

Explanatory Statement

CRIMINAL PROCEDURE LEGISLATION AMENDMENT BILL 2026

SERIAL NO. 58 LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

ATTORNEY-GENERAL

GENERAL OUTLINE

The Bill amends the *Local Court (Criminal Procedure) Act 1928* and other related legislation to:

- (a) introduce an initial provision aimed at providing fast-track committal pathways;
- (b) allow more flexibility to list matters in circumstances with real prospects of early resolution;
- (c) encourage use of audiovisual links;
- (d) improve the Court's ability to issue warrants, in appropriate circumstances, for witnesses who do not attend Court;
- (e) streamline hearings for related domestic violence matters;
- (f) amend provisions to facilitate the resolution of matters;
- (g) provide police flexibility to manage arrest outcomes for Court ordered warrants, in limited and appropriate circumstances;
- (h) 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;
- (i) improve various provisions regarding sentencing indications, to promote early resolution of matters and encourage early appropriate guilty pleas;
- (j) expand matters which can be heard in the Local Court to enhance efficiencies and promote early resolution of matters;
- (k) make amendments to align provisions within the Act and with other relevant legislation; and
- (l) update how Local Court forms are prescribed.

The purpose of this Bill is to commence reforms that streamline criminal matters within the Local Court, helping to deliver swift justice for victims and the community.

NOTES ON CLAUSES

Part 1 Preliminary Matters

Clause 1. Short Title

This is a formal clause which provides for the citation of the Bill. The Bill when passed will be cited as the *Criminal Procedure Legislation Amendment Act 2026*.

Clause 2. Commencement

This clause sets out how the amendment Act will be commenced. In this case this will be done by the Administrator by Gazette notice. However, if a provision of the amendment Act does not commence before 14 March 2028, it will commence on that day.

Part 2 Amendment of Local Court (Criminal Procedure) Act 1928

Clause 3. Act amended

This is a formal clause which provides that Part 2 amends the *Local Court (Criminal Procedure) Act 1928*.

Clause 4. Section 20 amended (Form of warrant)

This clause amends subsection 20(1)(c) to require a defendant be brought before the Court pursuant to a warrant for apprehension, if the Court has excluded bail by endorsement on the warrant in accordance with new section 21 or bail is not granted under new subsection 16(6) of the *Bail Act 1982*.

This is a consequential amendment, which assists in allowing police to grant an arrested person bail, despite that arrest being in relation to a warrant of apprehension, in appropriate circumstances.

Clause 5. Section 21 inserted

This clause inserts new section 21 (Endorsement of warrant to exclude police bail) to give police (as authorised members) the discretion to grant or refuse bail pursuant to section 16 of the *Bail Act 1982*, when a person is arrested on a warrant of apprehension issued by the Local Court, unless bail was specifically excluded by the Local Court (by endorsement on the warrant).

Clause 6. Section 51 amended (Joinder of charges)

This clause amends subsection 51(3) which ordinarily provides that 'The Court may, if it thinks just, deal with any charge so joined, separately'.

This general discretion of the Court is retained; however, the amendment makes the power in subsection 51(3) subject to new section 183B in relation to domestic violence offences. This means when domestic violence offences are committed, the Court must consider new section 183B when applying the power in subsection 51(3) which presumes that certain domestic violence offences involving the same victim and offender are to be heard and determined together.

Clause 7. Section 52 replaced

Clause 7 repeals and replaces section 52 with new section 51A (Charges on separate complaints may be heard together) and section 52 (Limitation of time for making complaint).

New section 51A provides a general power for charges in separate complaints to be heard and determined together. This is intended to provide the Court with wider discretion regarding the management of similar matters involving the same defendant.

Section 52 is amended to provide that the six-month time limit for making a complaint is subject to any other limitation of time specified by another Act for an offence or may be dispensed with where the person charged gives consent.

This is intended to provide an exception for summary charges to be laid outside the ordinary limitation period in circumstances where a resolution is likely. For example, where charges are laid but the parties negotiate a plea based on an alternative lesser charge, the new lesser charge may be laid provided the defendant consents to waiving the limitation period.

Consent may include email correspondence from the legal representative of the person charged, on their behalf, to the prosecution.

Clause 8. Section 59 and 60 replaced

This clause repeals and replaces both section 59 and section 60.

Section 59 ordinarily requires a defendant be brought before the Court when they have been apprehended under a warrant and then allows the Court to either remand the defendant into custody or grant the defendant bail. New section 59 no longer mandates the defendant be brought before the Court but instead outlines the options available to the Court, including remand or bail, if the defendant is apprehended under a warrant and brought before the Court. This means that where police grant bail upon apprehension of the defendant under a warrant, they are no longer required to bring the defendant before the Court.

Section 60 is amended to remove obsolete duplicates of provisions within sections 59 and 65, namely former subsections 60(1), (4) and (5). New section 60 provides the options for the Court when remanding a defendant under section 59 or 65. This includes committing the defendant into the custody of the Commissioner of Correctional Services, the police officer or other person who apprehended the defendant or to such other safe custody as the Court considers appropriate. The intention of the amended section 60 is to retain the current provisions relating to the requirements to commit the defendant upon apprehension under a warrant or adjournment of a matter.

Section 60 is also amended to align with section 113 to provide that where the Court makes an order to remand the defendant for not more than three days, this can be done orally, otherwise it must be done by warrant and must not exceed 15 days unless the parties consent to a longer period.

Clause 9. Section 60AC replaced

This clause repeals and replaces section 60AC (Application of Division) to remove the requirement for a practice direction under section 49 of the *Local Court Act 2015* to specify the extent to which a Court sitting in a place other than Darwin, Alice Springs or Tennant Creek must comply with Part IV Division 2A (Pre-hearing procedure for offences and sentence indications).

New Section 60AC provides that the Division applies to all criminal proceedings in the Court except those that are subject to a preliminary examination under Part V. Rather than rely on practice directions setting out the extent to which remote courts are required to comply with the pre-hearing procedure rules, new section 60ARA (see Clause 13) allows the Court to dispense with the requirements of the Subdivision if it is satisfied there is good reason to do so. New sections 60AC and 60ARA combine to provide the Court with more flexibility in remote communities where rigid adherence to the best practice pre-hearing procedures in Subdivision 2 may not be appropriate.

Clause 10. Section 60AI amended (Directions hearing)

This clause repeals and replaces subsections 60AI(1), (2) and (8).

Clause 10(1) amends the heading of section 60AI from 'Directions hearing' to 'Directions hearing to be held'.

Clause 10(2) repeals and replaces subsections 60AI(1) and (2) to require the Court to appoint a date and time for a directions hearing, at least four weeks after the first mention if a defendant has not pleaded guilty to a charge at the first mention. This is intended to ensure the process for appointing a date and time for a directions hearing is clear.

Clause 10(3) repeals and replaces subsection 60AI(8) to provide that the Court may appoint a date and time for a further mention prior to the directions hearing, on application or its own initiative.

New subsection 60AI(9) requires the Court, on application, to appoint a date and time for a further mention, as far as is reasonably practicable, where the defendant is in custody and the Court is satisfied there are reasonable prospects of resolution.

This is intended as a mechanism for allowing the early resolution of matters. This provision does not contemplate the consideration of other matters at such a mention, such as bail.

Clause 11. Section 60AL amended (Prosecution or defendant may apply for matter to be considered)

Clause 11 amends subsection 60AL(a) to provide that section 60AK does not prevent the prosecution or defendant from making an application to the Court to appoint a date and time for the matter for a mention or another directions hearing.

This is a consequential amendment of clause 10 in allowing the Court to appoint a date and time for another mention.

Clause 12. Section 60AP repealed (Prosecution and defence to confirm hearing)

This clause repeals section 60AP to remove the requirement for the prosecution and defendant to give written notice to the court that they are ready to proceed where a date and time have been appointed for a hearing, seven days prior.

This provision is unnecessary given the mandated case management process and the Court's general power to list matters for mention or pre-hearing mention for further case management, prior to the allocation of a hearing date. This is intended to act as an administrative amendment which will reduce the burden on the Local Court and practitioners.

Clause 13. Section 60ARA inserted

Clause 13 inserts new section 60ARA (Court may dispense with compliance in certain proceedings) to provide the Court with the power to dispense with compliance with the requirements of the pre-hearing procedures in Part IV, Division 2A, Subdivision 2 in a Court sitting in a place other than Darwin, Alice Springs, Tennant Creek or Katherine, where there is good reason to do so.

This is intended to provide the Court with more flexibility in remote communities where rigid adherence to the best practice pre-hearing procedures in Subdivision 2 may not be appropriate.

Clause 14. Section 60AT amended (Sentence indication)

This clause repeals subsections 60AT(3) and (4) and replaces it with new subsection 60AT(3). These subsections ordinarily provide that the Court may give a sentence indication at any time during proceedings, except within seven days before a hearing date and time, if they have been appointed.

New subsection 60AT(3) provides that where a Court has appointed a hearing date and time, they may give a sentence indication any time before the appointed hearing date.

The new section expands the scope for issuing sentencing indications by removing the existing restriction which prevents a sentencing indication from being given within seven days of the hearing date.

Clause 15. Section 60AU amended (Court to have regard to material for sentence indication)

This clause inserts new subsection 60AU(1)(c) to allow the Court to have regard to submissions by the parties, on the appropriate sentence to be imposed if the defendant plead guilty, before giving a sentence indication.

This is intended to increase fairness to parties and greater certainty regarding the sentence due to the availability of additional information which may be used to inform the Court's sentence indication. It is intended to ensure sentence indications remain consistent with general sentencing principles.

Clause 16. Section 60AZA amended (Sentence indication and no plea of guilty)

Clause 16 repeals and replaces subsection 60AZA(2) to remove the prohibition against the Court finally determining a charge where they also provided a sentence indication which was not accepted, if the parties agree.

New subsection 60AZA(2) allows the Court that finally determines a charge to be constituted by the same Judge who gave the sentencing indication.

Clause 17. Section 64 amended (If both parties appear, Court to hear and determine the case)

This clause amends section 64 to insert subsection (2) 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.

This is intended to enhance the efficiency of court processes and operates on the basis that defendants provide instructions to their legal representative.

Clause 18. Section 65 amended (Power of Court to adjourn hearing)

This clause amends subsection 65(3) to require that where a defendant is remanded in custody on adjournment pursuant to section 65, the Court must commit the defendant into custody in accordance with section 60.

This maintains consistency between provisions of the Act.

Clause 19. Section 68 amended (If defendant pleads not guilty Court to hear parties and their evidence)

This clause repeals subsection 68(3) which required the practice of the Court align with the practice of the Supreme Court for examination, cross-examination and re-examination of witnesses and the right of addressing the Court in reply or otherwise.

This provision is considered redundant. The practice of the Court ordinarily follows the rules of the *Evidence (National Uniform Legislation) Act 2011* which applies to all criminal courts in the NT.

Clause 20. Section 101A amended (Joinder of charges)

Subsection 101A(1) allows for charges for any offences to be joined in the same information if the charges are founded on the same facts or form or are part of a series of offences of the same or similar character. Subsection (2) also provides that the Court may, if it thinks just, deal with any charge so joined, separately.

Clause 20 amends subsection 101A(2). The general discretion of the Court is retained; however, the amendment makes the power in subsection 101A(2) subject to new section 183B in relation to domestic violence offences. This means the Court must consider new section 183B when determining whether to deal with any charges joined, separately. Section 183B presumes that certain domestic violence offences involving the same victim and offender are to be heard and determined together.

Clause 21. Section 101B inserted

Clause 21 inserts new section 101B (Charges on separate informations may be dealt with together) to provide a general power for charges contained in separate informations to be heard and determined together. This is intended to provide the Court with wider discretion regarding the management of similar matters involving the same defendant.

Clause 22. Section 105A amended (Preliminary examination to be conducted)

This clause inserts new subsection 105A(c) as a consequential amendment of new section 106B to allow the requirement to conduct a preliminary examination for an indictable offence to be dispensed with under new section 106B.

Clause 23. Section 105D amended (Content of committal brief)

This clause amends subsection 105D(1)(c) to replace the reference to a 'form prescribed by the Rules under section 48 of the *Local Court Act 2015*' with an 'approved form under section 49A of the *Local Court Act 2015*'.

This is a consequential amendment of new section 49A allowing the Chief Judge to approve forms for use in Local Court proceedings which must be published on the Court's website.

Clause 24. Section 106B inserted

Clause 24 inserts new section 106B (Dispensing with preliminary examination) to allow the Court, on application by the defendant, to 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.

Subsection 106B(3) requires compliance with current section 112(3)(a) to (c) upon dispensing with the preliminary examination.

This clause is intended as a mechanism for streamlining court procedures in committing an indictable matter to the Supreme Court.

Clause 25. Section 120 amended (Property offences that may be dealt with summarily)

Clause 25 amends subsection 120(1)(b) to increase the value of the property or financial advantage for indictable offences which may be dealt with summarily from \$50 000 to \$100 000.

This is intended to increase the scope of indictable offences that the Court may hear and determine summarily, making more matters capable of resolution in the Local Court.

Clause 26. Section 183B inserted

This clause inserts new section 183B (Presumption for domestic violence offences to be dealt with together) 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.

This will allow parties to avoid unnecessary repeat appearances, relieving pressure on the court system, and potentially reducing the risk of re-traumatising victims through prolonged or repeated court interactions.

New subsections 183B(1) and (2) specifies domestic violence offences charged in the same or separate complaints or informations (if each offence may be heard and determined summarily) are presumed to be heard and determined together where they have been committed by the defendant against the same persons.

New subsection 183B(3) clarifies that this presumption is not rebutted simply because evidence on one charge is not admissible on another, or there is a possibility that evidence may be the result of collusion or suggestion.

New subsection 183B(4) defines **domestic violence offence** to include a Domestic Violence Order contravention offence as defined in the *Domestic and Family Violence Act 2007* to include an offence of contravening a domestic violence order under section 120(1), a restraining order under the repealed *Domestic Violence Act 1992*, or an external order. A **domestic violence offence** is also defined to include any offence constituted by, or involving, domestic violence conduct as defined in section 5 of the *Domestic and Family Violence Act 2007*. This is intended to encompass all offences involving the contravention of domestic violence orders (or similar) and domestic violence conduct under the *Domestic and Family Violence Act 2007*.

Part 3 Amendment of *Bail Act 1982*

Clause 27. Act amended

This is a formal clause which provides that Part 3 amends the *Bail Act 1982*.

Clause 28. Section 15 amended (Extension of meaning of adjournment in section 6)

This clause amends section 15 to insert new subsection (d) to provide that for subsection 6(c)(iii), the period between apprehension of a person under a warrant issued by the Local Court and the person's next appearance in the Local Court is taken to be the period of adjournment during which bail may be granted.

This is intended to allow police the power to grant bail where a warrant of apprehension has been issued by the Local Court, and bail has not been excluded by endorsement on the warrant under new section 21.

Clause 29. Section 16 amended (Authority for police to grant bail)

Clause 29 amends section 16 to insert new subsection (6) to allow police to grant bail to a person apprehended under a warrant under the Act unless excluded by the Court under new section 21.

A note for new subsection 16(6) is also inserted to reference section 51 to provide for the application of new section 21 to a warrant for apprehension issued by the Local Court under section 39. See Clause 30.

Clause 30. Section 51 amended (Provisions as to warrants or summonses)

This clause amends section 51 to insert new subsection (2), as a consequential amendment of new section 21, to provide that in addition to the application of the *Local Court (Criminal Procedure) Act 1928* to warrants and summonses issued under the *Bail Act 1982* under subsection (1), new section 21 is also to be applied to a warrant issued by the Local Court under section 39 of the *Bail Act 1982*.

This is intended to allow police to grant bail in accordance with new section 21 of the *Local Court (Criminal Procedure) Act 1928* and subsection 16(6) of the *Bail Act 1982* where a warrant has been issued by the Local Court under section 39 of the *Bail Act 1982*, such as where a warrant has been issued to apprehend a person who has failed to appear in accordance with a bail undertaking.

Clause 31. Part 9, Division 11 inserted

Clause 31 inserts new Division 11 (Criminal Procedure Legislation Amendment Act 2026), section 80 (Application of amendments to section 16) to apply new subsection 16(6) to a warrant issued after the commencement of this amendment Act.

This is intended as a transitional provision to ensure that new section 21, and as a consequence new subsection 16(6), does not apply to warrants to apprehend a defendant already issued prior to commencement.

Part 4 Amendment of *Evidence Act 1939*

Clause 32. Act amended

This is a formal clause which provides that Part 4 amends the *Evidence Act 1939*.

Clause 33. Section 4 amended (Definitions)

This clause inserts a definition for the term 'appear' with reference to section 49, in section 4.

This clause also amends the definition of **proceeding** under section 4 of the *Evidence Act 1939* to define *civil proceeding* and *criminal proceeding* separately, with reference to Part 1 of the Dictionary of the *Evidence (National Uniform Legislation) Act 2011*.

Clause 34. Section 49 amended (Interpretation)

This clause amends section 49 to provide that appearing before a Territory entity includes being present or brought before the Territory entity.

Clause 35. Section 49D amended (Application of Division)

Clause 35 amends section 49D to insert new subsection (4) to allow a requirement to appear before a Territory entity to be satisfied if the person appears by way of a communication link in accordance with Part 5, Division 2.

Clause 36. Section 49E amended (Use of Communication link by Territory entity)

Clause 36(1) amends the heading of section 49E to replace 'Use of communication link by Territory entity' with 'Use of communication link in Territory proceedings generally'.

Clause 36(2) amends section 49E to provide that a direction given under section 49E(1) for a person to appear, give evidence or make a submission by communication link is subject to subsection (6) and new sections 49EA and 49EB. This is a consequential amendment of new sections 49EA and 49EB.

Clause 36(3) amends subsection 49E(5) to replace 'without limiting the matters to which the entity must have regard for giving a direction under subsection (1), the entity must' with 'In considering whether to give a direction under subsection (1), the entity may'. This allows the entity discretion in having regard to the matters specified in subsection (5) when considering whether to give a direction for a person to appear, give evidence or make a submission, by a communication link.

Clause 36(4) and (5) make minor amendments to replace the term 'appropriate' with 'relevant' in subsection 49E(5)(e) and 'before the entity in person' with 'physically before the entity' in subsection 49E(6)(b).

Clause 36(6) omits subsection 49E(8) as this provision is now covered by subsection 49D(4).

Clause 37. Sections 49EA and 49EB inserted

This clause inserts new sections 49EA (Audiovisual links to be used in criminal proceedings in or before Local Court for certain witnesses) and 49EB (Use of audiovisual links in summary criminal proceedings for detained defendants).

New section 49EA provides that the Court must give a direction under subsection 49E(1) for a witness in a remote place to appear before, and give evidence to, the Local Court, in a criminal proceeding via an audiovisual link where the necessary facilities are available, or can be made available, and subject to opposition, it would not be contrary to the interests of justice.

A remote place is defined under subsection 49EA(2)(a) to include a remote community or any other place located more than 100km from the place the Court is sitting at.

New subsection 49EA(3) requires the Court to have regard to the convenience, expenses and delays if the witness were to appear physically, and the fairness, along with any other matter they consider relevant, in determining whether it would be in the interests of the administration of justice for the witness to appear via audiovisual link.

New section 49EB provides that a detained defendant, being a person held in the custody of the Commissioner of Correctional Services, in a summary criminal proceeding in the Local Court or Youth Justice Court, must appear before the court via audiovisual link unless the necessary facilities are unavailable and cannot reasonably be made available, or the court directs otherwise (upon application or its own initiative).

New subsection 49EB(4) requires the Court to have regard to the matters specified in subsection 49E(5) when considering whether to direct the defendant to appear in person.

Additionally, new subsection 49EB(5) provides an exception to the requirement to appear via audiovisual link for the first appearance of the defendant, the hearing of the charge or charges, and a preliminary examination. This is intended to ensure that while mentions, committals, directions hearings, adjournments, bail applications, guilty pleas and other appropriate matters may be presumed to be dealt with via audiovisual link, the detained person must appear in person (being either present or brought before the court) for contested hearings or committals, and first appearances.

This is to streamline court processes where appropriate.

Part 5 Amendment of *Evidence (National Uniform Legislation) Act 2011*

Clause 38. Act amended

This is a formal clause which provides that Part 5 amends the *Evidence (National Uniform Legislation) Act 2011*.

Clause 39. Section 194 amended (Witnesses failing to attend proceedings)

Section 194 provides powers for the Court to issue a warrant to bring a witness before the court who has failed to attend court, including circumstances where the Court is satisfied that the witness is avoiding service or is unlikely to attend.

The section ordinarily provides that if a witness, in a civil or criminal proceeding, fails to appear when called and it is proved that the witness has been served with a summons or subpoena as well as provided with a 'reasonable sum of money...for his or her costs', the Court may issue a warrant, order a fine or take any other action against the witness permitted by law.

This clause amends subsection 194(1)(c) to broaden the scope of the entitlement such that a reasonable sum of money now also includes its equivalent, such as prepaid travel, provided it is sufficient to meet the reasonable expenses of attending as required by summons or subpoena.

By expanding the scope of the entitlement, this is intended to provide wider discretion for the court to respond to a witness who fails to attend proceedings where conduct money (such as pre-paid travel) has been provided to the witness to ensure their attendance.

Part 6 Amendment of local court legislation

Division 1 Amendment of *Local Court Act 2015*

Clause 40. Act amended

This is a formal clause which provides that Part 6, Division 1 amends the *Local Court Act 2015*.

Clause 41. Part 4, Division 5 heading amended

Clause 41 replaces Part 4, Division 5 heading 'Rules and directions' with 'Rules, directions and forms'. This is a consequential amendment of new section 49A.

Clause 42. Section 49A inserted

Clause 42 inserts new section 49A (Approved forms) to allow the Chief Judge to approve forms for any document to be used in proceedings in the Local Court, which must then be published on the Court's website.

This is intended to modernise the legislation by removing the prescription of forms via legislation and instead allowing for their publication online.

Division 2 Regulations repealed

Clause 43. Regulations repealed

This clause repeals the Regulations specified in the Schedule.

Part 7 Amendment of *Misuse of Drugs Act 1990*

Clause 44. Act Amended

This is a formal clause which provides that Part 7 amends the *Misuse of Drugs Act 1990*.

Clause 45. Section 22 amended (Certain offences may be dealt with summarily)

This clause repeals and replaces subsection 22(1) to include section 8 (Receiving or possessing tainted property) of the *Misuse of Drugs Act 1990* as an indictable offence which may be heard and determined summarily by the Local Court, in addition to an offence against a provision of Part II, Division 1, Subdivision 1, 2 or 3 or section 11Y(1) where it is punishable by not more than 14 years' imprisonment.

Clause 46. Section 23 amended (Proceedings for offences)

This clause inserts new subsection 23(2A) to provide that section 8 may only be heard and determined summarily by the Local Court if the defendant and prosecution consent.

Part 8 Amendment of *Sentencing Act 1995*

Clause 47. Act amended

This is a formal clause which provides that Part 8 amends the *Sentencing Act 1995*.

Clause 48. Section 123A repealed (Late guilty plea not relevant for sentencing for offence)

This clause repeals section 123A as a consequential amendment of subsections 60AT(3) and (4) which removes the prohibition against the Local Court considering a plea of guilty plea received within seven days before the appointed hearing date and imposing a less severe sentence than what would have been imposed but for the plea of guilty. This is intended to remove any obstacles to the early resolution of a matter by guilty plea.

Part 9 Repeal of Act

Clause 49. Repeal of Act

This is a standard clause for an amending act. It provides that the *Criminal Procedure Legislation Amendment Act 2026* will be repealed on the day after it commences.

Schedule Repealed Regulations

This Schedule specifies all previous amending regulations which constitute the *Local Court (Criminal Jurisdiction) Rules 1929* to be repealed.