

Impact on Oranga Tamariki of amendment to Bail Act

To Hon Karen Chhour, Minister for Children			
Date	5 March 2025	Deadline	10 March 2025
Briefing number	B-0493	Priority	High
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Security	In-confidence and legally privileged		

Purpose

This briefing informs you of the impact on Oranga Tamariki of a proposed amendment to the Bail Act 2000 (the Bail Act) ahead of Cabinet consideration of the amendment on Monday 10 March 2025.

Executive Summary

s9(2)(h)




Cabinet has agreed to progress an urgent amendment to the Bail Act to address this issue. Oranga Tamariki supports this amendment, which will:

- authorise Corrections to approve absences; and
- validate existing orders s9(2)(h)

This amendment will have an impact on Oranga Tamariki. s9(2)(h)

We expect that for approximately 17 of the 88 young people currently on EM bail, Police Prosecutions will need to return to court for review of the EM bail conditions, in line with the proposed new law. The Bill provides a grace period of 20 working days following commencement of the new legislation to do this.

IN-CONFIDENCE


Recommendations	
It is recommended that you:	
Note that on Monday 10 March 2025 Cabinet will consider a proposed amendment to the Bail Act to address the issue of who is authorised to approve electronic monitoring (EM) absences.	
Note that Oranga Tamariki supports the proposed amendment to the Bail Act.	
Note that Oranga Tamariki officials will work with Police Prosecution staff to enable required changes to EM conditions for approximately 17 young people to ensure that future EM approvals are lawful.	

Sign-off Oranga Tamariki	Sign-off Minister for Children
 Adam Allington Acting Deputy Chief Executive System Leadership Date signed: 05/03/2025	 Hon Karen Chhour Minister for Children Date signed: 10/3/2025


Minister comments
Satisfaction
Please select your level of satisfaction with this briefing
<input type="checkbox"/> Outstanding <input type="checkbox"/> Good <input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Poor <input type="checkbox"/> Unacceptable

Impact on Oranga Tamariki of amendment to Bail Act

Supporting the effective management of defendants on EM bail

- 1 Cabinet agreed [CAB-25-MIN-0047] on Monday 3 March 2025 to progress an urgent legislative amendment to the Bail Act. This would enable the court to authorise the agency responsible for managing electronically monitored (EM) bail to approve a defendant being absent from their address for purposes specified by the court.
- 2 This reflects the practice of the judiciary and Corrections since 2013. Courts have been authorising Corrections to approve defendants on EM bail to be absent from their address for purposes specified under section 30M of the Bail Act 2000. This includes to attend legal, government or health appointments, and to shop for essential household supplies.
- 3 s9(2)(h) 
- 4 In addressing this issue, Cabinet will also validate past decisions to ensure that no past EM absence decisions are unduly affected.

Impact on Oranga Tamariki

- 5 Oranga Tamariki supports the proposed amendment on the basis that it provides for the effective management of defendants on EM bail in a way that prioritises public safety and avoids operational burden on the courts, prosecutors, Corrections, and the New Zealand Police.
- 6 s9(2)(h) 
- 7 The proposed amendment enables the court to authorise the relevant staff of the entity managing EM bail to approve absences for purposes specified by the court. This role will fall to Corrections, while allowing Oranga Tamariki to continue to support rangatahi and whānau by liaising directly with Corrections on their behalf to seek approval of absences.

Risks and Mitigations

- 8 The proposed new legislation will validate current and historic conditions that authorised Corrections and others (including Oranga Tamariki social workers and family members of young people) to approve absences. This means they will be treated as if the new legislation had been in effect at the time. This prevents the need to revise bail orders

currently in effect s9(2)(h)

- 9 Corrections has identified youth cases where Oranga Tamariki or other individuals have been authorised by the court to approve absences. We expect that approximately 17 young people currently on EM bail will need to return to court to remove the non-standard conditions from their orders. Transitional provisions in the Bill provide a grace period of 20 working days from the commencement of the new legislation to do this. Oranga Tamariki will work with Police Prosecution to support this process.
- 10 Oranga Tamariki is preparing reactive media statements alongside the process in case of any queries.

Consultation

- 11 Oranga Tamariki is working with Corrections to identify the young people affected by the proposed amendment and will work with Police to support this process. We have discussed the workability of this proposed urgent amendment with our operational colleagues.

Next steps

- 12 We expect the amendment to the Bail Act to be dealt with under urgency and that this will be discussed at Cabinet on Monday 10 March ahead of its proposed introduction next week. We will keep you informed about Cabinet decision-making and implementation of the new legislation through the Weekly Report.

30M Authorised absence from EM address

(1) A court may, when granting bail with an EM condition, authorise the defendant to be absent from the EM address.

(2) However, a Registrar may authorise a defendant to be absent from the EM address only if the prosecution agrees to that authorisation.

(3) In authorising a defendant to be absent from the EM address, the court must specify—

(a) the time or times during which the defendant may be absent; and

(b) the purpose or purposes for which the defendant may be absent.

Section 30M: inserted, on 4 September 2013, by [section 19](#) of the Bail Amendment Act 2013 (2013 No 66).