

# MEDIA RELEASE

## BAIL REFORMS REQUIRE FURTHER CONSIDERATION

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The NSW Bar Association has significant concerns about the Bail and Other Legislation Amendment (Domestic Violence) Bill 2024, which was recently introduced into the NSW Parliament.

The NSW Bar Association shares the community's concerns as to the prevalence and effects of domestic violence and the need to address this complex problem. However, the nature, consequences and effectiveness of the proposed reforms should be carefully considered.

President of the NSW Bar Association, Dr Ruth Higgins SC, said that the NSW Bar Association supports the Bill's inclusion of a requirement for a bail authority to consider additional matters when assessing bail concerns. These matters include behaviour engaged in by the accused that may constitute domestic abuse and any available relevant views of the victim or family members in cases involving an alleged domestic violence offence against an intimate partner. These requirements ensure that bail authorities can appropriately assess the risks presented by an accused in cases involving domestic violence.

"The Bill's amendment to the *Surveillance Devices Act 2007* sensibly streamlines domestic violence related prosecutions under section 9 of the Act."

"However, other elements of the Bill are likely to result in incarceration without meaningfully addressing the risks that may arise in cases involving domestic violence. The proposed expansion of the Bail Act's show cause requirement to a 'serious domestic violence offence' when allegedly committed against an intimate partner will inevitably result in the lengthy incarceration of many accused persons who will be acquitted or have their matters withdrawn or not proven."

"The Bill appears to have been introduced without proper consideration of its impact upon the remand population, which is already at a historically high level."

"The latest statistics from the NSW Bureau of Crime Statistics and Research (BOCSAR) indicate that, in March 2024, the number of adults on remand was the highest on record. More adults were in custody for domestic violence offences in March 2024 than at any previous time and more than half were on remand. The number of Aboriginal adults on remand rose by 27.3% from December 2021 to December 2023. These reforms are likely to exacerbate the over-representation of Aboriginal people on remand."

"The substantial funds used to imprison those on remand could, in some circumstances, be better spent on crime prevention programs or support services. The NSW Government should consider expanding its \$230 million emergency package to support more prevention programs and initiatives."

“One way to reduce the amount of time accused persons spend on remand is to increase funding to NSW courts, which will reduce delays in the finalisation of criminal proceedings. This would also benefit witnesses and alleged victims.”

“If the accused meets both the new show cause requirement and the unacceptable risk test, the Bill inappropriately limits the discretion of the bail authority by introducing a presumption that electronic monitoring will be a condition of bail. The NSW Government has proposed this electronic monitoring amendment without knowing how it will be implemented and without the necessary infrastructure.”

“Electronic monitoring measures must be properly funded and consistently supplied by the NSW Government across the state. Further, the use and retention of any information obtained from electronic monitoring should be restricted to ensuring compliance with bail conditions.”

“Despite the inclusion of some positive proposals, it is clear that the NSW Government is again rushing reforms without the benefit of considered advice, including from the very reviews it initiated following the tragic death of Molly Ticehurst,” Dr Higgins said.

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