access to a specialist education provider that enables them to identify and work towards their education and career goals.
- 9.2 Each child shall work in collaboration with educators to create a specialised and individual-specific plan that supports the development and identification of goals, future education destinations, achievements, and formal and informal skills.
- 9.3 In this plan, each child shall identify an ideal education destination to transition into including the following —
 - (a) mainstream primary education;
 - (b) mainstream secondary education;
 - (c) mainstream secondary education with an optional vocational training (VET) attachment for children about to enter Year 10.
- 9.4 Children with culturally and linguistically diverse backgrounds shall receive culturally relevant support—
 - (a) the social worker designated to children of culturally and linguistically diverse backgrounds shall be required to undergo cultural responsiveness training with refresher courses every three months arranged by VYJAB and funded by DJCS.
- 9.5 The education provider shall teach a curriculum inclusive of but not limited to the following —
 - (a) affirmative mental health education;
 - (b) comprehensive and inclusive sexual and reproductive education;
 - (c) Respectful Relationships program (RREiS);
 - (d) age appropriate financial literacy programs;
 - (e) career and pathways development programs.
- 9.6 The duration of study with this specialist education provider may be extended by an individual's parent or guardian, or their social worker, prior to transitioning to a mainstream education provider.