Submission cover sheet

Inquiry into the Bail Amendment Bill 2026

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1. Executive summary

The Australian Federal Police Association supports the intent of the Bail Amendment Bill 2026. The Bill improves clarity, gives greater structure to bail decision-making, recognises victim safety more clearly and creates specific considerations for family violence, children, Aboriginal and Torres Strait Islander people, disability, health conditions and pregnancy.

Those are positive reforms. They reflect several positions the AFPA has previously advanced in its submission to the ACT Government review of decision-making criteria in the Bail Act 1992, including the need for community safety, victim input, police information, enforceable conditions and evidence-based risk assessment to sit at the centre of bail decision-making.

The AFPA's concern is that the Bill does not go far enough to address the operational reality seen by ACT Policing members. That reality is repeated offending by a small cohort of high-risk people who are often already subject to bail, good behaviour orders, intensive correction orders, parole or warrants.

Between 1 August 2022 and 30 June 2025, ACT Policing's Operation TORIC made 571 apprehensions and laid 1,780 charges. Of those apprehended, 225 alleged offenders were on bail, 85 were subject to good behaviour orders, 12 were subject to intensive correction orders, 34 were on parole and 94 were subject to arrest warrants. That shows the problem is not theoretical. It is operational, recurrent and harmful.

The Bill should pass only with amendments that strengthen community safety, require structured risk assessment in high-risk matters, require clear reasons where bail is granted despite serious risk indicators and create stronger consequences for repeated or wilful non-compliance with bail.

Summary position

Position	Issue
Support	Clearer core bail matters in proposed section 22.
Support	Recognition of compliance history, previous bail and family violence risk in proposed section 22A.
Support	Greater victim input through proposed section 23A.
Support	Broader recognition of harm and victim representatives.
Amend	Community safety, victim safety, witness safety and police safety should be express core matters.
Amend	Structured risk assessment should be mandatory in serious, repeat and high-risk matters.
Amend	Wilful, repeated or risk-creating breach of bail should attract a stronger statutory response.
Amend	The Bill should require realistic, enforceable and monitored bail conditions.

2. AFPA position

The AFPA supports the Bill in principle, but says the Bill is incomplete. The AFPA does not oppose bail. Bail remains an essential part of the criminal justice system and the presumption of innocence must remain respected.

The AFPA's position is that bail must be available where risk can be managed. Where risk cannot be managed, and where an accused person has shown repeated disregard for bail, court orders, victims, witnesses or police, the law must give stronger weight to safety and accountability.

The AFPA's earlier bail submission prioritised four principles: community safety and public confidence, clear and enforceable bail conditions, victim safety and views, and robust evidence-based information for decision-makers. The Bill reflects some of these principles, but it does not fully implement them.

Proposed committee line
The Bill is a useful step, but it is not a complete answer. It improves the bail checklist. It does not yet create the stronger risk framework the ACT needs.

3. Context and operational concern

ACT Policing members see the consequences of bail decisions directly. They respond to repeat call-outs, breaches, family violence escalation, stolen motor vehicles, dangerous driving, property crime and violence involving people who are already known to police and already subject to court-based controls.

The AFPA accepts that remand carries real costs, including personal, family and financial costs. The AFPA also accepts that children, Aboriginal and Torres Strait Islander people, people with disability or health conditions, pregnant people and primary carers may need specific consideration. Those factors matter.

The issue is balance. Remand costs must not override victim safety, community safety, police safety, witness protection, risk of further offending or repeated non-compliance. The system must be able to distinguish between a person who can be safely managed in the community and a person who continues to offend despite repeated opportunities.

The AFPA's earlier submission gave a recent youth offending example through Operation Minlaton, where ACT Policing responded to 196 stolen motor vehicle reports in early 2025 and made seven arrests, including two alleged offenders who had breached bail 11 times and one who had been arrested five times in the first two months of 2025. That example demonstrates the need for a credible response to repeated breach and repeated offending.

4. What the Bill does well

4.1 Clearer bail decision-making

The Bill replaces and consolidates the current adult and child bail criteria with a clearer set of core matters in proposed section 22. For adults, the decision-maker must consider appearance, further offending, safety and welfare risks, interference with evidence or witnesses and the interests of the adult. For children, the best interests of the child become a primary consideration, while appearance, further offending, safety and obstruction risks remain relevant.

The AFPA supports clearer statutory structure. It reduces ambiguity and assists police, prosecutors and courts to focus on consistent criteria under time pressure.

4.2 Compliance history is properly recognised

Proposed section 22A requires decision-makers to consider the person's history of compliance with bail undertakings, bail conditions and other Australian court orders, as well as whether the person was released on bail at the time of the alleged offence.

This is one of the strongest parts of the Bill. Past compliance is often one of the best indicators of future compliance. If a person has repeatedly ignored court orders, failed to appear, approached victims, committed further offences or breached family violence orders, that history must carry real weight.

4.3 Victim concerns are given clearer status

Proposed section 23A allows victims to express concern about the need for protection from violence or harassment and allows primary victims to provide other information about the accused. It also allows victim representatives to act in appropriate cases.

The AFPA supports this direction. Victims often hold information that is highly relevant to risk, including escalation, threats, stalking, coercive behaviour, weapons, property damage, technology-facilitated abuse, harm to pets and prior breaches.

4.4 Family violence information must be placed before the decision-maker

The Bill requires informants to give authorised officers and courts information about whether a family violence order has been made against the accused person. This is important because family violence risk often escalates around separation, reporting, charging and court events.

The AFPA supports this requirement, but recommends that it be expanded so that completed family violence risk assessments, including FVRAT material where available, are also provided as relevant information.

4.5 Vulnerability factors are recognised

The Bill recognises factors relevant to Aboriginal and Torres Strait Islander people, people with a disability or health condition, children and pregnant people. The AFPA does not oppose proper consideration of vulnerability. These factors can affect risk, compliance, communication, capacity to understand conditions and the availability of support.

The AFPA's concern is not with the inclusion of those factors. The concern is that the Bill needs clearer guidance on how those factors are balanced against serious and unmanaged risk.

4.6 Harm and victim representation are broadened

The Bill broadens harm to include physical injury, mental injury or emotional suffering, pregnancy, economic loss and substantial impairment of legal rights. It also expands the victim definition and recognises victim representatives. These changes align with the AFPA's earlier recommendation that harm should not be limited to visible physical injury.

5. What remains deficient

5.1 Community safety is still not strong enough

The Bill refers to the likelihood of an accused person committing an offence, endangering safety or welfare, harassing someone or obstructing justice. Those concepts matter, but community safety is still not stated clearly enough as a standalone and central consideration.

The AFPA recommends that proposed section 22 expressly require consideration of community safety, victim safety, witness safety and police safety. These concepts should not be left to implication.

5.2 A checklist is not a risk framework

The Bill lists relevant factors, but it does not require a structured risk assessment in high-risk matters. That is a key gap. Decision-makers need more than a list of possible matters. They need a consistent framework that identifies risk, tests whether the risk can be managed, and records why bail is or is not appropriate.

The AFPA recommends a mandatory structured bail risk assessment where a person is charged with a serious offence, family violence offence, dangerous driving offence, repeat property offending, weapon-related offending, or an offence allegedly committed while already on bail, parole, an intensive correction order, a good behaviour order or a family violence order.

5.3 No true second-strike mechanism

The Bill does not create a sufficiently strong response where a person allegedly commits a serious or indictable offence while already on bail. The AFPA recommends a targeted second-strike model for serious offending committed while on bail.

This model should not capture minor technical breaches. It should apply where the new alleged conduct shows serious risk, disregard for court orders or inability to be managed safely in the community.

5.4 Bail breaches need a stronger and fairer statutory response

The AFPA's earlier submission to a discussion paper (happy to table) proposed making breach of bail a criminal offence. The AFPA now recommends a more targeted formulation for the Committee's consideration: wilful, repeated or risk-creating breaches of bail conditions should attract a stronger statutory response, while minor or technical breaches should not be treated the same way.

There is a clear difference between a minor reporting error and conduct that creates risk, such as approaching a victim, entering an exclusion zone, carrying a weapon, cutting off monitoring, driving while disqualified, failing to comply with a curfew as part of further offending, or committing another offence.

5.5 Child bail provisions need clearer balance

The AFPA accepts that children are different from adults and that detention should remain a last resort. The AFPA also supports early intervention, diversion and therapeutic responses where those responses are realistic and available.

The Bill should make clear that the best interests of a child do not sit apart from public safety. For a small cohort of repeat youth offenders, ongoing offending also harms the child. It deepens justice involvement, increases risk-taking, normalises breach behaviour and places the child, victims, police and the community at risk.

Where a child poses a serious and unmanaged risk, community safety and victim safety should receive substantial weight.

5.6 Victim provisions need operational detail

The victim provisions are positive, but their effectiveness will depend on process. The legislation should be supported by a standard bail safety form and clear information-sharing protocols. The form should capture risk, threats, escalation, children, pets, weapons, stalking, coercive control, property damage, technology-facilitated abuse, previous breaches and the victim's views about disclosure.

5.7 The Bill adds work for police without guaranteeing resources

The Bill will require police and prosecutors to gather and present more information. That is appropriate if the goal is better bail decisions, but it must be funded. ACT Policing, the DPP, victim liaison staff, court staff and corrections will need systems, training, staffing and after-hours capability.

Without resources, the reform risks becoming another administrative burden on frontline police while leaving the underlying risk problem unresolved.

6. Clause-by-clause policy analysis

Provision	Effect	AFPA view	Recommended change
Clause 2	Commencement six months after notification	Support. Six months gives agencies time to update forms, train staff and adjust systems.	Commencement should depend on operational readiness, including ACT Policing, DPP and victim liaison processes.
Clauses 7 and 9	Informant must provide information about any family violence order	Support. This is a practical and necessary safety measure.	Expand to require completed risk material, including FVRAT or equivalent, where available.
Clause 10, section 22	Core matters for adults and children	Support in principle. The structure is clearer.	Insert express references to community safety, victim safety, witness safety and police safety.
Clause 10, section 22A	General relevant factors	Strong support for compliance history, seriousness, strength of case and whether the person was on bail.	Require structured risk assessment in serious, repeat and high-risk matters.
Clause 10, section 22B	Aboriginal and Torres Strait Islander factors	Support proper consideration of cultural connection, trauma and custody risk.	Make clear these factors must be balanced with safety and enforceability.
Clause 10, section 22C	Disability and health condition factors	Support. These factors affect capacity to understand and comply with bail.	Require practical adjustments that improve compliance, not unenforceable conditions.
Clause 10, section 22D	Child-specific factors	Support tailored youth considerations.	Add stronger guidance for serious repeat youth offending and unmanaged risk.
Clause 10, section 23	Pregnant person factors	Support consideration of pregnancy and unborn child impacts.	Ensure this is balanced with victim safety and serious risk.
Clause 10, section 23A	Victim concern and victim information	Strong support. This directly reflects AFPA's prior position on victim input.	Create a standard victim safety form and a clear process for court disclosure.
Clauses 13 and 14	Victim liaison and victim representative provisions	Support. This improves communication and recognises appropriate representatives.	Resource victim liaison functions so the provision works outside business hours.

7. Recommendations

No.	Recommendation	Reason
1	Amend proposed section 22 to expressly include community safety, victim safety, witness safety and police safety as core matters.	These safety interests should not be left to implication.
2	Require mandatory structured bail risk assessment for serious, violent, family violence, repeat and high-risk accused people.	A list of factors does not guarantee consistent assessment of risk.
3	Introduce a targeted second-strike test for indictable or serious offending allegedly committed while on bail.	Serious offending while already on bail should trigger a stronger test.

No.	Recommendation	Reason
4	Require written or recorded reasons where bail is granted despite serious prior non-compliance, offending while on bail, or identified victim safety risk.	Clear reasons improve transparency, accountability and public confidence.
5	Create a stronger statutory response to wilful, repeated or risk-creating breach of bail conditions.	The law should distinguish serious non-compliance from minor technical breach.
6	Mandate consideration of completed family violence risk assessment material, including FVRAT or an equivalent tool, where available.	Family violence decisions need structured and current risk information.
7	Strengthen victim provisions through a standard bail safety form and information-sharing protocol.	Victim information must reach the decision-maker in a safe and consistent way.
8	Require decision-makers to consider whether proposed bail conditions are realistic, enforceable and actively monitored.	Conditions that cannot be monitored create false reassurance.
9	Introduce electronic monitoring as a targeted bail tool for serious repeat and high-risk matters where bail is still granted.	Monitoring can assist where risk can be managed, but it needs clear legislation and funding.
10	Fund ACT Policing, the DPP and victim liaison functions before commencement.	The reforms require more information, better systems and more after-hours capability.
11	Publish annual bail data, including reoffending on bail, breach patterns, victim notification and repeat offender outcomes.	Public data will help test whether the reforms work.
12	Insert a statutory review clause requiring review within two years of commencement.	The Assembly should test whether the Bill improves safety, fairness and compliance.

8. Conclusion

The AFPA supports the Bail Amendment Bill 2026 in principle. The Bill improves clarity, expands victim recognition, gives better status to compliance history and recognises vulnerability in a more structured way. These changes are worthwhile.

The Bill does not yet address the central operational concern. ACT Policing members continue to deal with a cohort of repeat and high-risk offenders who offend while on bail or while subject to other court orders. That pattern undermines public confidence, exposes victims to further harm and places police in repeated high-risk situations.

The AFPA asks the Committee to recommend amendments that make community safety express, require structured risk assessment, strengthen the response to serious bail non-compliance and ensure the agencies responsible for preparing bail information are properly resourced.

The AFPA's final position is clear. The Bill should proceed, but it should be strengthened. A modern bail system must protect the rights of accused people while also protecting victims, police and the broader community from foreseeable and preventable harm.

9. Talking points for committee appearance

Opening statement

Thank you for the opportunity to appear today. The AFPA supports the intent of the Bail Amendment Bill 2026. We support clearer bail criteria, better recognition of victims, stronger family violence considerations and proper consideration of vulnerability.

Our concern is that the Bill does not go far enough. The frontline experience of our members is that a small group of repeat offenders creates a disproportionate amount of harm. These offenders are often known to police and are often already on bail or subject to other court orders.

The AFPA is not asking the Assembly to remove discretion from courts or abandon human rights. We are asking for a stronger risk framework. Bail must remain available where risk can be managed. Where risk cannot be managed, the law must give greater weight to victims, police and community safety.

The Bill is a useful start. It needs stronger amendments.

Key messages

- The AFPA supports the Bill in principle.
- The Bill improves clarity, consistency and victim recognition.
- The Bill's strongest feature is the inclusion of compliance history and whether the person was already on bail.
- Community safety should be express, not implied.
- A list of considerations is not the same as a structured risk assessment.
- The ACT needs mandatory risk assessment for serious, repeat and high-risk accused people.
- The AFPA supports a targeted second-strike model for serious or indictable offending committed while on bail.
- Technical breaches should not be treated the same as wilful, repeated or risk-creating breaches.
- Youth vulnerability matters, but repeat youth offending also harms victims, police, the public and the young person.
- The Bill will place extra work on ACT Policing unless it comes with training, systems and resources.

Likely questions and suggested answers

Does the AFPA oppose bail?

No. Bail is an important part of the justice system. The AFPA accepts the presumption of innocence and the need for judicial discretion. Our concern is repeat, high-risk offending by people who are already subject to court orders and continue to create risk.

Is the AFPA calling for more children to be locked up?

No. The AFPA supports early intervention, diversion and therapeutic supports for children. But the system also needs a credible response to the small group of repeat youth offenders who continue to commit serious offences, put themselves at risk and endanger the public.

What is wrong with the Bill?

The Bill improves the criteria, but it does not create a mandatory risk assessment, a true second-strike mechanism, stronger consequences for repeated breach, or a clear requirement that community safety be treated as central in high-risk matters.

Why is community safety not already covered?

It is partly covered through the likelihood of further offending and endangering safety or welfare. The AFPA says that is not strong enough. Community safety should be express, not implied.

What should a risk assessment include?

It should include prior bail compliance, offending while on bail, family violence history, weapons, threats, stalking, victim concerns, history of failing to appear, dangerous driving, substance misuse, health or disability needs, housing stability, capacity to comply with conditions and availability of supervision or support.

What should happen when someone commits an offence while on bail?

For serious or indictable offending, the accused should face a stronger bail test. Bail should only be granted where the court is satisfied that risk can be managed through conditions, supervision, monitoring or other safeguards.

Are victim concerns reliable enough for bail decisions?

Victim concerns should not replace evidence or judicial assessment. But victims often hold critical risk information. The court should receive that information in a safe, structured and fair way.

Will this create more work for police?

Yes. Better bail decisions require better information. That means better forms, better systems, better access to information, more victim liaison capacity and more preparation time. Reform that relies on police doing more work must fund that work.

What is the AFPA's final position?

Support the Bill in principle, but amend it. The ACT needs bail laws that protect rights while properly responding to repeat, high-risk offending.

Short closing line

Closing line

The Bill improves bail decision-making, but the ACT must go further. Clear criteria help, but risk assessment, enforceable conditions and real consequences for serious non-compliance are what will improve safety.