

Family Court Amendment Bill 2019

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Western Australia

LEGISLATIVE ASSEMBLY

Family Court Amendment Bill 2019

A Bill for

An Act to amend the *Family Court Act 1997*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Family Court Amendment Act 2019*.

3 **2. Commencement**

4 This Act comes into operation as follows —

5 (a) sections 1 and 2 — on the day on which this Act
6 receives the Royal Assent;

7 (b) the rest of the Act — on the day after that day.

8 **3. Act amended**

9 This Act amends the *Family Court Act 1997*.

10 **4. Part 8 Division 3 inserted**

11 At the end of Part 8 insert:

12

13 **Division 3 — Cross-examination of parties where**
14 **allegations of family violence**

15 **219AJ. Application of Division**

16 (1) In this section —

17 *commencement day* means the day on which the
18 *Family Court Amendment Act 2019* section 4 comes
19 into operation;

20 *specified day* means the day after the period of 90 days
21 beginning on commencement day.

22 (2) This Division applies to cross-examinations occurring
23 on or after the specified day in proceedings instituted
24 before, on or after the commencement day.

1 **219AK. Mandatory protections for parties in certain**
2 **cases — FLA s. 102NA**

- 3 (1) If, in proceedings under this Act —
- 4 (a) a party (the *examining party*) intends to
5 cross-examine another party (the *witness*
6 *party*); and
- 7 (b) there is an allegation of family violence
8 between the examining party and the witness
9 party; and
- 10 (c) any of the following are satisfied —
- 11 (i) either party has been convicted of, or is
12 charged with, an offence involving
13 violence, or a threat of violence, to the
14 other party;
- 15 (ii) a family violence order (other than an
16 interim order) applies to both parties;
- 17 (iii) an injunction under section 235 or 235A
18 for the personal protection of either
19 party is directed against the other party;
- 20 (iv) the court makes an order that the
21 requirements of subsection (2) are to
22 apply to the cross-examination,

23 then the requirements of subsection (2) apply to the
24 cross-examination.

- 25 (2) Both of the following requirements apply to the
26 cross-examination —
- 27 (a) the examining party must not cross-examine the
28 witness party personally;
- 29 (b) the cross-examination must be conducted by an
30 Australian legal practitioner acting on behalf of
31 the examining party.

s. 4

- 1 (3) The court may make an order under
2 subsection (1)(c)(iv) —
3 (a) on its own initiative; or
4 (b) on the application of —
5 (i) the witness party; or
6 (ii) the examining party; or
7 (iii) if an independent children’s lawyer has
8 been appointed for a child in relation to
9 the proceedings — that lawyer.

10 **219AL. Court-ordered protections in other cases — FLA**
11 **s. 102NB**

- 12 If, in proceedings under this Act —
13 (a) a party (the *examining party*) intends to
14 cross-examine another party (the *witness party*)
15 personally; and
16 (b) there is an allegation of family violence
17 between the examining party and the witness
18 party; and
19 (c) section 219AK does not apply to prevent the
20 examining party cross-examining the witness
21 party personally,

22 then, the court must ensure that during the
23 cross-examination there are appropriate protections for
24 the party who is the alleged victim of the family
25 violence.
26

27
