

Adult Time for Violent Crime Changes

GEELONG CPD DAY

6 MARCH 2026

CAITRIN DAVIS

WEDNESDAY, JUNE 12, 2024 \$3 (incl GST) HERALDSUN.COM.AU

Herald Sun

DON'T ARGUE, DUSTY JOINS 300 CLUB

Dustin Martin will play his 300th game at the 'G on Saturday, joining Kevin Bartlett, Shane Edwards, Trent Cotchin, Jack Riewoldt and Francis Bourke. Club legend Royce Hart has urged his fellow No.4 great to never leave Tigerland.

REPORTS, MORE PICTURES: SPORT
• DEES UNDER FIRE AS PETRACCA FACES SIX WEEKS OUT

YOUTH CRIME SPECIAL INVESTIGATION

ONE KID 388 CHARGES BUT NO CONVICTIONS

Cases against one of worst child crims repeatedly struck out due to his age

14yo accused of more terrifying attacks, stealing woman's car at knifepoint hours after being bailed

EXCLUSIVE Ashley A... One of the best 388ers with the 14 year old was the latest striking the crime rate at knifepoint REPORTS

LET THE FIREWORKS RESUME TOP TV THIS WEEK: BINGE

SCHOOL AI NUDES SC

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SUPER STORM SEASON GUIDE
• MEGA TEAM POSTER LIFTOUT P33

GLOSSY TIGERS & DOGS POSTER
• SECRET FOOTY DRUG LIST FURY SPORT

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'IT'S SICKENING - JUST DO SOMETHING, PREMIER'

■ Terrified home invasion mum's plea after machete wielding thugs break in while her children sleep

■ Desperate residents raise funds to hire private security for their streets

SUBURBS UNDER SIEGE

DO YOU FEEL SAFE? TELL US YOUR STORY NEWS@HERALDSUN.COM.AU

EXCLUSIVE Regan Hodge
The latest victim of Melbourne's terrifying home invasion epidemic has issued an emotional plea to Premier Jacinta Allan: "Just do something." "What you're doing isn't working. Putting your head in the sand isn't working. Make some tough decisions," Adela Andrews said. It comes as residents raise funds to hire private security to protect their homes. PAGES 10-11

\$100m detainee slug
Remy Varga
The release of hundreds of former immigration detainees convicted of offenses such as murder and rape has cost taxpayers more than \$100m over the past 18 months.

and almost a third have since been charged with new crimes.
About 82 of the 90 new charges have been finalized by state and territory authorities, including 17 resulting in new custodial sentences. FULL REPORT, PAGE 6

PM 'open' to troops
Joseph Olbrycht-Palmer
British Prime Minister Keir Starmer has confirmed talks to include Australia in an Anglo-French-led "coalition of the willing" to guarantee Ukraine's security should a power deal with Russia revolute. FULL REPORT, PAGE 7

PAYNE FAMILY TRAGEDY
HEARTBREAK AS CUP CHAMP'S SISTER DIES, P2

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5 TEAM POSTER
INSIDE **GEELONG CATS**
NAT'S CATWALK GLAM

Herald Sun

PREMIER, THIS IS THE WOEFUL JUSTICE SYSTEM YOU MUST FIX NOW

MAGISTRATE TO TEEN HOME INVADER WHO HIT 40km/h IN A STOLEN CAR WHILE ON BAIL:

(s) type of offending ... can kill people. If I took a poll they'd say lock (him) up for as long as you possibly can. Simple as that. I agree 100% we are totally over seeing this behaviour on a daily basis. The public will be going 'why is he given bail again?'"

SO WHAT DOES THE MAGISTRATE DO?

the 15yo free on bail again!

100% MADNESS

SUBURBS UNDER SIEGE
SPECIAL REPORTS: PAGES 8-11

THE NEW CITY SON

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Justice Legislation Amendment (Community Safety) Act 2025

The aim is “to address increasing levels of crime in Victoria and respond to increasing community concern about serious violent offending, particularly by children.” (First and second reading speech on 2/12/2025)

Amends the:

- *Crimes Act 1958* (CA)
- *Criminal Procedure Act 2009* (CPA)
- *Children, Youth and Families Act 2005* (CYFA)
- *Youth Justice Act 2024* (YJA)
- *Magistrates’ Court Act 1989* (MCA)

Provisions of <i>Justice Legislation Amendment (Community Safety) Act 2025</i>	Commencement
Part 1 - Purpose & commencement	10 December 2025
Part 2 - Increased penalties, s321LB offence may be heard and determined summarily, new offence for use of knives & amendment to carjacking	10 December 2025
Part 3 - Changes to sentencing principles for children	27 February 2026
Part 4 - Changes to procedure for summary hearings for indictable offences for children	27 February 2026
Part 5 - Transitional provisions	10 December 2025
Part 6 - Repeal of Act	10 December 2025

Jurisdiction of the Children's Court

1. The Criminal Division has jurisdiction—
 - a) to hear and determine all charges against children for summary offences; and
 - b) subject to section 356, to hear and determine summarily all charges against children for indictable offences, other than murder, attempted murder, manslaughter, child homicide, homicide by firearm, **a designated offence committed when the child was aged 15 years or over**, an offence against section 197A of the Crimes Act 1958 (arson causing death) or an offence against section 318 of the Crimes Act 1958 (culpable driving causing death); and
 - c) to conduct committal proceedings into all charges against children for indictable offences and either—
 - i. direct; or
 - ii. discharge the child under section 12the child to be tried and order that the child be remanded in custody until trial or grant bail6(4) of the **Criminal Procedure Act 2009**; and
 - d) to grant or refuse bail to, or extend, vary or revoke the bail of, a child who is charged with an offence; and
 - e) subject to Chapter 5, to deal with a breach of a sentence or variation of a sentence.

Offences that cannot be heard and determined summarily	<i>Sentencing Act 1991</i> category
Murder	Category A serious youth offence
Attempted murder	Category A serious youth offence
Manslaughter	Category A serious youth offence
Child homicide	Category A serious youth offence
Homicide by firearm	Category A serious youth offence
Causing serious injury intentionally in circumstances of gross violence (when 15 or over) (s 15A)	Category A serious youth offence
Recklessly causing serious injury in circumstances of gross violence (when 15 or over) (s 15B)	Category B serious youth offence
Home invasion (s 77A) (when 15 or over)	Category B serious youth offence
Aggravated home invasion (when 15 or over) (s 77B)	Category A serious youth offence
Aggravated carjacking (when 15 or over) (s 79A)	Category A serious youth offence
Arson causing death (s 197A)	Category A serious youth offence
Culpable driving causing death (s 318)	Category A serious youth offence

S 356 CYFA – Procedure for indictable offences that may be heard and determined summarily

3. The Court must hear and determine indictable charges summarily unless it is one of the following offences:

- I. Murder
- II. Attempted murder
- III. Manslaughter
- IV. Child homicide
- V. Homicide by firearm
- VI. Designated offence committed when the child was 15 years or over
- VII. Offence against s 197A (arson causing death)
- VIII. Offence against 318 (culpable driving causing death)

Or one of the following applies:

- A. Before the hearing of any evidence, the child objects; or
- B. Subsections (6), (7A), (7C), or (8A) applies; or
- C. At any stage, the Court considers that the charge is unsuitable by reason of exceptional circumstances to be determined summarily

S 356(6) CYFA exception

Charges against a child for:

- I. S 4B Terrorism (Community Protection) Act 2003;
- II. Subdivision A of Division 72 of Chapter 4 of the Criminal Code of the Commonwealth;
- III. Part 5.3 or 5.5 of the Criminal Code of the Commonwealth;
- IV. Crimes (Foreign Incursions and Recruitment) Act 1978, as in force before its repeal,

committed when the child was aged 16 or over, must not be heard and determined summarily unless:

- A. The child or the prosecution requests the charge be heard and determined summarily; and
- B. The Court is satisfied the sentencing options available are adequate to respond to the child's offending; and
- C. Any of the following:
 - i. it is in the interests of the victim or victims that the charge be heard and determined summarily;
 - ii. the accused is particularly vulnerable because of cognitive impairment or mental illness;
 - iii. there is a substantial and compelling reason why the charge should be heard and determined summarily.

S 356(7A) CYFA exception

Charges against a child for:

- I. section 15A (causing serious injury intentionally in circumstances of gross violence);
- II. section 15B (recklessly causing serious injury in circumstances of gross violence);
- III. section 77A (home invasion);
- IV. section 77B (aggravated home invasion);
- V. section 79A (aggravated carjacking).

committed when the child was aged 14 or over, must not be heard and determined summarily unless:

- A. The child or the prosecution requests the charge be heard and determined summarily; and
- B. The Court is satisfied the sentencing options available are adequate to respond to the child's offending; and
- C. Any of the following:
 - i. it is in the interests of the victim or victims that the charge be heard and determined summarily;
 - ii. the accused is particularly vulnerable because of cognitive impairment or mental illness;
 - iii. there is a substantial and compelling reason why the charge should be heard and determined summarily.

S 356(7C) CYFA exception

Charges against a child for section 79 (carjacking), committed when the child was aged 14 or over, must not be heard and determined summarily unless:

- A. The child or the prosecution requests the charge be heard and determined summarily; and
- B. The Court is satisfied the sentencing options available are adequate to respond to the child's offending; and
- C. Any of the following:
 - i. it is in the interests of the victim or victims that the charge be heard and determined summarily;
 - ii. the accused is particularly vulnerable because of cognitive impairment or mental illness;
 - iii. there is a substantial and compelling reason why the charge should be heard and determined summarily.

S 356(8A) CYFA exception

Charges against a child for an indictable offence must not be heard and determined summarily if:

- A. The child is committed for trial in respect of another indictable offence; and
- B. the offences are related offences; and
- C. the Court determines that there is no substantial and compelling reason to hear and determine the charge summarily.

CPA amendments

S 168 – Court may transfer certain charges to Magistrates' Court or Children's Court

S 168A – Charges returned to the Children's Court

1. Despite section 168(2), the court may, under section 168(1), transfer a charge in respect of an accused who is a child to the Children's Court if—
 - b. the charge is one that the Children's Court has determined, under section 356(6), (7A) or (7C) of the Children, Youth and Families Act 2005, not to hear and determine summarily; and
8. Despite section 168(2), the court may, under section 168(1), transfer a charge to the Children's Court if the charge is for an offence referred to in paragraph (b) or (c) of the definition of Category B serious youth offence in section 3 committed when the child was aged 16 years or over, after considering whether section 356(3) of the Children, Youth and Families Act 2005 has the effect that the offence should not be heard and determined summarily.

Also note that Schedule 2 was amended to list s 321LB(1) (recruiting a child to engage in criminal activity) as an indictable offence that may be heard and determined summarily.

Provisions of <i>Youth Justice Act 2024</i>	Commencement
S 2 (commencement) Part 22.1 Division 3 (Amendment of Bail Act 1977 - examples, revocation and review) S 904 (Amendment of Bail Act 1977 – transitional provisions)	11 September 2024
Part 22.1 Division 2 (Amendment of Bail Act 1977 - scheduled offences, unacceptable risk and conduct conditions)	2 December 2024
Part 1.1 (introductory provisions) Part 1.2 (criminal responsibility of children) Chapter 3 (police power to take into care and control and transport a child aged 10 or 11 years old) S 766 (Regulations) Chapter 19 (transitional provisions and consequential amendments relating to minimum age of criminal responsibility) Part 22.1 Division 1 (Amendment of Bail Act 1977 - trial of electronic monitoring of children on bail in certain circumstances) S 905 (Amendment of Bail Act 1977 – statute law revision) S 906 (Amendment of Bail Act 1977 – references to conditions of bail and bail undertakings) Part 22.2 (consequential amendments to Surveillance Devices Act 1999) Part 22.3 (Repeal of this chapter)	30 September 2025
Part 1.3 (guiding youth justice principles) Chapters 2 (entities with functions and powers of the Secretary), 4 (diverting children from the justice system), 5 (commencing a proceeding against a child), 6 (conduct of a proceeding), 7 (sentencing), 8 (appeals), 9 (assistance and reports to the Children’s Court), 10 (youth justice custody), 11 (children and young persons held in police goals or in custody of transfer officer under transfer authority), 12 (youth parole), 13 (transfers), 14 (multi-agency panels and high risk panel), 15 (sharing of confidential information), 16 (system planning, performance, collaboration and accountability), 17 (children and young persons infringement notice system (CAYPINS), 18 (General), 21 (transitional provisions), 23 (amendments of other acts)	30 September 2026

Children aged 12 to 13

Children under 12 cannot commit an offence (s 10 YJA).

Children 12 to 13 are presumed not be able to commit an offence but the presumption can be rebutted by prosecution proving beyond reasonable doubt that the child knew, at the time of the offending, that their conduct was seriously wrong (s 11 YJA).

Whether a child knew their conduct was seriously wrong is

- A. a question of fact; and
- B. cannot be inferred merely from the fact that the child engaged in the conduct which constituted the offence; and
- C. refers to the child's knowledge that it was seriously wrong in a moral sense to engage in the conduct that constituted the physical element(s) of the offence.

Factors police MUST consider before commencing proceedings against a 12 to 13 year old.

Review MUST review the decision to commence summary proceedings against a 12 to 13 year old.

Youth Justice Act 2024

From 30 September 2026:

- s 156 – how Children's Court must deal with indictable offences,
- s 157A – indictable offences that must be uplifted – designated offence committed at 14 years of age and
- 157B indictable offences that must be uplifted – carjacking committed at 14 years of age

will largely mirror the previous CYFA provisions (s 356).

Sentencing principles under <i>Children, Youth and Families Act 2005</i>	Sentencing principles under <i>Youth Justice Act 2024</i>
S 361 only impose a sentence if a lighter sentence is not appropriate	S 208Minimum intervention
s 362(1)(a) relationship with the child's family	S 203(a) relationship with child's parents, family and persons of significance in the child's life
s 362(1)(b) living at home	S 203(b) living at home
s 362(1)(c) education, training or employment	S 203(d) education, training or work
s 362(1)(d) minimise the stigma	S 203(f) minimising any stigma
s 362(1)(e) suitability of the sentence	
s 362(1)(f) if appropriate, awareness of responsibility	S 206 awareness of responsibility
s 362(1)(fa) impact on victim and restoration of harm	S 207 impact on victim and restoration of harm
s 362(1)(g) community protection	S 204 community protection
s 362(1)(h) deterrence from offending in remand centres, youth residential centres or youth justice centres	S 209 deterrence from offending in youth justice custodial centre
	S 203(c) social and emotional wellbeing
	S 203(e) participation in other activities
	S 203(g) recognising that children have limited control over their environment
	S 205(a) sentence tailored to individual characteristics
	S 205(b) sentence tailored to individual strengths and vulnerabilities
	S 210 sentencing principles for Aboriginal children

Old sentencing principle provisions	New sentencing principle provisions
S 362(1)(g) CYFA the need to protect the community, or any person, from the violent or other wrongful acts of the child— i. in all cases where the sentence is for a Category A serious youth offence or a Category B serious youth offence; or ii. in any other case—if it is appropriate to do so; and	S 362(1)(g) CYFA the need to protect the community from any further offending by the child; and
N/A	S 362(1)(fa) the need for the sentence to— i. recognise the impact of the child's offending on any victim of that offending; and ii. provide opportunities for the child to restore any harm caused by their offending; and iii. take into account any steps the child has taken to restore such harm, to the extent that the child has the capacity to do so; and
S 204 YJA A sentence imposed on a child should protect the community from any further offending by the child, noting that efforts to support rehabilitation and positive development are the most effective ways to reduce reoffending.	S 204 YJA A sentence imposed on a child should protect the community from any further offending by the child.
208 YJA A sentence imposed on a child should be the minimum intervention required in the circumstances, with a custodial sentence imposed as a last resort and for the minimum period appropriate and necessary.	S 208 YJA A sentence imposed on a child should be the minimum intervention required in the circumstances.

Non-child specific amendments

Offences under the <i>Crimes Act 1958</i>	Old max penalty	New max penalty
S 15A Causing serious injury intentionally in circumstances of gross violence	20 years	25 years
S 15B Causing serious injury recklessly in circumstances of gross violence	15 years	20 years
S 77B Aggravated home invasion	25 years	Life
S 79A Aggravated carjacking	25 years	Life
S 321LB Recruiting a child to engage in criminal activity	10 years	15 years

Non-child specific amendments

S 79 CA – carjacking

A person (A) commits a carjacking if A steals a vehicle and either –

- Immediately before or at the time of doing so, and in order to do so, A – (i) uses force on another person; or (ii) puts or seeks to put another person (B) in fear that B or anyone else will then and there be subjected to force; or
- A child who is under the age of 10 is in the vehicle when A steals it.

S 195X CA – use of knives in the commission of certain indictable offences

A person must not use a knife in committing a relevant offence:

- S 16 – causing serious injury intentionally
- S 17 – causing serious injury recklessly
- S 18 – causing injury intentionally or recklessly
- S 31 – assault with an intent to commit an indictable offence
- S 195H – affray
- 195I – violent disorder

Transitional provisions of <i>Justice Legislation Amendment (Community Safety) Act 2025</i>	Application
Amendment to s 79A CA – carjacking	Applies to offences committed on or after 10 December 2025. If the offence is committed before and after 10 December 2025, the offence is said to have been committed before 10 December 2025
Amendment to s 362 CYFA - matters to be taken into account	Applies to sentencing on or after 27 February 2026, regardless of when offence was committed
Amendments to ss 356, 356A, 516 & s 516A CYFA – procedure for indictable offences that may be heard and determined summarily, exceptional circumstances, jurisdiction of the Criminal Division & joint committal proceedings	Applies to offences committed on or after 27 February 2026. If the offence is committed before and after 27 February 2026, the offence is said to have been committed before 27 February 2026
Amendment to s 168A CPA – charges returned from higher court to Children’s Court	Applies to an old charge in the same way, if the Children’s Court has previously determined not to hear and determine summarily under ss 157A or 157B of YJA
Amendment to s 25 MCA – extent of jurisdiction	Applies to offences committed or after 27 February 2026

Practical considerations

Update your precedents.

Keep a close eye out for the practicalities of more children going to the County Court.

Protecting the identity of children being sentenced in the County Court.

Be ready to get reports for children sent up to the County Court to try and establish exceptional circumstances – more is going to be needed than before.

Don't forget that the power to bring a matter down from the County Court largely mirrors the CYFA provisions but is not bound by the previous decision.

If you are dealing with a 12- to 13-year-old, follow up on the recorded reasons for commencing proceedings by the police and the prosecutor.

If you are dealing with a 14-year-old or above, be aware of the changes coming into place in September 2026.

Thank you for your attention.

Any questions?

