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Committee Secretary
Senate Legal and Constitutional Affairs Committee

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Dear Committee

Thank you for the invitation to make a submission to the inquiry into Australia's youth justice and incarceration system. I have attached a report that might help the committee.

Trevitt and Browne (2020) *Raising the age of criminal responsibility (relating to terms of reference a, b, d and f)*

This report describes the moral, medical, and legal arguments and evidence for raising the age of criminal responsibility from 10 years, including the disproportionate impact of the existing criminal legal system on Aboriginal and Torres Strait Islander young people. Polling conducted for this report showed that most Australians support raising the age of criminal responsibility to 14.

There has been limited progress since the report's publication.

Though a 2020 report prepared for the Council of Attorneys-General (CAG) recommended raising the age of criminal responsibility to 14 without exceptions, this never made it to CAG for consideration and few jurisdictions have made progress in this direction.ⁱ

In the jurisdictions that have made progress, these reforms have often been scaled back, accompanied by expanded police powers over children, or may even be reversed.

The current status of the age of criminal responsibility in each jurisdiction is summarised on the next page.

The Institute would welcome the opportunity to discuss research findings in further detail at any committee hearing, should there be one.

Regards,

Bill Browne
Director – Democracy and Accountability
The Australia Institute

Current status of the age of criminal responsibility in Australia

Jurisdiction	Minimum age of criminal responsibility	Further details
Commonwealth	10 years ⁱⁱ	No public commitments.
Australian Capital Territory	12 years ⁱⁱⁱ	After 1 July 2025 this will rise to 14 years with exceptions for listed 'serious offences' including murder. ^{iv}
New South Wales	10 years ^v	No public commitments.
Northern Territory	12 years ^{vi}	New Government has committed to lowering to 10 years. ^{vii}
Queensland	10 years ^{viii}	No public commitments.
South Australia	10 years ^{ix}	Proposal to raise the age to 12 has undergone public consultation, outcome not yet announced. ^x
Tasmania	10 years ^{xi}	Committed to raise age to 14 by 2029. ^{xii}
Victoria	10 years ^{xiii}	By 30 September 2025 this will rise to 12 years. ^{xiv} Previous commitment to raise age to 14 has been dropped. ^{xv}
Western Australia	10 years ^{xvi}	No public commitments.

ⁱ Age of Criminal Responsibility Working Group (2020) *DRAFT Final Report 2020*, <https://www.ag.gov.au/sites/default/files/2022-12/draft-report-2020-age-of-criminal-responsibility.DOCX>

ⁱⁱ *Crimes Act 1914* (Cth) ss 4M, 4N; *Criminal Code Act 1995* (Cth) sch, ss 7.1–7.2

ⁱⁱⁱ *Criminal Code 2002* (ACT) ss 25, 26

^{iv} *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023* (ACT) ss 2, 93, 94

^v *Children (Criminal Proceedings) Act 1987* (NSW) s 5

^{vi} *Criminal Code Act 1983* (NT) s 38

^{vii} Parkinson (2024) 'NT won't waver on lowering criminal responsibility age', *The Canberra Times*, <https://www.canberratimes.com.au/story/8766003/nt-wont-waver-on-lowering-criminal-responsibility-age/>

^{viii} *Criminal Code Act 1899* (Qld) s 29

^{ix} *Young Offenders Act 1993* (SA) s 5

^x Government of South Australia: Attorney-General's Department (n.d.) *Minimum age of criminal responsibility*, <https://web.archive.org/web/20240912231151/https://www.agd.sa.gov.au/law-and-justice/legislation/minimum-age-of-criminal-responsibility>

^{xi} *Criminal Code Act 1924* (Tas) s 18

^{xii} Tasmanian Government: Department for Education, Children and Young People (2023) *Youth Justice Blueprint 2024–2034*,

<https://publicdocumentcentre.education.tas.gov.au/library/Shared%20Documents/Youth-Justice-Blueprint.pdf>

^{xiii} *Children, Youth and Families Act 2005* (Vic) s 344

^{xiv} *Youth Justice Act 2024* (Vic) ss 2, 11

^{xv} Eddie and Carmody (2024) 'Victoria abandons promise to raise age of criminal responsibility to 14', *The Age*, <https://www.theage.com.au/politics/victoria/victoria-abandons-promise-to-raise-age-of-criminal-responsibility-to-14-20240813-p5k1wq.html>

^{xvi} *Criminal Code Act Compilation Act 1913* (WA) s 29