

**Regulatory Systems (Courts)
Amendment Bill**

**Submissions on behalf of
The Law Association of New Zealand
by the
Criminal Law Committee**

INTRODUCTION

The Law Association of New Zealand (TLANZ) is an independent membership organisation for the New Zealand legal profession with more than 7,000 members. TLANZ maintains expert law committees that support legal review and policy advocacy on important issues.

The Criminal Law Committee (the Committee) of TLANZ appreciates the opportunity to submit comments on the Regulatory Systems (Courts) Amendment Bill.

SUBMISSIONS

1. The Bill proposes to amend ss 27 and 33 of the Bail Act 2000 (**Bail Act**), to remove a Registrar's ability to grant and vary bail on adjournments in family violence cases, the rationale being that Registrars do not have the skills, training and experience to balance the complex set of facts, patterns of behaviour, the dynamics of family violence and the safety of the victims.¹
2. The Committee agrees that the question of bail in family violence cases is fraught. However, it queries the practical utility of the proposed amendment:
 - a. Realistically, the only time a Registrar will have the power to grant or vary bail under ss 27 and 33 is upon the entry of plea on the Registrar's list, for cases where the defendant has been summoned to Court or granted Police bail. This, in our experience, is extremely rare – almost all defendants charged with family violence offences are arrested and make their first appearance in front of a Judge or Community Magistrate. This is even so where they have no previous criminal history. One committee member (Auckland-based) can recall a single example from years of practice, of a young defendant, who was granted Police bail due to the age of the allegations and the strong assurances from the defendant's parents.
 - b. Section 27 only allows the Registrar to grant bail if the prosecution agrees. In the Committee's experience, the Police tend to err on the conservative side on issues of bail in family violence cases. That is already a significant safeguard in place.
3. Should Parliament wish to pursue this amendment, there is a further drafting issue: s 27 refers to cases adjourned under s 168 of the CPA. Section 168 of the CPA allows the Registrar (subject to the Bail Act) to let the defendant go at large, or grant bail, or be remanded into custody.

¹ https://www.justice.govt.nz/assets/Documents/Publications/Proactive-release-20240715-CAB-Regulatory-Systems-Justice-Amendment-Bill_Final.pdf, at page 16.

Presumably if s 27 of the Bail Act is amended, for consistency s 168 should also be amended so a Registrar cannot let a defendant go at large in family violence cases.

CONCLUSION

We again thank you for the opportunity to make submissions in respect of Regulatory Systems (Courts) Amendment Bill.

We are available to discuss the submission if required. Should clarification be required with regards to any matters raised, please contact Gandhya Senanayake, the TLANZ Criminal Law Committee Executive at gandhya.senanayake@thelawassociation.nz.

ACKNOWLEDGMENTS

The Committee acknowledges the contributions to the submissions by the following member:
Tracey Hu

Ngā mihi

A handwritten signature in black ink, appearing to read 'Julie-Anne Kincade', written in a cursive style.

Julie-Anne Kincade KC
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The views represented in this submission are not necessarily representative of the views of all TLANZ members but are those of individual TLANZ members or TLANZ committees who have responded to the consultation.