



Raise the Age of Criminal Responsibility from 10 to 14 Years

Purpose

VACCHO believes the age of criminal responsibility should be raised from 10 to 14 years of age in light of the impact on vulnerable young people and in particular Aboriginal populations.

Australia has a criminal justice approach when dealing with children who commit offences. Children are regularly prosecuted in criminal courts.

Children in the between 10 and 14 years old, can currently be convicted of criminal offences.

From an international perspective the minimum age level in Australia exposes children to the criminal justice system at too young an age.

Contact with the criminal justice system stigmatises young people and makes it more likely that they will have ongoing contact with the system.

The current minimum age of criminal responsibility in Victoria is 10.

The United Nations Committee on the Rights of the Child states that “internationally the minimum age level of criminal responsibility varied from “a very low age level of 7 or 8 to the commendable high level of age 14 or 16.” The Committee concluded “that a minimum age of criminal responsibility below the age of 12 years is considered by the Committee not to be internationally acceptable.”

The likelihood of a child or young person progressing from the Children’s Court to the adult criminal jurisdiction had a direct correlation with age at ‘entry’ into the criminal courts.

The younger that children are at their first sentence, the more likely they are to reoffend and be sentenced to an adult sentence of imprisonment before their twenty-second birthday.

After accounting for the effect of other factors, each additional year in age at entry into the criminal courts is associated with an 18 per cent decline in the likelihood of reoffending.

Family violence and involvement with child protection system increases the likelihood of a child becoming involved with the justice system.

The risks are greater for Aboriginal children, whose first interaction with the justice system may be as victims of violence or abuse. This intergenerational cycle of disadvantage and trauma is a compelling reason for prevention, early intervention and diversion for Aboriginal children and young people.

Since 2007–08, the rate of youth offenders aged 10–17 years who receive a caution, arrest, summons or other outcome police has decreased but while the Aboriginal youth offender rate fell by 24 per cent, the non-Aboriginal rate fell by more than 58 per cent.

Aboriginal young people are 13 times more likely than non-Aboriginal young people to be under justice supervision on an average day in Victoria and in Australia Aboriginal people make up 3% of the overall population but they are 27.4% of the National prison population

A Victoria Legal Aid review found that children from out-of-home care are over-represented in our criminal justice:

- Almost one in three young people they assist with child protection matters who are placed in out-of-home care later returns to them for assistance with criminal charges;
- Young people they assist placed in out-of-home care are almost twice as likely to face criminal charges as those who remain with their families;
- Young people they assist placed in out-of-home care are more likely than other children to be charged with criminal damage for property-related offending;

The recommendations of the Royal Commission into the Protection and Detention of Children in the Northern Territory support raising the Age of Criminal Responsibility and invest in more prevention and alternatives to a criminal sentence;

1. *Recommendation 27.1* Section 38(1) of the *Criminal Code Act* (NT) be amended to provide that the age of criminal responsibility be 12 years.
2. *Recommendation 25.39* Territory Families in consultation with Aboriginal health and legal assistance organisations and NTLAC undertake an immediate assessment of the diversion program requirements available to the Youth Justice Court pursuant to section 64 of the *Youth Justice Act* (NT) and make available the necessary resourcing to support their implementation and delivery.

The 'Youth Justice Review and Strategy' 2017 Report into the Victorian Youth Justice System urges 'detention as a last option and diversion programs for young Aboriginal people.

VACCHO believes there should be a greater focus and investment in evidence based intervention programs that address the causes of offending behavior and provided supports and interventions that reduce, rather than increase, the likelihood of reoffending.