



16 February 2026

Secretary, Legislative Scrutiny Committee

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Dear members of the Legislative Scrutiny Committee

### **Submission on the Bail Amendment Bill 2026**

The North Australian Aboriginal Justice Agency (NAAJA) provides high quality, culturally appropriate legal advice, representation and justice related services to Aboriginal people throughout the Northern Territory (NT). For over 50 years NAAJA has played a leading role in policy and law reform in areas affecting Aboriginal peoples' legal rights and access to justice.

NAAJA applauds the government's decision to refer the Bail Amendment Bill 2026 (the Bill) to the Legislative Scrutiny Committee (the Committee) for proper public consultation, and we welcome the opportunity to make a submission on the Bill. NAAJA does not oppose the passage of the Bill, however, we note that the proposed amendments are unnecessary and duplicative as the existing legislative framework already achieves the Bill's stated purpose.

### **The proposed amendments are unnecessary**

The Bill seeks to amend the *Bail Act 1982* (NT) (the *Bail Act*) to clarify that references to the Local Court, Local Court Judges, and Registrars of the Local Court include the Youth Justice Court, Judges of the Youth Justice Court, and Registrars of the Youth Justice Court, respectively. However, this clarification is redundant as the *Youth Justice Act 2005* (NT) (the *Youth Justice Act*) already provides for this through section 53(1A).

Section 53(1A) provides:

- (1A) In a provision of any other Act relating to unlawful activity or alleged unlawful activity:
  - (a) a reference to the Local Court includes, in relation to a youth, a reference to the Youth Justice Court; and
  - (b) a reference to a Local Court Judge includes, in relation to a youth, a reference to a Judge of the Youth Justice Court; and

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- (c) a reference to a registrar of the Local Court includes, in relation to a youth, a registrar of the Youth Justice Court.

*Note for subsection (1A)*

*Acts relating to unlawful activity or alleged unlawful activity include the Criminal Code, Bail Act 1982 and Parole Act 1971.*

The application of section 53(1A) to the *Bail Act* was judicially considered and confirmed by the Supreme Court in *DPP v WB* [2018] NTSC 80. In considering an application for review, the Chief Justice referred to section 53(1A) and proceeded on the basis that a reference to the Local Court in the *Bail Act* included, in relation to a youth, a reference to the Youth Justice Court. We note that, at the time the case was heard, section 53(1A) contained a typographical error with a reference to “*Youth Justice Act*”, instead of “*Youth Justice Court*”. This error was corrected in the reprint which commenced on 2 March 2020.

The proposed amendments, therefore, do not introduce any substantive change to the law but merely restate what is already provided for under existing legislation.

### **Overlapping provisions can create interpretive risk**

Whilst NAAJA accepts that the proposed amendments carry limited risk, we note that having overlapping provisions in different Acts that achieve the same purpose can create interpretive difficulties. If passed, courts may be required to determine the interaction between section 3AA of the Bill and section 53(1A) of the *Youth Justice Act*, including which provision takes precedence in the event of any inconsistency. Although the risk is limited, the more prudent approach would be to have a single set of deeming provisions to ensure that the relevant provisions of the *Bail Act* are applied in youth justice matters. For the avoidance of doubt, we do not suggest the repeal of section 53(1A) of the *Youth Justice Act* as this provision has application beyond the *Bail Act*.

### **Conclusion**

NAAJA does not oppose the passage of the Bill. However, we submit that the amendments are unnecessary as section 53(1A) of the *Youth Justice Act* already operates to deem references to the Local Court in the *Bail Act* as including references to the Youth Justice Court. This has been confirmed by the Supreme Court in *DPP v WB* [2018] NTSC 80.

Whilst the amendments may serve some clarifying purpose, they are not a priority reform. NAAJA urges the NT Government to direct its legislative resources toward addressing the systemic issues affecting Aboriginal young people in the youth justice system, developed in genuine consultation with Aboriginal communities and organisations.

Yours sincerely



**Ben Grimes**  
Chief Executive Officer