



Legislative Assembly of the Northern Territory

Legislative Scrutiny Committee

Inquiry into the Criminal Procedure Legislation Amendment Bill 2026

April 2026



Inquiry into the Criminal Procedure Legislation Amendment Bill 2026



Legislative Assembly of the Northern Territory

Parliament House
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Chair's Preface

This report details the Committee's findings regarding the Criminal Procedure Legislation Amendment Bill 2026. The Bill amends the *Local Court (Criminal Procedure) Act 1928* and other related justice legislation, to commence reforms to streamline criminal matters within the Local Court. Key amendments include providing for greater use of audiovisual link for witnesses and detained defendants, creating a presumption of joinder for domestic violence matters to be heard together, and providing police flexibility to grant or refuse bail when a person is arrested on a warrant.

The Committee received 6 written submissions to its Inquiry. Whilst submitters generally supported the passage of the Bill, the Committee received some submissions that raised concerns about the expanded use of audiovisual link. These concerns related to the adequacy of existing audiovisual link facilities, and the potential impact the expanded use of audiovisual may have on certain detained defendants, including those with communication difficulties.

Following its examination of the Bill, the view of the Committee is that the Assembly should pass the Bill without amendment. However, the Committee recommends that a post-implementation review be conducted after 12 months to assess the impact of proposed section 49EB on detained defendants with communication difficulties, and the adequacy of necessary facilities to support the effective use of audiovisual link.

On behalf of the Committee, I would like to thank all those that made submissions to the Inquiry. The Committee also thanks the Attorney-General's Department who briefed the Committee on the Bill and provided comprehensive responses to written questions. I would also like to thank my fellow Committee members for their bipartisan commitment to the legislative review process.



Mrs Oly Carlson MLA

Chair

Committee Members

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Acknowledgments

The Committee acknowledges all those that provided written submissions to its inquiry, and the representatives from the Attorney-General's Department for briefing the Committee and providing comprehensive responses to written questions.

Acronyms and Abbreviations

AVL	Audiovisual link
Bill	Criminal Procedure Legislation Amendment Bill 2026
Committee	Legislative Scrutiny Committee
Court	Local Court
Department	Attorney-General's Department
DPP	Director of Public Prosecutions
Evidence Act	<i>Evidence Act 1939</i>
LCCP Act	<i>Local Court (Criminal Procedure) Act 1928</i>
NAAJA	North Australian Aboriginal Justice Agency
NT	Northern Territory
Working Group	Criminal Procedure Working Group

Terms of Reference

Sessional Order 14

Establishment of Legislative Scrutiny Committee

- (1) The Assembly appoints a Legislative Scrutiny Committee
- (2) The membership of the scrutiny committee will comprise three Government Members, one Opposition Member and one crossbench Member.
- (3) The functions of the scrutiny committee shall be to inquire into and report on:
 - (a) any bill referred to it by the Assembly;
 - (b) in relation to any bill referred by the Assembly:
 - (i) whether the Assembly should pass the bill;
 - (ii) whether the Assembly should amend the bill;
 - (iii) whether the bill has sufficient regard to the rights and liberties of individuals, including whether the bill:
 - (A) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and
 - (B) is consistent with principles of natural justice; and
 - (C) allows the delegation of administrative power only in appropriate cases and to appropriate persons; and
 - (D) does not reverse the onus of proof in criminal proceedings without adequate justification; and
 - (E) confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer; and
 - (F) provides appropriate protection against self-incrimination; and
 - (G) does not adversely affect rights and liberties, or impose obligations, retrospectively; and
 - (H) does not confer immunity from proceeding or prosecution without adequate justification; and
 - (I) provides for the compulsory acquisition of property only with fair compensation; and
 - (J) has sufficient regard to Aboriginal and Torres Strait Islander tradition; and
 - (K) is unambiguous and drafted in a sufficiently clear and precise way.

- (iv) whether the bill has sufficient regard to the institution of Parliament, including whether a bill:
 - (A) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and
 - (B) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; and
 - (C) authorises the amendment of an Act only by another Act.
- (4) The committee will provide an annual report of its activities to the Assembly.

Adopted 15 October 2024

Recommendations

Recommendation 1

The Committee recommends that the Legislative Assembly pass the Criminal Procedure Legislation Amendment Bill 2026 without amendment.

Recommendation 2

The Committee recommends that a post-implementation review be conducted after 12 months of operation to assess:

- the impact of proposed section 49EB on detained defendants with communication difficulties; and
- the adequacy of 'necessary facilities' to support the effective use of audiovisual link.

1 Introduction

Introduction of the Bill

1.1 The Criminal Procedure Legislation Amendment Bill 2026 (the Bill) was introduced into the Legislative Assembly by the Attorney-General, Hon Marie-Clare Boothby MLA, on 18 March 2026. The Assembly subsequently referred the Bill to the Legislative Scrutiny Committee (the Committee) for inquiry and report by 30 April 2026.¹

Conduct of the Inquiry

- 1.2 On 19 March 2026, the Committee called for submissions by 27 March 2026. The call for submissions was advertised via the Legislative Assembly website, Facebook, and email subscription service. In addition, the Committee directly contacted a number of individuals and organisations. The Committee received six submissions (see Appendix 1).
- 1.3 On 23 March 2026, the Committee held a public briefing with representatives from the Attorney-General's Department (the Department).
- 1.4 On 7 April 2026, the Committee requested the Department provide additional information in writing by 14 April 2026. The Committee thanks the Department for their assistance.

Outcome of Committee's Consideration

- 1.5 Sessional Order 14 requires that the Committee after examining the Bill determine:
- whether the Assembly should pass the bill;
 - (ii) whether the Assembly should amend the bill;
 - (iii) whether the bill has sufficient regard to the rights and liberties of individuals; and
 - (iv) whether the bill has sufficient regard to the institution of Parliament.
- 1.6 Following examination of the Bill, and consideration of the evidence received, the Committee is of the view that the Legislative Assembly should pass the Bill without amendment.

Recommendation 1

The Committee recommends that the Legislative Assembly pass the Criminal Procedure Legislation Amendment Bill 2026 without amendment.

¹ Hon Marie-Clare Boothby MLA, Attorney-General, Draft Daily Hansard – Wednesday 18 March 2026, <https://territorystories.nt.gov.au/10070/1030209>, p. 12.

Report Structure

- 1.7 Chapter 2 provides an overview of the policy objectives of the Bill and the purpose of the Bill as contained in the Explanatory Statement.
- 1.8 Chapter 3 considers the main issues raised in evidence received.

2 Overview of the Bill

Background to the Bill

- 2.1 The Local Court (the Court) is the first level of the Northern Territory's (NT) two court system and handles the majority of cases in the NT. It has jurisdiction over both civil and criminal matters.
- 2.2 Matters relating to procedure for criminal proceedings in the Court are set out in the *Local Court (Criminal Procedure) Act 1928* (LCCP Act) and other related justice legislation, including the *Evidence Act 1939* (Evidence Act), the *Bail Act 1982*, the *Sentencing Act 1995*, and the *Local Court Act 2015*.
- 2.3 In her first reading speech, the Attorney-General stated that the Bill stems from the work of the Criminal Procedure Working Group (the Working Group):
- Early in the development of this Bill, a Local Court criminal procedure working group was established to ensure those working in the justice system supported the changes required. The group brought together key voices from across the justice sector to look at how the Local Court system could be improved... The working group included the judiciary courts, representatives from the North Australian Aboriginal Justice Agency, the NT Legal Aid Commission, the Criminal Lawyers Association of the Northern Territory, the Bar Association of the NT, and the Office of the Director of Public Prosecutions.²
- 2.4 With regard to matters considered in the Working Group, the Department advised that 'consultation with the [Working] Group was a significant contributor to the final drafting of the Bill. Consensus was not reached on all matters, but on most'.³

Purpose of the Bill

- 2.5 As noted in the Explanatory Statement, the purpose of the Bill is to 'commence reforms that streamline criminal matters within the Court, helping to deliver swift justice for victims and the community'.⁴ The Bill seeks to amend the LCCP Act and other related justice legislation to:
- introduce an initial provision aimed at providing fast-track committal pathways
 - allow more flexibility to list matters in circumstances with real prospects of early resolution
 - encourage use of audiovisual links
 - improve the Court's ability to issue warrants, in appropriate circumstances, for witnesses who do not attend Court

² Hon Marie-Clare Boothby MLA, Attorney-General, Draft Daily Hansard – Wednesday 18 March 2026, <https://territorystories.nt.gov.au/10070/1030209>, p. 13.

³ Attorney-General's Department, Answer to Question Taken on Notice, 24 March 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0005/1604687/Attorney-Generals-Department-Answer-to-Question-Taken-on-Notice-Public-Briefing-24-March-2026.pdf, p. 6.

⁴ Explanatory Statement, Criminal Procedure Legislation Amendment Bill 2026 (Serial 58), https://parliament.nt.gov.au/_data/assets/pdf_file/0016/1600540/Explanatory-Statement-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58.pdf, p. 1.

- streamline hearings for related domestic violence matters
- amend provisions to facilitate the resolution of matters
- provide police flexibility to manage arrest outcomes for Court ordered warrants, in limited and appropriate circumstances
- remove an obsolete administrative provision requiring the prosecution and defence to give written notice to the Court that they are ready to proceed with an appointed hearing date seven days prior
- improve various provisions regarding sentencing indications, to promote early resolution of matters and encourage early appropriate guilty pleas
- expand matters which can be heard in the Court to enhance efficiencies and promote early resolution of matters
- make amendments to align provisions within the Act and with other relevant legislation
- update how Court forms are prescribed.

3 Examination of the Bill

Introduction

- 3.1 The Committee received 6 submissions to the Inquiry. The following Chapter considers issues that were raised in submissions, at the public briefing, and in written responses provided by the Department.

Use of audiovisual link

- 3.2 Clauses 36 and 37 seek to amend section 49 and insert sections 49EA and 49EB into the Evidence Act to create a presumption of audiovisual link (AVL) use for witnesses and detained defendants in certain circumstances.
- 3.3 In her first reading speech, the Attorney-General explained the rationale for these proposed amendments:

Currently, there is a lot of administrative work involved in bringing witnesses and defendants to court. Police, Corrections and defence lawyers often have to appear to the court just to allow someone to appear remotely. In many cases witnesses or defendants also need to travel long distances, which involves time and expense. These changes will help reduce that burden and make that process more efficient.⁵

Witness appearance in court

- 3.4 Proposed section 49EA provides the Court must give direction under section 49E(1) for a witness in a criminal proceeding to appear before, and give evidence to, the Court by AVL, if the Court is satisfied that:
- the witness is in a remote community or more than 100km from where the Court is sitting;
 - the necessary facilities are available or can reasonably be made available; and
 - if a party to the criminal proceeding opposes the direction being given in respect of the witness, it is in the interests of the administration of justice to give the direction.⁶
- 3.5 Submitters were generally supportive of the use of AVL to facilitate witnesses in remote communities attending court proceedings under proposed section 49EA, citing the potential for greater efficiency. The North Australian Aboriginal Justice Agency (NAAJA) noted this often happens in practice already.⁷
- 3.6 Despite supporting the policy intent, the Director of Public Prosecutions (DPP) questioned the necessity of a presumption of AVL, noting that a right for

⁵ Hon Marie-Clare Boothby MLA, Attorney-General, Draft Daily Hansard – Wednesday 18 March 2026, <https://territorystories.nt.gov.au/10070/1030209>, p. 13.

⁶ Proposed section 49EA(3) sets out factors the Local Court must consider in determining whether it is in the interest of the administration of justice to give the direction.

⁷ Submission 5 – North Australian Aboriginal Justice Agency, p. 4.

witnesses to appear via AVL would be more efficient.⁸ With regard to the presumption, the Department advised:

Currently for the Court to direct a person to appear, give evidence or make a submission via AVL, an application by a party to the proceeding (including a witness or defendant) to appear via AVL is generally required. The presumption in favour of AVL removes this requirement, saving time and resources. It is a practicable approach allowing appearance by AVL where appropriate, noting that a right to appear by AVL would not be practicable if necessary facilities are not available or unable to be made available in the circumstances. A right to appear would remove the flexibility that the presumption provides and would likely impact the safeguards to ensure AVL is only used where appropriate for the specific circumstances of the matter before the Court.⁹

- 3.7 Whilst supporting the provision, Law Society NT submitted that the threshold for what would constitute 'necessary facilities' is unclear and not addressed in the Bill. Law Society NT advocated for a definition of necessary facilities to be inserted, arguing:

There is a risk that there will be inconsistency between what is accepted as necessary and that in some cases witness evidence could be compromised if there is not a robust standard of privacy required for available facilities to meet the relevant test.¹⁰

- 3.8 With regard to defining 'necessary facilities', the Department advised this would be a matter for the Court to determine:

This will be a matter for the Court to determine, as an operational and technical matter, noting that guidance is not proposed to be published so as to avoid fettering the discretion of the Court especially given the wide-ranging circumstances that may arise impacting what constitutes 'necessary facilities'.¹¹

- 3.9 The Committee notes that, where similar AVL presumptions apply in other jurisdictions, the legislation does not define what necessary facilities are required and, instead, leaves the matter to the relevant court's discretion.¹²

Defendant appearance in court

- 3.10 Proposed section 49EB provides that a detained defendant who is required to appear in court in a summary criminal proceeding, must appear by AVL unless:
- the necessary facilities are not available or cannot reasonably be made available; or

⁸ Submission 6 – Director of Public Prosecutions, p 3.

⁹ Attorney-General's Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 6.

¹⁰ Submission 3 – Law Society NT, p. 4.

¹¹ Attorney-General's Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 6.

¹² See, for example, *Evidence (Audio and Audio Visual Links) Act 1998* (NSW), s 5BB(1).

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- the Court directs that the detained defendant appears physically.
- 3.11 A detained defendant is required to appear via AVL for all parts of a summary criminal proceeding other than the first appearance, a hearing of the charge, and the preliminary examination, for which they must appear in person (unless the Court directs otherwise).
- 3.12 Some submitters stated the presumption of detained defendants to appear via AVL would have positive effects, including the reduction of transportation costs and delays.¹³ Whilst supporting appearance via AVL, DPP submitted that, as drafted, section 49EB will require a detained defendant to appear in-person for all steps of the committal process. However, in practice, a defendant appears via AVL for most parts of the preliminary examination, except the ‘preliminary examination oral’ when oral evidence is called.¹⁴ In this regard, DPP recommended section 49EB be amended to narrow this scope.
- 3.13 Other submitters raised concerns about proposed section 49EB, noting that certain persons may be disadvantaged through appearing via AVL, including people facing communication barriers due to language, hearing or cognition.¹⁵ Law Society NT advocated for additional safeguards to prevent any disadvantage, including requiring the Court to be satisfied of the defendant’s understanding or excluding the presumption if the defendant requires an interpreter.¹⁶
- 3.14 Some submitters further noted the provisions may have disproportionate impacts on Aboriginal Territorians.¹⁷ For example, Legal Aid NT noted Aboriginal Territorians are more likely to experience hearing loss or require an interpreter.¹⁸ NAAJA particularly emphasised the potential impact the provisions could have on Aboriginal Territorians:

NAAJA notes that some of our Aboriginal clients are disadvantaged in AVL appearances as English is often a second language, clients may experience hearing impairments (and NT Correctional centres do not provide hearing loops for prisoners appearing in court via AVL), may have an acquired brain injury, mental health challenges and cognitive impairments. All of these factors can contribute to difficulty understanding, hearing and processing the comments of Judges, lawyers and prosecutors over the AVL, effectively limiting a person’s participation in their court matter. Where a defendant has experience of one of these factors (and some people may experience a combination), this can severely compromise a defendant’s comprehension of sentencing orders and their understanding on release. This can have the flow on effect that where a person is not physically present in court to participate fully, they may miss important information relevant to their conditions of release or sentencing/ bail. Whilst a defendant’s lawyers will endeavour to explain any outcome and obligations to them over the phone

¹³ Submission 3 – Law Society NT, p. 4.

¹⁴ Submission 6 – Director of Public Prosecutions, p 6.

¹⁵ Submission 1 – Sam Wilks; Submission 2 – Legal Aid NT; Submission 3 – Law Society NT; Submission 5 – Northern Australian Aboriginal Justice Agency.

¹⁶ Submission 3 – Law Society NT, p. 4.

¹⁷ Submission 5 – Northern Australian Aboriginal Justice Agency; Submission 1 – Sam Wilks; Submission 2 – Legal Aid NT.

¹⁸ Submission 2 – Legal Aid NT, p. 2.

after court with the assistance of an interpreter where necessary, this does not replace being able to participate and understand what is happening in court which would be better facilitated by in person attendance at plea, bail and sentencing hearings. This physical presence is particularly essential for young people in custody who may experience a disability, FASD, cognitive impairment, language barriers and hearing impairments. By limiting people's participation in person in their sentencing, bail and plea hearings a false economy is perpetuated where the person being sentenced or applying for bail is at risk of not understanding their obligations or the impact of their offending, increasing the risk of breach of orders and recidivism.¹⁹

3.15 With regard to how any potential risk of disadvantage would be managed by the Local Court, the Department advised:

The use of AVL is already part of Court practice. The amendment is intended to help facilitate appropriate use and will be managed by the discretionary provisions which allow the Court to direct that a person appear in person:

- For remote witnesses: where a party opposes the use of audiovisual links and it is not in the administration of justice to require the person appear via audiovisual link:
- For defendants in custody: the court directs otherwise, giving consideration to any risks to the defendant, risk of escape, past behaviour while appearing or in custody, the efficient use of judicial and administrative resources, and any other appropriate matter (including, as examples, the ability of the defendant to comprehend the proceedings or access legal advice or representation or the assistance of an interpreter, and any special needs of the defendant).²⁰

3.16 Some submitters raised concerns about the lack of necessary facilities to accommodate the increased use of AVL.²¹ Law Society NT submitted that the new provisions are likely to increase the use of AVL in the NT, despite pre-existing issues with accessibility to AVL in prisons and watchhouses. Law Society NT recommended that the passage of the Bill must be 'accompanied by a comparative increase in AVL facilities available for use by persons in custody across various locations'.²²

3.17 The Department noted that the pressures on existing AVL resources will be an operational matter left to the discretion of the Court following the implementation of the provisions.²³ With regard to how this will be managed, the Department advised:

This Bill is part of broader justice system reforms to address demand pressures. The Department maintains and updates equipment for AVL. The

¹⁹ Submission 5 – Northern Australian Aboriginal Justice Agency, pp. 4-5.

²⁰ Attorney-General's Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 6.

²¹ Submission 2 – Legal Aid NT, p. 2; Submission 3 – Law Society NT, p. 4.

²² Submission 3 – Law Society NT, p. 4.

²³ Committee Transcript, Public Briefing, Monday 23 March 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0020/1604423/Corrected-Transcript-Public-Briefing-Serial-58-Tuesday-24-March-2026-.pdf, p. 7.

question of additional financial resourcing is a matter for Budgetary processes.²⁴

Committee comments

- 3.18 The Committee acknowledges the concerns raised by submitters regarding the management of any risk of disadvantage for persons facing communication difficulties, and the adequacy of existing AVL facilities.
- 3.19 The Committee notes the Department's advice that the Court will consider any risks to the defendant and any other appropriate matter, including the ability of the defendant to comprehend the proceeding, access to legal advice, need for an interpreter, or any special needs of the defendant.
- 3.20 The Committee considers that the Court is best placed to determine what necessary facilities include, and the circumstances in which it is appropriate to exempt a witness or a detained defendant from the presumption to appear via AVL. In this instance, the Committee considers that the Court's discretion is an adequate safeguard. However, the Committee recommends that these matters should be monitored and reviewed to ensure there is oversight of the ongoing impacts of the amendments.

Recommendation 2

The Committee recommends that a post-implementation review be conducted after 12 months of operation to assess:

- **the impact of proposed section 49EB on detained defendants with communication difficulties; and**
- **the adequacy of 'necessary facilities' to support the effective use of audiovisual link.**

Joinder and consolidation of proceedings

- 3.21 Section 51(1) of the LCCP Act currently provides for the Court to join multiple charges in the same complaint, if the charges arise out of the same set of circumstances. Section 101A(1) further provides for charges on multiple offences to be joined in the same information if the charges are founded in the same facts or form or are part of a series of offences of the same or a similar character. Under section 51(3) and 101A(2) the Court may deal with any joined charge separately.

²⁴ Attorney-General's Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 6.

3.22 Clauses 6, 7, 20, 21 and 26 of the Bill seek to amend these existing provisions of the LCCP Act and insert new provisions to 'streamline hearings for related domestic violence matters where appropriate'.²⁵

Presumption of joinder of charges for domestic violence offences

3.23 Clause 26 seeks to insert new section 183B into the LCCP Act to provide a presumption that charges against a defendant for multiple domestic violence offences in relation to the same person will be heard and determined together.

3.24 In her first reading speech, the Attorney-General noted these amendments will reduce 'the need for victims to attend court repeatedly and relive the same events over and over again. It also helps the court manage these matters more effectively'.²⁶

3.25 Some submitters contended that there may be positive impacts stemming from the amendment, including streamlining case management of multiple offences and reducing the risk of retraumatising victim-survivors.²⁷

3.26 DPP noted the process of re-laying charges is time-intensive and is practically difficult as files come before the Court at different times. In this regard, DPP commended proposed section 183B, noting that it will 'be of significant practical assistance to police and the prosecution in circumstances where the physical joinder of the charges was a burdensome additional administrative step'.²⁸

3.27 However, other submitters cautioned there may be some unintended consequences associated with a presumption of joinder for domestic violence matters, including:

- potential risks for victim-survivors²⁹
- increased risk of prolonged court proceedings³⁰
- delays in domestic violence allegations being heard³¹
- increased disputes over the admission of evidence³²
- risk of bias or fact-distortion in cases³³
- infringement on the discretion of the Court³⁴

²⁵ Committee Transcript, Public Briefing, Monday 23 March 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0020/1604423/Corrected-Transcript-Public-Briefing-Serial-58-Tuesday-24-March-2026-.pdf, p. 4.

²⁶ Hon Marie-Claire Boothby MLA, Attorney-General, Draft Daily Hansard – Wednesday 18 March 2026, <https://territorystories.nt.gov.au/10070/1030209>, p. 15.

²⁷ Submission 3 – Law Society NT, p. 3; Submission 6 – Director of Public Prosecutions, p. 3.

²⁸ Submission 6 – Director of Public Prosecutions, p. 3.

²⁹ Submission 4 – Northern Territory Anti-Discrimination Commission, p. 2.

³⁰ Submission 6 – Director of Public Prosecutions, p. 3.

³¹ Submission 3 – Law Society NT, p. 3.

³² Submission 5 – Northern Australian Aboriginal Justice Agency, p. 4; Submission 3 – Law Society NT, p. 3.

³³ Submission 1 – Sam Wilks, p. 6.

³⁴ Submission 5 – Northern Australian Aboriginal Justice Agency, p. 4.

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- increased number of conviction appeals.³⁵

3.28 NAAJA questioned the utility of proposed section 183B, noting that section 51 of the LCCP Act already provides for the Court to join multiple charges:

There are already appropriate process in the current LCCPA, Criminal Code and Uniform Evidence Act covering the issue of joinder. In practice many [domestic violence] matters are already heard together by consent of the parties and following an application made by prosecution setting out what is to be joined.

The way in which the current clause is drafted creates a real risk of confusion and further delay in court proceedings as it doesn't appear that there is any requirement for an application to be made by the prosecution to have domestic violence charges heard together.³⁶

3.29 The Department advised that the Court will retain ultimate discretion over whether matters will be joined:

The amendment provides for a rebuttable presumption which, if there are concerns such as unnecessary delays or increased complexity, allows the Court to deal with the matters separately. This does not remove the necessity for the Court to consider whether it is appropriate to deal with the joined charges separately as required by sections 51(3) and 101A(2) of the *Local Court (Criminal Procedure) Act 1928*, only that it is subject to this new presumption.

The intention of this amendment is to avoid circumstances where victim-survivors are retraumatised by being required to attend court on multiple occasions for multiple different hearings by enabling the matters to be considered together, rather than through separate proceedings. There is already the ability for indictable domestic violence matters to be dealt with together in the Supreme Court. This amendment will allow summary matters to also be dealt with together in the Local Court.³⁷

3.30 In response to the Committee's question regarding submitter concerns that the amendments may place additional pressure on court listings and how this will be managed, the Department advised:

This is an operational consideration which the Court will address. It is outside of the scope of this Bill. Additionally, there is already capacity for indictable matters to be considered together in the Supreme Court, with this amendment allowing for summary matters to be considered together, this should reduce pressures on the Court in having multiple listings.³⁸

3.31 Further to the Department's advice, the Committee notes that section 341B of the *Criminal Code Act 1983* provides for a presumption of joinder for domestic violence offences to be tried together in the Supreme Court. Despite this, section 341(1) of the Criminal Code provides the Supreme Court may order

³⁵ Submission 5 – Northern Australian Aboriginal Justice Agency, p. 4; Submission 1 – Sam Wilks, p. 6.

³⁶ Submission 5 – Northern Australian Aboriginal Justice Agency, p. 4.

³⁷ Attorney-General's Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 5.

³⁸ Attorney-General's Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 5.

separate trials if the accused is prejudiced or it is otherwise desirable. The Committee notes this presumption was inserted in 2023,³⁹ following a legislative review.⁴⁰

Charges on separate complaints or informations heard together

3.32 Clause 7 seeks to:

- insert new section 51A into the LCCP Act to provide the Court may, on application, order that charges contained in separate complaints against the same person be heard and determined together.
- amend section 52 of the LCCP Act to provide that a complaint must be made within 6 months of the date on which the offence is alleged to have been committed (unless another Act provides otherwise or the person charged by the complaint consents).

3.33 Clause 21 further seeks to insert new section 101B which provides for the Court to, on application, order that charges contained in separate informations against the same person be dealt with together.

3.34 The Department explained the new provisions are 'intended to allow parties to negotiate pleas based on alternative lesser charges which previously would not have been able to be laid due to being out of time'.⁴¹

3.35 Submitters were broadly supportive of the proposed amendments. NAAJA noted the changes will likely lead to greater flexibility and quicker resolution of matters.⁴² Similarly, Law Society NT supported the amendment to section 52, noting the 6-month limitation will likely lead to matters being resolved by way of plea to lesser charges and lessen burdens on the Local Court's resources.⁴³

3.36 However, DPP highlighted some issues with the provisions, including inconsistency in language between proposed sections 51A and 101B, and the need for guidance on matters the Court might consider when dealing with an application under sections 51A or 101B.⁴⁴ DPP further noted that consideration should be given to extending the provisions:

Consideration could also be given to extending sections 51A and 101B to allow separate informations and complaints to be dealt with together for co-accused. That is a relatively common occurrence as a result of co-accused being arrested or given notices to appear at different times. Police will produce single charges for the first accused's court date and then, having already filed those charges, place the charges for the co-accused on a

³⁹ *Justice Legislation Amendment (Domestic and Family Violence) Act 2023*, s 48.

⁴⁰ Northern Territory Government, *Review of Legislation and the Justice Response to Domestic and Family Violence in the Northern Territory* (2022), <https://agd.nt.gov.au/law-reform-reviews/published-reports-outcomes-and-historical-consultations/historical/2022/review-of-legislation-and-the-justice-responses-to-domestic-and-family-violence-in-the-northern-territory>.

⁴¹ Committee Transcript, Public Briefing, Monday 23 March 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0020/1604423/Corrected-Transcript-Public-Briefing-Serial-58-Tuesday-24-March-2026-.pdf, p. 4.

⁴² Submission 5 – North Australian Aboriginal Justice Agency, p. 2.

⁴³ Submission 3 – Law Society Northern Territory, p. 3.

⁴⁴ Submission 6 – Director of Public Prosecutions, p 3.

separate information for a later court date. Where a statement of facts makes it clear that the defendants have committed the offence together, an application could be made that the court dealt with them together, without having to relay the charges.⁴⁵

- 3.37 In relation to DPP's suggestion for guidance to be published for applications, the Department advised:

This provision was inserted as a technical amendment to give the Courts the power to join separate complaints, as required by the presumption in new section 183B of the Bill relating to the joining of domestic violence matters.⁴⁶

Committee comments

- 3.38 The Committee notes the Department's advice that the Court will ultimately retain oversight over whether charges on separate complaints or informations are heard together. In light of this, the Committee considers the provisions to be appropriate.

Police to grant bail

- 3.39 Clauses 4, 5, 28 and 31 seek to amend the LCCP Act and the Bail Act to provide the Northern Territory Police Force with flexibility to manage arrest outcomes for court-ordered warrants, including providing for police discretion to grant or refuse bail when a person is arrested on a warrant of apprehension unless bail has been specifically excluded by the Court.

- 3.40 At the public briefing, the Department advised:

This amendment gives the police the discretion to grant bail rather than having to automatically bring that person before the court. By enabling these matters to be resolved at the police level in the appropriate circumstances, as will be determined by the police, the amendment aims to help avoid unnecessary use of holding cells and court time, and in turn, reducing delays and conserving time and resources for all those involved... It is only addressing bail in circumstances where a court warrant was issued for non attendance. In those circumstances a person would ordinarily be on bail, so the victim would be aware of the bail conditions in place in any event. This does not change what is the ordinary course in that space. If anything, it might see their alleged perpetrator remanded, but nothing in terms of the original conditions would necessarily change.⁴⁷

- 3.41 NAAJA supported the expansion of police discretion, noting that flexibility to grant bail may prevent people from being incarcerated unnecessarily.⁴⁸ Legal Aid NT similarly welcomed these clauses 'to avoid unnecessary detention of people who do not pose a risk to the community'.⁴⁹

⁴⁵ Submission 6 – Director of Public Prosecutions, p 3.

⁴⁶ Attorney-General's Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 5.

⁴⁷ Committee Transcript, Public Briefing, Monday 23 March 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0020/1604423/Corrected-Transcript-Public-Briefing-Serial-58-Tuesday-24-March-2026-.pdf, pp. 4, 7.

⁴⁸ Submission 5 – North Australian Aboriginal Justice Agency, p. 4.

⁴⁹ Submission 2 – Legal Aid NT, p. 1.

- 3.42 However, the NT Anti-Discrimination Commission submitted that this may disproportionately impact certain members of the community:

Expanded police discretion in bail decisions introduces inconsistency and elevates risk in domestic violence contexts, where decisions directly impact victim-survivor safety.

Police bail discretion tends to disproportionately impact Aboriginal and Torres Strait Islander people in remote communities with unstable housing or employment. The amendments propose to expand police bail discretion to shift power from the courts to police at the earliest and least scrutinised stage of arrest, with no opportunity for legal representation and a delay between loss of liberty and re-application before a Court. This limits the accused's opportunity to challenge factual allegations or present contextual material.⁵⁰

- 3.43 Similarly, Sam Wilks submitted that discretion to grant bail should sit solely with the Court, raising concerns that police discretion may be exercised inconsistently and may limit the accused's opportunity to challenge allegations. In this regard, Sam Wilks contended that police discretion should be limited to low-risk, non-violent matters with express exclusions (including domestic violence matters).⁵¹

- 3.44 In relation to the discretion exercised by police, the Department advised:

The amendment is intended to provide police discretion to grant bail where a warrant for apprehension has been issued by the Local Court. Warrants of this nature are primarily issued in circumstances where a defendant fails to appear in Court for an appointed mention or hearing date.

The amendment provides police with discretion to grant bail, notwithstanding that the defendant has failed to appear in Court. At this stage of proceedings, the granting or refusal of bail does not interfere with a defendant's opportunity for legal representation, nor cause a delay in the ability to re-apply for bail in the Court. In comparison with the current process (where police have a lack of power to grant bail), where police refuse to grant bail, the defendant must be brought before the Court. The amendment allows police to grant bail, which if granted, means that the defendant is not held on remand pending being brought before the Court.⁵²

Committee comments

- 3.45 Whilst acknowledging the issues raised by submitters regarding the broader bail framework, the Committee consider these issues go beyond the scope of the Bill.

- 3.46 The Committee notes the Department's advice that the proposed amendments will not limit an accused's right to legal representation or otherwise cause a delay in the ability to reapply for bail. In this instance, the Committee considers the provisions to be appropriate.

⁵⁰ Submission 4 – Northern Territory Anti-Discrimination Commission, p. 2.

⁵¹ Submission 1 – Sam Wilks, p. 2.

⁵² Attorney-General's Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 1.

Directions hearing

3.47 Clause 10 seeks to amend section 60AI of the LCCP Act to:

- require the Court to appoint a date and time for a directions hearing, at least 4 weeks after the first mention if a defendant has not pleaded guilty to a charge at the first mention;
- provide that the Court may appoint a date and time for further mention prior to the directions hearing, on application or on its own initiative; and
- require the Court, on application, to appoint a date and time for a further mention, as far as is reasonably practical, where the defendant is in custody and the Court is satisfied there are reasonable prospects of resolution.

3.48 In her first reading speech, the Attorney-General explained the rationale for this proposed amendment:

The goal is simple: to see whether a matter can be resolved earlier through a guilty plea rather than going through a full hearing. Right now, if a defendant cannot indicate a plea at the time of the first mention, parties often have to wait a long time for the directions hearing.

This amendment gives the court a chance to bring the matter back sooner where there is a real prospect of resolution. It is the first step towards establishing what will be known as an early appropriate guilty plea list. This will help identify matters that are likely to resolve early and manage them more effectively. In most cases, this will apply where a defendant is in custody and there is a genuine opportunity for the matter to be resolved.

To be clear, this additional listing is not intended to be used for bail applications; it is simply about creating an earlier opportunity to finalise cases where a guilty plea is likely. This reform also builds on work already happening in the system. For example, the Director of Public Prosecutions has been running the Targeted Intervention Group Early Resolutions team, known as TIG-ER. In the past 12 months, TIG-ER has handled nearly 1,000 representations, with 760 of those matters finalised. Of those finalised matters around 62% resulted in an early guilty plea. That is exactly the kind of outcome this reform is designed to support.⁵³

3.49 Submitters generally supported the amendments to section 60AI, noting the amendments will ensure matters are able to be brought back before the Court more quickly for defendants on remand and facilitate earlier resolution of matters.⁵⁴

3.50 However, some submitters advised that there may be some unintended consequences. Law Society NT argued this may place additional listing pressure on the Court and be difficult to implement in effect.⁵⁵

3.51 Whilst DPP supported the amendments to section 60AI, they queried the effect of amendments to section 60AI(8):

⁵³ Hon Marie-Clare Boothby MLA, Attorney-General, Draft Daily Hansard – Wednesday 18 March 2026, <https://territorystories.nt.gov.au/10070/1030209>, p. 13.

⁵⁴ Submission 3 – Law Society NT, pp. 2-3; Submission 5 – North Australian Aboriginal Justice Agency, p. 2; Submission 6 – Director of Public Prosecutions, p 3.

⁵⁵ Submission 3 – Law Society NT, pp. 2-3.

The new section 60AI(8) permits the court to appoint a further date for mention before the directions hearing date, which had also been open to the court under the old section 60AI(8). The effect of the new section 60AI(8) seems to be to remove the previous section 60AI(8)(a), which made it clear the listing of a directions hearing did not prevent a defendant from pleading guilty after the first mention. There is no explanation for the removal of the section in the explanatory memorandum and it might be thought, by implication, that the removal of the section means the power no longer exists. Such an interpretation would be undesirable.⁵⁶

3.52 In relation to the effect of amendments to section 60AI(8), the Department clarified:

The Bill removes section 60AI(8)(a) and (b) as these subsections are unnecessary noting both provisions referred to “nothing in this section” preventing the Court from taking certain action. As a matter of interpretation, it was considered that nothing in section 60AI directly or impliedly suggested that a defendant could not plead guilty any time after the first mention, nor that the Court could not appoint a date and time for a further mention prior to the directions hearing.

New section 60AI(8) was inserted (replacing current section 60AI(8)(b)) to clarify that the Court may appoint a date and time for a further mention prior to a directions hearing, rather than merely referencing that nothing in the section prevented this from occurring.

The repealing of section 60AI(8)(a) does not intend to remove the right of defendants to plead guilty at any point after a first mention. AGD does not consider any further clarification is required.⁵⁷

Committee comments

3.53 The Committee notes the Department’s advice that the amendments to section 60AI(8) are not intended to remove a defendant’s right to plead guilty at any point after the first mention, and that no further clarification is required.

3.54 In light of the Department’s advice and noting the majority support from submitters, the Committee considers these amendments to be appropriate.

Dispensing with prehearing procedures

3.55 Clauses 9 and 13 seek to amend section 60AC and insert proposed section 60ARA into the LCCP Act to enable circuit courts to dispense with the prehearing procedure requirements in Part IV, Division 2A, Subdivision 2 where there is a good reason to do so. This is intended to recognise ‘the unique challenges faced in remote areas and helps ensure victims in those communities are not left waiting longer for justice than the process needs to be’.⁵⁸

⁵⁶ Submission 6 – Director of Public Prosecutions, p 3.

⁵⁷ Attorney-General’s Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 2.

⁵⁸ Hon Marie-Clare Boothby MLA, Attorney-General, Draft Daily Hansard – Wednesday 18 March 2026, <https://territorystories.nt.gov.au/10070/1030209>, p. 14.

3.56 The Committee received limited comments in relation to the amendments. Sam Wilks raised concerns in relation to the discretion the provision may provide the circuit courts:

The phrase “good reason” is broad and undefined. The power may be exercised either before or after the occasion for compliance arises. That creates a serious risk of unequal process depending on geography. A defendant in a remote community should not, in substance, receive a thinner form of justice than a defendant in a major centre simply because administration is harder.⁵⁹

3.57 DPP similarly submitted the amendments may create uncertainty to parties:

While the new section 60ARA provides some flexibility for the Court, it gives no certainty to the parties. In particular, the Court may dispense with compliance with a requirement before or after the occasion for compliance arises. Dispensing with compliance after the occasion for compliance practically means the parties will need to do what they can to comply then ask (in effect) for forgiveness if they cannot. This is resource intensive and not in keeping with the intention behind the amendment. In our view, it would be preferable for the legislation to remove the necessity for compliance with Division 2A unless otherwise ordered by the Court.⁶⁰

3.58 The Department advised the provisions are intentionally broad to enable the Court to retain discretion over when it is appropriate to dispense with prehearing procedures:

Not defining ‘good reason’ leaves it to the discretion of the Court, as a matter for the Court to interpret based on the circumstances of a particular matter.

Examples have not been included to ensure the discretion of the Court is not fettered in considering all relevant matters when determining if there is good reason to dispense with the pre-hearing requirements set out in Part IV, Division 2A, Subdivision 2, and as noted above, potential for injustice arising.⁶¹

Committee comments

3.59 The Committee notes the Department’s advice and acknowledges the need to ensure the Court can exercise appropriate discretion. On balance, the Committee considers the provisions to be appropriate.

Sentence indication

3.60 Clauses 14, 15 and 16 seek to amend sections 60AT, 60AU and 60AZA of the LCCP Act. These amendments include:

- removing the restriction on the Court giving a sentencing indication within 7 days of the hearing (section 60AT)

⁵⁹ Submission 1 – Sam Wilks, p. 3.

⁶⁰ Submission 6 – Director of Public Prosecutions, p. 4.

⁶¹ Attorney-General’s Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 2.

- allowing the Court to have regard for submissions on the appropriate sentence if the defendant pleads guilty (section 60AU)
- removing the restriction on the Court that finally determines the charge being constituted by the same judge that gave a sentencing indication when the defendant does not plead guilty as a result of the indication (section 60AZA).

3.61 The Department advised these amendments are intended to:

...improve the sentencing indication process, aimed at promoting the early resolution of matters and encourage early appropriate guilty pleas. In providing a sentencing indication the court will now be able to have regard to submissions from both parties. They will also be able to provide a sentence indication at any time right up until the appointed day of hearing.⁶²

3.62 In her first reading speech, the Attorney-General explained the context of these amendments:

A key focus of the Bill is encouraging earlier resolution of cases. One amendment allows parties to request an additional court mention before the directions hearing. The goal is simple: to see whether a matter can be resolved earlier through a guilty plea rather than going through a full hearing. Right now, if a defendant cannot indicate a plea at the time of the first mention, parties often have to wait a long time for the directions hearing.

This amendment gives the court a chance to bring the matter back sooner where there is a real prospect of resolution. It is the first step towards establishing what will be known as an early appropriate guilty plea list. This will help identify matters that are likely to resolve early and manage them more effectively. In most cases, this will apply where a defendant is in custody and there is a genuine opportunity for the matter to be resolved.

To be clear, this additional listing is not intended to be used for bail applications; it is simply about creating an earlier opportunity to finalise cases where a guilty plea is likely. This reform also builds on work already happening in the system. For example, the Director of Public Prosecutions has been running the Targeted Intervention Group Early Resolutions team, known as TIG-ER. In the past 12 months, TIG-ER has handled nearly 1,000 representations, with 760 of those matters finalised. Of those finalised matters around 62% resulted in an early guilty plea. That is exactly the kind of outcome this reform is designed to support...

More often than not matters are delayed because the defendant is unsure of what their sentence might be. Sentence indications take away the fear of uncertainty which encourages early guilty pleas where appropriate.⁶³

3.63 Submitters generally supported the amendments to section 60AT, noting the ability of the Court to be able to consider a late guilty plea is likely to:

- facilitate the resolution of matters that otherwise would proceed to contested hearings⁶⁴

⁶² Committee Transcript, Public Briefing, Monday 23 March 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0020/1604423/Corrected-Transcript-Public-Briefing-Serial-58-Tuesday-24-March-2026-.pdf, pp. 4-5.

⁶³ Hon Marie-Clare Boothby MLA, Attorney-General, Draft Daily Hansard – Wednesday 18 March 2026, <https://territorystories.nt.gov.au/10070/1030209>, p. 14.

⁶⁴ Submission 3 – Law Society NT, p. 2.

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- provide for greater flexibility and clarity⁶⁵
 - reduce pressures on the Court and increase the availability of judges.⁶⁶

3.64 The Committee similarly heard submitters supported the amendments to section 60AU. NAAJA noted the amendments would ‘provide clarity to the court and the parties that submissions can be made as to an appropriate sentence where a sentence indication is permitted’.⁶⁷ DPP also supported the amendments:

The amendment to section 60AU is supported, noting that the effect of section 60AZ is that the court (constituted by the same judge) must not impose a more severe sentence than the sentence indicated. It is important, in those circumstances, that the court has the benefit of considering all of the material relevant to sentence and has the benefit of submissions by both parties about what can be made of the material. The DPP agrees that the amendment is necessary to remain consistent with general sentencing principles.⁶⁸

3.65 However, submitters had mixed views on the proposed amendments to section 60AZA to remove the prohibition against the Court being constituted by the same judge that gave a sentencing indication. Law Society NT argued:

Removal of this prohibition raises a concern about due process noting that a Judge who has formed a view on sentence may, even unconsciously, approach the determination of the matter with a predisposition of guilt.

The Society appreciates that this reform is pragmatic considering the limited availability of the judiciary. However, the current s 60AZA(2) already allows for the same Judge to sit when both parties agree, which is an appropriate check and balance on any unconscious predisposition to find a defendant guilty due to already having provided an indication of their sentence.⁶⁹

3.66 Sam Wilks similarly raised concerns about the potential for real or perceived bias, noting it ‘creates a foreseeable perception, and in some cases a reality, of prejudgement’.⁷⁰ In relation to these concerns, the Department advised:

It is the primary role of a Judge to remain impartial and ensure that any decision made is based solely on the law and evidence provided. In providing a sentencing indication, the Court is not determining a finding of guilt but rather considering a possible sentence based on the available facts.

If a sentencing indication is not accepted, it is the role of the Judge to ensure that, consciously or unconsciously, they are not influenced by any outside factors when determining the matter. If a Judge believes they are unable to do this, they may remove themselves from the case.⁷¹

3.67 DPP supported the amendments, however, noted that the Explanatory Statement ‘refers to a requirement that the parties agree, which is not a

⁶⁵ Submission 5 – North Australian Aboriginal Justice Agency, p. 3.

⁶⁶ Submission 3 – Law Society NT, p. 2.

⁶⁷ Submission 5 – North Australian Aboriginal Justice Agency, p. 3.

⁶⁸ Submission 6 – Director of Public Prosecutions, p. 4.

⁶⁹ Submission 3 – Law Society NT, p. 2.

⁷⁰ Submission 1 – Sam Wilks, pp. 3-4.

⁷¹ Attorney-General’s Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 3.

requirement under the proposed section 60AZA'. DPP argued that such a requirement is unnecessary.⁷² In the Committee's view, this is a matter of interpretation, and it does not agree that the Explanatory Statement is intended be read in this way. Nevertheless, the Committee raised these concerns with the Department, who clarified:

It was not considered necessary for parties to agree given the amendment responds to listing conflicts in remote communities where a limited number of Judges may be available. For example, where a Judge has been scheduled to attend a remote community for circuit court for a week and provides a sentencing indication, if that indication is not accepted and parties were to then not agree for the same Judge to finally determine the matter, there are limited (if any) options available for determining the matter in a timely manner. Requiring parties to agree would result in further delays contrary to the objectives of the Bill.⁷³

Committee comments

3.68 The Committee considers the provisions to be appropriate.

Entering a plea

3.69 Clause 17 seeks to amend section 64 of the LCCP Act to expressly allow legal practitioners, appearing on behalf of a defendant, to enter a plea on the defendant's behalf to all summary charges, including indictable charges being dealt with summarily.

3.70 At the public briefing, the Department advised the amendment 'gives statutory effect to a current practice and facilitates swifter resolution of matters'.⁷⁴

3.71 The Committee noted mixed views from submitters regarding the amendments to section 64. NAAJA noted there are no issues with the changes, noting 'this occurs from time to time already'.⁷⁵ DPP supported the amendments as a 'time saving measure' but noted:

However, to avoid any miscarriages of justice, or subsequent disputes in later proceedings about whether a defendant did intend to plead guilty, it should be necessary for it to be confirmed on the record that defence counsel is instructed to enter the relevant guilty pleas before this occurs.⁷⁶

3.72 Similarly, Sam Wilks critiqued the provisions:

In criminal practice, instructions are not always clean, current, informed, or reliable. This is especially true where the defendant is vulnerable, cognitively limited, poorly educated, remotely connected, language challenged, under pressure, or simply absent from court. These are very real consistent issues in the NT. A plea is not a filing convenience. It is a decisive act with major

⁷² Submission 6 – Director of Public Prosecutions, p. 4.

⁷³ Attorney-General's Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 3.

⁷⁴ Committee Transcript, Public Briefing, Monday 23 March 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0020/1604423/Corrected-Transcript-Public-Briefing-Serial-58-Tuesday-24-March-2026-.pdf, p. 3.

⁷⁵ Submission 5 – North Australian Aboriginal Justice Agency, p. 3.

⁷⁶ Submission 6 – Director of Public Prosecutions, p. 5.

legal consequence. The more distance there is between the defendant and the plea, the more risk there is of later dispute, confusion, appeal, or injustice.⁷⁷

3.73 The Committee put these concerns to the Department who stated:

The working group considered the amendment and discussed construction of the amendment. The issue identified by the Director of Public Prosecutions in their submission to the Committee was not raised as an issue during the discussions of the working group. It is however noted that legal representatives entering a plea on behalf of their client cannot do so without instructions from their client as a matter of rules of practice.⁷⁸

Committee comments

3.74 On balance, the Committee considers the provisions to be appropriate.

Fast-track committal process

3.75 Clause 24 seeks to insert section 106B into the LCCP Act to provide that the Court may, on application by the defendant, dispense with the requirement to conduct a preliminary examination where:

- the committal brief is served;
- the defendant is legally represented and concedes the evidence proposed to be tendered is sufficient to put the defendant on trial; and
- the prosecutor consents.

3.76 The Department explained the intention of the amendment:

The amendment is intended to reduce the Court time and resources expended on preliminary examination hearings, in appropriate cases. The purpose of a preliminary examination is to test that there is sufficient evidence to proceed to trial in the Supreme Court, and avoid wasting time and resources of that Court. In certain cases the preliminary examination is not necessary. This may include where it is acknowledged that the evidence is sufficient or where the accused intends to plead guilty.⁷⁹

3.77 In general, the Committee heard support for proposed section 106B from submitters. NAAJA argued the amendments will not 'really change much from the current practice of proceeding to a [preliminary examination on the papers] by consent'.⁸⁰

3.78 Law Society NT supported the amendment, noting it will likely streamline committals, reduce listing burdens on the Court and align the NT with other Australian jurisdictions. Law Society NT drew the Committee's attention to the

⁷⁷ Submission 1 – Sam Wilks, p. 4.

⁷⁸ Attorney-General's Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 4.

⁷⁹ Attorney-General's Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 4.

⁸⁰ Submission 5 – North Australian Aboriginal Justice Agency, p. 3.

number of outstanding committals in the Court as this number ‘almost doubled since June 2024 and it is important and appropriate that legislative reform targeted to increasing Local Court efficiency be directed at this issue’.⁸¹

3.79 However, Sam Wilks expressed scepticism about the provision:

This clause fits the Bill’s fast-track narrative, but it also creates a path by which serious indictable matters can move forward without early testing in open court. A preliminary examination is not mere delay. It is one of the few early pressure points at which weak evidence, thin briefs, or defective prosecution theory can be exposed before the Supreme Court stage.

Used carefully, the clause may save time in straightforward matters. Used aggressively, it risks becoming a conveyor belt. The idea may be to expose or dissuade judicial activism, however, it also can reduce judicial fairness.⁸²

3.80 In relation to the issue of ensuring consent is fully informed and not pressured, particularly with vulnerable people, the Department advised at the public briefing:

At the moment, the requirements of that very much first-step provision is that the prosecution consents but also that the defendant is legally represented. You would rely on the ordinary rules of representing clients and lawyers’ ethical responsibilities to take instructions and act on their client’s instructions and ensure that the clients are fully informed and have the requisite capacity.⁸³

Committee comments

3.81 The Committee notes the majority of submitters who commented on proposed section 106B supported the amendments. The Committee considers the Department’s advice regarding safeguards for vulnerable people to be sufficient. On balance, the Committee considers the provisions to be appropriate.

Witnesses failing to attend proceedings

3.82 Clause 39 seeks to amend section 194 of the *Evidence (National Uniform Legislation) Act 2011* to allow the Court to consider the provision of travel and/or accommodation instead of solely just whether a reasonable sum of money or its equivalent (such as prepaid travel) has been provided to a witness who has failed to attend court when determining whether to issue a warrant to bring them before the Court.

3.83 The Committee received limited comments in relation to amended section 194. Whilst supporting the amendment, DPP queried the focus of the provision on ‘prepaid travel’:

The amendments refer specifically to “prepaid” travel, but the DPP asks that consideration be given to recognising other forms of travel arrangements. It is common both in the main centres and in communities, that witness attendance at court is facilitated by police picking the witnesses up and bringing them in. Once at Court, the DPP provides food vouchers and then

⁸¹ Submission 3 – Law Society NT, p 2.

⁸² Submission 1 – Sam Wilks, p. 5.

⁸³ Committee Transcript, Public Briefing, Monday 23 March 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0020/1604423/Corrected-Transcript-Public-Briefing-Serial-58-Tuesday-24-March-2026-.pdf, p. 8.

similar arrangements are made with police to take witnesses home. There is no “prepayment” of travel, nor is there payment of conduct money. That is particularly the case in community where there is often no other means of arranging travel as there are no services available.

Accordingly, the amendment to section 194(1)(c) ought to include the ability to enforce an order where arrangements have been made for travel, whether or not they have been “prepaid.”⁸⁴

3.84 In response to this concern, the Department advised:

The amendment was discussed with the Working Group and no concern with the drafting was raised. The reference to pre-paid travel is just an example which provides illustration of the effect of a provision when interpreting statute. It avoids the need to provide a specific list of approved expenses or travel methods. The current provision only recognises “a reasonable sum of money” being provided. The purpose of the amendment is to enable the court to recognise expense towards costs of a witness attending may be more than through the provision of a sum of money and may be through travel arrangements being made on the witness’ behalf.

Any other travel arrangements provided to ensure the attendance of a witness in Court is intended to be encompassed by this provision.

Further examples were not included noting that pre-paid travel was primarily included for the purpose of referring to the arrangement of flights or otherwise from remote communities, where necessary. The example was discussed by the Working Group.⁸⁵

Committee comments

3.85 The Committee notes the Department’s advice that amended section 194 is not intended to limit application to other travel arrangements. The Committee considers the provisions to be appropriate as currently drafted.

Expansion of summary jurisdiction

3.86 Clause 25 seeks to amend section 120 of the LCCP Act to widen the scope of indictable offences that the Court may hear and determine summarily by increasing the value of the property or financial advance which may be dealt with summarily from \$50,000 to \$100,000. This has the effect of enabling the Local Court to deal with more matters, rather than going to the Supreme Court.⁸⁶

3.87 The Committee heard submitters supported the proposed amendments. Law Society NT submitted that the expansion of summary jurisdiction for property offences ‘will divert more matters to the Court where they can be resolved more ‘quickly and with less overall cost to the justice system’.⁸⁷

⁸⁴ Submission 6 – Director of Public Prosecutions, pp. 6-7.

⁸⁵ Attorney-General’s Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 7.

⁸⁶ Hon Marie-Clare Boothby MLA, Attorney-General, Draft Daily Hansard – Wednesday 18 March 2026, <https://territorystories.nt.gov.au/10070/1030209>, p. 13.

⁸⁷ Submission 3 – Law Society Northern Territory, p. 3.

- 3.88 DPP supported the expansion, noting that it ‘will be subject to section 122A and there will still be a power to decline summary jurisdiction where the matter is too complex to be properly dealt with in the Local Court’.⁸⁸

Committee comments

- 3.89 The Committee considers the provisions to be appropriate.

Transitional provisions

- 3.90 In relation to the amendments to the LCCP Act, DPP submitted:

It is noted there are no transitional provisions. It would be of utility to have clear transitional provisions in relation to all of the amendments to confirm whether they apply to proceedings on foot prior to commencement.⁸⁹

- 3.91 In response to this concern and whether the Bill would otherwise have any retrospective effect, the Department advised:

It is a common law presumption that legislative amendments do not apply retrospectively with legislation intended to apply only to future, not past acts or rights. The power to enact retrospective law requires use of clear and unambiguous language to overcome the presumption. However, there is an exception to this in matters of procedural law. This Bill, as a Bill primarily making amendments to procedural legislation, is intended to apply to proceedings underway at the time of the commencement of this Bill. There are no vested rights in particular court procedures that offend the presumption against retrospectivity or infringe on rule of law.

Given that the amendments within this Bill are primarily of a procedural nature, transitional provisions are unnecessary as the Court would apply the procedures outlined in the Act as in force on that day, as is the general practice.

However, a transitional provision was included for the amendments to the *Bail Act 1982*. This was done on the basis that there are likely to be warrants which have been issued and are in force prior to the commencement of the Bill, requiring a transitional provision to allow for continuity of those warrants to remain valid and effective. The Bill therefore expressly states these amendments are not to apply to those warrants. It maintains the warrant as a lawful action and authorisation that does not lapse simply because there has been a change to the provision. In practice it means there will be two systems operating simultaneously for police (the current and amended provisions) until such time as relevant warrants issued under the current scheme have been dealt with.⁹⁰

Committee comments

- 3.92 The Committee notes the Department’s advice that transitional provisions for the amendments to the LCCP Act are not required. The Committee considers the Bill does not require amendment.

⁸⁸ Submission 6 – Director of Public Prosecutions, p. 5.

⁸⁹ Submission 6 – Director of Public Prosecutions, p. 5.

⁹⁰ Attorney-General’s Department, Answers to Written Questions, 14 April 2026, https://parliament.nt.gov.au/data/assets/pdf_file/0003/1607511/From-Attorney-Generals-Department-Responses-to-Written-Questions-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58-.pdf, p. 7.

Appendix 1: Submissions Received

Submissions Received

1. Sam Wilks
2. Legal Aid NT
3. Law Society Northern Territory
4. Northern Territory Anti-Discrimination Commission
5. Northern Australian Aboriginal Justice Agency
6. Director of Public Prosecutions

Note: Copies of submissions are available at:

<https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/58-2026>

Appendix 2: Public Briefing

Public Briefing – Darwin, 24 March 2026

Attorney-General's Department

- Janet Hanigan: Executive Director, Strategic Policy Coordination
- Jane Bochman: Senior Policy Lawyer, Legislation and Legal Policy

Note: Copies of the briefing transcript and answers to questions on notice are available at:
<https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/58-2026>

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Bail Act 1982 (NT)

Committee Transcript, Public Briefing, Monday 23 March 2026, https://parliament.nt.gov.au/_data/assets/pdf_file/0020/1604423/Corrected-Transcript-Public-Briefing-Serial-58-Tuesday-24-March-2026-.pdf.

Evidence (Audio and Audio Visual Links) Act 1998 (NSW)

Evidence Act 1939 (NT)

Explanatory Statement, Criminal Procedure Legislation Amendment Bill 2026 (Serial 58), https://parliament.nt.gov.au/_data/assets/pdf_file/0016/1600540/Explanatory-Statement-Criminal-Procedure-Legislation-Amendment-Bill-2026-Serial-58.pdf.

Hon Marie-Clare Boothby MLA, Attorney-General, Draft Daily Hansard – Wednesday 18 March 2026, <https://territorystories.nt.gov.au/10070/1030209>.

Justice Legislation Amendment (Domestic and Family Violence) Act 2023 (NT)

Local Court (Criminal Procedure) Act 1928 (NT)

Local Court Act 2015 (NT)

Northern Territory Government, *Review of Legislation and the Justice Response to Domestic and Family Violence in the Northern Territory* (2022), <https://agd.nt.gov.au/law-reform-reviews/published-reports-outcomes-and-historical-consultations/historical/2022/review-of-legislation-and-the-justice-responses-to-domestic-and-family-violence-in-the-northern-territory>.

Sentencing Act 1995 (NT)

Dissenting Report – Justine Davis MLA

Justine Davis MLA *Independent Member for Johnston*

Alawa - Jingili - Millner - Moil

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29/04/26

Dear Chair and Members of the Legislative Scrutiny Committee,

Re: Criminal Procedure Legislation Amendment Bill 2026

I acknowledge the work of the Legislative Scrutiny Committee and the Committee Secretariat for their diligent work in examining this Bill and preparing a report for Parliament.

I also acknowledge those who provided submissions to the Committee. The inquiry received submissions from a range of legal practitioners, advocacy organisations and justice sector bodies, many of which raised substantive concerns about specific provisions of the Bill.

I generally support the passage of the Bill. The Northern Territory's justice system is under enormous strain, and I welcome reform aimed at reducing unnecessary burden on courts, practitioners and defendants and improving the efficiency of the NT justice system.

However, I do not support the Bill passing without amendment in relation to two provisions: the joinder presumption in Clauses 6 and 26, and the audiovisual link provisions in Clause 37 as they apply to bail applications and pleas of guilty. Having considered the Department's written responses to the Committee's questions on notice, I am not satisfied that those responses adequately address the concerns raised in evidence. My reasons are set out below.

Clauses 6 and 26: Presumption of Joinder for Domestic Violence Offences

Clauses 6 and 26 introduce a presumption that domestic violence charges against the same defendant, in relation to the same person, will be heard together. I understand the intent: reducing the number of times a victim-survivor has to attend court and relive what happened to them is in the victim-survivor and courts interest. However, the Committee report records that submitters raised a number of concerns about the proposed joinder presumption, including:

- increased risk of prolonged court proceedings;
- delays in domestic violence allegations being heard;
- increased disputes over the admission of evidence;



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- infringement on the discretion of the Local Court; and
- increased number of conviction appeals.

Submitters also questioned the utility of the proposed presumption, noting that the existing legislative framework, section 51 of the LCCP Act, together with the Criminal Code and the Uniform Evidence Act, already provides adequate provision for joinder of charges. In practice, many domestic violence matters are already heard together by consent of the parties following a prosecution application.

A specific drafting concern was raised: as currently drafted, Clause 26 does not appear to require the prosecution to make any application before the presumption of joinder takes effect. Submitters advised this creates a real risk of confusion and procedural unfairness, as defendants may not have adequate notice of which charges will be heard together or on what basis.

The Committee put these concerns to the Department. The Department's response was that the presumption is rebuttable, and that the court retains discretion to deal with charges separately under sections 51(3) and 101A(2) of the LCCP Act. The Department did not address the specific concern about the absence of an application requirement in the Bill as drafted.

A rebuttable presumption is not an adequate substitute for a clear procedural framework that gives defendants notice of the case against them. The evidence before the Committee indicates that the existing law already achieves the stated objective, and that the proposed changes risk producing confusion and delay rather than reducing them.

For these reasons, I do not support Clauses 6 and 26 in their current form.

To address the concerns raised in evidence, these clauses should be amended to expressly require the prosecution to make an application before the presumption takes effect, identifying the charges to be heard together and the basis for joinder. This would preserve the efficiency objective while ensuring defendants have adequate notice and the court retains meaningful oversight on the specific facts of each matter.

Recommendation: *Clauses 6 and 26 should be amended to expressly require the prosecution to make an application before the presumption takes effect, identifying the*



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charges to be heard together and the basis for joinder. This would preserve the efficiency objective while ensuring defendants have adequate notice and the court retains meaningful oversight on the specific facts of each matter.

Clause 37: Audiovisual Link; Bail Applications and Pleas of Guilty

This is the provision about which the most serious concerns were raised.

Clause 37 creates a presumption that detained defendants must appear by audiovisual link for most court appearances in summary proceedings. There are some exceptions: the first appearance, hearings, and preliminary examinations, but concerning, bail applications and guilty pleas are not among them.

Submitters, including organisations with direct, frontline experience representing people in custody in the Northern Territory, recommended that bail applications and pleas of guilty be added to the list of circumstances in proposed section 49EB(5) requiring mandatory in-person attendance. Those recommendations were grounded in evidence of how AVL appearances affect defendants with communication difficulties, including people for whom English is a second or third language, people with hearing impairment, and people with acquired brain injury, cognitive impairment, or mental health challenges.

NT Correctional centres do not provide hearing loops for prisoners appearing in court via AVL. All of these factors can contribute to difficulty understanding, hearing and processing the comments of Judges, lawyers and prosecutors over the AVL, effectively limiting a person's participation in their court matter. Where a defendant has experience of one of these factors (and some people may experience a combination), this can severely compromise a defendant's comprehension of sentencing orders and their understanding on release. (NAAJA submission)

The Committee put these concerns to the Department. The Department's response was that the risk would be managed through the court's discretion to direct in-person attendance, with reference to factors including the defendant's ability to comprehend the proceedings, access to legal advice, need for an interpreter, and any special needs. When asked about



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resourcing, the Department advised that additional financial investment is “a matter for Budgetary processes.”

I am not persuaded that these responses are sufficient. The court’s discretion to direct in-person attendance is permissive, not mandatory. There is no legislative trigger requiring the court to assess whether AVL is appropriate for a particular defendant before proceeding with a bail or plea hearing. The safeguard relies on the relevant information already being before the court, which at the remand stage may not be the case. The Department’s response on resourcing amounts to an acknowledgment that adequate facilities are not currently guaranteed, which strengthens rather than resolves my concern.

I want to be clear, I am not arguing against the use of AVL generally. There are many court appearances where AVL is appropriate and efficient, and I support its appropriate use. However, bail applications and pleas of guilty are different in kind, not just in degree, and in person appearances should not be automatically forsaken in these cases.

A bail application determines whether a person goes home or stays in custody. It is one of the most consequential hearings a detained person faces. A defendant who cannot properly hear the proceedings, or who cannot fully understand what is being said to them, cannot meaningfully participate in their own bail hearing. That is not an abstract procedural concern. It is a real, practical barrier to justice.

A guilty plea is a decisive and irreversible legal act. It extinguishes a person’s right to trial. It determines the entire subsequent course of proceedings. The idea that a person – particularly a young person, or a person with FASD or cognitive impairment or limited English – might enter a guilty plea via AVL without fully understanding what they are agreeing to is not a theoretical risk. It is something that NAAJA, with over 50 years of experience in this jurisdiction, told the Committee is a genuine concern.

Submitters also made a broader systemic point; where defendants do not fully understand their sentencing orders or bail conditions because they could not properly participate in their hearing, they are more likely to breach those conditions, more likely to return to custody, and more likely to reoffend. As NAAJA put it, this is a “false economy”: the short-term efficiency gains from AVL are undermined by downstream harms that cost the system, and the community more in the long run.



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The Committee's Terms of Reference require us to consider whether the Bill has sufficient regard to the rights and liberties of individuals and to Aboriginal and Torres Strait Islander peoples. Given the evidence before the Committee about the disproportionate impact of these provisions on Aboriginal Territorians in custody, I am not satisfied that the Bill, as currently drafted, meets that standard in relation to Clause 37.

The work of carefully testing whether a law will achieve its intended aims must occur before it is passed, not after. A post-implementation review after 12 months will tell us what harm was caused. It will not prevent it.

For these reasons, I do not support Clause 37 in its current form as it applies to bail applications and pleas of guilty.

Recommendation: *Clause 37 should be amended to add bail applications and pleas of guilty to the list in proposed section 49EB(5), so that detained defendants are required to appear in person for those hearings. Commencement of the AVL provisions should also be subject to a Ministerial declaration that adequate facilities, including hearing loop technology, are operational at NT correctional centres used for court appearances.*

The role of this Committee is to ensure that legislation is effective, proportionate, and has proper regard to the rights and liberties of individuals. In that context, I provide this dissenting report.

The recommendations outlined here are provided to inform MLAs in their debate of the Bill. In my view they will strengthen the Bill, in line with our role as the Legislative Scrutiny Committee, by ensuring the Bill can achieve its stated purpose — to “commence reforms that streamline criminal matters within the Local Court, helping to deliver swift justice for victims and the community”— while still addressing the concerns raised by submitters.

Conclusion

This report does not argue that this Bill should be defeated. Most of it is “good law”. But “most of it” is not the standard we, as an Assembly, should be aiming for when the evidence before us clearly identifies provisions that will harm people, specifically, vulnerable Aboriginal Territorians in custody who are trying to navigate a system that already places enormous demands on them.



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Community safety is about more than what happens inside a courtroom. It is about whether people who go through our justice system emerge from it understanding their obligations, their rights, and what is expected of them. If we pass a law that makes it harder for detained defendants to meaningfully participate in their bail and plea hearings, we are not making our community safer. We are making it harder for people to meet the obligations that flow from those hearings, and we are increasing the risk that they will end up back in custody.

That is not the outcome any of us want. The concerns raised in submissions are serious, they are grounded in direct experience of the NT justice system, and they were not adequately answered in the Department's written responses. The amendments I have identified are targeted and proportionate and I urge the Assembly to adopt them.

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