

Passed by both Houses



New South Wales

Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill 2014

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly,
Legislative Assembly,
Sydney,*

, 2014



New South Wales

Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill 2014

Act No , 2014

An Act to amend the *Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Act 2013* to facilitate the sharing of personal information and health information about victims and perpetrators of domestic violence for the purposes of providing domestic violence support services to those victims; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Act 2014*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Act 2013 No 28

[1] Schedule 1 Amendment of Crimes (Domestic and Personal Violence) Act 2007 No 80

Insert before proposed section 98A in Schedule 1 [1]:

Division 1 Preliminary

[2] Schedule 1 [1], proposed section 98A

Omit the definition of *support agency*.

Insert in alphabetical order:

central referral point means the Secretary of the Department of Police and Justice.

domestic violence threat means a threat to the life, health or safety of a person that occurs because of the commission or possible commission of a domestic violence offence.

local co-ordination point means a support agency or non-government support service nominated as a local co-ordination point by the Minister under section 98O (4).

privacy legislation means the *Privacy and Personal Information Protection Act 1998* or the *Health Records and Information Privacy Act 2002* and any regulation or code of practice made under either of those Acts.

support agency means an agency that provides domestic violence support services and includes the central referral point and each local co-ordination point.

[3] Schedule 1 [1], proposed section 98E

Re-number as proposed section 98O.

[4] Schedule 1 [1], proposed sections 98C–98N

Omit proposed sections 98C and 98D. Insert instead:

Division 2 General dealings with information

98C Definition

(1) In this Division:

contact purposes means contacting a primary person to seek the primary person's consent to either or both of the following:

- (a) the provision of domestic violence support services to the primary person,
- (b) the further use and disclosure of information in relation to the provision of any such services to the primary person.

(2) For the avoidance of doubt, a non-government support service that is also a local co-ordination point is taken, for the purposes of this Division, to be a support agency and not a non-government support service.

98D Disclosure of information by all agencies in case of threat

- (1) This section applies if an agency believes on reasonable grounds that a person (the *threatened person*) is subject to a domestic violence threat.
- (2) The agency may disclose personal information and health information about the threatened person and any person that the agency reasonably believes is a cause of the threat (the *threatening person*) to the central referral point or a local co-ordination point for contact purposes.
- (3) Any such disclosure requires the consent of the threatened person. No consent is required from the threatening person.
- (4) In such a case:
 - (a) the threatened person is taken, for the purposes of this Division, to be a primary person, and
 - (b) the threatening person is taken, for the purposes of this Division, to be an associated respondent.

98E Disclosure by Local Court

- (1) This section applies if an application is made to the Local Court for:
 - (a) an interim apprehended domestic violence order (but only if the order is made), or
 - (b) an apprehended domestic violence order,by a person for whose protection the order would be made or by the guardian of such a person.
- (2) The Local Court may disclose personal information or health information about a primary person and any associated respondent in respect of the application to the central referral point unless the primary person expressly objects to the disclosure. No consent is required from the associated respondent.

98F Central referral point

- (1) The central referral point may collect personal information or health information about a primary person and any associated respondent if the information is disclosed to the central referral point:
 - (a) in accordance with section 98D or 98E, or
 - (b) lawfully by the NSW Police Force for contact purposes.
- (2) The central referral point may disclose information that it is authorised to collect under this section without the consent of the primary person or associated respondent if the information is disclosed to a local co-ordination point for contact purposes.

Note. The central referral point is a support agency, therefore section 98H also applies.

98G Local co-ordination points

A local co-ordination point may collect personal information or health information about a primary person and any associated respondent if the information is disclosed to the local co-ordination point:

- (a) in accordance with section 98D or 98F, or
- (b) lawfully by the NSW Police Force for contact purposes.

Note. Local co-ordination points are support agencies, therefore section 98H also applies.

98H Support agencies

- (1) A support agency may collect personal information or health information about a primary person and any associated respondent if the information is disclosed to the support agency:
 - (a) in accordance with section 98D, or
 - (b) lawfully by the NSW Police Force for contact purposes, or
 - (c) by another support agency in accordance with this section, or
 - (d) by the primary person (no consent is required from the associated respondent), or
 - (e) by a non-government support service with the consent of the primary person (no consent is required from the associated respondent).
- (2) A support agency may use information that it is authorised to collect under this Division:
 - (a) for contact purposes—without the consent of the primary person or the associated respondent, or
 - (b) to provide domestic violence support services to the primary person— with the consent of the primary person (no consent is required from the associated respondent).
- (3) A support agency may disclose information that it is authorised to collect under this Division to another support agency, or to a non-government support service, for the purposes of that other agency or service providing domestic violence support services to the primary person, but only if:
 - (a) the primary person consents to the disclosure (no consent is required from the associated respondent), and
 - (b) it is reasonably necessary to disclose the information to the other agency or service for the provision of those services.

98I Access to information collected under Division

An agency is not required to take any steps to make an associated respondent aware of any matter about any information that it is authorised to collect under this Division and it is not required to provide the associated respondent with any access to the information.

98J Agency must comply with protocols

An agency that collects, uses or discloses information under this Division must comply with any protocols made by the Minister under section 98O.

98K Relationship with other laws

- (1) This Division has effect despite any provision of the privacy legislation.
- (2) Nothing in this Division restricts or prevents the disclosure of information under any other Act or law, including the privacy legislation or the *Government Information (Public Access) Act 2009*.

98L Regulations

- (1) The regulations may prescribe additional circumstances in which an agency may, despite the privacy legislation, collect, use or disclose personal information or health information about a primary person and any associated respondent.

- (2) The Minister is to consult with the Privacy Commissioner before recommending the making of a regulation under this section. Failure to comply with this subsection does not invalidate the regulation.

Division 3 Dealings where serious threat

98M Dealings if serious domestic violence threat

- (1) In this section:
dealing with information means the collection, use or disclosure of the information.
- (2) An agency may, despite the privacy legislation, deal with information about a person without the consent of the person if the agency believes on reasonable grounds that:
- (a) the particular dealing is necessary to prevent or lessen a domestic violence threat to the person or any other person, and
 - (b) the threat is a serious threat, and
 - (c) the person has refused to give consent or it is unreasonable or impractical to obtain the person's consent.

98N Access to information collected in respect of serious threat

An agency that is authorised to collect information about a person under section 98M in respect of a threat is not required to take any steps to make the person aware of any matter about that information and it is not required to provide the person with any access to the information if the agency believes on reasonable grounds that the person is a cause of the threat.

Division 4 Miscellaneous

[5] Schedule 1 [1], proposed section 98O Protocols and other orders of Minister (as renumbered by item [3])

Omit "section 98C (6)" from proposed section 98O (2). Insert instead "Division 2".

[6] Schedule 1 [1], proposed section 98O (4) and (5)

Insert after proposed section 98O (3):

- (4) The Minister may, by order, nominate particular support agencies or non-government support services to be local co-ordination points for the purposes of this Part.
- (5) An order under this section is to be published in the Gazette.

[7] Schedule 1 [1], proposed sections 98P and 98Q

Insert after proposed section 98O:

98P Delegation

The Secretary of the Department of Police and Justice may delegate the exercise of any function of the Secretary under this Part (other than this power of delegation) to:

- (a) any member of staff of that Department, or
- (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

98Q Review of Part

- (1) The Minister is to review this Part to determine whether the policy objectives of the Part remain valid and whether the terms of the Part remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 2 years from the commencement of this Part.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 2 years.