

NT Bar Association Media Release

Government fires the starting gun on another Law and Order Campaign

With an election only 3 months away, the NT Government appears to have fired the starting gun for yet another *Law and Order* campaign.

Without any prior notice, the NT Government yesterday announced it will urgently seek to amend the *Bail Act* to make it more difficult for some juveniles to obtain bail. There will be a presumption against bail for a child charged with an offence if that child has committed a serious property offence within the preceding 2 years.

If the child somehow manages to obtain bail, he or she will be forced to wear an electronic tracking device until the charge is heard despite not being tried or convicted, and despite having served their sentence for any previous offending.

This proposal flies in the face of the presumption of innocence and the fundamental principle that imprisonment of a child should be the last resort. Laws regarding criminal offending by young people have been carefully developed to take into account a range of factors, including that the human brain continues to develop until the individual is in their early 20s and that children have less ability to distinguish between right and wrong. Not only is the proposal unfair and unnecessary, it will not work in the long term. Studies actually suggest that denying bail to a child increases the likelihood that the individual will become an adult offender.

The proposed law is directed only at children. Adults facing charges with a similar history of offending are not going to be subject to this law.

The NT Bar Association is usually consulted in advance of most amendments. This radical proposal was announced via Facebook and then media release rather than via the usual channels. We have not been provided with a copy of the amending bill, the reasons behind the bill, nor any research suggesting the effectiveness of the proposal.

Both the *Bail Act* and the *Youth Justice Act* were amended only recently (amendments commenced on 1 May 2016) and there was no suggestion then that this current proposal was necessary.

The existing legislation allows both the Police and the Courts, when deciding to grant or deny bail, to consider the risk of future offending by the accused. This factor, and many other relevant factors, are best left to the Police and Courts to determine if bail is appropriate.

This media release can be attributed to Ben O'Loughlin, President NTBA, 0418603492.