

## CRIMES (APPREHENDED VIOLENCE) AMENDMENT BILL 1989

NEW SOUTH WALES



### EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Crimes Act 1900 to further protect potential victims of violence. Part 15A of that Act currently restricts the availability of apprehended domestic violence orders to spouses or de-facto partners, relatives and persons who have an intimate personal relationship or who share a household. The Bill extends the availability of orders so as to empower a court to make an order where any person fears violence or serious harassment or molestation from any other person.

The Bill also amends the Bail Act 1978 and the Periodic Detention of Prisoners Act 1981 consequentially.

---

**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides that the proposed Act is to commence on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the Schedule of amendments to the Crimes Act 1900.

**Clause 4** amends section 48 (1) of the Bail Act 1978 to substitute a reference to an apprehended violence order for a reference to an apprehended domestic violence order as a consequence of the amendments to be made by Schedule 1.

**Clause 5** amends section 5A of the Periodic Detention of Prisoners Act 1981 so as to empower a court to order that a term of imprisonment of less than 3 months that is imposed for a breach of an apprehended violence order is to be served by way of periodic detention.

### SCHEDULE 1—AMENDMENT OF CRIMES ACT 1900

#### Apprehended violence orders

**Schedule 1 (6)** substitutes section 562B of the Crimes Act 1900 so as to empower a court to make an apprehended violence order if a person has reason to fear that someone else will commit an offence against his or her person (a "personal violence offence") or will harass or molest him or her.

*Crimes (Apprehended Violence) Amendment 1989*

---

The court must, in the usual case, be satisfied that the person fears violence, harassment or molestation. However, substituted section 562B enables an apprehended violence order to be made where the person for whose protection an order is sought is a child or a person with an intellectual disability and is unaware of the threat to his or her safety.

The amendments made by **Schedule 1 (1), (2), (4) and (5) (b) and (d)** are consequential on the substitution of section 562B.

**Protected persons**

**Schedule 1 (7)** amends section 562C so as to more adequately describe the persons who may apply for apprehended violence orders. As a consequence, **Schedule 1 (5) (a) and (c)** replace a definition of "aggrieved person" with a definition of "protected person" (a person for whose protection an apprehended violence order is made). Other consequential amendments are made by **Schedule 1 (3), (8) and (9)**.

**Transitional**

**Schedule 1 (10)** repeals and replaces section 562R (containing transitional provisions) so as to save orders in force, and complaints and applications pending, under Part 15A immediately before the commencement of the proposed Act.

---