

**BAIL AMENDMENT (EXTENSION OF LIMITATION ON BAIL IN CERTAIN CIRCUMSTANCES) BILL 2025**

**STATEMENT OF PUBLIC INTEREST**

**Need: Why is the policy needed based on factual evidence and stakeholder input?**

The temporary bail test in section 22C of the *Bail Act 2013* was introduced in response to rising community concerns about youth crime, particularly break and enter offences and motor theft offences committed by young people in regional New South Wales. There were particular concerns about young people being released on bail despite repeat offences of these types.

Section 22C was introduced as an immediate, temporary legislative measure, while a broader package of support-based responses was being developed and implemented to address youth offending behaviour. The test requires a bail authority to refuse bail unless the bail authority has a 'high degree of confidence' that the young person will not commit a further serious indictable offence while on bail, subject to any proposed bail conditions.

Unless extended, 22C will sunset on 4 April 2025. Community concern about serious repeat young offenders committing break and enter and motor theft offences remains high.

The extension of the provision is intended to support public safety and address ongoing community concern about youth crime by retaining the higher bar to bail being granted to a young person aged 14 to 17 charged with committing a 'serious break and enter offence' or 'motor theft offence' while on bail for another offence of that type.

The extension will allow sufficient time for the continued implementation of broader community-based initiatives to respond to that crime. Further funding and expansion of programmatic responses to youth offending has been announced and more time is required to implement these initiatives. The extension will also enable analysis of the impact of the provision over time, prior to the proposed sunset period.

A consortium of three local Aboriginal organisations has been chosen to design and deliver Moree's Bail Accommodation Program which is anticipated to open around the middle of this year. The Safe Aboriginal Youth program and Case Work Support program will commence operation in Moree in April 2025. In February 2025 NSW Government committed \$4 million over five years to Stronger Places, Stronger People program in Kempsey and Bourke.

The Parliamentary Inquiry into Community Safety in Regional and Rural Communities which held community hearings in regional towns on Bourke, Kempsey and Broken Hill is due to report back in November 2025. The report is expected to provide valuable insight and inform further work to be done to reduce youth offending.

The Bill extends the operation of section 22C to allow time to address the enduring community concerns while the broader, long-term initiatives are implemented to respond to that crime. The Bill also contains a statutory review provision.

**Objectives: What is the policy's objective couched in terms of the public interest?**

This Bill aims to support public safety and address ongoing community concern about youth crime, particularly in regional NSW, and to allow sufficient time for the continued implementation of broader community-based initiatives to respond to youth offending. It will also enable more detailed analysis of the impact of the provision over time.

**Options: What alternative policies and mechanisms were considered in advance of the bill?**

When introduced in 2024, section 22C was accompanied by a suite of other mechanisms and programs aimed at addressing youth crime. Further funding has recently been committed to expand these projects and develop additional initiatives in regional towns most affected by youth crime.

Consideration was given to allowing the clause to sunset on 4 April 2025 or making it permanent. After careful consideration, it was determined that neither allowing the test to sunset nor embedding it permanently would best serve the public interest at this time. Extending the test for an additional three years addresses current community needs.

**Analysis: What were the pros/cons and benefits/costs of each option considered?**

The Bill will address immediate community concerns while acknowledging competing interests. The extension will complement the continued work across Government and the community to address youth and regional and rural crime, particularly community based and therapeutic responses.

Section 22C is a temporary measure targeted to address a specific issue. The Government considers that allowing the provision to sunset would not be in the public interest, noting community concern about youth offending whilst on bail for the break and enter and motor theft offences remains high. However, as section 22C was not designed to be retained as a permanent feature of the NSW bail framework, it should not be made permanent. Additionally, the test would have detrimental effects on Closing the Gap targets if embedded permanently.

The available data on youth crime trends since the implementation of section 22C is insufficient to properly assess the impact of the provision. Given the ongoing concerns and the limited data available, the Government considers that section 22C should be extended to expire on 4 April 2028.

The proposed time-limited extension will allow for more comprehensive data analysis so that an evidence-based decision can be made about what bail settings are appropriate in the longer term. The Department of Communities and Justice, with BOCSAR's assistance, will undertake a review of the section prior to the proposed sunset date.

It will allow sufficient time for the continued implementation of broader community-based initiatives to respond to youth offending.

**Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

The Bill commences on assent. The Department will notify relevant stakeholders. Bail authorities will be responsible for continued application of the test during the extension period.

**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

The amendment was progressed in light of current circumstances and the data available on youth crime trends.

The Department of Communities and Justice (DCJ) has convened a cross-agency group to monitor and report back on the impact of the provision. The working group, which comprises of multiple agency representatives, has met three times since the commencement of section 22C and has expressed views on the test. The working group was not specifically consulted on the single measure in the Bill.