

*I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.*

*Legislative Assembly Chamber,
Brisbane,*

The Clerk of the Parliament.

28 February 2023

In the name and on behalf of the King, I assent to this Bill.

Government House,

Brisbane, 28th February

2023.



Queensland

No. 1 of 2023

A BILL for

An Act to amend the Coroners Act 2003, the Criminal Code, the Domestic and Family Violence Protection Act 2012, the Evidence Act 1977, the Oaths Act 1867, the Penalties and Sentences Act 1992, the Public Guardian Act 2014, the Telecommunications Interception Act 2009, the Youth Justice Act 1992 and the legislation mentioned in schedule 1 for particular purposes



Queensland

Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2023

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2023

A Bill

for

An Act to amend the *Coroners Act 2003*, the Criminal Code, the *Domestic and Family Violence Protection Act 2012*, the *Evidence Act 1977*, the *Oaths Act 1867*, the *Penalties and Sentences Act 1992*, the *Public Guardian Act 2014*, the *Telecommunications Interception Act 2009*, the *Youth Justice Act 1992* and the legislation mentioned in schedule 1 for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023*.

2 Commencement

The following provisions of this Act commence on a day to be fixed by proclamation—

- (a) parts 3, 4, 7 and 9;
- (b) part 5, other than sections 57, 58 and 69;
- (c) schedule 1, part 2.

Part 2 Amendment of Coroners Act 2003

3 Act amended

This part amends the *Coroners Act 2003*.

4 Amendment of s 70 (Appointment of State Coroner)

- (1) Section 70(2)—

omit, insert—

- (2) The appointment as the State Coroner is for the term stated in the instrument of appointment.
- (2A) The stated term must not be longer than 5 years.

(2B) A magistrate may be reappointed as the State Coroner.

(2) Section 70(2A) to (3)—
renumber as section 70(3) to (5).

5 Amendment of s 78 (Appointment of Deputy State Coroner)

Section 78(2)—

omit, insert—

- (2) The appointment as the Deputy State Coroner is for the term stated in the instrument of appointment.
- (3) The stated term must not be longer than 5 years.
- (4) A magistrate may be reappointed as the Deputy State Coroner.

6 Insertion of new pt 6, div 6

Part 6—

insert—

Division 6

**Transitional provision for
Domestic and Family
Violence Protection
(Combating Coercive
Control) and Other
Legislation Amendment
Act 2023**

**117 State Coroner and Deputy State Coroner
holding office before commencement**

- (1) This section applies to the appointments of the

persons who hold office as the State Coroner and the Deputy State Coroner immediately before the commencement.

- (2) Sections 70 and 78, as in force from the commencement, apply to the appointments.
- (3) Without limiting subsection (2), each person may be reappointed to the office regardless of—
 - (a) whether the person's term of appointment was renewed before the commencement; and
 - (b) the length of time the person held the office before the commencement.

Part 3 Amendment of Criminal Code

7 Code amended

This part amends the Criminal Code.

Note—

See also the amendments in schedule 1.

8 Amendment of s 1 (Definitions)

- (1) Section 1, definitions *carnal knowledge* and *detriment*—
omit.
- (2) Section 1—
insert—

circumstances, for chapter 33A, see section 359A.

detriment—

- (a) caused to a person, includes detriment caused to a person's property; and

(b) for chapter 33A, see section 359A.

engage, in penile intercourse, see section 6(2).

penile intercourse see section 6(1).

property, of a person, for chapter 33A, see section 359A.

stalked person, for chapter 33A, see section 359B(a).

unlawful stalking, intimidation, harassment or abuse, for chapter 33A, see sections 359B and 359D.

9 Replacement of s 6 (Carnal knowledge)

Section 6—

omit, insert—

6 Meaning of *engage* in *penile intercourse*

- (1) *Penile intercourse* is the penetration, to any extent, of the vagina, vulva or anus of a person by the penis of another person.
- (2) A person *engages* in penile intercourse with another person if—
 - (a) the person penetrates, to any extent, the vagina, vulva or anus of another person with the person's penis; or
 - (b) the person's vagina, vulva or anus is penetrated, to any extent, by the penis of another person.

10 Amendment of s 211 (Bestiality)

- (1) Section 211, 'has carnal knowledge with or of'—

omit, insert—

engages in penile intercourse with

[s 11]

(2) Section 211—

insert—

- (2) For subsection (1), the definitions *penile intercourse* and *engages* in penile intercourse with another person in section 6 apply as if a reference in that section to another person were a reference to the animal mentioned in subsection (1).

11 Amendment of s 215 (Carnal knowledge with or of children under 16)

- (1) Section 215, heading ‘Carnal knowledge with or of children’—

omit, insert—

Engaging in penile intercourse with child

- (2) Section 215(1), ‘has or attempts to have unlawful carnal knowledge with or of’—

omit, insert—

engages or attempts to engage in unlawful penile intercourse with

- (3) Section 215(3) and (4), ‘have unlawful carnal knowledge’—

omit, insert—

engage in unlawful penile intercourse

12 Amendment of s 216 (Abuse of persons with an impairment of the mind)

- (1) Section 216(1), ‘has or attempts to have unlawful carnal knowledge with or of’—

omit, insert—

engages or attempts to engage in unlawful penile intercourse with

- (2) Section 216(3)(a), ‘having unlawful carnal knowledge’—

omit, insert—

engaging in unlawful penile intercourse

- (3) Section 216(3)(b), ‘have unlawful carnal knowledge’—

omit, insert—

engage in unlawful penile intercourse

13 Amendment of s 217 (Procuring young person etc. for carnal knowledge)

- (1) Section 217, heading, ‘carnal knowledge’—

omit, insert—

penile intercourse

- (2) Section 217(1), ‘carnal knowledge’—

omit, insert—

penile intercourse

14 Amendment of s 221 (Conspiracy to defile)

- (1) Section 221, ‘induce any person’—

omit, insert—

induce a third person

- (2) Section 221, ‘have unlawful carnal knowledge with or of him or her’—

omit, insert—

engage in unlawful penile intercourse with the third person

15 Amendment of s 222 (Incest)

- (1) Section 222(1)(a), ‘has carnal knowledge with or of’—

omit, insert—

engages in penile intercourse with

- (2) Section 222(3), (4) and (8), ‘carnal knowledge’—
omit, insert—
penile intercourse

16 Amendment of s 229B (Maintaining a sexual relationship with a child)

- (1) Section 229B, heading—
omit, insert—

229B Repeated sexual conduct with a child

- (2) Section 229B—
insert—

(9A) The heading of this section—

- (a) is not part of this section, despite the *Acts Interpretation Act 1954*, section 14; and
(b) is not intended to affect the interpretation or operation of this section.

Note—

Parliament, in amending the heading of this section by the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023* did not intend to change the nature or scope of this offence or the requirements for establishing an offence against this section.

17 Amendment of s 349 (Rape)

Section 349(2)(a), ‘has carnal knowledge with or of’—
omit, insert—

engages in penile intercourse with

18 Amendment of ch 33A, hdg (Unlawful stalking)

Chapter 33A, heading, after ‘stalking’—

insert—

, intimidation, harassment or abuse

19 Amendment of s 359B (What is unlawful stalking)

(1) Section 359B, heading—

omit, insert—

**359B What is *unlawful stalking, intimidation,
harassment or abuse***

(2) Section 359B, ‘*Unlawful stalking*’—

omit, insert—

***Unlawful stalking, intimidation, harassment or
abuse***

(3) Section 359B(c)(ii), from ‘by telephone’—

omit, insert—

using any technology and over any distance;

*Examples of ways of contacting a person, including using
technology—*

by telephone, mail, fax, SMS message, email, an app on
a computer, smart phone or other electronic device, or
an online social network

(4) Section 359B(c)—

insert—

(iia) monitoring, tracking or surveilling a
person’s movements, activities or
interpersonal associations without the
person’s consent, including, for example,
using technology;

Examples of monitoring, tracking or surveilling using technology—

- using a tracking device or drone to track a person's movements
- checking the recorded history in a person's digital device
- reading a person's SMS messages
- monitoring a person's email account or internet browser history
- monitoring a person's account with a social media platform or online social network

(iva) publishing offensive material on a website, social media platform or online social network in a way that will be found by, or brought to the attention of, a person;

(5) Section 359B(c)(v), after 'indirectly'—

insert—

, including by using a website, social media platform or online social network

(6) Section 359B(c)(vi), 'or threatening'—

omit, insert—

, threatening, humiliating or abusive

(7) Section 359B(c)(vi)—

insert—

Example—

publishing a person's personal information, including, for example, the person's home address or phone number, on a website

(8) Section 359B(c)(iiia) to (vii)—

renumber as section 359B(c)(iv) to (ix).

20 Amendment of s 359C (What is immaterial for unlawful stalking)

- (1) Section 359C, heading, after ‘unlawful stalking’—

insert—

, intimidation, harassment or abuse

- (2) Section 359C(1) and (4), after ‘unlawful stalking’—

insert—

, intimidation, harassment or abuse

21 Amendment of s 359D (Particular conduct that is not unlawful stalking)

- (1) Section 359D, heading, ‘unlawful stalking’—

omit, insert—

unlawful stalking, intimidation, harassment or abuse

- (2) Section 359D, ‘Unlawful stalking’—

omit, insert—

Unlawful stalking, intimidation, harassment or abuse

22 Amendment of s 359E (Punishment of unlawful stalking)

- (1) Section 359E, heading, after ‘unlawful stalking’—

insert—

, intimidation, harassment or abuse

- (2) Section 359E(1), after ‘unlawfully stalks’—

insert—

, intimidates, harasses or abuses

- (3) Section 359E(2), (3) and (4), after ‘unlawful stalking’—

insert—

, intimidation, harassment or abuse

- (4) Section 359E—

insert—

- (3A) Also, a person is liable to a maximum penalty of imprisonment for 7 years if a domestic relationship exists between the person and the stalked person.

- (5) Section 359E(4), ‘Also,’—

omit, insert—

Further,

- (6) Section 359E(3A) to (6)—

renumber as section 359E(4) to (7).

23 Amendment of s 359F (Court may restrain unlawful stalking)

- (1) Section 359F, heading, after ‘unlawful stalking’—

insert—

, intimidation, harassment or abuse

- (2) Section 359F(1) and (12), definition *charge*, after ‘unlawful stalking’—

insert—

, intimidation, harassment or abuse

- (3) Section 359F—

insert—

- (6A) A restraining order takes effect on the day it is made and continues in force until—

- (a) the day stated by the court in the restraining order; or
(b) if no day is stated, the day that is 5 years after the day the restraining order is made.

(6B) The court may order that a restraining order continues in force for a period of less than 5 years only if the court is satisfied that the safety of a person in relation to whom the restraining order is made is not compromised by the shorter period.

(4) Section 359F(8), penalty—

omit, insert—

Maximum penalty—120 penalty units or 3 years imprisonment.

(5) Section 359F—

insert—

(8A) However, if the person has been convicted of a domestic violence offence in the 5 years before the contravention, the person is guilty of a misdemeanour and is liable to a fine of 240 penalty units or imprisonment for 5 years.

(6) Section 359F(12)—

insert—

domestic violence offence includes an offence against the *Domestic and Family Violence Protection Act 2012*, part 7.

Note—

See also the definition of *domestic violence offence* in section 1.

(7) Section 359F(6A) to (12)—

renumber as section 359F(7) to (15).

24 Amendment of s 552B (Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial)

(1) Section 552B(1)—

insert—

- (ha) an offence against section 359F if the defendant is liable to the penalty mentioned in section 359F(11);
- (2) Section 552B(1)(l), (m) and (n), ‘(k)’—
omit, insert—
 - (l)
- (3) Section 552B(1)(ha) to (n)—
renumber as section 552B(1)(i) to (o).

25 Amendment of s 578 (Charge of offence of a sexual nature)

Section 578(2), ‘having unlawful carnal knowledge with or of’—

omit, insert—

engaging in unlawful penile intercourse with

26 Amendment of s 590AH (Disclosure that must always be made)

Section 590AH—

insert—

- (3) Also, for a relevant proceeding or a summary proceeding under the *Justices Act 1886* for an accused person who is charged with a domestic violence offence, the prosecution must give the accused person a copy of the person’s domestic violence history in the possession of the prosecution.
- (4) In this section—
domestic violence history, of a person, means a document that states—

- (a) each of the following, within the meaning of the *Domestic and Family Violence Protection Act 2012*—
 - (i) a domestic violence order or recognised interstate order made against the person;
 - (ii) a police protection notice issued against the person; and
- (b) each domestic violence order made against the person under the repealed *Domestic and Family Violence Protection Act 1989*.

domestic violence offence includes an offence against the *Domestic and Family Violence Protection Act 2012*, part 7.

Note—

See also the definition of *domestic violence offence* in section 1.

27 Amendment of s 590AP (Limit on disclosure of witness contact details)

Section 590AP(2), example 2, after ‘unlawful stalking’—
insert—

, intimidation, harassment or abuse

28 Insertion of new pt 9, ch 106

Part 9—
insert—

Chapter 106 Transitional provisions for Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023

756 Offences charged before or after the commencement

- (1) Despite the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023*, the former provisions continue to apply in relation to a person charged with an offence before the commencement.
- (2) The new provisions apply in relation to a person charged with an offence after the commencement, whether the charge is for an offence committed before or after the commencement.
- (3) In this section—
former provisions means the provisions of this Code as in force from time to time before the commencement.
new provisions means the provisions of this Code as in force from the commencement.

757 Conviction for domestic violence offence before commencement

- (1) This section applies if a person commits an offence against new section 359F(10) after the commencement and the penalty mentioned in new section 359F(11) applies to the person.

- (2) New section 359F(11) applies regardless of whether any of the acts constituting the domestic violence offence mentioned in new section 359F(11) were done before or after the commencement.
- (3) This section applies despite section 11(2) and the *Acts Interpretation Act 1954*, section 20C(3).
- (4) In this section—
new, in relation to section 359F or a subsection of section 359F, means section 359F or a subsection of section 359F as amended by the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023*.

Part 4 Amendment of Domestic and Family Violence Protection Act 2012

29 Act amended

This part amends the *Domestic and Family Violence Protection Act 2012*.

30 Amendment of s 4 (Principles for administering Act)

- (1) Section 4(2)(d), examples, third, fourth and fifth dot points—
omit, insert—
 - Aboriginal peoples and Torres Strait Islander peoples
 - people from a culturally or linguistically diverse background
 - people with disability
- (2) Section 4(2)(e), from ‘self-protection’—

omit, insert—

self-protection—

- (i) the person who is most in need of protection in the relationship should be identified; and
- (ii) only 1 domestic violence order protecting that person should be in force unless, in exceptional circumstances, there is clear evidence that each of the persons in the relationship is in need of protection from the other;

31 Amendment of s 8 (Meaning of *domestic violence*)

- (1) Section 8(1), after ‘behaviour’—

insert—

, or a pattern of behaviour,

- (2) Section 8—

insert—

- (1A) Behaviour, or a pattern of behaviour, mentioned in subsection (1)—

- (a) may occur over a period of time; and
- (b) may be more than 1 act, or a series of acts, that when considered cumulatively is abusive, threatening, coercive or causes fear in a way mentioned in that subsection; and
- (c) is to be considered in the context of the relationship between the first person and the second person as a whole.

- (3) Section 8(2), after ‘subsection (1)’—

insert—

or (2)

- (4) Section 8(2)(i), after ‘stalking’—

insert—

, intimidating, harassing or abusing

(5) Section 8(4), ‘subsection (2)’—

omit, insert—

subsection (3)

(6) Section 8(5), definition *unlawful stalking*—

omit, insert—

unlawful stalking, intimidation, harassment or abuse see the Criminal Code, sections 359B and 359D.

(7) Section 8(1A) to (5)—

renumber as section 8(2) to (6).

32 Amendment of s 11 (Meaning of *emotional or psychological abuse*)

Section 11, after ‘behaviour’—

insert—

, or a pattern of behaviour,

33 Amendment of s 12 (Meaning of *economic abuse*)

Section 12, after ‘means behaviour’—

insert—

, or a pattern of behaviour,

34 Insertion of new s 22A

After section 22—

insert—

22A Who is the *person most in need of protection* in a relevant relationship

- (1) A person (the *first person*), who is in a relevant relationship with another person (the *second person*), is the *person most in need of protection* in the relationship if, when the behaviour of each of the persons is considered in the context of their relationship as a whole—
 - (a) the behaviour of the second person towards the first person is, more likely than not—
 - (i) abusive, threatening or coercive; or
 - (ii) controlling or dominating of the first person and causing the first person to fear for the safety or wellbeing of the first person, a child of the first person, another person or an animal (including a pet); or
 - (b) the first person's behaviour towards the second person is, more likely than not—
 - (i) for the first person's self-protection or the protection of a child of the first person, another person or an animal (including a pet); or
 - (ii) in retaliation to the second person's behaviour towards the first person, a child of the first person, another person or an animal (including a pet); or
 - (iii) attributable to the cumulative effect of the second person's domestic violence towards the first person.
- (2) In deciding which person in a relevant relationship is the person most in need of protection, a court must consider—

-
- (a) the history of the relevant relationship, and of domestic violence, between the persons; and
 - (b) the nature and severity of the harm caused to each person by the behaviour of the other person; and
 - (c) the level of fear experienced by each person because of the behaviour of the other person; and
 - (d) which person has the capacity—
 - (i) to seriously harm the other person; or
 - (ii) to control or dominate the other person and cause the other person to fear for the safety or wellbeing of the first person, a child of the first person, another person or an animal (including a pet); and
 - (e) whether the persons have characteristics that may make them particularly vulnerable to domestic violence.

Examples of people who may be particularly vulnerable to domestic violence—

- women
- children
- Aboriginal peoples and Torres Strait Islander peoples
- people from a culturally or linguistically diverse background
- people with disability
- people who are lesbian, gay, bisexual, transgender or intersex
- elderly people

35 Insertion of new s 36A

After section 36—

insert—

36A Court must be given respondent's criminal history and domestic violence history

- (1) This section applies if—
 - (a) a police officer makes an application for a protection order; or
 - (b) the clerk of the court gives an application for a protection order to the officer in charge of a police station under section 33(2)(b); or
 - (c) a copy of a police protection notice issued by a police officer is filed in the court to be heard as an application for a protection order.
- (2) The police commissioner must ensure a copy of the respondent's criminal history and domestic violence history—
 - (a) is filed in the court—
 - (i) with an application or police protection notice mentioned in subsection (1)(a) or (c); or
 - (ii) before the date and time stated in the application for the first hearing of the application; or
 - (b) is given to the court when the application is first heard.
- (3) If the respondent does not have a criminal history or domestic violence history, the police commissioner must ensure the court is informed of that fact.

36 Amendment of s 37 (When court may make protection order)

- (1) Section 37(2)(a)—

insert—

- (iii) the respondent's criminal history and domestic violence history filed in or given to the court under section 36A; and

(2) Section 37—

insert—

- (5) This section applies subject to section 41G.

37 Amendment of s 41C (Hearing of applications—cross applications before same court)

(1) Section 41C(2)(a) and (b)—

omit, insert—

- (a) hear the applications together; and
- (b) in hearing the applications, consider—
 - (i) the principle mentioned in section 4(2)(e); and
 - (ii) whether it is necessary to make arrangements for the safety, protection or wellbeing of the person most in need of protection in the relevant relationship that exists between the persons who are the aggrieveds and respondents to the applications.

Note—

See, for example, sections 150 and 151 for the power of the court to make orders in relation to a person giving evidence or being cross-examined as a protected witness.

(2) Section 41C(3)—

omit.

(3) Section 41C(4)—

renumber as section 41C(3).

38 Amendment of s 41D (Hearing of applications—cross applications before different courts)

(1) Section 41D(3) and (4)—

omit, insert—

(3) If the court hears the applications, the court must consider—

(a) the principle mentioned in section 4(2)(e);
and

(b) whether it is necessary to make arrangements for the safety, protection or wellbeing of the person most in need of protection in the relevant relationship that exists between the persons who are the aggrieveds and respondents to the applications.

Note—

See, for example, sections 150 and 151 for the power of the court to make orders in relation to a person giving evidence or being cross-examined as a protected witness.

(2) Section 41D(5)—

renumber as section 41D(4).

39 Insertion of new s 41G

After section 41F—

insert—

41G Deciding cross applications

(1) This section applies to a court hearing the following applications together under section 41C, 41D or 41E—

(a) the original application and cross application;

- (b) the variation application and cross application.
- (2) The court must decide—
 - (a) which of the parties to the relevant relationship is the person most in need of protection in the relationship; and
 - (b) the application that makes, or varies, the protection order that is necessary or desirable to protect the person most in need of protection from domestic violence; and
 - (c) if the other application is an application for a protection order—to dismiss the other application; and
 - (d) if the other application is an application for the variation of a protection order—to vary the order by reducing its duration so that the order ends.
- (3) Despite subsection (2), the court may make, or vary, a protection order under both applications if the court is satisfied that, in exceptional circumstances—
 - (a) there is clear evidence that each of the parties to the relevant relationship is in need of protection from the other party; and
 - (b) it is not possible to decide whether 1 party's need for protection is greater than the other party's need for protection.
- (4) The relevant relationship mentioned in subsection (2) and (3) is the relevant relationship that exists between the persons who are the aggrieved and the respondent to—
 - (a) the original application and the cross application mentioned in section 41A(1); or

- (b) the first protection order and second protection order mentioned in section 41A(2); or
- (c) the original protection order and the cross application mentioned in section 41A(3).

40 Amendment of s 42 (When court on its own initiative can make or vary order against offender)

- (1) Section 42—

insert—

- (2A) Despite section 37(2)(a)(iii), in deciding whether to make a protection order under subsection (2), the court is not required to, but may, consider the offender’s criminal history and domestic violence history.

- (2) Section 42(4), ‘subsection (3)’—

omit, insert—

subsection (4)

- (3) Section 42(6), ‘subsection (5)(b)’—

omit, insert—

subsection (6)(b)

- (4) Section 42(2A) to (10)—

renumber as section 42(3) to (11).

41 Amendment of s 43 (When Childrens Court can make or vary order against parent of a child)

- (1) Section 43—

insert—

- (5A) Despite section 37(2)(a)(iii), in deciding whether to make a protection order under subsection (2) or vary a domestic violence order under subsection

(3), the court is not required to, but may, consider the parent's criminal history and domestic violence history.

(2) Section 43(7), 'subsection (6)(b)'—

omit, insert—

subsection (7)(b)

(3) Section 43(5A) to (10)—

renumber as section 43(6) to (11).

42 Amendment of s 45 (Matters court must be satisfied of)

Section 45—

insert—

(3) In deciding whether to make a temporary protection order, the court may consider the respondent's criminal history and domestic violence history if, in the court's opinion, it is relevant to do so.

43 Amendment of s 51 (Court may make domestic violence order by consent)

(1) Section 51, heading, after 'make'—

insert—

or vary

(2) Section 51(5)—

omit, insert—

(5) Before deciding whether to make or vary a domestic violence order under this section, the court may—

(a) conduct a hearing in relation to the particulars of the application if, in the

court's opinion, it is in the interests of justice to do so; and

- (b) consider the respondent's criminal history and domestic violence history if, in the court's opinion, it is relevant to do so.

Note—

The police commissioner is required to ensure a copy of the respondent's criminal history and domestic violence history is filed in or given to the court. See sections 36A and 90A.

44 Insertion of new s 90A

After section 90—

insert—

90A Court must be given respondent's criminal history and domestic violence history

- (1) This section applies if—
 - (a) the applicant for the variation of a domestic violence order is a police officer; or
 - (b) the clerk of the court gives an application for the variation of a domestic violence order to the officer in charge of a police station under section 87(2)(b).
- (2) The police commissioner must ensure a copy of the respondent's criminal history and domestic violence history—
 - (a) is filed in the court—
 - (i) with an application mentioned in subsection (1)(a); or
 - (ii) before the date and time stated in the application for the first hearing of the application; or

(b) is given to the court when the application is first heard.

(3) If the respondent does not have a criminal history or domestic violence history, the police commissioner must ensure the court is informed of that fact.

45 Amendment of s 91 (When court can vary domestic violence order)

Section 91(3)—

insert—

(c) the court may consider the respondent's criminal history and domestic violence history if, in the court's opinion, it is relevant to do so.

Note—

The police commissioner is required to ensure a copy of the respondent's criminal history and domestic violence history is filed in or given to the court. See section 90A.

46 Amendment of s 113 (Duration)

Section 113(1)(a)—

omit, insert—

(a) the notice is served on the respondent personally or in a way stated in a substituted service order; or

47 Amendment of s 150 (Protected witnesses)

Section 150(1)—

insert—

Note—

See the *Evidence Act 1977*, part 2, division 6 for provisions that apply to protect the persons mentioned in subsection (1) if they give, or are to give, evidence in criminal proceedings for an offence against part 7.

48 Amendment of s 151 (Restriction on cross-examination in person)

Section 151(1)—

insert—

Note—

See the *Evidence Act 1977*, part 2, division 6 in relation to the cross-examination of protected witnesses in proceedings for an offence against this Act.

49 Amendment of s 157 (Costs)

Section 157(2), from ‘a party’—

omit, insert—

the party who made the application if the court hears the application and decides—

- (a) to dismiss the application and, in doing so, also decides that the party, in making the application, intentionally engaged in behaviour, or continued a pattern of behaviour, towards the respondent to the application that is domestic violence; or

Note—

This type of behaviour is known as systems abuse or legal abuse. It is behaviour in which a person intentionally misuses the legal system, including, for example, by starting court proceedings based on false allegations against another person, as a way to intentionally exert control or dominance over the other person or to torment, intimidate or harass the other person.

- (b) to dismiss the application on the grounds that it is malicious, deliberately false, frivolous or vexatious.

50 Insertion of new pt 5, div 3A

Part 5—

insert—

Division 3A Reopening proceedings

157A Reopening particular proceedings decided in respondent's absence

- (1) The respondent to an application to make or vary a protection order may apply to the court to reopen the proceeding for the application if—
 - (a) the application was served on the respondent under a substituted service order; and
 - (b) the application was not, and could not reasonably have been, brought to the respondent's attention, despite being served in a way stated in the substituted service order; and
 - (c) the respondent was not present in court when the application was heard and decided.
- (2) The respondent must make an application to reopen the proceeding within 28 days after the day on which the respondent became aware that the protection order the subject of the application had been made or varied.
- (3) The court may reopen the proceeding if the court is satisfied the grounds mentioned in subsection (1) are established.
- (4) If the proceeding is reopened and the respondent

fails to appear before the court that is to rehear and decide the reopened proceeding, the respondent may only make another application under this section with the leave of the court.

157B Effect of decision to reopen proceeding

- (1) A decision of the court to reopen a proceeding does not affect the operation of the decision in the proceeding, or a domestic violence order made or varied in the proceeding, or prevent the taking of action to implement the decision or order.
- (2) However, the court may make an order staying the operation of the decision, domestic violence order or varied order until the reopened proceeding is decided.
- (3) The court may act under subsection (2) on the application of a party or on its own initiative.

157C Rehearing reopened proceeding

- (1) The court may decide a reopened proceeding in any way it considers appropriate, including, for example, by hearing the proceeding afresh, in whole or part.
- (2) For an appeal against a decision the subject of the reopened proceeding, the time for starting the appeal starts on the day the court makes the decision under the reopened proceeding.
- (3) This division does not otherwise affect a right of appeal.

51 Insertion of new s 160A

After section 160—

insert—

160A Court may make order about disclosure of, or aggrieved's access to, respondent's criminal history or domestic violence history

- (1) This section applies if a copy of a respondent's criminal history or domestic violence history has been filed in or given to a court hearing an application under this Act.
- (2) The court may order that a person must not disclose information contained in the respondent's criminal history or domestic violence history to another person.
- (3) An order under subsection (2) does not apply to the respondent.
- (4) If the court is satisfied that all or part of the respondent's criminal history or domestic violence history is not relevant to deciding the application, the court may decide the application without taking into account, or hearing submissions about, all or the part of the criminal history or domestic violence history.

Examples—

- the respondent's criminal history consists of 1 conviction for a minor stealing offence committed more than 20 years ago
 - part of the respondent's criminal history consists of offences that do not involve violence committed when the respondent was a child
- (5) If the court decides the application under subsection (4), the court may order that—
 - (a) the aggrieved or the applicant (if the applicant is not the aggrieved, the respondent or a police officer)—
 - (i) not be given a copy of all or part of the criminal history or domestic violence history; and

- (ii) not be told about the contents of all or part of the criminal history or domestic violence history; and
 - (b) if a copy of the criminal history or domestic violence history has been given to a person mentioned in paragraph (a)—the copy be returned to the court.
- (6) The court may make an order under this section with or without conditions.
- (7) The court makes an order under this section on its own initiative.

52 Amendment of s 184 (Service of order on respondent)

Section 184(5)(a)(ii), before ‘; or’—

insert—

, including, for example, by being served on the respondent in a way stated in a substituted service order

53 Insertion of new s 184A

After section 184—

insert—

184A Substituted service

- (1) This section applies if, under this Act, a document is required to be personally served on a respondent by a police officer and the court is satisfied that—
 - (a) reasonable attempts have been made to personally serve the document on the respondent; and
 - (b) serving the document in another way is—

- (i) necessary or desirable to protect the aggrieved; and
 - (ii) reasonably likely to bring the document to the attention of the respondent.
- (2) The court may make an order substituting another way for a police officer to serve the document on the respondent (a *substituted service order*).
- (3) The court must, in the substituted service order, state the circumstances in which the document is to be taken to have been served on the respondent, including, for example—
 - (a) when a document served by post or electronic communication is to be taken to have been served; or
 - (b) that the circumstances are—
 - (i) on the happening of a stated event; or
 - (ii) at the end of a stated time.
- (4) The court may make a substituted service order for the document—
 - (a) on its own initiative; or
 - (b) on the application of a party to the proceeding to which the document relates; or
 - (c) on the application of a police officer.
- (5) When a police officer serves a document on a respondent under a substituted service order, the police officer must, unless it is not reasonable in the circumstances—
 - (a) give a copy of the document to the respondent; and
 - (b) explain to the respondent—
 - (i) what the document is; and

- (ii) the nature and effect of the document.

54 Insertion of new ss 189A and 189B

After section 189—

insert—

189A Act applies despite the Criminal Law (Rehabilitation of Offenders) Act 1986

This Act applies in relation to a person despite the
Criminal Law (Rehabilitation of Offenders) Act 1986.

189B Police commissioner's obligation to give respondent's criminal history and domestic violence history to court

- (1) This section applies if the police commissioner is required to ensure a copy of a respondent's criminal history and domestic violence history is filed in or given to a court under section 36A or 90A.
- (2) The obligation applies only to information—
 - (a) in the police commissioner's possession; or
 - (b) that, under a law, the police commissioner is permitted to access and give to the court to be used in a proceeding under this Act.
- (3) If a respondent's domestic violence history includes a domestic violence order made or varied with the respondent's consent under section 51, a copy of the respondent's domestic violence history filed in or given to a court under section 36A or 90A must state that fact.

55 Insertion of new pt 10, div 5

Part 10—

insert—

**Division 5 Transitional provisions for
Domestic and Family
Violence Protection
(Combating Coercive
Control) and Other
Legislation Amendment
Act 2023**

233 Definitions for division

In this division—

new, for a provision of this Act, means the provision as in force from the commencement.

**234 Existing applications—considering
respondent’s criminal history or domestic
violence history**

- (1) This section applies to proceedings for the following applications, whether or not the proceedings had started before the commencement—
 - (a) an application for a protection order made but not decided before the commencement;
 - (b) an application for the variation of a domestic violence order made but not decided before the commencement.
- (2) If, in the court’s opinion, the respondent’s criminal history and domestic violence history is relevant to deciding the application, the court may—
 - (a) ask for the respondent’s criminal history and domestic violence history; and

- (b) consider the criminal history and domestic violence history in deciding the application.
- (3) If the applicant for the application is not a police officer, the clerk of the court may ask the police commissioner for the criminal history and domestic violence history.
- (4) If the court makes a request under subsection (2)(a), or the clerk makes a request under subsection (3), the police commissioner must ensure a copy of the respondent's criminal history and domestic violence history—
 - (a) is filed in the court before the day and time to which the hearing of the application is adjourned; or
 - (b) is given to the court when the hearing of the application resumes.
- (5) If the respondent does not have a criminal history or domestic violence history, the police commissioner must ensure the court is informed of that fact.
- (6) This section applies despite new sections 36A, 37, 90A and 91.

235 Existing cross applications

- (1) This section applies to an application mentioned in new section 41C, 41D and 41G that was made, but not decided, before the commencement.
- (2) New sections 41C, 41D and 41G apply to the application.

236 Substituted service orders for existing documents

A substituted service order may be made for a document under new section 184A regardless of

whether the document was made before or after
the commencement.

56 Amendment of schedule (Dictionary)

Schedule—

insert—

criminal history, of a person, means a document that states each conviction of, or charge made against, the person for an offence in Queensland or elsewhere, regardless of when the conviction or charge, or acts or omissions constituting the offence or alleged offence, happened.

domestic violence history, of a person, means a document that states each of the following orders made, or notices issued, against the person, regardless of when the order was made or notice issued—

- (a) a domestic violence order;
- (b) a police protection notice;
- (c) a domestic violence order under the repealed *Domestic and Family Violence Protection Act 1989*;
- (d) an interstate order;
- (e) an order that corresponds to an interstate order made under a repealed law of another State;
- (f) a New Zealand order.

person most in need of protection, in a relevant relationship, see section 22A.

substituted service order see section 184A(2).

Part 5 **Amendment of Evidence Act 1977**

57 Act amended

This part amends the *Evidence Act 1977*.

Note—

See also the amendments in schedule 1.

58 Amendment of s 14L (Standing of counsellor and counselled person)

Section 14L(1)(b)—

omit, insert—

- (b) the court is deciding—
 - (i) whether a document or evidence relating to the counselled person or counsellor is a protected counselling communication; or
 - (ii) an application for leave under subdivision 3.

59 Amendment of s 21L (Application of division 6)

Section 21L—

insert—

- (2) However, despite subsection (1), this division does apply to summary proceedings under the *Justices Act 1886* for a domestic violence offence.

60 Amendment of s 21M (Meaning of *protected witness*)

- (1) Section 21M(1)(c), after ‘proceeding for a’—

insert—

domestic violence offence or

(2) Section 21M(1)—

insert—

(e) for a proceeding for a domestic violence order-related offence, a person who—

(i) is named as the aggrieved, or a relative or associate of the aggrieved, in the domestic violence order; and

(ii) the court considers would be likely to be disadvantaged as a witness, or to suffer severe emotional trauma, unless treated as a protected witness.

(3) Section 21M(2), after ‘that is not’—

insert—

a domestic violence offence,

(4) Section 21M(3)—

insert—

domestic violence order-related offence, in relation to a domestic violence order, means—

(a) an offence for the contravention of the domestic violence order under the *Domestic and Family Violence Protection Act 2012*, section 177(2); or

(b) an offence for an act or omission that also constitutes an offence mentioned in paragraph (a).

61 Replacement of pt 6A, hdg (Recorded statements)

Part 6A, heading—

omit, insert—

Part 6A Evidence related to domestic relationships and domestic violence

62 Amendment of s 103A (Definitions for part)

Section 103A—

insert—

defence means—

- (a) the legal practitioner representing the defendant in a criminal proceeding; or
- (b) if the defendant is unrepresented in a criminal proceeding—the defendant.

family member, of a person, means a person with whom the person has either of the following relationships—

- (a) a family relationship within the meaning of the *Domestic and Family Violence Protection Act 2012*, section 19(1); or
- (b) an informal care relationship within the meaning of the *Domestic and Family Violence Protection Act 2012*, section 20.

help-seeking behaviour means action taken by a victim of domestic violence to address, or attempt to address, any aspect of the domestic violence, including, for example—

- (a) reporting the domestic violence to the police; or
- (b) obtaining a domestic violence order; or
- (c) separating from an intimate partner who is the perpetrator of the domestic violence; or
- (d) finding alternative accommodation, including accommodation in a refuge; or

(e) seeking counselling or support.

intimate partner, of a person, means a person who is in an intimate personal relationship with the person within the meaning of the *Domestic and Family Violence Protection Act 2012*, section 14.

relative, of a person, see the *Domestic and Family Violence Protection Act 2012*, section 19(2).

safety option, in relation to a defendant who is, or may be, a victim of domestic violence, means an act that may have stopped the violence, other than an act that constitutes, or allegedly constitutes, an offence with which the defendant is charged.

self-defence means the lawful use of force in self-defence or in aid of the defence of another person under the Criminal Code, sections 271, 272 or 273.

63 Insertion of new s 103AB

After section 103A—

insert—

103AB References to domestic violence include associated domestic violence

- (1) A reference in this part to domestic violence committed against a person by an intimate partner or family member of the person includes associated domestic violence committed against a child, relative or associate of the person by the intimate partner or family member.
- (2) In this section—

associate, of a person, see the *Domestic and Family Violence Protection Act 2012*, section 24(3).

associated domestic violence see the *Domestic*

and Family Violence Protection Act 2012, section 9.

64 Insertion of new pt 6A, div 1A

Part 6A—

insert—

Division 1A Evidence of domestic violence

103CA What may constitute evidence of domestic violence

- (1) For this part, evidence of domestic violence may include, but is not limited to, evidence of any of the following matters—
 - (a) the history of the domestic relationship between a person and an intimate partner or family member of the person, including—
 - (i) domestic violence committed by the intimate partner or family member against the person; or
 - (ii) domestic violence committed by the person against the intimate partner or family member;
 - (b) the cumulative effect of domestic violence, including the psychological effect, on a person or an intimate partner or family member of the person affected by the violence;
 - (c) social, cultural or economic factors that affect a person, or an intimate partner or family member of the person, who has been affected by domestic violence;

- (d) responses by relatives, the community or agencies to domestic violence, including further violence that may be used by an intimate partner or family member to prevent, or in retaliation for, any help-seeking behaviour or use of safety options by a person;
 - (e) ways in which social, cultural or economic factors have affected any help-seeking behaviour undertaken by a person, or the safety options realistically available to the person, in response to domestic violence;
 - (f) ways in which domestic violence by an intimate partner or family member towards a person, or the lack of safety options, was exacerbated by inequities experienced by the person, including, for example, inequities associated with race, poverty, gender identity or expression, sex characteristics, disability or age;
 - (g) the general nature and dynamics of relationships affected by domestic violence, including the possible consequences of separation from a person who commits domestic violence;
 - (h) the psychological effect of domestic violence on people who are or have been in a relationship affected by domestic violence;
 - (i) social or economic factors that affect people who are or have been in a relationship affected by domestic violence.
- (2) This section does not limit the *Domestic and Family Violence Protection Act 2012*, section 8(3).

103CB Evidence of domestic violence

- (1) Relevant evidence of domestic violence is admissible as evidence in a criminal proceeding.
- (2) Without limiting subsection (1), the evidence of domestic violence may relate to—
 - (a) the defendant; or
 - (b) the person against whom the offence was committed; or
 - (c) another person connected with the proceeding.

103CC Expert evidence of domestic violence

- (1) Expert evidence about domestic violence is admissible in a criminal proceeding.
- (2) Evidence given by an expert may include—
 - (a) evidence about the nature and effects of domestic violence on persons generally; and
 - (b) evidence about the effect of domestic violence on a particular person who has been subjected to domestic violence.
- (3) For this section, an expert on the subject of domestic violence includes a person who can demonstrate specialised knowledge, gained by training, study or experience, of a matter that may constitute evidence of domestic violence.

103CD Ultimate issue and common knowledge rules abrogated

Evidence of an expert's opinion given under section 103CC is not inadmissible only because the opinion is about—

- (a) a fact in issue or an ultimate issue; or
- (b) a matter of common knowledge.

65 Replacement of pt 6A, div 2, hdg (Use of recorded statements)

Part 6A, division 2, heading—

omit, insert—

**Division 2 Recorded statements as
complainant's
evidence-in-chief in
domestic violence
proceedings**

**Subdivision 1 Use of recorded
statements**

66 Renumbering of pt 6A, divs 3–5

Part 6A, divisions 3 to 5—

renumber as part 6A, division 2, subdivisions 2 to 4.

67 Insertion of new pt 6A, div 3

Part 6A—

insert—

**Division 3 Jury directions related to
domestic violence**

Subdivision 1 General matters

**103T Request for direction to jury about domestic
violence**

- (1) This section applies in relation to a criminal proceeding that is a trial by jury if domestic

violence is an issue in the proceeding.

- (2) The prosecution or defence may, at any time during the proceeding, ask the judge to direct the jury about domestic violence generally by informing the jury about all or some of the matters mentioned in subdivision 2, other than section 103ZA.
- (3) The judge may give the jury the requested direction unless there are good reasons for not doing so.

103U Request for direction to jury about self-defence in response to domestic violence

- (1) This section applies in relation to a criminal proceeding that is a trial by jury if self-defence in response to domestic violence is an issue in the proceeding.
- (2) The defence may, at any time during the proceeding, ask the judge to direct the jury about self-defence in response to domestic violence by informing the jury about—
 - (a) the matters mentioned in section 103ZA; or
 - (b) all or some of the other matters about domestic violence mentioned in subdivision 2.
- (3) The judge may give the jury the requested direction unless there are good reasons for not doing so.

103V Judge may direct jury about domestic violence on own initiative

- (1) This section applies in relation to a criminal proceeding that is a trial by jury if domestic violence is an issue in the proceeding.

-
- (2) The judge may, on the judge's own initiative and in the interests of justice, inform the jury about—
 - (a) if self-defence in response to domestic violence is an issue in the proceeding—the matters mentioned in section 103ZA; or
 - (b) all or some of the other matters about domestic violence mentioned in subdivision 2.

103W Direction may be given before evidence is adduced and may be repeated

- (1) A judge may give a direction under section 103T, 103U or 103V before any evidence is adduced in a proceeding.
- (2) The judge may also repeat the direction at any time during the proceeding.

103X Application of subdivision 2 to trial by judge or magistrate sitting alone

- (1) This section applies to a criminal proceeding that is a trial by a judge or magistrate sitting alone.
- (2) The court's reasoning with respect to any matter mentioned in subdivision 2 must, to the extent the court thinks fit, be consistent with how a jury would be directed about the matter under subdivision 2 in the particular case.

103Y No limit of court's duty to direct jury

This division does not limit the matters the court may direct the jury about, including in relation to evidence given by an expert witness.

Subdivision 2 Content of jury directions about domestic violence

103Z Content of general direction about domestic violence

- (1) The judge in a criminal proceeding who is directing the jury about domestic violence generally may, if relevant, inform the jury that domestic violence—
 - (a) is not limited to physical abuse and may, for example, include sexual abuse, psychological abuse or financial abuse; and
 - (b) may amount to violence against a person even though it is immediately directed at another person; and
 - (c) may consist of a single act; and
 - (d) may consist of separate acts that form part of a pattern of behaviour that can amount to abuse even though some or all of those acts may, when viewed in isolation, appear to be minor or trivial.
- (2) If relevant, the judge may also inform the jury that experience shows that—
 - (a) people may react differently to domestic violence and there is no typical response to domestic violence; and
 - (b) it is not uncommon for a person who has been subjected to domestic violence to stay with an abusive partner after the domestic violence, or to leave and then return to the partner; and
 - (c) it is not uncommon for a person who has been subjected to domestic violence not to report domestic violence to police or seek assistance to stop domestic violence; and
 - (d) decisions made by a person subjected to domestic violence about how to address,

respond to or avoid domestic violence may be influenced by a variety of factors; and

Note—

See also section 103ZC in relation to the judge informing the jury about factors that may influence a person's decision-making about how to address, respond to or avoid domestic violence.

- (e) it is not uncommon for a decision to leave an intimate partner who is abusive, or to seek assistance, to increase apprehension about, or the actual risk of, harm.

103ZA Direction about self-defence in response to domestic violence

- (1) If the judge in a criminal proceeding is directing the jury about self-defence in response to domestic violence, the judge may inform the jury that—
 - (a) self-defence is, or is likely to be, an issue in the proceeding; and
 - (b) as a matter of law, evidence of domestic violence may be relevant to determining whether the defendant acted in self-defence; and
 - (c) evidence in the trial is likely to include evidence of domestic violence committed by the victim against the defendant or another person whom the defendant was defending.
- (2) The judge may also inform the jury that, as a matter of law, evidence that the defendant assaulted the victim on a previous occasion does not mean that the defendant could not have been acting in self-defence in relation to the offence charged.

103ZB Examples of behaviour, or patterns of behaviour, that may constitute domestic violence

The judge in a criminal proceeding who is directing the jury about domestic violence generally may also inform the jury that behaviour, or patterns of behaviour, that may constitute domestic violence include, but are not limited to, the following—

- (a) placing or keeping a person in a dependent or subordinate relationship;
- (b) isolating a person from family, friends or other sources of support;
- (c) controlling, regulating or monitoring a person's day-to-day activities;
- (d) depriving a person of, or restricting a person's, freedom of movement or action;
- (e) restricting a person's ability to resist violence;
- (f) frightening, humiliating, degrading or punishing a person, including punishing a person for resisting violence;
- (g) compelling a person to engage in unlawful or harmful behaviour.

103ZC Factors that may influence how a person addresses, responds to or avoids domestic violence

- (1) This section applies if the judge in a criminal proceeding who is directing the jury about domestic violence generally informs the jury about the matters mentioned in section 103Z(2)(d).
- (2) The judge may also inform the jury that decisions made by a person subjected to domestic violence,

about how to address, respond to or avoid domestic violence, may be influenced by matters including, for example—

- (a) the domestic violence itself; or
- (b) social, cultural, economic or personal factors, or inequities experienced by the person, including, for example, inequities associated with race, poverty, gender, disability or age; or
- (c) responses by family, the community or agencies to the domestic violence or to any help-seeking behaviour or use of safety options by the person; or
- (d) the provision of, or failure in the provision of, safety options that might realistically have provided ongoing safety to the person, and the person's perceptions of how effective those safety options might have been to prevent further harm; or
- (e) further violence, or the threat of further violence, used by a family member to prevent, or in retaliation for, any help-seeking behaviour or use of safety options by the person.

68 Omission of s 132B (Evidence of domestic violence)

Section 132B—

omit.

69 Insertion of new pt 9, div 13

Part 9—

insert—

**Division 13 Domestic and Family
Violence Protection
(Combating Coercive
Control) and Other
Legislation Amendment
Act 2023**

**159 Existing applications for leave related to
protected counselling communications**

Section 14L, as in force from the commencement, applies to an application for leave under section 14G made before the commencement if a proceeding to decide the application had not started before the commencement.

70 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

defence, for part 6A, see section 103A.

domestic relationship means a relevant relationship under the *Domestic and Family Violence Protection Act 2012*, section 13.

domestic violence see the *Domestic and Family Violence Protection Act 2012*, section 8.

domestic violence order see the *Domestic and Family Violence Protection Act 2012*, section 23(2).

family member, of a person, for part 6A, see section 103A.

help-seeking behaviour, for part 6A, see section 103A.

intimate partner, of a person, for part 6A, see

section 103A.

relative, of a person, for part 6A, see section 103A.

safety option, in relation to a defendant who is, or may be, a victim of domestic violence, for part 6A, see section 103A.

self-defence, for part 6A, see section 103A.

Part 6 Amendment of Oaths Act 1867

71 Act amended

This part amends the *Oaths Act 1867*.

72 Insertion of new s 13F

After section 13E—

insert—

13F Minor non-compliance does not affect validity of affidavit or declaration

- (1) An affidavit or a declaration is not invalid only because it does not comply with a requirement under section 13B, 13C or 13E that does not materially affect the nature of the affidavit or declaration.
- (2) Subsection (1) does not limit a court's power to admit an affidavit, including a purported affidavit under section 31G, in evidence in a proceeding.

73 Insertion of new s 31CA

After section 31C—

insert—

31CA Part does not limit other laws

To remove any doubt, it is declared that this part does not limit a provision of another Act or law about the way in which, or by whom, a document—

- (a) is sworn, or taken or received on oath; or
- (b) is made as a statutory declaration.

Examples of a document—

complaint and summons, application for a warrant

Examples of a way in which a document may be sworn, or taken or received on oath—

in person, by audio link, by audio visual link

74 Insertion of new pt 6A, div 5, sdiv 1A

Part 6A, division 5, before subdivision 1—

insert—

Subdivision 1A Preliminary

31OA Application of division

This division applies to a document that is an affidavit or a declaration.

75 Amendment of pt 8, hdg (Transitional provisions for Justice and Other Legislation Amendment Act 2021)

Part 8, heading, ‘for Justice and Other Legislation Amendment Act 2021’—

omit.

76 Insertion of new pt 8, div 1, hdg

Part 8—

insert—

Division 1 **Transitional provisions for
Justice and Other
Legislation Amendment
Act 2021**

77 **Amendment of s 45 (Definitions for part)**

Section 45, ‘part’—

omit, insert—

division

78 **Insertion of new pt 8, div 2**

Part 8—

insert—

Division 2 **Transitional provision for
Domestic and Family
Violence Protection
(Combating Coercive
Control) and Other
Legislation Amendment
Act 2023**

48 **Retrospective application of s 13F**

Section 13F applies, and is taken to apply, in relation to an affidavit or a declaration made from the commencement of the *Justice and Other Legislation Amendment Act 2021*, section 34.

Part 7 **Amendment of Penalties and Sentences Act 1992**

79 Act amended

This part amends the *Penalties and Sentences Act 1992*.

Note—

See also the amendments in schedule 1.

80 Amendment of s 9 (Sentencing guidelines)

(1) Section 9(2)—

insert—

(gb) without limiting paragraph (g), the following—

- (i) whether the offender is a victim of domestic violence;
- (ii) whether the commission of the offence is wholly or partly attributable to the effect of the domestic violence on the offender; and

(2) Section 9—

insert—

(10B) In determining the appropriate sentence for an offender who is a victim of domestic violence, the court must treat as a mitigating factor—

- (a) the effect of the domestic violence on the offender, unless the court considers it is not reasonable to do so because of the exceptional circumstances of the case; and
- (b) if the commission of the offence is wholly or partly attributable to the effect of the domestic violence on the offender—the extent to which the commission of the

offence is attributable to the effect of the violence.

(3) Section 9(12)—

insert—

domestic violence see the *Domestic and Family Violence Protection Act 2012*, section 8.

81 Amendment of s 11 (Matters to be considered in determining offender's character)

(1) Section 11, after paragraph (a)—

insert—

(aa) the history of domestic violence orders made or issued against the offender, other than orders made or issued when the offender was a child; and

(2) Section 11(aa) to (c)—

renumber as section 11(b) to (d).

(3) Section 11—

insert—

(2) If oral submissions are to be made to, or evidence is to be brought before, the court about the history of domestic violence orders made or issued against the offender, the sentencing judge or magistrate may close the court for that purpose.

(3) In this section—

domestic violence order means—

(a) any of the following under the *Domestic and Family Violence Protection Act 2012*—

- (i) a domestic violence order;
- (ii) a police protection notice;
- (iii) an interstate order;

- (iv) an order that corresponds to an interstate order made under a repealed law of another State;
- (v) a New Zealand order; or
- (b) a domestic violence order under the repealed *Domestic and Family Violence Protection Act 1989*.

Part 7A Amendment of Public Guardian Act 2014

81A Act amended

This part amends the *Public Guardian Act 2014*.

81B Amendment of ch 5, pt 4, hdg (Appointment of community visitors and child advocacy officers and related provisions)

Chapter 5, part 4, heading—

omit, insert—

Part 4 Community visitors and child advocacy officers

81C Amendment of s 109 (Appointment)

Section 109(2)—

omit, insert—

- (2) The basis of employment of a community visitor under an appointment may be—
 - (a) permanent; or
 - (b) temporary for a fixed term; or

(c) casual.

(3) Employment under subsection (2)(a) or (b) may be made on a full-time or part-time basis.

81D Amendment of s 113 (Duration of appointment as community visitor)

(1) Section 113, heading ‘Duration of appointment as’—

omit, insert—

Resignation, suspension and termination of

(2) Section 113(1)—

omit.

(3) Section 113(4)(a), ‘subsection (3)’—

omit, insert—

subsection (2)

(4) Section 113(5), ‘subsection (4)’—

omit, insert—

subsection (3)

(5) Section 113(2) to (7)—

renumber as section 113(1) to (6).

**Part 8 Amendment of
Telecommunications
Interception Act 2009**

82 Act amended

This part amends the *Telecommunications Interception Act 2009*.

Note—

See also the amendments in schedule 1.

83 Replacement of s 6 (Application of pt 2)

Section 6—

omit, insert—

6 Application of pt 2

This part applies if an officer of an eligible authority intends to make—

- (a) an application for a part 2-5 warrant under the Commonwealth Act, section 39 (a ***part 2-5 warrant application***); or
- (b) an application for an international production order under the Commonwealth Act, schedule 1, clause 22 (an ***IPO (investigative) application***); or
- (c) an application for an international production order under the Commonwealth Act, schedule 1, clause 52 (an ***IPO (supervisory) application***).

84 Amendment of s 7 (PIM must be notified)

(1) Section 7(2)(b)—

omit, insert—

- (b) a copy of the affidavit required to accompany the written application under—
 - (i) for a part 2-5 warrant application—the Commonwealth Act, section 42; or
 - (ii) for an IPO (investigative) application—the Commonwealth Act, schedule 1, clause 25; or
 - (iii) for an IPO (supervisory) application—the Commonwealth Act, schedule 1, clause 55.

(2) Section 7(3), from ‘under section 43’—

omit, insert—

to be given on a telephone application under—

- (a) for a part 2-5 warrant application—the Commonwealth Act, section 43; or
- (b) for an IPO (investigative) application—the Commonwealth Act, schedule 1, clause 26; or
- (c) for an IPO (supervisory) application—the Commonwealth Act, schedule 1, clause 56.

85 Amendment of s 8 (Full disclosure to PIM)

Section 8, ‘warrant’—

omit, insert—

part 2-5 warrant or international production order

86 Replacement of s 9 (PIM to be given further information)

Section 9—

omit, insert—

9 PIM to be given further information

The officer must also give the PIM any further information that is required to be given to the eligible Judge or nominated AAT member in connection with the application under—

- (a) for a part 2-5 warrant application—the Commonwealth Act, section 44; or
- (b) for an IPO (investigative) application—the Commonwealth Act, schedule 1, clause 27; or
- (c) for an IPO (supervisory) application—the Commonwealth Act, schedule 1, clause 57.

87 Amendment of s 10 (PIM entitled to appear)

(1) Section 10(1)—

omit, insert—

(1) To test the validity of the application, the PIM is entitled to appear at the hearing of the application, make submissions to the eligible Judge or nominated AAT member and question persons as provided under—

(a) for a part 2-5 warrant application—the Commonwealth Act, section 45; or

(b) for an IPO (investigative) application—the Commonwealth Act, schedule 1, clause 29; or

(c) for an IPO (supervisory) application—the Commonwealth Act, schedule 1, clause 59.

(2) Section 10(2)—

omit.

(3) Section 10(3)—

renumber as section 10(2).

88 Amendment of s 11 (Confidentiality obligations not to apply)

Section 11(1)(b)—

omit, insert—

(b) a person questioned by the PIM in relation to an application as mentioned in section 10(1).

89 Amendment of s 12 (PIM to report to Minister about noncompliance)

Section 12(2)—

omit, insert—

(2) The report must not contain information mentioned in—

- (a) for a report relating to a part 2-5 warrant—the Commonwealth Act, section 63; or
- (b) for a report relating to an international production order—the Commonwealth Act, schedule 1, clause 152.

90 Amendment of pt 3, hdg (Record-keeping and related functions of eligible authorities)

Part 3, heading, after ‘authorities’—

insert—

relating to part 2-5 warrants

91 Amendment of pt 4, hdg (Functions and powers of inspecting entity for inspections)

Part 4, heading, after ‘inspections’—

insert—

relating to part 2-5 warrant records

92 Amendment of s 34 (General confidentiality provision)

Section 34(1), note—

omit, insert—

Note—

See also the following provisions of the Commonwealth Act—

- section 63 (No dealing with intercepted information or interception warrant information)
- section 105 (Contravention of section 7 or 63)
- schedule 1, clause 152 (Prohibition on use, recording or disclosure of protected information or its admission in evidence).

93 Insertion of new pt 6

After part 5—

insert—

Part 6 Transitional provision

41 Existing part 2-5 warrant applications

- (1) This section applies if an application for a part 2-5 warrant under the Commonwealth Act was made, but not decided, before the commencement.
- (2) This Act, as in force before the commencement, continues to apply in relation to the application as if the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023* had not been enacted.

94 Amendment of schedule (Dictionary)

Schedule—

insert—

international production order see the Commonwealth Act, schedule 1, clause 2.

IPO (investigative) application see section 6(b).

IPO (supervisory) application see section 6(c).

part 2-5 warrant application see section 6(a).

part 2-5 warrant record, of an eligible authority, means a record of the authority that relates to—

- (a) a part 2-5 warrant application made by an officer of the authority; or
- (b) a part 2-5 warrant issued to the authority.

Part 9 Amendment of Youth Justice Act 1992

95 Act amended

This part amends the *Youth Justice Act 1992*.

96 Amendment of s 150 (Sentencing principles)

(1) Section 150(1)—

insert—

(ga) also without limiting paragraph (f), the following matters—

- (i) whether the child is a victim of, or has been exposed to, domestic violence;
- (ii) whether the commission of the offence is wholly or partly attributable to the effect of domestic violence, or exposure to domestic violence, on the child; and

(2) Section 150—

insert—

(3A) In determining the appropriate sentence for a child who is a victim of, or has been exposed to, domestic violence, the court must treat as a mitigating factor—

- (a) the effect of the domestic violence or exposure to domestic violence on the child; and
- (b) if the commission of the offence is wholly or partly attributable to the effect of the domestic violence, or exposure to domestic violence, on the child—the extent to which the commission of the offence is attributable to the effect of the violence or exposure.

(3) Section 150(6)—

insert—

domestic violence see the *Domestic and Family Violence Protection Act 2012*, section 8.

exposed, for a child in relation to domestic violence, see the *Domestic and Family Violence Protection Act 2012*, section 10.

Part 10 Other amendments

97 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 97

Part 1 Amendments commencing on assent

Telecommunications Interception Act 2009

**1 Section 14, heading and paragraph (a), before
‘warrants’—**

insert—

part 2-5

**2 Section 14, 15, 16(b)(ii), 22, 23, 24(1), 25(1), 26(1), 27(1)
and (4), 28(3) and 29(a) and (b), before ‘records’—**

insert—

part 2-5 warrant

**3 Section 14(c) and (f), 15(1)(d)(i) and 20(a), before
‘warrant’—**

insert—

part 2-5

4 Section 14(d), ‘section 10(3)’—

omit, insert—

section 10(2)

5 Section 14(d), after ‘part 2’—

insert—

in relation to the issue of the part 2-5 warrant

6 Section 15, heading, after ‘interceptions’—

insert—

under part 2-5 warrants

7 Section 15(1)(a), from ‘telephone’ to ‘authority’—

omit, insert—

part 2-5 warrant application made by the authority
by telephone

8 Section 15(1)(b), from ‘application’ to ‘warrant,’—

omit, insert—

part 2-5 warrant application made by the
authority,

9 Section 16(a), after ‘after a’—

insert—

part 2-5

**10 Section 22(2), ‘application by an eligible authority for a
warrant’—**

omit, insert—

part 2-5 warrant application by an eligible
authority

11 Section 22(3), after ‘particular’—

insert—

part 2-5 warrant

12 Section 23, after ‘18 to 20’—

insert—

in relation to the records

13 Section 24(1), after ‘18 and 19’—

insert—

in relation to the records

**Part 2 Amendments commencing on
proclamation**

**Child Protection (Offender Reporting and Offender
Prohibition Order) Act 2004**

1 Schedule 1, item 4, entries for sections 215 and 229B—

omit.

2 Schedule 1, item 4—

insert—

- section 215 (Engaging in penile intercourse with child under 16)
- section 229B (Repeated sexual conduct with a child).

3 Schedule 1, item 9(a), entry for section 217, ‘carnal knowledge’—

omit, insert—

penile intercourse

Criminal Code

1 Section 359A, definition *unlawful stalking*—

omit, insert—

unlawful stalking, intimidation, harassment or abuse see sections 359B and 359D.

Corrective Services Act 2006

1 Schedule 1, entry for the Criminal Code, entries for sections 215, 217 and 229B—

omit.

2 Schedule 1, entry for the Criminal Code—

insert—

- section 215 (Engaging in penile intercourse with child under 16)
- section 217 (Procuring young person etc. for penile intercourse)
- section 229B (Repeated sexual conduct with a child)

Debt Collectors (Field Agents and Collection Agents) Act 2014

1 Schedule 2, definition *serious offence*, paragraph (g), after ‘stalking’—

insert—

, intimidation, harassment or abuse

Disability Services Act 2006

1 Schedules 2, 4 and 6, entry for the Criminal Code, entry for section 215, column 2—

omit, insert—

Engaging in penile intercourse with child under
16

2 Schedules 4 and 6, entry for the Criminal Code, entries for sections 217 and 229B—

omit.

3 Schedules 4 and 6, entry for the Criminal Code—

insert—

217 Procuring young person etc. for
penile intercourse

229B Repeated sexual conduct with a child

Education (Queensland College of Teachers) Act 2005

1 Section 12F(5), example, ‘carnal knowledge of’—

omit, insert—

penile intercourse with

Evidence Act 1977

1 Section 14E(b), ‘under the *Domestic and Family Violence Protection Act 2012*’—

omit.

2 Section 103G and 103P, ‘division’—

omit, insert—

subdivision

Introduction Agents Act 2001

1 Schedule 1, part 1, item 10, after ‘stalking’—

insert—

, intimidation, harassment or abuse

Motor Dealers and Chattel Auctioneers Act 2014

- 1 Schedule 3, definition *serious offence*, paragraph (a)(vii), after ‘stalking’—**

insert—

, intimidation, harassment or abuse

Penalties and Sentences Act 1992

- 1 Schedules 1, 1C and 2, entry for the Criminal Code, entries for sections 215, 217 and 229B—**

omit.

- 2 Schedule 1, entry for the Criminal Code—**

insert—

- 9 section 215 (Engaging in penile intercourse with child under 16)
- 11 section 217 (Procuring young person etc. for penile intercourse)
- 14 section 229B (Repeated sexual conduct with a child)

- 3 Schedule 1A, entry for the Criminal Code, entries for sections 215 and 229B—**

omit.

- 4 Schedule 1A, entry for the Criminal Code—**

insert—

Schedule 1

215 Engaging in penile intercourse with
child under 16

229B Repeated sexual conduct with a child

5 Schedule 1C, entry for the Criminal Code—

insert—

- section 215 (Engaging in penile intercourse with child under 16)
- section 217 (Procuring young person etc. for penile intercourse)
- section 229B (Repeated sexual conduct with a child)

**6 Schedule 1C, entry for the Criminal Code, entry for
section 359E, after ‘stalking’—**

insert—

, intimidation, harassment or abuse

7 Schedule 2, entry for the Criminal Code—

insert—

215 Engaging in penile intercourse with
child under 16

217 Procuring young person etc. for
penile intercourse

229B Repeated sexual conduct with a child

- omit, insert—*

engaging in penile intercourse with

- omit, insert—*

Engaging in penile intercourse with

Private Employment Agents Act 2005

- omit, insert—*

(vi) unlawful stalking, intimidation, harassment or abuse; or

Property Occupations Act 2014

- insert—*

, intimidation, harassment or abuse

Security Providers Act 1993

1 Schedule 1, part 1, item 12, after ‘stalking’—

insert—

, intimidation, harassment or abuse

Status of Children Act 1978

1 Section 13(1) and (2), ‘have carnal knowledge of’—

omit, insert—

engage in penile intercourse with

2 Section 13—

insert—

(3) In this section—

engage, in penile intercourse with a person, see the Criminal Code, section 6(2).

penile intercourse see the Criminal Code, section 6(1).

Transport Operations (Passenger Transport) Act 1994

1 Section 28B(2), example, ‘carnal knowledge’—

omit, insert—

penile intercourse

**2 Schedule 1, part 1, item 11A and schedule 1A, part 3,
division 1, item 10A, after ‘stalking’—**

insert—

, intimidation, harassment or abuse

**3 Schedule 1A, part 1, division 1, entries for sections 215,
217 and 229B—**

omit.

4 Schedule 1A, part 1, division 1—

insert—

4 section 215 (Engaging in penile intercourse
with child under 16)

6 section 217 (Procuring young person etc. for
penile intercourse)

11 section 229B (Repeated sexual conduct with
a child)

Transport Operations (Road Use Management) Act 1995

1 Schedule 2, entry for section 359E, after ‘stalking’—

insert—

, intimidation, harassment or abuse

, intimidation, harassment or abuse

Working with Children (Risk Management and Screening) Act 2000

omit.

insert—

- | | |
|------|--|
| 215 | Engaging in penile intercourse with child under 16 |
| 217 | Procuring young person etc. for penile intercourse |
| 229B | Repeated sexual conduct with a child |