

matters, except for those offences specified in section 7A.

Clause 11 of the bill inserts four matters into section 24(1)(b) of the *Bail Act*. Section 24(1)(b) relates to matters that are specific to the accused person and that an authorised officer or court can take into account when determining whether a grant of bail should occur. The four matters relate to cognitive impairment, mental impairment, youth and cultural background. A number of stakeholders noted that relevant matters were absent from section 24(1)(b) and should be included so the court or authorised officer can more fully assess considerations that are applicable to the accused person. Youth has been included to ensure there is as little conflict as possible between the *Bail Act* and *Youth Justice Act* regarding bail.

Clause 11(2) includes a note which states that section 24(1)(b)(iic) – cultural background, must be interpreted with reference to section 15AB(1)(b) of the *Crimes Act 1914 (Cth)*. The Commonwealth act precludes customary law and cultural practice being used in a prescribed manner for bail matters in the Northern Territory.

Clause 11(3) inserts a new section 24(3A) into the *Bail Act*. A number of stakeholders noted that the courts or authorised officers should give careful consideration to living arrangements when considering bail. This issue was of particular importance when the alleged offences occur within a domestic relationship and the complainant and/or witness is still residing in the family home. Section 24(3A) notes that when assessing the potential risks to other persons when considering bail undertaking, the authorised member or court must consider the previous, current or proposed living arrangements for both the alleged victim and the accused person, and whether the arrangements include living in an unnecessarily close proximity to each other.

Clause 13 amends section 32(2A)(a) by inserting the words 'or an offence to which section 7A applies'. Currently, a court must revoke bail where it is satisfied a breach of an undertaking of bail or condition of bail, has occurred and a person has been charged with a serious violence offence that attracted a presumption against bail.

Currently, the requirement to revoke bail where a breach is proven does not extend to all offences where there is an initial presumption against bail, but bail was nevertheless granted. Given the serious nature of the matters prescribed in section 7A, a proven breach of an undertaking or condition should result in an undertaking being revoked. The amendment ensures that a court must revoke bail where it finds a person has breached a condition of bail and the grant of bail

related to a serious violence offence 'or an offence to which section 7A applies'. A court still maintains the discretion to subsequently grant bail to a person under section 38(3). However, they must revoke the original undertaking if section 38(2A) is applicable.

The offences at sections 44 and 45 of the *Bail Act* have been redrafted to incorporate the criminal responsibility elements of Part IIAA of the *Criminal Code Act* and the maximum penalties have been amended so they are consistent with the current penalty policy.

Clause 17 contains the transitional provisions for this bill and they are relevant to the application of sections 7A, 8, 24, 38, 44 and 45 as amended by the bill.

Madam Speaker, I thank the large number of stakeholders and government agencies who took time and effort to provide detailed submissions concerning the structure of, and operation of, the *Bail Act*. I commend the bill to honourable members and table a copy of the explanatory statement.

Debate adjourned.

SUSPENSION OF STANDING ORDERS Take Two Bills Together

Mr GILES (Chief Minister): Mr Deputy Speaker, I move that so much of standing orders be suspended as would prevent the bills titled Port of Darwin Bill 2014 and Port Management Bill 2014 being presented and read a first time together and one motion being put in regard to, respectively, the second readings, the committees report stage and the third readings of the bill together, and that the bills be considered separately in the Committee of the Whole

Mr GUNNER (Fannie Bay): Mr Deputy Speaker, we were not given any advice around these bills being cognate. If the Chief Minister could explain why that needs to be done? There are reasons why we usually debate each bill separately.

Mr ELFERINK (Leader of Government Business): Mr Deputy Speaker, perhaps the oversight is mine. Nothing untoward is happening. These bills are intimately linked. To deal with them separately would make it very clunky. This is a standard cognating process that normally is conducted when bills are inextricably linked with each other. Even the titles of the two bills would suggest to you the quality of proximity between the two instruments.

Mr Gunner: I can accept the Attorney-General on face value. Obviously they both have the word