

**FAMILY VIOLENCE LEGISLATION REFORM (COVID-19 RESPONSE) BILL 2020**

*Introduction and First Reading*

Bill introduced, on motion without notice by **Hon Sue Ellery (Leader of the House)**, and read a first time.

*Second Reading*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [9.14 pm]: I move —

That the bill be now read a second time.

The government recognises that the current crisis creates a situation of heightened risk for victims of family and domestic violence. Key amendments in the existing Family Violence Legislation Reform Bill 2019, which was introduced in this house on 12 March 2020, will provide enhanced safeguards for victims of family violence. We know that victims are at increased risk when they are isolated from family and the community, and are unable to leave or put in place other protective measures. These concerns have been raised by national and international experts and the family violence sector.

We have seen reports coming out from overseas and interstate jurisdictions that not only are victims at increased risk of family violence during this pandemic, but perpetrators of family violence are using the virus as a method to control and coerce victims. The pandemic is also likely to have implications on the capacity of our justice system to employ its normal in-person and manual methods of operation, such as lodging of restraining order applications and serving orders. This new bill amends the Sentencing Act 1995, the Sentence Administration Act 2003, the Bail Act 1982 and the Restraining Orders Act 1997 to implement reforms that will assist in the justice system's preparedness and response to the spread of the coronavirus.

I turn now to the details of the amendments. Amendments to the Sentencing Act 1995 and Bail Act 1982 are introduced as part of the government's commitment to expand the availability of location tracking of offenders and accused persons in the community. Amendments to the Sentencing Act 1995 will permit the court to impose a primary requirement that the offender be subject to electronic monitoring to enable their location to be tracked. This requirement will be available under conditional suspended imprisonment orders and intensive supervision orders.

An electronic monitoring requirement will only be imposed when the offender presents a high risk to a person, a group of persons or the community more generally. An electronic monitoring requirement will only be imposed when the court has received a report from corrections as to the suitability of the offender for electronic monitoring. Electronic monitoring is an additional tool with which to keep offenders under supervision by tracking their movements.

These amendments will provide corrections officers with additional flexibility to remotely monitor offenders. The coronavirus pandemic may compromise the ability of corrections officers to utilise current in-person methods of contacting, monitoring and supervising offenders in the community. Electronic monitoring provides an additional opportunity for corrections officers to require offenders to remain at home, or refrain from particular locations, which can then be monitored remotely and responded to when necessary. Further electronic monitoring amendments are proposed to the Bail Act 1982, which will permit a judicial officer to include, as a home detention bail condition, a direction that an accused be subject to electronic monitoring. I have already outlined the benefits of electronic monitoring in the current environment, and these amendments will similarly ensure that corrections has appropriate tools available with which to keep offenders under remote supervision.

Amendments to the Sentence Administration Act 2003 are made under the bill to ensure consistent terminology and application of penalties in relation to electronic monitoring provisions across the relevant acts. The Bail Act will also be amended to enable police officers to grant bail to an accused person arrested for breach of a restraining order in an urban area. Police officers are currently prohibited from doing so except in regional areas. This is an inefficient use of resources when the accused could otherwise be granted bail, subject to the normal bail considerations, including the safety risk for victims. Further, in its 2014 report, the Law Reform Commission of Western Australia noted that an unintended consequence of this provision was that police would issue a summons rather than arresting the accused and bringing them before a judicial officer for bail consideration.

In the current context, it is relevant to note that there is a heightened risk of infection in places of detention and police and health officials would be required to use valuable health resources to ensure that these offenders do not infect the wider detainee population.

A number of amendments to the Restraining Orders Act 1997 will be made to improve access to restraining orders, ensure that victims are not exposed to risk and hold perpetrators to account. These include —

enabling restraining order applications to be lodged online;

requiring that interim orders remain in place until cancelled;

enabling substituted service without the order of the court when personal service has not been achieved.

This new provision will ensure that personal service remains the primary method of service, while allowing

for regulations to prescribe what constitutes reasonable attempts to personally serve an order; the manner in which the substituted service is permitted after those reasonable attempts have been made; and who may permit the substituted service—for example, that substituted service may occur only with the documented approval of a person of a prescribed class or holding a prescribed office;

enabling an applicant to be notified electronically by the registrar that a restraining order has been served; creating a separate offence for breach of a family violence restraining order, increasing the penalty to \$10 000 from \$6 000 and extending the limitation period for prosecuting breach of restraining order offences to two years; and

allowing the Family Court and Children’s Court to issue interim restraining orders on an ex parte basis in the same way as the Magistrates Court is permitted to do so.

The amendments in this bill will assist in holding perpetrators to account, keeping victims safe, ensuring a responsive justice system and improving the Restraining Orders Act 1997. These amendments will enable us to better respond to the challenges faced by the justice system and the risk to victims of family violence in the context of the coronavirus pandemic.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper [3748](#).]

Debate adjourned, pursuant to standing orders.

*Made Order of the Day — Motion*

On motion by **Hon Sue Ellery (Leader of the House)**, resolved —

That the second reading of this bill be made an order of the day for the next sitting of the house.