

Family Violence Legislation Reform Bill 2024

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Western Australia

LEGISLATIVE ASSEMBLY

Family Violence Legislation Reform Bill 2024

A Bill for

An Act to amend —

- **the *Bail Act 1982*; and**
- **the *Criminal Investigation Act 2006*; and**
- **the *Criminal Law (Mental Impairment) Act 2023*; and**
- **the *Criminal Law (Mentally Impaired Accused) Act 1996*; and**
- **the *Cross-border Justice Act 2008*; and**
- **the *High Risk Serious Offenders Act 2020*; and**
- **the *Restraining Orders Act 1997*; and**
- **the *Sentence Administration Act 2003*; and**
- **the *Sentencing Act 1995*.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Family Violence Legislation Reform Act 2024*.

2. Commencement

This Act comes into operation as follows —

(a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);

(b) Part 4 (other than section 38) —

(i) if the *Criminal Law (Mental Impairment) Act 2023* Schedule 1 comes into operation on or before assent day — on the day after assent day; or

(ii) otherwise — immediately after the *Criminal Law (Mental Impairment) Act 2023* Schedule 1 comes into operation;

(c) Part 5, Part 6 (other than sections 43 to 45) and Part 10 — on the day after assent day;

(d) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

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Part 2 — *Bail Act 1982* amended

3. Act amended

This Part amends the *Bail Act 1982*.

4. Section 3 amended

(1) In section 3(1) delete the definition of *family violence offence*.

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

electronic monitoring condition means an electronic monitoring condition imposed under Schedule 1 Part E clause 1;

(3) In section 3(1) in the definition of *serious offence* paragraph (a) after “section” insert:

50M(1) or (2), 50V(1) or (2) or

5. Section 6 amended

In section 6(2)(b) delete “3D and 3F.” and insert:

3D, 3F and 3G.

6. Section 7 amended

In section 7(5) delete “3E and 3F.” and insert:

3E, 3F and 3G.

Note: The heading to amended section 7 is to read:

Court to consider bail for unconvicted accused

s. 7

1 **7. Section 9 amended**

2 In section 9(1)(b) delete “24(1) or 24A(1) or (2); or” and insert:

3

4 24(1), 24A(1) or (2) or 24B; or

5

6 **8. Section 11 amended**

7 In section 11(1)(e) after “50F,” insert:

8

9 50Q,

10

11 **9. Section 13 replaced**

12 Delete section 13 and insert:

13

14 **13. Jurisdiction to grant bail and exercise of**
15 **jurisdiction**

16 (1) Jurisdiction to grant bail for any appearance described
17 in the first column of Schedule 1 Part A —

18 (a) is vested in the judicial officer or authorised
19 officer specified in the second column of that
20 Part opposite the appearance described; and

21 (b) must be exercised subject to and in accordance
22 with this Part and Schedule 1 Parts B, C, D
23 and E.

24 (2) A home detention condition must not be imposed as a
25 condition of bail except by a judicial officer under
26 Schedule 1 Part D clause 3.

27 (3) An electronic monitoring condition must not be
28 imposed as a condition of bail except by a judicial
29 officer under Schedule 1 Part E clause 1.

30

1 **10. Section 17AA inserted**

2 After section 17 insert:

3

4 **17AA. Conditions on bail that must be imposed**

5 A judicial officer must impose an electronic monitoring
6 condition as a condition on a grant of bail as required
7 by Schedule 1 Part E clause 1.

8

9 **11. Section 24A amended**

10 After section 24A(4) insert:

11

12 (5) However, subsection (4)(a) does not apply to a report
13 in relation to an accused referred to in Schedule 1
14 Part C clause 3F(1) or 3G(1).

15

16 **12. Section 24B inserted**

17 After section 24A insert:

18

19 **24B. Court may ask community corrections officer to**
20 **make list of conditions for electronic monitoring**
21 **condition**

22 (1) A judicial officer who is called upon to consider a case
23 for bail and who is required to impose an electronic
24 monitoring condition as a condition on a grant of bail
25 may request that a community corrections officer make
26 a list of those conditions in rules made under
27 section 50U that may be applied to the accused by the
28 CEO (corrections) while the accused is subject to the
29 electronic monitoring condition.

s. 13

- 1 (2) If a list is requested under subsection (1), a community
2 corrections officer must, as soon as is practicable —
3 (a) make a list and give the list to the judicial
4 officer; and
5 (b) give a copy of the list to the accused or the
6 accused’s solicitor or counsel.
7

8 **13. Section 26 amended**

- 9 (1) In section 26(1):
10 (a) delete “he —” and insert:
11
12 the officer or justice —
13
14 (b) in paragraph (c) delete “him” and insert:
15
16 the officer or justice
17
18 (2) In section 26(2):
19 (a) in paragraph (aa) delete “3E or 3F” and insert:
20
21 3E, 3F or 3G
22
23 (b) in paragraph (b) delete “him” and insert:
24
25 the judicial officer
26
27 (c) delete “therefor shall” and insert:
28
29 for the decision must
30

1 **14. Section 27A amended**

2 In section 27A delete “shall” and insert:

3

4 or an electronic monitoring condition must

5

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

7 **Papers to be sent to CEO (corrections) in case of bail with home**
8 **detention condition or electronic monitoring condition**

9 **15. Section 28 amended**

10 (1) In section 28(1):

11 (a) delete “A person” and insert:

12

13 An accused

14

15 (b) delete “he” and insert:

16

17 the accused

18

19 (2) In section 28(2):

20 (a) in paragraph (a) delete “he” and insert:

21

22 the accused

23

24 (b) delete paragraphs (c) and (d) and insert —

25

26 (c) that the accused will comply with such
27 conditions as may be imposed on the accused
28 under Schedule 1 Part D clause 2; and

29 (d) that the accused will comply with any home
30 detention condition that may be imposed as a

s. 16

1 condition on a grant of bail to the accused
2 under Schedule 1 Part D clause 3; and
3 (e) that the accused will comply with any
4 electronic monitoring condition that must be
5 imposed as a condition on a grant of bail to the
6 accused under Schedule 1 Part E clause 1,
7

8 (c) delete “that Part.” and insert:
9

10 Part D.
11

12 Note: The heading to amended section 28 is to read:

13 **Nature of bail undertaking and when required**

14 **16. Section 31A amended**

15 Delete section 31A(2)(c) and insert:
16

- 17 (c) add any condition to the extent that is —
18 (i) authorised by Schedule 1 Part D
19 clause 2 or 3; or
20 (ii) required by Schedule 1 Part E clause 1;
21

22 Note: The heading to amended section 31A is to read:

23 **Amending conditions on bail during trial**

24 **17. Section 46 amended**

25 In section 46(1):

26 (a) in paragraph (a)(iii) delete “28(2)(d);” and insert:
27

28 28(2)(d); or
29

1 (b) after paragraph (a)(iii) insert:

2

3 (iv) is, or has been, in breach of an
4 electronic monitoring condition
5 mentioned in section 28(2)(e);
6

7 **18. Section 50A replaced**

8 Delete section 50A and insert:

9

10 **50A. Application of Part**

11 This Part —

12 (a) applies in relation to a home detention
13 condition that includes electronic monitoring;
14 but

15 (b) does not apply in relation to an electronic
16 monitoring condition.
17

18 **19. Section 50E amended**

19 In section 50E(a) delete “remain;” and insert:

20

21 remain; or
22

23 **20. Section 50G amended**

24 Delete section 50G(1) and insert:

25

26 (1) An accused arrested under a warrant issued under
27 section 50F must be taken as soon as is practicable
28 before an appropriate judicial officer.

s. 21

- 1 (1A) However, if the accused is arrested less than 24 hours
2 before the time at which the accused is due to appear in
3 accordance with the accused’s bail undertaking, the
4 accused must be held in custody and brought before an
5 appropriate judicial officer at that time.
- 6 (1B) Also, subsection (1C) applies if —
- 7 (a) before arrest, the accused had been released on
8 bail following the accused’s committal to the
9 District Court or the Supreme Court to be tried
10 (otherwise than for murder) or sentenced or
11 otherwise dealt with; and
- 12 (b) the accused has not made an appearance in that
13 court on the committal.
- 14 (1C) The accused must be taken as soon as is practicable
15 before a judicial officer who is empowered to exercise
16 jurisdiction in the court in which the committal order
17 was made, instead of before an appropriate judicial
18 officer.
- 19

20 **21. Section 50M inserted**

21 At the end of Part VIA insert:

22

23 **50M. Failure to comply with direction**

- 24 (1) An accused given a direction under Schedule 1 Part D
25 clause 3(5)(a), (b) or (ba) must comply with the
26 direction.
- 27 Penalty for this subsection: imprisonment for 3 years
28 and a fine of \$36 000.

- 1 (2) An accused given a direction under Schedule 1 Part D
2 clause 3(5)(bb) must comply with the direction, unless
3 the accused has a reasonable excuse.
4 Penalty for this subsection: imprisonment for 3 years
5 and a fine of \$36 000.
- 6 (3) A prosecution for an offence against subsection (1)
7 or (2) may be brought at any time.
- 8 (4) A court that convicts an accused of an offence against
9 subsection (1) or (2) may order that the accused pay a
10 sum towards the costs and expenses of the accused's
11 apprehension following the failure to comply with the
12 direction for which the accused was convicted.
- 13 (5) An order under subsection (4) may be made in addition
14 to any penalty the court may impose.

15 Note for this section:

16 See the *Sentence Administration Act 2003* section 118A for
17 an evidentiary provision for proceedings for an offence
18 against subsection (1) or (2).

19

20 **22. Part 6B inserted**

21 Before Part VII insert:

22

23 **Part 6B — Administration of electronic**
24 **monitoring conditions**

25 **50N. Application of Part**

26 This Part applies in relation to an electronic monitoring
27 condition.

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500. Powers of members of Police Force

- (1) For the purpose of ascertaining whether or not an accused is complying with an electronic monitoring condition, a member of the Police Force may require the accused to produce a copy of the accused’s bail undertaking and any notice by the CEO (corrections) under section 50P(a) for inspection.
- (2) An accused on whom a requirement is imposed under subsection (1) must comply with the requirement.
Penalty for this subsection: a fine of \$2 000.

50P. CEO (corrections) may substitute different place where device is to be installed and apply conditions

The CEO (corrections) may, at any time, by notice in writing given to an accused granted bail subject to an electronic monitoring condition —

- (a) substitute a different place for the place where an approved electronic monitoring device is required by the electronic monitoring condition to be installed; or
- (b) require the accused to comply with —
 - (i) if a list was given under section 24B(2) — such of the conditions in the list as are specified in the notice; or
 - (ii) otherwise — the conditions specified in the notice.

50Q. CEO (corrections) may revoke bail

- 1
- 2 (1) If an electronic monitoring condition has been imposed
- 3 as a condition on a grant of bail to an accused the CEO
- 4 (corrections) may, in the CEO's absolute discretion, by
- 5 instrument signed by the CEO and if practicable given
- 6 to the accused, revoke the bail.
- 7 (2) Without limiting subsection (1), the power to revoke
- 8 bail may be exercised if the accused —
- 9 (a) is not likely to comply with any requirement of
- 10 the accused's bail undertaking mentioned in
- 11 section 28(2)(a) or (b); or
- 12 (b) is, or has been, or is likely to be in breach of
- 13 any condition of the accused's bail undertaking
- 14 mentioned in section 28(2)(c).
- 15 (3) Subject to subsection (4), if the CEO (corrections)
- 16 revokes bail the CEO must include a statement of the
- 17 CEO's reasons for the cancellation in the instrument
- 18 cancelling the bail.
- 19 (4) If the CEO (corrections) is of the opinion that it would
- 20 be in the interest of the accused or any other person, or
- 21 the public, to withhold from the accused any or all of
- 22 the reasons referred to in subsection (3), the CEO may
- 23 so withhold the reason or reasons.
- 24 (5) If the CEO (corrections) revokes bail, the CEO may,
- 25 whenever necessary, issue a warrant directed to all
- 26 members of the Police Force to have the accused
- 27 arrested and brought before an appropriate judicial
- 28 officer.

50R. Procedure on arrest after revocation under s. 50Q

- 29
- 30 (1) An accused arrested under a warrant issued under
- 31 section 50Q must be taken as soon as is practicable
- 32 before an appropriate judicial officer.

s. 22

- 1 (2) However, if the accused is arrested less than 24 hours
2 before the time at which the accused is due to appear in
3 accordance with the accused's bail undertaking, the
4 accused must be held in custody and brought before an
5 appropriate judicial officer at that time.
- 6 (3) Also, subsection (4) applies if —
- 7 (a) before arrest, the accused had been released on
8 bail following the accused's committal to the
9 District Court or the Supreme Court to be tried
10 (otherwise than for murder) or sentenced or
11 otherwise dealt with; and
- 12 (b) the accused has not made an appearance in that
13 court on the committal.
- 14 (4) The accused must be taken as soon as is practicable
15 before a judicial officer who is empowered to exercise
16 jurisdiction in the court in which the committal order
17 was made, instead of before an appropriate judicial
18 officer.
- 19 (5) The judicial officer before whom an accused appears
20 under this section may —
- 21 (a) remand the accused in custody to appear at the
22 time and place specified, or deemed by
23 section 31(3) to be specified, in the accused's
24 bail undertaking; or
- 25 (b) grant fresh bail to the accused in accordance
26 with this Act, other than Schedule 1 Part B
27 clause 2.

28 **50S. Rules of natural justice excluded**

29 The rules known as the rules of natural justice
30 (including any duty of procedural fairness) do not
31 apply to or in relation to the doing or omission of any

1 act, matter or thing under this Part by the CEO
2 (corrections).

3 **50T. Delegation by CEO (corrections)**

4 The CEO (corrections) may, either generally or as
5 otherwise provided by the instrument of delegation, by
6 writing signed by the CEO, delegate to any person any
7 power or duty under this Part, other than this power of
8 delegation.

9 **50U. Rules for this Part**

- 10 (1) The CEO (corrections) may, with the approval of the
11 Minister, make rules for the purposes of this Part which
12 may provide for the manner of ensuring that accused
13 persons are complying with electronic monitoring
14 conditions and for conditions to be applied to accused
15 persons granted bail subject to electronic monitoring
16 conditions.
- 17 (2) Rules made under this section may confer a
18 discretionary authority on any person or class of
19 persons.
- 20 (3) The *Interpretation Act 1984* sections 41 and 42 do not
21 apply to rules made under this section.

22 **50V. Failure to comply with direction**

- 23 (1) An accused given a direction under Schedule 1 Part E
24 clause 1(4)(a), (b) or (c) must comply with the
25 direction.
26 Penalty for this subsection: imprisonment for 3 years
27 and a fine of \$36 000.
- 28 (2) An accused given a direction under Schedule 1 Part E
29 clause 1(4)(d) must comply with the direction, unless
30 the accused has a reasonable excuse.

s. 23

- 1 Penalty for this subsection: imprisonment for 3 years
2 and a fine of \$36 000.
- 3 (3) A prosecution for an offence against subsection (1)
4 or (2) may be brought at any time.
- 5 (4) A court that convicts an accused of an offence against
6 subsection (1) or (2) may order that the accused pay a
7 sum towards the costs and expenses of the accused's
8 apprehension following the failure to comply with the
9 direction for which the accused was convicted.
- 10 (5) An order under subsection (4) may be made in addition
11 to any penalty that the court may impose.
- 12 Note for this section:
13 See the *Sentence Administration Act 2003* section 118A for
14 an evidentiary provision for proceedings for an offence
15 against subsection (1) or (2).
16

17 **23. Section 54 amended**

- 18 In section 54(1):
- 19 (a) in paragraph (a)(iii) delete “28(2)(d);” and insert:
20
21 28(2)(d); or
22
- 23 (b) after paragraph (a)(iii) insert:
24
- 25 (iv) is, or has been, in breach of an
26 electronic monitoring condition
27 mentioned in section 28(2)(e);
28 or
29

1 **24. Section 55 amended**

2 (1) In section 55(1):

3 (a) in paragraph (a) delete “his” and insert:

4

5 the accused’s

6

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

8

9 the accused

10

11 (c) in paragraph (b) delete “his” and insert:

12

13 the accused’s

14

15 (d) in paragraph (ba) delete “he” and insert:

16

17 the accused

18

19 (e) after paragraph (ba) insert:

20

21 (bb) the accused is, or has been, in breach of
22 an electronic monitoring condition
23 mentioned in section 28(2)(e); or

24

25 (f) delete “he may —” and insert:

26

27 the judicial officer may —

28

s. 25

1 (g) in paragraph (d) delete “his” and insert:

2

3 the accused’s

4

5 (2) In section 55(2):

6 (a) delete “he shall” and insert:

7

8 the judicial officer must

9

10 (b) delete “his” and insert:

11

12 the accused’s

13

14 Note: The heading to amended section 55 is to read:

15 **Judicial officer may revoke bail of accused before court under**
16 **s. 54**

17 **25. Section 66C amended**

18 In section 66C(1):

19 (a) in paragraph (c)(ii) delete “24A.” and insert:

20

21 24A;

22

23 (b) after paragraph (c)(ii) insert:

24

25 (iii) a list made in accordance with
26 section 24B.

27

1 **26. Sections 66F to 66H inserted**

2 After section 66E insert:

3 **66F. Disclosing electronic monitoring information**

4 (1) In this section —

5 *electronic monitoring information* means —

6 (a) orders, directions, requirements or conditions
7 (*EM orders*) about electronic monitoring under
8 this Act; and

9 (b) any information that relates to EM orders,
10 including, for example, information about the
11 movements of persons subject to EM orders;

12 *relevant employee* means a person employed in the
13 department designated as the Police Service.

14 (2) The CEO (corrections) may disclose electronic
15 monitoring information to a police officer or a relevant
16 employee.

17 (3) Without limiting the way in which the CEO
18 (corrections) may disclose electronic monitoring
19 information under subsection (2), the CEO
20 (corrections) may give police officers and relevant
21 employees access to an electronic database containing
22 electronic monitoring information.

23 (4) A police officer or a relevant employee may, for any
24 reasonable purpose in the performance of their
25 functions as a police officer or a relevant employee —

26 (a) access electronic monitoring information
27 disclosed by the CEO (corrections) under
28 subsection (2); and

29 (b) use the electronic monitoring information.

s. 27

1 (5) The CEO (corrections) must establish procedures for
2 the disclosure of electronic monitoring information
3 under this section.

4 **66G. Disclosure under s. 66F not subject to other laws**
5 **and effect of disclosure**

6 (1) Information may be disclosed under section 66F
7 despite any written law relating to confidentiality or
8 secrecy.

9 (2) If information is disclosed, in good faith, under
10 section 66F —

11 (a) no civil or criminal liability is incurred in
12 respect of the disclosure; and

13 (b) the disclosure is not to be regarded as a breach
14 of any duty of confidentiality or secrecy
15 imposed by law; and

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

19 **66H. Powers of CEO (corrections)**

20 The CEO (corrections) has all of the powers conferred
21 under this Act on a community corrections officer and
22 may review, vary or rescind a direction given by a
23 community corrections officer.
24

25 **27. Schedule 1 amended**

26 Delete the reference after the heading to Schedule 1 and insert:

27
28 [s. 13, 17 and 17AA]
29

1 **28. Schedule 1 Part C clause 1 amended**

2 In Schedule 1 Part C clause 1 delete “3E and 3F,” and insert:

3

4 3E, 3F and 3G,

5

6 **29. Schedule 1 Part C clause 3F amended**

7 (1) Before Schedule 1 Part C clause 3F(1) insert:

8

9 (1A) In this clause —

10 *family violence offence (category B)* means an offence
11 where the offender and the victim are in a designated family
12 relationship with each other at the time of the commission of
13 the offence and the offence is —

14 (a) an offence against the *Restraining Orders Act 1997*
15 section 61(1) or (1A); or

16 (b) an offence against *The Criminal Code*
17 section 221BD, 279, 280, 281, 283, 292, 293, 294,
18 297, 298, 300, 301, 304, 313, 317, 317A, 323, 324,
19 325, 326, 328, 332, 333, 338A, 338B, 338C, 338E
20 or 444.

21

22 (2) In Schedule 1 Part C clause 3F(1):

23 (a) in paragraph (a) delete “offence; or” and insert:

24

25 offence (category B); or

26

27 (b) in paragraph (b) after “offence” insert:

28

29 (category B)

30

s. 29

- 1 (3) In Schedule 1 Part C clause 3F(2) after “offence” insert:
2
3 (category B)
4
- 5 (4) In Schedule 1 Part C clause 3F(3) delete “offence,” and insert:
6
7 offence (category B),
8
- 9 (5) After Schedule 1 Part C clause 3F(4) insert:
10
- 11 (4A) If a judicial officer grants bail under subclause (2) and
12 imposes a home detention condition as a condition on the
13 grant of bail, Part D clause 3(4A) applies.
- 14 (4B) If a judicial officer grants bail under subclause (2) and does
15 not impose a home detention condition as a condition on the
16 grant of bail, Part E clause 1 applies.
17
- 18 (6) In Schedule 1 Part C clause 3F(6) delete “considered the
19 imposition of ” and insert:
20
21 imposed
22
- 23 Note: The heading to amended Schedule 1 Part C clause 3F is to read:
24 **Bail in cases of family violence offence (category B) involving**
25 **serial family violence offender**

1 **30. Schedule 1 Part C clause 3G inserted**

2 After Schedule 1 Part C clause 3F insert:

3

4 **3G. Bail in cases of family violence offence (category A)**
5 **involving accused bound by family violence restraining**
6 **order**

7 (1) This clause applies if —

8 (a) an accused is bound by a family violence restraining
9 order and is in custody —

10 (i) awaiting an appearance in court before
11 conviction for a family violence offence
12 (category A); or

13 (ii) waiting to be sentenced or otherwise dealt
14 with for a family violence offence
15 (category A) of which the accused has been
16 convicted;

17 and

18 (b) the person against whom the family violence
19 offence (category A) was committed or is alleged to
20 have been committed is protected by the family
21 violence restraining order.

22 (2) In subclause (1) —

23 ***family violence offence (category A)*** means an offence
24 where the offender and the victim are in a designated family
25 relationship with each other at the time of the commission of
26 the offence and the offence is an offence against *The*
27 *Criminal Code* section 221BD, 279, 280, 281, 283, 292,
28 293, 294, 297, 298, 300, 301, 304, 313, 317, 317A, 323,
29 324, 325, 326, 328, 332, 333, 338A, 338B, 338C, 338E
30 or 444;

31 ***family violence restraining order*** has the meaning given in
32 the *Restraining Orders Act 1997* section 3(1).

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- 1 (3) Despite clause 1, 2 or 4 or any other provision of this Act, if
2 this clause applies bail may only be granted by a judicial
3 officer, other than a justice, in whom jurisdiction is vested.
- 4 (4) If a judicial officer grants bail under subclause (3) and
5 imposes a home detention condition as a condition on the
6 grant of bail, Part D clause 3(4A) applies.
- 7 (5) If a judicial officer grants bail under subclause (3) and does
8 not impose a home detention condition as a condition on the
9 grant of bail, Part E clause 1 applies.
- 10 (6) If an accused is granted bail under subclause (3), on any
11 subsequent appearance for bail in the same case a judicial
12 officer may order that bail is to continue on the same terms
13 and conditions.
- 14 (7) This clause does not apply if bail is being granted under the
15 *Sentencing Act 1995* section 33C(6) and the court has
16 imposed an electronic monitoring requirement under
17 section 33HA of that Act.

18
19 **31. Schedule 1 Part C clause 4 amended**

20 In Schedule 1 Part C clause 4(1) delete “3E and 3F,” and insert:

21
22 3E, 3F and 3G,
23

24 **32. Schedule 1 Part D clause 3 amended**

25 (1) In Schedule 1 Part D clause 3(2):

26 (a) delete “over the age of 17 years” and insert:

27
28 17 or more years of age
29

- 1 (b) in paragraph (a) delete “his” and insert:
2
3 the accused’s
4
- 5 (2) In Schedule 1 Part D clause 3(4) delete “this clause” and insert:
6
7 this clause, other than in relation to an accused referred to in Part C
8 clause 3F(1) or 3G(1),
9
- 10 (3) After Schedule 1 Part D clause 3(4) insert:
11
- 12 (4A) A judicial officer who imposes a home detention condition
13 under this clause must, if the accused is a person referred to
14 in Part C clause 3F(1) or 3G(1), direct that the accused,
15 while subject to the home detention condition —
16 (a) be subject to electronic monitoring under
17 subclause (5) so as to allow the location of the
18 accused to be monitored; and
19 (b) be under the supervision of a community
20 corrections officer and comply with the directions
21 of the community corrections officer under
22 subclause (5).
- 23 (4B) Subclause (4A) does not apply if the judicial officer is
24 satisfied there are exceptional circumstances.
25
- 26 (4) In Schedule 1 Part D clause 3(5):
27 (a) in paragraph (a) delete “device; and” and insert:
28
29 device;
30

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- 1 (b) in paragraph (b) delete “remain; and” and insert:
2
3 remain;
4
5 (c) after paragraph (b) insert:
6
7 (ba) direct the accused to charge the approved electronic
8 monitoring device so as to ensure the device is at all
9 times operational;
10 (bb) direct the accused to not enter 1 or more areas of the
11 State stated in a written notice given to the accused
12 by the community corrections officer;
13

14 **33. Schedule 1 Part E inserted**

15 At the end of Schedule 1 insert:
16

17 **Part E — Condition that must be imposed on a grant of bail**
18 **for particular accused persons**

19 **1. Electronic monitoring condition**

- 20 (1) This clause applies if a judicial officer grants bail under —
21 (a) Part C clause 3F(2) in the circumstances referred to
22 in Part C clause 3F(4B); or
23 (b) Part C clause 3G(3) in the circumstances referred to
24 in Part C clause 3G(5).
25 (2) The judicial officer must impose an electronic monitoring
26 condition as a condition on the grant of bail unless the
27 judicial officer is satisfied there are exceptional
28 circumstances.

-
- 1 (3) An electronic monitoring condition is a condition that while
2 the accused is on bail the accused —
- 3 (a) be subject to electronic monitoring under
4 subclause (4) so as to allow the location of the
5 accused to be monitored; and
- 6 (b) be under the supervision of a community
7 corrections officer and comply with the directions
8 of the community corrections officer under
9 subclause (4).
- 10 (4) For the purpose of the electronic monitoring of an accused,
11 a community corrections officer may do any or all of the
12 following —
- 13 (a) direct the accused to wear an approved electronic
14 monitoring device;
- 15 (b) direct the accused to permit the installation of an
16 approved electronic monitoring device at the place
17 where the accused resides or, if the accused does
18 not have a place of residence, at any other place
19 specified by the community corrections officer;
- 20 (c) direct the accused to charge the approved electronic
21 monitoring device so as to ensure the device is at all
22 times operational;
- 23 (d) direct the accused to not enter 1 or more areas of the
24 State stated in a written notice given to the accused
25 by the community corrections officer;
- 26 (e) give any other reasonable direction to the accused
27 necessary for the proper administration of the
28 electronic monitoring of the accused.
- 29 (5) A community corrections officer may suspend the electronic
30 monitoring of an accused subject to a condition under
31 subclause (2) —
- 32 (a) while satisfied that it is not practicable to subject
33 the accused to electronic monitoring; or
- 34 (b) while satisfied that it is not necessary for the
35 accused to be subject to electronic monitoring.

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- 1 (6) The purpose of electronic monitoring under this clause is to
2 enable the location of the accused to be monitored.
- 3 (7) This clause does not apply to a person who is under 18 years
4 of age.
5

6 **34. Schedule 2 amended**

7 After Schedule 2 item 3 insert:
8

3AA. Sentence Administration Act 2003

- | | |
|-----------|---|
| s. 30(2) | Failure to comply with requirement about approved electronic monitoring device |
| s. 30(3) | Failure to comply with requirement about not entering area of the State |
| s. 57(3) | Failure to comply with requirement about approved electronic monitoring device |
| s. 57(4) | Failure to comply with requirement about not entering area of the State |
| s. 74G(2) | Failure to comply with requirement about approved electronic monitoring device |
| s. 74G(3) | Failure to comply with requirement about not entering area of the State |
| s. 118(6) | Damage, remove or interfere with, or interfere with operation of, monitoring equipment in such a way as to prevent or impede monitoring person's location |

3AB. *Sentencing Act 1995*

- | | |
|-------------|--|
| s. 33H(10A) | Failure to comply with order about approved electronic monitoring device |
| s. 33H(10B) | Failure to comply with order about not entering area of the State |
| s. 33HA(5A) | Failure to comply with direction about approved electronic monitoring device |
| s. 33HA(5B) | Failure to comply with direction about not entering area of the State |
| s. 67A(6A) | Failure to comply with direction about approved electronic monitoring device |
| s. 67A(6B) | Failure to comply with direction about not entering area of the State |
| s. 75(10A) | Failure to comply with order about approved electronic monitoring device |
| s. 75(10B) | Failure to comply with order about not entering area of the State |
| s. 76A(3A) | Failure to comply with direction about approved electronic monitoring device |
| s. 76A(3B) | Failure to comply with direction about not entering area of the State |
| s. 84C(10A) | Failure to comply with order about approved electronic monitoring device |
| s. 84C(10B) | Failure to comply with order about not entering area of the State |

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- s. 84CA(4A) Failure to comply with direction about approved electronic monitoring device
- s. 84CA(4B) Failure to comply with direction about not entering area of the State

1

1 **Part 3 — *Criminal Investigation Act 2006* amended**

2 **35. Act amended**

3 This Part amends the *Criminal Investigation Act 2006*.

4 **36. Section 128 amended**

5 In section 128(1) in the definition of *serious offence* after
6 paragraph (c) insert:

- 7
- 8 (ca) under the *Bail Act 1982* section 50M(1) or (2)
9 or 50V(1) or (2); or
 - 10 (cb) under the *High Risk Serious Offenders Act 2020*
11 section 80(1); or
 - 12 (cc) under the *Sentence Administration Act 2003*
13 section 30(2) or (3), 57(3) or (4), 74G(2) or (3)
14 or 118(6); or
 - 15 (cd) under the *Sentencing Act 1995*
16 section 33H(10A) or (10B), 33HA(5A) or (5B),
17 67A(6A) or (6B), 75(10A) or (10B), 76A(3A)
18 or (3B), 84C(10A) or (10B) or 84CA(4A)
19 or (4B); or
- 20

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1 **Part 4 — *Criminal Law (Mental Impairment) Act 2023***
2 **amended**

3 **37. Act amended**

4 This Part amends the *Criminal Law (Mental Impairment)*
5 *Act 2023*.

6 **38. Section 403 deleted**

7 Delete section 403.

8 **39. Schedule 1 amended**

9 In Schedule 1 Division 1 Subdivision 3 after item 14 insert:
10

14A.	s. 300(1)	Persistent family violence
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11

1 **Part 5 — *Criminal Law (Mentally Impaired Accused)***
2 ***Act 1996* amended**

3 **40. Act amended**

4 This Part amends the *Criminal Law (Mentally Impaired*
5 *Accused) Act 1996*.

6 **41. Schedule 1 amended**

7 In Schedule 1 item 1 after the row relating to *The Criminal*
8 *Code* s. 297 insert:

9
10 s. 300(1) Persistent family violence

1 **Part 6 — High Risk Serious Offenders Act 2020**
2 **amended**

3 **42. Act amended**

4 This Part amends the *High Risk Serious Offenders Act 2020*.

5 **43. Section 31 amended**

6 After section 31(3)(b) insert:

7

8 (ba) direct the offender to charge the approved
9 electronic monitoring device so as to ensure the
10 device is at all times operational;

11 (bb) direct the offender to not enter 1 or more areas
12 of the State stated in a written notice given to
13 the offender by the community corrections
14 officer;

15

16 **44. Section 80 amended**

17 In section 80(1) in the Penalty delete “years.” and insert:

18

19 years and a fine of \$36 000.

20

21 **45. Section 81A inserted**

22 After section 81 insert:

23

24 **81A. Evidentiary provision for proceedings for offences**
25 **under s. 80 concerning electronic monitoring**

26 (1) In this section —
27 *approved* means approved by the CEO;

- 1 **relevant instruction** means an instruction about
2 electronic monitoring given by a community
3 corrections officer to a person subject to a supervision
4 order;
- 5 **relevant matter** means —
- 6 (a) that a person was subject to a supervision order;
7 or
- 8 (b) that a specified type of approved electronic
9 monitoring device was used to monitor a
10 person; or
- 11 (c) that a specified approved electronic monitoring
12 device was installed —
- 13 (i) at a specified place and on a specified
14 date; and
- 15 (ii) in accordance with the manufacturer’s
16 specifications;
- 17 or
- 18 (d) that on a specified date a specified approved
19 electronic monitoring device was turned on; or
- 20 (e) that during a specified period a specified
21 approved electronic monitoring device was
22 working; or
- 23 (f) that during a specified period a specified
24 system for detecting approved electronic
25 monitoring devices was detecting a specified
26 approved electronic monitoring device; or
- 27 (g) that during a specified period a specified
28 system for detecting approved electronic
29 monitoring devices was receiving location data
30 from a specified approved electronic
31 monitoring device; or
- 32 (h) particulars of communications during a
33 specified period between a specified system for

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- 1 detecting approved electronic monitoring
2 devices and a specified approved electronic
3 monitoring device; or
4 (i) that on a specified date and at a specified time a
5 specified approved electronic monitoring
6 device stopped working.
- 7 (2) In proceedings for an offence under section 80(1) that
8 concerns electronic monitoring —
- 9 (a) a certificate in the form approved under
10 section 89 stating a relevant matter and
11 purporting to be signed by the CEO or a
12 community corrections officer is, without proof
13 of any appointment or signature, evidence of
14 the matter stated in the certificate; and
- 15 (b) a certificate in the form approved under
16 section 89 stating a document attached to the
17 certificate is a copy of a relevant instruction
18 and purporting to be signed by the CEO or a
19 community corrections officer is, without proof
20 of any appointment or signature, evidence of
21 what is stated.
- 22 (3) The copy of the relevant instruction is evidence of what
23 is stated in the relevant instruction.
24

25 **46. Schedule 1 amended**

26 In Schedule 1 Division 1 Subdivision 3 after item 14 insert:
27

14A.	s. 300(1)	Persistent family violence
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28

Part 7 — Restraining Orders Act 1997 amended

47. Act amended

This Part amends the *Restraining Orders Act 1997*.

48. Section 5A amended

(1) In section 5A(1)(b) after “behaviour” insert:

or pattern of behaviour

(2) After section 5A(1) insert:

(1A) Behaviour or a pattern of behaviour referred to in subsection (1)(b) —

(a) may occur over a period of time; and

(b) may be more than 1 act, or a series of acts, that when considered cumulatively coerces or controls the family member or causes the member to be fearful; and

(c) is to be considered in the context of the relationship between the person and the family member as a whole.

(3) In section 5A(2):

(a) after “of behaviour” insert:

or a pattern of behaviour

(b) in paragraph (l) after “behaviour” insert:

or a pattern of behaviour

1 **Part 8 — *Sentence Administration Act 2003* amended**

2 **49. Act amended**

3 This Part amends the *Sentence Administration Act 2003*.

4 **50. Section 4 amended**

5 (1) In section 4(2) delete the definition of *family violence offence*.

6 (2) In section 4(2) insert in alphabetical order:

7

8 *family violence offence (category A)* means an offence
9 where the offender and the victim are in a designated
10 family relationship with each other at the time of the
11 commission of the offence and the offence is an
12 offence against *The Criminal Code* section 221BD,
13 279, 280, 281, 283, 292, 293, 294, 297, 298, 300, 301,
14 304, 313, 317, 317A, 323, 324, 325, 326, 328, 332,
15 333, 338A, 338B, 338C, 338E or 444;

16 *family violence offence (category B)* means an offence
17 where the offender and the victim are in a designated
18 family relationship with each other at the time of the
19 commission of the offence and the offence is —

20 (a) an offence against the *Restraining Orders*
21 *Act 1997* section 61(1) or (1A); or

22 (b) an offence against *The Criminal Code*
23 section 221BD, 279, 280, 281, 283, 292, 293,
24 294, 297, 298, 300, 301, 304, 313, 317, 317A,
25 323, 324, 325, 326, 328, 332, 333, 338A, 338B,
26 338C, 338E or 444;

27 *family violence restraining order* has the meaning
28 given in the *Restraining Orders Act 1997* section 3(1);
29

- 1 **51. Section 30 amended**
- 2 (1) In section 30(1):
- 3 (a) in paragraph (e)(ii) delete “resides;” and insert:
- 4
- 5 resides; or
- 6
- 7 (b) after paragraph (e)(ii) insert:
- 8
- 9 (iii) charge the approved electronic
- 10 monitoring device so as to ensure the
- 11 device is at all times operational; or
- 12 (iv) not enter 1 or more areas of the State
- 13 stated in a written notice given to the
- 14 prisoner by the CEO;
- 15
- 16 (c) after paragraph (i) insert:
- 17
- 18 (ia) a curfew requirement that the prisoner must
- 19 remain at a specified place for a specified
- 20 period not exceeding 12 hours in any period of
- 21 24 hours;
- 22 (ib) a requirement that the prisoner must not
- 23 frequent or visit a specified place or area;
- 24
- 25 (2) Delete section 30(2) and insert:
- 26
- 27 (2) A person on whom a requirement is imposed under
- 28 subsection (1)(c), (d) or (e)(i), (ii) or (iii) must comply
- 29 with the requirement.
- 30 Penalty for this subsection: imprisonment for 3 years
- 31 and a fine of \$36 000.

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- 1 (3) A person on whom a requirement is imposed under
2 subsection (1)(e)(iv) must comply with the
3 requirement, unless the person has a reasonable excuse.
4 Penalty for this subsection: imprisonment for 3 years
5 and a fine of \$36 000.
- 6 (4) Subsection (7) applies if the parole order relates to —
7 (a) a prisoner —
8 (i) who has been serving imprisonment for
9 a family violence offence (category A);
10 and
11 (ii) who is bound by a family violence
12 restraining order;
13 or
14 (b) a prisoner —
15 (i) who has been serving imprisonment for
16 a family violence offence (category B);
17 and
18 (ii) who is a serial family violence offender.
- 19 (5) In subsection (4)(a)(i) a reference to a prisoner who has
20 been serving imprisonment for a family violence
21 offence (category A) is a reference to a prisoner —
22 (a) who has been serving a fixed term for a family
23 violence offence (category A); or
24 (b) who —
25 (i) has been serving a fixed term for an
26 offence or offences other than a family
27 violence offence (category A); and
28 (ii) has been serving that term at all times
29 since completing a fixed term for a
30 family violence offence (category A).

- 1 (6) In subsection (4)(b)(i) a reference to a prisoner who has
2 been serving imprisonment for a family violence
3 offence (category B) is a reference to a prisoner —
4 (a) who has been serving a fixed term for a family
5 violence offence (category B); or
6 (b) who —
7 (i) has been serving a fixed term for an
8 offence or offences other than a family
9 violence offence (category B); and
10 (ii) has been serving that term at all times
11 since completing a fixed term for a
12 family violence offence (category B).
- 13 (7) The Board or the Governor (as the case may be) must
14 impose a requirement under subsection (1)(c), (d)
15 or (e), unless the Board or Governor is satisfied there
16 are exceptional circumstances.
17

18 Note: The heading to amended section 30 is to read:
19 **Additional requirements for parole order**

20 **52. Section 57 amended**

21 Delete section 57(2) and (3) and insert:
22

- 23 (2) Without limiting subsection (1), additional
24 requirements may include —
25 (a) a requirement that the prisoner wear an
26 approved electronic monitoring device; or
27 (b) a requirement that the prisoner permit the
28 installation of an approved electronic
29 monitoring device at the place where the
30 prisoner resides; or

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- 1 (c) a requirement that the prisoner charge the
2 approved electronic monitoring device so as to
3 ensure the device is at all times operational; or
- 4 (d) a requirement that the prisoner not enter 1 or
5 more areas of the State stated in a written notice
6 given to the prisoner by the Board; or
- 7 (e) a curfew requirement that the prisoner must
8 remain at a specified place for a specified
9 period not exceeding 12 hours in any period of
10 24 hours; or
- 11 (f) a requirement that the prisoner must not
12 frequent or visit a specified place or area.
- 13 (3) A person on whom a requirement is imposed under
14 subsection (2)(a), (b) or (c) must comply with the
15 requirement.
16 Penalty for this subsection: imprisonment for 3 years
17 and a fine of \$36 000.
- 18 (4) A person on whom a requirement is imposed under
19 subsection (2)(d) must comply with the requirement,
20 unless the person has a reasonable excuse.
21 Penalty for this subsection: imprisonment for 3 years
22 and a fine of \$36 000.
- 23 (5) Subsection (8) applies if —
- 24 (a) the prisoner —
- 25 (i) has been serving imprisonment for a
26 family violence offence (category A);
27 and
- 28 (ii) is bound by a family violence
29 restraining order;
- 30 or

- 1 (b) the prisoner —
- 2 (i) has been serving imprisonment for a
- 3 family violence offence (category B);
- 4 and
- 5 (ii) is a serial family violence offender.
- 6 (6) In subsection (5)(a)(i) a reference to a prisoner who has
- 7 been serving imprisonment for a family violence
- 8 offence (category A) is a reference to a prisoner —
- 9 (a) who has been serving a fixed term for a family
- 10 violence offence (category A); or
- 11 (b) who —
- 12 (i) has been serving a fixed term for an
- 13 offence or offences other than a family
- 14 violence offence (category A); and
- 15 (ii) has been serving that term at all times
- 16 since completing a fixed term for a
- 17 family violence offence (category A).
- 18 (7) In subsection (5)(b)(i) a reference to a prisoner who has
- 19 been serving imprisonment for a family violence
- 20 offence (category B) is a reference to a prisoner —
- 21 (a) who has been serving a fixed term for a family
- 22 violence offence (category B); or
- 23 (b) who —
- 24 (i) has been serving a fixed term for an
- 25 offence or offences other than a family
- 26 violence offence (category B); and
- 27 (ii) has been serving that term at all times
- 28 since completing a fixed term for a
- 29 family violence offence (category B).

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- 1 (8) The Board must impose a requirement referred to in
2 subsubsection (2)(a), (b), (c) or (d), unless the Board is
3 satisfied there are exceptional circumstances.
4

5 **53. Section 74G amended**

- 6 (1) In section 74G(1):
7 (a) in paragraph (e)(ii) delete “resides;” and insert:
8 resides; or
9
10 (b) after paragraph (e)(ii) insert:
11
12 (iii) charge the approved electronic
13 monitoring device so as to ensure the
14 device is at all times operational; or
15 (iv) not enter 1 or more areas of the State
16 stated in a written notice given to the
17 supervised offender by the CEO;
18
19 (c) after paragraph (g) insert:
20
21 (h) a curfew requirement that the supervised
22 offender must remain at a specified place for a
23 specified period not exceeding 12 hours in any
24 period of 24 hours;
25 (i) a requirement that the supervised offender must
26 not frequent or visit a specified place or area;
27
28

- 1 (2) Delete section 74G(2) and insert:
2
- 3 (2) A person on whom a requirement is imposed under
4 subsection (1)(e)(i), (ii) or (iii) must comply with the
5 requirement.
6 Penalty for this subsection: imprisonment for 3 years
7 and a fine of \$36 000.
- 8 (3) A person on whom a requirement is imposed under
9 subsection (1)(e)(iv) must comply with the
10 requirement, unless the person has a reasonable excuse.
11 Penalty for this subsection: imprisonment for 3 years
12 and a fine of \$36 000.
- 13 (4) Subsection (5) applies if —
14 (a) the supervised offender —
15 (i) has been serving imprisonment for a
16 family violence offence (category A);
17 and
18 (ii) is bound by a family violence
19 restraining order;
20 or
21 (b) the supervised offender —
22 (i) has been serving imprisonment for a
23 family violence offence (category B);
24 and
25 (ii) is a serial family violence offender.
- 26 (5) The Board must impose a requirement under
27 subsection (1)(c), (d) or (e), unless the Board is
28 satisfied there are exceptional circumstances.

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1 **54. Section 95 amended**

2 In section 95(1):

3 (a) in paragraph (c) delete “1994.” and insert:

4

5 *1994;*

6

7 (b) after paragraph (c) insert:

8

9 (d) under the *Bail Act 1982* section 66F.

10

11 **55. Section 97DA inserted**

12 After section 97D insert:

13

14 **97DA. Disclosing electronic monitoring information**

15 (1) In this section —

16 *electronic monitoring information* means —

17 (a) orders, directions or requirements (*EM orders*)
18 about electronic monitoring under this Act, the
19 *High Risk Serious Offenders Act 2020* or the
20 *Sentencing Act 1995*; and

21 (b) any information that relates to EM orders,
22 including, for example, information about the
23 movements of persons subject to EM orders;

24 *relevant employee* means a person employed in the
25 department designated as the Police Service.

26 (2) The CEO may disclose electronic monitoring
27 information to a police officer or a relevant employee.

28 (3) Without limiting the way in which the CEO may
29 disclose electronic monitoring information under
30 subsection (2), the CEO may give police officers and

- 1 relevant employees access to an electronic
2 database containing electronic monitoring information.
- 3 (4) A police officer or relevant employee may, for any
4 reasonable purpose in the performance of their
5 functions as a police officer or a relevant employee —
6 (a) access electronic monitoring information
7 disclosed by the CEO under subsection (2); and
8 (b) use the electronic monitoring information.
- 9 (5) The CEO must establish procedures for the disclosure
10 of electronic monitoring information under this section.
11

12 **56. Section 97E amended**

- 13 (1) In section 97E(1) delete “97C or 97D” and insert:

14
15 97C, 97D or 97DA
16

- 17 (2) In section 97E(2) delete “97C or 97D —” and insert:

18
19 97C, 97D or 97DA —
20

21 Note: The heading to amended section 97E is to read:

22 **Disclosure under s. 97A, 97B, 97C, 97D and 97DA not subject to**
23 **other laws and effect of disclosure**

24 **57. Section 98 amended**

- 25 (1) In section 98(1) delete “1995” and insert:

26
27 *1995, the Criminal Law (Mental Impairment) Act 2023*
28

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1 (2) In section 98(1) delete “Part VIA of the *Bail Act 1982* —” and
2 insert:

3

4 the *Bail Act 1982* Parts VIA and 6B —

5

6 (3) In section 98(1) delete “Part VIA —” and insert:

7

8 Parts VIA and 6B —

9

10 **58. Section 118A inserted**

11 After section 118 insert:

12

13 **118A. Evidentiary provision for electronic monitoring**
14 **offences**

15 (1) In this section —

16 *approved form* means a form approved by the CEO;

17 *monitoring equipment* has the meaning given in
18 section 118(1);

19 *relevant instruction* means an instruction given by a
20 CCO to a person who was subject to an order, direction
21 or requirement, the alleged breach of which constitutes
22 the relevant offence in the proceedings;

23 *relevant matter* means —

24 (a) that a person was subject to an order, direction
25 or requirement, the alleged breach of which
26 constitutes the relevant offence in the
27 proceedings; or

28 (b) that a specified type of monitoring equipment
29 was used to monitor a person; or

-
- 1 (c) that specified monitoring equipment was
2 installed —
- 3 (i) at a specified place and on a specified
4 date; and
- 5 (ii) in accordance with the manufacturer's
6 specifications;
- 7 or
- 8 (d) that on a specified date specified monitoring
9 equipment was turned on; or
- 10 (e) that during a specified period specified
11 monitoring equipment was working; or
- 12 (f) that during a specified period a specified
13 system for detecting monitoring equipment was
14 detecting specified monitoring equipment; or
- 15 (g) that during a specified period a specified
16 system for detecting monitoring equipment was
17 receiving location data from specified
18 monitoring equipment; or
- 19 (h) particulars of communications during a
20 specified period between a specified system for
21 detecting monitoring equipment and specified
22 monitoring equipment; or
- 23 (i) that on a specified date and at a specified time
24 specified monitoring equipment stopped
25 working;
- 26 **relevant offence** means an offence under —
- 27 (a) section 30(2) or (3), 57(3) or (4), 74G(2) or (3)
28 or 118(6); or
- 29 (b) the *Bail Act 1982* section 50M(1) or (2) or
30 50V(1) or (2); or

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- 1 (c) the *Sentencing Act 1995* section 33H(10A) or
2 (10B), 33HA(5A) or (5B), 67A(6A) or (6B),
3 75(10A) or (10B), 76A(3A) or (3B), 84C(10A)
4 or (10B) or 84CA(4A) or (4B).
- 5 (2) In proceedings for a relevant offence —
- 6 (a) a certificate in the approved form stating a
7 relevant matter and purporting to be signed by
8 the CEO or a CCO is, without proof of any
9 appointment or signature, evidence of the
10 matter stated in the certificate; and
- 11 (b) a certificate in the approved form stating a
12 document attached to the certificate is a copy of
13 a relevant instruction and purporting to be
14 signed by the CEO or a CCO is, without proof
15 of any appointment or signature, evidence of
16 what is stated.
- 17 (3) The copy of the relevant instruction is evidence of what
18 is stated in the relevant instruction.
19

20 **59. Part 11 Division 3 inserted**

21 At the end of Part 11 insert:
22

23 **Division 3 — Provisions for the *Family Violence***
24 ***Legislation Reform Act 2024***

25 **130. Term used: commencement day**

26 In this Division —

27 ***commencement day*** means the day on which the
28 *Family Violence Legislation Reform Act 2024*
29 section 59 comes into operation.

1 **131. Particular reports given under s. 12 or 12A may be**
2 **amended or supplemented**

- 3 (1) If a report (an *original report*) in respect of a prisoner
4 was given by the Board to the Minister under
5 section 12 or 12A before commencement day —
- 6 (a) the Board may amend the original report to
7 address the likelihood of the prisoner
8 complying with the additional requirements in
9 section 30(1)(e)(iii) or (iv), (ia) or (ib) and give
10 the amended report to the Minister; or
- 11 (b) the Board may give the Minister a report
12 supplementary to the original report addressing
13 the likelihood of the prisoner complying with
14 the additional requirements in
15 section 30(1)(e)(iii) or (iv), (ia) or (ib).
- 16 (2) An original report amended and given under
17 subsection (1)(a) is taken to have been given by the
18 Board to the Minister as amended when the original
19 report was first given.
- 20 (3) A supplementary report given under subsection (1)(b)
21 is taken to have been given by the Board to the
22 Minister when the original report was given.

23 **132. Particular reports given under s. 17 may be**
24 **amended or supplemented**

- 25 (1) If a report (an *original report*) in respect of a prisoner
26 was given by the CEO to the Board under section 17
27 before commencement day —
- 28 (a) the CEO may amend the original report to
29 address the likelihood of the prisoner
30 complying with the additional requirements in
31 section 30(1)(e)(iii) or (iv), (ia) or (ib) and give
32 the amended report to the Board; or

s. 59

- 1 (b) the CEO may give the Board a report
2 supplementary to the original report addressing
3 the likelihood of the prisoner complying with
4 the additional requirements in
5 section 30(1)(e)(iii) or (iv), (ia) or (ib).
- 6 (2) An original report amended and given under
7 subsection (1)(a) is taken to have been given by the
8 CEO to the Board as amended when the original report
9 was first given.
- 10 (3) A supplementary report given under subsection (1)(b)
11 is taken to have been given by the CEO to the Board
12 when the original report was given.

13 **133. Particular reports given under s. 51 may be**
14 **amended or supplemented**

- 15 (1) If a report (an *original report*) in respect of a prisoner
16 was given by the CEO to the Board under section 51
17 before commencement day —
- 18 (a) the CEO may amend the original report to
19 address the likelihood of the prisoner
20 complying with the additional requirements in
21 section 57(2)(c), (d), (e) or (f) and give the
22 amended report to the Board; or
- 23 (b) the CEO may give the Board a report
24 supplementary to the original report addressing
25 the likelihood of the prisoner complying with
26 the additional requirements in section 57(2)(c),
27 (d), (e) or (f).
- 28 (2) An original report amended and given under
29 subsection (1)(a) is taken to have been given by the
30 CEO to the Board as amended when the original report
31 was first given.

1 (3) A supplementary report given under subsection (1)(b)
2 is taken to have been given by the CEO to the Board
3 when the original report was given.

4 **134. Particular reports given under s. 74C may be**
5 **amended or supplemented**

6 (1) If a report (an *original report*) in respect of a prisoner
7 was given by the CEO to the Board under section 74C
8 before commencement day —

9 (a) the CEO may amend the original report to
10 address the likelihood of the prisoner
11 complying with the additional requirements in
12 section 74G(1)(e)(iii) or (iv), (h) or (i) and give
13 the amended report to the Board; or

14 (b) the CEO may give the Board a report
15 supplementary to the original report addressing
16 the likelihood of the prisoner complying with
17 the additional requirements in
18 section 74G(1)(e)(iii) or (iv), (h) or (i).

19 (2) An original report amended and given under
20 subsection (1)(a) is taken to have been given by the
21 CEO to the Board as amended when the original report
22 was first given.

23 (3) A supplementary report given under subsection (1)(b)
24 is taken to have been given by the CEO to the Board
25 when the original report was given.

26 **135. Application of s. 57 to applications for re-entry**
27 **release orders**

28 Section 57 as amended by the *Family Violence*
29 *Legislation Reform Act 2024* section 52 applies in
30 relation to an application for a re-entry release order
31 made but not decided before commencement day.
32

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Part 9 — Sentencing Act 1995 amended

60. Act amended

This Part amends the *Sentencing Act 1995*.

61. Section 4 amended

(1) In section 4(1) delete the definition of *family violence offence*.

(2) In section 4(1) insert in alphabetical order:

family violence offence (category A) means an offence where the offender and the victim are in a designated family relationship with each other at the time of the commission of the offence and the offence is an offence against *The Criminal Code* section 221BD, 279, 280, 281, 283, 292, 293, 294, 297, 298, 300, 301, 304, 313, 317, 317A, 323, 324, 325, 326, 328, 332, 333, 338A, 338B, 338C, 338E or 444;

family violence offence (category B) means an offence where the offender and the victim are in a designated family relationship with each other at the time of the commission of the offence and the offence is —

- (a) an offence against the *Restraining Orders Act 1997* section 61(1) or (1A); or
- (b) an offence against *The Criminal Code* section 221BD, 279, 280, 281, 283, 292, 293, 294, 297, 298, 300, 301, 304, 313, 317, 317A, 323, 324, 325, 326, 328, 332, 333, 338A, 338B, 338C, 338E or 444;

family violence restraining order has the meaning given in the *Restraining Orders Act 1997* section 3(1);

1 **62. Section 33H amended**

2 (1) In section 33H(10):

3 (a) delete “both” and insert:

4

5 more

6

7 (b) in paragraph (b) delete “resides.” and insert:

8

9 resides;

10

11 (c) after paragraph (b) insert:

12

13 (c) charge the approved electronic monitoring
14 device so as to ensure the device is at all times
15 operational;

16 (d) not enter 1 or more areas of the State stated in a
17 written notice given to the offender by the
18 speciality court or the CCO.

19

20 (2) After section 33H(10) insert:

21

22 (10A) A person given an order under subsection (10)(a), (b)
23 or (c) must comply with the order.

24 Penalty for this subsection: imprisonment for 3 years
25 and a fine of \$36 000.

26 (10B) A person given an order under subsection (10)(d) must
27 comply with the order, unless the person has a
28 reasonable excuse.

29 Penalty for this subsection: imprisonment for 3 years
30 and a fine of \$36 000.

31

s. 63

1 (3) At the end of section 33H(15) insert:

2

3

Note for this section:

4

See the *Sentence Administration Act 2003* section 118A for
an evidentiary provision for proceedings for an offence
against subsection (10A) or (10B).

5

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7

8 **63. Section 33HA amended**

9

(1) Delete section 33HA(1) to (4) and insert:

10

11

(1) This section applies if —

12

(a) an offence in respect of which a PSO may
apply is a family violence offence (category A)
and —

13

14

15

(i) the offender is bound by a family
violence restraining order; and

16

17

(ii) the person against whom the family
violence offence (category A) was
committed is protected by the family
violence restraining order;

18

19

20

21

or

22

(b) an offence in respect of which a PSO may
apply is a family violence offence (category B)
and the offender is a serial family violence
offender.

23

24

25

26

(2) For the purposes of subsection (1)(b), an offender is a
serial family violence offender whether the offender
was so declared by —

27

28

29

(a) the court referred to in subsection (3) at the
time of the offender's conviction for the family
violence offence (category B); or

30

31

32

(b) another court.

- 1 (3) If this section applies and a court makes a PSO the
2 court must impose a requirement (an *electronic*
3 *monitoring requirement*) for electronic monitoring in
4 respect of the offender under this section, unless the
5 court is satisfied there are exceptional circumstances.
- 6 (4) The purpose of electronic monitoring of an offender
7 subject to a PSO is to enable the location of the
8 offender to be monitored.
9
- 10 (2) In section 33HA(5):
11 (a) delete “both” and insert:
12
13 more
14
15 (b) in paragraph (b) delete “CCO.” and insert:
16
17 CCO;
18
19 (c) after paragraph (b) insert:
20
21 (c) direct the offender to charge the approved
22 electronic monitoring device so as to ensure the
23 device is at all times operational;
24 (d) direct the offender to not enter 1 or more areas
25 of the State stated in a written notice given to
26 the offender by the CCO.
27

s. 64

- 1 (3) After section 33HA(5) insert:
2
- 3 (5A) A person given a direction under subsection (5)(a), (b)
4 or (c) must comply with the direction.
5 Penalty for this subsection: imprisonment for 3 years
6 and a fine of \$36 000.
- 7 (5B) A person given a direction under subsection (5)(d)
8 must comply with the direction, unless the person has a
9 reasonable excuse.
10 Penalty for this subsection: imprisonment for 3 years
11 and a fine of \$36 000.
12
- 13 (4) At the end of section 33HA(7) insert:
14
- 15 Note for this section:
16 See the *Sentence Administration Act 2003* section 118A for
17 an evidentiary provision for proceedings for an offence
18 against subsection (5A) or (5B).
19

20 **64. Section 67A amended**

- 21 (1) Delete section 67A(1) to (5) and insert:
22
- 23 (1) This section applies if —
24 (a) an offence in respect of which a CBO may
25 apply is a family violence offence (category A)
26 and —
27 (i) the offender is bound by a family
28 violence restraining order; and

- 1 (ii) the person against whom the family
2 violence offence (category A) was
3 committed is protected by the family
4 violence restraining order;
- 5 or
- 6 (b) an offence in respect of which a CBO may
7 apply is a family violence offence (category B)
8 and the offender is a serial family violence
9 offender.
- 10 (2) For the purposes of subsection (1)(b), an offender is a
11 serial family violence offender whether the offender
12 was so declared by —
- 13 (a) the court referred to in subsection (3) at the
14 time of the offender’s conviction for the family
15 violence offence (category B); or
- 16 (b) another court.
- 17 (3) If this section applies and a court makes a CBO the
18 court must impose a requirement (an *electronic*
19 *monitoring requirement*) for electronic monitoring in
20 respect of the offender under this section, unless the
21 court is satisfied there are exceptional circumstances.
- 22 (4) The purpose of electronic monitoring of an offender
23 subject to a CBO is to enable the location of the
24 offender to be monitored.
- 25
- 26 (2) In section 67A(6):
- 27 (a) delete “both” and insert:
- 28
- 29 more
- 30

s. 64

- 1 (b) in paragraph (b) delete “CCO.” and insert:
2
3 CCO;
4
- 5 (c) after paragraph (b) insert:
6
7 (c) direct the offender to charge the approved
8 electronic monitoring device so as to ensure the
9 device is at all times operational;
10 (d) direct the offender to not enter 1 or more areas
11 of the State stated in a written notice given to
12 the offender by the CCO.
13
- 14 (3) After section 67A(6) insert:
15
- 16 (6A) A person given a direction under subsection (6)(a), (b)
17 or (c) must comply with the direction.
18 Penalty for this subsection: imprisonment for 3 years
19 and a fine of \$36 000.
- 20 (6B) A person given a direction under subsection (6)(d)
21 must comply with the direction, unless the person has a
22 reasonable excuse.
23 Penalty for this subsection: imprisonment for 3 years
24 and a fine of \$36 000.
25
- 26 (4) At the end of section 67A(8) insert:
27
- 28 Note for this section:
29 See the *Sentence Administration Act 2003* section 118A for
30 an evidentiary provision for proceedings for an offence
31 against subsection (6A) or (6B).
32

1 **65. Section 75 amended**

2 (1) In section 75(10):

3 (a) in paragraph (b) delete “resides.” and insert:

4

5 resides; or

6

7 (b) after paragraph (b) insert:

8

9 (c) to charge the approved electronic monitoring
10 device so as to ensure the device is at all times
11 operational; or

12 (d) to not enter 1 or more areas of the State stated
13 in a written notice given to the offender by the
14 CCO.

15

16 (2) After section 75(10) insert:

17

18 (10A) A person given an order under subsection (10)(a), (b)
19 or (c) must comply with the order.

20 Penalty for this subsection: imprisonment for 3 years
21 and a fine of \$36 000.

22 (10B) A person given an order under subsection (10)(d) must
23 comply with the order, unless the person has a
24 reasonable excuse.

25 Penalty for this subsection: imprisonment for 3 years
26 and a fine of \$36 000.

27

s. 66

1 (3) At the end of section 75(15) insert:

2

3

Note for this section:

4

See the *Sentence Administration Act 2003* section 118A for
an evidentiary provision for proceedings for an offence
against subsection (10A) or (10B).

5

6

7

8 **66. Section 76A amended**

9

(1) Delete section 76A(1) and (1A) and insert:

10

11

(1) The purpose of electronic monitoring of an offender —

12

(a) under subsection (2) is to enable the location of
the offender to be monitored where the offender
presents a high risk to —

13

14

15

(i) a person; or

16

(ii) a group of persons; or

17

(iii) the community more generally;

18

and

19

(b) under subsection (2C) is to enable the location
of the offender to be monitored.

20

21

22

(2) In section 76A(2) after “case,” insert:

23

24

other than a case referred to in subsection (2A),

25

- 1 (3) After section 76A(2) insert:
2
- 3 (2A) Subsection (2C) applies if —
- 4 (a) an offence in respect of which an ISO may
5 apply is a family violence offence (category A)
6 and —
- 7 (i) the offender is bound by a family
8 violence restraining order; and
- 9 (ii) the person against whom the family
10 violence offence (category A) was
11 committed is protected by the family
12 violence restraining order;
- 13 or
- 14 (b) an offence in respect of which an ISO may
15 apply is a family violence offence (category B)
16 and the offender is a serial family violence
17 offender.
- 18 (2B) For the purposes of subsection (2A)(b), an offender is a
19 serial family violence offender whether the offender
20 was so declared by —
- 21 (a) the court referred to in subsection (2C) at the
22 time of the offender's conviction for the family
23 violence offence (category B); or
- 24 (b) another court.
- 25 (2C) If subsection (2A) applies and a court makes an ISO
26 the court must impose a requirement (also an
27 ***electronic monitoring requirement***) for electronic
28 monitoring in respect of the offender under this section,
29 unless the court is satisfied there are exceptional
30 circumstances.
31

- 1 (4) In section 76A(3):
2 (a) delete “both” and insert:
3
4 more
5
6 (b) in paragraph (b) delete “CCO.” and insert:
7
8 CCO;
9
10 (c) after paragraph (b) insert:
11
12 (c) direct the offender to charge the approved
13 electronic monitoring device so as to ensure the
14 device is at all times operational;
15 (d) direct the offender to not enter 1 or more areas
16 of the State stated in a written notice given to
17 the offender by the CCO.
18
- 19 (5) After section 76A(3) insert:
20
- 21 (3A) A person given a direction under subsection (3)(a), (b)
22 or (c) must comply with the direction.
23 Penalty for this subsection: imprisonment for 3 years
24 and a fine of \$36 000.
- 25 (3B) A person given a direction subsection (3)(d) must
26 comply with the direction, unless the person has a
27 reasonable excuse.
28 Penalty for this subsection: imprisonment for 3 years
29 and a fine of \$36 000.
30

1 (6) At the end of section 76A(6) insert:

2

3

Note for this section:

4

See the *Sentence Administration Act 2003* section 118A for
an evidentiary provision for proceedings for an offence
against subsection (3A) or (3B).

5

6

7

8 **67. Section 84C amended**

9

(1) In section 84C(10):

10

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

11

12

lives; or

13

14

(b) after paragraph (b) insert:

15

16

(c) to charge the approved electronic monitoring
device so as to ensure the device is at all times
operational; or

17

18

19

(d) to not enter 1 or more areas of the State stated
in a written notice given to the offender by the
speciality court or the CCO.

20

21

22

23

(2) After section 84C(10) insert:

24

25

(10A) A person given an order under subsection (10)(a), (b)
or (c) must comply with the order.

26

27

Penalty for this subsection: imprisonment for 3 years
and a fine of \$36 000.

28

s. 68

1 (10B) A person given an order under subsection (10)(d) must
2 comply with the order, unless the person has a
3 reasonable excuse.

4 Penalty for this subsection: imprisonment for 3 years
5 and a fine of \$36 000.
6

7 (3) At the end of section 84C(15) insert:
8

9 Note for this section:

10 See the *Sentence Administration Act 2003* section 118A for
11 an evidentiary provision for proceedings for an offence
12 against subsection (10A) or (10B).
13

14 **68. Section 84CA amended**

15 (1) Delete section 84CA(1) and (1A) and insert:
16

- 17 (1) The purpose of electronic monitoring of an offender —
18 (a) under subsection (2) is to enable the location of
19 the offender to be monitored where the offender
20 presents a high risk to —
21 (i) a person; or
22 (ii) a group of persons; or
23 (iii) the community more generally;
24 and
25 (b) under subsection (3C) is to enable the location
26 of the offender to be monitored.
27

28 (2) In section 84CA(2) after “case,” insert:
29

30 other than a case referred to in subsection (3A),
31

1 (3) In section 84CA(3) after “imposed” insert:

2

3 under subsection (2)

4

5 (4) After section 84CA(3) insert:

6

7 (3A) Subsection (3C) applies if —

8 (a) an offence in respect of which CSI may apply is
9 a family violence offence (category A) and —

10 (i) the offender is bound by a family
11 violence restraining order; and

12 (ii) the person against whom the family
13 violence offence (category A) was
14 committed is protected by the family
15 violence restraining order;

16 or

17 (b) an offence in respect of which CSI may apply is
18 a family violence offence (category B) and the
19 offender is a serial family violence offender.

20 (3B) For the purposes of subsection (3A)(b), an offender is a
21 serial family violence offender whether the offender
22 was so declared by —

23 (a) the court referred to in subsection (3C) at the
24 time of the offender’s conviction for the family
25 violence offence (category B); or

26 (b) another court.

27 (3C) If subsection (3A) applies and a court orders CSI the
28 court must impose a requirement (also an *electronic*
29 *monitoring requirement*) for electronic monitoring in
30 respect of the offender under this section, unless the
31 court is satisfied there are exceptional circumstances.

32

- 1 (5) In section 84CA(4):
2 (a) delete “both” and insert:
3
4 more
5
6 (b) in paragraph (b) delete “CCO.” and insert:
7
8 CCO;
9
10 (c) after paragraph (b) insert:
11
12 (c) direct the offender to charge the approved
13 electronic monitoring device so as to ensure the
14 device is at all times operational;
15 (d) direct the offender to not enter 1 or more areas
16 of the State stated in a written notice given to
17 the offender by the CCO.
18
- 19 (6) After section 84CA(4) insert:
20
- 21 (4A) A person given a direction under subsection (4)(a), (b)
22 or (c) must comply with the direction.
23 Penalty for this subsection: imprisonment for 3 years
24 and a fine of \$36 000.
- 25 (4B) A person given a direction under subsection (4)(d)
26 must comply with the direction, unless the person has a
27 reasonable excuse.
28 Penalty for this subsection: imprisonment for 3 years
29 and a fine of \$36 000.
30

1 (7) At the end of section 84CA(5) insert:

2

3

Note for this section:

4

See the *Sentence Administration Act 2003* section 118A for
an evidentiary provision for proceedings for an offence
against subsection (4A) or (4B).

5

6

7

8 **69. Section 84J amended**

9

After section 84J(1) insert:

10

11

(1A) Subsection (1) does not apply to breach of a CSI
requirement constituted by —

12

13

(a) a failure to comply with an order given under
section 84C(10)(a), (b), (c) or (d); or

14

15

(b) a failure to comply with a direction given under
section 84CA(4)(a), (b), (c) or (d).

16

17

18 **70. Section 97A amended**

19

In section 97A(6):

20

(a) in paragraph (b) delete “offence; and” and insert:

21

22

offence (category B); and

23

24

(b) delete paragraph (c) and insert:

25

26

(c) the offender is a serial family violence
offender, whether the offender was so declared
by —

27

28

29

(i) the court referred to in paragraph (a) at
the time of the offender’s conviction for
the offence referred to in that paragraph;
or

30

31

32

s. 71

1 (ii) another court.

2

3 Note: The heading to amended section 97A is to read:

4 **Declaration of serious offence for purposes of *High Risk Serious***
5 ***Offenders Act 2020* and *Sentence Administration Act 2003* Part 5A**

6 **71. Section 124D amended**

7 In section 124D in the definition of *prescribed offence*
8 paragraphs (a) and (b) delete “offence; or” and insert:

9

10 offence (category B); or

11

12 **72. Section 124E amended**

13 (1) In section 124E(1) after “family violence offence” insert:

14

15 (category B)

16

17 (2) In section 124E(4)(a) delete “offence;” and insert:

18

19 offence (category B);

20

21 (3) In section 124E(6)(b)(i) delete “offence; and” and insert:

22

23 offence (category B); and

24

1 **73. Section 131 amended**

2 After section 131(1) insert:

3

4 (1A) Subsection (1) does not apply to breach of a
5 community order constituted by —

6 (a) for a community order that is a CBO — a
7 failure to comply with a direction given under
8 section 67A(6)(a), (b), (c) or (d); or

9 (b) for a community order that is an ISO — a
10 failure to comply with —

11 (i) an order under section 75(10)(a), (b), (c)
12 or (d); or

13 (ii) a direction under section 76A(3)(a), (b),
14 (c) or (d).
15

16 **74. Schedule 1A amended**

17 In Schedule 1A Part 2 item 2 after the row relating to
18 section 50D(2) insert:

19

s. 50O(2)

Hindering police officer seeking to
ascertain compliance with
electronic monitoring condition

20

s. 75

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Part 10 — Other Acts amended

75. Various references to Part 2 amended

- (1) This section amends the Acts listed in the Table.
- (2) In the provisions listed in the Table delete “Part 2” and insert:

Part 2A

Table

<i>Cross-border Justice Act 2008</i>	s. 48 def. of <i>WA police order</i>
<i>Restraining Orders Act 1997</i>	s. 3(1) def. of <i>police order</i> s. 7A(e)

