



Bail (Domestic Violence) and Another Act Amendment Bill 2017



Queensland

Bail (Domestic Violence) and Another Act Amendment Bill 2017

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2017

A Bill

for

An Act to amend the *Bail Act 1980* and the *Corrective Services Act 2006* 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 *Bail (Domestic Violence) and* 4
Another Act Amendment Act 2017. 5

Part 2 Amendment of Bail Act 1980 6

Clause 2 Act amended 7
This part amends the *Bail Act 1980.* 8

Clause 3 Amendment of s 6 (Definitions) 9
Section 6— 10
insert— 11
electronic address includes an email address and 12
a mobile phone number. 13
electronic means includes by email, multimedia 14
message and SMS message. 15
relevant domestic violence offence means— 16
(a) an offence against the Criminal Code, 17
section 315A; or 18
(b) an offence against the Criminal Code, 19
section 355, 359E or 461, or a provision of 20
the Criminal Code mentioned in the 21
Penalties and Sentences Act 1992, schedule 22
1, committed by a person if the act or 23
omission constituting the offence is also— 24

[s 4]

- | | | |
|------|--|---|
| (i) | domestic violence or associated | 1 |
| | domestic violence, under the <i>Domestic</i> | 2 |
| | <i>and Family Violence Protection Act</i> | 3 |
| | 2012, committed by the person; or | 4 |
| (ii) | a contravention of the <i>Domestic and</i> | 5 |
| | <i>Family Violence Protection Act 2012</i> , | 6 |
| | section 177(2). | 7 |

Clause 4	Amendment of s 11 (Conditions of release on bail)	8
(1)	Section 11—	9
	<i>insert—</i>	10
(4B)	A court or a police officer authorised by this Act	11
	to grant bail for the release of a person who is	12
	charged with a relevant domestic violence offence	13
	must consider the imposition of a special	14
	condition under subsection (2) that prohibits the	15
	person from approaching within a stated distance	16
	of a stated place regularly frequented by the	17
	complainant for the offence.	18
	<i>Examples of a place regularly frequented by a complainant</i>	19
	<i>for an offence—</i>	20
	• the complainant’s usual place of residence	21
	• the complainant’s workplace	22
(4C)	A court or a police officer authorised by this Act	23
	to grant bail for the release of a person who is	24
	charged with a relevant domestic violence offence	25
	must also consider the imposition of a special	26
	condition under subsection (2) that requires the	27
	person to wear a tracking device while the person	28
	is released on bail.	29
(4D)	If bail for a person is subject to a special condition	30
	mentioned in subsection (4C), the court may	31
	impose any other condition the court considers	32
	necessary to facilitate the use of the tracking	33
	device.	34

[s 5]

(2) Section 11(10)—

insert—

tracking device means an electronic device capable of being worn, and not removed, by a person for the purpose of the Queensland police service finding or monitoring the geographical location of the person.

Clause 5 Insertion of new ss 11C and 11D

After section 11B—

insert—

11C Right of complainant to receive notice of application for bail

- (1) This section applies if a defendant charged with a relevant domestic violence offence makes an application for bail or for a variation of bail to a court.
- (2) The prosecutor or other person appearing on behalf of the Crown must give notice of the application to the complainant for the offence.
- (3) The notice must be given within 24 hours after the application is made.
- (4) The notice may be given by electronic means to the last known electronic address of the complainant.

11D Right of person at risk of domestic violence to receive particular information about release

- (1) This section applies if a court or police officer makes a decision about release under this part or the *Youth Justice Act 1992*, part 5, for a defendant charged with a relevant domestic violence offence.
- (2) The court or police officer must give the

-
- following information to each person at risk of
domestic violence from the defendant—
- (a) the date the defendant is released;
 - (b) the time and place the defendant is required
to surrender into the court's custody.
- (3) The information must be given to a person at risk
of domestic violence—
- (a) if the court or police officer is aware the
person is a person at risk of domestic
violence from the defendant at the time the
decision is made—immediately after the
decision is made; or
 - (b) otherwise—within 24 hours after the court
or police officer becomes aware the person
is a person at risk of domestic violence from
the defendant.
- (4) The information may be given by electronic
means to the last known electronic address of the
person at risk of domestic violence.
- (5) In this section—
- person at risk of domestic violence***, from a
defendant charged with a relevant domestic
violence offence, means—
- (a) the complainant for the offence; or
 - (b) if the complainant is deceased, an
immediate family member of the deceased
complainant; or
 - (c) if the complainant is under 18 years or has a
legal incapacity, the complainant's parent or
guardian; or
 - (d) another person who—
 - (i) gives the court or police officer
documentary evidence of the
defendant's domestic violence against
-

[s 6]

	the person, whether or not the domestic	1
	violence constitutes the offence with	2
	which the person is charged; or	3
	<i>Example of documentary evidence—</i>	4
	a domestic violence order under the	5
	<i>Domestic and Family Violence Protection</i>	6
	<i>Act 2012</i> , whether or not the order is current	7
	(ii) satisfies the court or police officer the	8
	person’s life or physical safety could	9
	reasonably be expected to be	10
	endangered because of a risk of	11
	domestic violence committed by the	12
	defendant against the person.	13
Clause 6	Amendment of s 16 (Refusal of bail)	14
	Section 16(3)—	15
	<i>insert—</i>	16
	(g) with a relevant domestic violence offence;	17
Clause 7	Insertion of new s 19CA	18
	After section 19C—	19
	<i>insert—</i>	20
	19CA Stay of release decision relating to relevant	21
	domestic violence offence	22
	(1) This section applies if—	23
	(a) a decision has been made about release	24
	under this part or the <i>Youth Justice Act 1992</i> ,	25
	part 5, for a defendant charged with a	26
	relevant domestic violence offence; and	27
	(b) the prosecutor or other person appearing on	28
	behalf of the Crown applies to the reviewing	29
	court for a review of the decision.	30
	(2) The decision about release is stayed until the	31

	earlier of the following—	1
	(a) the reviewing court makes an order under section 19B(6) or 19C(5);	2 3
	(b) the application for the review of the decision is discontinued;	4 5
	(c) 4p.m. on the day that is 3 business days after the day on which the decision about release was made.	6 7 8
	(3) A decision about release does not entitle a person to be at liberty while the decision is stayed.	9 10
Clause 8	Amendment of s 19D (Warrants in aid of orders under section 19B or 19C)	11 12
	(1) Section 19D, heading, after ‘or 19C’—	13
	<i>insert—</i>	14
	or stay under section 19CA	15
	(2) Section 19D—	16
	<i>insert—</i>	17
	(2) Also, a reviewing court may, for giving effect to a stay under section 19CA, issue a warrant for the apprehension of the defendant directing that the defendant be brought before a stated court.	18 19 20 21
Clause 9	Insertion of new s 36BA	22
	After section 36B—	23
	<i>insert—</i>	24
	36BA Review of domestic violence provisions	25
	(1) The Minister must ensure the operation of the domestic violence provisions is reviewed as soon as practicable after the day that is 2 years after the commencement of the provisions.	26 27 28 29

-
- (b) a prisoner who has been sentenced to a period of imprisonment for an offence of violence or a sexual offence; or
 - (c) a prisoner who has been sentenced to a period of imprisonment for an offence other than an offence mentioned in paragraph (b).
 - (2) The following persons may apply, in the approved form, to be registered as an eligible person—
 - (a) for a prisoner mentioned in subsection (1)(a) or (b)—
 - (i) the actual victim of the offence (the *victim*); or
 - (ii) if the victim is deceased, an immediate family member of the deceased victim; or
 - (iii) if the victim is under 18 years or has a legal incapacity, the victim's parent or guardian; or
 - (iv) another person who—
 - (A) gives the chief executive documentary evidence of the prisoner's history of violence against the person; or
 - Example—*
 - a domestic violence order under the *Domestic and Family Violence Protection Act 2012*, whether or not the order is current
 - (B) satisfies the chief executive the person's life or physical safety could reasonably be expected to be endangered because of a connection between the person and the offence;

[s 12]

- (b) for a prisoner mentioned in subsection 1
(1)(c)— 2
 - (i) a person who gives the chief executive 3
documentary evidence of the prisoner’s 4
domestic violence against the person, 5
whether or not the domestic violence 6
constitutes the offence for which the 7
person is imprisoned; or 8
Example— 9
 - a domestic violence order under the 10
Domestic and Family Violence Protection 11
Act 2012, whether or not the order is current 12
 - (ii) a person who satisfies the chief 13
executive the person’s life or physical 14
safety could reasonably be expected to 15
be endangered because of a risk of 16
domestic violence committed by the 17
prisoner against the person. 18
- (3) The application must be accompanied by 19
documentary evidence satisfying the chief 20
executive of the applicant’s identity. 21
- (4) The applicant may nominate an entity to receive 22
the prisoner information for the applicant. 23
Example of entity— 24
 - a victims’ support agency 25
- (5) In this section— 26
offence of violence means an offence in which the 27
victim suffers actual or threatened violence. 28

Clause 12 Insertion of new s 324A 29
After section 324— 30
insert— 31

324A Right of eligible persons to receive particular information

- (1) The chief executive must give an eligible person the following information about a prisoner in relation to whom the eligible person is registered—
 - (a) the prisoner’s eligibility dates for discharge or release;
 - (b) the prisoner’s date of discharge or release;
 - (c) the fact, and date, of the death or escape of the prisoner;
 - (d) the fact, and date, of any particular circumstances relating to the prisoner that could reasonably be expected to endanger the eligible person’s life or physical safety.

Examples of particular circumstances relating to a prisoner—

 - the prisoner is mistakenly discharged before the prisoner’s discharge day
 - the prisoner is granted leave under chapter 2, part 2, division 8 without supervision
- (2) The information must be given to the person—
 - (a) for information mentioned in subsection (1)(a)—as soon as practicable after the chief executive becomes aware of the information; or
 - (b) for information mentioned in subsection (1)(b)—at least 14 days before the prisoner’s date of discharge or release; or
 - (c) for information mentioned in subsection (1)(c) and (d)—immediately after the chief executive becomes aware of the information.
- (3) If the eligible person nominated an entity under section 320(4) to receive the information, the

[s 13]

chief executive may give the information to the 1
nominee. 2

Clause 13 Amendment of s 325 (Releasing information) 3

(1) Section 325, heading, after ‘Releasing’— 4
insert— 5

other 6

(2) Section 325(1)(d) and (e)— 7
omit. 8

(3) Section 325(1)(g)— 9
omit, insert— 10

(g) other exceptional events relating to the 11
prisoner. 12

(4) Section 325(1)(f) and (g)— 13
renumber as section 325(1)(d) and (e). 14