

# Restraining Orders and Related Legislation Amendment (Family Violence) Bill 2016

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Western Australia

LEGISLATIVE COUNCIL

## **Restraining Orders and Related Legislation Amendment (Family Violence) Bill 2016**

**A Bill for**

**An Act to amend the following —**

- **the *Restraining Orders Act 1997*;**
- **the *Bail Act 1982*;**
- **the *Children and Community Services Act 2004*;**
- **the *Community Protection (Offender Reporting) Act 2004*;**
- ***The Criminal Code*;**
- **the *Criminal Investigation Act 2006*;**
- **the *Prisons Act 1981*;**
- **the *Sentence Administration Act 2003*.**

The Parliament of Western Australia enacts as follows:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Restraining Orders and Related Legislation  
Amendment (Family Violence) Act 2016*.

### **2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

1           **Part 2 — *Restraining Orders Act 1997* amended**

2   **3.       Act amended**

3           This Part amends the *Restraining Orders Act 1997*.

4   **4.       Long title amended**

5           In the long title delete “**acts of family and domestic or**” and  
6           insert:

7  
8           **family violence or**

9  
10   **5.       Section 3 amended**

11       (1) In section 3 delete “In this Act” and insert —

12  
13           (1) In this Act

14  
15       (2) In section 3 delete the definitions of:

16           *act of abuse*

17           *act of family and domestic violence*

18           *act of personal violence*

19           *exposed*

20           *family and domestic relationship*

21           *final order*

22           *restraining order*

23       (3) In section 3 insert in alphabetical order:

24  
25           *assault* includes an assault within the meaning of *The*  
26           *Criminal Code*;

27           *conduct agreement order* has the meaning given in  
28           section 10H(1);

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- 1            **consent order** means an order made under  
2            section 41(1) or 43(2);
- 3            **cyber-stalking**, in relation to a person, means stalking,  
4            monitoring the movement or communications of, or  
5            repeatedly communicating with or harassing, the  
6            person using electronic means;
- 7            **exposed**, in relation to family violence or personal  
8            violence, has the meaning given in section 6A(1);
- 9            **family member** has the meaning given in section 4(3);
- 10           **family relationship** has the meaning given in  
11           section 4(1);
- 12           **family violence** has the meaning given in  
13           section 5A(1);
- 14           **family violence restraining order** means an order made  
15           under this Act imposing restraints of the kind referred  
16           to in section 10G;
- 17           **final order** means any of the following —
- 18           (a) in relation to an FVRO, a conduct agreement  
19           order;
- 20           (b) in relation to a VRO or MRO, a consent order;
- 21           (c) a restraining order that becomes a final order  
22           under section 32;
- 23           (d) a restraining order made under section 40(3);
- 24           (e) a restraining order made at a final order  
25           hearing;
- 26           (f) a restraining order made under section 49(1)(b)  
27           to vary a final order, being a replacement or  
28           additional final order made under that section;
- 29           (g) a restraining order that is a final order under  
30           section 63(4a) or 63A(3);
- 31           **kidnapping, or depriving the liberty of** a person  
32           includes behaving towards the person in a manner  
33           described in *The Criminal Code* section 332;

- 1                    **legal practitioner** means an Australian legal  
2                    practitioner as defined in the *Legal Profession*  
3                    *Act 2008* section 3;  
4                    **personal violence** has the meaning given in section 6;  
5                    **prescribed form** means a form prescribed in rules of  
6                    court;  
7                    **restraining order** means an FVRO, MRO or VRO;  
8                    **sexual assault** includes an offence under *The Criminal*  
9                    *Code* Chapter XXXI;  
10                   **stalking**, a person, includes committing an offence  
11                   under *The Criminal Code* Chapter XXXIIIB against the  
12                   person;  
13
- 14           (4) In section 3 in the definition of **authorised person** after  
15           “prescribed” insert:  
16
- 17                    in the regulations  
18
- 19           (5) In section 3 in the definition of **family order** delete “by” and  
20           insert:  
21
- 22                    in  
23
- 24           (6) In section 3 in the definition of **fix a hearing** delete “by” and  
25           insert:  
26
- 27                    in  
28
- 29           (7) In section 3 in the definition of **person seeking to be protected**  
30           paragraphs (a) and (b) delete “violence restraining order or a  
31           misconduct”.

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- 1 (8) In section 3 in the definition of *prepare and serve* delete “by”  
2 and insert:  
3  
4 in  
5
- 6 (9) In section 3 in the definition of *telephone application* delete “of  
7 Part 2 for a violence restraining order;” and insert:  
8  
9 for an FVRO or VRO;  
10
- 11 (10) In section 3 in the definition of *telephone order* delete “a  
12 violence restraining order” and insert:  
13  
14 an FVRO or VRO  
15
- 16 (11) At the end of section 3 insert:  
17
- 18 (2) In this Act the following abbreviations are used —  
19 *FVRO* for family violence restraining order;  
20 *MRO* for misconduct restraining order;  
21 *VRO* for violence restraining order.  
22
- 23 **6. Section 4 amended**
- 24 (1) In section 4(1) in the definition of *family and domestic*  
25 *relationship* delete “*and domestic*”.

1 (2) After section 4(2) insert:  
2

3 (3) In this Act a person is a *family member* of another  
4 person if the persons are in a family relationship.  
5

6 Note: The heading to amended section 4 is to read:

7 **Terms used: family relationship and family member**

8 **7. Section 5A inserted**

9 After section 5 insert:  
10

11 **5A. Term used: family violence**

12 (1) A reference in this Act to *family violence* is a reference  
13 to —

14 (a) violence, or a threat of violence, by a person  
15 towards a family member of the person; or

16 (b) any other behaviour by the person that coerces  
17 or controls the family member or causes the  
18 member to be fearful.

19 (2) Examples of behaviour that may constitute family  
20 violence include (but are not limited to) the  
21 following —

22 (a) an assault against the family member;

23 (b) a sexual assault or other sexually abusive  
24 behaviour against the family member;

25 (c) stalking or cyber-stalking the family member;

26 (d) repeated derogatory remarks against the family  
27 member;

28 (e) damaging or destroying property of the family  
29 member;

30 (f) causing death or injury to an animal that is the  
31 property of the family member;

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- 1 (g) unreasonably denying the family member the  
2 financial autonomy that the member would  
3 otherwise have had;
- 4 (h) unreasonably withholding financial support  
5 needed to meet the reasonable living expenses  
6 of the family member, or a child of the  
7 member, at a time when the member is entirely  
8 or predominantly dependent on the person for  
9 financial support;
- 10 (i) preventing the family member from making or  
11 keeping connections with the member's family,  
12 friends or culture;
- 13 (j) kidnapping, or depriving the liberty of, the  
14 family member, or any other person with whom  
15 the member has a family relationship;
- 16 (k) distributing or publishing, or threatening to  
17 distribute or publish, intimate personal images  
18 of the family member;
- 19 (l) causing any family member who is a child to be  
20 exposed to behaviour referred to in this section.
- 21 (3) For the purposes of this Act, a person who procures  
22 another person to commit family violence is taken to  
23 have also committed the family violence.  
24

25 **8. Section 6 amended**

- 26 (1) Delete section 6(1).
- 27 (2) In section 6(2) in the definition of *act of personal violence*:
- 28 (a) delete "*act of*";
- 29 (b) delete "and domestic";

- 1 (c) delete paragraph (b) and (c) and insert:  
2  
3 (b) kidnapping, or depriving the liberty of, the  
4 person;  
5 (c) stalking the person;  
6  
7 (d) in paragraph (e) delete “an act of family and domestic  
8 violence if those persons were in a family and domestic  
9 relationship.” and insert:  
10  
11 family violence if those persons were in a family  
12 relationship.  
13

14 (3) Delete section 6(3) and (4) and insert:  
15

- 16 (3) For the purposes of this Act, a person who procures  
17 another person to commit personal violence is taken to  
18 have also committed the personal violence.  
19

20 Note: The heading to amended section 6 is to read:

21 **Term used: personal violence**

22 **9. Section 6A inserted**

23 After section 6 insert:  
24

25 **6A. Term used: exposed**

- 26 (1) For the purposes of this Act, a child is *exposed* to  
27 family violence or personal violence if the child sees or  
28 hears the violence or otherwise experiences the effects  
29 of the violence.

**s. 10**

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- 1 (2) Examples of situations that may constitute a child  
2 being exposed to family violence or personal violence  
3 include (but are not limited to) the child —  
4 (a) overhearing threats of death or personal injury  
5 to a person; or  
6 (b) seeing or hearing an assault of a person; or  
7 (c) comforting or providing assistance to a person  
8 who has been assaulted; or  
9 (d) cleaning up a site after property damage; or  
10 (e) being present when police or ambulance  
11 officers attend an incident involving the  
12 violence.  
13

14 **10. Section 7 amended**

15 In section 7 after “and a person” insert:

16

17 who is  
18

19 **11. Section 7A amended**

20 In section 7A(a) and (b) delete “section 25,” and insert:

21

22 section 24A, 25,  
23

24 **12. Section 8 amended**

25 (1) In section 8(1)(h) delete “a violence restraining order,” and  
26 insert:

27

28 an FVRO or VRO,  
29

1       (2) In section 8(2) after “someone else” insert:

2

3               who is 16 years of age or older

4

5       **13. Section 10 amended**

6               In section 10(4) delete “the prescribed form” and insert:

7

8               the form prescribed in the regulations

9

10      **14. Parts 1B and 1C inserted**

11              After section 10 insert:

12

13                      **Part 1B — Family violence restraining order**

14      **10A. Objects**

15              The objects of this Part are as follows —

- 16              (a) to maximise the safety of persons who have  
17                  experienced, or are at risk of, family violence;
- 18              (b) to prevent, or reduce to the greatest extent  
19                  possible, the incidence and consequences of  
20                  family violence;
- 21              (c) to protect the wellbeing of children by  
22                  preventing them from being subjected or  
23                  exposed to family violence;
- 24              (d) to encourage perpetrators of family violence to  
25                  accept responsibility for their behaviour and the  
26                  effect it has on others;
- 27              (e) to make perpetrators of family violence  
28                  accountable to the court for contraventions of

**s. 14**

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1                                      court-imposed restrictions designed to prevent  
2                                      them from committing further family violence.

3                      **10B. Principles to be observed in performing functions in**  
4                      **relation to FVROs**

5                      (1) In performing a function under this Act relating to  
6                      FVROs, a person, court or other body must have regard  
7                      to the following —

- 8                                      (a) the need to ensure that persons at risk of family  
9                                      violence are protected from that violence;
- 10                                     (b) the need to prevent behaviour that could  
11                                     reasonably be expected to cause a person to  
12                                     apprehend that they will have family violence  
13                                     committed against them;
- 14                                     (c) the particular need to ensure the wellbeing of  
15                                     children by protecting them from family  
16                                     violence, behaviour referred to in paragraph (b)  
17                                     or otherwise being subjected or exposed to  
18                                     family violence;
- 19                                     (d) that perpetrators of family violence are solely  
20                                     responsible for that violence and its impact on  
21                                     others and should be held accountable  
22                                     accordingly;
- 23                                     (e) that complex emotional factors arising from  
24                                     coercion, control and fear often make it  
25                                     difficult for victims of family violence to report  
26                                     the violence or leave a family relationship in  
27                                     which family violence is being committed;
- 28                                     (f) the need to understand the impact of factors  
29                                     such as culture (including Aboriginal and  
30                                     Torres Strait Island culture), language, sexual  
31                                     orientation, gender identity, age, disability and  
32                                     remoteness of location in reporting family  
33                                     violence or leaving a family relationship in  
34                                     which family violence is being committed;

- 1 (g) that perpetrators of family violence who are  
2 children have special needs and that these must  
3 be taken into account;
- 4 (h) the need to identify, to the extent possible, the  
5 person or persons in a family relationship most  
6 in need of protection from family violence,  
7 including in situations where 2 or more family  
8 members are committing that violence;
- 9 (i) the need to recognise that perpetrators of family  
10 violence might seek to misuse the protections  
11 available under this Act to further their  
12 violence, and the need to prevent that misuse;
- 13 (j) that in order to encourage victims of family  
14 violence to report that violence and seek help,  
15 proceedings under this Act should be conducted  
16 in a way that treats victims with respect and  
17 dignity and endeavours to reduce the degree to  
18 which victims might be subject to  
19 re-traumatisation during those proceedings.
- 20 (2) The person, court or other body is to have regard to the  
21 matters set out in subsection (1)(a), (b) and (c) as being  
22 of primary importance.

23 **10C. FVRO to specify names of person bound, and**  
24 **person protected, by order**

25 An FVRO is to specify —

- 26 (a) the name of the person for whose benefit the  
27 order is made; and
- 28 (b) the name of the person on whose lawful  
29 activities and behaviour restraints are imposed  
30 by the order.

**s. 14**

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- 1           **10D. When FVROs may be made**
- 2           (1) A court may make an FVRO if it is satisfied that —
- 3                 (a) the respondent has committed family violence
- 4                 against a person seeking to be protected and the
- 5                 respondent is likely again to commit family
- 6                 violence against that person in the future; or
- 7                 (b) a person seeking to be protected, or a person
- 8                 who has applied for the order on behalf of that
- 9                 person, has reasonable grounds to apprehend
- 10                that the respondent will commit family violence
- 11                against the person seeking to be protected.
- 12           (2) If the court is satisfied in accordance with
- 13                subsection (1), the court must make the order unless
- 14                there are special circumstances that would make the
- 15                order inappropriate.
- 16           (3) For the purposes of subsection (2), special
- 17                circumstances do not exist simply because the
- 18                applicant or respondent can apply, or has applied, for a
- 19                particular family order.
- 20           **10E. FVRO may be made for child in circumstances of**
- 21           **family violence**
- 22           (1) An FVRO may be made for the benefit of a child if the
- 23                court is satisfied that —
- 24                 (a) the child has been exposed to family violence
- 25                 committed by or against a person with whom
- 26                 the child is in a family relationship and the
- 27                 child is likely again to be exposed to such
- 28                 violence; or
- 29                 (b) the applicant, the child or a person with whom
- 30                 the child is in a family relationship has
- 31                 reasonable grounds to apprehend that the child
- 32                 will be exposed to family violence committed

- 1 by or against a person with whom the child is in  
2 a family relationship.
- 3 (2) If the court is satisfied in accordance with  
4 subsection (1), the court must make the order unless  
5 there are special circumstances that would make the  
6 order inappropriate.
- 7 (3) For the purposes of subsection (2), special  
8 circumstances do not exist simply because the  
9 applicant or respondent can apply, or has applied, for a  
10 particular family order.

11 **10F. Matters to be considered by court generally**

- 12 (1) When considering whether to make an FVRO and the  
13 terms of the order, a court is to have regard to the  
14 following —
- 15 (a) the need to ensure that the person seeking to be  
16 protected is protected from family violence;
- 17 (b) the need to prevent behaviour that could  
18 reasonably be expected to cause the person  
19 seeking to be protected to apprehend that they  
20 will have family violence committed against  
21 them;
- 22 (c) the need to ensure the wellbeing of children by  
23 protecting them from family violence,  
24 behaviour referred to in paragraph (b) or  
25 otherwise being subjected or exposed to family  
26 violence;
- 27 (d) the accommodation needs of the respondent  
28 and the person seeking to be protected;
- 29 (e) the past history of the respondent and the  
30 person seeking to be protected with respect to  
31 applications under this Act, whether in relation  
32 to the same act or persons as are before the  
33 court or not;

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- 1 (f) hardship that may be caused to the respondent  
2 if the order is made;
- 3 (g) any family orders;
- 4 (h) other current legal proceedings involving the  
5 respondent or the person seeking to be  
6 protected;
- 7 (i) any criminal convictions of the respondent;
- 8 (j) any police orders made against the respondent;
- 9 (k) any previous similar behaviour of the  
10 respondent whether in relation to the person  
11 seeking to be protected or otherwise;
- 12 (l) any police incident reports relating to the  
13 respondent;
- 14 (m) any risk assessment, or risk-relevant  
15 information, relating to the relationship  
16 between the respondent and the person seeking  
17 to be protected;
- 18 (n) any other matters the court considers relevant.
- 19 (2) A court is to have regard to the matters set out in  
20 subsection (1)(a), (b) and (c) as being of primary  
21 importance.
- 22 (3) In having regard to the matters set out in  
23 subsection (1)(e), a past history of applications under  
24 this Act is not to be regarded in itself as sufficient to  
25 give rise to any presumption as to the merits of the  
26 application.
- 27 (4) The Commissioner of Police, is, where practicable, to  
28 provide to a court any information in the possession of  
29 the Police Force of Western Australia referred to in  
30 subsection (1)(i), (j) or (l) that is relevant to a matter  
31 before the court.

- 1           (5) The information is to be provided in the form of a  
2           certificate signed by —
- 3               (a) a police officer of or above the rank of  
4               sergeant; or
- 5               (b) a person —
- 6                     (i) employed or engaged in the department  
7                     of the Public Service principally  
8                     assisting the Minister in the  
9                     administration of the *Police Act 1892*;  
10                    and
- 11                   (ii) approved by the Commissioner of  
12                   Police for the purposes of this  
13                   subsection.
- 14           (6) The certificate is prima facie evidence of the matters  
15           specified in it, without proof of the signature of the  
16           person purporting to have signed it or proof that the  
17           purported signatory was a police officer of or above the  
18           rank of sergeant or a person referred to in  
19           subsection (5)(b), as the case requires.
- 20           (7) In addition to subsections (3) to (6), the court may have  
21           regard to any of its own records for the purposes of  
22           subsection (1).
- 23           (8) Records referred to in subsection (7) are taken to be  
24           proof of their contents in the absence of evidence to the  
25           contrary.

26           **10G. Restraints on respondent**

- 27           (1) In making an FVRO a court may impose such restraints  
28           on the lawful activities and behaviour of the respondent  
29           as the court considers appropriate to prevent the  
30           respondent —
- 31               (a) committing family violence against the person  
32               seeking to be protected; or

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- 1 (b) if the person seeking to be protected by the  
2 order is a child, exposing a child to family  
3 violence committed by the respondent; or
- 4 (c) behaving in a manner that could reasonably be  
5 expected to cause the person seeking to be  
6 protected to apprehend that they will have  
7 family violence committed against them.
- 8 (2) Without limiting the restraints that may be imposed  
9 under subsection (1), a court may restrain the  
10 respondent from doing all or any of the following —
- 11 (a) being on or near premises where the person  
12 seeking to be protected lives or works;
- 13 (b) being on or near specified premises or in a  
14 specified locality or place;
- 15 (c) approaching within a specified distance of the  
16 person seeking to be protected;
- 17 (d) stalking or cyber-stalking the person seeking to  
18 be protected;
- 19 (e) communicating, or attempting to communicate,  
20 (by whatever means) with the person seeking to  
21 be protected;
- 22 (f) preventing the person seeking to be protected  
23 from obtaining and using personal property  
24 reasonably needed by the person seeking to be  
25 protected, even if the respondent is the owner  
26 of, or has a right to be in possession of, the  
27 property;
- 28 (g) distributing or publishing, or threatening to  
29 distribute or publish, intimate personal images  
30 of the person seeking to be protected;
- 31 (h) causing or allowing another person to engage in  
32 conduct of a type referred to in paragraphs (a)  
33 to (g).

- 1 (3) A restraint may be imposed on the respondent on such  
2 terms as the court considers appropriate.
- 3 (4) An FVRO may restrain the respondent from entering or  
4 remaining in a place, or restrict the respondent's access  
5 to a place, even if the respondent has a legal or  
6 equitable right to be at the place.
- 7 (5) If an FVRO imposes a restraint referred to in  
8 subsection (4), or for some other reason the court is  
9 satisfied that it is necessary to do so, the court is to  
10 ensure that the order makes provision for the person  
11 seeking to be protected, or the respondent, to recover  
12 personal property, and other property of a kind  
13 prescribed in the regulations, from a place specified in  
14 the order —
- 15 (a) in the manner set out by the court in the order;  
16 or
- 17 (b) in accordance with the procedures set out in the  
18 regulations.
- 19 (6) An FVRO may inform the respondent that certain  
20 behaviour and activities are unlawful.

21 **10H. Conduct agreement**

- 22 (1) If, at any stage of proceedings under this Act relating to  
23 an FVRO, the respondent agrees (a *conduct*  
24 *agreement*) to the making of a final order imposing  
25 restraints of the kind referred to in section 10G (a  
26 *conduct agreement order*), the court may make the  
27 order without being satisfied there are grounds for  
28 making an FVRO in the same terms.
- 29 (2) A conduct agreement does not constitute an admission  
30 by the respondent of all or any of the matters alleged in  
31 the application for the relevant FVRO.

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- 1 (3) A conduct agreement order is not an FVRO but is  
2 taken to be an FVRO for the purposes of this Act.
- 3 (4) The registrar must cause a conduct agreement order to  
4 be prepared and served on the respondent.

5 **Part 1C — Behaviour management order**

6 **Division 1 — Preliminary**

7 **10I. Terms used**

8 In this Part —

9 *behaviour change order* has the meaning given in  
10 section 10M(1);

11 *behaviour change programme* has the meaning given  
12 in section 10P(2);

13 *behaviour change programme provider* has the  
14 meaning given in section 10P(3);

15 *behaviour management order* means —

- 16 (a) an eligibility assessment order; or  
17 (b) a behaviour change order;

18 *court* means a court prescribed in the regulations for  
19 the purposes of this Part;

20 *eligibility assessment interview* has the meaning given  
21 in section 10L(1)(b);

22 *eligibility assessment order* has the meaning given in  
23 section 10L(1);

24 *eligibility assessment report* has the meaning given in  
25 section 10L(1)(a);

26 *eligibility assessor* has the meaning given in  
27 section 10P(1).

28 *proceeding* means a proceeding under this Part;

1                    *variation or cancellation order* has the meaning given  
2                    in section 10T.

3                    **10J.     Objects**

4                    The objects of this Part are to provide for a court that  
5                    has made a final order that is an FVRO to make an  
6                    additional order —

- 7                    (a)    to assess the eligibility of the respondent for a  
8                    programme designed —
- 9                           (i)    to encourage the respondent to accept  
10                           responsibility for the respondent's  
11                           family violence and the effect it has on  
12                           others; and
- 13                           (ii)   to encourage the respondent to stop  
14                           committing further family violence;
- 15                           and
- 16                    (b)    if appropriate, to require the respondent to  
17                    attend the programme.

18                    **10K.     Application of Part**

19                    This Part applies to a respondent only if —

- 20                    (a)    a final order that is an FVRO has been made  
21                    against the respondent; and
- 22                    (b)    the respondent is an adult.

23                    **Division 2 — Eligibility assessment order**

24                    **10L.     Making an eligibility assessment order**

- 25                    (1)    The court may, on the application of the person  
26                    protected by the final order or on its own initiative,  
27                    make an order requiring —
- 28                           (a)    an eligibility assessor to give a report (an  
29                           *eligibility assessment report*) to the court, by a  
30                           date specified in the order, on whether the

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- 1 respondent is eligible to attend a behaviour  
2 change programme; and
- 3 (b) the respondent to attend an interview (an  
4 ***eligibility assessment interview***) with the  
5 eligibility assessor for the purposes of  
6 preparing the eligibility assessment report.
- 7 (2) However, a court is not to make an eligibility  
8 assessment order if —
- 9 (a) there is already in force a behaviour  
10 management order in respect of the respondent;  
11 or
- 12 (b) the court is satisfied that —
- 13 (i) there is no behaviour change  
14 programme that is reasonably  
15 practicable for the respondent to attend;  
16 or
- 17 (ii) in all the circumstances of the case, it is  
18 not appropriate to make the order.
- 19 (3) The eligibility assessment report must assess the  
20 respondent as eligible to attend a behaviour change  
21 programme unless the eligibility assessor considers that  
22 the respondent does not have the ability or capacity to  
23 participate in a behaviour change programme because  
24 of one or more of the following —
- 25 (a) the respondent's character, personal history or  
26 language skills;
- 27 (b) any disabilities of the respondent;
- 28 (c) any severe mental health conditions of the  
29 respondent;
- 30 (d) any alcohol or other drug problems of the  
31 respondent;
- 32 (e) any other matters that the eligibility assessor  
33 considers relevant.

- 1           (4) An eligibility assessment order must —
- 2               (a) specify the date by which the respondent must
- 3               undergo an eligibility assessment interview;
- 4               and
- 5               (b) require the eligibility assessor to give
- 6               reasonable written notice to the respondent of
- 7               the interview; and
- 8               (c) require the respondent to attend that interview.
- 9           (5) A respondent who, without reasonable excuse,
- 10           contravenes an eligibility assessment order by failing to
- 11           attend the eligibility assessment interview commits an
- 12           offence.
- 13           Penalty for this subsection: a fine of \$1 000.
- 14           (6) The respondent is taken to have contravened the order
- 15           by failing to attend the eligibility assessment interview
- 16           if the respondent does not attend the interview at the
- 17           time and place specified in the notice under
- 18           subsection (4)(b).

19           **10M. Order to attend behaviour change programme**

- 20           (1) If a court is given an eligibility assessment report and
- 21           is satisfied that the respondent is eligible to attend a
- 22           behaviour change programme, it must make an order (a
- 23           ***behaviour change order***) requiring the respondent to
- 24           attend the behaviour change programme.
- 25           (2) However, a court is not required to make the order
- 26           if —
- 27               (a) there is already in force a behaviour change
- 28               order in respect of the respondent; or
- 29               (b) the court is satisfied that —
- 30                   (i) there is no behaviour change
- 31                   programme that is reasonably



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**10N. Effect of appeal against final order**

- (1) If an appeal is lodged under section 64 against a decision to make a final order against a respondent —
  - (a) the operation of a related behaviour management order in respect of the respondent is stayed for any period during which the operation of the whole of the final order is stayed; and
  - (b) a related behaviour management order in respect of the respondent ceases to be in force if the effect of the appeal is that the final order ceases to be in force, unless the court hearing the appeal makes an order to the contrary.
- (2) A behaviour management order in respect of a respondent does not otherwise cease to be in force merely because the related final order made against the respondent ceases to be in force.

**Division 3 — Procedures relating to behaviour management order**

**10O. Notice of hearings**

- (1) Before a court makes a behaviour management order, or varies or cancels a behaviour management order, a registrar for the court must cause the notice of the hearing to be served on the respondent.
- (2) The court may make the order in the respondent's absence if the respondent fails to attend the hearing.
- (3) Despite subsection (1), if the respondent is before a court when it makes a final order against the respondent, the court may make an eligibility assessment order, without giving any notice to the respondent, immediately after it makes the final order.

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- 1                      **10P.      Approval of persons and of behaviour change**  
2    **programme**
- 3                      (1)      The Minister may approve, in writing, any person (an  
4    ***eligibility assessor***) who the Minister considers has  
5    appropriate experience and qualifications to conduct  
6    eligibility assessment interviews and prepare eligibility  
7    assessment reports.
- 8                      (2)      The Minister may approve, in writing, a programme (a  
9    ***behaviour change programme***) that the Minister  
10    considers appropriate to —
- 11    (a)      facilitate the acceptance by a respondent of  
12    responsibility for the respondent’s family  
13    violence and the effect it has on others; and
- 14    (b)      encourage the respondent to stop committing  
15    further family violence; and
- 16    (c)      deal with any other issues relating to the  
17    perpetrators of family violence.
- 18                      (3)      For the purposes of subsection (2), the Minister is to  
19    specify the person or body providing a behaviour  
20    change programme (a ***behaviour change programme***  
21    ***provider***).
- 22                      (4)      The Minister must make available to a court if  
23    asked —
- 24    (a)      a list of the persons approved under  
25    subsection (1) and their contact details; and
- 26    (b)      a list of the behaviour change programmes  
27    approved under subsection (2); and
- 28    (c)      the contact details of the behaviour change  
29    programme providers under subsection (3).

1           **10Q. Eligibility assessor may be required to attend**  
2           **hearing**

- 3           (1) The court or the respondent may require an eligibility  
4           assessor to attend to give evidence at the hearing of the  
5           proceeding to which the report relates by filing a  
6           written notice with the court as soon as possible and, if  
7           practicable, not later than 2 working days before the  
8           hearing.
- 9           (2) On the filing of a notice, a registrar for the court must  
10          immediately arrange for the person concerned to be  
11          notified that the person's attendance is required on the  
12          date stated in the notice.
- 13          (3) A person who under this section, has been required by  
14          the respondent to attend the hearing of a proceeding  
15          must, if required by the respondent, be called as a  
16          witness and may be cross-examined by the respondent  
17          on the contents of the eligibility assessment report.

18          **10R. Disputed eligibility assessment report**

- 19          (1) If the respondent disputes any matter in an eligibility  
20          assessment report, the court must not take the disputed  
21          matter into consideration when determining the  
22          proceeding unless it is satisfied, on the balance of  
23          probabilities, that the matter is true.
- 24          (2) The court must not, without the respondent's consent,  
25          take into consideration an eligibility assessment report,  
26          or part of such a report, when determining the  
27          proceeding if —
- 28                  (a) the respondent disputes all or part of the report;  
29                  and
- 30                  (b) the eligibility assessor who gave the report to  
31                  the court does not attend the hearing of the  
32                  proceeding despite having been required to  
33                  attend under section 10Q.

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- 1           **10S. Explanation of behaviour management orders**
- 2           If a court proposes to make a behaviour management
- 3           order and the respondent is before the court, it must
- 4           explain to the respondent before making the order —
- 5           (a) the purpose, terms and effect of the proposed
- 6           order; and
- 7           (b) the consequences that may follow if the
- 8           respondent fails to comply with the terms of the
- 9           proposed order; and
- 10          (c) the means by which the proposed order may be
- 11          varied or cancelled.
- 12           **10T. Variation or cancellation of behaviour management**
- 13           **orders**
- 14           (1) A court may make an order (a *variation or*
- 15           *cancellation order*) varying or cancelling a behaviour
- 16           management order if —
- 17           (a) in relation to a behaviour management order —
- 18           (i) there is no longer any behaviour change
- 19           programme that is reasonably
- 20           practicable for the respondent to attend;
- 21           or
- 22           (ii) in all the circumstances of the case, the
- 23           order is no longer appropriate for any
- 24           other reason;
- 25           or
- 26           (b) in relation to a behaviour change order, there
- 27           has been a change in the circumstances in
- 28           which the order was made that significantly
- 29           impacts on the respondent's ability or capacity
- 30           to participate in a behaviour change
- 31           programme.

- 1           (2) A court may make the order on its own initiative or on  
2           the application of —
- 3               (a) the respondent; or
- 4               (b) in relation to an eligibility assessment order, the  
5               eligibility assessor; or
- 6               (c) in relation to a behaviour change order, the  
7               behaviour change programme provider.
- 8           (3) The appropriate registrar for the court must cause a  
9           copy of an application under subsection (2) to be  
10          served on —
- 11               (a) in relation to an application by the respondent,  
12               the eligibility assessor or behaviour change  
13               programme provider, as the case may be; or
- 14               (b) in relation to an application by the eligibility  
15               assessor or behaviour change programme  
16               provider, the respondent.

17           **10U. Service of orders**

- 18           (1) If a court makes a behaviour management order, the  
19           registrar is to prepare the order in the prescribed form  
20           and —
- 21               (a) cause the respondent's copy and the  
22               respondent's endorsement copy (if one is  
23               required to be served) of the order to be served  
24               on the person who is bound by the order; and
- 25               (b) cause the applicant's copy of the order to be  
26               delivered to —
- 27                       (i) in relation to an eligibility assessment  
28                       order, or a variation or cancellation  
29                       order relating to an eligibility  
30                       assessment order, the eligibility  
31                       assessor; or
- 32                       (ii) in relation to a behaviour change order,  
33                       or a variation or cancellation order

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1 relating to a behaviour change order, the  
2 behaviour change programme provider.

3 (2) The registrar must cause a copy of the eligibility  
4 assessment report, a report under section 10V or a  
5 certificate under section 10W to be served on the  
6 respondent as soon as practicable, and not later than  
7 10 days after a court receives the report or certificate,  
8 as the case requires.

9 **Division 4 — Other matters**

10 **10V. Respondent's participation in behaviour change**  
11 **programme**

12 (1) This section applies if a respondent participates in a  
13 behaviour change programme.

14 (2) The behaviour change programme provider must, as  
15 soon as practicable after the end of a programme,  
16 provide a report, in the prescribed form, to the court  
17 specifying details of the following —

- 18 (a) whether the respondent completed the  
19 programme and the respondent's general  
20 attendance at the programme;
- 21 (b) an assessment of the extent to which the  
22 respondent's behaviour has changed or is likely  
23 to change;
- 24 (c) an assessment of whether the respondent is still  
25 a safety risk to any family member for whose  
26 protection the relevant behaviour management  
27 order was made (the *victim*);
- 28 (d) any known views of the victim regarding the  
29 matters referred to in paragraphs (a) to (c).

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**10W. Respondent’s contravention of behaviour management order**

- (1) This section applies if a respondent contravenes a behaviour management order.
- (2) The eligibility assessor or behaviour change programme provider, as the case may be, must —
  - (a) notify the Commissioner of Police, in writing, of the contravention; and
  - (b) lodge with the court that made the behaviour management order a certificate, in the prescribed form, setting out the details of the contravention.
- (3) In the absence of evidence to the contrary, the certificate referred to in paragraph (b) is proof of the facts contained in it.

**10X. Confidentiality of interviews and reports**

- (1) An eligibility assessor must not disclose any information obtained during the course of conducting an eligibility assessment interview or preparing an eligibility assessment report to any person who is not entitled to receive or have access to the report.  
Penalty for this subsection: a fine of \$1 000.
- (2) A person who receives or otherwise has access to all or part of an eligibility assessment report, or a copy of the report, must not disclose any information contained in the report to any person who is not entitled to receive or have access to the report.  
Penalty for this subsection: a fine of \$1 000.

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- 1                      (3) A behaviour change programme provider must not  
2                      disclose any information in a report under section 10V  
3                      to any person who is not entitled to receive or have  
4                      access to the report.  
5                      Penalty for this subsection: a fine of \$1 000.
- 6                      (4) A person who receives or otherwise has access to all or  
7                      part of a report under section 10V, or a copy of the  
8                      report, must not disclose any information contained in  
9                      the report to any person who is not entitled to receive  
10                     or have access to the report.  
11                     Penalty for this subsection: a fine of \$1 000.
- 12                     (5) This section does not apply to the following  
13                     disclosures —
- 14                     (a) a disclosure by, or authorised in writing by, the  
15                     respondent who is the subject of the eligibility  
16                     assessment report;
- 17                     (b) a disclosure to a legal practitioner in connection  
18                     with the giving of legal advice or the provision  
19                     of representation in a proceeding under this  
20                     Act;
- 21                     (c) a disclosure that is authorised by a court as  
22                     necessary for the purposes of this Part or  
23                     proceedings for a contravention of an order  
24                     under this Part (including any offence  
25                     constituted by such a contravention);
- 26                     (d) a disclosure that is required, authorised or  
27                     permitted (whether expressly or impliedly) by  
28                     or under a law or by a court;
- 29                     (e) a disclosure that does not identify the  
30                     respondent or from which the respondent's  
31                     identity cannot reasonably be ascertained;
- 32                     (f) a disclosure of a kind prescribed in the  
33                     regulations.

1           **10Y. Confidentiality of behaviour change programme**

2           (1) A behaviour change programme provider must not  
3 disclose any information obtained during the course of  
4 providing the behaviour change programme to any  
5 person who is not entitled to the information.

6           Penalty for this subsection: a fine of \$1 000.

7           (2) Subsection (1) does not apply to the following  
8 disclosures —

9                   (a) a disclosure by, or authorised in writing by, the  
10 respondent to whom the behaviour change  
11 programme is provided;

12                   (b) a disclosure to a legal practitioner in connection  
13 with the giving of legal advice or the provision  
14 of representation in a proceeding under this  
15 Act;

16                   (c) a disclosure that is authorised by a court as  
17 necessary for the purposes of this Part or of a  
18 proceeding;

19                   (d) a disclosure that is required, authorised or  
20 permitted (whether expressly or impliedly) by  
21 or under a law or by a court;

22                   (e) a disclosure that does not identify the  
23 respondent or from which the respondent's  
24 identity cannot reasonably be ascertained;

25                   (f) a disclosure of a kind prescribed in the  
26 regulations.

27           **10Z. Delegation**

28           The Minister may delegate to an officer of the  
29 department of the Public Service principally assisting  
30 the Minister in the administration of this Act all or any  
31 of the functions that the Minister has under this Part,  
32 other than this power of delegation.  
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1 **15. Part 2 Division 1 heading deleted**

2 Delete the heading to Part 2 Division 1.

3 **16. Section 11 amended**

4 In section 11 delete “violence restraining order” and insert:

5

6 VRO

7

8 Note: The heading to amended section 11 is to read:

9 **VRO to specify names of person bound, and person protected, by**  
10 **order**

11 **17. Section 11A amended**

12 In section 11A:

13 (a) delete “violence restraining order” (each occurrence)  
14 and insert:

15

16 VRO

17

18 (b) delete “an act of abuse” (each occurrence) and insert:

19

20 personal violence

21

22 (c) in paragraph (a) delete “such an act” and insert:

23

24 personal violence

25

26 (d) in paragraph (b) delete “reasonably fears” and insert:

27

28 has reasonable grounds to apprehend

29

30 Note: The heading to amended section 11A is to read:

31 **When VROs may be made**

1 **18. Section 11B deleted**

2 Delete section 11B.

3 **19. Section 12 amended**

4 (1) In section 12(1):

5 (a) delete “violence restraining order” and insert:

6

7 VRO

8

9 (b) delete “to — ” and insert:

10

11 to the following —

12

13 (c) in paragraph (a) delete “acts of abuse; and” and insert:

14

15 personal violence;

16

17 (d) delete paragraphs (b), (ba) and (c) and insert:

18

19 (b) the need to prevent behaviour that could  
20 reasonably be expected to cause the person  
21 seeking to be protected to apprehend that they  
22 will have personal violence committed against  
23 them;

24 (c) the need to ensure the wellbeing of children by  
25 protecting them from personal violence,  
26 behaviour referred to in paragraph (b) or  
27 otherwise being exposed to personal violence;

28

29 (e) delete paragraph (f);

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- 1 (f) in paragraph (h) delete “record” and insert:  
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3 convictions  
4
- 5 (g) after each of paragraphs (d) to (i) delete “and”.
- 6 (2) In section 12(2) delete “(b), (ba)” and insert:  
7
- 8 (b)  
9
- 10 (3) Delete section 12(5) and insert:  
11
- 12 (5) The information is to be provided in the form of a  
13 certificate signed by —
- 14 (a) a police officer of or above the rank of  
15 sergeant; or
- 16 (b) a person —
- 17 (i) employed or engaged in the department  
18 of the Public Service principally  
19 assisting the Minister in the  
20 administration of the *Police Act 1892*;  
21 and
- 22 (ii) approved by the Commissioner of  
23 Police for the purposes of this  
24 subsection.  
25
- 26 (4) In section 12(6) delete “inspector.” and insert:  
27
- 28 sergeant or a person referred to in subsection (5)(b), as the case  
29 requires.  
30

1 (5) After section 12(6) insert:  
2

3 (7) In addition to subsections (3) to (6), the court may have  
4 regard to any of its own records for the purposes of  
5 subsection (1).

6 (8) Records referred to in subsection (7) are taken to be  
7 proof of their contents in the absence of evidence to the  
8 contrary.  
9

10 Note: The heading to amended section 12 is to read:

11 **Matters to be considered by court generally**

12 **20. Section 12A inserted**

13 After section 12 insert:  
14

15 **12A. VROs not for persons in family relationship**

16 A court is not to make a VRO unless it is satisfied that  
17 the person seeking to be protected by the order and the  
18 person bound by the order are not in a family  
19 relationship with each other.  
20

21 **21. Section 13 amended**

22 (1) In section 13(1):

23 (a) delete “violence restraining order” and insert:  
24

25 VRO  
26

27 (b) in paragraphs (a) and (aa) delete “an act of abuse” and  
28 insert:  
29

30 personal violence  
31

**s. 21**

---

- 1 (c) delete paragraph (b) and insert:  
2
- 3 (b) behaving in a manner that could reasonably be  
4 expected to cause the person seeking to be  
5 protected to apprehend that they will have  
6 personal violence committed against them.  
7
- 8 (2) After section 13(2)(c) insert:  
9
- 10 (ca) stalking the person seeking to be protected;  
11
- 12 (3) In section 13(3) delete “absolutely or”.
- 13 (4) In section 13(4) delete “violence restraining order” and insert:  
14
- 15 VRO  
16
- 17 (5) In section 13(5):  
18 (a) delete “violence restraining order” and insert:  
19
- 20 VRO  
21
- 22 (b) delete “personal, and other prescribed, property” and  
23 insert:  
24
- 25 personal property, and other property of a kind  
26 prescribed in the regulations,  
27
- 28 (6) In section 13(6) delete “violence restraining order” and insert:  
29
- 30 VRO  
31

1 **22. Part 2A heading and Part 2A Division 1 heading inserted**

2 After section 13 insert:

3

4 **Part 2A — Provisions for FVRO and VRO**

5 **Division 1 — Orders relating to firearms**

6

7 **23. Section 14 amended**

8 (1) In section 14(1) delete “violence restraining order” and insert:

9

10 FVRO or VRO

11

12 (2) In section 14(2):

13 (a) delete “a violence restraining order” and insert:

14

15 an FVRO or VRO

16

17 (b) delete “the prescribed person and in the prescribed  
18 manner,” and insert:

19

20 a person and in a manner prescribed in the regulations,

21

22 (3) In section 14(3) delete “the prescribed manner.” and insert:

23

24 a manner prescribed in the regulations.

25

**s. 24**

---

- 1 (4) In section 14(4) delete “a violence restraining order —” and  
2 insert:  
3  
4 an FVRO or VRO —  
5
- 6 (5) In section 14(5) delete “a violence restraining order” and insert:  
7  
8 an FVRO or VRO  
9
- 10 (6) In section 14(7):  
11 (a) delete “a violence restraining order” and insert:  
12  
13 an FVRO or VRO  
14  
15 (b) delete “prescribed period” and insert:  
16  
17 period prescribed in the regulations  
18

19 **24. Part 2A Division 1A heading inserted**

20 After section 14 insert:  
21

22 **Division 1A — Duration of orders**  
23

24 **25. Section 16 amended**

- 25 (1) In section 16(1) delete “a violence restraining order” and insert:  
26  
27 an FVRO or VRO  
28

1 (2) Delete section 16(5).

2 Note: The heading to amended section 16 is to read:

3 **Duration of FVRO or VRO generally**

4 **26. Section 16A and 16B inserted**

5 After section 16 insert:

6

7 **16A. Duration of FVRO**

8 (1) In this section —

9 *prisoner* means a person committed to prison for  
10 punishment, or on remand, or for trial, safe custody, or  
11 otherwise.

12 (2) Unless varied or cancelled under Part 5, a final order  
13 that is an FVRO made against a respondent who is not  
14 a prisoner remains in force for —

15 (a) in the case of an order made at a final order  
16 hearing or under section 10H —

17 (i) the period (of whatever duration)  
18 specified in the order from the date on  
19 which the final order came into force; or

20 (ii) if no period is specified, 2 years from  
21 the date on which the final order came  
22 into force;

23 and

24 (b) in the case of a telephone order which became a  
25 final order under section 32 — 3 months from  
26 when the telephone order came into force or  
27 such shorter period as is specified in that order;  
28 and

**s. 26**

---

- 1 (c) in the case of any other interim order which  
2 becomes a final order under section 32 —
- 3 (i) the period (of whatever duration)  
4 specified in it from the date on which  
5 the interim order came into force; or
- 6 (ii) if no period is specified, 2 years from  
7 the date on which the interim order  
8 came into force.
- 9 (3) Unless varied or cancelled under Part 5, a final order  
10 that is an FVRO made against a respondent who is a  
11 prisoner remains in force from the date on which the  
12 final order comes into force for a period of —
- 13 (a) in the case of an order made at a final order  
14 hearing or under section 10H, or any interim  
15 order which becomes a final order under  
16 section 32 — 2 years, or such longer period as  
17 is specified in that order, from when the  
18 respondent is released from prison; and
- 19 (b) in the case of a telephone order which became a  
20 final order under section 32 — 3 months, or  
21 such shorter period as is specified in that order,  
22 from when the respondent is released from  
23 prison.
- 24 (4) For the purposes of subsection (3), the date on which  
25 the final order comes into force may be a date on which  
26 the respondent is in prison.
- 27 (5) In specifying a period for which an FVRO remains in  
28 force, the court must have regard to the following —
- 29 (a) that the safety of the person protected is  
30 paramount;
- 31 (b) any assessment by the applicant or person  
32 protected of the risk of family violence being  
33 committed by the respondent.

1           (6) In specifying a period for which an FVRO remains in  
2           force, the court may also take into account any matters  
3           raised by the respondent that are relevant to the  
4           duration of the order.

5           (7) Nothing in this section affects the operation of  
6           section 50A.

7           **16B. Duration of VRO**

8           Unless varied or cancelled under Part 5, a final order  
9           that is a VRO remains in force for —

- 10           (a) in the case of an order made at a final order  
11           hearing —
- 12               (i) the period (of whatever duration)  
13               specified in the order from the date on  
14               which the final order came into force; or
- 15               (ii) if no period is specified, 2 years from  
16               the date on which the final order came  
17               into force;

18           and

- 19           (b) in the case of a telephone order which became a  
20           final order under section 32 — 3 months from  
21           when the telephone order came into force or  
22           such shorter period as is specified in that order;  
23           and

- 24           (c) in the case of any other interim order which  
25           becomes a final order under section 32 —

- 26               (i) the period (of whatever duration)  
27               specified in it from the date on which  
28               the interim order came into force; or
- 29               (ii) if no period is specified, 2 years from  
30               the date on which the interim order  
31               came into force.  
32

**s. 27**

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1 **27. Section 18 amended**

2 In section 18(1) and (2) delete “a violence restraining order”  
3 and insert:

4  
5 an FVRO or VRO  
6

7 **28. Section 19 amended**

8 In section 19 delete “a violence restraining order —” and insert:

9  
10 an FVRO or VRO —  
11

12 **29. Section 20 amended**

13 In section 20(1)(a) and (b) and 20(3) delete “a violence  
14 restraining order” and insert:

15  
16 an FVRO or VRO  
17

18 **30. Section 24A inserted**

19 After section 24 insert:  
20

21 **24A. Application for FVRO**

22 (1) An application for an FVRO may be made in person  
23 by —

24 (a) the person seeking to be protected, if the person  
25 is 16 years of age or older; or

26 (b) a police officer on behalf of the person seeking  
27 to be protected, regardless of the age of the  
28 person.

- 1 (2) An application for an FVRO may also be made —
- 2 (a) if the person seeking to be protected is a child,
- 3 by a parent or guardian of the child, or a child
- 4 welfare officer, on behalf of the child; or
- 5 (b) if the person seeking to be protected is a person
- 6 for whom a guardian has been appointed under
- 7 the *Guardianship and Administration Act 1990*,
- 8 by the guardian on behalf of the person.
- 9 (3) An application for an FVRO made in person is to be
- 10 made in the prescribed form to —
- 11 (a) if the respondent is a child, the Children’s
- 12 Court; or
- 13 (b) if the respondent is not a child and the person
- 14 seeking to be protected is a child, the
- 15 Children’s Court or the Magistrates Court; or
- 16 (c) otherwise, the Magistrates Court.
- 17

18 **31. Section 25 amended**

19 In section 25(1), (2) and (3) delete “a violence restraining order”

20 and insert:

21

22 a VRO

23

24 Note: The heading to amended section 25 is to read:

25 **Application for VRO**

26 **32. Section 26 amended**

27 In section 26(1) delete “section 25” and insert:

28

29 section 24A or 25

30

**s. 33**

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1 **33. Section 29 amended**

2 (1) In section 29(1)(a) delete “ a violence restraining order; or” and  
3 insert:

4

5 an FVRO or VRO; or

6

7 (2) In section 29(3) delete “a violence restraining order” and insert:

8

9 an FVRO or VRO

10

11 **34. Part 2A Division 3A heading amended**

12 In the heading to Part 2A Division 3A delete “**and domestic**”.

13 **35. Section 30A amended**

14 In section 30A:

15 (a) delete “a violence restraining order” and insert:

16

17 an FVRO

18

19 (b) in paragraph (a)(i) delete “an act of family and  
20 domestic” and insert:

21

22 family

23

24 (c) in paragraph (a)(i) delete “such an act;” and insert:

25

26 that violence;

27

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31

(d) in paragraph (a)(ii) delete “an act of family and domestic” and insert:

family

(e) in paragraph (a)(ii) before “relationship” delete “and domestic”;

(f) in paragraph (a)(ii) delete “such an act;” and insert:

that violence;

(g) in paragraph (b) delete “reasonably fears,” (each occurrence) and insert:

has reasonable grounds to apprehend,

(h) in paragraph (b)(i) delete “him or her” and insert:

the person

(i) in paragraph b(i) and (ii) delete “an act of family and domestic” and insert:

family

**36. Section 30B amended**

In section 30B:

(a) delete “to —” and insert:

to the following —

**s. 37**

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- 1 (b) in paragraph (a) delete “acts of family and domestic  
2 violence; and” and insert:  
3  
4 family violence;  
5  
6 (c) delete paragraphs (b), (c) and (d) and insert:  
7  
8 (b) the need to prevent behaviour that could  
9 reasonably be expected to cause the person  
10 seeking to be protected to apprehend that they  
11 will have family violence committed against  
12 them;  
13 (c) the need to ensure the wellbeing of children by  
14 protecting them from family violence,  
15 behaviour referred to in paragraph (b) or  
16 otherwise being exposed to family violence;  
17  
18 (d) after each of paragraphs (e) to (g) delete “and”.

19 Note: The heading to amended section 30B is to read:

20 **Matters to be considered by police officer generally**

21 **37. Section 30C amended**

- 22 (1) In section 30C(1):  
23 (a) in paragraph (a) delete “an act of family and domestic  
24 violence; or” and insert:  
25  
26 family violence; or  
27

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27

(b) delete paragraph (b) and insert:

(b) behaving in a manner that could reasonably be expected to cause the person seeking to be protected to apprehend that they will have family violence committed against them.

(2) In section 30C(3) delete “absolutely or”.

**38. Section 30D amended**

In section 30D(1) delete “and domestic”.

**39. Section 30E amended**

(1) Delete section 30E(1) and insert:

(1) Any police officer may serve a police order.

(2) In section 30E(4) after “someone else” insert:

who is 16 years of age or older

Note: The heading to amended section 30E is to read:

**Police order to be served and explained**

**40. Section 34 amended**

In section 34 delete “a misconduct restraining order” (each occurrence) and insert:

an MRO

**s. 41**

---

1 **41. Section 35 amended**

2 (1) In section 35(1):

3 (a) delete “a misconduct restraining order” and insert:

4

5 an MRO

6

7 (b) in paragraph (g) delete “record” and insert:

8

9 convictions

10

11 (2) In section 35(2):

12 (a) delete “a misconduct restraining order” and insert:

13

14 an MRO

15

16 (b) in paragraph (f) delete “record” and insert:

17

18 convictions

19

20 Note: The heading to amended section 35 is to read:

21 **Matters to be considered by court generally**

22 **42. Section 35A amended**

23 In section 35A:

24 (a) delete “a misconduct restraining order” and insert:

25

26 an MRO

27

28 (b) delete “and domestic”.

29 Note: The heading to amended section 35A is to read:

30 **MROs not for persons in family relationship**

1 **43. Section 36 amended**

2 (1) In section 36(1) delete “a misconduct restraining order” and  
3 insert:

4  
5 an MRO

6  
7 (2) After section 36(2)(c) insert:

8  
9 (ca) stalking the person seeking to be protected;

10  
11 (3) In section 36(4) delete “absolutely or”.

12 (4) In section 36(5) delete “A misconduct restraining order” and  
13 insert:

14  
15 An MRO

16  
17 (5) In section 36(6):

18 (a) delete “a misconduct restraining order” and insert:

19  
20 an MRO

21  
22 (b) delete “misconduct restraining order were a violence  
23 restraining order.” and insert:

24  
25 MRO were a VRO.  
26

**s. 44**

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1 **44. Section 37 amended**

2 (1) In section 37(1) delete “A misconduct restraining order” and  
3 insert:

4  
5 An MRO  
6

7 (2) In section 37(2) delete “a misconduct restraining order” and  
8 insert:

9  
10 an MRO  
11

12 Note: The heading to amended section 37 is to read:

13 **Duration of MRO**

14 **45. Section 38 amended**

15 In section 38(1), (2), (3) and (4) delete “a misconduct  
16 restraining order” and insert:

17  
18 an MRO  
19

20 **46. Section 39 amended**

21 In section 39 delete “a misconduct restraining order” and insert:

22  
23 an MRO  
24

25 **47. Section 41 amended**

26 In section 41(1) and (2) delete “made,” and insert:

27  
28 made in relation to a VRO or MRO,  
29

1 **48. Section 43 amended**

2 (1) In section 43(1a):

3 (a) in paragraph (a) delete “violence restraining order even  
4 if the application was for a misconduct restraining  
5 order;” and insert:

6  
7 order for a VRO even if the application was for an  
8 MRO;

9  
10 (b) in paragraph (b) delete “misconduct restraining  
11 order —” and insert:

12  
13 order for an MRO —

14  
15 (c) in paragraph (b)(i) delete “a violence restraining order;  
16 and” and insert:

17  
18 a VRO; and

19  
20 (2) In section 43(2) and (3) after “final order” (each occurrence)  
21 insert:

22  
23 for a VRO or MRO

24  
25 (3) After section 43(3) insert:

26  
27 (4) Nothing in this section affects the power of the court to  
28 make a conduct agreement order at a final order  
29 hearing.

30

**s. 49**

---

1 **49. Section 44A amended**

2 (1) In section 44A(1) delete “section 26(2) —” and insert:

3

4 section 26(2), a final order hearing for an FVRO or a hearing  
5 fixed under section 47 for an FVRO —

6

7 (2) After section 44A(2) insert:

8

9 (2A) Except as otherwise provided in this Act, at a final  
10 order hearing for an FVRO, the court may refuse to  
11 admit, or may limit the use to be made of, evidence  
12 if —

13 (a) the court is satisfied it is just and equitable to  
14 do so; or

15 (b) the probative value of the evidence is  
16 substantially outweighed by the danger that the  
17 evidence may be unfairly prejudicial to a party  
18 or misleading or confusing.

19

20 Note: The heading to amended section 44A is to read:

21 **Rules of evidence not to apply in certain circumstances**

22 **50. Section 44C amended**

23 In section 44C(1)(b) delete “and domestic”.

24 **51. Section 45 amended**

25 (1) In section 45(5) delete “form prescribed under subsection (4)”  
26 and insert:

27

28 prescribed form

29

1 (2) Delete section 45(6)(b) and insert:

2

3 (b) an MRO,

4

5 **52. Section 45A amended**

6 In section 45A:

7 (a) delete “a violence restraining order,” and insert:

8

9 an FVRO or VRO,

10

11 (b) delete “the violence restraining order” and insert:

12

13 the FVRO or VRO

14

15 **53. Section 47 amended**

16 In section 47(3) delete “a misconduct restraining order” and  
17 insert:

18

19 an MRO

20

21 **54. Section 49B inserted**

22 At the end of Part 5 insert:

23

24 **49B. Matters to be considered by court generally**

25 (1) When considering whether to vary or cancel an FVRO,  
26 the court is to have regard to —

27 (a) the matters referred to in section 10F; and

**s. 55**

---

1 (b) if the application for the variation or  
2 cancellation is made by the person protected,  
3 whether or not it is possible that threats have  
4 been made against, or some other pressure has  
5 been brought to bear on, the person protected.

6 (2) When considering whether to vary or cancel a VRO,  
7 the court is to have regard to the matters referred to in  
8 section 12.  
9

10 **55. Section 50C amended**

11 In section 50C:

12 (a) delete “a violence restraining order” and insert:

13  
14 an FVRO or VRO  
15

16 (b) in paragraph (a) delete “has not attained the age of  
17 16 years; and” and insert:

18  
19 is under 16 years of age; and  
20

21 Note: The heading to amended section 50C is to read:

22 **CEO (child welfare) to be notified before certain FVROs or VROs**  
23 **are made**

24 **56. Section 55 amended**

25 (1) In section 55(1):

26 (a) in paragraph (b) delete “order.” and insert:

27  
28 order; or  
29

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28

(b) after paragraph (b) insert:

(c) the court makes an order for substituted service under section 60.

(2) Delete section 55(3)(c) and insert:

(c) a conduct agreement order or a consent order;  
and

(3) After section 55(5) insert:

(5A) If a person to whom information is to be given under subsection (5) does not readily understand English, or the person serving the restraining order is not satisfied that the person understood the information, the person serving the order is, as far as practicable, to arrange for someone else who is 16 years of age or older to give the information to the person in a way that the person can understand.

(4) After section 55(6) insert:

(7) Oral service of a restraining order does not require the person serving the order to be in possession of a copy of it at the time of service if the terms of the order are communicated to the respondent.

**s. 57**

---

1 **57. Section 58 amended**

2 In section 58(1):

3 (a) in paragraph (c) delete “Division,” and insert:

4

5 Division; or

6

7 (b) after paragraph (c) insert:

8

9 (d) effected substituted service in accordance with  
10 section 60,

11

12 **58. Section 60 amended**

13 (1) After section 60(1) insert:

14

15 (1A) A court may order substituted service of an FVRO if it  
16 is satisfied that —

17 (a) personal service or service by post is  
18 impracticable for any reason, including (but not  
19 limited to) the following —

20 (i) the person to be served does not have a  
21 fixed place of residence or business;

22 (ii) the person to be served has a place of  
23 residence or business that is too remote  
24 to permit personal service or service by  
25 post;

26 (iii) the person to be served is likely to avoid  
27 personal service or service by post;

28 and

29 (b) any delay in service is likely to put at risk the  
30 safety of the person seeking to be protected.

31

1 (2) After section 60(2) insert:  
2

3 (3) The court is to consider making an order for substituted  
4 service in relation to an FVRO in every case, whether it  
5 is an interim order or a final order.

6 (4) The court may make an order for substituted service in  
7 relation to an FVRO at the time of making the FVRO  
8 or at any other time during the relevant proceedings.  
9

10 Note: The heading to amended section 60 is to read:

11 **Substituted service**

12 **59. Section 61 amended**

13 (1) In section 61(1) delete “a violence restraining order” and insert:  
14

15 an FVRO or VRO  
16

17 (2) In section 61(1) delete the Penalty and insert:  
18

19 Penalty for this subsection: a fine of \$6 000 or  
20 imprisonment for 2 years, or both.  
21

22 (3) In section 61(2) delete “a misconduct restraining order” and  
23 insert:  
24

25 an MRO  
26

27 (4) In section 61(2) delete the Penalty and insert:  
28

29 Penalty for this subsection: a fine of \$1 000.  
30

**s. 60**

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- 1 (5) In section 61(2a) delete the Penalty and insert:  
2  
3 Penalty for this subsection: \$6 000 or imprisonment for  
4 2 years, or both.  
5
- 6 (6) In section 61(4):  
7 (a) delete “to be taken” and insert:  
8  
9 taken  
10  
11 (b) delete “and domestic”;  
12 (c) delete “an act of abuse.” and insert:  
13  
14 family or personal violence.  
15
- 16 **60. Section 61A amended**
- 17 (1) In section 61A(2)(b) after “or (2a)” insert:  
18  
19 (the *previous offences*)  
20
- 21 (2) After section 61A(2) insert:  
22
- 23 (2A) For the purposes of subsection (2)(b) each of the  
24 previous offences is to be counted, regardless of  
25 whether the convictions for them —  
26 (a) were recorded before or after the date on which  
27 the relevant offence, or any of the previous  
28 offences, was committed; or  
29 (b) have been counted in sentencing under this  
30 section for a different relevant offence.

1           (2B) For the purposes of subsection (2)(b), convictions for  
2                   2 or more previous offences committed on the same  
3                   day are to be treated as a single conviction.  
4

5   **61.    Section 61C inserted**

6           After section 61B insert:  
7

8           **61C.    Report under s. 10V to be considered in sentencing**  
9                   **for breach of FVRO**

10                   A court convicting a person for an offence under  
11                   section 61 for the breach of an FVRO must consider  
12                   any report under section 10V relating to the FVRO.  
13

14   **62.    Section 62 amended**

15           (1) After section 62(1)(c) insert:  
16

17                           (ca) attending a court hearing in proceedings under  
18                           this Act or under any other written law; or  
19

20           (2) Delete section 62(2).

21   **63.    Section 62A amended**

22           In section 62A delete “an act of family and domestic” (each  
23           occurrence) and insert:  
24

25           family  
26

27           Note: The heading to amended section 62A is to read:

28                   **Investigation of suspected family violence**

**s. 64**

---

1 **64. Section 62B amended**

2 (1) In section 62B(1):

3 (a) delete “an act of family and domestic” (each occurrence)  
4 and insert:

5  
6 family

7  
8 (b) delete “such an act” and insert:

9  
10 family violence

11  
12 (2) In section 62B(2) delete “an act of family and domestic” (each  
13 occurrence) and insert:

14  
15 family

16  
17 (3) In section 62B(4) delete “prescribed manner.” and insert:

18  
19 manner prescribed in the regulations.

20  
21 Note: The heading to amended section 62B is to read:

22 **Entry and search of premises if family violence suspected**

23 **65. Section 62C amended**

24 In section 62C(a) delete “section 18(1)(a)” and insert:

25  
26 section 18(1)(a), 24A(1)(b)

27  
28 Note: The heading to amended section 62C is to read:

29 **Action to be taken by police officer after investigating suspected**  
30 **family violence**

1 **66. Section 62D amended**

2 (1) In section 62D(1) delete “section 62B(1)” and insert:

3

4 section 62B(1a)

5

6 (2) Delete section 62D(3)(b)(ii) and insert:

7

8 (ii) a person has committed, or is  
9 committing, family violence against  
10 another person.

11

12 (3) In section 62D(5) delete “an act of family and domestic  
13 violence, or that such an act” and insert:

14

15 family violence, or that family violence

16

17 (4) In section 62D(8) in the definition of *senior officer* in  
18 paragraph (b) delete “inspector.” and insert:

19

20 sergeant.

21

22 **67. Section 62E amended**

23 (1) In section 62E(1) delete “a violence restraining order” and  
24 insert:

25

26 an FVRO or VRO

27

**s. 68**

---

1 (2) In section 62E(2) delete “prescribed manner.” and insert:

2

3 manner prescribed in the regulations.

4

5 **68. Section 62F amended**

6 (1) In section 62F(1):

7 (a) in paragraph (c) delete “require that person to remain in  
8 a place designated by the police officer” and insert:

9

10 order that person to remain in a place designated by the  
11 police officer, or accompany the police officer to a  
12 police station or some other place and wait at that place,

13

14 (b) in paragraph (d) delete “remain in the place,” and insert:

15

16 comply with the order under paragraph (c),

17

18 (2) After section 62F(1) insert:

19

20 (1A) A person who, without reasonable excuse, does not  
21 comply with an order under section 62F(1)(c) commits  
22 an offence.

23 Penalty for this subsection: a fine of \$3 000 or  
24 imprisonment for 12 months.

25

26 (3) In section 62F(2):

27 (a) delete paragraph (a) and insert:

28

29 (a) order that person to remain in a place  
30 designated by the police officer, or accompany  
31 the police officer to a police station or some

1 other place and wait at that place, while the  
2 officer gets the restraining order; and

3

4 (b) in paragraph (b) delete “remain in the place,” and insert:

5

6 comply with the order under paragraph (a),

7

8 (4) After section 62F(2) insert:

9

10 (3) A person who, without reasonable excuse, does not  
11 comply with an order under section 62F(2)(a) commits  
12 an offence.

13 Penalty for this subsection: a fine of \$3 000 or  
14 imprisonment for 12 months.

15

16 **69. Section 63 amended**

17 (1) In section 63(4):

18 (a) in paragraph (a) delete “section 11A, 11B” and insert:

19

20 section 10D, 11A

21

22 (b) in paragraph (b) delete “section 12” and insert:

23

24 section 10F, 12

25

26 (c) in paragraph (c) delete “be heard” and insert:

27

28 make submissions

29

**s. 69**

---

- 1 (2) After section 63(4) insert:  
2
- 3 (4AA) In the absence of exceptional circumstances, a court is  
4 taken to have grounds for making an FVRO against a  
5 person if —
- 6 (a) the person pleads guilty to, or is found guilty  
7 of —
- 8 (i) an offence against *The Criminal Code*  
9 section 301, 304(1), 313, 317, 317A,  
10 323, 324, 333, 338A, 338B, 338C  
11 or 338E; or
- 12 (ii) an offence against *The Criminal Code*  
13 section 444 that is dealt with summarily;
- 14 and
- 15 (b) the court is satisfied, by a victim impact  
16 statement given in relation to the offence or by  
17 any other means, that a family member of the  
18 person wants to be protected by the FVRO.
- 19 (4AB) An FVRO made under subsection (4AA) is to restrain  
20 the person from doing all or any of the following —
- 21 (a) being on or near premises where the person  
22 seeking to be protected lives or works;
- 23 (b) approaching within a specified distance of the  
24 person seeking to be protected;
- 25 (c) communicating, or attempting to communicate,  
26 (by whatever means) with the person seeking to  
27 be protected;
- 28 (d) anything else referred to in section 10G(2) that  
29 is specified by the court in the FVRO.  
30

1 **70. Section 63A amended**

2 (1) Before section 63A(1) insert:

3

4 (1A) In this section —

5 ***violent personal offence*** means —

6 (a) an offence against *The Criminal Code*  
7 section 283, 297, 325, 326, 327 or 328; or

8 (b) where the person committing the offence is in a  
9 family relationship with a victim of the  
10 offence —

11 (i) an offence against *The Criminal Code*  
12 section 292, 293, 294, 304(2), 320, 321,  
13 321A, 329 or 332;

14 (ii) an offence against *The Criminal Code*  
15 section 444 that is dealt with on  
16 indictment.  
17

18 (2) In section 63A(1) delete “offence, within the meaning of  
19 subsection (5),” and insert:

20

21 offence

22

23 (3) In section 63A(1)(a) and (b) delete “a violence restraining  
24 order” and insert:

25

26 an FVRO or VRO, as is appropriate to the case,

27

28 (4) In section 63A(4) delete “a violence restraining order” and  
29 insert:

30

31 the order

32

**s. 71**

---

1 (5) Delete section 63A(5).

2 Note: The heading to amended section 63A is to read:

3 **FVRO or VRO made if certain violent personal offences**  
4 **committed**

5 **71. Section 63B replaced**

6 Delete section 63B and insert:

7

8 **63B. Circumstances to be taken into account when**  
9 **sentencing for certain offences**

10 (1) In this section —

11 ***violent personal offence*** means —

12 (a) an offence mentioned in *The Criminal Code*  
13 section 277; or

14 (b) an offence against *The Criminal Code*  
15 section 281, 283, 292, 293, 294, 304, 320, 321,  
16 321A, 329, 332, 333, 338A, 338B, 338C, 338E  
17 or 444.

18 (2) Where a person commits a violent personal offence, the  
19 court sentencing the person is to determine the  
20 seriousness of the offence by reference to whether —

21 (a) the person is in a family relationship with a  
22 victim of the offence; or

23 (b) a child was present when the offence was  
24 committed; or

25 (c) the conduct of the person in committing the  
26 offence constituted a breach of a restraining  
27 order.

28 (3) Nothing in subsection (2) affects the discretion of a  
29 court to decide whether or not a circumstance set out in  
30 that subsection is a circumstance to take into account in  
31 sentencing an offender for any other offence.

32

1 **72. Section 63D inserted**

2 After section 63C insert:

3

4 **63D. Court to give reasons for certain decisions**

5 (1) A court must give reasons for —

6 (a) making an order relating to an FVRO under  
7 section 23(1)(b) or (c), 29(1)(b) or (c)  
8 or 40(3)(b) or (c); or

9 (b) refusing to make an order under section 43(1)  
10 relating to an FVRO.

11 (2) The reasons must address the principles referred to in  
12 section 10B(1)(a), (b) and (c).  
13

14 **73. Section 64 amended**

15 Delete section 64(1)(b) and insert:

16

17 (b) to do any of the following —

18 (i) make, vary or cancel a final order;

19 (ii) refuse to make, vary or cancel a final  
20 order;

21 (iii) make any other order in relation to a  
22 final order,  
23

24 **74. Section 67 amended**

25 After section 67(2) insert:

26

27 (2A) The reasons must address the principles referred to in  
28 section 10B(1)(a), (b) and (c).  
29

**s. 75**

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1 **75. Section 68 amended**

2 (1) In section 68(1) delete “order.” and insert:

3

4 order (a *third party*) if it is satisfied that it would have been able  
5 to make the order in respect of the third party had the third party  
6 made a separate application for the order.

7

8 (2) After section 68(2) insert:

9

10 (3) This section does not apply to an FVRO made under  
11 section 63(4AA).

12

13 **76. Section 70 amended**

14 (1) In section 70(1) delete “subsection (3),” and insert:

15

16 subsection (1A) or (3),

17

18 (2) After section 70(1) insert:

19

20 (1A) Subsection (1) does not apply to a disclosure of  
21 information to a person who is, or who is in a class of  
22 persons that is, prescribed in the regulations for the  
23 purposes of this subsection.

24 (1B) If the information is disclosed to a person referred to in  
25 subsection (1A) —

26 (a) no civil or criminal liability is incurred in  
27 respect of the disclosure of the information; and

28 (b) the disclosure of the information is not to be  
29 regarded as a breach of any duty of  
30 confidentiality or secrecy imposed by any  
31 written or other law; and

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30

(c) the disclosure of the information is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.

(3) In section 70(2) delete the Penalty and insert:

Penalty for this subsection: a fine of \$6 000 or imprisonment for 18 months.

**77. Section 70A amended**

(1) In section 70A(1) in the definition of *prescribed information*:

(a) after “prescribed” insert:

in the regulations

(b) delete “a violence restraining order,” and insert:

an FVRO or VRO,

(2) In section 70A(2) delete “a violence restraining order,” and insert:

an FVRO or VRO,

**78. Section 71 amended**

(1) In section 71(1) delete the definition of *firearms order* and insert:

*firearms order* means —

(a) an FVRO or VRO; or

**s. 79**

---

1 (b) an MRO that prohibits a person from being in  
2 possession of a firearm;  
3

4 (2) In section 71(3) delete the Penalty and insert:  
5

6 Penalty for this subsection: a fine of \$2 000 or  
7 imprisonment for 9 months.  
8

9 (3) In section 71(6) delete the Penalty and insert:  
10

11 Penalty for this subsection:

12 (a) in the case of a responsible person — a fine  
13 of \$4 000;

14 (b) in the case of a co-licensee — a fine of  
15 \$4 000 or imprisonment for 12 months.  
16

17 **79. Section 72A inserted**

18 After section 72 insert:  
19

20 **72A. Forms**

21 The prescribed forms for a restraining order and a  
22 telephone order must contain a brief summary of the  
23 effect of section 44B.  
24

25 **80. Section 73 amended**

26 Delete section 73(3).

1 **81. Section 73A inserted**

2 At the end of Part 6 insert:

3

4 **73A. Review of certain amendments relating to FVROs**

5 (1) In this section —

6 *review date* means the second anniversary of the day  
7 on which the *Restraining Orders and Related*  
8 *Legislation Amendment (Family Violence) Act 2016*  
9 section 3 comes into operation.

10 (2) As soon as practicable after the review date the  
11 Minister is to review the operation and effectiveness of  
12 the amendments made to this Act by the *Restraining*  
13 *Orders and Related Legislation Amendment (Family*  
14 *Violence) Act 2016* Part 2.

15 (3) The Minister is to cause a report of the review to be  
16 laid before each House of Parliament within 6 months  
17 after the review date.

18

19 **82. Section 75 amended**

20 In section 75(2) delete “manner” and insert:

21

22 form

23

24 **83. Section 77 amended**

25 In section 77(1) delete “a violence restraining order” and insert:

26

27 an FVRO or VRO

28

**s. 84**

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1 **84. Section 79A amended**

2 In section 79A delete “prescribed country” and insert:

3

4 country prescribed in the regulations

5

6 **85. Section 79B amended**

7 In section 79B(2) delete “form prescribed for the purposes of”  
8 and insert:

9

10 prescribed form referred to in

11

12 **86. Section 79D amended**

13 In section 79D(1) delete “a violence restraining order” and  
14 insert:

15

16 an FVRO or VRO

17

1        **Part 3 — Consequential amendments to other Acts**

2                        **Division 1 — *Bail Act 1982* amended**

3        **87.        Act amended**

4                        This Division amends the *Bail Act 1982*.

5        **88.        Section 16A amended**

6                        In section 16A(3) before “violence” insert:

7

8                        family violence restraining orders or

9

10        **89.        Schedule 1 amended**

11                        In Schedule 1 Part C clause 3B(6) in the definition of *protective*  
12                        *condition or order* paragraph (b) delete “a violence” and insert:

13

14                        a family violence restraining order or a violence

15

16                        **Division 2 — *Children and Community Services***  
17                        ***Act 2004* amended**

18        **90.        Act amended**

19                        This Division amends the *Children and Community Services*  
20                        *Act 2004*.

21        **91.        Section 3 amended**

22                        (1) In section 3 delete the definitions of:

23                        *act of family and domestic violence*

24                        *exposed*

**Restraining Orders and Related Legislation Amendment (Family Violence)  
Bill 2016**

**Part 3** Consequential amendments to other Acts

**Division 2** Children and Community Services Act 2004 amended

**s. 92**

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1 (2) In section 3 insert in alphabetical order:

2

3 *exposed*, in relation to family violence, has the  
4 meaning given in the *Restraining Orders Act 1997*  
5 section 6A(1);

6 *family violence* has the meaning given in the  
7 *Restraining Orders Act 1997* section 5A(1);  
8

9 (3) In section 3 in the definition of *social services* paragraph (1)  
10 delete “and domestic”.

11 **92. Section 23 amended**

12 In section 23 in the definition of *relevant information*  
13 paragraph (a)(iii) delete “one or more acts of family and  
14 domestic” and insert:

15

16 family  
17

18 **93. Section 28A amended**

19 In section 28A(1) in the definition of *relevant information*  
20 paragraph (a)(ii) delete “one or more acts of family and  
21 domestic” and insert:

22

23 family  
24

25 **94. Section 28 amended**

26 In section 28(1) in the definition of *emotional abuse*  
27 paragraph (b) delete “an act of family and domestic” and insert:

28

29 family  
30

---

**Division 3 — *Community Protection (Offender Reporting) Act 2004* amended**

**95. Act amended**

This Division amends the *Community Protection (Offender Reporting) Act 2004*.

**96. Section 107 amended**

(1) In section 107(1) delete the definitions of:

*misconduct restraining order*, *police order* and *violence restraining order*

(2) In section 107(1) insert in alphabetical order:

*restraining order* means —

- (a) a restraining order as defined in the *Restraining Orders Act 1997* section 3(1); or
- (b) a police order as defined in the *Restraining Orders Act 1997* section 3(1).

**Division 4 — *The Criminal Code* amended**

**97. Act amended**

This Division amends *The Criminal Code*.

**98. Section 1 amended**

After section 1(4) insert:

(4A) In this Code, unless the context otherwise indicates —

- (a) a reference to causing or doing bodily harm to a person includes, if the person is a pregnant

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Bill 2016**

**Part 3** Consequential amendments to other Acts

**Division 4** The Criminal Code amended

**s. 99**

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- 1 woman, a reference to causing or doing bodily  
2 harm to the woman’s unborn child; and
- 3 (b) a reference to intending to cause or intending to  
4 do bodily harm to a person includes, if the  
5 person is a pregnant woman, a reference to  
6 intending to cause or intending to do bodily  
7 harm to the woman’s unborn child; and
- 8 (c) a reference to causing or doing grievous bodily  
9 harm to a person includes, if the person is a  
10 pregnant woman —
- 11 (i) a reference to causing or doing grievous  
12 bodily harm to the woman’s unborn  
13 child; and
- 14 (ii) a reference to causing the loss of the  
15 woman’s pregnancy;
- 16 and
- 17 (d) a reference to intending to cause or intending to  
18 do grievous bodily harm to a person includes, if  
19 the person is a pregnant woman —
- 20 (i) a reference to intending to cause or  
21 intending to do grievous bodily harm to  
22 the woman’s unborn child; and
- 23 (ii) a reference to intending to cause the loss  
24 of the woman’s pregnancy.  
25

26 **99. Section 221 amended**

27 (1) In section 221(1) in the definition of *circumstances of*  
28 *aggravation*:

- 29 (a) in paragraph (a) delete “and domestic”;
- 30 (b) in paragraph (c) delete “order” and insert:  
31  
32 order, other than an order under Part 1C,  
33

1 (2) Delete section 221(2) and insert:

2

3 (2) In this section —

4 *family relationship* has the meaning given in the  
5 *Restraining Orders Act 1997* section 4(1).

6

7 **100. Section 281 amended**

8 In section 281(1) delete “10 years.” and insert:

9

10 20 years.

11

12 **Division 5 — *Criminal Investigation Act 2006* amended**

13 **101. Act amended**

14 This Division amends the *Criminal Investigation Act 2006*.

15 **102. Section 128 replaced**

16 (1) In section 128(1) in the definition of *serious offence* delete  
17 paragraph (c) and insert:

18

19 (c) that involves family violence as defined in the  
20 *Restraining Orders Act 1997* section 5A(2)(a),  
21 (b), (e) or (j) or a threat to enact that violence;  
22 or

23

24 **103. Section 135 amended**

25 In section 135(2):

26 (a) in paragraph (b) delete “place.” and insert:

27

28 place; or

29

- 1 (b) after paragraph (b) insert:  
2  
3 (c) the person is complying with an order under the  
4 *Restraining Orders Act 1997* section 62F(1)(c)  
5 or (2)(a).  
6

7 **Division 6 — *Prisons Act 1981* amended**

8 **104. Act amended**

9 This Division amends the *Prisons Act 1981*.

10 **105. Section 113B amended**

11 (1) In section 113B(1) insert in alphabetical order:  
12

13 ***violent personal offence*** means —

- 14 (a) an offence specified in the *Restraining Orders*  
15 *Act 1997* section 63(4AA)(a); or  
16 (b) a violent personal offence as defined in the  
17 *Restraining Orders Act 1997* section 63A(1A).  
18

19 (2) In section 113B(1) in the definition of ***victim***:

20 (a) in paragraph (b) delete “deceased.” and insert:  
21

22 deceased; or  
23

24 (b) after paragraph (b) insert:  
25

26 (c) a person protected by a family violence  
27 restraining order under the *Restraining Orders*  
28 *Act 1997* to which the prisoner is a respondent;  
29 or

- 1 (d) a person who can demonstrate, to the  
2 satisfaction of the chief executive officer  
3 that —  
4 (i) the person is the victim of an act that, if  
5 prosecuted successfully, would  
6 constitute a violent personal offence  
7 committed by the prisoner; and  
8 (ii) the act was committed by the prisoner in  
9 the context of a family relationship, as  
10 defined in the *Restraining Orders*  
11 *Act 1997* section 4, with the person.  
12

13 (3) After section 113B(1) insert:  
14

- 15 (1A) For the purposes of subsection (1) in the definition of  
16 *victim* paragraph (c) or (d), it is irrelevant that the  
17 family violence restraining order or the violent  
18 personal offence, as the case requires, is unrelated to  
19 the offence referred to in paragraph (a) or (b) of that  
20 definition.  
21

22 **Division 7 — *Sentence Administration Act 2003* amended**

23 **106. Act amended**

24 This Division amends the *Sentence Administration Act 2003*.

25 **107. Section 4 amended**

26 (1) In section 4(2) delete the definition of *victim* and insert:  
27

28 *victim* of an offender or prisoner has the meaning given  
29 in section 5D;  
30

1 **108. Section 5A amended**

2 In section 5A(d) delete “an offence for which the prisoner is in  
3 custody if the prisoner” and insert:

4  
5 the prisoner if the prisoner  
6

7 **109. Section 5C amended**

8 In section 5C(1) delete “offence for which a prisoner” and  
9 insert:

10  
11 offender who  
12

13 **110. Section 5D inserted**

14 At the end of Part 2 Division 1 insert:

15

16 **5D. Term used: victim of an offender or prisoner**

17 (1) In this Act —

18 **victim** of an offender or prisoner means —

19 (a) a person who has suffered injury, loss or  
20 damage as a direct result of an offence  
21 committed by the offender or prisoner, whether  
22 or not that injury, loss or damage was  
23 reasonably foreseeable by the offender or  
24 prisoner; or

25 (b) where an offence committed by the offender or  
26 prisoner resulted in a death, any member of the  
27 immediate family of the deceased; or

28 (c) a person protected by a family violence  
29 restraining order under the *Restraining Orders*  
30 *Act 1997* to which the offender or prisoner is a  
31 respondent; or

- 1 (d) a person who can demonstrate, to the  
2 satisfaction of the CEO that —
- 3 (i) the person is the victim of a violent  
4 personal offence previously committed  
5 by the offender or prisoner; and
- 6 (ii) the violent personal offence occurred in  
7 the context of a family relationship, as  
8 defined in the *Restraining Orders*  
9 *Act 1997* section 4, with the offender or  
10 prisoner.
- 11 ***violent personal offence*** means —
- 12 (a) an offence specified in the *Restraining Orders*  
13 *Act 1997* section 63(4AA)(a); or
- 14 (b) a violent personal offence as defined in the  
15 *Restraining Orders Act 1997* section 63A(1A).
- 16 (2) For the purposes of subsection (1) in the definition of  
17 ***victim*** paragraph (c) or (d), it is irrelevant that the  
18 family violence restraining order or the previous  
19 violent personal offence, as the case requires, is  
20 unrelated to the offence referred to in paragraph (a)  
21 or (b) of that definition.  
22

23 **111. Section 30 amended**

24 In section 30(b) delete “an offence committed by the prisoner”  
25 and insert:

26  
27 a prisoner  
28

29 **112. Section 97D amended**

30 Delete section 97D(1).  
31

32