



Submission cover sheet

Inquiry into the Bail Amendment Bill 2026

Submission number: 002

Submitter: Legal Aid ACT

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The Committee Secretary
Standing Committee on Legal Affairs
Office of the Legislative Assembly
GPO Box 1020, Canberra ACT 2601

By email: LACommitteeLegal@parliament.act.gov.au

RE: Inquiry into the Bail Amendment Bill 2026

1. The Legal Aid Commission (ACT) welcomes the opportunity to make a submission to the Inquiry into the Bail Amendment Bill 2026 (**'the Inquiry'**).

The Legal Aid Commission (ACT)

2. As you would know, the Legal Aid Commission (ACT) (**'the Commission'**) is an independent statutory authority established under the *Legal Aid Act 1977* (ACT). The Commission's function is to provide legal assistance in the Australian Capital Territory (ACT). Legal assistance includes legal information and advice, duty lawyer services, and grants of financial assistance. The Commission provides these services under the name Legal Aid ACT.
3. The Commission's mission is to promote a just society in the ACT by:
 - a. Ensuring that vulnerable and disadvantaged people receive the legal services they need to assert or defend their rights;
 - b. Developing an improved community understanding of the law; and
 - c. Seeking the reform of laws that adversely affect those we assist.
4. The Commission, through our Criminal Litigation Practice duty services, appears in a large proportion of bail applications in the ACT. Our solicitors are well placed to offer insights into the current operation of the *Bail Act 1992* (ACT) (**'the Bail Act'**), and provide advice as to the practical operation and suitability of the proposed reforms under the *Bail Amendment Bill 2026* (ACT) (**'the Bill'**). This submission outlines these views.

Recent contributions to bail reform

5. We note that the Commission has made a number of contributions to the development of the Territory's reform of the Bail Act in recent years. I have sat on and contributed to the previous Law Reform and Sentencing Advisory Council's Inquiry into bail arrangements in the ACT, and the Commission made a previous public submission to a similar Inquiry made by this Committee on 17 May 2024. We made a further submission to the Government's review of the Bail Act's decision-making criteria in 2025, and provided several rounds of comments during the development of the Bill currently before the Committee.
6. Throughout these contributions, the Commission has advocated for reforms to the Bail Act which appropriately balance the need to afford safety to the alleged victim and community whilst protecting the accused's fundamental human right to liberty. The presumption that an accused person is innocent until proven guilty is a fundamental principle of our criminal justice system. It is important not to lose sight of the fact that people accused of a criminal offence, including very serious offences carrying significant penalties, will sometimes be found not guilty. Punishment is a matter for sentencing, not bail decision-making.
7. Further, the impact of incarceration on accused persons should remain front-of-mind. People who are denied bail and instead placed on remand are exposed to all the hardships of incarceration without having been convicted of an offence. Detention, even for short periods of time, can be a profoundly dehumanizing and traumatic experience. It can disrupt a person's housing and employment and isolate them from family, friends and service providers. The consequences can be particularly severe if they are caring for children, exposing them to the risk of their children being removed and placed in out-of-home care. There is evidence that, because unsentenced prisoners are exposed to the same criminogenic factors as sentenced prisoners, pre-trial detention increases the likelihood of a person offending in the future.¹
8. The need to protect the victim, witnesses and the community more broadly remains important when determining bail applications. The Commission notes the rates of persons on bail reoffending or breaching their bail conditions, which can result in further harm to victims or other community members. Whilst the Commission believes government investment in early intervention and community-based prevention is instrumental in achieving community safety, we recognise the importance of this consideration in bail decisions.

¹ Heard, C., & Fair, H. (2019). *Pre-trial detention and its over-use: Evidence from ten countries*. Institute for Crime & Justice Policy Research, 8.

9. These factors must remain front of mind during the current Inquiry and any future reform to the Territory's Bail Act.

The current submission

10. This current submission addresses the below points:

- a. The modification of s 22 and s 22A to designate a wide range of existing considerations as mandatory;
- b. Specific considerations within s 22A which require further amendment;
- c. The introduction and expansion of a range of factors relevant to specific types of persons applying for bail in sections 22B – 23;
- d. The definition of 'victim' adopted by the Bill;
- e. Necessary amendments to s 23A to protect evidence rules; and
- f. The likely financial and practical ramifications of adopting the Bill in its current form.

The current construction of s 22

Mandatory vs. relevant considerations

11. The Commission notes that, in its present form, the Bail Act differentiates from mandatory considerations (those which a decision maker *must* consider), and relevant considerations (those which a decision maker *may* consider, if relevant in the circumstances). The number of mandatory considerations presently is constrained, and concerns considerations including risks associated with bail and the interests of the accused person.² The relevant considerations, which a decision maker is not obliged to consider, includes a range of factors relevant to the particular circumstances of an individual bail application.
12. In our view, this structure strikes an appropriate balance between mandatory and relevant considerations noting that bail applications are individualistic, and an accused person's subjective circumstances will differ considerably from others. The current construction allows decision makers the flexibility to consider the factors most relevant to individual bail applications in the most efficient manner.
13. However, the proposed amendments modifies this approach to bail considerations. Whilst decision makers remain required to consider the accused's interests and the risks of granting them bail, s 22A designates a range of currently relevant, optional

² *Bail Act 1992 (ACT)* s 22(1).

considerations as mandatory. If implemented, this would have a significant practical impact on how bail matters proceed – including, importantly, their duration.

14. The Commission is concerned that these proposed amendments will result in bail applications becoming a ‘tick-a-box’ exercise, considering the number of mandatory considerations decision makers will need to give thought to. Not only does this impede on their discretion, but it may create a burdensome and overwhelming task, and overall limit decision makers’ ability to engage with the nuances of bail applications. This is a result which the current structure of the Bail Act, through its numerous relevant considerations, avoids.
15. Further, mandatory considerations can create logistical problems where there is no hierarchy for considerations and there may be delays in relevant information being presented before the court. The Commission is concerned that this may be unfair towards defendants who are often arrested at short notice and may lack the resources to retrieve the necessary information to allow the decision maker to consider all mandatory criteria. In these instances where there are delays in collecting evidence to facilitate the court’s consideration of relevant criteria, bail applications may be adjourned to allow time for such necessary information to be acquired. In our view, tolerance for bail matters being adjourned should be low as this may lead to unduly delays or prolonged periods of detention.
16. More substantially, the Commission believes the Bill should be further considered in light of s 10 and 19 of the Bail Act, which limits the court’s consideration to information which it considers ‘relevant and reliable’. It is necessary for consideration to be given to how information relating to mandatory considerations is to be obtained and presented to the court given this limitation. Noting that the *Evidence Act 2011* (ACT) largely applies to proceedings relating to bail,³ implementing an expanded mandatory consideration list could result in significant amounts of evidence being called or required for cross-examination.
17. Potentially most importantly, this proposed change would extend the duration of bail applications to allow decision makers to consider all mandatory considerations. In practice, this will require both parties to make submissions on a range of factors which may not be directly relevant to each individual bail application. This, in our view, will not only limit the Court’s efficiency in hearing and deciding bail applications, but may impermissibly delay an accused person’s bail application and result in increased time detained in custodial environments. These concerns are only further heightened in circumstances where an alleged offender has been incorrectly identified, as occurs from time to time in a range of offences including family and domestic violence disputes.

³ See sections 4 and 94.

18. Consequently, these proposed amendments would similarly create increased resourcing and financial demands on the Commission, considering we appear in the majority of bail applications within the Territory. These implications are explained in more depth at paragraph 60 below.

Specific factors

19. In addition to our broad comments on the proposed amendments to s 22 and 22A, we note the following concerns with specific mandatory considerations provided for in draft s 22A.

Sections 22A(d) and (h)

20. The Bail Act currently provides for decision makers to consider any previous grants of bail to the accused where relevant.⁴ The Bill expands this consideration under s 22A(d) to require consideration of the accused person's history of complying with bail undertakings, bail conditions, and other orders of Australian courts. Linked to this, s 22A(h) requires a decision maker to consider whether the person was released on bail at the time of the offence.
21. The Commission notes that this information regarding an accused person's history of compliance with previously issued court orders (especially bail orders) can be influential in assessing their likelihood of compliance with future bail orders, as well as the risk of harm they may pose to the victim and community.
22. However, the Commission considers s 22A(d) and (h) in the Bill require further amendments. In our view, these subsections currently direct decision makers to consider the same factors twice, as whether the alleged offender was released on bail at the time of the alleged offence is necessarily considered when assessing the alleged offender's history of compliance with bail undertakings or conditions. This concern is particularly enlivened where consideration of both factors is mandatory. There would, in our view, be very few circumstances where a person making a bail application had allegedly committed the present offence whilst on bail without having contravened a previous bail undertaking, condition or other court order. In this context, the Commission considers that subsection (h) should be removed.
23. Additionally, the Commission is concerned that the *mandatory* nature of this consideration, as proposed by the Bill, will result in further time required to hear and decide bail applications. Currently, the court regularly and routinely considers information about an accused person's previous compliance with court orders through Bail Consideration Forms prepared by police under s 22(3)(d) of the Bail Act. In our

⁴ *Bail Act 1992* (ACT) s 22(3)(d).

experience, the veracity of the information in those forms is often lacking, which becomes apparent when the information is challenged. If the expanded number of mandatory considerations under the Bill is implemented, we expect that the information in these forms will be challenged more frequently, which will again result in extended durations of bail applications.

24. As a practical consideration, the Commission believes it is necessary to ensure that an accused person is provided with information relating to their prior history of compliance with bail undertakings, conditions or other court orders which would be considered under draft s 22A(d). In our experience, this information is not always guaranteed, but is necessary to afford all parties procedural fairness.

Section 22A(f)

25. The Bill introduces a new mandatory consideration of the accused person's need for physical protection. Whilst this is a new consideration, practitioners regularly made submissions on this point where relevant under s 22(1)(c), which mandates consideration of the accused's interests.
26. The Commission is concerned that there may be practical difficulties in efficiently obtaining the evidence required to make and support submissions in relation to this consideration. As the Committee may know, bail applications must be made within 48 hours of a person being arrested, charged with an offence, and refused bail by an authorised police officer.⁵ In our experience, the alleged offender's presence in a different jurisdiction or at the Alexander Maconochie Centre may create further delays in hearing a bail application considering the time needed to prepare relevant reports.
27. If the Government's revisions to the structure of mandatory considerations is implemented, the Commission suggests that further consideration as to the practical reality of draft s 22A(f) is made.

Mandatory considerations relevant to Aboriginal and Torres Strait Islander people applying for bail (section 22B)

28. In our submission to the Government's Review of Decision-Making Criteria in the Bail Act, the Commission supported the inclusion of a range of mandatory considerations which are unique to Aboriginal and Torres Strait Islanders within bail applications. This

⁵ *Bail Act 1992* (ACT) s 17(2)(a).

follows several recommendations made to both the Legislative Assembly and the Commonwealth Parliament,⁶ and mirrors s 3A of the Victorian Bail Act.⁷

29. Being remanded after being denied bail negatively impacts an Aboriginal and Torres Strait Islander person's ability to practice and engage with their culture. It limits their engagement with and connection to Country, family, Elders and community.⁸ Not being able to see family, attend Sorry Business, or engage in cultural responsibilities can be harmful for Aboriginal and Torres Strait Islander people, and often amplifies the feelings of isolation and dislocation from community which detention can create. The Commission notes that this separation can heighten the difficulty of reconnecting with the community post release, which is crucial in reducing the likelihood of recidivism.⁹ Bail decision-makers should be alive to this context.
30. We note that decision makers presently consider the factors included in s 22B of the Bill in their consideration of the accused's interests under s 22(1)(c) of the Bail Act. This amendment will therefore reflect existing practice: information specifically captured under s 22B is already regularly and routinely submitted to the court in bail applications. Despite this existing practice, the Commission supports the inclusion of s 22B as it will improve clarity and clearly recognise the considerations which are uniquely important for accused Aboriginal and Torres Strait Islander peoples.
31. In particular, the Commission is supportive of s 22B's recognition of the impact of intergenerational trauma on Aboriginal and Torres Strait Islander peoples, especially in the custodial context. The recent reviews of the Alexander Maconochie Centre have highlighted these concerns in the ACT, particularly in terms of the lack of adequate access to cultural activities and safety whilst imprisoned.¹⁰ The specific provision for such considerations should be implemented.
32. Further, the Commission recognises the importance of including s 22B(2), which provides that proof is not required to establish that Aboriginal and Torres Strait Islander people have experienced harm in custody at a disproportionately higher rate than the broader population, and that it is in the interests of Aboriginal and Torres

⁶ See Australian Law Reform Commission, *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Report No 133, December 2017) 13; Rebecca Minty on behalf of the ACT Inspector of Correctional Services, Submission No 015 to the Standing Committee on Justice and Community Safety, *Inquiry into the Administration of Bail* (19 June 2024); Aboriginal Legal Service (NSW/ACT), Submission No 008 to the Standing Committee on Justice and Community Safety, *Inquiry into the Administration of Bail* (29 May 2024).

⁷ *Bail Act 1977* (Vic).

⁸ Australian Law Reform Commission (n 1); *Royal Commission into Aboriginal Deaths in Custody* (Final Report, April 1998) vol 5.

⁹ Deadly Connections Community and Justice Services, *Alexander Maconochie Centre Healthy Prison Review 2022* (Final Report, April 2022); Glenn Dawes, *Keeping On Country: Recidivism Research Report* (Final Report, 2016).

¹⁰ ACT Inspector of Correctional Services (2022), *Report of a healthy prison review of the Alexander Maconochie Centre*, Canberra, 20.

Strait Islanders to maintain their connections to culture, family, Elders, communities and Country. This subsection is an important practical necessity to support practitioners in making submissions relating to these considerations.

Mandatory considerations relevant to accused persons with disability or health conditions (section 22C)

33. The Commission was also supportive of the introduction of mandated consideration of factors relevant to people with disability or health conditions in the Government's Review into the Decision-Making Criteria in the Bail Act.
34. As the Commission would be aware, people with disability or health conditions may have specific needs that must be met during the bail application process. Further, they often experience disadvantage if held in custody for a prolonged period of time, which may disrupt their ability to receive treatment or support to manage their disability or health condition. Several reviews have identified that people with disability or health conditions frequently do not receive the support they need whilst in custodial requirements,¹¹ either due to poor data collection methods or a reliance on detainees self-disclosing their disability.¹² Additionally, detainees with a disability are more vulnerable to substantial legal problems, violence, and discrimination in detention centres.¹³ In this context, it is appropriate for decision-makers to consider these factors and the person's unique needs during bail applications.
35. In our previous submissions, the Commission indicated that bail decision-makers presently make these considerations under s 22(1)(c) of the Bail Act which requires consideration of the accused's interests. Information about an accused person's disability or health needs are already regularly and routinely submitted to the court. Despite this, the Commission supports the inclusion of this amendment to provide clarity to decision makers and recognise the considerations which are uniquely important to accused people with disability or health conditions.
36. Further, the Commission believes that more consideration should be given to situations where the decision maker concludes that an accused person is unable to understand their rights, obligations or make a decision due to their disability. This, in our view, is not provided for in the current drafting instructions. A mechanism such as that in s 309 of the *Crimes Act 1900* (ACT) which provides for a process to determine

¹¹ See, for example, ACT Inspector of Correctional Services (2022), *Report of a healthy prison review of the Alexander Maconochie Centre*, Canberra.

¹²

Amy Kilpatrick, 'Opening the Door: Disability informed access to legal help for parole applications in the ACT,' *Report prepared for Legal Aid* (June 2024) 7.

¹³ Ibid 11; 15.

whether an accused needs immediate treatment or care due to a mental impairment should be considered.

Mandatory considerations relevant to accused children (section 22D)

37. The Commission notes that s 22D of the Bill significantly expands the range of mandatory considerations when deciding a child's bail application. In particular, it introduces a range of specific considerations: see s 22D(c) – (l).
38. The provision of bail is especially important for children. As the Committee would know, the majority of children who come into contact with the criminal justice system have experienced significant disadvantage and trauma.¹⁴ Being denied bail and held on remand often exacerbates this disadvantage, and increases the likelihood of the child or young person coming into contact with the criminal justice system in the future.¹⁵
39. In this context, the Commission is supportive of the expanded considerations in s 22D of the Bill. These serve to prompt consideration of the impacts of incarceration on children and to ensure that detention is treated as a last resort and for the minimum time necessary, as mandated by the Youth justice principles in s 94 of the *Children and Young People Act 2008* (ACT).
40. Like s 22B(2) referred to in paragraph 31 above, the Commission considers that s 22D(2) (which provides that proof is not required to establish that the points in s 22B(2)(a) -- (e) is in the best interests of a child) is a practical necessity.
41. Whilst supportive of the amendments to this section, the Commission suggests that further consideration be given to the composition of s 22D(1)(h). On its current drafting, it appears that a decision-maker could refuse bail on the basis that an accused child may be more likely to engage with education, training or lawful employment whilst held on remand than on bail. In our view, such a judgment is inappropriate. Whilst the Commission does not believe the Government intends for custody to be used as an alternative pathway to education, we note that more precise wording or an explanatory note could avoid this potential interpretation.

Mandatory considerations relevant to pregnant people applying for bail (section 23)

42. The Commission notes that, like with other mandatory considerations being introduced for accused persons with specific characteristics, the impact of an accused

¹⁴ ACT Children & Young People Commissioner, *Children & Young People with Complex Needs in the ACT Youth Justice System* (Report, March 2016); Australian Human Rights Commission, *'Help Way Earlier!' How Australia Can Transform Child Justice to Improve Safety and Wellbeing* (Report, 2024).

¹⁵ *Ibid* 8.

person being pregnant is regularly and routinely submitted to the court and considered by decision-makers in bail decisions by virtue of s 22(1)(c) and s 22(3)(c) of the Act.

43. Despite this, the Commission is supportive of the introduction of s 23. It aptly recognises that a significant proportion of women (whether sentenced or on remand) experience unfavourable pregnancy outcomes including miscarriages, preterm births, stillbirths, newborn deaths and ectopic pregnancies whilst in custody.¹⁶ Whilst the Alexander Maconochie Centre has policies and processes in place to manage these risks,¹⁷ an accused person's access to medical and support services is inherently limited when they are detained.

Reassessing bail applications which were initially refused

44. In assessing the general suitability of the Bail Act, the Commission considers that the Bill could be amended to address an ongoing issue regarding the lack of consistent reassessment of bail applications which were initially refused, where the accused person's circumstances have materially changed.
45. In our experience, a person may be refused bail for a particular reason. This is common where a person does not have suitable housing within the community (especially in matters involving family and domestic violence allegations, where bail may be refused if the accused does not have housing separate to the victim), or where they pose an unacceptable risk to the community due to an untreated mental health condition.
46. However, in some instances, the accused person's circumstances have materially changed between their initial refused bail application and their next court date. Whilst held on remand, they may have had the opportunity to seek treatment or establish community supports which would minimise the risks that resulted in their initial bail application being refused. This may put them in a position where they would be suitable for bail.
47. Currently, the court is reliant upon the accused's legal representatives to apply for bail to be reassessed where these circumstances arise. This may be suitable for persons who have ongoing legal representation, but it may leave those without (including those who were represented by the Commission on a duty basis in their initial bail application) unable to have their bail eligibility reassessed.
48. This is an issue which the Commission proposes be addressed in the Bill by introducing a requirement for the court to, where bail has previously been refused and the matter has returned to court, review the circumstances which prompted the initial refusal.

¹⁶ Juana Hutchinson-Colas and Khadija AlShowaikh, 'Pregnant Behind Bars' (2022) 112(1) *American Public Health Association* 14.

¹⁷ ACT Inspector of Correctional Services (2022), *Report of a healthy prison review of the Alexander Maconochie Centre*, Canberra, 161.

This would ensure all persons – regardless of whether they are legally represented – to have their bail reassessed if there are factors justifying such reassessment.

49. We consider this amendment would reduce the need for persons who can safely remain in the community whilst they await trial to be exposed to the custodial environment. Further, it would provide an additional opportunity for the non-legal issues a person is experiencing to be reviewed and addressed. This may serve to give effect to their human rights under the *Human Rights Act 2004* (ACT).

The definition of ‘victim’

50. The Commission is concerned that the current definition of ‘victim’ provided for in the Bill is too wide, and is ineffective for the purposes of considering the accused’s behaviour as per s 22A(i).
51. ‘Primary victim’ is currently defined in a restricted manner within the Bail Act. It extends to a person who suffers harm during or because of an offence, in the course of assisting a police officer during an arrest, or in attempting to prevent the commission of the offence. In instances where the primary victim has died because of the alleged offence, anyone who was financially or psychologically dependent on the primary victim immediately before their death is considered to be a primary victim.
52. Alternatively, the Bill expands this definition to include:
- a. family members and persons financially or psychologically dependent on the primary victim who are harmed because of the primary victim’s harm;
 - b. where the primary victim has died because of the alleged offence, the primary victim’s close family member, carer, person with an intimate personal relationship, or person who is financially or psychologically dependent on the primary victim;
 - c. a person with parental responsibility for any person included in the above subparagraph (b), and any legally appointed guardians or attorney if a person mentioned in subparagraph (b) is a legally incompetent person.
53. This is a significant expansion, and is particularly important in terms of draft s 22A(i), which requires decision makers to consider the behaviour of the accused towards any of these primary victims, and s 23A regarding any concern the victim has expressed about a need to be protected from the accused person.
54. The Commission is concerned that this expanded definition may include persons who are unknown to the alleged offender. Considering that submissions may be made about these potentially unknown people in relation to draft s 22A(i) or 23A, the defence representatives may have difficulties gaining fulsome instructions from the client. This may impermissibly delay an accused person’s bail application.

55. Secondly, we are concerned that requiring parties to make submissions on this issue at such an early stage in proceedings may undermine the accused person's right to a fair trial, as their practitioners will be required to make strategic decisions regarding how the matter should be directed earlier than what they do under the current Bail Act.
56. In light of these considerations, it may be inappropriate for the definition of victim to extend so wide. Should this proposed definition be retained, the Commission suggests that it should be limited to matters involving allegations of family or domestic violence, considering that the alleged offender may have limited interaction with the primary victim in other types of offences.

Amendments to s 23A to protect evidence rules

57. The Commission considers that the proposed s 23A requires further consideration to ensure that the rules of evidence continue to apply in relation to submissions on s 23A relating to the victim's concerns about their need for protection.
58. In our view, the wording of s 23A(2)(c) could be interpreted to mean that a court 'must' receive any submission relating to the victim's needs for protection regardless of whether it complies with the rules of evidence. To avoid this potential interpretation, we consider that further amendment specifying that the court must only consider submissions which are admissible according to the rules of evidence is required.
59. Further, the Commission foresees some difficulty and confusion in allowing a person nominated by the primary victim to represent their views under draft s 23A(4). This is due to the intersection of the application of the *Evidence Act 2011* (ACT), s 10 and 19 of the Bail Act and potential hearsay of having a third party represent the views of the victim. Further amendments are, in our view, necessary to avoid this.

Broader financial implications

60. The Commission remains concerned about the significant impact these proposed amendments will have on its work.
61. As mentioned above, the Commission appears in a significant number of bail applications which are made before the ACT Magistrates Court on a duty basis. Currently, any unrepresented person seeking to apply for bail receives assistance from our duty lawyers. This is already a significant body of work, and utilises a significant proportion of the Commission's limited resources.
62. We note that the Bill, in its current form, will extend the duration of time which lawyers need to prepare for and appear in bail applications. Currently, a meeting to gain a client's instructions prior to an opposed bail application can take less than 10 minutes. However, we expect this time requirement may increase to between 20 and 30

minutes for each client under the proposed amendments considering the significantly wider range of considerations a decision maker *must* have regard to under draft s 22 and 22A. To continue meeting the demand for our service, we expect that the Commission would need to employ an additional 2 full-time-equivalent lawyers should the proposed amendments be adopted.

63. The financial implications of this proposal will be felt by other justice agencies. The Commission expects the Director of Public Prosecutions will similarly need to allocate or employ additional lawyers to appear in bail applications, and the Court may need to allocate an additional magistrate to hear bail applications or split existing bail lists should these proposed changes proceed.
64. In an already financially constrained environment, the Commission considers that this Bill, in its current form, will only exacerbate existing pressures on agencies across the justice system. Further consideration of the Bill's implications – accompanied by appropriate revisions – is warranted.

Burdens created by the subsequent amendment to s 17(1) of the Victims of Crime Act 1994

65. In addition to our concerns about the financial implications of the Bill, the Commission notes that it also proposes to amend the *Victims of Crime Act* to place an onus on relevant justice agencies to ask victims about their need for protection from the accused to give effect to s 23A.
66. Whilst the Commission is not a relevant justice agency for these purposes, we imagine that the broad definition of 'victim' as explained above may lead to an increased burden on justice agencies with these obligations to consult, determine and then represent a potentially wide range and number of victim's views and interests. The Commission is concerned that this may result in practical delays to the hearing of bail applications, which must be heard within 48 hours of a person being arrested and charged.¹⁸
67. Whilst the Commission recognises the benefit in and advocates for improved transparency in the bail consideration process, we consider that the Bill is not appropriately drafted to provide for this. Further consultation – including on other issues of substance, such as the suitability of the Bail Act's current presumptions – should be engaged in prior to any amendments.

¹⁸ *Bail Act 1992* (ACT) s 17(2)(a).

Thank you for the opportunity to provide the Commission's views on this important matter.
Should you have any questions, please do not hesitate to contact me at

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Yours sincerely,

[REDACTED]

Dr John Boersig

Chief Executive Officer

Legal Aid Commission (ACT)