ICCL Submission on the General Scheme of the Children (Amendment) Bill 2024

August 2025

Contents

Introduction 3
Head 3: Restrictions on Criminal Proceedings against Children 3
Head 4: Definition of “Relevant Person” 6
Head 10: Restrictions on Reports of Proceedings Involving Children 6
Heads 11 and 28: Repeal of Parental Supervision Orders 7
Head 19: Introduction of Deferred Sentence Supervision Orders 7
Head 21: Greater Sentencing Discretion for Detention Supervision Orders 8
Conclusion 8
Recommendations 8

Introduction

1. The Irish Council for Civil Liberties (ICCL) is grateful for the opportunity to make a submission to the Joint Committee on Justice, Home Affairs and Migration to aid in its Pre-Legislative Scrutiny of the Children (Amendment) Bill 2024.[1]

2. As a starting point, ICCL welcomes this legislation. It represents a progressive, evidence-based update to the Children Act 2001.

3. The adaptations throughout the legislation to clarify the position of young people who are accused of offending as children and have since reached the age of majority are particularly welcome and will assist everyone involved in the youth justice system.

4. While outside the direct scope of this legislation, ICCL would like to note the excellent work of the Children's Court operating as a distinct court in Dublin with specialist judges and a child-centred approach. We echo the United Nations Committee on the Rights of the Child's (hereafter "UN Committee") recommendations to Ireland in 2023 to replicate the child justice court model in Dublin throughout the state, instead of having children's matters listed as part of typical District Court work.[2]

Head 3: Restrictions on Criminal Proceedings against Children

5. ICCL welcomes the intention to amend section 52 of the Children Act 2001 to ensure that consent from the Director of Public Prosecutions (DPP) is required to advance a prosecution against a child (aged over 14) for an offence they are alleged to have committed while they were under the age of 14.

6. ICCL would go further, however, and recommends amending section 52(1) of the 2001 Act to state that a child under the age of 14 shall not be charged with an offence. This is in line with guidance from the UN Committee, noting that Ireland ratified the Convention on the Rights of the Child (hereafter "UNCRC") in 1992.

7. Presently, section 52 of the Children Act 2001 upholds a general age of criminal responsibility of 12. Children under 12 cannot be prosecuted except for 10- and 11-year-olds accused of murder, manslaughter, rape or aggravated sexual assault.[3] Persons under the age of 14 can be charged with an offence and remanded in custody or on bail, but to advance such a prosecution further, approval from the DPP is required.[4]

---

[1] This submission was written by Seán Egan BL, Procedural Rights Fellow at ICCL and practising criminal barrister, with inputs from Emily Williams and Claire Mc Evoy. This submission draws upon Seán's professional experience in the Children's Court.
[2] UN Committee on the Rights of the Child, 'Concluding observations on the combined fifth and sixth periodic reports of Ireland' CRC/C/IRL/CO/5-6, para 45(c).
[3] Children Act 2001, s 52(2).
[4] Ibid., s 52(4).

8. The Children's Rights International Network maintains a database of the laws governing the age of criminal responsibility in various European countries and provides a useful comparative tool.[5]

9. Ireland's age of criminal responsibility makes it an outlier by European standards. In Iceland, Denmark, Norway, the Czech Republic and Finland the age of criminal responsibility is 15. In Italy and Spain, the age is 14. Hungary operates a similar two-tier system to Ireland with a general age and a lower age for the most serious offences; however, the ages are set at 14 and 12 respectively.[6] The UN Committee notes that the most common minimum age of criminal responsibility globally is 14.[7]

10. In its 2023 periodic assessment of Ireland, the UN Committee recommended raising the age of criminal responsibility to at least 14 years of age.[8] ICCL therefore submits that an amendment to section 52(1) to raise the age of criminal responsibility to the recommended age of at least 14 is required for Ireland to meet its obligations as a party to the UNCRC.[9]

11. Neuroscience and child development research recognises that children are cognitively different to fully developed adults.[10] They assess risk and make decisions in radically different ways due to ongoing developments in their frontal cortex.[11] Adolescence is associated with increased risk-taking behaviour, particularly around peers.[12] Adolescents are less equipped to discern cause and effect and control their impulses,[13] particularly in the chaotic circumstances that often underpin youth offending.[14] This is factored – to some extent - into the prosecution of children through the Garda diversion programme, for example, at the initial criminal investigative stage;[15] at the sentencing stage (youth and immaturity are considered mitigating factors),[16] and as part of the special conditions of youth detention.[17] However, for the youngest offenders, it is ICCL's position that

---

[5] Child Rights International, 'The minimum age of criminal responsibility' accessed 18 August 2025.
[6] Ibid.
[7] UN Committee on the Rights of the Child, 'General comment No. 24 (2019) on children's rights in the child justice system' (18 September 2019) CRC/C/GC/24, para 21.
[8] UN Committee on the Rights of the Child, 'Concluding observations', para 45(a).
[9] UNCRC, art 40(3)(a). The Committee notes that adolescent brains continue to mature beyond the teenage years and "commends States parties that have a higher minimum age, for instance 15 or 16 years of age". For more information, please see UN Committee on the Rights of the Child, 'General comment No. 24 (2019) on children's rights in the child justice system' (18 September 2019) CRC/C/GC/24, para 22.
[10] UN Committee on the Rights of the Child, 'General comment No. 24', para 22.
[11] Ibid.
[12] Caitlin Cavanagh, 'Healthy Adolescent Development and the Juvenile Justice System: Challenges and Solutions' (2022) 16 Child Development Perspectives, 142.
[13] *DPP v PB* [2025] IESC 12, para 87.
[14] See for example, Liza Costello, 'Turnaround Youth: Young Adults (18-24) in the Criminal Justice System: The Case for a Distinct Approach' (Irish Penal Reform Trust 2015) 15–22.
[15] Children Act 2001, Part 4.
[16] Ibid., s 96(3).
[17] Ibid., s 151. Youth are detained in Oberstown Children Detention Campus which provides individualised care to address the circumstances that led to criminal behaviour. Section 158 of the Children Act 2001 provides that the principal object of a children's detention school is to provide appropriate programmes and facilities to promote the reintegration of children into society "and prepare them to take their place in the community as persons who are capable of making a positive and productive contribution to society". For more information please see *DPP v PB* [2025] IESC 12, para 31.

recognition of their immaturity and ongoing neurological development should preclude criminalisation and prosecution entirely.[18]

12. Engagement with the criminal justice system can be a traumatising experience, especially for children, even with the safeguards present in our youth justice system.[19] It can strain family relationships and worsen difficult social and family dynamics that are at the root of the offending behaviour. Being detained with other troubled youth risks reinforcing problematic behaviours and embedding young people in highly negative peer groups.[20] Furthermore, criminological research shows that youth incarceration has a negative impact on educational attainment and exacerbates mental and physical health issues.[21] Taking a rehabilitative approach, rather than a criminal justice one, can help direct children away from further involvement in the criminal justice system. Such non-custodial measures ensure the principle of youth detention as a last resort, as set out in the Children Act 2001.[22]

13. The most difficult cases are those involving serious offences committed by young children. The idea that children who have killed or seriously harmed another person might be protected from prosecution by their young age is a challenging one. However, in these rare, tragic cases, the choice is not between action and inaction.[23] Research shows that a 10-year-old who kills another person is not psychologically equipped to grasp the enormity of their actions.[24] It is ICCL's view that it is wrong to attach the great moral and punitive weight that comes with serious criminal offending to children so young and immature. Yet criminal responsibility is retained in the Children Act 2001 for a 10- or 11-year-old charged with serious offences.[25]

14. Young children who commit serious offences have often experienced adverse childhood experiences such as abuse, household dysfunction or violence.[26] There is a plethora of criminological literature which demonstrates the links between poverty, mental health challenges and experiences of being in care and coming into contact with the criminal

---

[18] Commissioner for Human Rights, 'Children should not be treated as criminals', accessed 19 August 2025.; *DPP v PB* [2025] IESC 12, para 88.
[19] Office of the Director of Public Prosecutions 'Guidelines for Prosecutors' (5th Edition, December 2019), para 5.1; UN Committee on the Rights of the Child, 'General comment No. 24', para 2.
[20] Raymond Corrado and Lauren Freedman, 'Youth At-Risk of Serious and Life-Course Offending: Risk Profiles, Trajectories, and Interventions' (National Crime Prevention Centre, Government of Canada 2011) 8.
[21] Richard Mendel, 'Why Youth Incarceration Fails: An Updated Review of the Evidence' (The Sentencing Project 2022) 5.
[22] Children Act 2001, s 96(2).
[23] In *DPP v PB*, the Supreme Court highlighted several factors explaining why children should receive particular attention under criminal law, including their vulnerability, their lesser culpability, and "the societal interest in assisting their development and the greater prospect of rehabilitation". For more info see *DPP v PB* [2025] IESC 12, para 88.
[24] Susan M Sawyer and Nandi Vijayakumar, 'Can a 10-Year-Old Be Responsible for a Crime? Here's What Brain Science Tells Us' (*Murdoch Children's Research Institute*, 29 August 2024).
[25] Such serious offences include murder, manslaughter, rape, or aggravated sexual assault. See Children Act 2001, s 52(2).
[26] Nina Vaswani, 'Adverse Childhood Experiences in Children at High Risk of Harm to Others. A Gendered Perspective.' (Centre for Youth and Criminal Justice 2018) 4–5.

justice system.[27] Thus, interventions should take the form of rehabilitative mental health care or special care,[28] rather than prosecution in the criminal justice system.[29]

15. Separately, there is no statutory obligation for the DPP to act in the best interests of the child. This is despite the State' s obligations to have the best interests of the child as a primary consideration in all actions concerning children,[30] as a guiding principle of the UNCRC.[31] In light of this, it is ICCL's view that Head 3 should be amended to explicitly acknowledge this principle and guarantee adherence to it.

Head 4: Definition of "Relevant Person"

16. ICCL welcomes the introduction of the definition of "relevant person" contained within Head 4, which extends procedural safeguards to young people who are accused of committing an offence as a child but have since reached the age of majority. It is vital that they can avail of the protections afforded by the special procedures of the Children's Court and the enlightened sentencing options set out in the 2001 Act.[32] This is in line with recommendations from the UN Committee.[33]

Head 10: Restrictions on Reports of Proceedings Involving Children

17. ICCL supports amending the legislation to ensure it aligns with the judgement in *DPP v PB* [2025] IESC 12 which mandates that young people should maintain their anonymity if they are accused of offending as a child but have since reached the age of majority in further criminal proceedings, including appeals or sentencing.[34] ICCL agrees with the analysis of the Supreme Court that the restrictions on reports of proceedings has an important role to play in rehabilitation and prevents stigmatisation of the child/young person.[35]

18. ICCL is concerned about the retention of the ability of the judge to dispense with some or all of the reporting restrictions "in the public interest" in the proposed section 93(2). It is our view that the public interest would not justify the revelation of a child's identity which

---

[27] Children's Law Centre and others, 'Raising the Age of Criminal Responsibility: Joint Briefing Paper' (Children's Law Centre 2022) 6.
[28] As defined under the Child Care Act 1991, special care is care which address harmful behaviour of a child, including medical and psychiatric treatment. See Child Care Act 1991, s 23C.
[29] UNCRC, art 40(3)(b); UN Committee on the Rights of the Child, 'Concluding observations', para 45(f); Rebecca Gorman and others, 'The Young Offenders: Reducing Reoffending Rates among Young Adult Offenders Aged 18-24 Years in Ireland' (Dublin City University 2022) 4, 33–34.
[30] Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, art 3.
[31] UNCRC, art 40(2)(b)(iii); UN Committee on the Rights of the Child, 'General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)' (29 May 2013), CRC/C/GC/14.
[32] Children Act 2011, s 98.
[33] UN Committee on the Rights of the Child, 'Concluding observations', para 45(a); UN Committee on the Rights of the Child, 'General comment No. 24', para 36.
[34] *DPP v PB* [2025] IESC 12, paras 111-115.
[35] *DPP v PB* [2025] IESC 12, para 109.

could expose them to significant stigma and notoriety and could impede their development and welfare. The UN Committee has recognised the impact of negative publicity and how this contributes to negative stereotypes of children and can lead to calls for punitive policies such as trial in adult courts and mandatory sentences.[36] The Committee has also called for full anonymity of crime reports relating to children to prevent stigmatisation.[37] Accordingly, the proposed "public interest" amendment should be removed in the interests of a child's right to privacy in criminal proceedings,[38] even if they have reached the age of majority.[39]

Heads 11 and 28: Repeal of Parental Supervision Orders

19. ICCL welcomes the repeal of the sections of the 2001 Act dealing with Parental Supervision Orders (where parents are subjected to supervision if the court believes they are failing to control their child's behaviour), Parental Compensation Orders (where the court fines parents to punish them for their child's offending) and other orders which punish the parents of child offenders for failing to control their children.[40]

20. ICCL agrees that these orders have proven to be ineffective based on experiences of stakeholders working in, and engaging with, the Children's Court. ICCL further submits that the criminalisation of parents whose child is engaging in patterns of offending and problematic behaviour only serves to worsen the situation and makes positive interventions to stabilise family life and prevent additional offending more difficult. ICCL notes that it is vital that the court, social services, youth services and the parents of young people engaged in harmful or offending behaviour cooperate in the best interest of the child to address risk factors and criminogenic needs.[41]

Head 19: Introduction of Deferred Sentence Supervision Orders

21. ICCL welcomes the adoption of the Law Reform Commission's recommendation for the introduction of Deferred Sentence Supervision Orders.[42] These orders involve setting a future sentencing date and having the child be subject to a series of conditions in the interim under the supervision of the Probation Service. If they abide by the conditions, the matter will typically be addressed with a non-custodial sentence.[43] These orders are an effective means of applying close scrutiny and support to a child convicted of problematic

---

[36] UN Committee on the Rights of the Child, 'General comment No. 24', para 111.
[37] Ibid., paras 66-71.
[38] UNCRC, art 40(2)(vii).
[39] *DPP v PB* [2025] IESC 12, paras 111-115.
[40] Conor Gallagher, 'Judge Calls for Law on Parents of Young Offenders to Be Abolished', *Irish Times* (Dublin, 10 July 2017); Irish Penal Reform Trust, 'The Irish Times: Judge calls for law on parents of young offenders to be abolished' (10 July 2017) accessed 20 August 2025.
[41] Ibid., para 11.
[42] General Scheme of the Children (Amendment) Bill 2024, Head 19. Explanatory Note; Dáil Deb 16 February 2023, Sentencing Policy.
[43] General Scheme of the Children (Amendment) Bill 2024, Head 19.

offending before detention is imposed.[44] This is in keeping with the sentencing principles set out in the 2001 Act that the detention of a child should be a last resort.[45]

Head 21: Greater Sentencing Discretion for Detention Supervision Orders

22. ICCL welcomes the proposed amendment to section 151 which gives judges greater discretion in structuring sentences to include the ratio of the sentence spent in youth detention in Oberstown to time spent under the supervision of the Probation Service the court thinks is appropriate, in line with the sentencing principles set out in the 2001 Act.[46] Presently, a judge imposing a detention supervision order must impose equal time in detention and supervision.[47] ICCL hopes that the amendment will lead to judges imposing shorter periods of detention followed by periods of supervision by the Probation Service with the aim of supporting children to reintegrate and build more positive and productive lifepaths post-release.

Conclusion

23. ICCL welcomes the General Scheme of the Children (Amendment) Bill 2024, while noting that the bill could go further to embed children's rights in the criminal justice system on a statutory basis, including in relation to the age of criminal responsibility and the public interest exception for disclosing a child's identity in criminal proceedings. Engagement with the criminal justice system is traumatic and stressful. Children's rights must be upheld throughout the process, with a particular focus on safeguarding the best interests of the child, in line with Ireland's obligations under the UNCRC.[48]

Recommendations

- Insert a provision which moves towards adopting the Dublin Children's Court model across the country, as called for by the UN Committee in 2023.[49]
- Amend Head 3 to increase the age of criminal responsibility to at least 14 and explicitly guarantee that the DPP will act in the best interests of the child when deciding whether to prosecute for serious offences to comply with Ireland's international human rights obligations under the UNCRC.

---

[44] Ibid., Explanatory Note, Law Reform Commission, *Suspended* Sentences (LRC 123-2020), 37.
[45] Children Act 2001, s 96.
[46] Ibid.
[47] Children Act 2001, s 151(3).
[48] UNCRC, art 3.
[49] UN Committee on the Rights of the Child, 'Concluding observations', para 45(c).

- Amend Head 10 and remove the "public interest" exception to safeguard the child's right to privacy during criminal proceedings, in line with the decision of the Supreme Court in *DPP v PB* [2025] IESC 12.[50]

[50] *DPP v PB* [2025] IESC 12, paras 111-115.

About ICCL

The **Irish Council for Civil Liberties** (ICCL) is Ireland's oldest independent human rights body. It has been at the forefront of every major rights advance in Irish society for over 40 years. ICCL helped decriminalise homosexuality, divorce and contraception. We drove police reform, defending suspects' rights during dark times. In recent years, we led successful campaigns for marriage equality, data protection and reproductive rights.

Visit iccl.ie for more information.