



Criminal Lawyers Association of the Northern Territory (CLANT)

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SUBMISSIONS ON THE YOUTH JUSTICE AND RELATED LEGISLATION AMENDMENT BILL 2019

CLANT is concerned that the Bill in its current form does not deliver on a number of recommendations¹ that should form part of this particular suite of reforms. Whilst acknowledging that there are some positive aspects to this draft Bill, some of the proposed amendments do not adequately encompass the purpose or scope forming the basis of particular recommendations.

We have had the benefit of reviewing the submissions produced by NAAJA dated 10 April 2019 and provided to the Scrutiny Committee. We respectfully adopt the rationale within their detailed analysis in supporting the following submissions:

1. The minimum age of criminal responsibility must be raised

The Assembly should defer passage of the Bill to enable the inclusion of provision of raising the minimum age of criminal responsibility to 12 years or more, or;

The Assembly should enable appropriate amendments to the Bill to ensure the safeguards of youth under the age of 12 who will be impacted by this Bill.

2. No child under 14 years should be sentenced to detention

The Assembly should defer passage of the Bill to enable the inclusion of provision(s) for the non-detention of youths under the age of 14 years.

3. Clause 13 must encompass a full repeal of the offence of breach of bail

The Assembly seek that the Bill is amended in order that the offence of section 37B is repealed for youth.

4. Clause 21 must not be watered down, and must limit the holding of a child in police custody to 4 hours only, thereafter an officer must charge and seek judges review or release the child

The Assembly should not pass this part of the Bill; or The Assembly should defer passage of the Bill to enable appropriate amendments to ensure the safeguards of youth who will be impacted by this Bill.

¹ Royal Commission into Child Protection and Detention Systems of the Northern Territory.

5. Clause 44 ‘prescribed offences’; the removal of offences against Part V and VI of The *Traffic Act*

The Assembly seek that the Bill is amended in order that traffic offences are not included as prescribed offences under 3A (g).

CLANT is otherwise supportive of the amendments proposed within the draft Bill.

We acknowledge that comments relating to clause 33 of the draft Bill regarding the form that a ‘Closed Court’ should take and the extent to which a media representative should be permitted to observe and report on proceedings have been agitated in the media, as have the broad powers that currently exist to close court proceedings to the public.

Reporting remains available in circumstances pursuant to rigorous restrictions of publication and identification of child offenders and participants within the proceedings. The ability of child offenders to participate in the proceedings and remain free from the possibility of stigmatisation and undue trauma remain paramount.

The community requires education and greater opportunities to understand the ‘youth justice space’ and in particular restorative justice practices. We hope this can yet be facilitated within the confines of the amendments proposed under clause 33.

Marty Aust
President
17 April 2019