

Raise the age of criminal responsibility

Position statement

Summary

- ◆ Children have the right to be safe, supported to develop to their fullest potential and to be connected to family, community and culture
- ◆ In Victoria, children as young as ten years old can be charged with a crime and sent to prison
- ◆ Young children are being criminalised and imprisoned for actions they are not developmentally able to comprehend and for adverse experiences outside their control
- ◆ Victoria must raise the age of criminal responsibility to at least 14 years of age.

In Victoria, as in the rest of the country, children as young as ten years old can be charged with a crime and sent to prison. This is one of the lowest ages of criminal responsibility in the world.

During 2018-19, 34 Victorian children aged 10-13 years were in detention and all were unsentenced. While the number of children is low, the costs of incarceration to these children, their families, their communities and society are high. Laws that put young children in prison are out of touch with the fair and just society we strive for.

The problem

Criminalising children is inconsistent with the evidence on brain development

There is broad consensus within the scientific community that the age of criminal responsibility should be increased to safeguard children who are unlikely to have the cognitive and moral capacity or emotional regulation to fully control their behaviour and comprehend its consequences.

Criminalising children fails to change their trajectory

The lower the age that a child is imprisoned, the higher the rates of reoffending. Among all children and young people in detention during the year in Victoria, 17 per cent were aged 10-13 years at first conviction.

Criminalising children punishes them for experiencing disadvantage, adversity and trauma

An annual survey by the Youth Parole Board found that 67 per cent of children and young people detained on sentence and remand in Victoria have experienced trauma, abuse or neglect.

Aboriginal and Torres Strait Islander children often experience disadvantage and discrimination that sees them disproportionately affected by current laws. In Victoria, 14.7 per cent of children aged 10-13 years in prison during 2018-19 were Aboriginal.

Children with experiences in care are also overrepresented in the youth justice system. Studies of these 'crossover children' have shown a high likelihood of exposure to multiple adverse childhood experiences, familial disruption and childhood maltreatment, signalling significant levels of cumulative harm. Putting children with significant trauma into prison is doing further harm.

Criminalising children is out of step with human rights obligations and international standards

The average age of criminal responsibility world-wide is 14 years, putting Victoria behind much of the world.

The United Nations Committee on the Rights of the Child has called for countries to have a minimum age of criminal responsibility set at 14 years or higher. Upon failure to implement previous recommendations to that effect, in 2019 the UN Committee again called on Australian Governments to raise the age of criminal responsibility to at least 14 years.

Our solution

We must raise the age of criminal responsibility from 10 to at least 14 years of age; keeping children out of prison and providing them with the support they deserve.

The \$1748 per day that Victoria spends for each child and young person in prison would be better spent on interventions that work. Many programs exist that effectively support children under 14 to reduce criminal behaviour and contact with the justice system.

Government and service providers have been working hard to provide alternative solutions and have succeeded in reducing the number of young children in prison in Victoria, demonstrating that it is possible to support these children without resorting to imprisonment. If prison is removed as the default response, this process will only become faster and easier, without the risk of children falling through the gaps.

Our ask

The Centre is calling on the Victorian Government to raise the age of criminal responsibility to at least 14 years of age. We also ask that the Victorian Government take a leading role in advocating for this change Australia-wide through their input into the Council of Attorneys-General review process.

As a society we should be doing all that we can to protect, support and help our children. By raising the age of from 10 to 14 we can give these children the support they need to thrive.