

2026

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

CRIMES (ANTI-CONSORTING) AMENDMENT BILL 2026

EXPLANATORY STATEMENT

Presented by

**Mark Parton MLA
Leader of the Opposition**

CRIMES (ANTI-CONSORTING) AMENDMENT BILL 2026

This explanatory statement relates to the Crimes (Anti-Consorting) Amendment Bill 2026 (the Bill) as presented to the Legislative Assembly. It has been prepared to assist the reader of the Bill to understand the policy rationale and the scope of the amendments and to help inform debate. It does not form part of the Bill and has not been endorsed by the Legislative Assembly. The Statement must be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Background

In 2009, NSW started a process of introducing anti-consorting legislation aimed at Outlaw Motorcycle Gang (OMCG) activity.

At that time, the Canberra Liberals warned that, without similar legislation in the ACT, the disparity would create a situation which would attract OMCG members and see an increase in associated criminal activity.

That is precisely what has occurred. Where there was once a single OMCG operating in the ACT, there are now at least five, with the then ACT Chief Police Officer (CPO) raising concerns about their presence in annual report hearings in 2023, and the current ACT CPO again raising concerns in 2026.

In recent months, ACT police have expressed concern about the tendency of OMCGs to adapt their strategies to avoid breaching changing laws, noting that OMCG members are increasingly meeting in public areas, without wearing their OMCG colours.

OMCGs have been assessed as the largest and most serious, organised crime element impacting the country, with access to onshore and offshore networks, and they play a major role in the trafficking and storage of illicit drugs and firearms.

The five OMCGs currently in the ACT are the Bandidos, the Comancheros, the Rebels, the Finks and Hell's Angels.

ACT Policing have indicated that gangs tend to attract people who have a high propensity to violence and that Australia had generally seen an increase in offending involving OMCGs.

Preventing violence associated with the presence of outlaw motorcycle gangs has been a major focus for ACT policing in recent years. In 2023, the then CPO explained that the ACT was attractive to organised criminal syndicates because of its proximity to Sydney and Melbourne, as well as its difference in OMCG and drug laws.

In September 2026, the CPO further indicated express support for anti-consorting legislation in the ACT, stating:

"We support that legislation."

"We've seen the benefits of it in other jurisdictions where it has an ability to disrupt associations, or certainly overt associations, and the ability for these people to gather."

Canberra remains an oasis for OMCG activity due to the differences in the laws between the two jurisdictions.

Overview of the legislation

The *Crimes (Anti-Consorting) Amendment Bill 2026* (the Bill) responds to community concerns and seeks to prevent certain ‘habitual’ consorting between defined persons.

The amendments will:

- Only affect consorting with persons already convicted of criminal behavior;
- Only apply once an official warning has been issued;
- Only apply outside of legitimate purposes; and
- Only apply for a limited time.

Once an official warning is received, it will be an offence to consort, by any means, with the convicted offender. The intention is to prevent and de-escalate the acts of violence and retribution currently being seen in the community, and to ensure the community can enjoy peace and freedom from violence and intimidating conduct.

The Bill seeks to protect the public’s rights, particularly the right to life, liberty and security of person. It has strict limitations and specific exclusions.

Human rights

The Bill’s consistency with the Human Rights Act 2004 (ACT) is considered in detail below.

The Bill takes steps to preserve fundamental human rights which are foundational to the ability of members of the community to live peacefully and safely participate in community life. The measures contemplated by the Bill preserve the right to life (Section 9), the right to protection from torture and cruel, inhuman or degrading treatment (Section 10) and the right to liberty and security of person (Section 18).

The Bill also imposes narrow limitations on other rights, discussed further below in detail. These limitations are narrow in scope and are reasonable and demonstrably justified, consistent with the requirements of section 28 of the HRA.

The Bill is designed to protect members of the community in a manner that limits rights of some individuals to the minimum extent possible to achieve its purpose.

The human rights limitations largely arise from the Bill providing that, once warned, certain people will be unable to ‘habitually consort’ with identified criminal individuals. The Bill only limits behaviour that amounts to habitual consorting, which is actively and repeatedly seeking out convicted criminal offenders of whom one has been warned to avoid.

The extent of the limitations created by the Bill are narrow, because this measure relates to specific people, who must have an existing criminal record, and other identified persons who are given an official warning before any offence is committed. It does not interfere with a person’s right to associate with any other people for any other reasons.

The Bill does not apply to young persons under the age of 14, and there is an automatic time limit on official warnings. There is also a wide list of exceptions.

As defined in the Bill, this will mean a person must meet with at least two identified convicted criminals (whether together or separately), on at least two different occasions, after being given an official warning in relation to each of those offenders, and in a way that has not been listed as a legitimate form of contact.

The list of exceptions is extensive, and includes consorting that occurs in the following situations, where it is reasonable in the circumstances:

- With family members;
- In the course of lawful employment or the lawful operation of a business;
- In the course of training or education;
- In the course of providing a health service or welfare service;
- In the course of providing legal advice;
- In lawful custody;
- In the course of complying with an order of the sentence administration board or a direction or recommendation of a corrections officer.

For the exception to apply, the contact needs to be, in the view of the court ‘reasonable in the circumstances.’

“Health service” and “welfare service” have each been defined broadly to include a wide range of situations relating to accessing important services, including inter alia, services relating to housing, rental assistance, financial assistance, rehabilitation, counselling and drug and alcohol services.

The Bill also carefully considers circumstances related to Aboriginal and Torres Strait Islander people.

In addition, the new provisions will be subject to a review by the ACT Ombudsman as soon as practicable after two years of the new provisions taking effect.

The framing of the Bill recognises that NSW, a jurisdiction which completely surrounds the ACT, has very similar laws in place which were re-affirmed with multipartisan support late in 2018.

It is the disparity in protections between the jurisdictions that has caused the attraction of more criminal gangs to the ACT and the escalation in violence. It follows that nothing less than parity with NSW will address this problem to dismantle any outstanding incentives for consorting in the jurisdiction of the ACT. It is for this reason that the precise framing of the Bill and relevant thresholds imposed by it, must closely mimic the NSW provisions.

In light of this reality, to the extent that less restrictive means of achieving the Bill’s objectives may be proposed, if the Bill applies higher thresholds relative to the equivalent NSW legislation, this carries a real potential to heavily undermine the Bill’s capacity to achieve its

objectives, and may render it ineffective. If the ACT's anti-consorting provisions are not capable of being utilized unless higher thresholds are met, relative to the surrounding jurisdiction, the Bill's capacity to prevent violent behaviour and crime, particularly in connection to OMCGs, will be unreasonably impaired. Therefore, less restrictive means of achieving the Bill's purposes are not reasonably available.

There have been calls for nationally consistent laws to deal with organised criminal gang activity for some time. However, in the absence of those laws, the very minimum standard that will be effective in achieving the stated purpose of community safety is to mimic as closely as possible the laws in NSW.

Rights Limited

The rights which are principally affected by the Bill include the right to freedom of association, the right to freedom of expression, the right to equality and non-discrimination, and the right to freedom of movement.

The right to privacy and reputation, the right to protection of the family and children and rights in criminal proceedings (specifically, the presumption of innocence) are incidentally impacted by the Bill.

Section 15 – Right to freedom of association/peaceful assembly

1. Nature of the right and the limitation – Sections 28(2) (a) and (c) Human Rights ACT

Section 15 protects the rights of peaceful assembly and freedom of association.

The Bill prevents a person from habitually consorting with a convicted offender, after being issued with an official warning by a police officer. This may limit the right to freedom of association for a person who is issued with an official warning.

2. Legitimate purpose – Section 28(2)(b) Human Rights ACT

The purpose of the limitation is to provide protection and security for all members of the community, by preventing and de-escalating violent behaviour and crime, particularly in connection to OMCG activity.

The limitation is intended to ensure that any person can exist safely in their homes, streets or businesses, and not be subject to random, violent attacks, or be 'caught in the crossfire'.

The importance of improving baseline community safety levels by preventing crime and curbing violent behavior, is foundational to the ability of ordinary members of the community to safely live, work and exist within the Australian Capital Territory.

Without adequately protecting the community and the fundamental rights referred to above (the right to life, the right to protection from torture, cruel, inhumane and degrading treatment and the right to liberty and security of person, the community's ability to enjoy the full spectrum of human rights promoted under the Human Rights Act 2004 (ACT) is significantly impaired.

These are rights that our society recognise as a fundamental benefit of living in Australia and

being governed by a system where law and order prevails.

At least two attacks involved children, including one in which children were in a home that was subject to firearm and arson attacks. Others involved people in neighboring properties narrowly avoiding bullet strikes in their homes.

Local media reporting in 2026, indicates that six shootings investigated this year in the ACT are believed to have ties to OMCGs.

It is a vital and fundamental responsibility of government to protect the safety of citizens. It is also a fundamental responsibility to prevent crimes and violent behaviour where possible. The purpose of this limitation is to achieve those ends.

3. Rational connection – Section 28(2)(d) Human Rights Act

With the evidence of increasingly frequent and serious criminal violence, all linked by a common core element of association, there is a clear link between the limitation and its purpose.

By enabling police to restrict the ability of a person to habitually consort with at least two convicted offenders for a set period, police have an avenue through which they can reduce the risk of serious criminal activity and violence.

4. Less restrictive means/Proportionality – Section 28(2)(1), s28(2)(c) and (e) Human Rights Act

Everyone has the right to feel safe in their community and it is reasonable and proportionate for the community to take measures to ensure that right is protected. The limitation on the right to freely associate is narrow in scope and confined to particular circumstances, which are only enlivened if a person habitually consorts with convicted offenders after having been given a time-bound official warning by a police officer.

The limitation is only engaged after a series of threshold requirements have been met:

- the person must be 14 years or older; and
- must consort with at least two convicted offenders (whether together or separately); and
- must consort with each convicted offender on at least 2 occasions; and
- The consorting must not fall within one of the numerous exempted circumstance categories.

The Bill explicitly defines the length of time that official warnings will be in effect for, being 2 years for persons over the age of 18 and 6 months for young people under the age of 18.

Therefore, while the right to freedom of association is capable of being burdened by the Bill, the limitation is only engaged after a series of threshold requirements have been met before the right can be limited in any way and the limitation on the right can only be in effect for a defined period.

Balanced against the need to prevent serious violence and crime in the community, the narrow

limitation on the right is reasonable, justified and proportionate.

Section 16 – Right to freedom of expression

1. Nature of the right and the limitation – Sections 28(2)(a) and (c) Human Rights Act

Section 16 of the HRA recognises that everyone has the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds.

The Bill may limit the right to freedom of expression, because it enables police officers to issue warnings which prohibit a person from consorting with convicted offenders in person or by any other means, including by electronic or other forms of communication.

2. Legitimate purpose - Section 28(2)(b) Human Rights Act

The purpose of the limitation is to protect the community from violence and crime, particularly in connection to OMCG activity, by limiting, in appropriate circumstances, the ability of individuals to consort with convicted offenders.

The Bill extends the coverage of official warnings to consorting that occurs in-person, electronically or via other forms of communication, to ensure that the Bill can operate as intended and that its broader legislative intent is not undermined by electronic and other creative means of consorting.

3. Rational connection – Section 28(2)(d) Human Rights Act

The broader objective of the Bill and the purpose of the limitation cannot be achieved without necessarily limiting the right to freedom of expression.

Where appropriate, preventing individuals from communicating with specified convicted offenders, for a defined period of time, is an important means of preventing serious violence and crime amongst the community, particularly in connection to OMCG activity.

4. Proportionality – Section 28(2)(e) Human Rights Act

As discussed above, the limitation is only engaged after a series of threshold requirements have been met, and the limitation is not an indefinite limitation on free expression. Official warnings which may burden free expression are only in effect for 6 months for people under the age of 18 and 2 years for adults.

A wide spectrum of circumstances are to be disregarded for the purpose of determining whether a person has committed an offence, where the habitual consorting is reasonable in the circumstances.

This exception protects a wide array of communications, including communications with family members and communications which take place in the context of employment, education and training and when obtaining legal advice. The exception also protects communications occurring while in lawful custody or in the course of complying with orders and directions of the sentence administration board and corrections officers. Communications which take place while accessing health and welfare services are also protected by the exception.

Therefore, the limitation on freedom of expression is narrow in scope because it will only be engaged in very specific circumstances. This limitation is reasonable and proportionate when balanced against the wide variety of exempted circumstances.

Section 8 – Recognition and equality before the law

1. Nature of the right and the limitation – Section 28(2)(a) and (c) Human Rights Act

Section 8 of the HRA recognises that everyone is equal before the law and has the right to enjoy their human rights without distinction or discrimination of any kind.

The Bill is capable of limiting the right to equality and non-discrimination, by enabling police officers to issue official warnings which prevent certain members of the community from associating with specified convicted offenders. Therefore, the Bill may burden the right to equality for persons who receive official warnings and for the relevant convicted offenders.

2. Legitimate purpose - Section 28(2)(b) Human Rights Act

The legitimate purpose of the limitation is to protect public safety by preventing violence and crime arising in connection to harmful consorting with individuals who have a record of committing indictable offences.

3. Rational connection between the limitation and its purpose – Section 28(2)(d) Human Rights Act

There is a rational connection between the limitation and its purpose. Noting that the Bill seeks to address increasing violent incidents and serious crime in the community, and particularly in connection to OMCG activity, the limitation reasonably and appropriately targets consorting with individuals who have a record of committing indictable offences and recognises the connection between OMCGs and serious crime.

4. Proportionality – Section 28(2)(e) Human Rights Act

The Bill's limiting of the right to equality is necessary to ensure the Bill achieves its reasonable objectives, while remaining appropriately narrow in application.

The right to equality is only limited in narrow circumstances, after prescribed procedural steps are followed; that is, only after a police officer issues an official warning in the terms set out in the Bill.

To appropriately balance the limitation, a wide range of exempted circumstances preserve the right to equality in most ordinary circumstances of day-to-day life, including in relation to family members, education and employment, and access to key health and welfare services, such as housing and financial assistance services.

Section 13 – Right to freedom of movement

1. Nature of the right and the limitation – Sections 28(2)(a) and (c) Human Rights Act

Section 13 of the HRA recognises the right of all people to move freely within the ACT.

By restricting a person's ability to consort with convicted offenders, the recipient of an official warning may not be able to move entirely freely, without restriction, in avoiding the company of

the convicted offenders who are the subject of an official warning.

This right is not heavily or automatically burdened by the Bill. The right is only limited in a narrow set of circumstances, when an official warning is issued and to the extent that the relevant convicted offenders occupy the same location as the recipient of an official warning.

2. Legitimate purpose – Sections 28(2)(b) Human Rights Act

The legitimate purpose of the limitation is to protect the community from violence and serious crime by restricting the ability of certain individuals to consort in-person with convicted offenders, where an official warning has been issued.

3. Rational connection between the limitation and its purpose – Section 28(2)(d) Human Rights Act

The limitation on the right is necessary to prevent harmful consorting that may occur in-person, between recipients of an official warning and the relevant convicted offenders.

4. Proportionality – Section 28(2)(e) Human Rights Act

This right will only be limited in a narrow set of circumstances and for the specified period of time during which the official notice is in operation.

Again, the Bill accounts for a series of reasonably, personally significant circumstances wherein this right should not be limited, appropriately balancing the narrow limitation of the right, against the familial, social, employment, educational, health and welfare needs of those subject to the limitation.

Section 12 – Right to privacy and reputation

1. Nature of the right and the limitation – Section 28(2)(a) and (c) Human Rights Act

Section 12 recognises the right of all people in the ACT not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with, and the right not to have their reputation attacked.

The Bill is capable of incidentally limiting the right to privacy and reputation for convicted offenders who are listed in official warnings, by requiring police officers to name the convicted offenders in an official warning and so, reveal that they have committed an indictable offence.

However, this right is not significantly burdened, given that the official warning given by a police officer does not require the police officer to provide any details of the relevant offending; only that the named individual is a convicted offender.

2. Legitimate purpose – Section 28(2)(b) Human Rights Act

The legitimate purpose of the limitation is to protect the community from violence and serious crime, by enabling police officers to issue official warnings which prevent harmful habitual consorting with convicted offenders.

Specifically, the purpose of the limitation is to enable the issuing of official warnings, on which

the broader objectives of the Bill depend.

3. Rational connection – Section 28(2)(d) Human Rights Act

Limiting the privacy of convicted offenders by naming them in official warnings, is directly necessary to the effective operation of official warnings, which underpin the Bill's capacity to prevent violence and crime arising from harmful consorting.

4. Proportionality – Section 28(2)(e) Human Rights Act

The limitation is proportionate because official warnings do not require police officers to reveal further details relating to the offending, apart from identifying the relevant person as a convicted offender. This information can only be revealed for the purpose of issuing an official warning.

A series of circumstances affecting convicted offenders' routine interactions and activities are expressly exempted from being subject to the offence provisions, where those interactions and activities are reasonable in the circumstances, further protecting offenders' privacy in the vast majority of their day-to-day interactions.

Section 11 – Right to protection of the family and children

1. Nature of the right and the limitation – Sections 28(2)(a) and (c)

Section 11 recognises the family as the natural and basic group unit of society and additionally recognises the right of a child to special protection under the law.

The Bill may limit the right to the protection of the family because consorting with family members must be reasonable in the circumstances to be exempt from the offence provision. However, this is only a narrow limitation, given the breadth of circumstances that will be captured by the low bar created by the reasonableness threshold.

The definition of "family member" is wide to bring within its scope extended family kin, in recognition of indigenous kinship systems that may be relevant to Aboriginal or Torres Strait Islander defendants.

The Bill does apply to young people who are 14 years old or older. Therefore, it may limit the rights of children protected in Section 11(2), because official warnings can be issued to young people who are 14 years old or older.

However, this right is not uniquely burdened by the Bill, given existing laws already contemplate situations where young people aged 14 or older may interact with police officers. Moreover, official warnings to young people can only be in operation for 6 months, compared to the 2 year timeframe applying to official warnings for adults. The Bill also expressly exempts habitual consorting with convicted offenders who are family members, where the consorting is reasonable in the circumstances, further narrowing the effect of the limitation on young people.

2. Legitimate purpose – Section 28(2)(b) Human Rights Act

The legitimate purpose of the limitation of the right protecting families, is to prevent violence

and serious crime from occurring in connection to habitual consorting with convicted offenders who may be family members, which is not reasonable in the circumstances.

The limitation on the right specially protecting children, reasonably enables police officers to issue official warnings to young people under the age of 18, who are aged 14 or older, to prevent habitual consorting with convicted offenders, for the purpose of preventing violence and crime within the community.

3. Rational connection – Section 28(2)(d)

The limitation on the right protecting families ensures that the exception in Section 85(1)(a)(i) is not relied upon to undermine the broader purpose of the Bill, by otherwise enabling harmful consorting with convicted family members, which gives rise to violence and crime in the community.

Young people aged 14 or older may be susceptible to involvement in crime and violence through habitual consorting with convicted offenders. Therefore, there is a reasonable rationale for applying the Bill to young people, by enabling police officers to issue official warnings to young people when appropriate.

4. Proportionality – Section 28(2)(e) Human Rights Act

The limitation on the protection of the family is a narrow limitation and proportionate to the important purpose it serves, which is to ensure that the broader purpose of the Bill is not unintentionally undermined in practice, by not properly qualifying the exception.

The limitation is narrow in that only habitual consorting with family members, which is not reasonable in the circumstances, will be captured by the offence provision.

The limitation on the protection of children is reasonable when taking into account the balancing considerations, including that official warnings to young people can only be in effect for 6 months. When balanced against the serious and important purpose of the limitation, which is to protect the community from violence and crime, particularly in connection to OMCG activity, the narrow limitation is reasonable and proportionate.

Section 22 – Rights in criminal proceedings

1. Nature of the right and the limitation – Sections 28(2)(a) and (c) Human Rights Act

Section 22 of the HRA recognises a series of rights in criminal proceedings, including the presumption of innocence.

The Bill may burden the presumption of innocence because the evidential burden in relation to the defence in Section 85, rests with the defendant.

2. Legitimate purpose – Section 28(2)(b) Human Rights Act

The legitimate purpose of the limitation is to protect the community from violence and crime, particularly in association with OMCG activity, by ensuring that the official warning scheme can operate effectively in practice.

3. Rational connection – Section 28(2)(d) Human Rights Act

There is a rational connection between the limitation and its purpose. By placing the evidential burden on defendants to establish that an exempt circumstance applies, police officers are not unreasonably impeded from issuing official warnings, but neither are a series of important exempt circumstances to be ignored for the purpose of determining whether a defendant is guilty of the offence provision.

4. Proportionality – Section 28(2)(e) Human Rights Act

The burden on the presumption of innocence is proportionate because it is balanced against a wide range of exception categories and a low-bar reasonableness threshold.

CLAUSE NOTES

Clause 1 Name of Act

This Act is the *Crimes (Anti-Consorting) Amendment Act 2026*.

Clause 2 Commencement

This Act commences on the day after its notification day.

Clause 3 Legislation Amended

This Act amends the *Crimes Act 1900*.

Clause 4 Offences against Act – application of Criminal Code etc

Section 7A, note 1, new bullet point, to insert ‘s 84 (Consorting).’

Clause 5 New Part 5A

Section 83 defines that ‘consort’, for the purposes of this part, means to ‘consort in person or by any means, including electronic or other forms of communication.’

Section 84 contains the elements of the offence. It holds that a person commits an offence only if they are 14 years or older, who then habitually consorts with convicted offenders after being given an official warning in relation to each of those offenders.

‘Habitually consort’ is defined in this section as consorting with at least two convicted offenders (whether together or separately), on at least two occasions. It also details when an official warning ceases to have effect, and various other definitions for this section.

Section 85 details certain consorting circumstances which are to be disregarded when applying s 84, provided the contact is, in the view of the court ‘reasonable in the circumstances.’ These circumstances include a series of legitimate forms of association, including amongst others, meeting family members, accessing health or welfare services including housing, employment, rental or financial services including rehabilitation, counselling and drug and alcohol welfare services.

It also specifically recognises that, for a defendant who is an Aboriginal or Torres Strait Islander, the exception includes contact with that person's extended family kin according to the indigenous kinship system of the defendant's culture.

Section 86 provides for a review of the operation of the new provisions introduced by this Act, by the Ombudsman as soon as practicable after the end of the 2nd year of operation.

Clause 6 Dictionary

This section includes the new definition of 'consort' for part 5A (Consorting).