

Criminal Laws (Domestic Violence) Amendment Bill 2016

Explanatory Memorandum

Part 1 – Preliminary

- Clause 1 Title
- Clause 2 Commencement date of the Bill.

Part 2 – *Criminal Procedure Act 2004* amended

- Clause 3 Amends the *Criminal Procedure Act 2004*.
- Clause 4 Inserts definition of domestic violence offence as defined in the *Restraining Orders Act 1977*.
- Clauses 5 and 6 Notification of a charge of any offence to specify whether the offence occurs in a domestic violence context.

Part 3 – *Evidence Act 1906* amended

- Clause 7 Amends the *Evidence Act 1906*.
- Clause 8 Inserts definition of domestic violence offence as defined in the *Restraining Orders Act 1977*.
- Clause 9 Domestic violence victims automatically classified as special witness unless the court decides otherwise or the victim does not want to be declared as such.

Part 4 – *Restraining Orders Act 1997* amended

- Clause 10 Amends the *Restraining Orders Act 1997*.
- Clause 11 Breaches of violent restraining orders will be declared a crime which includes a maximum penalty of imprisonment for 3 years. Breaches of misconduct restraining orders and police orders includes a maximum penalty of imprisonment for 6 months.
- Clause 12 Penalty for repeated breach of restraining order will apply to offenders who have committed and been convicted or at least one offence under section 61 (1) or (2a).

Part 5 – *Sentencing Act 1995* amended

- Clause 13 Amends the *Sentencing Act 1995*.
- Clause 14 Inserts definition of domestic violence offence as defined in the *Restraining Orders Act 1977*.
- Clause 15 If an offender is convicted of an offence that is also a domestic violence offence the court must record the offence as a domestic violence offence and also entered it on the offender's criminal history. If this occurs the prosecution may apply to the court for previous offences that are domestic violence offences be

recorded as such and entered on the offender's criminal history and if the court is satisfied that the previous offences are domestic violence offences they must grant the application.

The victim of the relevant domestic violence offences cannot be compelled to give evidence in proceedings before the court in relation to the prosecution application.

If the court is satisfied that an error has occurred in the recording or entering of a domestic violence offence, the court may, on an application or by its own initiative, correct the error.

Clause 16 Regulations may prescribe matters in relation to recording of convictions and entering on criminal histories as contained in clause 15.

Part 6 – The *Criminal Code* amended

Clause 17 Amends the *Criminal Code*

Clause 18 Increases the maximum penalty for conviction under s 281 in circumstances of aggravation as defined in section 221, which includes family and domestic relationship, to 20 years.