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The Honourable Mrs Oly Carlson MLA  
Chair of the Legislative Scrutiny Committee  
Legislative Scrutiny Committee  
Committee Secretariat  
Via email only: LSC@nt.gov.au

27 March 2026

Dear Minister,

Re. Criminal Procedure Legislation Amendment Bill 2026

Legal Aid lawyers are in court every day dealing with the practical application of criminal procedure. Legal Aid NT welcomes the opportunity to provide a submission in relation to the *Criminal Procedure Legislation Amendment Bill 2026*.

Legal Aid NT welcomes the aspects of this Bill that:

- a) Provide the Court and Police with discretion to avoid unnecessary detention of people who do not pose a risk to the community (for example 21 and associated amendments)
- b) Remove barriers to appropriate resolution (for example -48)
- c) Increase the jurisdiction of the Local Court (for example- 45)
- d) Allow a streamlined committal process in appropriate cases (24)
- e) Provide the court with greater discretion.

There are two aspects of the bill that Legal Aid NT suggest warrant further consideration. They are set out below.

**Audio-visual links for detained defendants (49EB)**

Legal Aid opposes a **legislative presumption** that detained accused persons appear in court by way of audio-visual link (AVL).

The Court (with input from defence counsel) is best placed to determine the occasions when AVL appearances are the most effective and efficient means of an accused person appearing before the Court.

It is our common experience that clients report not hearing or not understanding what a judge said over a video-link; *'what did that Judge say?'*.

People who have not heard and or understood what has occurred over the video-link are more likely to find themselves in contact with police and the justice system again.

Hearing disorders in prisoners in the Northern Territory are common<sup>1</sup>. To Legal Aid NT's knowledge, no prison or police AVL suites in the Northern Territory are equipped with hearing amplifiers.

Face-to-face communication is the most effective form of legal conference. Effective face-to-face communication enables trust to be established between a legal representative and their client and aids in early progression of a person's legal matter. Face to face communication is even more important when the content of the legal proceeding is of a personal and or sensitive nature and when one of the people involved in the communication already faces barriers to effective communication: language, hearing, cognition, mental illness, drug use etc. Effective communication results in more efficient use of a legal practitioner's time and the efficient conduct of court proceedings.

A large amount of work is done and matters either concluded or progressed on occasions when the accused, defence lawyer, prosecutor (police or DPP) and police liaison officer are all in the same location.

It is our common experience that evidence often only becomes available on the day of a court listing. It is also often the case that defence counsel only receives an answer to a proposed resolution of a case, on the day of a court listing. Where the accused is not in the same location as their lawyer, that poses a difficulty in progressing the case with that new information.

There are only two ways of speaking to a client who is in custody and appearing via audio-visual link:

1. Via a prison visit booking (which must ordinarily be requested a minimum of 24 hours in advance of the appointment and visit times are not available prior to court sitting hours)
2. Via telephone immediately before or after a court appearance, where it can be facilitated by corrections. Because of the time frame during which this opportunity is available, it must occur with the lawyer on a telephone from the court precincts where, in many instances, there are limited locations where a lawyer can speak to their client confidentially.

Where an appearance is to be via audio-visual link, instead of meeting with a client in a custody interview room the following process occurs when lawyers have matters, they need to discuss with their client on the day of the Court listing:

- a. Before a court hearing: a lawyer must telephone the prison, often on a number of occasions (because their client is not available to be spoken to initially because the prison staff are moving the client from their cell location to the video-link facility. There are occasions where a defendant is only available to be spoken to moments before a Judge enters a Court room, meaning the lawyer only obtains essential information, and not fulsome information that may have assisted the matter to conclude more quickly, nor sufficient time to ensure that their client understands the proceedings.

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<sup>1</sup> See for example: 'Massive Prevalence of Hearing Loss Among Aboriginal Inmates in the Northern Territory' Troy Vanderpoll and Damien Howard, Indigenous Law Bulletin, January/February 2012, ILB Vol. 7, issue 28, Royal Commission into Protection and Detention of Children in the Northern Territory (Final Report (November 2017) vol 2A, 119.

- b. After a court hearing: unless the lawyer asks the Judge to communicate to the prison officer to have the accused wait to speak to their lawyer, there is no opportunity for the lawyer to speak to their client. If communication is possible the lawyer must attempt to find somewhere within the court precincts to make the telephone call that enables them to communicate confidentially with their client.

Where communication requires an interpreter, it is always more effective when the interpreter, accused and lawyers are all in the same location. Where a defendant is appearing via audio-visual link and an interpreter is required to communicate, that practically means the following:

- c. The legal aid lawyer telephones the interpreter and asks them to hold the line, the legal aid lawyer must then telephone the prison and ask permission to connect the interpreter. When communication is via telephone it is not possible for visual cues to be received by the other party to the communication. Less than ideal communication can lead to misunderstandings which produce delays in matters finalising and or lead to complex legal miscarriage of justice issues.
- d. Where the legal aid lawyer and interpreter are at court and the accused is in prison, the legal aid lawyer must attempt to locate a confidential space from which to conduct a telephone conference.

There is a growing body of research in relation to both alleged victims and accused persons appearing via audio-visual link, that identifies risks and problems with audio-visual link appearances for both accused persons and witnesses. That body of research includes the work of Professor Carolyn McKay whose research included direct observations and interviews with people working in the Northern Territory criminal justice system<sup>2</sup>.

**Legal Aid NT recommends that the Northern Territory Government conduct a thorough review of all research available on the topic of AVL court appearances and that an appropriate expert be retained to advise about avoiding the risks identified by the research in the Northern Territory context.**

#### **Presumed Joinder of charges (26-section 183B)**

In other jurisdictions there is legislation permitting allegations on separate Complaints and Informations to be heard together.

The Northern Territory appears to be proposing to take a different approach to other jurisdictions and create a **presumption** that matters be heard together. Legal Aid NT cautions against this approach.

It is imperative that the prosecution consciously decide whether or not to prosecute separate allegations in one trial (hearing) and communicate how they intend to conduct the case to the accused and their legal representative. That is necessary because to receive a trial according to law, a fair trial, an accused and their counsel need to know what the prosecution's case is, including for what purpose the prosecution propose to lead pieces of evidence. Without that, an accused's lawyer cannot properly assist the Court with the applicable law.

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<sup>2</sup> Carolyn McKay, 'Digital Vulnerability in Criminal Justice; Vulnerable People and Communication Technology', (Palgrave MacMillan, 2026), [Digital Vulnerability in Criminal Justice](#)

Any procedure that removes that fundamental process is likely to result in late legal arguments, late adjournment applications and appeals when matters are not conducted according to law.

Legal Aid NT anticipates that the intention of the bill is to avoid complainants attending court on multiple occasions. Legal Aid NT anticipates that the practical implementation of the bill will result in:

- a) Longer listings being required to accommodate evidence in relation to separate allegations as well as complex legal submissions
- b) Increased complexity of Local Court proceedings
- c) Delay in domestic violence allegations being heard (to accommodate lengthy listings)
- d) Successful appeals resulting in complainants having to give evidence again
- e) Additional workload for legal aid lawyers, to ensure that their clients receive a fair hearing according to law

**Legal Aid NT encourages a detailed consideration of interstate models.**

Legal Aid's primary role is to provide legal services. Legal Aid is not a law reform commission. It is possible that there are unintended consequences of this Bill that we have not addressed. We welcome you to contact us if we can be of assistance in sharing our front-line experience.

Yours sincerely,

A black rectangular redaction box covering the signature of Catherine Voumard.

CATHERINE VOUMARD  
Director  
Northern Territory Legal Aid Commission