Tara Cheyne MLA
Manager of Government Business
Attorney-General
Minister for Human Rights
Minister for City and Government Services
Minister for the Night-Time Economy

Member for Ginninderra

Mr Tom Duncan
Clerk
ACT Legislative Assembly
London Circuit
CANBERRA ACT 2601

12 December 2025

Dear Mr Duncan

Thank you for your letter about petition E-PET-041-25 ACT Bail Reform (the Petition), lodged by Mr James Milligan MLA, proposing reforms to ACT Bail laws "to strengthen risk-based decision making, reduce reoffending and support vulnerable young people and families".

This letter and the attachments form the ACT Government's response to the Petition.

The Government notes the matters raised in the Petition relate to:

- community concerns around reoffending while on bail;
- erosion of public trust in the bail system;
- the need to support vulnerable young people and families to stop the cycle of reoffending;
- the need to improve community safety;
- support for early intervention and rehabilitation; and
- the importance of having a system that protects the community while upholding the rights of both the accused and victims in accordance with the *Human Rights Act 2004* and the *Children and Young People Act 2008*.

The Government has a role in ensuring the legislative framework for bail strikes the right balance between the rights of the victim, the rights of the alleged offender and the protection of the public; and putting in place services that support the operation of bail.

Bail is a key concept in the operation of the criminal justice system and is a consideration from the beginning of proceedings, when a person is in police custody, through to final contact with the courts. The *Bail Act 1992* (the Bail Act) provides the legislative framework, but the overall operation of bail involves a much broader service system. Both the legislative framework and supporting bail services are informed by government policy decisions.

ACT Legislative Assembly
London Circuit, GPO Box 1020,
Canberra ACT 2601

+61 2 6205 0100
cheyne@act.gov.au

taraforginninderra
in_the_taratory

Bail decisions have a high impact on defendants, victims, witnesses and the broader community's perceptions about the justice system. There has been ongoing public discussion about the need for bail reform in the ACT, with key community and stakeholder concerns being around:

- victim and community safety;
- the rights of the defendants;
- trust and confidence in the justice system;
- addressing high rates of remand and recidivism; and
- reducing overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system.

Bail policy underpins both the formulation of the legislative framework and the provision of services to victims and offenders. The policy must be multi-purpose as it seeks to address the complex challenges involved including:

- the need to protect victims and the wider community;
- failures to attend court in answer to bail;
- compliance with bail conditions;
- offending while on bail;
- the impact of the bail system on specific cohorts of alleged offenders such as Aboriginal and Torres Strait Islanders, women, children and young people, and people with a disability; and
- the numbers of detainees on remand, as opposed to sentenced.

Ministerial Statement

On 2 December 2025, I made a Ministerial Statement in the Legislative Assembly in relation to Bail matters, announcing planned reforms to the ACT's bail legislative framework, and other work underway in relation to bail initiatives and support programs.

The statement covered concerns raised and proposals made in the Petition. A copy of that statement is attached (Attachment A).

I have also attached a copy of the statement I made in May 2025 (Attachment B) in response to the Assembly Resolution on Justice-bail law reform which:

- signalled the ACT Government's intention to modernise bail laws;
- encouraged contributions to a Discussion Paper, released the day before on the YourSay consultation website, entitled *Review of decision-making criteria in the Bail Act 1992* (the Discussion Paper); and
- provided an update on work related to Recommendations 4, 8, 9 and 10 of the Bail Inquiry.

Bail Reform consultation

The Discussion Paper posed 19 questions, focussed on options for how the framework guiding judicial decision-making in relation to bail could be improved. In doing so, it was made clear that the ACT Government respects and would maintain the independence and discretion of the courts. Submissions in response to the Discussion Paper were accepted until 17 July 2025.

There were 39 submissions to the Discussion Paper:

- 12 submissions from community and advocacy organisations,

- seven from government entities; and
- 20 from individuals.

The submissions received ranged from personal accounts of interactions with the bail and criminal justice system, to more technical/legal responses. As such, a diverse range of views were expressed, highlighting inherent tensions between the interests of the victim(s), interests of the accused, and interests of community safety and justice integrity. This emphasised the need for a government response to reforming the Bail Act that carefully balanced these interests, while upholding human rights, maintaining procedural fairness, and judicial independence and discretion.

The Justice and Community Safety Directorate continues to work with criminal justice stakeholders on legislative reforms and other issues arising out of the Discussion Paper submissions.

Legislative Reforms

As per my December 2025 Ministerial Statement, the Government intends to introduce a Bail Legislation Amendment Bill in the Legislative Assembly in early 2026. The Bill will include amendments to the Bail Act to:

- provide greater clarity to decision-makers about what considerations are to be taken into account when deciding a bail application;
- maintain the independence and discretion of decision-makers when deciding a bail application;
- maintain procedural fairness and consistency with the *Human Rights Act 2004* (ACT); and
- elevate the concept of do no further harm to both the alleged victim(s) and the accused person when deciding a bail application.

Petition proposals

The Petition raises a number of proposals, both legislative and non-legislative. My December Ministerial Statement addressed some aspects of the Petition, and Attachment C provides more information in response to each of the proposals raised in the Petition.

The ACT Government acknowledges the concerns raised in the Petition and community concerns in relation to bail matters.

I trust that the information in this t response reassures the community that their concerns have been carefully considered and that the Government is committed to a bail system that strikes the right balance between the rights of the victim, the rights of the alleged offender and the protection of the public; and includes services that support the operation of bail.

Sincerely

Tara Cheyne MLA
Attorney-General

2025

THE LEGISLATIVE ASSEMBLY FOR THE

AUSTRALIAN CAPITAL TERRITORY

MINISTERIAL STATEMENT

BAIL REFORM AND OTHER RELATED INITIATIVES

Presented by
Tara Cheyne MLA
Attorney-General
December 2025

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Mr Speaker, I rise to provide an update on progress of proposed bail reforms.

In May this year I signalled the Government's intent to modernise our bail laws and to introduce legislation to achieve that as soon as practicable.

Bail is a fundamental to the operation of the criminal justice system because it strikes a crucial balance between protecting the community and upholding the presumption of innocence, and that a person should not be punished before they are proven guilty.

Allowing accused persons to continue living in the community – with appropriate supervision and tailored conditions – prevents unnecessary pressure on custodial services and reduces the well-documented negative impact that detention can have on a person and their family. At the same time, bail laws provide a structured way to protect victims, witnesses and the broader community from harm by enabling detention in circumstances where a person poses an unacceptable risk.

The *Bail Act 1992* provides the legislative framework, but the overall operation of bail involves a much broader service system. Both the legislative framework and supporting bail services are informed by Government policy decisions.

The Government has a role in ensuring the legislative framework for bail strikes the right balance between the rights of the victim, the rights of the alleged offender and the protection of the public; and putting in place services that support the operation of bail.

Bail decisions have a high impact on defendants, victims, witnesses and the broader community's perceptions about the justice system. There has been ongoing public discussion – including in this place – about the need for bail

reform in the ACT, with key community and stakeholder concerns being around:

- victim and community safety;
- the rights of the defendants;
- trust and confidence in the justice system;
- addressing high rates of remand and recidivism; and
- reducing overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system.

On 5 May, the ACT Government released a public discussion paper via the YourSay Conversation website, seeking feedback on potential reforms to the decision-making criteria in the Bail Act.

The consultation reflected the diverse views that Canberrans have on bail and the criminal justice system. The submissions received ranged from personal accounts of interactions with the bail and criminal justice systems to more technical legal responses.

I sincerely thank the people and organisations who took the time to have their say on bail in the ACT.

On 24 September, a Petition on ACT Bail Reform was received by this Assembly. The Petition seeks a range of changes to bail legislation and processes in the ACT to strengthen risk-based decision-making, reduce offending and support vulnerable young people and families.

I acknowledge sponsoring member Mr Milligan, and thank those who contributed to its development and supported it.

While I will also respond to that Petition in this statement, a formal, more detailed response will be tabled with the Clerk.

For those who have contributed to the process so far: we have listened and we have heard you.

We have taken your insights seriously, and they have shaped our approach.

After much careful consideration, I can confirm the Government's intention to introduce a Bail Reform Bill in early 2026.

I appreciate that for some, these reforms have not come quickly enough.

However, I have made clear that I would not rush changes to this legislation; these reforms require balancing competing interests and rights and doing so in a way that preserves the independence of the courts in making bail decisions.

We have been monitoring the criticism towards and consequences of knee-jerk reform in other states and the Northern Territory.

The Government's overarching objective is to bring forward a balanced package of reforms that addresses key community and stakeholder concerns around victim and community safety, the rights of the accused, and gives the community confidence that courts are making informed, risk-based decisions (including in the context of repeat offenders).

Decision makers are already required to consider a range of matters and are authorised to consider other matters when making decisions. The Bail Act allows decision makers to place more weight on those matters of greatest relevance to all the circumstances of the case before them – that is, a case-by-case approach.

The amendment Bill I intend to introduce will remain aligned with this principle, while also providing clarity that decision-makers will be required, as part of their process in making a bail decision, to:

- explicitly consider additional factors relevant to concerns about the

safety and wellbeing of victims and others;

- consider additional matters in relation to an accused person who is an Aboriginal or Torres Strait Islander person;
- consider an accused person's disability needs, health needs and relevant related circumstances;
- consider the effect of custody or compliance with bail conditions on a person's pregnancy and unborn baby; and
- consider the defendant's history of compliance with undertakings to appear, bail conditions, orders of any Australian court (including the Family Court), and any offence alleged to have been committed while the defendant was on bail in relation to another offence.

I also intend that the Bill will include that decision makers will specifically be required to take into account the following when making bail decisions related to children:

- the child's age, maturity and developmental capacity at the time of the alleged offence;
- the least restrictive bail conditions or the shortest time in custody necessary in the circumstances;
- preservation and promotion of positive relationships between the child and the child's family members and other significant persons;
- supporting the child to live in safe, stable and secure living arrangements;
- supporting the child's education, training or lawful employment without unnecessary disruption;
- minimising any stigma associated with custody or bail;
- the risk of harm to the child when in, or as a result of having been in,

custody;

- the likelihood that the child will be sentenced to a term of imprisonment and the likely duration of that sentence; and
- the ongoing effect of physical or mental illness, disability, trauma, abuse, neglect, loss or family violence, or being dealt with under a child welfare law on the child.

The amendments will be designed in line with procedural fairness and in accordance with the *Human Rights Act 2004*. This approach is intended to elevate the concept of 'do no further harm' to both the victim and the accused person when deciding a bail application.

Further, the Bill will amend the Bail Act to expand the list of individuals who can make representations about bail and be updated about changes in bail status by expanding the definition of 'victim' for bail purposes.

These expected amendments in the Bill will address:

- Recommendation 2 of the Standing Committee on Justice and Community Safety Inquiry into the Administration of Bail in the ACT;
- Recommendations 8.2 (a) and (b) of the Jumbunna Institute's 2025 Independent Review into Overrepresentation of First Nations People in the ACT Criminal Justice System (the Jumbunna Review).

Mr Speaker, I note the Petition includes legislative and non-legislative proposals.

Many of the legislative reforms suggested in the Petition were already under consideration by Government and formed part of the Discussion Paper consulted on earlier this year.

For example, the Petition proposes that proven repeat offending or a prior breach of bail be a legislated ground for refusing bail.

No bail system can guarantee that people granted bail will not engage in further offending. Offending while on bail captures a very wide range of conduct, including many less serious offences and offences which have no relationship with the primary offending for which someone was granted bail.

The Government acknowledges the importance of putting in place appropriate policies and initiatives that minimise the numbers of people who are committing further offences while on bail.

As canvassed earlier, amendments I expect to be contained in our Bill will require decision-makers to consider the defendant's history of compliance with court orders, and any offence alleged to have been committed while the defendant was on bail in relation to another offence when making bail decisions.

However, the Government will not be implementing a reverse presumption as this would likely result in escalating criminal justice responses to minor matters. What this means in practice would be people being detained on charges for which they subsequently are either found not guilty or are not given a custodial sentence (for example, a fine).

Other proposals already exist in the current laws or form part of considerations of decision-makers when assessing bail. For example, the proposal in the Petition in relation to amend the Bail Act to provide for curfews is not necessary as the Bail Act already allows for the imposition of a curfew as a condition of bail.

The Petition also made legislative and non-legislative proposals relating to the enhancing the court's consideration of risks, including mandating the use of assessment tools.

It is already administratively possible to use risk assessment tools when making decisions under the Bail Act. The Government will also work with stakeholders to determine how these tools could be better utilised, particularly in relation to family and sexual violence offences, to support decision-makers.

However, requiring decision makers to undertake a risk assessment for all offences would have a significant resource impact on both ACT Policing, the Director of Public Prosecutions, and ACT Courts and Tribunal. It is also unclear whether a single tool would provide sufficient flexibility for decision makers when considering different sets of circumstances and different types of offences.

The Government is continuing to progress some of the non-legislative proposals contained in the Petition, recommendations of the 2024 Standing Committee Inquiry into the Administration of Bail and the Jumbunna Review.

For example, the Government is already looking at ways to improve data collection in relation to bail, and is also considering expanding the Ngurrambai Bail Support Program to children and young people.

The Government acknowledges the importance of therapeutic support, rehabilitation and diversion over punitive responses for children in the justice system.

In the ACT, young people on supervised bail are supported by Youth Justice Practitioners, who assist with accessing assessment, crisis accommodation, transport, and alcohol and other drug treatment services. The Child, Youth and Families After Hours Service also provides crisis support outside business hours

for those subject to Youth Justice orders, including bail. These existing services provide ongoing and responsive support, including after-hours coverage, for young people on bail.

The Therapeutic Support Panel for Children and Young People and the Safer Youth Response Service play a diversionary and early intervention role, particularly for children under 14 years of age, in alignment with the ACT raising the Minimum Age of Criminal Responsibility. The primary cohort for these services is children up to the age of 14, which ensures that therapeutic supports are prioritised over punitive responses. When capacity allows, young people over the age of 14 may also be referred, thereby extending access to therapeutic pathways that reduce reliance on charge and bail. The Therapeutic Support Panel is also a referrer to Restorative Justice Conferencing in the ACT under the *Crimes (Restorative Justice) Act 2004*.

The ACT Government already funds free parenting advice, programs, and supports through three Child and Family Centres. The Petition proposes mandating the use of these supports with the threat of criminal sanctions. The Government considers that this approach is unlikely to result in effective outcomes. Therapeutic services generally emphasise voluntary engagement as more effective. Youth Justice Practitioners support young people and their families to access culturally safe, trauma informed programs where appropriate, and work to encourage participation through collaborative and family-inclusive practice.

Mr Speaker, in closing, I refer back to my remarks earlier this year that the decision to grant or deny bail relies on an informed assessment of risk. The better informed that decision, the greater likelihood there is for persons who present the greatest risk to be managed appropriately, for detention to be

limited where it is unnecessary, and for any conditions applied to someone released on bail to be appropriate for the circumstances and level of risk.

it is my sincere belief that the actions being taken by this Government, including the proposed amendments to the Bail Act, will better support the decision-making process, and lead to better bail outcomes.

I look forward to presenting the amendment Bill next year.

2025

THE LEGISLATIVE ASSEMBLY FOR THE

AUSTRALIAN CAPITAL TERRITORY

ELEVENTH ASSEMBLY

Ministerial Statement

Update on Criminal Justice Reform Areas – Government Response to Assembly Resolution

Presented by
Tara Cheyne MLA
Attorney-General
May 2025

- Mr Speaker, I rise in response to the Assembly resolution in April with an update on the matters required.

Update on progress of proposed bail reforms: Review of decision-making criteria in the Bail Act

- Mr Speaker, this week I have released a discussion paper: *Review of decision-making criteria in the Bail Act*.
- In doing so, I have signalled our intent to modernise our bail laws and to introduce legislation to achieve that as soon as practicable.
- I acknowledge the concerns in the community. I acknowledge the feedback, the frustrations, and the calls for change.
- I also acknowledge that bail decisions are complex and challenging.
- For the victims, for the accused, for the decision-maker, for law enforcement and corrections, and the broader community.
- I recognise that the decisions on bail and on sentencing can also have a secondary impact on persons who might not be directly affected by the alleged offence, but for whom a decision triggers memories or other trauma, including vicarious trauma.
- Earlier this year, I committed that this Government would move on bail law reform and move more quickly than what was otherwise likely. One of my concerns with the Law Reform and Sentencing Advisory Council was the breadth of the terms of reference for its bail inquiry and the genuine advice from its chair about how long it would take.
- Tomorrow will mark six months of me being in the role of Attorney-General.
- Rather than it being the conclusion *from*, the need for reform has been the basis *for* my intensive and extensive engagements with stakeholders, research into the history of our laws, and in seeking to understand the decisions in other jurisdictions.
- Mr Speaker, the release of this discussion paper is not a reflection that our bail laws or decisions being made are flawed.
- However, it is recognition that the legislation is complex, difficult to follow, and will benefit from a review against the latest evidence and from observations about how it is operating.
- Whether bail is granted or not is based on an assessment that a decision-maker has made about the level of risk a person poses, and whether that risk can be managed if the person is in the community.

- The Bail Act is the framework for that risk assessment. It provides detail about what must be considered—and what may be considered—in undertaking the risk assessment and in making the decision.
- The most recent significant reforms to the Bail Act were in 2004.
- Since then, it has had numerous piecemeal additions to it.
- The result is legislation that now is labyrinthine in nature.
- How it is structured means that what is being taken into account when a risk assessment is being undertaken is not necessarily clear or prominent.
- The inclusion in the 2004 reforms that the decision-maker "may have regard to any relevant matter" recognises that a decision-maker can be proactive in the information they seek to inform their decision.
- But it also introduces uncertainty about what is or isn't being taken into account, noting it also may vary from decision-maker to decision-maker. Further, bail applications are a high volume activity, and the reality of time pressures may limit the ability to be proactive in seeking other information, despite the power being available.
- And, while "any relevant matter" is provided for, the clause goes on to list what relevant matters include. I appreciate that doing so is meant to be of assistance and not exhaustive, but it exacerbates the confusion.
- The current legislation provides for the interests of the victim, the interests of the accused, and the likelihood of the safety and welfare being compromised to be relevant considerations.
- But it does not do this in a way that these matters are clearly signposted, whether for decision-makers, the general public, or any person having contact with the criminal justice system.
- We have an opportunity to ensure that the risk assessment framework for the decision-maker is improved.
- Ultimately, we want the decision-maker to have regard for all of the relevant information available to them so that their risk assessment is the most informed it can be.
- The better informed the decision, the greater likelihood there is for persons who present the greatest risk to be managed appropriately, for detention to be limited where it is unnecessary, and for any conditions applied to someone released on bail to be appropriate for the circumstances and level of risk.

- The question that naturally follows is: exactly what information should the decision-maker have regard to when assessing the risk?
- The discussion paper contemplates a potential decision-making framework that clearly signposts the lenses through which the risk assessment should be undertaken:
    - The interests of the victim
    - The interests of the accused
    - Community safety and justice integrity
- Through this potential framework, the discussion paper seeks feedback on what criteria could or should be relevant considerations for a decision-maker, such as:
    - expanding the definition of the risk of harm to a victim;
    - having greater consideration of victims' views and knowledge of risk;
    - having particular regard for ACT Policing's views and observations;
    - having regard for the presence of any of the established high-risk factors in the context of intimate partner violence;
    - the accused's disability and health needs, including mental health needs;
    - whether the accused is a primary carer, or pregnant;
    - any issues that arise due to a person's Aboriginality;
    - the prevalence of the offence, in addition to the existing considerations of the nature and seriousness of the offence; and
    - whether the strength of the evidence should be required to be a relevant consideration for the decision-maker.
- Whether all or some of these are desirable, the discussion paper seeks the community's and stakeholders' views and reactions to them.
- Whether it's a gut reaction or a detailed consideration of the purpose, effect and consequences of each one, all input is welcome.
- I recognise that for some in our community, an approach where all accused persons are routinely remanded in custody is highly desirable.
- I understand why that may be, but I need to be clear that a routine or a blanket approach like that is not on the table.
- I also need to be clear that procedural fairness and judicial independence and discretion must and will be maintained.

- It is appropriate that our judiciary makes the decisions with all of the relevant information available to them, and that includes their knowledge and experience.
- What *is* on the table is that we want the community to have an understanding of and confidence and trust in the decision that is being made.
- Knowing what is informing the decision is a significant part of that.
- It would be remiss of me not to acknowledge the significant work of the JACS Standing Committee in the 10th Assembly and their inquiry into the operation of the Bail Act.
- Their report and recommendations has provided meaningful direction and informed the Government's position. I note, too, that a recommendation that the Government response had noted—Brontë's law—is in part being reconsidered in the discussion paper as a potential relevant factor.

Update on Government response to recommendations (4) and (8)-(10) from the Inquiry into the Administration of Bail committee report.

- Mr Speaker, as part of the Assembly resolution last month, I was also asked to provide an update today on the following recommendations in that same report relating to examining why remand is increasing in the ACT and implementing specific bail support initiatives, to which the ACT Government agreed in principle.
    - *Recommendation 4 The Committee recommends that the ACT Government examine reasons as to why the number of people on remand in the ACT is increasing and the appropriateness of this, particularly for Aboriginal and Torres Strait Islander people.*
    - *Recommendation 8 The Committee recommends that the ACT Government work with Aboriginal and Torres Strait Islander people to co-design a bail support program for young Indigenous Australians.*
    - *Recommendation 9 The Committee recommends that the ACT Government implement a 'wraparound' bail support program for all people on bail in the ACT.*
    - *Recommendation 10 The Committee recommends that the ACT Government introduce an early intervention program for*

people who are at risk of not complying with bail orders with a focus on young people.

- Mr Speaker, under RR25by25 and Beyond – A Justice Reinvestment Strategy for the ACT, the Government is focussing on community-led early intervention and diversion initiatives, alongside targeted integrated rehabilitation, and reintegration supports. This is being implemented through a variety of intersecting initiatives.
- For example, the ACT Government is undertaking a co-design process to explore the development of the Justice Futures Fund (JFF) which is intended to support justice reinvestment in community-led support bail orders. An external facilitator was engaged in March 2025 to undertake a co-design process with government and community stakeholders. The findings are due in mid-2025.
- The Pathways Out of the Criminal Justice System study is a qualitive study ANU is undertaking with people with lived experience of the ACT justice system to deepen Government's understanding of desistance and contribute to more effective strategies for support. Findings of the study are due mid-2025 and will also inform the JFF.
- To inform the Government's future direction JACS is undertaking a desktop review of bail support services and programs in other Australian jurisdictions to identify gaps in current service provision to avoid duplication or over-servicing people who do not require a higher level of support.
- This will assist in understanding how the ACT compares to other jurisdictions and identify opportunities for the Government to consider how bail support, services and supervision could be improved in the ACT, including expanding existing or introducing new services or programs.
- The review is expected to be completed by the end of 2025 and will include bail support for cohorts with specific needs, or which are overrepresented including women, people with disability, young people and Aboriginal and Torres Strait Islander people.
- The Government is progressing the initiatives related to improving bail support for Aboriginal and Torres Strait Islander people:
- The recommendations of the Independent Review into the Overrepresentation of First Nations People in the ACT Criminal Justice System will provide guidance to ensure supports and funding are

effectively targeted. The final report is due soon and the findings are expected to be broad ranging and will inform the JFF.

- The commissioning process for the First Nations Justice programs is a collaboration with the Aboriginal and Torres Strait Islander Community, sector partners, and people with lived experience, to understand the needs and gaps, and collaboratively with these groups, plan, design and deliver the best support services and programs for Aboriginal and Torres Strait Islander people on bail and remand. Updates and outcomes will continue to be published on the ACT Commissioning website and a report will be available later in 2025.
- The Government funds the Ngurrambai Bail Support Program currently delivered by the Aboriginal Legal Service NSW/ACT. This program includes court-based bail support, outreach bail support, Alexander Maconochie Centre support and after-hours bail support. It is designed to reduce the number of First Nations people on remand by increasing successful bail applications and to help First Nations people apply, obtain and comply with their bail conditions.
- The Government is giving consideration to how bail support could be expanded to Aboriginal and Torres Strait Islander young people and is consulting with the First Nations community on the best way of progressing this.
- The Government is also in the early stages of developing a "Bail App" in the ACT, initially as a 12-month pilot project for First Nations people on bail.
- The aim of the Bail App is to increase compliance with bail conditions, which will also contribute to reducing recidivism. The app will assist users to meet their bail conditions by providing functionality and resources that are easily accessible, plainly written and culturally appropriate to build the legitimacy of, and compliance with, bail conditions in the ACT and by offering a service that is secure and meets users' privacy and trust expectations.

Indicative sentencing

- Mr Speaker, I am further announcing today that the ACT Government is pursuing an indicative sentencing scheme.

- Indicative sentencing is a process which allows a judicial officer to inform a defendant of the sentence they would receive were they to plead guilty. This is known as the indicative sentence.
- Earlier resolution of matters affords closure to victims sooner than would otherwise occur, as matters which may have been defended hearings are instead finalised more quickly as sentences.
- Shortening the overall time to finalise proceedings is likely to reduce the overall number of people on bail and people who are remanded in custody, streamlining proceedings and creating efficiencies for courts, the Director of Public Prosecutions, defence counsel, and Corrections.
- This scheme reduces uncertainty for a defendant by providing transparency in relation to the sentence, helping them make a decision more quickly regarding their plea. It also reduces the uncertainty for the victim.
- The earlier a sentence is able to be handed down, the sooner the defendant is able to access other supports, such as rehabilitation and other community services.
- While indicative sentencing is commonplace in other jurisdictions, indicative sentencing will be a trial initially in the ACT due to our unique circumstances.
- Legislation is required for it to be enabled in the ACT and I intend to introduce that legislation this year. I trust this sensible reform will have the Assembly's support.

Conclusion

- Mr Speaker, in closing I wish to thank all those who have been candid and frank with me about where the issues are and what is needed to change.
- I know that many areas of the community would prefer that this change happened yesterday.
- These areas of reform are complex and they do take time. I especially acknowledge the often underestimated or unseen part of this process that is significant: legislative drafting.
- We are indebted to our Parliamentary Counsel Office for their expertise that will be applied through this process, and I know that even the most skilled and experienced drafters require significant time to draft

significant reforms, to avoid unintended consequences and minimise any ambiguity.

- When we consider what is at stake here, and the certainty and confidence we want the community to have, drafting cannot be compromised.
- What I hope this update shows is that while this work is difficult, nuanced and sensitive, we are not shying away from it.
- And my intention, Mr Speaker, is that this is just the beginning.

Attachment C

E-Petition proposal responses

Proposal	Government Response
Legislative reforms	
1. Make proven repeat offence or a prior breach of bail a legislated ground for refusing bail, with a reverse presumption against bail in such cases	The Bail Act currently requires the decision-maker to take into account any previous grants of bail to an accused person. Section 9 limits the accused's entitlement to bail if the person has previously failed to comply with either an undertaking to appear or a bail condition in relation to the same or a similar offence. Similarly, section 9D provides that the decision maker must not grant bail to an accused charged with a serious offence while a charge for another serious offence is pending or outstanding unless there are special or exceptional circumstances and in consideration of the other matters outlined. While the Bail Act contains provisions that need to be considered in circumstances where a person is appearing with an application for bail for a particular offence when they already were on bail for another offence, there is no standalone provision that allows the decision-maker to consider a person's behaviour on a previous occasion that has otherwise been disposed of (e.g. they have completed their sentence). Proposed amendments to the Bail Act will require decision-makers to consider the defendant's history of compliance with court orders, and any offence alleged to have been committed while the defendant was on bail in relation to another offence when making bail decisions.

Proposal	Government Response
	Some breaches of bail are minor and administrative. Applying a reverse presumption against bail in these circumstances may result in escalating criminal justice responses to minor matters. Applying a blanket presumption against bail as suggested, including for less serious offences, would be likely to result in people being detained on charges for which they subsequently are either found not guilty or are not given a custodial sentence (for example, a fine).
2. Require ACT Courts to apply a validated, structured risk assessment before any decision on bail is made, ensuring consistent and evidence-based risk evaluation across all ACT jurisdictions	Consultation undertaken early this year provided mixed views on the introduction of a risk assessment tool to inform bail decisions. It is already administratively possible to use risk assessment tools when making decisions under the Bail Act. The Government will also work with stakeholder to determine how these tools could be better utilised, particularly in relation to family and sexual violence offences, to support decision-makers. However, requiring decision makers to undertake a risk assessment for all offences would have a significant resource impact on both ACT Policing and ACT Courts and Tribunal. It is also unclear whether a single tool would provide sufficient flexibility for decision makers when considering different sets of circumstances and different types of offences.
3. Enable a curfew and GPS-enabled electronic monitoring program as a legislated alternative to custodial remand	It is not necessary to amend the Bail Act to provide for curfews as the Bail Act already allows for the imposition of a curfew as a condition of bail.

Proposal	Government Response
	The use of electronic monitoring in the criminal justice system, including in relation to bail, raises a range of legal and operational issues, and is currently under consideration. The ACT Government acknowledges that electronic monitoring presents an opportunity to improve justice outcomes for offenders, increase compliance with community-based orders and promote community safety. Electronic monitoring can support new community-based options as an alternative to incarceration that can improve social connection, identity and belonging and access to justice for those being monitored. Work is being led by the Minister for Corrections and Justice and Community Safety Directorate in relation to electronic monitoring. It is not proposed to pursue any amendments to introduce electronic monitoring as a condition of bail separate to that broader piece of work.
4. Establish a time-limited bail reform task force (six months) to coordinate further legislative modernisation and develop nationally recognised rehabilitation programs that reduce reoffending	Establishing even a time-limited taskforce would require funding for dedicated resourcing. The ACT Government is aware of the need for a coordinated response across Government to address the concerns raised by the community and criminal justice stakeholders and is working to ensure alignment across policy and operational areas in respect to bail reform, bail support services and other related initiatives.
5. Maintain supported bail for first-time, low-risk or non-violent youth offences, but apply a 'show cause' requirement for serious repeat property or violent offences.	The Bail Act currently provides for a scheme broadly consistent with this proposal. In particular, there is a presumption for bail for less serious offending, while repeat serious offenders must provide evidence in support of their application for bail.

Proposal	Government Response
	Bail criteria as set out in the Bail Act currently largely also apply to children and young people who commit offences. There are three further considerations that apply to children and young people which are: • the primary consideration must be the best interests of the child; and • If a court has ordered a report about a child and that report has been provided, that report must be considered; and • the Youth Justice Principles in the *Children and Young People Act 2008*. The Government acknowledges that bail laws and conditions should be tailored to the specific needs of children and young people due to the prevalence of trauma and disadvantage among children in the justice system. Amendments to the Bail Act that will be introduced in early 2026 will require decision makers to consider a range of additional matters when making bail decision in relation to children, for example: • the child's age, maturity and developmental capacity at the time of the alleged offence; • the least restrictive bail conditions/the shortest time in custody necessary in the circumstances; • preservation and promotion of positive relationships between the child and the child's family members and other significant persons; • supporting the child to live in safe, stable and secure living arrangements;

Proposal	Government Response
	• supporting the child's education, training or lawful employment without unnecessary disruption; • minimising any stigma associated with custody or bail; • the risk of harm to the child when in, or as a result of having been in, custody; • the likelihood that the child will be sentenced to a term of imprisonment and the likely duration of that sentence; • the ongoing effect of physical or mental illness, disability, trauma, abuse, neglect, loss or family violence, or being dealt with under a child welfare law on the child. Australia has international obligations to use detention of any kind only as a last resort for young people. The ACT's *Human Rights Act 2004* provides protections for the rights of children accused of crimes and recognise the need for special procedures in light of their age. Further, most children who come into contact with the criminal justice system have experienced significant disadvantage and trauma. Detention or incarceration exacerbates that disadvantage, meaning they will likely then come into contact with the criminal justice system again, ultimately having no or even a negative effect on community safety.
Non-legislative proposals	
6. Adopt a single ACT-wide Structured Bail Risk Tool and publish anonymised quarterly data on bail decisions, breach rates and reoffending outcomes to support transparency and continuous improvement.	See response to Petition proposal 2 in relation to mandating the use of risk assessment tools.

Proposal	Government Response
	Publication of data needs to be approached cautiously and ensure that there is no risk of identification from anonymised data and as such adverse impacts on a person's right to privacy.
7. Create a tiered, 24/7 Youth Bail Assessment and Support Service to provide immediate access to assessment, crisis accommodation, transport and alcohol and other drug (AOD) treatment supports	In the ACT, young people on supervised bail are supported by Youth Justice Practitioners, who assist with accessing assessment, crisis accommodation, transport, and alcohol and other drug (AOD) treatment services. The Child, Youth and Families (CYF) After Hours Service also provides crisis support outside business hours for those subject to Youth Justice orders, including Bail. These existing services provide ongoing and responsive support, including after-hours coverage, for young people on bail. The Therapeutic Support Panel for Children and Young People (TSP) and the Safer Youth Response Service (SYRS) play a diversionary and early intervention role, particularly for children under 14 years of age, in alignment with the raised Minimum Age of Criminal Responsibility (MACR). The primary cohort for these services is children up to the age of 14, which ensures that therapeutic supports are prioritised over punitive responses. When capacity allows, young people over the age of 14 may also be referred, thereby extending access to therapeutic pathways that reduce reliance on charge and bail. Police may elect not to proceed with charges and instead refer children and young people to the TSP or SYRS. This police discretion to refer to these services rather than charge or bail is a key mechanism to increase therapeutic service uptake, enabling access to culturally safe, therapeutic supports rather than progressing through criminal processes and escalating the risks of criminalisation.

Proposal	Government Response
8. Introduce a swift and certain response to a child's first minor breach of bail, including restorative conferencing within 48 hours and immediate implementation of community-based accountability measures	The Government acknowledges the importance of therapeutic support, rehabilitation and diversion over punitive responses for children in the justice system. Implementing such a proposal could make bail more onerous for people under 18 years of age than for adults as it would require children to engage in a mandatory process which is not required of adults. Bail is not a disciplinary response. Community-based accountability measures are likely to be criminogenic for minors, denying the minor adequate privacy protection and exposing the minor to prejudicial treatment from the broader community. The Restorative Justice Scheme (the Scheme) is governed by the *Crimes (Restorative Justice) Act 2004*. There are a number of legislative barriers which would impede the proposal to provide restorative justice conferencing as a response to a child's first minor breach of bail and could not be easily supported through amending the Act. Eligibility criteria under the Act are unlikely to be met for breach of bail conditions (as the breach would need to include an eligible victim). Referral to restorative justice is determined by police and Youth Justice Practitioners based on established suitability criteria. Minor breaches, such as curfew violations, may not meet the threshold for restorative conferencing. Not all young people are suitable for restorative justice, and service capacity (including waitlists) can affect the ability to deliver conferencing within a 48-hour timeframe.

Proposal	Government Response
	This proposal is likely to limit the minor's ability to form pro-social bonds within the community, which is a factor when assessing likely reoffending and recidivism. The preparation for and decision to convene a restorative justice conference takes time to ensure that it is meaningful and does not cause harm. Voluntariness is at the heart of restorative justice practice, and as such it can take time to engage everyone involved. This proposal positions restorative justice conferencing as a rapid intervention response which is incongruent with delivering the Scheme in line with restorative values and practices. The process usually occurs over several meetings, at a pace that is determined by all parties involved. Where appropriate, young people are supported to access alternative community-based accountability measures that respond proportionately to the nature of the breach. Restorative Justice Conferencing is a key accountability mechanism for children under the MACR who are over age 10, with Aboriginal and Torres Strait Islander conveners available to ensure a culturally safe service for Aboriginal and Torres Strait Islander children and young people. Importantly, the Therapeutic Support Panel for Children and Young People is a referrer to Restorative Justice Conferencing in the ACT under the *Crimes (Restorative Justice) Act 2004*.
9. Mandate participation by both the child and their family in culturally safe, trauma-informed parenting and family support programs for children and young people facing serious or repeat charges, as a condition of supported bail.	Timely, culturally appropriate responses to minor breaches of bail can and will be considered within the bail support service for youth described above.

Proposal	Government Response
	However, this proposal could have the effect of making bail more likely to be breached where the minor does not have a stable or supportive family environment. It could also have the effect of disciplining parents for the actions of children. The ACT Government already funds free parenting advice, programs, and supports through three Child and Family Centres. Mandating the use of these supports with the threat of criminal sanctions is unlikely to result in effective outcomes. Therapeutic services generally emphasise voluntary engagement as more effective. Youth Justice Practitioners support young people and their families to access culturally safe, trauma informed programs where appropriate, and work to encourage participation through collaborative and family-inclusive practice.