



New South Wales

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

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows—

- (a) to amend the *Evidence (Audio and Audio Visual Links) Act 1998* (***the Act***) to—
  - (i) provide for a presumption of the use of audio visual links in proceedings relating to bail, including first appearance bail matters, and
  - (ii) authorise a head of jurisdiction for a court to require an accused detainee to appear physically before the court unless the court directs otherwise in circumstances where a presumption in favour of the use of audio visual link exists, and
  - (iii) allow an accused detainee to appear before the court using an audio link, in particular circumstances, in proceedings relating to bail, and
  - (iv) clarify existing protections related to the use of audio links and audio visual links in court proceedings under the Act,
- (b) to consequentially repeal the *Evidence (Audio and Audio Visual Links) Regulation 2024*.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

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

**Schedule 1[1]** amends the definition of *physical appearance proceedings* to make it clear that provisions relating to a physical appearance proceeding under the Act will no longer apply to proceedings relating to bail, including first appearance bail matters. **Schedule 1[5]** makes a consequential amendment.

**Schedule 1[2]** makes it clear that the use of either an audio link or an audio visual link to enable a person to appear before the court will satisfy an entitlement under another Act or law that requires a person to appear before the court about bail.

**Schedule 1[3]** inserts the definition of *appear* for the Act, Part 1B. **Schedule 1[4]** makes a consequential amendment.

**Schedule 1[6]** provides that an audio link may be used to allow a person to appear before a court in a proceeding relating to bail. The audio link must only be used in circumstances where an audio visual link fails or is otherwise not available, and the parties consent to the use of audio link and the court is satisfied that the use of the audio link is in the interests of justice. The proposed amendment also makes it clear that obligations for police officers to bring an accused before a court as soon as practicable under the *Bail Act 2013*, sections 46 and 71 continue to apply in circumstances where an audio visual link fails or is otherwise unavailable.

**Schedule 1[7]** authorises a head of jurisdiction for a court, in proceedings related to bail, to direct that accused detainees are required to appear physically before the court, unless the court orders otherwise in the interests of the administration of justice.

**Schedule 1[8]** makes it clear that facilities are to be made available for private communication between an accused detainee appearing before a court using audio link or audio visual link and the accused detainee's representative, regardless of the location of the accused detainee's representative.

**Schedule 1[9]** makes it clear that, in circumstances where an audio visual link is used to allow a person to appear before the court, all persons involved in proceedings under the Act, including proceedings related to bail, must be able to see and hear each other regardless of the location of each person when giving evidence or making a submission. The proposed amendment also provides that, in circumstances where an audio link is used, all persons involved in proceedings under the Act must be able to hear each other regardless of the location of each person when giving evidence or making a submission.

**Schedule 1[10]** provides that, in circumstances where an audio link or audio visual link fails or is otherwise unavailable, the court may adjourn the particular proceeding or make another order that is appropriate in the circumstances. The order made by the court will apply as if the person was in the presence of the court at the time.

## **Schedule 2      Consequential repeal of regulation**

**Schedule 2** repeals the *Evidence (Audio and Audio Visual Links) Regulation 2024*, which is made redundant by Schedule 1[1]–[7].