

2026

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Bail Amendment Bill 2026

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(Attorney-General)

Bail Amendment Bill 2026

A Bill for

An Act to amend the *Bail Act 1992*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

- 1 **1 Name of Act**
- 2 This Act is the *Bail Amendment Act 2026*.
- 3 **2 Commencement**
- 4 This Act commences 6 months after its notification day.
- 5 *Note* The naming and commencement provisions automatically commence on
- 6 the notification day (see [Legislation Act](#), s 75 (1)).
- 7 **3 Legislation amended**
- 8 This Act amends the *Bail Act 1992*.
- 9 *Note* This Act also amends other legislation (see sch 1).
- 10 **4 Section 9A (2) etc**
- 11 *omit everything after*
- 12 *considering*
- 13 *substitute*
- 14 the matters in section 22 (Bail decision—core matters).
- 15 *in*
- 16 • section 9A (2)
- 17 • section 9C (3)
- 18 • section 9D (3)
- 19 • section 9F (3)
- 20 **5 Section 12A heading**
- 21 *substitute*
- 22 **12A Definitions—pt 4**

1 **6 Section 12A, new definitions**

2 *insert*

3 *child welfare law*—see the *Children and Young People Act 2008*,
4 section 640.

5 *disability* includes a physical, intellectual or cognitive impairment.

6 *family violence*—see the *Family Violence Act 2016*, section 8.

7 *health condition* means a physical or mental illness.

8 **7 Deciding of questions of bail by authorised officers**
9 **New section 15 (1A)**

10 *insert*

11 (1A) The informant must give the authorised officer information about
12 whether a family violence order has been made under the *Family*
13 *Violence Act 2016* against an accused person.

14 **8 Section 15 (3) (b)**

15 *omit*

16 section 9F (2), section 22 or section 23

17 *substitute*

18 section 9F (2) or section 22

19 **9 Court bail—general**
20 **New section 19 (2A)**

21 *insert*

22 (2A) The informant must give the court information about whether a
23 family violence order has been made under the *Family Violence*
24 *Act 2016* against the accused person.

1 **10 Sections 22 to 23A**

2 *substitute*

3 **22 Bail decision—core matters**

4 (1) In making a decision about the grant of bail to an adult in relation to
5 an offence, a court or authorised officer must consider the following
6 matters:

7 (a) the likelihood of the adult appearing in court in relation to the
8 offence;

9 (b) the likelihood of the adult, while released on bail—

10 (i) committing an offence; or

11 (ii) harassing or endangering the safety or welfare of anyone;
12 or

13 (iii) interfering with evidence, intimidating a witness or
14 otherwise obstructing the course of justice in relation to
15 the adult or anyone else;

16 (c) the interests of the adult.

17 (2) In making a decision about the grant of bail to a child in relation to
18 an offence, a court or authorised officer must consider the following
19 matters:

20 (a) as a primary consideration, the best interests of the child;

21 (b) the likelihood of the child appearing in court in relation to the
22 offence;

23 (c) the likelihood of the child, while released on bail—

24 (i) committing an offence; or

25 (ii) harassing or endangering the safety or welfare of anyone;
26 or

- 1 (iii) interfering with evidence, intimidating a witness or
2 otherwise obstructing the course of justice in relation to
3 the child or anyone else.
- 4 (3) Also, if the adult or child is convicted of an indictable offence, or the
5 elements of an indictable offence are proven in relation to them, but
6 they have not been sentenced for the offence, a court must consider
7 the likelihood of the person being given a sentence of imprisonment.
- 8 (4) In subsections (1) (b) (i) and (2) (c) (i):
- 9 *offence* includes an offence against a law of the Commonwealth,
10 a State or another Territory.

11 **22A Bail assessment—relevant factors generally**

12 In considering the matters in section 22 in relation to a person for an
13 offence, the court or authorised officer must consider any matter the
14 court or officer considers relevant to those matters, including the
15 following:

- 16 (a) the nature and seriousness of the offence;
- 17 (b) the person's character, background and community ties;
- 18 (c) the likely effect of a refusal of bail on the person's family or
19 dependants;
- 20 (d) the person's history of compliance with the following:
- 21 (i) bail undertakings;
- 22 (ii) bail conditions;
- 23 (iii) any other orders of an Australian court;
- 24 (e) the strength of the case against the person;
- 25 (f) the person's need for physical protection;

- 1 (g) the period that the person may be held in custody if bail is
2 refused, and the conditions under which the person would be
3 held;
- 4 (h) whether the person was released on bail at the time of the
5 offence;
- 6 (i) the behaviour of the person towards a primary victim of the
7 offence, or a family member of a primary victim;
- 8 (j) whether the offence is a family violence offence;
- 9 (k) the likelihood of the person using family violence if released on
10 bail and how to manage any risk of the person using family
11 violence.

12 **Examples—par (k)**

- 13 1 a bail condition under pt 5
- 14 2 an order under the *Family Violence Act 2016*, s 112 (Court-initiated
15 interim orders)

16 **22B Bail assessment—relevant factors for Aboriginal or**
17 **Torres Strait Islander people**

- 18 (1) In considering the matters in section 22 in relation to an Aboriginal
19 or Torres Strait Islander person for an offence, the court or authorised
20 officer must consider the following:
- 21 (a) the risk of harm that custody may pose to the person as an
22 Aboriginal or Torres Strait Islander person;
- 23 (b) the likely effect of being held in custody on the person’s ability
24 to maintain their connections to culture, family, Elders,
25 communities and Country;
- 26 (c) any relevant matter in the person’s history, culture or
27 circumstances, including the ongoing effect of any of the
28 following:
- 29 (i) trauma, including inter-generational trauma, abuse,
30 neglect, loss or family violence;

- 1 (ii) being dealt with under a child welfare law;
- 2 (iii) social or economic disadvantage, including homelessness
- 3 or unstable housing arrangements;
- 4 (d) if the person has carer responsibilities, including as a parent or
- 5 guardian of an Aboriginal or Torres Strait Islander child—
- 6 the effect of bail conditions or custody on—
- 7 (i) the person’s ability to discharge their responsibilities; and
- 8 (ii) the person being cared for;
- 9 (e) any other significant cultural issue or obligation.
- 10 (2) In considering the matters mentioned in subsection (1), proof is not
- 11 required to establish the following:
- 12 (a) Aboriginal and Torres Strait Islander people have experienced
- 13 harm in custody at a disproportionately higher level than other
- 14 members of the population;
- 15 (b) it is in the interests of an Aboriginal or Torres Strait Islander
- 16 person to be able to maintain connections to their culture,
- 17 family, Elders, communities and Country.
- 18 (3) In this section:
- 19 ***Aboriginal or Torres Strait Islander person*** means a person who—
- 20 (a) is a descendant of an Aboriginal person or a Torres Strait
- 21 Islander person; and
- 22 (b) identifies as an Aboriginal person or a Torres Strait Islander
- 23 person; and
- 24 (c) is accepted as an Aboriginal person or a Torres Strait Islander
- 25 person by an Aboriginal community or Torres Strait Islander
- 26 community.

1 **22C Bail assessment—relevant factors for people with**
2 **disability or health condition**

3 In considering the matters in section 22 in relation to a person for an
4 offence, if the person has a disability or health condition, the court or
5 authorised officer must consider the following:

- 6 (a) the treatment and support required to manage the disability or
7 health condition;
- 8 (b) the effect of the disability or health condition on the person’s
9 ability to—
- 10 (i) understand their rights and obligations; and
11 (ii) make decisions; and
12 (iii) communicate decisions; and
13 (iv) represent their interests.

14 **22D Bail assessment—relevant factors for children**

15 (1) In considering the matters in section 22 in relation to a child for an
16 offence, the court or authorised officer must consider the following:

- 17 (a) the principles in the *Children and Young People Act 2008*,
18 section 94 (Youth justice principles);
- 19 (b) if the decision is being made by a court and a report has been
20 given to the court under the *Court Procedures Act 2004*,
21 section 74D (Court may order report about young person) in
22 relation to the child—the report;
- 23 (c) the child’s age, maturity and developmental capacity at the time
24 of the offence;
- 25 (d) the need to impose only the least onerous necessary bail
26 conditions in the circumstances;

-
- 1 (e) the importance of preserving and strengthening the child's
2 relationships with the following:
- 3 (i) the child's parents, guardians and carers;
- 4 (ii) any other person who is significant to the child;
- 5 (f) the importance of supporting the child to live in safe, stable and
6 secure living arrangements in the community;
- 7 (g) whether the child is receiving, or is likely to receive, therapeutic
8 support services;
- 9 (h) the need to support the child's education, training or lawful
10 employment without unnecessary interruption;
- 11 (i) the need to reduce the stigma associated with being remanded in
12 custody;
- 13 (j) the need to manage and reduce the effects of custody on
14 children, including—
- 15 (i) a higher likelihood of future involvement with the criminal
16 justice system; and
- 17 (ii) a higher likelihood of harm;
- 18 (k) if the child is found guilty of the offence—
- 19 (i) the likelihood that the child will be sentenced to a term of
20 imprisonment; and
- 21 (ii) the likely length of that sentence;
- 22 (l) the ongoing effect of any of the following that apply to the child:
- 23 (i) a health condition;
- 24 (ii) a disability;
- 25 (iii) trauma, abuse, neglect, loss or family violence;
- 26 (iv) being dealt with under a child welfare law.

- 1 (2) In considering the matters mentioned in subsection (1), proof is not
2 required to establish that the following are in the best interests of a
3 child:
- 4 (a) avoidance, when not necessary in the circumstances, of custody
5 or onerous bail conditions;
- 6 (b) preservation and strengthening of supportive relationships
7 between the child and any of the following:
- 8 (i) the child’s parents, guardians and carers;
- 9 (ii) people who are significant to the child;
- 10 (c) safe, stable and secure living arrangements in the community;
- 11 (d) continuation of education, vocational training or lawful
12 employment;
- 13 (e) avoidance of stigma associated with being remanded in custody.

14 **23 Bail assessment—relevant factors for pregnant people**
15 **etc**

- 16 In considering the matters in section 22 in relation to a pregnant
17 person for an offence, the court or authorised officer must consider
18 the following:
- 19 (a) the likely effect of custody on the person;
- 20 (b) the likely effect of custody on the unborn child after they are
21 born;
- 22 (c) the likely effect of complying with bail conditions on the person.

- 1 **23A Victim's concern about need for protection etc**
- 2 (1) If a court or authorised officer is considering whether to grant bail to
- 3 an accused person—
- 4 (a) a victim may express concern about the need for protection from
- 5 violence or harassment by the accused person to a relevant
- 6 justice agency; and
- 7 (b) a primary victim may give any other information about the
- 8 accused person to a relevant justice agency.
- 9 (2) If a court is considering whether to grant bail to an accused person—
- 10 (a) the prosecutor—
- 11 (i) if aware that the victim has expressed a concern about a
- 12 need for the victim's protection—may make a submission
- 13 to the court about the concern; but
- 14 (ii) if aware that the victim has expressed that the court should
- 15 be informed about the concern—must make the
- 16 submission; and
- 17 (b) the prosecutor may make any further submission about
- 18 information they are aware was given under subsection (1) (b)
- 19 that relates to a matter in section 22; and
- 20 (c) the court must receive any submission and—
- 21 (i) in relation to a concern about the need for protection—
- 22 consider the submission in the context of the matter
- 23 mentioned in section 22 (1) (b) or (2) (c); or
- 24 (ii) in relation to information given under subsection (1) (b)—
- 25 consider the submission in the context of section 22.

- 1 (3) If an authorised officer is considering whether to grant bail to an
2 accused person and is aware of a concern expressed or information
3 given under subsection (1), the officer must—
- 4 (a) for a concern about the need for protection—consider the
5 concern in the context of the matters mentioned in section 9F
6 (Family violence offence—bail by authorised officer) and
7 section 22 (1) (b) or (2) (c); or
- 8 (b) for information given under subsection (1) (b)—consider the
9 information in the context of section 9F and section 22.
- 10 (4) A victim representative may represent a primary victim’s concerns or
11 give information for them to a relevant justice agency under this
12 section.
- 13 (5) In this section:
- 14 *personal violence*—see the *Personal Violence Act 2016*, section 8.
15 *relevant justice agency* means either of the following:
- 16 (a) the chief police officer;
17 (b) the director of public prosecutions.
- 18 *violence or harassment* includes—
- 19 (a) family violence; and
20 (b) personal violence; and
21 (c) violence against, or harassment of, a victim’s family members
22 or pets.

23 **11 Section 28 heading**

24 *substitute*

25 **28 Bail undertakings**

- 1 **12 Right of review of bail decisions—prosecution**
2 **Section 44 (6), definition of *family violence offence***
- 3 *omit*
- 4 **13 Notice to victim of bail decisions**
5 **Section 47A (2)**
- 6 *omit*
- 7 a police officer assigned to liaise with victims of crime
- 8 *substitute*
- 9 a police officer or staff member of the Australian Federal Police
10 whose functions include victim liaison
- 11 **14 Section 47A (3)**
- 12 *omit*
- 13 (or, if the victim is a child, a person who has parental responsibility
14 for the child)
- 15 *substitute*
- 16 or victim representative
- 17 **15 Dictionary, definition of *applicable bail criteria*,**
18 **paragraphs (c) and (d)**
- 19 *substitute*
- 20 (c) section 22 (Bail decision—core matters).
- 21 **16 Dictionary, new definitions**
- 22 *insert*
- 23 ***bail undertaking*** means an undertaking under section 28 (1).
- 24 ***child welfare law***, for part 4 (Grant of bail)—see the *Children and*
25 *Young People Act 2008*, section 640.

1 *disability*, for part 4 (Grant of bail)—see section 12A.

2 *family violence*, for part 4 (Grant of bail)—see the *Family Violence*
3 *Act 2016*, section 8.

4 **17 Dictionary, definition of *grant***

5 *omit*

6 section 22 (Criteria for granting bail to adults) or section 23 (Criteria
7 for granting bail to children)

8 *substitute*

9 section 22 (Bail decision—core matters)

10 **18 Dictionary, new definitions**

11 *insert*

12 *harm* includes—

13 (a) physical injury; and

14 (b) mental injury or emotional suffering (including grief); and

15 (c) pregnancy; and

16 (d) economic loss; and

17 (e) substantial impairment of a person’s legal rights.

18 *health condition*, for part 4 (Grant of bail)—see section 12A.

19 *legally incompetent person* means an adult who is subject to—

20 (a) an enduring power of attorney that has become operative; or

21 (b) a guardianship order.

1 ***primary victim***—

2 (a) means a person who suffers harm because of an offence
3 committed by an accused person and includes a person who
4 suffers harm—

5 (i) in the course of, or as a result of, the commission of the
6 offence; or

7 (ii) as a result of witnessing the offence; or

8 (iii) in the course of assisting a police officer in the exercise of
9 the officer's power to arrest the accused person or to take
10 action to prevent the commission of the offence; but

11 (b) does not include the accused person.

12 **19 Dictionary, definition of *undertaking to appear***

13 *omit*

14 **20 Dictionary, definition of *victim***

15 *substitute*

16 ***victim***, of an offence by an accused person—

17 (a) means—

18 (i) a primary victim; or

19 (ii) a family member, of the primary victim, who suffers harm
20 because of the harm to the primary victim; or

21 (iii) a person who is financially or psychologically dependent
22 on the primary victim, and who suffers harm because of
23 the harm to the primary victim; or

24 (iv) if a primary victim dies because of the commission of the
25 offence—

26 (A) a close family member of the primary victim; or

- 1 (B) a carer of the primary victim; or
2 (C) a person with an intimate personal relationship with
3 the primary victim; or
4 (D) a person who was financially or psychologically
5 dependent on the primary victim immediately before
6 their death; or
7 (v) a person with parental responsibility for a person
8 mentioned in subparagraphs (i) to (iv); or
9 (vi) if a person mentioned in subparagraphs (i) to (iv) is a
10 legally incompetent person—
11 (A) a legally appointed guardian for the person; or
12 (B) an attorney, appointed under an enduring power of
13 attorney that has become operative, for the legally
14 incompetent person; but
15 (b) does not include the accused person.

16 **21 Dictionary, new definition of *victim representative***

17 *insert*

18 *victim representative* means—

- 19 (a) a person with parental responsibility for a victim; or
20 (b) for a victim who is a legally incompetent person—
21 (i) a legally appointed guardian for the person; or
22 (ii) an attorney, appointed under an enduring power of
23 attorney that has become operative, for the legally
24 incompetent person; or

(c) a person nominated, in writing, by a primary victim to do 1 or more of the following:

(i) represent the primary victim's concern about the need for protection under section 23A (1) (a);

(ii) give information for the primary victim under section 23A (1) (b);

(iii) be told information for the primary victim under section 47A (3).

22 Further amendments, mentions of *an undertaking to appear* etc

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
1	section 6	an undertaking to appear	a bail undertaking
2	section 8	an undertaking to appear	a bail undertaking
3	section 9	an undertaking to appear	a bail undertaking
4	section 9F	an undertaking	a bail undertaking
5	section 13	an undertaking	a bail undertaking
6	section 15	an undertaking	a bail undertaking
7	section 19A (2) (b), examples	(Undertakings to appear)	(Bail undertakings)
8	section 21	undertaking to appear	bail undertaking
9	part 5 heading	undertakings to appear	bail undertakings

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
10	section 30 (1)	an undertaking to appear before a court under section 28 (1)	a bail undertaking
11	section 30 (6) (b)	undertaking to appear	bail undertaking
12	section 31	An undertaking to appear	A bail undertaking
13	section 32 (2) (1st mention)	undertaking	bail undertaking
14	section 33 (1)	an undertaking	a bail undertaking
15	section 33 (6) (1st mention)	undertaking to appear	bail undertaking
16	section 33 (7)	undertaking to appear	bail undertaking
17	section 36 (2)	an undertaking to appear	a bail undertaking
18	section 36 (6), definition of <i>court of appearance</i>	undertaking to appear	bail undertaking
19	section 37	undertaking	bail undertaking
20	section 45 (6) (a)	an undertaking to appear	a bail undertaking
21	section 45 (6)	the undertaking to appear	the bail undertaking
22	section 49	an undertaking	a bail undertaking

1 **Schedule 1** **Consequential amendments**

2 (see s 3)

3 **Part 1.1** **Family Violence Act 2016**

4 **[1.1] Schedule 1, table 1.2, new item 12**

5 *insert*

12	information given to an authorised officer under the <i>Bail Act 1992</i> , section 15 (1A) (Deciding of questions of bail by authorised officers) or to a court under that <i>Act</i> , section 19 (2A) (Court bail—general)
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6 **Part 1.2** **Victims of Crime Act 1994**

7 **[1.2] Section 17 (1), except note**

8 *substitute*

- 9 (1) If a court or an authorised officer is considering whether to grant bail
10 to, or is reviewing a bail decision for, an accused person, a relevant
11 justice agency must take all reasonable steps to ask a victim of the
12 accused person whether the victim has any concerns about the need
13 for protection from violence or harassment by the accused person.

14 **[1.3] Section 17 (2), new definitions**

15 *insert*

16 *family violence*—see the *Family Violence Act 2016*, section 8.

17 *personal violence*—see the *Personal Violence Act 2016*, section 8.

- 1 ***violence or harassment*** includes—
- 2 (a) family violence; and
- 3 (b) personal violence; and
- 4 (c) violence against, or harassment of, a victim’s family members
- 5 or pets.
-

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 6 May 2026.

2 Notification

Notified under the [Legislation Act](#) on 2026.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
