



New South Wales

# Crimes (Domestic and Personal Violence) and Other Legislation Amendment Bill 2024

## Explanatory note

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

## Overview of Bill

The objects of this Bill are to—

- (a) amend the *Crimes (Domestic and Personal Violence) Act 2007 (CDPVA)* to allow certain courts, on application, to make a serious domestic abuse prevention order (*SDAPO*) for a person, and
- (b) amend the CDPVA to create further offences for a person who breaches an apprehended domestic violence order (*ADVO*) in certain circumstances, and
- (c) make miscellaneous amendments to the CDPVA, and
- (d) make miscellaneous amendments to certain Acts to protect persons from domestic and personal violence.

## 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.

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

### Serious domestic abuse prevention orders

Schedule 1[17] inserts proposed Part 10A.

Proposed section 87A sets out relevant definitions for the proposed part.

Proposed section 87B provides that certain courts may, on application by the Commissioner of Police or the Director of Public Prosecutions (an *eligible applicant*), make an SDAPO against a person who is at least 18 years of age if the court is satisfied that—

- (a) during the previous 10 years, the person has been convicted of 2 or more domestic violence offences with a maximum penalty of imprisonment for 7 years or been involved in serious domestic abuse activity, and
- (b) there are reasonable grounds to believe the making of the order would protect certain persons by preventing the person engaging in domestic abuse.

The proposed section sets out what must be contained in an application for an SDAPO, the service requirements an eligible applicant must follow and what evidence the court may consider when determining an application, including, in certain circumstances, hearsay evidence that would otherwise be inadmissible under the *Evidence Act 1995*.

Proposed section 87C provides that an SDAPO may contain prohibitions, restrictions, requirements and other provisions as the court considers appropriate to prevent the person from engaging in domestic abuse. The proposed section also sets out provisions that must not be contained in an SDAPO.

Proposed section 87D sets out when the duration of an SDAPO has effect and provides that an SDAPO must not have effect for more than 5 years.

Proposed section 87E makes it an offence for a person to knowingly contravene an SDAPO and carries a maximum penalty of imprisonment for 5 years or 300 penalty units, or both.

Proposed section 87F provides that an eligible applicant and a person against whom an SDAPO is made has a right of appeal in relation to the making of an SDAPO.

Proposed section 87G sets out the circumstances in which the court that makes an SDAPO may vary or revoke an SDAPO. Proposed section 87H sets out circumstances in which the court that makes an SDAPO may vary or revoke an existing apprehended violence order (*AVO*).

Proposed sections 87I–87K set out miscellaneous provisions for the court to consider when making an SDAPO.

**Schedule 1[1], [2], [10], [12]–[14] and [16]** make consequential amendments.

**Schedule 1[8] and [11]** make it clear that measures to protect children and young persons apply where a child or young person appears as a witness in proceedings when an SDAPO is sought or when an application is made to vary or revoke an SDAPO. **Schedule 1[9]** makes a consequential amendment.

**Schedule 1[15]** makes it clear that certain persons in SDAPO proceedings are entitled to a support person when giving evidence.

### **Offences for contravening an apprehended violence order**

**Schedule 1[4]** inserts proposed section 14(1A)–(1E).

Proposed section 14(1A) makes it an offence for a person to knowingly contravene a prohibition or restriction specified in an ADVO with an intent to cause the protected person—

- (a) physical or mental harm, or
- (b) to fear for the protected person’s safety or the safety of another person.

The maximum penalty is imprisonment for 3 years or 100 penalty units, or both. Proposed section 14(1B) sets out what can be considered by the court when assessing whether the intent of a person has been established under proposed section 14(1A).

Proposed section 14(1C) makes it an offence for a person—

- (a) to knowingly contravene a prohibition or restriction in an ADVO, and
- (b) on at least 2 occasions within a period of 28 days before the contravention, to contravene a prohibition or restriction in certain ADVOS,

if a reasonable person would consider the person's conduct to cause the protected person physical or mental harm, or to fear for the safety of the protected person or another person.

The maximum penalty is imprisonment for 5 years or 150 penalty units, or both.

Proposed section 14(1D) and (1E) set out circumstances in which a jury or the court may acquit a person of an offence under section 14(1A) or (1C) and find the person guilty of another offence.

**Schedule 1[5] and [6]** make consequential amendments.

### **Miscellaneous**

**Schedule 1[3]** makes it clear that the definition of *stalking* includes monitoring or tracking a person's activities, communications or movements.

**Schedule 1[7]** replaces the service requirements for a provisional AVO. Proposed section 31 provides that a provisional AVO may be served on a defendant or protected person personally or by electronic means in certain circumstances. Proposed section 32 makes it clear when service of certain orders of a court on a defendant or protected person is required and when it is not required.

**Schedule 1[18]** requires the Minister to review the provisions inserted by the proposed Act as soon as possible after the period of 12 months from the commencement and table a report on the outcome of the review within 6 months after the end of the period of 12 months in each House of Parliament.

**Schedule 1[19]** contains a transitional provision consequent on the enactment of the proposed Act.

## **Schedule 2      Amendment of other legislation**

### **2.1    Bail and Other Legislation Amendment (Domestic Violence) Act 2024 No 30**

**Schedule 2.1[1]** provides that an accused person who has been granted conditional bail that requires the accused person to be subject to electronic monitoring must remain in custody until the accused person has been fitted with a device that permits the electronic monitoring.

**Schedule 2.1[2]** provides that a bail authority is not prevented from varying the bail conditions of an accused person to allow the accused person to be released on bail without being subject to electronic monitoring if there are sufficient reasons in the interests of justice for the variation.

**Schedule 2.1[3]** makes it clear that an accused person can be subject to an electronic monitoring bail condition by a bail authority as a pre-release requirement or when the bail authority is required to impose an electronic monitoring condition under the *Bail Act 2013* for certain offences.

### **2.2    Births, Deaths and Marriages Registration Act 1995 No 62**

**Schedule 2.2** inserts proposed section 28(3)(a1) to allow a parent who has sole parental responsibility under a final parenting order made under the *Family Law Act 1975* of the Commonwealth to make an application for registration of a change of a child's name in certain circumstances.

### **2.3    Criminal Procedure Act 1986 No 209**

**Schedule 2.3[1] and [2]** ensure that the provisions allowing a complainant to give evidence in camera apply to SDAPO proceedings only if—

- (a) the person against whom the SDAPO is sought is also charged with a domestic violence offence, and
- (b) the alleged victim has a certain relationship with the person.

**Schedule 2.3[3]** makes an offence under the CDPVA, proposed section 87E a Table 1 offence, which is to be dealt with summarily unless the prosecutor or person charged elects otherwise.

**Schedule 2.3[4]** makes an offence under the CDPVA, proposed section 14(1A) or (1C) a Table 2 offence, which is to be dealt with summarily unless the prosecutor elects otherwise.

## **2.4 Evidence (Audio and Audio Visual Links) Act 1998 No 105**

**Schedule 2.4[3]** provides that an accused detainee charged with an offence is not required to appear before a NSW court physically for bail proceedings if a Magistrate is not available at the court at which the accused detainee is required to appear physically. **Schedule 2.4[1], [2] and [4]** make consequential amendments.

## **2.5 Firearms Act 1996 No 46**

**Schedule 2.5[2]–[5]** provide that—

- (a) a firearms licence must not be issued to a person who is subject to an SDAPO or has at any time in the previous 10 years been subject to an SDAPO, other than an order that has been revoked, and
- (b) a firearms licence must be revoked if the licensee becomes subject to an SDAPO, and
- (c) a firearms permit must not be issued to a person who is subject to an SDAPO or has at any time in the previous 10 years been subject to an SDAPO, other than an order that has been revoked, and
- (d) a licensed firearms dealer must not employ or allow a person to act on behalf of the firearm dealer's business if the person is subject to an SDAPO.

**Schedule 2.5[1]** makes a consequential amendment.

**Schedule 2.5[6]** makes it clear that a person cannot apply to the Civil and Administrative Tribunal for a review of a decision to revoke a licence or permit when the decision was on the basis that the holder of the licence or permit is subject to an AVO or SDAPO.

## **2.6 Weapons Prohibition Act 1998 No 127**

**Schedule 2.6[2]** provides that a permit for a prohibited weapon must not be issued to a person who is subject to an SDAPO or who has at any time within 10 years before the application of the permit been subject to an SDAPO unless the order has been revoked.

**Schedule 2.6[3]** provides that a permit for a prohibited weapon must be revoked if the permit holder becomes subject to an SDAPO.

**Schedule 2.6[1]** makes a consequential amendment.



New South Wales

# Crimes (Domestic and Personal Violence) and Other Legislation Amendment Bill 2024

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly*



New South Wales

## **Crimes (Domestic and Personal Violence) and Other Legislation Amendment Bill 2024**

No. \_\_\_\_\_, 2024

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### **A Bill for**

An Act to amend the *Crimes (Domestic and Personal Violence) Act 2007* to make further provision to protect persons from domestic and personal violence; and for related purposes.

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*The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.*

*Legislative Council*

*Clerk of the Parliaments*

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**Tabling copy**

**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

2

This Act is the *Crimes (Domestic and Personal Violence) and Other Legislation Amendment Act 2024*.

3

4

**2 Commencement**

5

This Act commences on a day or days to be appointed by proclamation.

6

<b>Schedule 1</b>	<b>Amendment of Crimes (Domestic and Personal Violence) Act 2007 No 80</b>	1
		2
<b>[1] Section 3 Definitions</b>		3
	Insert in alphabetical order in section 3(1)—	4
	<i>serious domestic abuse prevention order</i> —see section 87B.	5
<b>[2] Section 4 Meaning of “personal violence offence”</b>		6
	Omit “or 14” from section 4(b). Insert instead “, 14 or 87E”.	7
<b>[3] Section 8 Meaning of “stalking”</b>		8
	Insert after section 8(1)(b)—	9
	(b) the monitoring or tracking of a person’s activities, communications or movements—	10
	(i) whether by using technology or in another way, and	11
	(ii) whether or not the monitoring or tracking involves contacting or otherwise approaching the person,	12
		13
		14
<b>[4] Section 14 Offence of contravening apprehended violence order</b>		15
	Insert after section 14(1)—	16
	(1A) A person is guilty of an offence under this subsection if the person knowingly contravenes a prohibition or restriction specified in an apprehended domestic violence order made against the person with the intention of causing the protected person—	17
	(a) physical or mental harm, or	18
	(b) to fear for the protected person’s safety or the safety of another person.	19
	Maximum penalty—imprisonment for 3 years or 100 penalty units, or both.	20
	(1B) For subsection (1A)—	21
	(a) a person intends to cause the protected person physical or mental harm, or the protected person to fear for the safety of the protected person or another person, if the person knows that the conduct is likely to cause the harm or fear, and	22
	(b) the prosecution is not required to prove that the person actually caused the protected person physical or mental harm or the protected person to fear for the protected person’s safety or the safety of another person.	23
	(1C) A person is guilty of an offence under this subsection if—	24
	(a) the person knowingly contravenes a prohibition or restriction specified in an apprehended domestic violence order made against the person, and	25
	(b) on at least 2 other occasions within a period of 28 days immediately before the contravention, the person knowingly contravened a prohibition or restriction specified in—	26
	(i) an apprehended domestic violence order in relation to the same protected person, or	27
	(ii) the same apprehended domestic violence order, whether or not in relation to the same protected person, or	28
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(iii)	an apprehended domestic violence order arising from the same application under Part 10, whether or not in relation to the same protected person, and	1 2 3
(c)	a reasonable person would consider the conduct referred to in paragraphs (a) and (b) would be likely, in all the circumstances, to cause the protected person physical or mental harm, or the protected person to fear for the safety of the protected person or another person, whether or not the harm or fear was in fact caused.	4 5 6 7 8
	Maximum penalty—imprisonment for 5 years or 150 penalty units, or both.	9
(1D)	If, on a prosecution of a person for an offence under subsection (1A), the court or jury is not satisfied that the offence is proven but is satisfied that the person has committed an offence under subsection (1)—	10 11 12
(a)	the court or jury may acquit the person of the offence under subsection (1A) and find the person guilty of an offence under subsection (1), and	13 14
(b)	the person is liable to punishment accordingly.	15
(1E)	If, on a prosecution of a person for an offence under subsection (1C), the court or jury is not satisfied that the offence is proven but is satisfied that the person has committed an offence under subsection (1) or (1A)—	16 17 18
(a)	the court or jury may acquit the person of the offence under subsection (1C) and find the person guilty of an offence under subsection (1) or (1A), and	19 20 21
(b)	the person is liable to punishment accordingly.	22
	<b>Note—</b> This section does not affect the common law in relation to double jeopardy.	23
<b>[5]</b>	<b>Section 14(2), (3), (4), (7) and (9)</b>	24
	Omit “subsection (1)” wherever occurring. Insert instead “subsection (1), (1A) or (1C)”.	25
<b>[6]</b>	<b>Section 14(8)(a) and (b)</b>	26
	Omit “subsection (1) or (9)” wherever occurring.	27
	Insert instead “subsection (1), (1A), (1C) or (9)”.	28
<b>[7]</b>	<b>Sections 31 and 32</b>	29
	Omit the sections. Insert instead—	30
<b>31</b>	<b>Service</b>	31
(1)	A provisional order must be served on the defendant by a police officer as soon as practicable after it is made.	32 33
(2)	A provisional order is to be served on the protected person by a police officer as soon as practicable after it is made unless it is impracticable to do so.	34 35
(3)	A provisional order must be served on the defendant or protected person—	36
(a)	personally, or	37
(b)	by electronic means, but only if—	38
(i)	the defendant or protected person has consented to service by the electronic means, and	39 40
(ii)	the police officer has personally explained to the defendant or protected person—	41 42
(A)	the effect of the provisional order, including any prohibitions and restrictions imposed by the order, and	43 44

(B)	the consequences that may follow from a contravention of the provisional order, and	1 2
(C)	the rights of the defendant and the protected person in relation to the order.	3 4
(4)	A police officer may give a court proof of service of a provisional order in accordance with the rules of court applying to documents issued in proceedings before the court.	5 6 7
<b>32</b>	<b>Powers of court in relation to provisional order</b>	8
(1)	On the first return date for a provisional order, the court may—	9
(a)	dismiss the application taken to be made under Part 10, or	10
(b)	revoke the provisional order, or	11
(c)	make, in the same terms as the provisional order or with variations—	12
(i)	an interim court order, or	13
(ii)	a final apprehended violence order.	14
(2)	If the court does none of the things in subsection (1)(a)–(c)—	15
(a)	the provisional order becomes an interim court order—	16
(i)	that is taken to have been made on the first return date, and	17
(ii)	on the same terms as the provisional order, and	18
(b)	further service of the order—	19
(i)	is not required, if the provisional order was served on the defendant, and	20 21
(ii)	is not required, if the defendant is present at court, whether the provisional order was served on the defendant or not, and	22 23
(iii)	is required, if the provisional order was not served on the defendant and the defendant is not present at court.	24 25
(3)	If the court makes an interim court order or a final apprehended violence order under subsection (1)(c), the provisional order is revoked—	26 27
(a)	if further service of the order is not required—on the making of the order, or	28 29
(b)	if further service of the order is required—when the order is served.	30
(4)	If the court makes an interim court order without variations, further service of the order—	31 32
(a)	is not required, if the provisional order was served on the defendant, and	33
(b)	is not required, if the defendant is present at court, whether the provisional order was served on the defendant or not, and	34 35
(c)	is required, if the provisional order was not served on the defendant and the defendant is not present at court.	36 37
(5)	If the court makes an interim court order with variations or makes a final apprehended violence order, further service of the order—	38 39
(a)	is not required, if the defendant is present at court, and	40
(b)	is required, if the defendant is not present at court.	41
<b>[8]</b>	<b>Section 41 Measures to protect children in proceedings</b>	42
	Insert after section 41(1)(d)—	43

(d1)	a part of proceedings in which a serious domestic abuse prevention order is sought or proposed to be made in which a child appears as a witness,	1 2 3
(d2)	a part of proceedings in relation to an application for the variation or revocation of a serious domestic abuse prevention order in which a child appears as a witness,	4 5 6
<b>[9] Section 41(4)</b>	Omit “or (d)”. Insert instead “, (d), (d1) or (d2)”.	7 8
<b>[10] Section 41(6)</b>	Insert “or a serious domestic abuse prevention order” after “apprehended violence order”.	9 10
<b>[11] Section 41AA Measures to protect young persons in proceedings</b>	Insert after section 41AA(1)(d)—	11 12
(d1)	a part of proceedings in which a serious domestic abuse prevention order is sought or proposed to be made in which a young person appears as a witness,	13 14 15
(d2)	a part of proceedings in relation to an application for the variation or revocation of a serious domestic abuse prevention order in which a young person appears as a witness,	16 17 18
<b>[12] Section 41A, heading</b>	Insert “or serious domestic abuse prevention order” after “apprehended domestic violence order”.	19 20 21
<b>[13] Section 41A(1)(a) and (b)</b>	Insert “or a serious domestic abuse prevention order” after “apprehended domestic violence order” wherever occurring.	22 23 24
<b>[14] Section 45 Publication of names and identifying information about children and other persons involved in proceedings</b>	Insert “or serious domestic abuse prevention order proceedings” after “apprehended violence order proceedings” wherever occurring in section 45(1)(b) and (c) and (2)(b) and (c).	25 26 27 28 29
<b>[15] Section 46 Right to presence of supportive person when giving evidence</b>	Omit section 46(1). Insert instead—	30 31
(1)	In this section—	32
	<i>party</i> —	33
(a)	to apprehended violence order proceedings, means the person for whose protection the relevant order is sought or the defendant, and	34 35
(b)	to serious domestic abuse prevention order proceedings, means the following—	36 37
(i)	the person against whom the order is sought or made,	38
(ii)	a family member, within the meaning of Part 10A, of the person,	39
(iii)	a former or current intimate partner of the person,	40
(iv)	a person in a domestic relationship with an intimate partner of the person.	41 42

<b>[16] Section 46(2)</b>	1
Insert “or serious domestic abuse prevention order proceedings” after “apprehended violence order proceedings”.	2 3
<b>[17] Part 10A</b>	4
Insert after Part 10—	5
<b>Part 10A Serious domestic abuse prevention orders</b>	6
<b>Division 1 Preliminary</b>	7
<b>87A Definitions</b>	8
In this part—	9
<i>appropriate court</i> , in relation to an application for, or the making of, a serious domestic abuse prevention order against a person, means—	10 11
(a) if the ground for making the order is that the person has been convicted of 2 or more domestic violence offences with a maximum penalty of 7 years imprisonment or more—the Local Court, or	12 13 14
(b) if the ground for making the order is that the person has been involved in serious domestic abuse activity—the Supreme Court.	15 16
<i>eligible applicant</i> means any of the following—	17
(a) the Commissioner of Police,	18
(b) the Director of Public Prosecutions.	19
<i>family member</i> of a person means the following—	20
(a) a person who is or has been a relative of the person	21
(b) for a person who is an Aboriginal person or a Torres Strait Islander—a person who is or has been part of the extended family or kin of the person according to the indigenous kinship system of the person’s culture.	22 23 24 25
<i>intimate partner</i> , of a person (the <i>first person</i> ), means a person who—	26
(a) is or has been married to the first person, or	27
(b) is or has been a de facto partner of the first person, or	28
<b>Note—</b> “De facto partner” is defined in the <i>Interpretation Act 1987</i> , section 21C.	29
(c) has or has had an intimate personal relationship with the first person, whether or not the intimate relationship involves or has involved a relationship of a sexual nature.	30 31 32
<i>serious domestic abuse activity</i> means anything done by a person that is or was at the time a serious domestic violence offence—	33 34
(a) for which the person has been charged, and	35
(b) whether or not the person—	36
(i) has been tried, or	37
(ii) has been tried and acquitted, or	38
(iii) has been convicted, even if the conviction has been quashed or set aside.	39 40
<i>serious domestic abuse prevention order</i> —see section 87B.	41
<i>serious domestic violence offence</i> means—	42

(a)	an offence under the <i>Crimes Act 1900</i> , Part 3 with a maximum penalty of 14 years imprisonment or more, if the offence is committed by a person against a family member or an intimate partner of the person, or	1 2 3
(b)	an offence under a law of the Commonwealth, another State or Territory or another jurisdiction that is similar to an offence under that part.	4 5
<b>Division 2 Serious domestic abuse prevention orders</b>		6
<b>87B Making of serious domestic abuse prevention orders</b>		7
(1)	An appropriate court may, on the application of an eligible applicant, make an order (a <i>serious domestic abuse prevention order</i> ) against a specified person if—	8 9 10
(a)	the person is at least 18 years of age, and	11
(b)	the court is satisfied that, during the previous 10 years, the person, when at least 16 years of age—	12 13
(i)	has been convicted of 2 or more domestic violence offences with a maximum penalty of 7 years imprisonment or more, or	14 15
(ii)	has been involved in serious domestic abuse activity, and	16
(c)	the court is satisfied there are reasonable grounds to believe that the making of the order would protect one or more of the following persons by preventing the person engaging in domestic abuse—	17 18 19
(i)	a family member of the person,	20
(ii)	a former, current or potential intimate partner of the person,	21
(iii)	a person in a domestic relationship with an intimate partner of the person.	22 23
(2)	An application must include the following information—	24
(a)	details of apprehended violence orders in force against the person, if any,	25 26
(b)	details of orders made under the <i>Family Law Act 1975</i> of the Commonwealth against the person of which the applicant is aware.	27 28
(3)	If the ground relied on for an application for a serious domestic abuse prevention order against a person is that the person has been involved in serious domestic abuse activity for which the person has not been convicted of a serious domestic violence offence by reason of an acquittal or a conviction being quashed or set aside, the application must include the following information—	29 30 31 32 33 34
(a)	the serious domestic violence offence of which the person was acquitted or the conviction of which was quashed or set aside,	35 36
(b)	the court in which the person was acquitted of the offence or in which the conviction was quashed or set aside,	37 38
(c)	the date on which the person was acquitted or on which the conviction was quashed or set aside.	39 40
(4)	Unless the appropriate court orders otherwise, the applicant must serve a copy of the application on the person against whom the serious domestic abuse prevention order is sought at least 14 days before the hearing date for the application.	41 42 43 44
(5)	The person against whom a serious domestic abuse prevention order is sought may appear at the hearing of the application and make submissions in relation to the application.	45 46 47

(6)	The court must have regard to the views of the following persons, if available to the court, in determining an application for a serious domestic abuse prevention order—	1
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		3
(a)	a family member of the person,	4
(b)	a former or current intimate partner of the person,	5
(c)	a person in a domestic relationship with an intimate partner of the person.	6
		7
(7)	In determining an application for a serious domestic abuse prevention order, the court may admit and take into account hearsay evidence despite any rule relating to the admission of hearsay evidence, whether under the <i>Evidence Act 1995</i> or otherwise, if—	8
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(a)	the court is satisfied that the evidence is from a reliable source and is otherwise relevant and of probative value, and	12
		13
(b)	the person against whom the order is sought to be made has been notified of, and served with a copy of, the evidence before its admission.	14
		15
(8)	The applicant must ensure a serious domestic abuse prevention order is served, whether by the applicant or another person, on the person against whom it is made. The order must be served by means of personal service.	16
		17
		18
<b>87C</b>	<b>Content of serious domestic abuse prevention order</b>	19
(1)	A serious domestic abuse prevention order may contain prohibitions, restrictions, requirements and other provisions as the court considers appropriate to prevent the person engaging in domestic abuse in relation to the following—	20
		21
		22
		23
(a)	family members of the person,	24
(b)	former, current or potential intimate partners of the person,	25
(c)	persons in a domestic relationship with an intimate partner of the person.	26
		27
(2)	However, a serious domestic abuse prevention order must not contain provisions that require a person—	28
		29
(a)	to answer questions or provide information orally, or	30
(b)	to answer questions, or to provide documents or other information, that are subject to client legal privilege (legal professional privilege), or	31
		32
(c)	to disclose protected confidences within the meaning of the <i>Evidence Act 1995</i> , Part 3.10, Division 1A, or	33
		34
(d)	to provide documents or other information that is held by the person in confidence as part of a banking business unless—	35
		36
(i)	the person to whom the confidence is owed has consented, or	37
(ii)	the order specifically requires the provision or production of the documents or other information concerned, or documents or other information of the kind concerned, or	38
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(e)	to answer questions, or to provide documents or other information, that would result in a disclosure prohibited by a provision of another Act, other than the <i>Evidence Act 1995</i> .	41
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		43
(3)	Without limiting subsection (2), an answer, document or other information given by a person in compliance with a requirement of a serious domestic abuse prevention order (the <i>compelled evidence</i> ) is not admissible as evidence against that person in civil or criminal proceedings other than—	44
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(a)	proceedings for an offence against section 87E, or	1
(b)	proceedings in which the person has adduced the compelled evidence.	2
<b>87D</b>	<b>Duration of serious domestic abuse prevention order</b>	3
(1)	A serious domestic abuse prevention order—	4
(a)	takes effect when it is served on the person against whom it is made or on a later date specified in the order, and	5 6
(b)	once it takes effect, has effect for the period specified in the order.	7
(2)	The period specified in a serious domestic abuse prevention order for its duration must not exceed a period of 5 years.	8 9
(3)	Nothing in this section prevents the court from making a second or subsequent serious domestic abuse prevention order against the same person.	10 11
<b>87E</b>	<b>Offence—contravention of serious domestic abuse prevention order</b>	12
(1)	A person against whom a serious domestic abuse prevention order is in effect must not knowingly contravene the order.	13 14
	Maximum penalty—imprisonment for 5 years or 300 penalty units, or both.	15
(2)	A person is not guilty of an offence against subsection (1) unless the person was served with a copy of the serious domestic abuse prevention order or was present in court when the order was made.	16 17 18
<b>87F</b>	<b>Right of appeal in relation to making of serious domestic abuse prevention order</b>	19 20
(1)	Each of the following persons may appeal against a decision of an appropriate court in relation to the making of a serious domestic abuse prevention order—	21 22
(a)	the applicant for the order,	23
(b)	the person against whom the order is made.	24
(2)	If the appropriate court that made the decision is—	25
(a)	the Local Court—the appeal may be made to the Supreme Court, and	26
(b)	the Supreme Court—the appeal may be made to the Court of Appeal.	27
(3)	An appeal lies as of right on a question of law and with leave on a question of fact.	28 29
(4)	An appeal as of right must be made within 28 days after the date on which the decision was made unless the court to which the appeal is being made grants leave for it to be made after that time.	30 31 32
(5)	On an appeal, a court may—	33
(a)	confirm, vary or reverse the decision the subject of the appeal, and	34
(b)	make a consequential or ancillary order.	35
(6)	The lodging of a notice of appeal under this section does not have the effect of staying the operation of the order concerned.	36 37
(7)	The court that made the order may, on application by the person against whom the order is made, stay the operation of the order, if satisfied that it is safe to do so, having regard to the need to prevent the person engaging in domestic abuse of one or more of the persons referred to in section 87B(1)(c).	38 39 40 41

(8)	A stay on the operation of the order continues until the appeal is finally determined, subject to any order or direction of the court to whom the appeal is made.	1 2 3
(9)	This section has effect despite the <i>Crimes (Appeal and Review) Act 2001</i> , section 63.	4 5
<b>87G</b>	<b>Variation or revocation of serious domestic abuse prevention order</b>	6
(1)	The court that makes a serious domestic abuse prevention order may at any time vary or revoke the order on application by—	7 8
(a)	the applicant for the order, or	9
(b)	the person against whom the order is made.	10
(2)	An application for the variation or revocation of a serious domestic abuse prevention order may only be made by the person against whom the order was made with the leave of the court and leave is only to be granted if the court is satisfied there has been a substantial change in the relevant circumstances since the order was made or last varied.	11 12 13 14 15
(3)	The court, before varying or revoking a serious domestic abuse prevention order under this section, must—	16 17
(a)	allow all parties to the proceedings for the original order a reasonable opportunity to be heard on the matter, and	18 19
(b)	have regard to the same factors to which the court is required to have regard in considering whether or not to make a serious domestic abuse prevention order and the content of a serious domestic abuse prevention order, and	20 21 22 23
(c)	have regard to the views of the following persons, if available to the court—	24 25
(i)	a family member of the person,	26
(ii)	a former or current intimate partner of the person,	27
(iii)	a person in a domestic relationship with an intimate partner of the person.	28 29
(4)	An eligible applicant is entitled to appear in proceedings for a variation or revocation of a serious domestic abuse prevention order under this section.	30 31
<b>87H</b>	<b>Power of court to vary or revoke existing apprehended violence orders</b>	32
(1)	The court that makes a serious domestic abuse prevention order against a person may, on application or on its own motion, vary or revoke an existing apprehended violence order made against the person if the court is satisfied that in all the circumstances it is proper to do so.	33 34 35 36
(2)	An eligible applicant is entitled to appear in proceedings for a variation or revocation of an existing apprehended violence order under this section.	37 38
(3)	Section 77 extends to a variation or revocation of an apprehended violence order under this section.	39 40



<b>Division 3</b>	<b>Miscellaneous</b>	1
<b>87I</b>	<b>Serious domestic abuse prevention orders prevail over apprehended violence orders</b>	2 3
	If a serious domestic abuse prevention order is inconsistent with an apprehended violence order, the serious domestic abuse prevention order prevails to the extent of the inconsistency.	4 5 6
<b>87J</b>	<b>Proceedings for serious domestic abuse prevention orders are civil and not criminal</b>	7 8
(1)	For the purposes of this part, proceedings on an application for a serious domestic abuse prevention order are not criminal proceedings.	9 10
(2)	Except in relation to an offence against this part—	11
(a)	the rules of construction applicable only in relation to the criminal law do not apply in the interpretation of the provisions of this part, and	12 13
(b)	the rules of evidence applicable in civil proceedings, including as to the burden of proof, apply, and those applicable only in criminal proceedings do not apply, to proceedings under this part.	14 15 16
<b>87K</b>	<b>Rules of court</b>	17
	Rules of court may be made under the <i>Civil Procedure Act 2005</i> , the <i>Local Court Act 2007</i> and the <i>Supreme Court Act 1970</i> for or with respect to the practice and procedure to be followed in respect of proceedings under this part for serious domestic abuse prevention orders and any matters incidental to, or relating to, such practice and procedure.	18 19 20 21 22
<b>[18]</b>	<b>Section 104</b>	23
	Omit the section. Insert instead—	24
<b>104</b>	<b>Review of Crimes (Domestic and Personal Violence) and Other Legislation Amendment Act 2024</b>	25 26
(1)	The Minister is to review the provisions of this Act amended or inserted by the <i>Crimes (Domestic and Personal Violence) and Other Legislation Amendment Act 2024</i> (the <i>amending Act</i> ) to determine whether the policy objectives of the provisions remain valid and whether the terms of the provisions remain appropriate for securing those objectives.	27 28 29 30 31
(2)	The review is to be undertaken as soon as possible after the period of 12 months from the commencement of all of the provisions of the amending Act, Schedule 1.	32 33 34
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 6 months after the end of the period of 12 months.	35 36
<b>[19]</b>	<b>Schedule 1 Savings, transitional and other provisions</b>	37
	Insert after Part 9—	38

<b>Part 10</b>	<b>Provisions consequent on enactment of Crimes (Domestic and Personal Violence) and Other Legislation Amendment Act 2024</b>	1
		2
		3
<b>26</b>	<b>Contraventions of apprehended domestic violence order—section 14(1A) and (1C)</b>	4
		5
	Section 14(1A) and (1C) do not apply in relation to a contravention of a prohibition or restriction specified in an apprehended domestic violence order that occurred before the commencement of the subsections.	6
		7
		8

<b>Schedule 2</b>	<b>Amendment of other legislation</b>	1
<b>2.1</b>	<b>Bail and Other Legislation Amendment (Domestic Violence) Act 2024 No 30</b>	2
		3
<b>[1]</b>	<b>Schedule 1 Amendment of Bail Act 2013 No 26</b>	4
	Insert after Schedule 1[5], proposed section 28B(2)—	5
	(2A) If the grant of bail is subject to a condition referred to in subsection (2), the accused person must remain in custody until the person has been fitted with a device that permits the electronic monitoring of the person in accordance with the condition.	6
		7
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	<b>Note—</b> See section 42 and the regulations, which provide that a person who has custody of an accused person granted bail must give a court notice that the accused person is still in custody within particular timeframes.	10
		11
		12
<b>[2]</b>	<b>Schedule 1[5], proposed section 28B(3)(b)</b>	13
	Omit “this section.”. Insert instead—	14
	this section, or	15
	(c) prevents a bail authority from varying the bail conditions to which an accused person is subject, to allow the accused person to be released on bail without being subject to electronic monitoring, if there are sufficient reasons in the interests of justice for the variation.	16
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<b>[3]</b>	<b>Schedule 1[6], proposed section 29(1)(f)</b>	20
	Insert at the end of the proposed paragraph—	21
	<b>Note—</b> A bail condition that the accused person be subject to electronic monitoring may also be made under section 28B(2). If a bail condition is imposed under that section, it is not necessary for a bail authority to also impose the condition as a pre-release requirement under this paragraph.	22
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		25
<b>2.2</b>	<b>Births, Deaths and Marriages Registration Act 1995 No 62</b>	26
	<b>Section 28 Application to register change of child’s name</b>	27
	Insert after section 28(3)(a)—	28
	(a1) the parent has sole parental responsibility, under a final parenting order made under the <i>Family Law Act 1975</i> of the Commonwealth, to make decisions about—	29
		30
		31
	(i) major long-term issues for the child within the meaning of that Act, or	32
		33
	(ii) the child’s name, or	34
<b>2.3</b>	<b>Criminal Procedure Act 1986 No 209</b>	35
<b>[1]</b>	<b>Section 289T Application of Division</b>	36
	Omit “offence.” from section 289T(1)(b)(ii). Insert instead—	37
	offence,	38
	(c) serious domestic abuse prevention order proceedings but only if—	39
	(i) the person against whom the serious domestic abuse prevention order is sought is also charged with a domestic violence offence, and	40
		41
		42
	(ii) the alleged victim of the domestic violence offence is—	43

	(A) a family member of the person, or	1
	(B) a former or current intimate partner of the person, or	2
	(C) a person in a domestic relationship with an intimate partner of the person.	3
		4
<b>[2]</b>	<b>Section 289T(3)</b>	5
	Insert after section 289T(2)—	6
	(3) In this section—	7
	<i>domestic relationship</i> and <i>serious domestic abuse prevention order</i> have the same meanings as in the <i>Crimes (Domestic and Personal Violence) Act 2007</i> .	8
	<i>family member</i> and <i>intimate partner</i> have the same meanings as in the <i>Crimes (Domestic and Personal Violence) Act 2007</i> , Part 10A.	9
		10
		11
<b>[3]</b>	<b>Schedule 1 Indictable offences triable summarily</b>	12
	Insert after Table 1, Part 4, item 18A—	13
	<b>18AB Crimes (Domestic and Personal Violence) Act 2007</b>	14
	An offence under the <i>Crimes (Domestic and Personal Violence) Act 2007</i> , section 87E.	15
		16
<b>[4]</b>	<b>Schedule 1, Table 2</b>	17
	Insert after Part 1, item 2—	18
	<b>2A Offences relating to apprehended violence orders</b>	19
	An offence under the <i>Crimes (Domestic and Personal Violence) Act 2007</i> , section 14(1A) or (1C).	20
		21
<b>2.4</b>	<b>Evidence (Audio and Audio Visual Links) Act 1998 No 105</b>	22
<b>[1]</b>	<b>Section 5BA Accused detainee to appear physically in physical appearance proceedings</b>	23
	Omit “any bail proceedings that” from section 5BA(2).	24
	Insert instead “bail proceedings”.	25
		26
<b>[2]</b>	<b>Section 5BA(2)(a)–(d)</b>	27
	Insert “that” before “occur” wherever occurring.	28
<b>[3]</b>	<b>Section 5BA(2)(d1)</b>	29
	Insert after section 5BA(2)(d)—	30
	(d1) if a Magistrate is not available at the court at which the accused detainee would, but for this paragraph, otherwise be required to appear physically, or	31
		32
		33
<b>[4]</b>	<b>Section 5BA(2)(e)</b>	34
	Insert “that” before “relate”.	35
<b>2.5</b>	<b>Firearms Act 1996 No 46</b>	36
<b>[1]</b>	<b>Section 4 Definitions</b>	37
	Insert in alphabetical order in section 4(1)—	38

	<i>serious domestic abuse prevention order</i> means a serious domestic abuse prevention order under the <i>Crimes (Domestic and Personal Violence) Act 2007</i> .	1 2 3
<b>[2] Section 11 General restrictions on issue of licences</b>		4
	Insert after section 11(5)(c)—	5
	(c1) is subject to a serious domestic abuse prevention order or who has, at any time within 10 years before the application for the licence was made, been subject to a serious domestic abuse prevention order, other than an order that has been revoked, or	6 7 8 9
<b>[3] Section 24 Revocation of licence</b>		10
	Omit “or an apprehended violence order” from section 24(1).	11
	Insert instead “, an apprehended violence order or a serious domestic abuse prevention order”.	12 13
<b>[4] Section 29 General restrictions on issue of permits</b>		14
	Insert after section 29(3)(c)—	15
	(c1) is subject to a serious domestic abuse prevention order or who has, at any time within 10 years before the application for the permit was made, been subject to a serious domestic abuse prevention order, other than an order that has been revoked, or	16 17 18 19
<b>[5] Section 44A Prescribed persons not to be involved in firearms dealing business</b>		20
	Insert after section 44A(3)(d)—	21
	(d1) is subject to a serious domestic abuse prevention order, or	22
<b>[6] Section 75 Administrative reviews by Civil and Administrative Tribunal of certain decisions</b>		23 24
	Omit “or an apprehended violence order” from section 75(1)(c).	25
	Insert instead “, an apprehended violence order or a serious domestic abuse prevention order”.	26 27
<b>2.6 Weapons Prohibition Act 1998 No 127</b>		28
<b>[1] Section 4 Definitions</b>		29
	Insert in alphabetical order in section 4(1)—	30
	<i>serious domestic abuse prevention order</i> means a serious domestic abuse prevention order under the <i>Crimes (Domestic and Personal Violence) Act 2007</i> .	31 32 33
<b>[2] Section 10 Issuing of permit</b>		34
	Insert after section 10(3)(b)—	35
	(b1) is subject to a serious domestic abuse prevention order or who has, at any time within 10 years before the application for the permit was made, been subject to a serious domestic abuse prevention order, other than an order that has been revoked, or	36 37 38 39
<b>[3] Section 18 Revocation of permit</b>		40
	Omit “or an apprehended violence order” from section 18(1).	41

Insert instead “, an apprehended violence order or a serious domestic abuse prevention order”.

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