

27 March 2026

The Chair  
Legislative Scrutiny Committee  
Northern Territory Legislative Assembly

Dear Chair

**Re: Criminal Procedure Legislation Amendment Bill 2026 (Serial 58)**

I write in my capacity as the Northern Territory Anti-Discrimination Commissioner in relation to the above Bill.

**1. Importance of Parliamentary Scrutiny and the Rule of Law**

The Northern Territory Anti-Discrimination Commission (the 'Commission') notes that sufficient time has not been afforded to adequately digest and scrutinise the Criminal Procedure Legislation Amendment Bill 2026 (the 'Bill'). This submission does not reflect the usual level of rigour, depth and consultation that the Commission applies.

This submission is grounded in the principle that the strength of a democracy is measured not by how quickly laws are passed, but by how carefully their consequences are understood. Parliamentary scrutiny is a fundamental safeguard of the rule of law, ensuring that legislation is proportionate, fair, and consistent with fundamental rights. We acknowledge the ongoing unprecedented strain on legal services and the courts, and the difficulties currently faced day-to-day to ensure that clients and victims receive timely, just outcomes within the existing legislative framework. However, where legislation is progressed within compressed timeframes, there is an increased risk that complex provisions are not fully interrogated, impacts on vulnerable groups are not properly understood, and unintended consequences are identified only after implementation. The upstream optics of well-intended outcomes can lead to downstream unintended consequences.

Importantly, the fundamental principle of democratic governance is not about ramming through legislation unscrutinised. Parliamentary scrutiny is not a procedural formality or nicety, it is a core safeguard of the rule of law, ensuring that legislation is properly tested, proportionate, and consistent with fundamental rights.



The Bill introduces structural changes affecting victim-survivors, accused persons and the justice system. The Committee's role is therefore critical in restoring scrutiny, accountability and public confidence.

Beyond individual provisions, the cumulative effect of the Bill prioritises efficiency while increasing the risk of re-traumatisation, expanding discretion, and disproportionately impacting Aboriginal people and victim-survivors.

## **2. Clause-Level Concerns**

### **2.1 Domestic Violence Presumption (s183B)**

The *Local Court (Criminal Procedure) Act 1928* allows for joinder of matters on application by the parties where charges arise from the same facts. These applications are considered carefully by the Court on a case-by-case basis. The presumption to hear domestic violence matters together risks bypassing a risk assessment and determination of the appropriateness of joinder by a Judge. Joinder could have implications for sentencing, compress patterns of coercive control into a single proceeding, thereby obscuring escalation and increasing the risk of re-traumatisation for victim-survivors, or alternatively, could lower risk of re-traumatisation by allowing victim-survivors to only provide evidence once. The appropriateness of joinder could differ depending on the circumstances of the case and the implications of such a provision, and a presumption for joinder, should be carefully considered.

The provision could have implications for bail decisions and victim-survivor safety. Multiple charges involving the same complainant can also be used to argue escalation, persistence and disregard for prior interventions in bail applications.

This amendment could have the follow-on effects by changing the way police charge domestic violence offences, for example, charging multiple incidents together, or treating them as a single course of conduct rather than preparing two separate briefs.

### **2.2 Police Bail Discretion**

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.

### 2.3 Remote Procedural Flexibility (s60ARA)

Allowing reduced procedural requirements in remote areas risks creating unequal justice standards based on geography, disproportionately affecting Aboriginal Territorians. The Committee should consider whether the barriers to justice faced by remote communities could be achieved through increasing resourcing for bush courts, rather than reducing procedural standards for a portion of the community.

### 3. Anti-Discrimination and Positive Duty

Under the Northern Territory *Anti-Discrimination Act 1992*, the positive duty requires proactive, reasonable and proportionate measures to eliminate discrimination. The Bill fails to embed safeguards necessary to meet this obligation.

The absence of structured safeguards, combined with increased discretion and reduced procedural protections, demonstrates a failure to prevent foreseeable harm.

### 4. Systemic Criticisms and Impact on Rights

4.1 The Bill introduces broader systemic risks including limitations on judicial discretion, procedural complexity and inconsistent regional application. These issues directly impact equality before the law, procedural fairness and liberty.

4.2 Equality before the law is compromised where outcomes depend on discretion and geography.

4.3 Procedural fairness is weakened by accelerated processes that limit meaningful participation.

4.4 Victim-survivors face heightened risk of re-traumatisation.

4.5 Aboriginal people in remote areas are disproportionately impacted.

4.6 Bail and sentencing changes increase the risk of unjust detention.

### 5. Recommendations

5.1 Remove or significantly qualify the domestic violence presumption.

5.2 Embed victim-survivor safeguards and trauma-informed requirements.

5.3 Limit police bail discretion in high-risk cases.

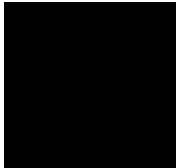
5.4 Ensure consistent procedural standards across all regions.

5.5 Introduce monitoring and accountability mechanisms.

**Conclusion**

The Bill reflects a shift toward efficiency-driven reform. However, justice must be safe, fair and equitable. The Committee must ensure that reforms do not entrench systemic discrimination or undermine the rule of law.

Yours sincerely,



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**Northern Territory Anti-Discrimination Commissioner**  
**Principal Community Visitor**