

[Act 1999 No 88]



New South Wales

# Crimes Amendment (Apprehended Violence) Bill 1999

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.\*

### Overview of Bill

The object of this Bill is to make a series of amendments to the *Crimes Act 1900* in relation to apprehended violence orders, the offence of stalking or intimidation, and associated matters. The Bill proposes the following:

- (a) to introduce a distinction between apprehended domestic violence orders and apprehended personal violence orders, and to introduce a statement of objects into the provisions relating to apprehended domestic violence orders (see **Schedule 1 [8]**, together with **Schedule 1 [4], [9]–[14], [18]** and **[35]**),
- (b) to extend the concept of domestic relationship for the purposes of Part 15A of the *Crimes Act 1900*, and to extend the definitions of ***Domestic violence offence*** and ***Personal violence offence*** (see **Schedule 1 [1], [2], [3]** and **[6]**),

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\* Amended in committee—see table at end of volume.

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Explanatory note

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- (c) to alter the offence of stalking or intimidation, so that it is committed with the intention of causing physical or mental harm, rather than causing fear for personal injury (see **Schedule 1 [7]**),
- (d) to provide for suppression of the address of a person for whose benefit an apprehended domestic violence order is sought or issued (see **Schedule 1 [8]**, **proposed section 562AG**),
- (e) to provide a limited discretion for an authorised justice to refuse to issue process where an apprehended personal violence order is sought (see **Schedule 1 [8]**, **proposed section 562 AK**),
- (f) to require a court to make an apprehended violence order when a person pleads guilty to or is found guilty of an offence of stalking or intimidation or a domestic violence offence (see **Schedule 1 [15]**),
- (g) to provide that the District Court is covered by the requirement to make an apprehended violence order when a person pleads guilty to or is found guilty of an offence of stalking or intimidation or a domestic violence offence, or an interim apprehended violence order when a person stands charged before the District Court for such an offence (see **Schedule 1 [16]** and **[17]**),
- (h) to provide that an interim order ceases to have effect if the relevant complaint is withdrawn or dismissed (see **Schedule 1 [19]**),
- (i) to require that an application to vary or revoke an apprehended violence order must set out the grounds for the application and the nature of the variation sought (see **Schedule 1 [20]**),
- (j) to enable courts to grant interim extensions of apprehended violence orders in certain cases where notice is not given to the respondent (see **Schedule 1 [21]**),
- (k) to consolidate provisions relating to the jurisdiction of, and appeals to, the District Court in connection with apprehended violence orders (see **Schedule 1 [45]**, **proposed Division 4 of Part 15A**, together with **Schedule 1 [22]**, **[23]**, **[24]** and **[36]**),
- (l) to make modifications to the scheme for telephone interim orders (see **Schedule 1 [25]–[28]**),
- (m) to require a police officer to make a record of a decision not to initiate criminal proceedings where a breach of an apprehended violence order is alleged to have been committed (see **Schedule 1 [31]**),
- (n) to introduce additional means of service of certain documents (see **Schedule 1 [32]**, **[33]** and **[34]**),

Explanatory note

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- (o) to provide that costs are not to be awarded against a complainant for an apprehended domestic violence order, unless the complaint was frivolous or vexatious, and that costs are not to be awarded against a complainant for any apprehended violence order who is a police officer, unless the police officer made the complaint knowing that it contained false or misleading material (see **Schedule 1 [37]**),
- (p) to prohibit publication of information that would identify a child in apprehended violence order proceedings, or a party to proceedings for an apprehended domestic violence order (see **Schedule 1 [38]**),
- (q) to extend the right to have a support person present in court during proceedings for or relating to an apprehended violence order, so that it covers the protected person and the defendant, as well as a child (see **Schedule 1 [39]**),
- (r) to provide for the registration of New Zealand protection orders (see **Schedule 1 [5], [40]–[44]**),
- (s) to provide for the review of Part 15A of the *Crimes Act 1900*, which contains the provisions relating to apprehended violence orders (see **Schedule 1 [45], proposed section 562Z**),
- (t) to make other amendments of minor, consequential, savings or transitional nature (see **Schedule 1 [4], [28], [29], [35], [44] and [46]**).

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Crimes Act 1900* set out in Schedule 1.

**Schedule 1** contains the amendments to the *Crimes Act 1900* as described in the Overview above.