

STATES OF JERSEY



DRAFT CHILDREN AND YOUNG PEOPLE (PLACE OF POLICE DETENTION) (JERSEY) AMENDMENT LAW 202- (P.40/2025) – CHILDREN’S RIGHTS IMPACT ASSESSMENT

**Presented to the States on 23rd May 2025
by the Minister for Justice and Home Affairs**

STATES GREFFE

CHILDREN'S RIGHTS IMPACT ASSESSMENT (CRIA)

PART 1: SCREENING

Name and title of Duty Bearer:	Deputy Mary Le Hegarat
Type of Duty Bearer: (Minister, Elected Member or States Assembly Body)	Minister Justice and Home Affairs
Assessment completed by (if not completed by duty bearer):	Policy Principal
Date:	07/03/25

1) Name and brief description of the proposed decision

The subject of your CRIA may be a proposed law, policy or proposition and in accordance with the Law is referred to in this template as the '**decision**'

- What is the problem or issue the decision is trying to address?
- Do children experience this problem differently from adults?

The primary purpose of the Children and Young People (Place of Police Detention) (Jersey) Amendment Law 202- (the "Law"), if passed, is to amend the Police Procedures and Criminal Evidence (Jersey) Law 2003 (the "Police Procedures Law") in relation to children or young people kept in police detention following the refusal of bail by a Centenier.

The effect of the amendment will enable a Centenier to transfer children or young people to suitable accommodation provided by the Minister for Children and Families (the "Minister"). The Law will also amend the Children (Jersey) Law 2002 (the "Children Law") to enable the Minister to accommodate children or young people who are kept in police custody following the refusal of bail by a Centenier.

The grounds for a Centenier to refuse bail and deprive a child or young person of their liberty is amended. If a Centenier has reasonable grounds for believing that detention of a child or young person is necessary, to prevent them from committing an offence; the Centenier must believe that the offence will be serious. In doing so, deprivation of liberty cannot be taken on the grounds that a minor offence may be committed.

2) Which groups of children and young people are likely to be affected?

Groups of children could include early years, primary or secondary education; young adults; children with additional learning needs; disabled children; children living in poverty; children from particular ethnic backgrounds; migrants; refugees; care experienced children and LGBTQ+ children

These amendments are brought to provide an explicit new option to remand a child or young person (10 – 17-year-old) in the event they are arrested, charged and due to appear before the next available court.

The Centenier, if refusing bail would, with these amendments, be able to place a child or young person into non-secure suitable accommodation provided by the Minister for Children and Families.

These amendments only affect the place of detention for children and young people during a specific period for which they may be lawfully detained. It does not affect

the custody time limits which apply to a child, young person or adult who is remanded in custody between the time the person is charged and the person's first appearance in court.

Given the specific nature of these amendments and specific age category, the numbers of children and young people affected will be low.

3) What is the likely impact of the proposed decision on children and on their rights?

- Identify any potential positive OR negative impacts and include indirect impacts on children and their rights as described in the UNCRC
- Will different groups of children be affected differently by this decision?

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The Centenier, if refusing bail would, with these amendments, be able to place a child or young person into non-secure suitable accommodation provided by the Minister for Children and Families.

The intended consequence is to provide an alternative remand option, to that of depriving a child or young person of their liberty in a facility such as Greenfields or a cell at the police station.

These amendments if introduced, would improve compliance with the UNCRC. In particular, the following Articles.

➤ Article 37

"States Parties shall ensure that:

*..... **The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; ..***"

These amendments if approved will serve to strengthen the island's compliance with Article 37 in that it seeks to have an additional option for the justice system and in doing so be a tool to decrease the deprivation of liberty and improve deprivation of liberty only being used as a last resort.

Having deprivation as a last resort is further outlined by the United Nation Committee on the Rights of the Child in their [General comment No. 24 \(2019\) on children's rights in the child justice system](#) is further outlined and states

"83. States parties should immediately embark on a process to reduce reliance on detention to a minimum.

84. Nothing in the present general comment should be construed as promoting or supporting the use of deprivation of liberty, but rather as providing correct procedures and conditions in the minority of cases where deprivation of liberty is deemed necessary.

Leading principles

85. *The leading principles for the use of deprivation of liberty are: (a) the arrest, detention or imprisonment of a child is to be used only in conformity with the law, only as a measure of last resort and for the shortest appropriate period of time; and (b) no child is to be deprived of his or her liberty unlawfully or arbitrarily. Arrest is often the starting point of pretrial detention, and States should ensure that the law places clear obligations on law enforcement officers to apply article 37 in the context of arrest. States should further ensure that children are not held in transportation or in police cells, except as a measure of last resort and for the shortest period of time,..”*

- In June 2023 the Conventions on the Rights of the Child [Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland*](#) also make recommendations including that States should ensure that “..no child is held in police custody overnight,..”

These amendments, if approved will improve the ability of the justice system not to place a child in police custody overnight.

➤ Article 3 (best interests of the child) of the CRC is relevant. Article 3 (1) states “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” [UNCRC](#)

In consideration of Article 3, there is a presumption of bail/release from detention but if bail is refused and a child or young person cannot go home, it is in the child or young person’s best interest that they are not placed within a police cell or secure accommodation but placed in a more child friendly environment.

It is understood that the facilities available to the Children Service to accommodate a child are currently limited and consideration will be given to the best interests of other children and young people who are resident in the same accommodation.

The conclusion is that having an option to avoid a child or young person being remanded in a police cell or secure accommodation and as an alternative, accommodated by the Minister will be in the best interests of the child.

➤ Article 40
“1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society.”

If these amendments are implemented, it will better promote a child or young person's dignity and worth in that a child or young person being accommodated within a Minister's accommodation will be far more child friendly than secure accommodation or a police cell.

ECHR

An ECHR review of compliance has been undertaken, and these amendments are compliant with that rights assessment.

4) Is a full Children's Rights Impact Assessment required?
If you have identified impacts on children and their rights, a full CRIA should be completed. If no impacts are identified then a Full CRIA is not required, but please explain your rationale and how you reached this conclusion

As these amendments are targeted at children and young people a full CRIA has been undertaken.

If screening determines that a full CRIA is needed, complete Part 2

Part 2: FULL CHILDREN'S RIGHTS IMPACT ASSESSMENT

5) What will be the impacts (positive or negative) of the proposed decision on children's rights?

For each of the UNCRC articles described below, click to identify any that may be relevant ☒

Category	UNCRC Article	Impact? YES NO	
Guiding Principles	Non-discrimination (Art 2)	<input type="checkbox"/>	<input type="checkbox"/>
	Best interests of the Child (Art 3) to be a top priority	x	<input type="checkbox"/>
	Right to Life survival and development (Art 6)	<input type="checkbox"/>	<input type="checkbox"/>
	Respect for the child's views (Art 12)	<input type="checkbox"/>	<input type="checkbox"/>
Civil Rights & Freedoms	Right to birth registration, name and nationality (Art 7)	<input type="checkbox"/>	<input type="checkbox"/>
	Right to an identity (Art 8)	<input type="checkbox"/>	<input type="checkbox"/>
	Freedom of expression (Art 13)	<input type="checkbox"/>	<input type="checkbox"/>
	Freedom of thought, conscience, and religion (Art 14) Every child has the right to think and believe what they choose	<input type="checkbox"/>	<input type="checkbox"/>

	Freedom of association (Art 15) Every child has the right to meet with other children and to join groups and organisations	<input type="checkbox"/>	<input type="checkbox"/>
	Right to Privacy (Art 16) including family and home life	<input type="checkbox"/>	<input type="checkbox"/>
	Access to information from the media (Art 17) Right to access reliable information from a variety of sources, in a format that children can understand	<input type="checkbox"/>	<input type="checkbox"/>
	Protection against torture or other cruel, degrading or inhumane treatment or punishment (Art 37(a))	<input type="checkbox"/>	<input type="checkbox"/>
Family Environment and Alternative Care	Respect for the responsibilities, rights and duties of parents (or where applicable, extended family or community) to guide their child as they grow up (Art 5)	<input type="checkbox"/>	<input type="checkbox"/>
	Responsibilities of both parents in the upbringing and development of their child (Art 18)	<input type="checkbox"/>	<input type="checkbox"/>
	Children must not be separated from their parents against their will unless it is in their best interests (Art 9)	<input type="checkbox"/>	<input type="checkbox"/>
	Family reunification (Art 10)	<input type="checkbox"/>	<input type="checkbox"/>
	Abduction and non-return of children abroad (Art 11)	<input type="checkbox"/>	<input type="checkbox"/>
	Right to a standard of living that is good enough to meet the child's physical and social needs and support their development (Art 27)	<input type="checkbox"/>	<input type="checkbox"/>
	Special protection for children unable to live with their family (Art 20)	<input type="checkbox"/>	<input type="checkbox"/>
	Best interests of the child in the context of Adoption (Art 21)	<input type="checkbox"/>	<input type="checkbox"/>
	Review of treatment whilst in care (Art 25) If a child has been placed away from home for the purpose of care or protection (for example, with a foster family or in hospital), they have the right to a regular review of their treatment, the way they are cared for and their wider circumstances.	<input type="checkbox"/>	<input type="checkbox"/>
	Protection from violence, abuse or neglect (Art 19)	<input type="checkbox"/>	<input type="checkbox"/>
Basic Health and Welfare	Rights of disabled children (Art 23)	<input type="checkbox"/>	<input type="checkbox"/>
	Right to health and health services (Art 24)	<input type="checkbox"/>	<input type="checkbox"/>
	Right to social security (Art 26)	<input type="checkbox"/>	<input type="checkbox"/>

	Right to adequate standard of living (Art 27)	<input type="checkbox"/>	<input type="checkbox"/>
Education, Leisure and Cultural Activities	Right to education (Art 28)	<input type="checkbox"/>	<input type="checkbox"/>
	Goals of education (Art 29) Education must develop every child's personality, talents and abilities to the full	<input type="checkbox"/>	<input type="checkbox"/>
	Leisure, play and culture (Art 31) Every child has the right to relax, play and take part in cultural and artistic activities	<input type="checkbox"/>	<input type="checkbox"/>
Special Protection Measures	Special protection for refugee children (Art 22)	<input type="checkbox"/>	<input type="checkbox"/>
	Children and armed conflict (Art 38 and Optional Protocol #1) Governments must do everything they can to protect and care for children affected by war and armed conflict.	<input type="checkbox"/>	<input type="checkbox"/>
	Children and juvenile justice (Art 40) Right to be treated with dignity and respect, right to legal assistance and a fair trial that takes account of age.	x	<input type="checkbox"/>
	Inhumane treatment and detention (Art 37 (b)-(d)) Children should be arrested, detained or imprisoned only as a last resort and for the shortest time possible.	x	<input type="checkbox"/>
	Recovery from trauma and reintegration (Art 39) Children who have experienced neglect, abuse, exploitation, torture or who are victims of war must receive special support to help them recover their health, dignity, self-respect and social life	<input type="checkbox"/>	<input type="checkbox"/>
	Child labour and right to be protected from economic exploitation (Art 32)	<input type="checkbox"/>	<input type="checkbox"/>
	Drug abuse (Art 33)	<input type="checkbox"/>	<input type="checkbox"/>
	Sexual exploitation (Art 34)	<input type="checkbox"/>	<input type="checkbox"/>
	Abduction, sale and trafficking of children (Art 35)	<input type="checkbox"/>	<input type="checkbox"/>
	Protection from other forms of exploitation including for political activities, by the media or for medical research (Art 36)	<input type="checkbox"/>	<input type="checkbox"/>
	Children belonging to a minority or an indigenous group (Art 30)	<input type="checkbox"/>	<input type="checkbox"/>
	Optional Protocol on the sale of children, child prostitution and child pornography	<input type="checkbox"/>	<input type="checkbox"/>
	Optional protocol on the involvement of children in armed conflict	<input type="checkbox"/>	<input type="checkbox"/>

6) Information and research What evidence has been used to inform your assessment?		
Evidence collected (include links to relevant publications)	What did the evidence tell you?	What are the data gaps, if any?
<p>As above. The publications, articles and recommendations of the CRC have been used to inform these amendments.</p> <p>A variety of articles and papers have also been viewed including: Does contact with the justice system deter or promote future delinquency? Results from a longitudinal study of British adolescent twins - Motz - 2020 - Criminology - Wiley Online Library</p> <p>Child First Justice Criminology, Sociology and Social Policy Loughborough University</p> <p>Children-on-remand-voices-lessons.pdf</p> <p>What do we know about children and young people deprived of their liberty in England and Wales? An evidence review - Nuffield Family Justice Observatory</p> <p>The Howard League A welcome review of custodial remand for children</p> <p>The Howard League Howard League project reveals harmful impact of remanding children to prison</p> <p>The harmful impact of remanding children to prison - Russell Webster</p>	<p>As above. Creating an additional tool for Centeniers as outlined in the amendments helps reduce further the chances of children and young people being deprived of their liberty and improves the compliance Jersey has with the UNCRC.</p> <p>Depriving a child of their liberty is at times necessary but these should be in exceptional circumstances. Depriving a child of their liberty has a detrimental impact in that there is:</p> <ul style="list-style-type: none"> - Detrimental emotional and psychological impact - Places strain on relationships with family and friends - There is a labelling effect which can increase the risk of a child offending and misbehaviour even if deprivation of liberty is just for one night. - Children remanded are more often not sentenced to a custodial sentence. 	<p>The numbers of children and young people that this law will affect will be low.</p> <p>Data can be gathered to monitor how often children and young people were accommodated by the Minister once the amendments are in place.</p>

<p>7) Engagement with children What groups of children and young people (or those who speak on their behalf, such as social workers, teachers or youth workers) have been directly or indirectly involved in developing the decision?</p>		
Groups consulted	How they were involved	What were the findings?
<p>The draft Law has been developed by officers within Cabinet Office in consultation with office for the Children's Commissioner, Law Drafting Office, Law Officers Department, the Justice and Home Affairs Department, the Children's Service, The States of Jersey Police and the Honorary Police. Children have not been directly consulted but much work has been undertaken with the Office for the Children's Commission. Research by the Howard League also gained the voices of children and were contained within their papers.</p>	<p>The Office for the Children's Commission supports the improvement of compliance with the UNCRC.</p>	<p>These amendments set out to resolve a gap in the legislation. The amendments will explicitly seek to ensure that prior to a child or young person's appearance in court the child or young person can be accommodated in the least restrictive way and reduce the likelihood of depriving a child or young person of their liberty.</p>

<p>8) Assessing Impact on children's rights Based on the information collected and analysed above, what likely impact will the proposed decision have on the specific children's rights identified in question 5)?</p>		
Relevant UNCRC Articles (rights) identified in Q5	Describe the positive or negative impacts on these rights	Which group(s) of children are likely to be affected?
As outlined in the screening.	As outlined in the screening.	As outlined in the screening.
<p>9) Weighing positive and negative impacts</p> <ul style="list-style-type: none"> • If a negative impact is identified for any area of rights <u>or</u> any group of children and young people, what options are there to modify the proposed decision to mitigate the impact? • Could any positive impacts be enhanced? 		
<p>With the scope of current resources, the children service will manage the accommodation for the Minister and will look to act in the best interests of the child.</p>		

10) Conclusions

In summary, what are your key findings on the impact of the proposed decision on the rights of Jersey children?

The proposed amendments, if passed, comply with an ECHR review and will strengthen Jersey's legislative compliance with the UNCRC especially Article 37. It will also reduce the damaging effect custody has upon children and young people.