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16 February 2018

Bail Amendment (Stage Two) Bill 2017

1. As previously stated in our [submission](#) to the Bail Review and [commentary](#) in respect of the *Bail Amendment (Stage One) Bill 2017* ('Stage 1 Bill'), Liberty Victoria is opposed to the State Government's proposal to reverse the presumption of bail in a wide number of offences. Liberty Victoria reiterates its previous submissions and concerns in respect of bail reform.
2. In addition, Liberty Victoria is concerned about the new police powers to remand for up to 48 hours being introduced by the *Bail Amendment (Stage Two) Bill 2017* ('Stage 2 Bill') before a person is brought before a court.
3. Clause 14 of the Stage 2 Bill expands the police's current power to remand a person charged with a Schedule 1 offence pending a decision on bail or remand. If a police officer refuses bail under the new s 10(5), then that police officer must remand an arrested person in custody and bring them before a court within 48 hours. Being brought before a court includes the person appearing via videolink. A person remanded under this power cannot apply for bail before a bail justice within those 48 hours. However, if they cannot be brought within the 48 hours, then they must be brought before a bail justice as soon as practicable.

4. Liberty Victoria is concerned that this provision could lead to accused being held in custody for more than 48 hours before being able to make a bail application. Although an accused has to be brought before the court within 48 hours, this can include via video link. If an accused were to appear via video link, they would have little to no opportunity to speak to a lawyer before the appearance, as the duty lawyer services are located at the court precincts. The choice for an accused would then be to either seek an adjournment until a represented bail application can be made, or to appear themselves to apply for bail. The difficulties and possible delay will be compounded in circumstances where the accused requires an interpreter.
5. Further, if a person is not brought to a court within 48 hours, then they must be brought before a bail justice as soon as practicable after the expiry of the 48 hours. Therefore, the possibility exists that a person can be remanded by police for more than 48 hours before being able to apply for bail before an independent decision-maker. If a bail justice also refuses bail, an accused would then be brought before a magistrate. Liberty Victoria believes that this could result in circumstances where an accused may not have the opportunity to apply for bail before a magistrate until four days after they are arrested.
6. Liberty Victoria is concerned that this would be a serious erosion of the right to apply for bail in a timely fashion and would likely mean that many accused persons who would have been granted bail, or at least had the opportunity to apply for bail in a timely fashion, will spend a considerable period of time in police detention.
7. Liberty Victoria remains concerned that the *Bail Act* amendments will lead to more young people being unnecessarily detained due to the possibility of delays created by the new provisions, as well as the bar for bail being set extremely high by virtue of the amendments to the *Bail Act*.