

# Change bail laws and end cycle of homelessness



The volatile and layered issues in the Juvenile Justice Report have been tabled in NSW parliament and, while both sides accepted all recommendations, there is still much work to do to make changes to legislation.

While the headline story of the report has been rightly around raising the age of criminal responsibility, there's another vitally important issue that, if left unchecked, will result in thousands more young people remaining in custody simply because they don't have a home to return to.

Hundreds of unsentenced adolescents, who can be as young as 10 under current law, experiencing poverty, domestic and family violence, relationship breakdown and trauma are detained in NSW every year because they can't provide an appropriate bail address.

In 2019-20 alone, 236 highly vulnerable children were held in youth detention under Section 28 of the Bail Act (NSW), thanks in part to a catastrophic shortage of accommodation for young people.

Family members, as well as case-workers and foster carers, can take out an apprehended violence order (AVO) against adolescents in their care if they have committed or are likely to commit a violent offence.

If they breach these orders, they can be prevented from returning home or may have carers reluctant to take them back. Once teens are homeless, it is very difficult for them to comply with bail conditions. Magistrates may refuse bail under Section 28 of the Bail Act due to accommodation concerns and lack of parental supervision, and given the extreme lack of accommodation support, thousands of young people remain in the justice system for lack of any other housing options.

At this stage, the Bail Assistance Line may seek alternative accommo-

modation through a specialist homelessness service, but placements are often difficult to obtain. A recent evaluation found the service diverted less than 10 per cent of homeless young people from detention.

In many cases, outside help from family members simply isn't an option for young people in custody. As one Youth Justice Community Officer from western NSW described, "a lot of the families get to the point

where they think (the child) needs to learn their lesson and stay in custody for a while."

Section 28 of the Bail Act is a crucial bottleneck in the rehabilitation and support that disenfranchised young people need to break this cycle. In its current form, the act can literally render young people homeless.

The report recommends the NSW government amend the Bail Act to remove the offence of breaching a bail condition for juveniles. This will decrease the number of homeless adolescents entering detention simply because they lack the necessary support to meet bail conditions.

These recommendations are backed up by real-world evidence: in NSW, bail conditions were relaxed during Covid-19 due to pandemic restrictions with the result being a reduction in reoffending and no spike in

arrests. Victoria dropped similar bail conditions with a comparable reduction in reoffending.

There is also no evidence to suggest monitoring, arresting and detaining young people when they breach bail conditions reduces reoffending. Given this, the NSW government should follow Victoria's example and exempt juveniles from the offence of breaching a condition of bail.

As politicians sink their teeth into this issue, it's important to remember the young vulnerable people at the centre of the debate. These are young, marginalised and disenfranchised people in the cycle of abuse, disability, incarceration and homelessness. Amendments to bail laws are a crucial step towards breaking that cycle.

**Pam Barker is the CEO of Yfoun-**

**dations, the NSW peak body for youth homelessness.**