

NORTHERN TERRITORY OF AUSTRALIA

DOMESTIC AND FAMILY VIOLENCE AMENDMENT ACT 2009

Act No. 2 of 2009

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 2 of 2009

An Act to amend the *Domestic and Family Violence Act*

[Assented to 12 March 2009]
[Second reading 26 November 2008]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Domestic and Family Violence Amendment Act 2009*.

2 Act amended

This Act amends the *Domestic and Family Violence Act*.

3 Amendment of section 4 (Definitions)

(1) Section 4, definition ***corresponding law***

omit

(2) Section 4

insert (in alphabetical order)

corresponding law means:

(a) a law of a State, another Territory or New Zealand prescribed by regulation; or

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- (b) a law of a State, another Territory or New Zealand repealed by a law mentioned in paragraph (a) if the repealed law provided for an order to protect a person in a relationship corresponding to a domestic relationship.

DVO contravention offence means:

- (a) an offence against section 120(1); or
- (b) an offence of contravening a restraining order under the repealed *Domestic Violence Act* as in force from time to time before the commencement of this Act; or
- (c) an offence of contravening an external order.

4 Amendment of section 43 (What police officer must do after DVO is made)

Section 43(3)

omit

and

substitute

or

5 Amendment of section 121 (Penalty for contravention of DVO – adult)

- (1) Section 121(2)

omit

such an offence

substitute

a DVO contravention offence

- (2) Section 121(5)

omit

found guilty of a second or subsequent offence

substitute

who has previously been found guilty of a DVO contravention offence

6 Amendment of section 122 (Penalty for contravention of DVO – young person)

Section 122(2)

omit

such an offence

substitute

a DVO contravention offence

7 New section 124A

After section 124, in Part 5.2

insert

124A Reporting domestic violence

- (1) An adult commits an offence if he or she:
- (a) believes on reasonable grounds either or both of the following circumstances exist:
 - (i) another person has caused, or is likely to cause, harm to someone else (the **victim**) with whom the other person is in a domestic relationship;
 - (ii) the life or safety of another person (also the **victim**) is under serious or imminent threat because domestic violence has been, is being or is about to be committed; and
 - (b) as soon as practicable after forming the belief, does not report to a police officer (either orally or in writing):
 - (i) the belief; and
 - (ii) any knowledge forming the grounds for the belief; and
 - (iii) any factual circumstances on which that knowledge is based.

Maximum penalty: 200 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

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- (3) Without limiting subsection (2), it is a reasonable excuse if the defendant establishes 1 or more of the following:
- (a) the defendant reasonably believed someone else had, under subsection (1), reported the same belief about the circumstances mentioned in subsection (1);
 - (b) the defendant was engaged in planning for the removal of the victim from the circumstances mentioned in subsection (1) and intended to report his or her belief as soon as practicable after the removal;
 - (c) in relation to the circumstances mentioned in subsection (1)(a)(i) – the defendant reasonably believed that, if the report of his or her belief about the circumstances were made as soon as practicable after the belief was formed as mentioned in subsection (1)(b), a serious or imminent threat to the life or safety of any person may result.
- (4) On receipt of the report, the police officer must take reasonable steps to ensure the report is investigated.
- (5) This section has effect despite another law of the Territory.
- (6) In this section:

belief means a belief mentioned in subsection (1)(a).

harm means physical harm that is serious harm.

physical harm, see section 1A of the Criminal Code.

serious harm, see section 1 of the Criminal Code.

8 Repeal and substitution of section 125

Section 125

repeal, substitute

125 Protection for reporting domestic violence

- (1) A person acting in good faith in making a report under section 124A is not civilly or criminally liable, or in breach of any professional code of conduct:
- (a) for making the report; or
 - (b) for disclosing any information in the report.

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- (2) In any proceeding before a court, except with the court's leave:
- (a) the report or evidence of its contents is not admissible; and
 - (b) a person cannot be compelled to give evidence, or to produce a record, about the report or the identity of the maker of the report.
- (3) The leave may be granted only if:
- (a) the report, evidence or record is of critical importance to the proceeding; and
 - (b) failure to grant the leave would prejudice the proper administration of justice.