



Queensland

Domestic and Family Violence Protection and Other Legislation Amendment Bill 2014



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2014

A Bill

for

An Act to amend the *Domestic and Family Violence Protection Act 2012*, the *Evidence Act 1977*, the *Penalties and Sentences Act 1992* and the *Victims of Crime Assistance Act 2009* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Domestic and Family Violence Protection and Other Legislation Amendment Act 2014*. 4
5

Clause 2 Commencement 6

This Act commences on a day to be fixed by proclamation. 7

Part 2 Amendment of Domestic and Family Violence Protection Act 2012 8
9
10

Clause 3 Act amended 11

This part amends the *Domestic and Family Violence Protection Act 2012*. 12
13

Clause 4 Amendment of s 177 (Contravention of domestic violence order) 14
15

Section 177(2), penalty— 16

insert— 17

(aa) if the contravention involved physical 18
violence to the aggrieved—120 penalty 19
units or 3 years imprisonment; or 20

Clause 5	Amendment of s 178 (Contravention of police protection notice)	1
		2
	Section 178(2), penalty—	3
	<i>omit, insert—</i>	4
	Maximum penalty—	5
	(a) if the contravention involved physical violence to the aggrieved—120 penalty units or 3 years imprisonment; or	6
		7
		8
	(b) in any other case—60 penalty units or 2 years imprisonment.	9
		10
Clause 6	Amendment of s 179 (Contravention of release conditions)	11
		12
	Section 179(2), penalty—	13
	<i>omit, insert—</i>	14
	Maximum penalty—	15
	(a) if the contravention involved physical violence to the aggrieved—120 penalty units or 3 years imprisonment; or	16
		17
		18
	(b) in any other case—60 penalty units or 2 years imprisonment.	19
		20

[s 7]

Part 3	Amendment of Evidence Act 1977	1
		2
Clause 7	Act amended	3
	This part amends the <i>Evidence Act 1977</i> .	4
Clause 8	Amendment of s 132B (Evidence of domestic violence)	5
(1)	Section 132B(1), from ‘offence’—	6
	<i>omit, insert—</i>	7
	offence—	8
	(a) defined in the Criminal Code, chapters 28 to 30; or	9
		10
	(b) otherwise involving, wholly or partly, domestic violence committed, or alleged to have been committed, by the person.	11
		12
		13
(2)	Section 132B(2), ‘Relevant’—	14
	<i>omit, insert—</i>	15
	If subsection (1)(a) applies, relevant	16
(3)	Section 132B—	17
	<i>insert—</i>	18
	(2A) If subsection (1)(b) applies, relevant evidence of the history of the domestic relationship between the defendant and the person against whom the domestic violence was directed is admissible in evidence in the proceeding.	19
		20
		21
		22
		23
(4)	Section 132B(3)—	24
	<i>insert—</i>	25
	<i>domestic violence</i> see the <i>Domestic and Family Violence Protection Act 2012</i> , section 8.	26
		27

Part 4	Amendment of Penalties and Sentences Act 1992	1 2
Clause 9	Act amended	3
	This part amends the <i>Penalties and Sentences Act 1992</i> .	4
Clause 10	Amendment of s 9 (Sentencing guidelines)	5
(1)	Section 9—	6
	<i>insert—</i>	7
(2A)	To remove any doubt, it is declared, for subsection (2)(f), that—	8 9
(a)	an aggravating factor includes that the offence involved, wholly or partly, domestic violence committed by the offender unless—	10 11 12 13
(i)	the offence is manslaughter because of the application of section 304B of the Criminal Code; or	14 15 16
(ii)	the victim of the offence has otherwise committed domestic violence against the offender in the course of an abusive domestic relationship; and	17 18 19 20
(b)	a mitigating factor does not include that the offence involved, wholly or partly, domestic violence committed by the offender unless the victim of the offence has committed domestic violence against the offender in the course of an abusive domestic relationship.	21 22 23 24 25 26 27
(2)	Section 9(13)—	28
	<i>insert—</i>	29
	<i>abusive domestic relationship</i> see the <i>Criminal Code</i> , section 304B(2).	30 31

[s 11]

domestic violence see the *Domestic and Family Violence Protection Act 2012*, section 8. 1
2

Part 5 **Amendment of Victims of Crime Assistance Act 2009** 3
4

Clause 11 **Act amended** 5
This part amends the *Victims of Crime Assistance Act 2009*. 6

Clause 12 **Amendment of long title** 7
Long title, after ‘crime’— 8
insert— 9
and domestic violence 10

Clause 13 **Amendment of s 1 (Short title)** 11
Section 1, after ‘*Crime*’— 12
insert— 13
and Domestic Violence 14

Clause 14 **Amendment of s 3 (Purposes of Act)** 15
Section 3— 16
insert— 17
(4) In this section— 18
act of violence includes behaviour that is 19
domestic violence but does not constitute an 20
offence. 21
victim includes a non-criminal domestic violence 22
victim. 23

Clause 15	Amendment of s 4 (Definitions)	1
	Section 4—	2
	<i>insert—</i>	3
	(2) For this Act’s application in relation to a non-criminal domestic violence victim, a word defined in the dictionary is taken to include any references necessary for the application.	4 5 6 7
Clause 16	Amendment of s 6 (Purposes of declaring principles)	8
	Section 6—	9
	<i>insert—</i>	10
	(2) In this section—	11
	<i>victim</i> includes a non-criminal domestic violence victim.	12 13
Clause 17	Insertion of new s 7A	14
	Chapter 2, part 2—	15
	<i>insert—</i>	16
	7A Application of particular provisions to non-criminal domestic violence victims	17 18
	(1) The following provisions apply in relation to a non-criminal domestic violence victim—	19 20
	(a) section 8 (Fair and dignified treatment);	21
	(b) section 9 (Privacy of victim);	22
	(c) section 10 (Information about services).	23
	(2) In those provisions, a reference to a victim includes a reference to a non-criminal domestic violence victim.	24 25 26

[s 18]

Clause 18	Insertion of new s 16A	1
	Chapter 2, part 3—	2
	<i>insert—</i>	3
	16A Application of pt 3 to non-criminal domestic violence victims	4
		5
	(1) This part applies in relation to a non-criminal domestic violence victim.	6
		7
	(2) In this part, a reference to a victim includes a reference to a non-criminal domestic violence victim.	8
		9
		10
Clause 19	Insertion of new s 20A	11
	Chapter 3, part 1—	12
	<i>insert—</i>	13
	20A Application of ch 3 to non-criminal domestic violence victims	14
		15
	(1) This chapter applies in relation to a non-criminal domestic violence victim.	16
		17
	(2) In this chapter—	18
	(a) a reference to a victim includes a reference to a non-criminal domestic violence victim; and	19
		20
		21
	(b) a reference to an act of violence includes a reference to non-criminal domestic violence behaviour; and	22
		23
		24
	(c) a reference to a crime includes a reference to an act or omission constituting non-criminal domestic violence behaviour.	25
		26
		27
	(3) This chapter does not entitle a secondary victim of non-criminal domestic violence behaviour to the payment of financial assistance.	28
		29
		30

Clause 20	Amendment of s 37 (Eligibility for assistance)	1
	Section 37—	2
	<i>insert—</i>	3
	(2) For this part’s application in relation to a non-criminal domestic violence victim, for the components of assistance mentioned in section 39(1)(a) to (g), the victim need not have been injured, but must have suffered harm, to be eligible for assistance.	4 5 6 7 8 9
Clause 21	Amendment of s 39 (Composition of assistance)	10
	Section 39—	11
	<i>insert—</i>	12
	(2) For this section’s application in relation to a non-criminal domestic violence victim, a reference in subsection (1)(g) to exceptional circumstances existing for the victim includes a reference to non-criminal domestic violence behaviour directed at a non-criminal domestic violence victim.	13 14 15 16 17 18 19
Clause 22	Amendment of sch 2 (Amounts and categories for special assistance)	20 21
	Schedule 2—	22
	<i>insert—</i>	23
	5 Application of sch 2 to non-criminal domestic violence victims	24 25
	(1) This schedule applies in relation to a non-criminal domestic violence victim.	26 27
	(2) In this schedule, a reference to a category D act of violence includes a reference to non-criminal domestic violence behaviour.	28 29 30

[s 23]

Clause 23	Amendment of sch 3 (Dictionary)	1
	Schedule 3—	2
	<i>insert—</i>	3
	<i>domestic violence</i> see the <i>Domestic and Family Violence Protection Act 2012</i> , section 8.	4 5
	<i>non-criminal domestic violence behaviour</i> means behaviour that is domestic violence but does not constitute an offence.	6 7 8
	<i>non-criminal domestic violence victim</i> means a person against whom non-criminal domestic violence behaviour is directed if—	9 10 11
	(a) the behaviour is the subject of an investigation by a police officer under the <i>Domestic and Family Violence Protection Act 2012</i> , section 100; and	12 13 14 15
	(b) the police officer does a thing mentioned in that Act, section 100(2)(a), (c), (d) or (e).	16 17
	<i>Note—</i>	18
	The things mentioned in those provisions are—	19
	• an application to a court for a protection order or temporary protection order; and	20 21
	• the issue of a police protection notice (which is taken to be an application for a protection order); and	22 23 24
	• taking the perpetrator into custody (which then obliges the officer to apply for a protection order).	25 26 27
	•	

Authorised by the Parliamentary Counsel