

Opening Statement for Youth Justice and Related Legislation Bill 2019

Madam Chair,

Thank you for providing the opportunity to talk to you about the Youth Justice and Related Legislation Amendment Bill 2019 that was introduced to the Legislative Assembly on 20 March 2019.

With me today on behalf of the CEO of Territory Families, Mr Ken Davies, are:

- Mr Luke Twyford, Executive Director, Strategy Policy and Performance;
- Ms Kelly Cooper, Senior Director, Community Youth Programs; and
- Ms Seranie Gamble, Director of Law Reform.

I would like to start by acknowledging this public briefing is held on the land of the Larrakia people and pay my respects to Larrakia elders past, present and emerging.

I would also like to acknowledge the members of this Committee and thank you for giving us the opportunity to talk about this Bill.

This Bill marks the next stage of legislative reform to improve the youth justice system and delivers on the reform direction articulated in 'Safe, Thriving and Connected' which is Government's response to the Royal Commission into the Detention and Protection of young people in the Northern Territory.

**LEGISLATIVE ASSEMBLY OF THE NT
TABLED DOCUMENTS**

Committee:..... SPSC.....
Paper No: 1-1..... Date: 1/4/19
Tabled By:..... Territory Families.....
Signed:..... J Knight.....

Madam Chair, this Bill has been produced in collaboration with a Legislative Amendment Advisory Committee which was formed in March 2017 and is known as the LAAC.

The role of the LAAC is to assist government with the identification of legislative solutions to implement reforms to the Youth Justice and the Care and Protection Systems.

The LAAC is a unique Committee that has enabled stakeholders from outside government to work alongside cross-agency representatives, and contribute to the development of this Bill in the design stages through almost monthly meetings over the last 16 months.

Membership of the LAAC includes:

- North Australian Aboriginal Justice Agency;
- Northern Territory Legal Aid Commission
- Northern Territory Council of Social Services;
- Law Society of the Northern Territory;
- Criminal Lawyers Association of the Northern Territory;
- Aboriginal Peak Organisations of the Northern Territory;
- Making Justice Work;
- CREATE foundation;
- Aboriginal Medical Services Alliance of the Northern Territory;
- Danila Dilba Health Service;
- Jesuit Social Services;

- Human Rights Law Centre;
- Department of the Attorney-General and Justice, including representatives from Solicitor for the Northern Territory;
- Department of the Chief Minister;
- Northern Territory Police; and
- Office of the Children's Commissioner;

In addition to regular meetings the LAAC has held technical workshops on the initial proposals and drafts of this Bill.

Madam Chair, this Bill seeks to amend the *Youth Justice Act 2005*, the *Bail Act 1982* and the *Police Administration Act 1978*. The Children and Families Standing Committee, comprised of the Chief Executive Officers and Commissioner's in the Children and Families cluster have also received regular briefings on this Bill, and provided approval of each element ahead of its progression to Parliament.

Madam Chair, before I turn to the specifics of the Bill, I can provide you with the following context of the youth justice system. As of Friday there were 34 young people in detention in the Northern Territory. Of these:

- 25 were on remand awaiting appearance before court, and 9 were sentenced;
- 33 were male and 1 was female;
- 33 were aboriginal and 1 was non-aboriginal; and
- 20 were in Don Dale, and 14 were in Alice Springs Detention facilities.

Furthermore, 18 young people were in Bail Support programs; and 9 young people were on electronic monitoring within the community. A total of 131 young people were on active youth diversion case management. More broadly in the first six months of this financial year, 132 Restorative Justice Conferences have been completed.

This Bill complements the reforms underway within the youth justice system including continued investment in youth outreach and reengagement, bail support, back on track and early intervention youth programs.

Madam Chair, it is within this context that this Bill seeks to make amendments across nine themes.

Firstly, the Bill seeks to amend the *Bail Act* by introducing youth-specific bail considerations for the purposes of making a bail determination and determining bail conditions and it creates a presumption in favour of granting bail for young people except in certain circumstances. The Bill also removes breach of a bail condition as a criminal offence for young people.

This amendment follows other jurisdictions such as Queensland and Victoria where breach of bail is not an offence for young people. Under these amendments, Police will continue to have the power to arrest and hold a young person who breaches their bail conditions, and existing Court processes will enable the young person's original charge to be heard earlier, or, for Bail to be reconsidered.

These amendments to the *Bail Act* implement Royal Commission Recommendation 25.19.

Secondly the Bill amends the *Police Administration Act* and *Youth Justice Act* to introduce new time limits that young people can spend in custody before and after charge. This implements Royal Commission recommendation 25.3 and more closely aligns the Territory with other jurisdictions.

In relation to improving access to legal assistance, the Bill introduces the requirement that young people held in custody are provided access to legal advice and are entitled to have a support person present when being interviewed. The Bill also confirms that young people can exercise their right to silence and requires a record of the steps taken by Police in complying with this section. Further amendments enable legal services to be immediately notified when a young person is brought into Police custody. These amendments implement Royal Commission Recommendations 25.4 and 25.6 and align the Northern Territory with other jurisdictions such as NSW and Western Australia which already have a custody notification scheme operating.

Through amendments to the *Youth Justice Act*, the Bill removes barriers to youth diversion by omitting the list of offences that automatically exclude a youth from diversion, and by introducing a simplified list of prescribed offences where a Police Officer is not required to divert a youth. Additionally, the Bill strengthens the reporting requirements to ensure that reasons for a diversion decision are recorded.

Madam Chair, the reforms do not preclude Police from exercising discretion and declining diversion on the basis that diversion is an

unsuitable option. These amendments implement Royal Commission Recommendations 25.9, 25.10, 25.11, and 25.13.

The Bill also confirms that arrest is to be used as a last resort for young people. This supports evidence that children should be treated differently than adults and aligns with other jurisdictions such as New Zealand and Queensland which have specific provisions around arrest powers in relation to children.

The Bill proposes a new provision that all court proceedings involving young people must be held in a closed Court. This intends to align the youth justice court with the current operation of the Family Matters Court in the Northern Territory.

A separate provision prohibits the publication of identifying details of a young offender, a witness or a victim. The Royal Commission heard evidence that media reporting identifying young offenders can affect their prospects of rehabilitation, their sense of identity and their connection to the community. This implements Royal Commission recommendation 25.25 and is based on provisions in South Australia and Victoria.

The Bill provides that explanations to young people under the *Youth Justice Act*, are to have regard to a young person's health to ensure that they understand the decisions and procedures that affect them. This implements recommendation 11.1 of the Royal Commission.

Finally the Bill amends section 215B of the Youth Justice Act 2005 to provide that the time period to bring a civil action for harm or damage experienced in the care or custody of Government agencies commences

when a person turns 18 and extends for three years. This implements Royal Commission 22.7.

Finally Madam Chair, the Bill includes other technical amendments including a proposed commencement that is on the date fixed by the Administrator by Gazette. It is intended that this day be six months following passage of the Bill, to enable robust implementation to occur.

Madam Chair, I thank you for your time and confirm that the Territory Families representatives are here to discuss each of these areas with you and we welcome your questions on the Bill.