



New South Wales

Evidence (Audio and Audio Visual Links) Amendment (Local Court Bail Division) Bill 2025

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2025

Clerk of the Parliaments



New South Wales

Evidence (Audio and Audio Visual Links) Amendment (Local Court Bail Division) Bill 2025

Act No , 2025

An Act to amend the *Evidence (Audio and Audio Visual Links) Act 1998* to formalise the use of audio visual links in first appearance bail matters; and to facilitate the commencement of the Bail Division of the Local Court.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Evidence (Audio and Audio Visual Links) Amendment (Local Court Bail Division) Act 2025*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Evidence (Audio and Audio Visual Links) Act 1998 No 105

[1] Section 3 Interpretation

Omit section 3(1), definition of *physical appearance proceedings*. Insert instead—

physical appearance proceeding means the following—

- (a) a trial, including an arraignment on the day appointed for the trial,
- (b) a hearing of charges,
- (c) an inquiry into a person's fitness to be tried for an offence.

[2] Section 3A Appearances and entitlements to be present before courts

Omit section 3A(2). Insert instead—

- (2) An entitlement of a person under another Act or law for a person to be present in proceedings before a court relating to bail is taken to be satisfied if either of the following are used in relation to the person under this Act—

- (a) audio links,
- (b) audio visual links.

Note— See section 5BB(2A), which provides for the criteria that must be satisfied before a person may be present by audio link in proceedings before a court relating to bail.

[3] Section 5BAAB

Insert before section 5BA—

5BAAB Definition

In this part—

appear, before a NSW court, includes—

- (a) be brought before a NSW court, and
- (b) be present before a NSW court.

[4] Section 5BA(1) and 5BB(1)

Omit “(or be brought or be present)” wherever occurring.

[5] Section 5BA Accused detainee to appear physically in physical appearance proceedings

Omit section 5BA(2).

[6] Section 5BB Accused detainee to appear by audio visual link in criminal proceedings other than physical appearance proceedings

Insert after section 5BB(2)—

Note— The *Bail Act 2013*, section 46 requires a police officer to bring an accused person before a court as soon as practicable and section 71 requires a bail application to be dealt with as soon as reasonably practicable. If the audio visual link for any proceedings relating to bail under the *Bail Act 2013*, section 46 or 71 failed, or there were otherwise no audio visual link available for the proceeding, the obligation under section 46 or 71 to act as soon as practicable or reasonably practicable continues.

- (2A) For proceedings relating to bail, the accused detainee may appear before the court by audio link only if—
 - (a) audio visual link fails or is otherwise not available, and

- (b) audio link is available, and
- (c) the parties to the proceedings consent to the use of audio link, and
- (d) the court is satisfied the accused detainee appearing before the court by audio link is in the interests of justice.

[7] Section 5BB(6) and (7)

Insert after section 5BB(5)—

- (6) A head of jurisdiction for a court may, by practice note or other document that regulates the practice or procedure of the jurisdiction, direct that, despite subsection (1)—
 - (a) accused detainees required to appear before the court in proceedings relating to bail in particular locations are not required to appear by audio visual link, or
 - (b) a particular class of accused detainees required to appear before the court in proceedings relating to bail are not required to appear by audio visual link, or
 - (c) accused detainees required to appear before the court in proceedings relating to bail at particular times are not required to appear by audio visual link.
- (7) If subsection (1) does not apply to an accused detainee because of the operation of subsection (6)(a), (b) or (c), the accused detainee must appear physically before the court, unless the court directs otherwise in the interests of the administration of justice.

[8] Section 5BC

Omit the section. Insert instead—

5BC Facilities for private communication

- (1) Facilities are to be made available for private communication between an accused detainee appearing by audio link or audio visual link under this part and the person's representative in the proceeding, regardless of whether the person's representative is—
 - (a) at the place at which the court is sitting, or
 - (b) at another place and appearing by audio link or audio visual link.
- (2) For subsection (1), a reference to appearing by audio link or audio visual link includes making a submission to the court by audio link or audio visual link.

[9] Sections 20A and 20B

Omit the sections. Insert instead—

20A Giving evidence or making submissions by audio visual link

- (1) Evidence must not be given, and a submission must not be made, by audio visual link in proceedings under this Act, including proceedings relating to bail, unless each relevant place for the proceedings is equipped with audio visual link facilities that enable—
 - (a) persons who are at the courtroom to see and hear—
 - (i) persons at the place at which the evidence is being given or the submission is made in the proceedings, and

- (ii) persons at any place at which the parties to the proceedings are appearing, and
 - (b) persons who are at the place at which the evidence is given or the submission is made to see and hear—
 - (i) persons at the courtroom, and
 - (ii) persons at any place at which parties to the proceedings are appearing, and
 - (c) persons who are at any place at which parties to the proceedings are appearing to see and hear—
 - (i) persons at the courtroom, and
 - (ii) persons at a place at which the evidence is given or the submission is made.
- (2) In this section—
courtroom includes another place at which a NSW court is sitting.
relevant place, in relation to proceedings, means the following—
- (a) the courtroom in which the NSW court before which the proceedings are being held is sitting,
 - (b) any place at which parties to the proceedings are appearing,
 - (c) a place at which evidence would be given or a submission would be made in the proceedings.

20B Giving evidence or making submissions by audio link

- (1) Evidence must not be given, and a submission must not be made, by audio link in proceedings under this Act, including proceedings relating to bail, unless each relevant place for the proceedings is equipped with audio link facilities that enable—
- (a) persons who are at the courtroom to hear—
 - (i) persons at the place at which the evidence is being given or the submission is made in the proceedings, and
 - (ii) persons at any place at which the parties to the proceedings are appearing, and
 - (b) persons who are at the place at which the evidence is given or the submission is made to hear—
 - (i) persons at the courtroom, and
 - (ii) persons at any place at which parties to the proceedings are appearing, and
 - (c) persons who are at any place at which parties to the proceedings are appearing to hear—
 - (i) persons at the courtroom, and
 - (ii) persons at a place at which the evidence is given or the submission is made.
- (2) In this section—
courtroom includes another place at which a NSW court is sitting.
relevant place, in relation to proceedings, means the following—
- (a) the courtroom in which the NSW court before which the proceedings are being held is sitting,
 - (b) any place at which parties to the proceedings are appearing,

- (c) a place at which evidence would be given or a submission would be made in the proceedings.

[10] Section 20D

Omit the section. Insert instead—

20D Failure or other unavailability of audio link or audio visual link

- (1) This section applies if—
 - (a) an audio link or audio visual link is being used or is required to be used under this Act for a proceeding before a NSW court, and
 - (b) the audio link or audio visual link fails or is otherwise unavailable.
- (2) If the audio link or audio visual link fails or is otherwise unavailable during the proceeding, the court may do the following as if a person present in the place at which the audio link or audio visual link is located was in the presence of the court—
 - (a) adjourn the proceeding,
 - (b) make another order that is appropriate in the circumstances.

Schedule 2 Consequential repeal of regulation

Repeal of regulation

The *Evidence (Audio and Audio Visual Links) Regulation 2024* is repealed.