

Domestic and Family Violence Protection and Other Legislation Amendment Bill 2016

This fact sheet provides information about changes to the *Domestic and Family Violence Protection Act 2012* (the Act) by the Domestic and Family Violence Protection and Other Legislation Amendment Bill 2016 (the Bill).

The amendments

The Bill builds on priority legislative changes already enacted and is the next stage of legislative reforms to implement the Queensland Government's response to the Special Taskforce on Domestic and Family Violence in Queensland (the Taskforce). The Bill implements the outcomes of an overarching review of the Act (recommendation 140).

The Bill also implements model laws endorsed by the Council of Australian Governments to enable Queensland to participate in the National Domestic Violence Order Scheme (NDVOS), which will provide for the automatic mutual recognition of domestic violence orders (DVOs) made across Australia.

The Bill improves protection for victims and strengthens the justice response by:

- requiring police to consider what action to take to provide victims with immediate, effective protection until a court considers an application for a protection order (PO) and expanding the protection police protection notices (PPNs) can provide to better safeguard victims and their families;
- clarifying that the court may make a DVO when a victim has been threatened or has fears for their safety or wellbeing;
- expanding the existing power available to police, to direct a person to remain at a specified place, to also enable them to direct a person to move to and remain at another place to allow police to serve or explain an application, PPN or DVO or issue a PPN;
- requiring the court to consider whether additional DVO conditions (beyond the standard condition that the respondent be of good behaviour) are necessary or desirable to better protect the victim or a named person;

- requiring the court to focus on the protection required by a victim in determining the appropriate duration of a PO;
- requiring the court to consider any existing family law order it is aware of and whether that order needs to be varied or suspended if it is inconsistent with the protection needed by the victim;
- clarifying that a court must consider non-compliance, and may consider compliance, with a perpetrator intervention order when making a PO or varying a DVO, but must not refuse to make a PO or vary a DVO merely because the respondent has complied with an intervention order;
- facilitating information sharing between key government and non-government entities to enable both risk assessment and management of serious domestic violence threats;
- enabling the Queensland Police Service to refer victims and perpetrators to specialist domestic and family violence service providers where a threat to a person's life, health or safety is identified; and
- providing for the automatic mutual recognition of DVOs across Australia under the NDVOS.

The Bill also increases perpetrator accountability by increasing maximum penalties for breaches of PPNs and release conditions to achieve consistency with other existing penalties, and to reflect the seriousness of domestic violence.

Benefits

Expanded PPNs and police powers

The provisions in the Bill are designed to:

- expand the protection police officers can provide to victims prior to the court hearing an application for a DVO;
- enable police officers to tailor protection to meet victims' needs;
- make PPNs easier for police officers to use and simplify the current range of police responses to domestic and family violence.

Tailoring conditions in DVOs

- These changes improve a victim's ability to obtain tailored protection by requiring the court to always consider whether additional conditions should be included in the order.

Duration of protection orders

- The Bill removes the general requirement that a PO can only be made for a maximum of two years and broadens the court's discretion to determine the appropriate length of an order.
- If the court does not specify the duration of the order, the order will remain in place for five years from when the order is made. The Bill also provides that a court may only make an order that lasts for less than five years if there are reasons for doing so.
- The Bill aims to balance giving the court flexibility to determine the appropriate length of POs in individual cases with ensuring that victims have access to the long-term protection they need.

Achieving consistency with family law orders

- The Bill requires the court to always consider a family law order that it is aware of and whether to exercise its powers to revive, vary, discharge or suspend the order if it conflicts with the proposed DVO.
- This aims to improve consistency between DVOs and family law orders and set a clear expectation that the court use these powers where a family law order conflicts with a proposed DVO.

Consideration of a perpetrator's compliance with a perpetrator intervention order

- The Bill provides that the court must consider a respondent's non-compliance with an intervention order when deciding whether to make a PO or vary a DVO. The court may also consider compliance with an intervention order but must not refuse to make a PO or vary a DVO merely because of this compliance.
- This will ensure that a victim's access to protection does not depend on whether the respondent has complied with an intervention order and clarifies that making an intervention order should not be considered a viable alternative to a PO.

Information sharing

- The Taskforce recommended that enabling legislation be introduced to allow information sharing to occur between government and non-government agencies within integrated service responses — including sharing without consent if a risk assessment indicates it is necessary for safety reasons.
- The Bill enables information to be shared, without consent, for the purposes of both assessing risk and managing serious threats to peoples' lives, health or safety. Only information which is relevant to assessing the risk or addressing the threat can be shared.
- The Bill's principles confirm that the sharing of information with consent will remain the preferred approach, but prioritise the safety of victims and their families by enabling information sharing to occur without consent within a confined framework.
- The Bill provides agencies with protection from liability for sharing information in accordance with the new provisions.
- As required by the Bill, guidelines are currently being developed to support the sharing of information under the framework.
- The Bill enables police to share limited information (name, contact details and the nature of the threat) for the purpose of referring victims or perpetrators to specialist domestic and family violence service providers. This will encourage the provision of early support to victims and perpetrators.

Mutual recognition of DVOs made in Australia

The Bill:

- provides for the protection provided by a DVO to automatically continue anywhere in Australia (provided it has been served).
- streamlines processes so a victim who moves interstate does not need to re-engage with police or the court.

Commencement

The Bill will commence on a date to be fixed by proclamation.