



Legislative Assembly of the Northern Territory

Legislative Scrutiny Committee

# **Inquiry into the Bail Amendment Bill 2026**

March 2026



# **Inquiry into the Bail Amendment Bill 2026**



Legislative Assembly of the Northern Territory

Parliament House

State Square

Darwin NT 0800

Web: [www.parliament.nt.gov.au](http://www.parliament.nt.gov.au)

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## Chair's Preface

This report details the Committee's findings regarding its examination of the Bail Amendment Bill 2026. Amending the *Bail Act 1982*, the Bill seeks to clarify that the *Bail Act* applies in relation to youth and to the Youth Justice Court, Youth Justice Court judges, and Youth Justice Court registrars, unless expressly stated in the *Bail Act*.

The Committee received two written submissions to its inquiry. These submissions highlighted broad systemic issues in the youth justice system. Whilst acknowledging the concerns raised in submissions, the Committee considered these issues go beyond the scope of the Bill. Accordingly, following its examination of the Bill, the Committee is of the view that the Assembly should pass the Bill with no amendments.

On behalf of the Committee, I would like to thank all those who made submissions to the inquiry. The Committee also thanks the representatives from the Attorney-General's Department for briefing the Committee on the Bill. I also thank my fellow Committee members for their bipartisan commitment to the legislative review process.



**Mrs Oly Carlson MLA**  
**Chair**

## Committee Members

Chair:	Mrs Oly Carlson, MLA Member for Wanguri
Deputy Chair:	Mr Clinton Howe, MLA Member for Drysdale
Members:	Justine Davis, MLA Member for Johnston  Mr Chanston Paech, MLA Member for Gwoja  Mrs Laurie Zio, MLA Member for Fannie Bay

## Committee Secretariat

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## Acknowledgments

The Committee acknowledges all those that provided written submissions to its inquiry.

# 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 Bail Amendment Bill 2026 without amendment.

# 1 Introduction

## Introduction of the Bill

- 1.1 The Bail Amendment Bill 2026 (the Bill) was introduced into the Legislative Assembly by the Attorney-General, the Hon Marie-Clare Boothby, MLA, on 5 February 2026. The Assembly subsequently referred the Bill to the Legislative Scrutiny Committee for inquiry and report by 5 March 2026.<sup>1</sup>

## Conduct of the Inquiry

- 1.2 On 6 February 2026, the Committee called for submissions by 16 February 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 two submissions (see Appendix 1).
- 1.3 On 9 February 2026, the Committee held a public briefing with representatives from the Attorney-General's Department (the Department).

## Outcome of Committee's Consideration

- 1.4 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.
- 1.5 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 Bail Amendment Bill 2026 without amendment.**

## Report Structure

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

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<sup>1</sup> Hon Marie-Clare Boothby MLA, Attorney-General, *Draft Daily Hansard – Thursday 5 February 2026*, <https://territorystories.nt.gov.au/10070/1027141/0/5>, p. 5.

## 2 Overview of the Bill

### Background to the Bill

- 2.1 The *Bail Act 1982* (NT) (Bail Act) sets out the legal framework for when and how a person charged with a criminal offence may be released from custody on bail while awaiting court proceedings. The Bail Act applies across the Northern Territory court system, setting out general provisions for court bail, as well as specific powers and limitations on the Supreme Court and the Local Court.
- 2.2 The *Youth Justice Act 2005* (NT) (Youth Justice Act) provides that, in a provision of any other Act (including the Bail Act) relating to unlawful activity or alleged unlawful activity:
- a reference to the Local Court includes, in relation to a youth, a reference to the Youth Justice Court;
  - a reference to a Local Court Judge includes, in relation to a youth, a reference to a Judge of the Youth Justice Court; and
  - a reference to a registrar of the Local Court includes, in relation to a youth, a registrar of the Youth Justice Court.<sup>2</sup>
- 2.3 This has the effect of enabling the Youth Justice Court to exercise the same powers (and be subject to the same limitations) as the Local Court under the Bail Act.
- 2.4 In 2018, the Supreme Court reviewed a decision of the Youth Justice Court and confirmed the Bail Act applies in relation to the Youth Justice Court.<sup>3</sup> In presenting the Bill, the Attorney-General highlighted the outcome of the Supreme Court judgement:

The need for this important change became clear after a recent Youth Justice Court case where the Director of Public Prosecutions applied to stay a bail decision under the Bail Act. Normally, that would mean the young person stayed in detention while the Supreme Court reviews the decision. In this case the Youth Justice Court found the law did not apply to the case and refused a stay of bail, so the young person was released.

The Supreme Court later confirmed that the Bail Act does apply to the youth justice court and applied our government's strengthened bail laws and refused bail. The young person was then returned to detention.

This shows the review process worked, but it also highlighted the need to make the law clearer, and this Bill does just that. It clarifies the position beyond doubt.<sup>4</sup>

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<sup>2</sup> *Youth Justice Act 2005* (NT), s 53(1A).

<sup>3</sup> *Director of Public Prosecutions v WB* [2018] NTSC 80.

<sup>4</sup> Hon Marie-Claire Boothby MLA, Attorney-General, *Draft Daily Hansard – Thursday 5 February 2026*, <https://territorystories.nt.gov.au/10070/1027141/0/5>, p. 5.

## Purpose of the Bill

- 2.5 Amending the Bail Act, the Explanatory Statement notes the Bill seeks to:
- ...make it expressly clear that the [Bail Act] applies in relation to youth and to the Youth Justice Court, Youth Justice Court Judges, and Youth Justice Court Registrars, unless otherwise expressly stated in the [Bail] Act.<sup>5</sup>

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<sup>5</sup> Explanatory Statement, *Bail Amendment Bill 2026* (Serial 52), [https://parliament.nt.gov.au/\\_data/assets/pdf\\_file/0005/1590620/Explanatory-Statement-Bail-Amendment-Bill-2026-Serial-52.pdf](https://parliament.nt.gov.au/_data/assets/pdf_file/0005/1590620/Explanatory-Statement-Bail-Amendment-Bill-2026-Serial-52.pdf), p. 1.

## 3 Examination of the Bill

### Introduction

3.1 The Committee received two submissions to the inquiry. The following Chapter considers issues that were raised in submissions and the public briefing.

### Clauses 4 and 5

3.2 Together, clauses 4 and 5 seek to clarify that the Bail Act applies to young people and the Youth Justice Court.<sup>6</sup> Clause 4 seeks to amend the definition of ‘court’ in subsection 3(1) of the Bail Act to remove paragraph (c) relating to the Youth Justice Court and inserts a note referring to new section 3AA.<sup>7</sup>

3.3 Clause 5 seeks to insert new section 3AA into the Bail Act to provide that:

- unless specified otherwise, in the Bail Act:
  - a reference to the Local Court includes a reference to the Youth Justice Court;
  - a reference to a Local Court judge includes a reference to a Judge of the Youth Justice Court; and
  - a reference to a registrar of the Local Court includes a Registrar of the Youth Justice Court.
- the Youth Justice Court is defined, for the purposes of new section 3AA, to be the court continued in existence under section 45 of the Youth Justice Act.

3.4 The Explanatory Statement to the Bill states the purpose of these amendments is to confirm that the powers and functions under the Bail Act apply to the Youth Justice Court, noting the Bill:

...does not change the current processes or application of the [Bail] Act in relation to the Youth Justice Court, Judges of the Youth Justice Court, and Registrars of the Youth Justice Court. It simply expressly sets out that the [Bail] Act applies to those entities to make the Act easier to understand and apply in a busy court environment.<sup>8</sup>

3.5 At the public briefing, the Department explained that the Bill seeks to make clarifying amendments to the Bail Act, stating:

The amendments address an ambiguity in the [Bail] Act in respect to its application in the Youth Justice Court. The issue was highlighted in a recent decision of the Youth Justice Court where the Director of Public Prosecutions was prevented from making a bail stay application in respect of a youth matter...While the judicial review process has operated and established case

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<sup>6</sup> Hon Marie-Clare Boothby MLA, Attorney-General, *Draft Daily Hansard – Thursday 5 February 2026*, <https://territorystories.nt.gov.au/10070/1027141/0/5>, p. 5.

<sup>7</sup> Paragraph 3(1)(c) of the Bail Act currently provides that, for the purpose of the Bail Act, court means the Youth Justice Court continued in existence by section 45 of the Youth Justice Act.

<sup>8</sup> Explanatory Statement, *Bail Amendment Bill 2026* (Serial 52), [https://parliament.nt.gov.au/\\_data/assets/pdf\\_file/0005/1590620/Explanatory-Statement-Bail-Amendment-Bill-2026-Serial-52.pdf](https://parliament.nt.gov.au/_data/assets/pdf_file/0005/1590620/Explanatory-Statement-Bail-Amendment-Bill-2026-Serial-52.pdf), p. 2.

law in this regard, it remains appropriate for the legislature to amend the [Bail] Act to ensure a similar error does not occur in the future.<sup>9</sup>

- 3.6 Whilst acknowledging the Bill does not introduce a substantive change to the law, the North Australian Aboriginal Justice Agency (NAAJA) argued the proposed amendments may be “unnecessary and duplicative”, noting section 53(1A) of the Youth Justice Act already makes it clear the Bail Act applies to youth justice matters.<sup>10</sup> NAAJA argued the overlapping provisions may create a limited interpretive risk which a court may be required to examine in the future in the event of any inconsistency.<sup>11</sup>
- 3.7 Whilst NAAJA did not oppose the passage of the Bill, the organisation submitted that the proposed amendments “are not a priority reform” and argued that focus should, instead, be on “addressing systemic issues affecting Aboriginal young people in the youth justice system, developed in genuine consultation with Aboriginal communities and organisations”.<sup>12</sup>
- 3.8 The National Network of Incarcerated and Formerly Incarcerated Women and Girls (the National Network) argued that clarifying the application of the Bail Act to the Youth Justice Court “may appear administrative, but it operates within a system that is producing profound and well-documented harm”.<sup>13</sup> In this regard, the National Network highlighted a number of broader issues with regard to bail in the youth justice system, including:
- the disproportionate impact of the bail framework on Aboriginal children;
  - the absence of child-centred approaches to youth justice; and
  - the use of surveillance powers on children subject to bail conditions.
- 3.9 The National Network made several recommendations relating to the broader bail framework, including explicit safeguards recognising the rights of children, transparent public reporting on youth bail refusal rates, and investment in community-led non-custodial responses.<sup>14</sup>

### **Committee’s Comments**

- 3.10 The Committee notes that the proposed amendments are technical and clarifying in nature and are consistent with the existing provisions of the Youth Justice Act. The Committee observes that the Bail Act already applies to the Youth Justice Court, and the Bill does not make any substantive changes to the current processes or functions.

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<sup>9</sup> Committee Transcript, Public Briefing, Monday 9 February 2026, [https://parliament.nt.gov.au/\\_data/assets/pdf\\_file/0009/1591398/Corrected-Transcript-Public-Briefing-Serial-52-9-February-2026.pdf](https://parliament.nt.gov.au/_data/assets/pdf_file/0009/1591398/Corrected-Transcript-Public-Briefing-Serial-52-9-February-2026.pdf), p. 2.

<sup>10</sup> Submission 1 – North Australian Aboriginal Justice Agency, p. 2.

<sup>11</sup> Submission 1 – North Australian Aboriginal Justice Agency, p. 2.

<sup>12</sup> Submission 1 – North Australian Aboriginal Justice Agency, p. 2.

<sup>13</sup> Submission 2 – National Network of Incarcerated and Formerly Incarcerated Women and Girls, p. 4.

<sup>14</sup> Submission 2 – National Network of Incarcerated and Formerly Incarcerated Women and Girls, p. 4.

3.11 Whilst acknowledging the concerns raised in submissions regarding bail reform in the youth justice system, the Committee considers these issues go beyond the scope of the Bill.

# Appendix 1: Submissions Received

## Submissions Received

1. North Australian Aboriginal Justice Agency
2. National Network of Incarcerated and Formerly Incarcerated Women and Girls

**Note:** Copies of submissions are available at:

<https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/52-2026>

## Appendix 2: Public Hearings

### Public Briefing – Darwin, 9 February 2026

- Erin McAuley: Acting Deputy Chief Executive Officer, Attorney-General's Department; and
- Hannah Clee: Acting Director of Legislation and Legal Policy, Strategic Policy Coordination, Attorney-General's Department.

**Note:** Copies of the briefing transcript are available at:

<https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/52-2026>

# Bibliography

*Bail Act 1982* (NT)

Committee Transcript, Public Briefing, Monday 9 February 2026,  
[https://parliament.nt.gov.au/\\_data/assets/pdf\\_file/0009/1591398/Corrected-Transcript-Public-Briefing-Serial-52-9-February-2026.pdf](https://parliament.nt.gov.au/_data/assets/pdf_file/0009/1591398/Corrected-Transcript-Public-Briefing-Serial-52-9-February-2026.pdf).

*Director of Public Prosecutions v WB* [2018] NTSC 80

Explanatory Statement, Bail Amendment Bill 2026 (Serial 52),  
[https://parliament.nt.gov.au/\\_data/assets/pdf\\_file/0005/1590620/Explanatory-Statement-Bail-Amendment-Bill-2026-Serial-52.pdf](https://parliament.nt.gov.au/_data/assets/pdf_file/0005/1590620/Explanatory-Statement-Bail-Amendment-Bill-2026-Serial-52.pdf)

Hon Marie-Clare Boothby MLA, Attorney-General, Draft Daily Hansard – Thursday  
5 February 2026, <https://territorystories.nt.gov.au/10070/1027141/0/5>

*Youth Justice Act 2005* (NT)