

Resolution of Council

8 April 2024

Item 13.2

NSW Bail and Crimes Amendment Bill

Moved by Councillor Davis, seconded by Councillor Kok –

It is resolved that:

(A) Council note:

- (i) the 21 November 2022 Council resolution, arising from a Lord Mayoral Minute, which welcomed the formation of the bipartisan Justice Reform Initiative, and expressed support for the Initiative’s campaign for evidenced-based criminal justice reform, reduced incarceration; and a greater emphasis on addressing the sources of disadvantage that lead to, and flow from, incarceration;
- (ii) on 3 April 2024, the Minns Labor Government’s Bail and Crimes Amendment Act 2024 became law after passing the NSW Parliament with the support of the Liberal and National Parties;
- (iii) this Act:
 - (a) creates sweeping new changes to youth bail laws that will make it harder for children aged over 14 years and under 18 years to get bail;
 - (b) inserts a new section 22C into the Bail Act 2013 (NSW) which will require a bail authority be satisfied of an extra test for children aged 14 to 18 while on bail for alleged motor theft or a serious break and enter offence; and
 - (c) introduces the new offence of “performance (‘post and boast’) crime” into the Crimes Act 1900 (NSW) which imposes an additional penalty of two years imprisonment on persons who disseminate material, for example by social media, showing them breaking and entering or committing a motor theft offence;

- (iv) the Bill was strongly opposed by law and Aboriginal Community Controlled Organisations including the Law Society of NSW, the Aboriginal Legal Service NSW/ACT, NSW Aboriginal Lands Council, Deadly Connections Community Justice Services, the Justice Reform Initiative and 560 legal practitioners, community workers and academics working across the fields of law, criminology, social sciences and Indigenous studies; and
- (v) issues raised by these groups and individuals include:
 - (a) a grave concern that an increasing number of children may be denied bail, enmeshing them in the criminal justice system with the risk of increasing rates of incarceration and exacerbating pathways to adult imprisonment;
 - (b) overwhelming evidence by youth detention management, children's commissioners, outside experts and young people that youth detention does not work; and
 - (c) while applying to all young people, the impact of the new laws will be disproportionate and potentially disastrous for young people of colour, Aboriginal and Torres Strait Islander children and young people in both regional and inner city areas;
- (B) Council welcome the announcement of increased funding for community services to regional NSW, noting that these services will be undermined by the implementation of the Bail and Crimes Amendment Act;
- (C) Council endorses the opposition to the Bail and Crimes Amendment Act noted above, and joins with the Aboriginal Legal Service NSW/ACT and other organisations in calling for its repeal;
- (D) Council supports the implementation of the following three point youth crime prevention plan put forward by a coalition of Aboriginal and legal organisations:
 - (i) resources allocated for local communities to support after-school, evening and weekend activities that engage at-risk young people;
 - (ii) intensive and targeted programs and responses for at-risk children with appropriate referral services; and
 - (iii) formal community partnerships between police and Aboriginal controlled services; and
- (E) the Lord Mayor be requested to write to the Premier, the Attorney-General and the Minister for Aboriginal Affairs conveying the terms of this motion.

The motion was carried on the following show of hands –

Ayes (8) The Chair (the Lord Mayor), Councillors Chan, Davis, Ellsmore, Kok, Scott, Weldon and Worling

Noes (2) Councillors Gannon* and Jarrett*.

Carried.

*Note – Councillors Gannon and Jarrett abstained from voting on this matter. Pursuant to the provisions of clause 10.4 of the Code of Meeting Practice, Councillors Gannon and Jarrett are taken to have voted against the motion.