

Serial 106

Justice Legislation Amendment (Domestic and Family Violence) Bill 2023

Mr Paech

A Bill for an Act to amend the *Domestic and Family Violence Act 2007*, the *Bail Act 1982*, the Criminal Code, the *Evidence (National Uniform Legislation) Act 2011*, the *Evidence Act 1939*, the *Sentencing Act 1995*, the *Sentencing and Other Legislation Amendment Act 2022* and the *Domestic and Family Violence Regulations 2008* and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

JUSTICE LEGISLATION AMENDMENT (DOMESTIC AND FAMILY
VIOLENCE) ACT 2023

Act No. [] of 2023

Table of provisions

Part 1 Preliminary matters

1	Short title	1
2	Commencement	1

**Part 2 Amendment of Domestic and Family
Violence Act 2007**

3	Act amended	1
4	Preamble replaced	2
5	Section 3 amended (Objects of Act and their achievement)	4
6	Section 4 amended (Definitions)	4
7	Section 5 replaced	7
	5 Domestic violence	
	5A Emotional or psychological abuse	
	5B Coercive control	
8	Section 8 replaced	10
	8 Economic abuse	
9	Section 9 amended (Domestic relationship)	11
10	Section 10 amended (Family relationship)	12
11	Section 11 amended (Intimate personal relationship)	12
12	Section 13 amended (Protected person)	13
13	Section 14 replaced	13
	14 Respondent	
14	Section 16 amended (Objects of Chapter)	14
15	Section 19 amended (Matters to be considered in making DVO)	14
16	Section 20A inserted	17
	20A Mandatory prohibition	
17	Section 21 amended (What DVO may provide)	17
18	Section 22 replaced	18
	22 Premises exclusion order	
19	Section 23 amended (Order regarding tenancy agreement)	20
20	Section 26 amended (Prohibition on publication of personal details)	21

21	Section 27 replaced.....	21
	27 Duration of court DVO	
22	Parts 2.4 to 2.10 replaced.....	23
	Part 2.4 Police DVO	
	Division 1 Making of police DVO	
	28 When authorised police officer may make DVO	
	29 Matters to be recorded on police DVO	
	30 What police officer must do after police DVO is made	
	31 Police DVO taken to be summons to appear before Court	
	32 Criminal history and report of respondent	
	33 Report of protected person	
	34 Duration of police DVO	
	Division 2 Review of police DVO	
	35 Application for review	
	36 How application is made	
	37 Deciding application	
	38 Action of police officer if police DVO confirmed with variation	
	39 Action of police officer if police DVO confirmed without variation	
	40 Action of Court if police DVO confirmed with variation	
	41 Action of police officer if police DVO revoked	
	42 Explanation of police DVO	
	43 Order taken to be summons to appear before Court	
	Division 3 Confirmation of police DVO	
	44 Application of Division	
	45 Place of hearing	
	46 Parties to hearing	
	47 Considerations at hearing	
	48 Decision at hearing	
	49 Respondent failing to appear at hearing	
	50 Notice of order	
	Part 2.5 Court DVO	
	Division 1 Power to make court DVO	
	51 Court DVO	
	Division 2 Application process	
	52 Who may apply for court DVO	
	53 When application must be made for child	
	54 How application is made	
	55 Place of hearing	
	Division 3 Hearing process and decision	
	56 Dismissal if application likely to be contrary to objects of Act	
	57 Criminal history and report of respondent	
	58 Report of protected person	
	59 Court may decide application in absence of respondent	
	60 When registrar must not decide application	
	61 Referral of application to Court	
	62 Court may refuse to hear application or order stay of proceeding	
	63 Notice of court DVO	
	Division 4 Protection during hearing process	

64	Interim court DVO
Division 5	Court DVO made on consent of parties
65	When DVO may be made on consent
66	Referral of application to Court
67	No service of documents
68	Notice of court DVO on consent
Part 2.6	Variation and revocation of court DVO
Division 1	Power to vary or revoke court DVO
69	Order to vary or revoke court DVO
Division 2	Application to vary or revoke
70	Who may apply for variation or revocation
71	Filing application
72	Notice of hearing of application
Division 3	Court hearings for variation and revocation
73	Right to be heard before decision is made
74	Interim variation of court DVO
75	What must be considered before making order
76	Notice of order
Division 4	Special provisions for variation and revocation without hearing
77	Application of Division
78	Deciding application
79	Referral of application to Court
80	Notice of order
81	Order taken to be summons to appear before Court
Division 5	Variation and revocation with consent of parties
82	Application of Division
82A	When order may be made
82B	Referral of application to Court
82C	Notice of order
Part 2.7	Finalising court DVO on summons
82D	Application of Part
82E	Parties to hearing
82F	Decision at hearing
82G	Notice of order
Part 2.8	Extension of court DVO
82H	When Court may extend court DVO
82J	Application to extend duration of court DVO
82K	How application is made
82L	Notice of hearing of application
82M	What must be considered before extending court DVO
82N	Decision of extension
82P	Interim extension of court DVO
82Q	Notice of order
Part 2.9	Variation of court DVO or police DVO in urgent circumstances
82R	DVOs to which Part applies

	82S	When application may be made	
	82T	How application is made	
	82U	Deciding application	
	82V	What Court must do if application is refused	
	82W	What Court must do if variation order is made	
	82X	What police officer must do when variation order is made	
	82Y	Order taken to be summons to appear before Court	
	Part 2.10	DVOs made by courts in criminal proceedings	
	83	Power of court if person guilty of related offence	
23		Section 85 amended (Retrieval of defendant's personal property)	55
24		Section 85AA inserted	56
	85AA	Retrieval of protected person's personal property	
25		Section 89 amended (Explanation of court DVO)	56
26		Section 103W amended (Decision about hearing an application)	57
27		Section 110 amended (How evidence of vulnerable witness given)	58
28		Sections 121 and 122 replaced	58
	121	Penalties for contravention of DVO	
29		Section 123 amended (Publication of names and identifying information about children)	59
30		Section 124 amended (Publication of personal details)	60
31		Section 124A amended (Reporting domestic violence)	61
32		Section 124B amended (Definitions)	61
33		Sections 124DA and 124DB inserted	62
	124DA	Approval of information sharing entity	
	124DB	Collection of information	
34		Section 124E amended (Sharing information for assessing or preventing domestic violence threat)	62
35		Section 124L amended (Unauthorised disclosure of confidential information)	63
36		Section 124T amended (Interaction with other laws)	64
37		Section 126 amended (Approved forms)	64
38		Part 7.8 inserted	64
	Part 7.8	Transitional matters for Justice Legislation Amendment (Domestic and Family Violence) Act 2023	
	148	Definitions	
	149	Saving of DVOs	
	150	Application of sections 123, 124, 124A and 124L	
	151	Proceeding already started	
39		Act further amended	66
Part 3		Amendment of Bail Act 1982	
40		Act amended	66
41		Section 3 amended (Interpretation)	66

42	Section 24 amended (Criteria to be considered in bail applications)	66
43	Section 24B inserted	67
	24B Determining domestic violence risk in bail applications	
44	Section 28 amended (Imposition of bail conditions)	68
45	Part 9, Division 8 inserted.....	68
	Division 8 Justice Legislation Amendment (Domestic and Family Violence) Act 2023	
72	Application of amendments	

Part 4 Amendment of Criminal Code

46	Code amended	68
47	Section 188 amended (Common assault)	69
48	Section 341 amended (Separate trials where 2 or more charges against the same person)	69
49	Section 341B inserted	69
	341B Presumption of joint trial of domestic violence offences	
50	Part XI, Division 20 inserted	70
	Division 20 Justice Legislation Amendment (Domestic and Family Violence) Act 2023	
476	Definitions	
477	Application of amendment to section 188	
478	Application of presumption	

Part 5 Amendment of Evidence Act 1939

51	Act amended	71
52	Section 21GA inserted.....	71
	21GA Expert evidence for domestic violence	
53	Section 21J amended (Requirements for recorded statement)	71
54	Part 10, Division 5 inserted.....	72
	Division 5 Justice Legislation Amendment (Domestic and Family Violence) Act 2023	
73	Definitions	
74	Application of section 21GA	
75	Application of amendment to section 21J	

Part 6 Amendment of Evidence (National Uniform Legislation) Act 2011

55	Act amended	72
56	Section 19 amended (Compellability of spouses and others in certain criminal proceedings).....	73
57	Chapter 11 inserted	73

Chapter 11	Transitional matters for Justice Legislation Amendment (Domestic and Family Violence) Act 2023	
224	Definitions	
225	Application of amendment to section 19	
Part 7	Amendment of Sentencing Act 1995	
58	Act amended	74
59	Section 3 amended (Interpretation)	74
60	Section 6A amended (Aggravating factors)	74
61	Section 52 replaced	74
52	Aggregate term of imprisonment	
62	Section 106B amended (Victim impact statements and victim reports)	75
63	Part 12, Division 13 inserted	76
	Division 13	
	Transitional matters for Justice Legislation Amendment (Domestic and Family Violence) Act 2023	
151	Definitions	
152	Application of amendment to section 6A	
Part 8	Amendment of Sentencing and Other Legislation Amendment Act 2022	
64	Act amended	76
65	Section 38 repealed	77
Part 9	Amendment of Domestic and Family Violence Regulations 2008	
66	Regulations amended	77
67	Regulation 3B repealed (Information sharing entities)	77
68	Regulations further amended	77
Part 10	Consequential amendments	
69	Consequential amendments	77
Part 11	Repeal of Act	
70	Repeal of Act	77
Schedule 1	Act further amended	
Schedule 2	Regulations further amended	
Schedule 3	Consequential amendments	



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2023

An Act to amend the *Domestic and Family Violence Act 2007*, the *Bail Act 1982*, the Criminal Code, the *Evidence (National Uniform Legislation) Act 2011*, the *Evidence Act 1939*, the *Sentencing Act 1995*, the *Sentencing and Other Legislation Amendment Act 2022* and the *Domestic and Family Violence Regulations 2007* and for related purposes

[Assented to [] 2023]
[Introduced [] 2023]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Justice Legislation Amendment (Domestic and Family Violence) Act 2023*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 16 October 2025, it commences on that day.

Part 2 Amendment of Domestic and Family Violence Act 2007

3 Act amended

This Part amends the *Domestic and Family Violence Act 2007*.

4 Preamble replaced

Preamble

omit, insert

PREAMBLE:

The Legislative Assembly enacts this Act because it recognises that:

- (a) domestic violence is unacceptable behaviour that society does not condone; and
- (b) domestic violence is a fundamental violation of human rights; and
- (c) domestic violence is unacceptable in any form and in any community or culture; and
- (d) non-violence is a fundamental social value that must be promoted; and
- (e) traditional or cultural practices cannot be relied upon to minimise or excuse domestic violence; and
- (f) in responding to domestic violence and promoting the safety of persons who have experienced domestic violence, the justice system should:
 - (i) treat the views of victims of domestic violence with respect and dignity; and
 - (ii) seek to reduce the degree to which victims might be subject to re-traumatisation during court proceedings; and
 - (iii) seek to reduce disruption to the lives of victims as far as possible; and
- (g) domestic violence has the following features:
 - (i) while anyone can be a victim or perpetrator of domestic violence, domestic violence is predominantly committed by men against women, children and other vulnerable persons;

- (ii) children who experience the effects of domestic violence are particularly vulnerable, which may have a serious impact on a child's current and future physical, psychological and emotional wellbeing;
- (iii) domestic violence affects the entire community and occurs in all areas of society, regardless of location, socio-economic or health status, age, culture, gender identity, sexual identity, ability or disability, ethnicity or religion;
- (iv) domestic violence extends beyond physical and sexual violence and involves emotional or psychological abuse, economic abuse and coercive control; and
- (h) coercive control is almost always an underpinning dynamic of domestic violence and involves violent, threatening or intimidating behaviour that has the effect of isolating, controlling, monitoring, frightening, humiliating, degrading, punishing, or restricting the freedom of a person; and
- (i) complex emotional factors arising from coercive control often make it difficult for victims of domestic violence to report the domestic violence or leave a domestic relationship in which domestic violence is being committed; and
- (j) domestic violence may involve overt or subtle exploitation of power imbalances and may consist of isolated or patterns of abuse over a period of time; and
- (k) in circumstances in which there are conflicting allegations of domestic violence or indications that both persons in a relationship are committing domestic violence, including for their own protection, the person who is most in need of protection should be identified; and
- (l) perpetrators of domestic violence might seek to misuse the protections available under this Act (or through other legal processes) to further their domestic violence and that misuse should be prevented; and
- (m) domestic violence has:
 - (i) negative and long-lasting consequences for victims and others who experience it; and
 - (ii) negative consequences for the community, workplaces and the economy.

5 Section 3 amended (Objects of Act and their achievement)

Section 3(1)

omit, insert

- (1) The objects of this Act are as follows:
- (a) to reduce and prevent domestic violence;
 - (b) to reduce the occurrence of children experiencing domestic violence;
 - (c) to ensure the safety and protection of all persons, including children, who experience or are exposed to domestic violence or who are at risk of experiencing or being exposed to domestic violence;
 - (d) to give effect, where possible, to the National Principles as agreed and endorsed by the States, the Territories and the Commonwealth regarding the various approaches to reduce domestic violence;
 - (e) to ensure persons who commit domestic violence are held accountable for their conduct;
 - (f) to encourage persons who commit domestic violence to accept responsibility for their conduct.

6 Section 4 amended (Definitions)

- (1) Section 4, definitions ***consent DVO, Court, court DVO, defendant, DVO, interim court DVO, interim court variation order, issuing authority, Local Court DVO, party, perpetrators' program, police DVO, premises access order*** and ***young person***

omit

- (2) Section 4

insert

coercive control, see section 5B.

Court means:

- (a) the Local Court, including a person exercising the jurisdiction of the Local Court under an Act or rules made under the *Local Court Act 2015*; or

- (b) the Youth Justice Court mentioned in section 45 of the *Youth Justice Act 2005*.

court DVO means a DVO made or varied under Part 2.4, Division 3, or Parts 2.5 to 2.10.

criminal record, see section 3(1) of the *Criminal Records (Spent Convictions) Act 1992*.

DVO means a domestic violence order made or varied under this Act.

emotional or psychological abuse, see section 5A.

image means a moving or still image in any form.

Examples for definition image

- 1 A file stored on a computer.
- 2 A photo stored on a phone.
- 3 A video stored on a phone.

intimate image means an image that depicts or is altered to appear to depict:

- (a) a person engaged in a sexual act of a kind not ordinarily seen in public; or
- (b) a person in a manner or context that is sexual; or
- (c) the genital or anal region of a person, whether bare or covered by underwear; or
- (d) a breast, whether bare or covered by underwear, of a female person or of a transgender or intersex person who identifies as female.

issuing authority means:

- (a) for a police DVO – the authorised police officer considering making the DVO; or
- (b) for a court DVO not made under Part 2.10:
 - (i) the Court or the Youth Justice Court mentioned in section 45 of the *Youth Justice Act 2005*; or
 - (ii) a registrar deciding the application for the court DVO; or
- (c) for a court DVO made under Part 2.10 – the court considering making the DVO; or

(d) for Chapter 3A – see section 102.

party, to a DVO, means each of the following:

- (a) the protected person or person acting for the protected person;
- (b) the respondent;
- (c) if the application for the DVO is not made by the protected person – the applicant;
- (d) if the DVO is a Police DVO – the authorised police officer who made the DVO and the Commissioner;
- (e) any other person allowed as a party by the Court.

personal property, in respect of a person, includes:

- (a) clothes and tools used by the person for work; and
- (b) an animal belonging to the person.

police DVO, see section 28(1).

premises exclusion order, see section 22(1).

respondent, for:

- (a) a DVO – see section 14; or
- (b) an external order or interstate DVO – means the person against whom the order is made.

young person means a person who is:

- (a) aged 14 years or older; and
- (b) under 18 years old.

(3) Section 4, definition **domestic violence order**, paragraph (a)

omit, insert

- (a) other than for Chapter 3A – means a court DVO or police DVO; and

- (4) Section 4, definition **proceeding**, after paragraph (a)(ii)
insert
(iii) the extension of a court DVO under Part 2.8; or
- (5) Section 4, definition **vary**, paragraph (b)
omit (all references)
prohibitions or restrictions
insert
restraints, prohibitions, obligations or requirements

7 Section 5 replaced

Section 5

repeal, insert

5 Domestic violence

- (1) **Domestic violence** is any conduct specified in subsection (2) if committed by a person against another person in the following circumstances:
- (a) the persons are in a domestic relationship;
 - (b) the person had previously committed a sexual act against (or had sexual contact with) the other person without consent.
- (2) For subsection (1), the following conduct is specified:
- (a) physical or sexual abuse;
 - (b) emotional or psychological abuse;
 - (c) damaging real or personal property of the other person;
 - (d) intimidation;
 - (e) coercive control;
 - (f) causing the other person to fear for their safety or the safety of another person;
 - (g) stalking;
 - (h) economic abuse;

- (i) using technology (including internet, social media and other electronic communications) as a means to commit conduct mentioned in paragraphs (a) to (h);
- (j) attempting or threatening to commit conduct mentioned in paragraphs (a) to (i).

Examples for subsection (2)(i)

- 1 *Spying on someone using any type of surveillance device such as a tracking system or spyware.*
- 2 *Stalking someone using a GPS-enabled device such as a mobile phone.*
- 3 *Using social media to abuse the person.*

Notes for subsection (2)

- 1 *This Act uses the term domestic violence but acknowledges that term includes family violence.*
 - 2 *Under Part 2.2, a DVO may be sought, and made, against a person if the person counsels or procures someone to commit the conduct mentioned in subsection (1) (see section 17).*
- (3) Exposing a child with whom a person is in a domestic relationship to conduct mentioned in subsection (2), including to the effects of the conduct on another person, is also domestic violence.
 - (4) To avoid doubt, conduct does not have to constitute an offence against a law of the Territory for the conduct to be domestic violence.

5A Emotional or psychological abuse

- (1) ***Emotional or psychological abuse*** is conduct that would torment, coerce, intimidate, harass or be offensive to a reasonable person and result in a reasonable person suffering emotional distress or mental harm.
- (2) Without limiting subsection (1), emotional or psychological abuse of a person may include any of the following conduct:
 - (a) making repeated derogatory taunts of the person;
 - (b) threatening to disclose sensitive information about the person to the person's friends, family or workplace;
 - (c) threatening to withhold the person's medication;
 - (d) preventing the person from maintaining social, familial or cultural connections;
 - (e) preventing the person from expressing the person's cultural identity;

- (f) threatening to self-harm with the intention of tormenting the person;
 - (g) threatening to harm another person with the intention of tormenting the person;
 - (h) following the person in public or in the person's residence or remaining outside the person's residence or work with the intention of tormenting the person;
 - (i) repeatedly contacting the person by any means of communication without the person's consent;
 - (j) sending offensive material or communications to the person or leaving offensive material where it is likely to be found by the person;
 - (k) taking an intimate image of the person without consent;
 - (l) threatening to distribute or publish an intimate image of the person;
 - (m) publishing offensive material or communications about the person without consent;
 - (n) driving a motor vehicle in a reckless or dangerous manner or acting in a reckless or dangerous manner while driving a motor vehicle when the person is a passenger in the vehicle;
 - (o) threatening to request that the person be assessed to determine whether the person is in need of treatment under the *Mental Health and Related Services Act 1998*;
 - (p) threatening to withdraw care on which the person is dependent;
 - (q) preventing the person from entering the person's place of residence.
- (3) In deciding whether a person's conduct amounts to emotional or psychological abuse, consideration may be given to a pattern of conduct.

5B Coercive control

- (1) **Coercive control**, of a person, is a pattern of conduct that causes the person to fear for their safety, or the safety of another person in a domestic relationship with the person engaging in the conduct, that results in any of the following:
- (a) controlling or subordinating the person;
 - (b) dominating, regulating or monitoring the person's daily activity;
 - (c) isolating the person from social, familial or cultural connections and support;
 - (d) depriving the person of freedom;
 - (e) frightening, humiliating, degrading or punishing the person.
- (2) In deciding whether a person's conduct amounts to coercive control of the person, consideration must be given to what is reasonable in the circumstances of the relationship between the persons.
- (3) Without limiting subsection (1), a pattern of conduct may be coercive control whether or not any of the conduct is physical behaviour.

8 Section 8 replaced

Section 8

repeal, insert

8 Economic abuse

- (1) **Economic abuse**, of a person, is conduct that is coercive, deceptive or unreasonable and results in the person losing economic or financial autonomy or suffering economic or financial loss or damage.
- (2) Without limiting subsection (1), economic abuse includes any of the following conduct:
- (a) coercing the person to relinquish control over assets or income;
 - (b) unreasonably disposing of property owned by the person or owned jointly by the person and someone else without consent;

- (c) without lawful excuse, preventing the person from taking part in decisions over the disposition of joint property or spending shared income;
- (d) withholding or threatening to withhold money reasonably necessary for the maintenance of the person or a child of the person;
- (e) creating or causing to be created a debt in the person's name without the person's consent;
- (f) preventing or threatening to prevent the person from accessing financial assets;
- (g) removing or threatening to remove the person's personal property from a place without permission;
- (h) preventing or hindering the person from seeking or maintaining employment;
- (i) coercing the person to make a claim for a payment under the *Social Security (Administration) Act 1999* (Cth);
- (j) coercing the person to make a power of attorney in respect of an asset;
- (k) coercing the person to sign a contract;
- (l) coercing the person to sign a document establishing or in connection with the operation of a business.

Example for subsection (2)(a)

Using stand-over tactics to obtain the person's credit card or money.

9 Section 9 amended (Domestic relationship)

- (1) Section 9(d)(ii), after "is"

insert

or was

- (2) After section 9(f)

insert

- (fa) is in an intimate personal relationship with a person with whom the other person was in an intimate personal relationship; or

- (fb) was in an intimate personal relationship with a person with whom the other person is in an intimate relationship; or
- (fc) is in a family relationship with a person with whom the other person is in an intimate personal relationship; or
- (fd) is in an intimate personal relationship with a person with whom the other person is in a family relationship; or

10 Section 10 amended (Family relationship)

- (1) After section 10(1)(a)

insert

- (ab) is the spouse or de facto partner of the person's former spouse or de facto partner; or

- (2) Section 10, note, after "Note"

insert

for section 10

11 Section 11 amended (Intimate personal relationship)

- (1) Section 11(1) and (2)

omit, insert

- (1) An ***intimate personal relationship*** exists between 2 persons if:
- (a) the persons are engaged to be married to each other, including being betrothed under cultural or religious tradition; or
 - (b) the persons have an intimate relationship, whether or not the relationship is a sexual relationship; or
 - (c) the persons engaged in a sexual act or sexual contact.

Example for subsection (1)(b)

The 2 persons are dating.

- (2) Section 11(3)
omit
subsection (2),
insert
subsection (1)(b),

12 Section 13 amended (Protected person)

- (1) Section 13(2)
omit
defendant
Insert
respondent
- (2) Section 13(3)
omit

13 Section 14 replaced

Section 14
repeal, insert

14 Respondent

- (1) The ***respondent*** is the person against whom a DVO:
- (a) is sought; or
 - (b) is in force.
- (2) Only one person may be named as the respondent in:
- (a) an application for a DVO; or
 - (b) a DVO.
- (3) The respondent must be at least 14 years old.

14 Section 16 amended (Objects of Chapter)

(1) Section 16

omit

object

insert

objects

(2) Section 16(a)

omit, insert

(a) the making of domestic violence orders to:

- (i) ensure the safety and protection of persons who are experiencing or exposed to domestic violence or who are at risk of experiencing or being exposed to domestic violence; and
- (ii) ensure persons who commit domestic violence are held accountable for their conduct; and
- (iii) encourage persons who commit domestic violence to accept responsibility for their conduct; and

15 Section 19 amended (Matters to be considered in making DVO)

(1) Section 19(1)

omit

all words after "person"

insert

and each child (if any) of the protected person or who usually resides with the protected person to be of paramount consideration.

(2) Section 19(2)

omit, insert

- (2) In addition to the matter required under subsection (1), the issuing authority may also consider the following:
- (a) any family law orders in force in relation to the respondent, or any pending applications for family law orders in relation to the respondent, of which the issuing authority is informed;
 - (b) all other DVOs in force (if any) and any recognised DVO in which the respondent is named as the respondent;
 - (c) any DVO no longer in force in which the respondent was named as the respondent;
 - (d) any legal proceedings involving the protected person or respondent that are relevant to the DVO;
 - (e) any order under the *Care and Protection of Children Act 2007* or application for an order under that Act in which the protected person or respondent is named as a respondent;
 - (f) any report identifying the protected person filed under section 33 or 58;
 - (g) if the respondent is on bail – the bail conditions;
 - (h) the accommodation needs of the protected person and each child (if any) of the protected person or who usually resides with the protected person;
 - (i) the respondent's criminal record (if any);
 - (j) the respondent's previous conduct whether in relation to the protected person or someone else;
 - (k) other matters the authority considers relevant.
- (3) If the protected person or the respondent has a child usually residing with them or has regular contact with a child, the issuing authority must consider whether a separate DVO is required to be made for the protection of the child as a protected person.

- (4) If either of the following circumstances apply in relation to the DVO, the issuing authority must consider the matters mentioned in subsection (5):
- (a) more than one of the parties states domestic violence was committed or is being committed by another party;
 - (b) the issuing authority is satisfied that there are reasonable grounds for more than one of the parties to fear the commission of domestic violence.
- (5) For subsection (4), the issuing authority must consider:
- (a) whether there is a pattern of conduct constituting domestic violence over time indicating a party is the person most in need of protection; and
 - (b) without limiting paragraph (a), whether there is coercive control indicating a party is the person most in need of protection; and
 - (c) the severity and type of domestic violence and any injury resulting from the domestic violence experienced by each party.
- (6) The Court may order the applicant to provide further information to show why the DVO is required if the Court believes, after considering the matters in subsection (5), the respondent is the person most in need of protection.
- (7) The issuing authority may, in the DVO, determine which party is the protected person most in need of protection.
- (8) The issuing authority must not make a DVO against the party determined to be the protected person most in need of protection, unless the issuing authority is satisfied, having regard to the objects of this Act, that it is necessary to make a DVO against the protected person.

Note for subsection (8)

Separate DVOs may be made against more than one of the parties if the issuing authority is satisfied that there are reasonable grounds for making the DVO under section 18.

16 Section 20A inserted

Before section 21, in Part 2.3

insert

20A Mandatory prohibition

A DVO must include a provision prohibiting the respondent from committing domestic violence against each protected person.

17 Section 21 amended (What DVO may provide)

- (1) Section 21(1)(a), (b) and (d) and (1A)(a) and (b)

omit (all references)

defendant

insert

respondent

- (2) Section 21(1)(a) and (c) and (1A)(b), examples

omit (all references)

defendant

insert

respondent

- (3) Section 21(1)(b)(ii)

omit

his or her

insert

the respondent's

- (4) After section 21(1)(b)

insert

(ba) an order imposing a prohibition on the respondent locating or attempting to locate a protected person and each child (if any) of the protected person or who usually resides with the protected person;

(bb) an order imposing a requirement on the respondent to destroy an intimate image of a protected person;

(5) Section 21(1)(d), after "(b)"

insert

, (ba), (bb)

(6) After section 21(1B)

insert

(1C) In determining the content of a DVO, the issuing authority must consider the protection of the protected person and each child (if any) of the protected person or who usually resides with the protected person to be of paramount consideration.

(7) Section 21, note

omit, insert

Notes for section 21

1 Under sections 39 and 40 of the Firearms Act 1997, a licence, permit or certificate of registration is automatically suspended or revoked on the making of a DVO.

2 Under sections 208AB and 208AC of the Criminal Code it is an offence to distribute an intimate image of a person without consent or to threaten to distribute an intimate image.

18 Section 22 replaced

Section 22

repeal, insert

22 Premises exclusion order

(1) A DVO may include a ***premises exclusion order*** prohibiting the respondent from one or more of the following:

- (a) remaining at premises specified in the order;
- (b) entering or attempting to enter premises specified in the order at any time or subject to any conditions specified in the order;
- (c) being within a specific distance of the premises specified in the order.

- (2) Before making a premises exclusion order, the issuing authority must consider the following:
- (a) if the protected person usually resides at the premises to be specified in the order:
 - (i) whether or not the protected person and each child (if any) usually residing with the protected person can live in safety at those premises; and
 - (ii) any disruption to the protected person and each child (if any) usually residing with the protected person that would result from making the premises exclusion order; and
 - (iii) the impact of the order on the accommodation of the parties and any other persons usually residing at those premises;
 - (b) any opinion expressed by the protected person under subsection (3);
 - (c) the impact of the premises exclusion order on the relationship between the respondent and each child (if any) usually residing with the protected person;
 - (d) without limiting paragraph (a)(iii), the impact of the premises exclusion order on the accommodation or employment of the respondent.
- (3) For subsection (2)(b), the issuing authority may invite the protected person to express an opinion on:
- (a) the respondent accessing the premises to be specified in the order; and
 - (b) whether or not the DVO should exclude the respondent from those premises.
- (4) If the protected person does not express an opinion in response to an invitation under subsection (3), the issuing authority must not draw an inference that the protected person has no opinion on:
- (a) the respondent accessing those premises; or
 - (b) whether or not the DVO should exclude the respondent from those premises.

- (5) For this section, the premises specified in the premises exclusion order may include the following:
- (a) residential premises where the respondent and protected person live together or previously lived together;
 - (b) premises where the respondent or protected person resides, works or visits;
 - (c) premises in which the respondent has a legal or equitable interest.

19 Section 23 amended (Order regarding tenancy agreement)

- (1) Section 23(1), after "applies"
insert
in relation to a tenancy agreement
- (2) Section 23(1)(a) and (b)
omit, insert
(b) the respondent or protected person is a tenant of the premises; and
- (3) Section 23(1)(c)(i)
omit
access
insert
exclusion
- (4) Section 23(2)(b)(i) and (ii) and (3)(a) and (d)
omit (all references)
defendant
insert
respondent

20 Section 26 amended (Prohibition on publication of personal details)

(1) Section 26

omit

satisfied that publication would expose the person to the risk of harm.

insert

the Court is satisfied that publication would expose the person to the risk of harm or the Court otherwise considers it appropriate in the circumstances.

(2) Section 26, note, after "Note"

insert

for section 26

21 Section 27 replaced

Section 27

repeal, insert

27 Duration of court DVO

- (1) A court DVO, other than an interim court DVO made under section 64(1), is in force for the period specified in it, which may be an indefinite period.

Notes for subsection (1)

1 *For the duration of a police DVO, see section 34(2).*

2 *For the duration of an interim court DVO, see section 64(4).*

- (2) In deciding the period for which a court DVO is in force, the paramount consideration must be the safety and protection of the protected person and each child (if any) of the protected person or who usually resides with the protected person.
- (3) In deciding the period for which a court DVO is in force, the issuing authority must consider the following:
- (a) the period necessary to protect the protected person from domestic violence, having regard to the content of the DVO;

- (b) any information provided by the applicant about the likely duration of the risk of the respondent committing domestic violence;
 - (c) if the applicant is not the protected person – any information provided by the protected person about the likely duration of the risk of the respondent committing domestic violence;
 - (d) the duration of any sentence of imprisonment imposed on the respondent or that is likely to be imposed on the respondent (if known);
 - (e) any information provided by the respondent about the risk of the respondent committing domestic violence.
- (4) The issuing authority may make a court DVO of an indefinite period if satisfied that:
- (a) the risk of the respondent committing domestic violence against the protected person is significant and ongoing; and
 - (b) the risk cannot be minimised if the court DVO has a specified duration.
- (5) If a court DVO is of an indefinite period, the court DVO is in force until the DVO is revoked by the Court or set aside on appeal.
- (6) If a court DVO does not specify the period when it is in force, the court DVO is in force from when it is made until:
- (a) if the respondent is an adult – the earlier of the following:
 - (i) when the DVO is revoked by the Court;
 - (ii) when the DVO is set aside on appeal;
 - (iii) after a period of 5 years commencing on the day the DVO is made; or
 - (b) if the respondent is a young person – the earlier of the following:
 - (i) when the DVO is revoked by the Court;
 - (ii) when the DVO is set aside on appeal;
 - (iii) after a period of 12 months commencing on the day the DVO is made; or

- (c) if the protected person is a child or young person – the earlier of the following:
 - (i) when the DVO is revoked by the Court;
 - (ii) when the DVO is set aside on appeal;
 - (iii) when the protected person attains the age of 18 years.

22 Parts 2.4 to 2.10 replaced

Parts 2.4 to 2.10

repeal, insert

Part 2.4 Police DVO

Division 1 Making of police DVO

28 When authorised police officer may make DVO

- (1) An authorised police officer may make a **police DVO** under this Part if satisfied that:
 - (a) it is necessary to ensure the protected person's safety:
 - (i) because of urgent circumstances; or
 - (ii) because it is not otherwise practicable in the circumstances to obtain a court DVO; and
 - (b) a court DVO might reasonably have been made had it been applied for.
- (2) An authorised police officer may make a police DVO even if the respondent is not given an opportunity to answer any allegation made in relation to the making of the police DVO.
- (3) A police DVO must not include more than one person as the protected person, unless each additional protected person included in the police DVO is:
 - (a) a child of the protected person; or
 - (b) a person who usually resides with the protected person; or

- (c) without limiting paragraphs (a) or (b), a person under the care of the protected person.

Notes for section 28

- 1 *An authorised police officer is an issuing authority and must consider the matters under section 19 in deciding whether to make a police DVO.*
- 2 *Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.*

29 Matters to be recorded on police DVO

- (1) An authorised police officer who makes a police DVO must record, or ensure that another police officer records, the following on the police DVO:
- (a) the reasons for making it;
 - (b) the date and place for the Court hearing for confirmation of the police DVO.
- (2) The time for the Court hearing for confirmation of the police DVO must be as soon as practicable after it is made.

30 What police officer must do after police DVO is made

- (1) As soon as practicable after a police DVO is made, a police officer must give a copy of it:
- (a) to the parties to the police DVO; and
 - (b) to the Court.
- (2) For subsection (1)(a), the police officer must personally give a copy of the police DVO to the protected person and explain to the protected person:
- (a) the effect of the police DVO, including any restraints, prohibitions, obligations or requirements imposed on the respondent by the police DVO; and
 - (b) the consequences that may follow if the respondent contravenes the police DVO, including that contravening a police DVO is an offence against section 120(1); and
 - (c) the duration of the police DVO under section 34; and
 - (d) that the protected person is a party to the proceedings and is entitled to attend the confirmation hearing regarding the police DVO under Division 3.

- (3) If a copy of the police DVO is to be given to the respondent personally, the police officer must explain to the respondent:
 - (a) the effect of the police DVO, including any restraints, prohibitions, obligations or requirements imposed on the respondent by the police DVO; and
 - (b) the consequences that may follow if the respondent contravenes the police DVO, including that contravening a police DVO is an offence against section 120(1); and
 - (c) the duration of the police DVO under section 34; and
 - (d) that the respondent has a right to apply for a review of the police DVO under Division 2.
- (4) As far as it is reasonably practicable to do so, the explanation given under this section must be given in a language (using an interpreter if required) or in terms that are likely to be readily understood by the protected person and respondent.
- (5) For subsection (1)(b), the police officer may give a copy of the police DVO to the Court by means of electronic communication.
- (6) A failure to comply with this section does not affect the validity of a police DVO.

31 Police DVO taken to be summons to appear before Court

The copy of a police DVO given to the respondent is taken to be a summons to the respondent to appear at a Court hearing, at the date and place shown on it, to show cause why the police DVO should not be confirmed by the Court.

Notes for section 31

1 Division 3 provides for the confirmation of police DVOs by the Local Court.

2 On confirmation of a police DVO, conduct that constitutes a contravention of the DVO may still be an offence even if the Court order made on the hearing is not given to the respondent before the respondent engages in the conduct, see section 120(2).

32 Criminal history and report of respondent

- (1) As soon as practicable after a police DVO is made, the Commissioner must file in the Court:
 - (a) the respondent's criminal history (if any); and
 - (b) a report in accordance with subsection (2).

- (2) The report filed by the Commissioner under subsection (1) must include the details of the respondent's entire DVO history, including the following:
 - (a) a list of every DVO in which the respondent is named, either as a respondent or a protected person;
 - (b) the details of any DVO contravened by the respondent;
 - (c) the details of any DVO involving the respondent and any person other than the protected person;
 - (d) if requested by the Court – any DVO nationally recognised orders involving the respondent, including any from another Territory, a State or another country.
- (3) The respondent's criminal history and report filed under subsection (1) are evidence of the matter specified for the purposes of confirmation of the police DVO.
- (4) To avoid doubt, the respondent's criminal history and report filed under subsection (1) are not to be used as evidence in the prosecution of an offence against this Act or any other law of the Territory.
- (5) If the respondent has no DVO history, the Commissioner must still file the report under subsection (1) specifying that fact.

33 Report of protected person

- (1) As soon as practicable after a police DVO is made, the Commissioner must file in the Court a report with the details of the protected person's entire DVO history, including the following:
 - (a) a list of every DVO in which the protected person is named, either as a respondent or a protected person;
 - (b) the details of any DVO contravened by the protected person;
 - (c) the details of any DVO involving the protected person and any person other than the respondent;
 - (d) if requested by the Court – any DVO nationally recognised orders involving the protected person, including any from another Territory, a State or another country.
- (2) A report filed under subsection (1) is evidence for the purposes of review or confirmation of a police DVO.

- (3) If the protected person has no DVO history, the Commissioner must still file the report under subsection (1) specifying that fact.

34 Duration of police DVO

- (1) A police DVO comes into effect when it is made.
- (2) A police DVO is in force until the earlier of the following:
- (a) when the police DVO is confirmed, with or without variation, by the Court under Division 3;
 - (b) when the police DVO is revoked by the Court under Division 2 or 3.

Note for subsection (2)(a)

A police DVO confirmed under Division 3 becomes a court DVO, see section 48.

- (3) Despite subsection (2), a police DVO confirmed under section 48(1)(a) with a variation that results in more onerous restraints, prohibitions, obligations or requirements imposed on the respondent at a hearing at which the respondent did not appear remains in effect until the further hearing mentioned in section 49(2).

Division 2 Review of police DVO

35 Application for review

A party to a police DVO may apply to the Court for a review of the police DVO at any time before the police DVO is confirmed under Division 3.

36 How application is made

- (1) If a party wants to apply for a review of the police DVO under section 35:
- (a) the party must tell a police officer; and
 - (b) the police officer must facilitate the application.
- (2) The application may be made by telephone or electronic communication.
- (3) To facilitate the application, the police officer must:
- (a) contact the Court; and

- (b) ensure the application complies with the rules of the Court and practice directions relating to making the application; and
- (c) ensure the Court is given the information relied on to make the police DVO.

37 Deciding application

- (1) In reviewing the police DVO, the Court must consider the same matters required to be considered in deciding:
 - (a) whether or not to make a police DVO; and
 - (b) the terms of a DVO.

Notes for subsection (1)

1 Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.

2 Section 28 specifies additional matters considered in making a police DVO.

- (2) The Court may, by order:
 - (a) confirm the police DVO (with or without variation); or
 - (b) revoke the police DVO.
- (3) The Court must:
 - (a) record the reasons for the decision; and
 - (b) inform the police officer who facilitated the application of those reasons.
- (4) For subsection (2)(a), the Court may vary the police DVO for a period specified in the order.

38 Action of police officer if police DVO confirmed with variation

- (1) If the Court makes an order confirming the police DVO with variation, the police officer who facilitated the application must:
 - (a) complete a form of order as directed by the Court, setting out the variation to the police DVO; and
 - (b) write on the order:
 - (i) the name of the Judge; and
 - (ii) the date and time it is made; and
 - (iii) the reasons for the police DVO and the variation; and

- (iv) the date and place for the Court hearing for confirmation of the police DVO as varied.
- (2) As soon as practicable after the order is completed, the police officer must give a copy of it:
- (a) to the parties to the police DVO; and
 - (b) to the Court.
- (3) For subsection (2)(b), the police officer may give a copy of the order to the Court by means of electronic communication.

39 Action of police officer if police DVO confirmed without variation

If the Court makes an order confirming the police DVO without variation, the police officer who facilitated the application must inform the parties to the police DVO of:

- (a) the order; and
- (b) the reasons for it.

40 Action of Court if police DVO confirmed with variation

If the Court makes an order confirming the police DVO with variation, the Court must inform the police officer who facilitated the application of:

- (a) the terms of the police DVO as varied; and
- (b) the date and place for the Court hearing for confirmation of the police DVO as varied.

41 Action of police officer if police DVO revoked

If the Court makes an order revoking the police DVO, the police officer who facilitated the application must inform the parties to the police DVO of:

- (a) the order; and
- (b) the reasons for it.

42 Explanation of police DVO

- (1) If the Court confirms the police DVO under this Division, the Court must, if practicable, explain to the protected person and respondent, for matters which the Court considers it necessary:
 - (a) the effect of the police DVO, including any restraints, prohibitions, obligations or requirements imposed on the respondent by the police DVO; and
 - (b) the consequences that may follow if the respondent contravenes the police DVO, including that contravening a police DVO is an offence against section 120(1); and
 - (c) the duration of the police DVO under section 34.
- (2) As far as it is reasonably practicable to do so, the explanation given under this section must be given in a language (using an interpreter if required) or in terms that are likely to be readily understood by the protected person and respondent.
- (3) A failure to comply with this section does not affect the validity of a police DVO.

43 Order taken to be summons to appear before Court

If the Court makes an order confirming the police DVO (with or without variation), the order given to the respondent under section 38(2) is taken to be a summons to the respondent to appear at a Court hearing, at the date and place shown on it, to show cause why the police DVO should not be confirmed by the Court.

Note for section 43

Division 3 provides for the confirmation of police DVOs by the Court.

Division 3 Confirmation of police DVO**44 Application of Division**

This Division applies in relation to a police DVO if the respondent is summoned under section 31 or 43 to appear at a Court hearing to show cause why the police DVO should not be confirmed.

45 Place of hearing

- (1) Subject to subsections (2) and (3), a summons under section 43 must specify the place of the hearing to be the Court that is located closest to the place of residence of the protected person.

- (2) Despite subsection (1), if the respondent is a young person the application must be heard in the Youth Justice Court mentioned in section 45 of the *Youth Justice Act 2005*.
- (3) For subsection (1), in deciding the place of the hearing, the safety and protection of the protected person and each child (if any) of the protected person or who usually resides with the protected person must be the paramount consideration.
- (4) A failure to comply with subsection (1), (2) or (3) does not affect the validity of the application.

46 Parties to hearing

The following are also parties to the hearing:

- (a) the protected person;
- (b) the respondent;
- (c) the Commissioner;
- (d) any other party allowed by the Court.

47 Considerations at hearing

When making a decision under section 48(1), the Court must consider whether the content of the police DVO should be varied.

48 Decision at hearing

- (1) Subject to subsections (3) and (4), at the hearing the Court may, by order:
 - (a) confirm the police DVO (with or without variation); or
 - (b) revoke the police DVO.
- (2) For subsection (1)(a), the Court may vary the police DVO for a period specified in the order.
- (3) The Court must not confirm a police DVO unless the Court:
 - (a) is satisfied that the respondent was given a copy of the police DVO; and
 - (b) considers any evidence before it and submissions from the parties to the police DVO.

- (4) A police DVO must not be revoked unless the Court determines that:
 - (a) the grounds in section 18 were not satisfied; or
 - (b) the DVO is inconsistent with any of the objects of this Act.
- (5) If the Court confirms a police DVO (with or without variation) under subsection (1)(a), the Court must complete a form of order for the court DVO on the same terms as the police DVO (subject to any variation under subsection (1)(a)).
- (6) Despite subsection (5), if the Court confirms a police DVO under subsection (1)(a), at a hearing at which the respondent did not appear, with a variation that results in more onerous restraints, prohibitions, obligations or requirements imposed on the respondent, the Court must not complete the form of order until after the further hearing mentioned in section 49(2).

Notes for section 48

- 1 *A police DVO confirmed under this section becomes a court DVO and can be extended, varied or revoked under Parts 2.6, 2.7, 2.8 and 2.9.*
- 2 *Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.*

49 Respondent failing to appear at hearing

- (1) If the Court confirms a police DVO under section 48(1)(a), at a hearing at which the respondent did not appear, with a variation that results in more onerous restraints, prohibitions, obligations or requirements imposed on the respondent:
 - (a) the respondent has a period of 42 days after the day the varied police DVO is confirmed within which to object to the police DVO and the variation; and
 - (b) if the Court has an address for service or other fixed address for the respondent – the Court must arrange for the respondent to be personally served with an invitation (in the approved form) to express an opinion on the confirmation of the varied police DVO and give that opinion (in the approved form) to the Court; and
 - (c) the Court must set a further hearing for confirmation of the varied police DVO on a date specified by the Court; and
 - (d) the Court must notify the parties of the date and place of the further hearing; and

- (e) to avoid doubt, the police DVO as varied remains in force during the period before the date specified by the Court for the further hearing for confirmation of the varied police DVO.
- (2) The Court must at the further hearing for confirmation of the varied police DVO:
- (a) consider any opinion expressed by the respondent in the approved form returned under subsection (1)(b); and
 - (b) if the respondent appears at the further hearing – consider any submission of the respondent given in the approved form; and
 - (c) if the respondent does not appear at the further hearing – confirm the police DVO as varied under section 48; and
 - (d) subject to paragraph (c), confirm the police DVO (with or without variation) or revoke the police DVO under section 48.

50 Notice of order

As soon as practicable after the Court makes an order under section 48, a registrar must give to the parties to the police DVO:

- (a) if the Court confirms the police DVO (with or without variation) – a copy of the court DVO; or
- (b) if the Court revokes the police DVO – written notice of the revocation.

Note for section 50

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Part 2.5 Court DVO

Division 1 Power to make court DVO

51 Court DVO

The Court may, by order, make a court DVO on an application under Division 2.

Notes for section 51

- 1 *The Court is an issuing authority and must consider the matters under section 19 in deciding whether to make a court DVO.*
- 2 *Part 2.2 provides for the matters to be considered in making of DVO and Part 2.3 provides for the content of a DVO.*

Division 2 Application process**52 Who may apply for court DVO**

- (1) Any of the following persons may apply for a court DVO under this Part:
 - (a) an adult or young person in a domestic relationship with the respondent;
 - (b) an adult acting for a person (whether an adult or child) in a domestic relationship with the respondent;
 - (c) a child protection officer;
 - (d) a police officer.
- (2) An application may be made by, or for, only one person even though more than one protected person may be named as the protected person in the application.
- (3) A young person must not apply for a court DVO without the leave of the Court.
- (4) The Court must not grant leave for a young person to apply unless satisfied that:
 - (a) the young person understands:
 - (i) the nature, purpose and legal effect of the application; and
 - (ii) the legal effect of the making of a court DVO; and
 - (b) the young person has the capacity to make the application.
- (5) An application for a court DVO must not name more than one person as the protected person, unless each additional protected person named in the court DVO is:
 - (a) a child of the protected person; or
 - (b) a person who usually resides with the protected person; or
 - (c) without limiting paragraphs (a) or (b), a person under the care of the protected person.

53 When application must be made for child

- (1) A police officer or child protection officer must apply for a court DVO for the protection of a child if the officer believes on reasonable grounds:
 - (a) domestic violence was committed, is being committed or is likely to be committed; and
 - (b) the child's wellbeing was, is or is likely to be adversely affected by the violence.
- (2) Despite subsection (1), an application does not need to be made if the officer believes on reasonable grounds:
 - (a) a DVO is already in force against the respondent for the child's protection; or
 - (b) a police DVO will be made against the respondent for the child's protection; or
 - (c) another application for a court DVO will be made for the child's protection; or
 - (d) a court DVO is not necessary for the child's protection because an order is in force for the child's protection under another Act.

54 How application is made

- (1) An application for a court DVO must:
 - (a) be made in the approved form; and
 - (b) be filed in the Court.
- (2) The applicant for a court DVO must file the application in the Court that is located closest to the place of residence of the protected person.
- (3) Despite subsection (2), if the respondent is a young person the application must be filed in the Youth Justice Court mentioned in section 45 of the *Youth Justice Act 2005*.
- (4) A failure to comply with subsection (2) or (3) does not affect the validity of the application.

- (5) As soon as practicable after the application is filed under subsection (1), a registrar must give written notice to the parties to the court DVO of the date and place for the hearing of the application.

55 Place of hearing

- (1) The Court must hear the application at the Court that best serves the interests of justice and safety and protection of the protected person.
- (2) Despite subsection (1), if the respondent is a young person the application must be heard in the Youth Justice Court mentioned in section 45 of the *Youth Justice Act 2005*.
- (3) For subsection (1), in deciding the place of the hearing, the safety and protection of the protected person and each child (if any) of the protected person or who usually resides with the protected person must be the paramount consideration.
- (4) A failure to comply with subsection (1), (2) or (3) does not affect the validity of the application.

Division 3 Hearing process and decision

56 Dismissal if application likely to be contrary to objects of Act

- (1) The Court may dismiss or strike out an application for a court DVO if the Court is satisfied that making a court DVO is likely to be contrary to any of the objects of the Act.
- (2) A decision may be made under subsection (1) at any time after the application is filed, regardless of whether notice about the hearing of the application is given to the parties to the court DVO.
- (3) As soon as practicable after making a decision under subsection (1), the Court must give the parties written notice of the decision.

57 Criminal history and report of respondent

- (1) If an application for a court DVO is made under Division 1, the Court may request the Commissioner to file in the Court:
- (a) the respondent's criminal history (if any); and
 - (b) a report in accordance with section 32(2).

- (2) The respondent's criminal history and report filed under subsection (1) are evidence of the matter specified for the purposes of confirmation of the court DVO.
- (3) To avoid doubt, the respondent's criminal history and report filed under subsection (1) are not to be used as evidence in the prosecution of an offence against this Act or any other law of the Territory.
- (4) If the respondent has no DVO history, the Commissioner must still file the report under subsection (1) specifying that fact.

58 Report of protected person

- (1) If at any time after an application for a court DVO is made under Division 1, the Court is not satisfied that the protected person is correctly identified among the parties, the Court may request the Commissioner to file in the Court a report of the protected person with the information required under section 33(1).
- (2) A report filed under subsection (1) is evidence for the purposes of making a court DVO.

59 Court may decide application in absence of respondent

The Court may decide an application for a court DVO even if the respondent does not appear at the hearing of the application.

60 When registrar must not decide application

A registrar must not decide an application for a court DVO unless:

- (a) notice to the respondent to appear at the hearing of the application was given to the respondent before the hearing; and
- (b) the respondent does not appear at the hearing of the application.

Note for section 60

Under section 65, the registrar may make a court DVO if the respondent appears at the hearing and the parties consent to the making of the DVO.

61 Referral of application to Court

- (1) If a registrar is deciding an application, the registrar must refer the application to the Court for its decision if:
 - (a) the registrar is not satisfied that a court DVO should be made against the respondent; or

- (b) the respondent appears at the hearing of the application and does not consent to a court DVO being made.
- (2) On the referral by the registrar, the Court may:
 - (a) make the court DVO sought; or
 - (b) direct that a further affidavit be filed; or
 - (c) give directions about the application.
 - (3) If the Court directs the filing of a further affidavit, on its filing the registrar may make the court DVO.
 - (4) A party must not serve documents in the proceeding on another party, unless ordered to do so by the Court.

62 Court may refuse to hear application or order stay of proceeding

- (1) If the Court is satisfied that an application for a Court DVO under Division 1 is frivolous, vexatious or an abuse of the process of the Court, the Court may decide:
 - (a) to refuse to hear the application; or
 - (b) if a hearing for the application has started – to order a stay of the proceeding.
- (2) A decision may be made under subsection (1) at any time after the application is filed, regardless of whether notice about the hearing of the application is given to the parties to the court DVO.
- (3) As soon as practicable after making a decision under subsection (1), the Court must give the parties to the court DVO written notice of the decision.

63 Notice of court DVO

As soon as practicable after the Court makes a court DVO under this Part, a registrar must give a copy of it to:

- (a) the parties to the court DVO; and
- (b) the Commissioner.

Note for section 63

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Division 4 Protection during hearing process**64 Interim court DVO**

- (1) At any time during the proceeding for the hearing of an application for a court DVO under this Part or for the variation or revocation of a court DVO under Part 2.6, the Court may make an interim court DVO under this section.

Note for subsection (1)

Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.

- (2) The Court may make an interim court DVO:
- (a) even if the respondent does not appear at the hearing for the application for the court DVO or the variation or revocation of the court DVO; or
 - (b) if the respondent does appear at the hearing:
 - (i) before hearing the respondent's evidence; or
 - (ii) despite the respondent objecting to the interim court DVO being made; or
 - (c) before the respondent is given notice of the application for the DVO under section 55.
- (3) An interim court DVO comes into effect when it is made.
- (4) An interim court DVO is in force until revoked by the Court, subject to variation by the Court on an interim basis or replaced by a confirmed court DVO.

Note for subsection (4)

Under section 103H a court DVO can be superseded in certain circumstances by an interstate DVO that is a recognised DVO in the Territory.

- (5) The Court may vary the interim court DVO at any time, including before the respondent is given notice of the application for the court DVO under section 55.
- (6) As soon as practicable after the Court makes an interim court DVO under this section, a registrar must give a copy of it to:
- (a) the parties to the court DVO; and

- (b) the Commissioner.

Note for subsection (6)

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Division 5 Court DVO made on consent of parties

65 When DVO may be made on consent

- (1) On an application made under Division 1 for a court DVO, the Court may make a DVO under this Division if the parties to the DVO consent to it being made.

Note for subsection (1)

The Court may vary or revoke a consent DVO under Part 2.6 on an application or on the Court's own initiative.

- (2) A court DVO may be made on consent even if the respondent did not admit or expressly denied:
- (a) an allegation made against the respondent; or
 - (b) the grounds of the application.
- (3) To avoid doubt, a court DVO must not be made on consent unless the Court is satisfied of the grounds in section 18.

66 Referral of application to Court

- (1) If a registrar is deciding the application under this Part, the registrar must refer the application to the Court for decision if the registrar is not satisfied that a court DVO should be made on consent.
- (2) On the referral by the registrar, the Court may:
- (a) make the court DVO sought; or
 - (b) direct that a further affidavit be filed; or
 - (c) give directions about the application.
- (3) If the Court directs the filing of a further affidavit, on its filing the registrar may make the court DVO.
- (4) A party must not serve documents in the proceeding on another party, unless ordered to do so by the Court.

67 No service of documents

A party must not serve documents in the proceeding on another party, unless ordered to do so by the Court.

68 Notice of court DVO on consent

As soon as practicable after the Court makes a DVO on consent, a registrar must give a copy of it to:

- (a) the parties to the court DVO; and
- (b) the Commissioner.

Note for section 68

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Part 2.6 Variation and revocation of court DVO**Division 1 Power to vary or revoke court DVO****69 Order to vary or revoke court DVO**

- (1) The Court may, by order, vary or revoke a court DVO:
 - (a) on an application made under Division 2; or
 - (b) on its own initiative.
- (2) An order under this Part may be made in relation to a court DVO made under:
 - (a) Part 2.4, Division 3; or
 - (b) Part 2.5, Division 2 or 5.

Note for section 69

This section Part does not apply to an interim court DVO made under section 64. See Part 2.5, Division 4 for the making of interim court DVOs.

Division 2 Application to vary or revoke**70 Who may apply for variation or revocation**

- (1) Any of the following persons may apply to the Court for an order varying or revoking a court DVO:
 - (a) a protected person who is an adult or young person;

- (b) a police officer or adult acting for a protected person;
 - (c) if the protected person is a child:
 - (i) a child protection officer; or
 - (ii) a parent of the child, unless any parent is the respondent;
 - (d) the respondent;
 - (e) a person granted leave by the Court to make the application.
- (2) An application may be made by, or for, only one person even though more than one protected person is named as the protected person in the court DVO.
- (3) The respondent must not apply for the order without the leave of the Court.
- (4) The Court must not grant leave to the respondent unless satisfied that there is a substantial change in the circumstances related to the commission of domestic violence since the court DVO was made or last varied.
- (5) Without limiting subsection (4), a change in the circumstances related to the commission of domestic violence arises if:
- (a) there is a change in circumstances relating to affected children, including their care arrangements; or
 - (b) the respondent satisfactorily completes a rehabilitation program or a perpetrators' program.

71 Filing application

An application under section 70 must:

- (a) be made in the approved form; and
- (b) be filed in the Court.

72 Notice of hearing of application

As soon as practicable after the application is filed under section 71, a registrar must give written notice of the date and place for the hearing of the application to:

- (a) the parties to the court DVO; and

- (b) for a court DVO that was a police DVO confirmed by the Court under Part 2.4, Division 3 – the Commissioner.

Division 3 Court hearings for variation and revocation

73 Right to be heard before decision is made

The Court must not vary or revoke the court DVO unless the following persons have an opportunity to be heard on the matter of the variation or revocation:

- (a) persons who, in the Court's opinion, have a direct interest in the outcome;
- (b) for an application relating to a court DVO that was a police DVO confirmed by the Court under Part 2.4, Division 3 – the Commissioner.

74 Interim variation of court DVO

The Court may, during the hearing of an application for an order to vary or revoke a court DVO, make an interim order to vary the court DVO until the application is finally decided.

75 What must be considered before making order

In deciding whether to make an order to vary or revoke a court DVO under section 69 or to make an interim court order to vary a court DVO under section 74, the Court must consider the same matters required to be considered in deciding:

- (a) whether or not to make a DVO; and
- (b) the terms of a DVO.

Note for section 75

Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.

76 Notice of order

As soon as practicable after the Court makes an order under section 69 or 74, a registrar must give to the parties to the court DVO and the Commissioner:

- (a) a copy of the order; and

- (b) if the court DVO is varied – a copy of the court DVO as varied.

Note for section 76

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Division 4 Special provisions for variation and revocation without hearing

77 Application of Division

This Division applies in relation to an application made under Division 2 for an order to vary or revoke a court DVO if:

- (a) the Court is satisfied that it is not practicable to comply with section 74; and
- (b) the protected person had an opportunity to be heard on the matter of the variation or revocation.

78 Deciding application

- (1) In deciding whether to make an order under this Division to vary or revoke a court DVO, the Court must consider the same matters required to be considered in deciding:
 - (a) whether to make a DVO; and
 - (b) the terms of a DVO.

Note for subsection (1)

Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.

- (2) The Court may decide the application even if:
 - (a) the respondent was not given an opportunity to answer any allegation in it; and
 - (b) another person, other than a protected person who is an adult or a young person, has a direct interest in the outcome and did not have an opportunity to be heard on the matter.
- (3) Despite subsection (1), the Court may make an order varying or revoking the court DVO without complying with that subsection if the Court is satisfied that exceptional circumstances justify making the order.

79 Referral of application to Court

- (1) If a registrar is deciding an application under this Part, the registrar must refer the application to the Court for decision if:
 - (a) the registrar is not satisfied that an order should be made to vary or revoke the court DVO; or
 - (b) the respondent appears at the hearing of the application and does not consent to an order being made.
- (2) On the referral by the registrar, the Court may:
 - (a) make the order sought; or
 - (b) direct that a further affidavit be filed; or
 - (c) give directions about the application.
- (3) If the Court directs the filing of a further affidavit, on its filing the registrar may make an order varying or revoking the court DVO.
- (4) A party must not serve documents in the proceeding on another party, unless ordered to do so by the Court.

80 Notice of order

As soon as practicable after making an order under this Division, a registrar must give the parties to the court DVO and the Commissioner:

- (a) a copy of the order; and
- (b) if the court DVO is varied – a copy of the court DVO as varied.

81 Order taken to be summons to appear before Court

The copy of the court DVO as varied given to the respondent under section 80 is taken to be a summons to the respondent to appear at a Court hearing, at the date and place shown on it, to show cause why the court DVO as varied should not be confirmed by the Court.

Note for section 81

Part 2.7 provides for the confirmation of court DVOs.

Division 5 Variation and revocation with consent of parties**82 Application of Division**

This Division applies in relation to an application made under Division 2 for an order to vary or revoke a court DVO if the parties to the court DVO consent to the order.

82A When order may be made

The Court may make the order even if another person who has a direct interest in the outcome did not have an opportunity to be heard on the matter.

82B Referral of application to Court

- (1) If a registrar is deciding the application under this Division, the registrar must refer the application to the Court for decision if the registrar is not satisfied that an order should be made to vary or revoke the court DVO.
- (2) On the referral by the registrar, the Court may:
 - (a) make the order sought; or
 - (b) direct that a further affidavit be filed; or
 - (c) give directions about the application.
- (3) If the Court directs the filing of a further affidavit, on its filing the registrar may make an order varying or revoking the court DVO.
- (4) A party must not serve documents in the proceeding on another party, unless ordered to do so by the Court.

82C Notice of order

As soon as practicable after the Court makes an order varying or revoking the court DVO on consent, a registrar must give to the parties to the court DVO and the Commissioner:

- (a) a copy of order; and
- (b) if the court DVO is varied – a copy of the court DVO as varied.

Note for section 82C

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Part 2.7 Finalising court DVO on summons

82D Application of Part

This Part applies in relation to a court DVO if the respondent is summoned to appear before the Court under section 81 or 82Y to show cause why the court DVO should not be confirmed.

Note for section 82D

Section 81 deals with a summons to the respondent for court DVOs made without a hearing. Section 82Y deals with a summons to the respondent for court DVOs varied in urgent circumstances.

82E Parties to hearing

The following are parties to the hearing:

- (a) the protected person;
- (b) the respondent;
- (c) the Commissioner;
- (d) any other party allowed by the Court.

82F Decision at hearing

- (1) Subject to subsection (2), at the hearing, the Court may, by order:
 - (a) confirm the court DVO (with or without variation); or
 - (b) revoke the court DVO.
- (2) The Court must not confirm the court DVO unless:
 - (a) satisfied that the respondent was given a copy of the court DVO; and
 - (b) the Court considered any evidence before it and submissions from the parties to the court DVO.

82G Notice of order

As soon as practicable after the Court makes an order under section 82F, a registrar must give to the parties to the court DVO:

- (a) a copy of order; and
- (b) if the court DVO is varied – a copy of the court DVO as varied.

Note for section 82G

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Part 2.8 Extension of court DVO**82H When Court may extend court DVO**

Despite section 27, the Court may, by order, extend a court DVO:

- (a) on an application made under section 82J(1); or
- (b) on its own initiative.

82J Application to extend duration of court DVO

- (1) A party may apply to the Court to extend the duration of a court DVO:
 - (a) for an interim period; or
 - (b) for a period specified in the application.
- (2) Despite section 27, within 6 months after the date of expiry specified in a court DVO, a party may apply to extend the duration of the court DVO for a period specified in the application.

82K How application is made

An application under section 82J(1) must:

- (a) be made in the approved form; and
- (b) be filed in the Court.

82L Notice of hearing of application

- (1) As soon as practicable after the application is filed under section 82J(1), a registrar must give written notice of the date and place for the hearing of the application to:
 - (a) the parties to the court DVO or each person who was a party to the expired court DVO; and
 - (b) for a court DVO that was a police DVO confirmed by the Court under Part 2.4, Division 3 – the Commissioner.
- (2) If the Court extends a court DVO on its own initiative, a registrar must give written notice of extension to:
 - (a) the parties to the court DVO or each person who was a party to the expired court DVO; and
 - (b) for a court DVO that was a police DVO confirmed by the Court under Part 2.4, Division 3 – the Commissioner.

82M What must be considered before extending court DVO

In deciding whether to extend the court DVO, the Court must consider the same matters that are required to be considered in deciding:

- (a) whether or not to make a DVO; and
- (b) the terms of a DVO.

Note for section 82M

Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.

82N Decision of extension

- (1) Subject to subsection (2), the Court may extend a court DVO for a period specified in the application only if satisfied that there are reasonable grounds for the protected person to fear the respondent committing domestic violence:
 - (a) when the court DVO expires; or
 - (b) if the court DVO is expired – while the court DVO is expired.
- (2) The order must specify a period of extension that commences on or after the day the Court makes the order.

- (3) The Court must not consider the following as indicating the absence of reasonable grounds for the protected person to fear the respondent committing domestic violence:
- (a) the respondent does not commit domestic violence while the court DVO is in force;
 - (b) without limiting paragraph (a), the respondent complies with the court DVO.

82P Interim extension of court DVO

- (1) At any time after an application is made under section 82J(1) the Court may extend the court DVO for an interim period.
- (2) The Court may extend the court DVO for an interim period:
- (a) even if the respondent does not appear at the hearing; or
 - (b) if the respondent appears at the hearing:
 - (i) before hearing the respondent's evidence; or
 - (ii) despite the respondent objecting to the order being made.
- (3) The interim extension of the court DVO is in force until the earlier of the following:
- (a) when it is revoked by the Court;
 - (b) when a decision on the application is made under section 82N.

Note for subsection (3)

Under section 103H a court DVO can be superseded in certain circumstances by an interstate DVO that is a recognised DVO in the Territory.

82Q Notice of order

As soon as practicable after the Court extends the court DVO, a registrar must give the persons who received notice of the hearing under section 82L:

- (a) a copy of order; and
- (b) if the court DVO is extended – a copy of the court DVO as extended.

Note for section 82Q

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

Part 2.9 Variation of court DVO or police DVO in urgent circumstances**82R DVOs to which Part applies**

This Part applies in relation to the following DVOs:

- (a) a court DVO made under Part 2.4, Division 3, Part 2.5, Division 2 or 5 or Part 2.7;
- (b) a police DVO.

82S When application may be made

- (1) A police officer may apply to the Court for an order varying a DVO if:
 - (a) in the case of a court DVO – it is not practicable to obtain an order varying the court DVO under Part 2.6 because of urgent circumstances; or
 - (b) in the case of a police DVO – the terms of the police DVO should be varied before the hearing of the proceeding for the confirmation of the police DVO because of urgent circumstances.
- (2) For subsection (1), the police officer must not make the application unless satisfied that there is a substantial change in the circumstances related to the commission of domestic violence since the DVO was made or last varied.

- (3) Without limiting subsection (2), a change in the circumstances related to the commission of domestic violence arises if:
 - (a) there is a change in circumstances relating to affected children, including their care arrangements; or
 - (b) the respondent satisfactorily completes a rehabilitation program or a perpetrators' program.

82T How application is made

- (1) An application under section 82S may be made by telephone or any form of electronic communication.
- (2) The police officer must:
 - (a) before making the application, complete the approved form by stating the grounds on which the variation of the DVO is sought; and
 - (b) subsequently record on the form any additional information given to the Court orally.

82U Deciding application

- (1) In deciding whether to make an order varying a DVO, the Court must consider the same matters required to be considered in deciding:
 - (a) whether to make a DVO; and
 - (b) the terms of a DVO.

Note for subsection (1)(a)

Part 2.2 provides for the matters to be considered in making a DVO and Part 2.3 provides for the content of a DVO.

- (2) The Court may by order:
 - (a) vary the DVO; or
 - (b) refuse to vary the DVO.
- (3) The Court may decide the application even if:
 - (a) the respondent was not given an opportunity to answer any allegation in it; or
 - (b) another person who has a direct interest in the outcome did not have an opportunity to be heard on the matter.

82V What Court must do if application is refused

If the Court refuses to make an order varying the DVO, the Court must:

- (a) record the reasons for the decision; and
- (b) inform the police officer who applied for the order of those reasons.

82W What Court must do if variation order is made

(1) If the Court makes an order varying the DVO, the Court must record on the order:

- (a) the reasons for making it; and
- (b) the date and place for the Court hearing for confirmation of the DVO as varied.

(2) The time for the Court hearing for confirmation of the DVO as varied must be as soon as practicable after the variation order is made.

(3) The Court must inform the police officer who applied for the order:

- (a) of the terms of the order; and
- (b) of the reasons for making it; and
- (c) the date and place for the Court hearing for confirmation of the DVO as varied.

82X What police officer must do when variation order is made

(1) If the Court makes an order varying the DVO, the police officer who applied for the order must:

- (a) complete a form of order as directed by the Court, setting out the variation to the DVO; and
- (b) write on the order:
 - (i) the name of the Judge; and
 - (ii) the date and time it is made.

- (2) As soon as practicable after completion of the order, the police officer must:
- (a) give a copy of the DVO as varied to the parties to the DVO; and
 - (b) give a copy of it to the Court.

Note for subsection (2)(a)

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

- (3) For subsection (2)(b), the police officer may give a copy of the order to the Court by means of electronic communication.

82Y Order taken to be summons to appear before Court

If the Court makes an order varying the DVO under section 82U(2)(a), the copy of the order given to the respondent is taken to be a summons to the respondent to appear at a Court hearing, at the date and place shown on it, to show cause why the DVO should not be confirmed by the Court.

Note for section 82Y

Part 2.4, Division 3 provides for the confirmation of police DVOs and Part 2.7 provides for the confirmation of court DVOs.

Part 2.10 DVOs made by courts in criminal proceedings

83 Power of court if person guilty of related offence

- (1) If a person before a court pleads guilty to, or is found guilty of, an offence that involves committing domestic violence, the court must consider whether or not to make a DVO against the person.
- (2) The court may make a DVO against the person if satisfied that a court DVO could be made against the person under Part 2.5.
- (3) In considering whether or not to make a DVO under subsection (2), the court may invite submissions from the parties and the prosecutor.
- (4) Despite section 48(3)(a), if the person is summoned to appear before the Court to show cause why a police DVO should not be confirmed and the court decides to make a DVO under subsection (2), the court may confirm the police DVO (with or without variation) without complying with section 48.

- (5) If a DVO is already in force against the person, the court:
- (a) must consider the DVO and whether, in the circumstances, the DVO should be varied, including by varying the date the DVO ends; and
 - (b) may vary the DVO if the court considers it necessary.
- (6) As soon as practicable after a DVO is made under subsection (2), confirmed under subsection (4) or varied under subsection (5)(b), the court must give a copy of it to:
- (a) the parties to the DVO; and
 - (b) the Commissioner.

Note for subsection (6)

Under section 119, a copy of a DVO may be given to the respondent in a way mentioned in that section.

23 Section 85 amended (Retrieval of defendant's personal property)

- (1) Section 85, heading

omit

defendant's

insert

respondent's

- (2) Section 85(1)(a)

omit

access

insert

exclusion

- (3) Section 85(1)(b), (2) and (3)

omit

defendant

insert

respondent

- (4) Section 85(5)

omit

24 Section 85AA inserted

After section 85, in Part 2.11

insert

85AA Retrieval of protected person's personal property

- (1) If personal property of the protected person or a child of the protected person or child usually residing with the protected person is located on premises occupied by the respondent, the respondent must permit the protected person to:
- (a) enter the premises at any reasonable time; and
 - (b) retrieve the property.
- (2) The protected person must be accompanied by a police officer.
- (3) To avoid doubt, the respondent is not in contravention of the DVO merely because of entry of the premises and retrieval of the property under subsection (1).
- (4) The police officer may use reasonable force and assistance for the entry of the premises and retrieval of the property.

25 Section 89 amended (Explanation of court DVO)

- (1) Section 89(1)

omit, insert

- (1) If a court confirms a police DVO under Part 2.4, Division 2 or 3 or makes or varies a court DVO under Parts 2.5 to 2.10, an explanation of the DVO must be given to any protected person and respondent present, in matters for which the Court considers it necessary.

- (1A) As far as it is reasonably practicable to do so, the explanation given under this section must be given in a language (using an interpreter if required) or in terms that are likely to be readily understood by the protected person and respondent.
- (2) Section 89(2)
omit (all references)
defendant
insert
respondent
- (3) Section 89(2)(a)(i)
omit, insert
(i) any restraints, prohibitions, obligations or requirements imposed by the DVO; and
- (4) Section 89(2)(b)
omit, insert
(b) the consequences that may follow if the respondent contravenes the DVO, including that contravening a DVO is an offence against section 120(1); and
(ba) the duration of the DVO; and

26 Section 103W amended (Decision about hearing an application)

- (1) Section 103W(2)(a) and (e) and (5)
omit (all references)
defendant
insert
respondent

(2) Section 103W(2)(b)

omit

the respondent

insert

another party

(3) Section 103W(6)

omit

27 Section 110 amended (How evidence of vulnerable witness given)

Section 110(2)

omit, insert

- (2) If an audiovisual link is not available, or the vulnerable witness chooses to give evidence in the courtroom, the witness is entitled to give evidence without the defendant being in the witness's line of sight.
- (3) If the vulnerable witness elects to give evidence without the defendant being in the witness's line of sight, to ensure the defendant is not in the witness's line of sight a screen, a partition or a panel of one-way glass must be placed so that the witness's view of the defendant is obscured, but not the view of the witness by the Judge or counsel.

28 Sections 121 and 122 replaced

Sections 121 and 122

repeal, insert

121 Penalties for contravention of DVO

- (1) Subject to this section, a person is liable to a maximum penalty of imprisonment for 2 years if the person is found guilty of an offence against section 120(1).
- (2) A person is liable to an aggregated maximum penalty of imprisonment for 3 years if:
 - (a) the person is found guilty of at least 3 offences against section 120(1); and

-
- (b) the conduct constituting these offences took place within a period of 28 days; and
 - (c) the person is being sentenced for these offences at the same time; and
 - (d) the conduct constituting these offences did not involve harm or a threat to commit harm to the protected person under the relevant DVOs.

Example of harm for subsection (2)(d)

Sexual or other assault.

- (3) Despite any provision to the contrary in the *Local Court (Criminal Procedure) Act 1928*, for subsection (2) the maximum penalty under that subsection may be imposed whether or not the offences against section 120(1) are laid on complaint, information or indictment or any combination of them.
- (4) A person found guilty of an offence against section 120(1) is taken to have committed a level 1 aggravated offence and is liable to a maximum penalty of imprisonment for 3 years if the person was previously found guilty of an offence against section 120(1).
- (5) A person found guilty of an offence against section 120(1) is taken to have committed a level 2 aggravated offence and is liable to a maximum penalty of imprisonment for 5 years if the conduct constituting the offence involved harm or a threat to commit harm to the protected person under the DVO.

Example of harm for subsection (5)

Sexual or other assault.

29 Section 123 amended (Publication of names and identifying information about children)

- (1) Section 123(1), penalty provision
omit
200 penalty units or imprisonment
insert
Imprisonment
- (2) Section 123(2)
omit

(3) After section 123(3)

insert

(3A) Despite subsection (1), it is not an offence to publish the name of a child mentioned in subsection (1)(a), (b) or (c) if:

(a) the publication is in an official report of the proceeding; or

(b) the publication is in the course of giving:

(i) information to an information sharing entity under Chapter 5A; or

(ii) information to an information sharing authority (as defined in section 293C(1) of the *Care and Protection of Children Act 2007*) under Part 5.1A of that Act; or

(c) the publication is permitted or authorised under this Act or any other law of the Territory; or

(d) the Court consents to the publication of the child's name.

30 Section 124 amended (Publication of personal details)

(1) Section 124(1), penalty provision

omit

200 penalty units or imprisonment

insert

Imprisonment

(2) After section 124(2)

insert

(3) Despite subsection (1), it is not an offence to publish a person's personal details if:

(a) the publication is in an official report of the proceeding; or

(b) the publication is in the course of:

(i) giving information to an information sharing entity under Chapter 5A; or

-
- (ii) giving information to an information sharing authority (as defined in section 293C(1) of the *Care and Protection of Children Act 2007*) under Part 5.1A of that Act; or
 - (c) the publication is permitted or authorised under this Act or any other law of the Territory.
- (4) In this section:
- proceeding*** means:
- (a) a proceeding for the hearing of an application for:
 - (i) a DVO; or
 - (ii) the variation or revocation of a DVO; or
 - (b) a proceeding for the confirmation of a DVO.

31 Section 124A amended (Reporting domestic violence)

- (1) Section 124A(1), penalty provision

omit

200 penalty units.

insert

Imprisonment for 2 years.

- (2) Section 124A(3)(b) and (c)

omit

his or her

insert

the defendant's

32 Section 124B amended (Definitions)

Section 124B, definition ***information sharing entity***, paragraph (g)(ii)

omit, insert

- (ii) is approved by the Minister under section 124DA(1).

33 Sections 124DA and 124DB inserted

After section 124D, in Part 5A.1

insert

124DA Approval of information sharing entity

- (1) The Minister may, by *Gazette* notice, approve a person or entity as an information sharing entity.
- (2) An approval of a person under subsection (1) may be made for:
 - (a) a person by name; or
 - (b) a person by reference to the office, position or designation held or occupied by the person; or
 - (c) a person from time to time holding, acting in or performing the duties of a named office, designation or position.

124DB Collection of information

For the purposes of sharing information under Part 5A.2 an information sharing entity may collect and use information reasonably necessary for performing a function under that Part.

34 Section 124E amended (Sharing information for assessing or preventing domestic violence threat)

- (1) Section 124E, before "An"

insert

- (1)

- (2) Section 124E, at the end

insert

- (2) Without limiting subsection (1)(b), information given in a case management meeting of a domestic violence related service is information that may help the entity receiving the information to perform functions mentioned in subsection (1)(b)(i) and (ii).

35 Section 124L amended (Unauthorised disclosure of confidential information)

- (1) Section 124L(1)(b)
- omit, insert*
- (b) the person intentionally engages in conduct; and
- (c) the conduct results in the disclosure of the information and the disclosure is not:
- (i) required or authorised by this Chapter; or
 - (ii) for any of the following purposes authorised by the Minister:
 - (A) research relating to the purpose of this Chapter;
 - (B) an inquiry or investigation conducted by a coroner, the police force or another law enforcement agency;
 - (C) any other purpose prescribed by regulation; or
 - (iii) to a court or tribunal; or
 - (iv) in compliance with the Australian Privacy Principles, whether or not the person, or the entity that employs or engages the person, is bound by those Principles; or
 - (v) in any other way required or authorised by law; and
- (d) the person is reckless in relation to that result.
- (2) Section 124L(1), penalty provision
- omit*
- 200 penalty units or imprisonment
- insert*
- Imprisonment
- (3) Section 124L(3)
- omit*

(4) Section 124L(5)

omit, insert

(5) In this section:

Australian Privacy Principles means the principles set out in Schedule 1 to the *Privacy Act 1988* (Cth).

36 Section 124T amended (Interaction with other laws)

Section 124T(1), after "operation of"

insert

any provision of the *Information Act 2002* or

37 Section 126 amended (Approved forms)

After section 126(3)

insert

(4) An approved form must not require the insertion of the address of a protected person, other than a non-residential address (or electronic address) that is an address for service.

38 Part 7.8 inserted

After section 147

insert

Part 7.8 Transitional matters for Justice Legislation Amendment (Domestic and Family Violence) Act 2023

148 Definitions

In this Division:

amending Act means the *Justice Legislation Amendment (Domestic and Family Violence) Act 2023*.

commencement means the commencement of Part 2 of the amending Act.

149 Saving of DVOs

- (1) Despite the repeal of Parts 2.4 to 2.10 by the amending Act:
 - (a) a court DVO, as defined in section 4 as in force immediately before the commencement, continues in force for the period specified in the DVO; and
 - (b) a police DVO, as defined in section 4 as in force immediately before the commencement, continues in force for the period specified in the DVO.
- (2) A police DVO made under section 41, as in force immediately before the commencement, is taken to be a police DVO made under section 28.
- (3) A court DVO made under section 82, as in force immediately before the commencement, is taken to be a court DVO made under section 48.
- (4) For subsections (1) and (3), a reference to a court DVO includes a DVO as varied under Part 2.7 or 2.8, as in force immediately before the commencement.
- (5) For subsections (1) and (2), a reference to a police DVO includes a police DVO as varied under Part 2.8, Division 2, or confirmed under Part 2.9, as in force immediately before the commencement.

150 Application of sections 123, 124, 124A and 124L

- (1) Sections 123, 124, 124A and 124L, as amended by the amending Act, apply only in relation to offences committed after the commencement.
- (2) Sections 123, 124, 124A and 124L, as in force before the commencement, continue to apply in relation to offences committed before the commencement.
- (3) For this section:
 - (a) an offence is taken to be committed after the commencement only if all of the conduct constituting the offence occurred after the commencement; and
 - (b) any other offence is taken to be committed before the commencement.

151 Proceeding already started

Despite the repeal of Parts 2.4 to 2.10 by the amending Act, Parts 2.4 to 2.10, as in force immediately before the commencement, continue to apply in relation to a proceeding started before the commencement.

39 Act further amended

Schedule 1 has effect.

Part 3 Amendment of Bail Act 1982**40 Act amended**

This Part amends the *Bail Act 1982*.

41 Section 3 amended (Interpretation)

Section 3(1)

insert

domestic violence, see section 5 of the *Domestic and Family Violence Act 2007*.

domestic violence order, see section 4 of the *Domestic and Family Violence Act 2007*.

42 Section 24 amended (Criteria to be considered in bail applications)

(1) Section 24(1)(e)(iv)

omit

bail.

insert

bail;

(2) After section 24(1)(e)

insert

(f) whether a domestic violence order is in force against the accused person;

- (g) without limiting paragraph (e), the risk (if any) that the accused person would (if released on bail) commit domestic violence, including domestic violence against the alleged victim;
 - (h) whether the risk of the accused person committing domestic violence if released on bail could be mitigated by:
 - (i) imposing a bail condition; or
 - (ii) making a domestic violence order under the *Domestic and Family Violence Act 2007*.
- (3) After section 24(6)
- insert*
- (7) In assessing the risk of the accused person committing domestic violence if released on bail, the authorised member or court must, if practicable, consider the opinion (if any) of the alleged victim on whether or not bail should be granted.

43 Section 24B inserted

After section 24A, in Part 5, Division 1

insert

24B Determining domestic violence risk in bail applications

- (1) In making a determination as to the grant of bail to an accused person, the authorised member or court making the determination must inquire of the prosecutor whether or not a domestic violence order is in force against the accused person.
- (2) In making a determination as to the grant of bail to an accused person, an authorised member or court may delay the determination for a period of time reasonably required to:
 - (a) identify whether a domestic violence order is in force against the accused person; and
 - (b) in the case of a person arrested for a Territory sexual offence or an offence the authorised member or court believes involves domestic violence – ascertain the alleged victim's opinion on whether bail should be granted.

44 Section 28 amended (Imposition of bail conditions)

After section 28(2A)

insert

- (2B) Without limiting subsection (2), the authorised member or court must ensure any condition imposed is consistent with the content of any domestic violence order in force against the accused person.

45 Part 9, Division 8 inserted

After section 71

insert

Division 8 Justice Legislation Amendment (Domestic and Family Violence) Act 2023**72 Application of amendments**

- (1) Sections 3, 24 and 28 as amended by the *Justice Legislation Amendment (Domestic and Family Violence) Act 2023* apply only in relation to an offence alleged to be committed after the commencement of this section.
- (2) Sections 3, 24 and 28 as in force immediately before the commencement of this section continue to apply in relation to an offence alleged to be committed before the commencement of this section.
- (3) Section 24B does not apply in relation to an offence alleged to be committed before the commencement of this section.
- (4) For this section, if any of the conduct constituting an alleged offence occurred before the commencement of this section, the alleged offence is taken to be committed before the commencement.

Part 4 Amendment of Criminal Code**46 Code amended**

This Part amends the Criminal Code.

47 Section 188 amended (Common assault)

After section 188(2)(j)

insert

(ja) is assaulted by choking, suffocation or strangulation, as defined in section 186AA; or

48 Section 341 amended (Separate trials where 2 or more charges against the same person)

Section 341(1A)

omit

subject to section 341A.

insert

in relation to a trial subject to sections 341A and 341B.

49 Section 341B inserted

After section 341A

insert

341B Presumption of joint trial of domestic violence offences

- (1) Despite any rule of law to the contrary, if an accused person is charged with more than one domestic violence offence in the same indictment, it is presumed that the charges are to be tried together.
- (2) The presumption is not rebutted merely because:
 - (a) evidence on one charge is not admissible on another charge; or
 - (b) there is a possibility that evidence may be the result of collusion or suggestion.
- (3) In this section:

domestic violence offence means:

- (a) an offence that is a DVO contravention offence, as defined in section 4 of the *Domestic and Family Violence Act 2007*; or

-
- (b) an offence constituted by, or involving, conduct that is domestic violence, as defined in section 5 of the *Domestic and Family Violence Act 2007*.

50 Part XI, Division 20 inserted

Before Schedule 1

insert

Division 20 Justice Legislation Amendment (Domestic and Family Violence) Act 2023

476 Definitions

In this Division:

amending Act means the *Justice Legislation Amendment (Domestic and Family Violence) Act 2023*.

commencement means the commencement of Part 4 of the amending Act.

477 Application of amendment to section 188

- (1) Section 188, as amended by the amending Act, applies only in relation to offences committed after the commencement.
- (2) Section 188, as in force before the commencement, continues to apply in relation to offences committed before the commencement.
- (3) For this section:
 - (a) an offence is taken to be committed after the commencement only if all of the conduct constituting the offence occurred after the commencement; and
 - (b) any other offence is taken to be committed before the commencement.

478 Application of presumption

Section 341B, as inserted by the amending Act, applies in relation to an indictment presented or filed in court after the commencement, even if an offence charged in the indictment is alleged to be committed before the commencement.

Part 5 Amendment of Evidence Act 1939**51 Act amended**

This Part amends the *Evidence Act 1939*.

52 Section 21GA inserted

After section 21G

insert

21GA Expert evidence for domestic violence

- (1) If evidence of domestic violence is relevant to a fact in issue in a domestic violence offence proceeding, the court may admit expert domestic violence evidence.
- (2) For subsection (1), expert domestic violence evidence includes evidence about the following:
 - (a) the nature of domestic violence;
 - (b) the effects of domestic violence on a person;
 - (c) the effects of domestic violence on the complainant in particular;
 - (d) the effects of domestic violence on a child or young person.
- (3) Before admitting the expert domestic violence evidence, the court must be satisfied that the expert giving the evidence demonstrates specialist knowledge that was gained by training, study or experience of a matter that is of relevance to a fact in issue in the domestic violence offence proceeding.

53 Section 21J amended (Requirements for recorded statement)

Section 21J(2)

omit

54 Part 10, Division 5 inserted

After section 72

insert

Division 5 Justice Legislation Amendment (Domestic and Family Violence) Act 2023**73 Definitions**

In this Division:

amending Act means the *Justice Legislation Amendment (Domestic and Family Violence) Act 2023*.

commencement means the commencement of Part 5 of the amending Act.

74 Application of section 21GA

Section 21GA applies in relation to a proceeding in which the hearing commences after the commencement.

75 Application of amendment to section 21J

- (1) Section 21J, as amended by the amending Act, applies only in relation to a proceeding in which the hearing commences after the commencement.
- (2) Section 21J, as in force immediately before the commencement, continues to apply in relation to a proceeding in which the hearing commenced before the commencement.

Part 6 Amendment of Evidence (National Uniform Legislation) Act 2011**55 Act amended**

This Part amends the *Evidence (National Uniform Legislation) Act 2011*.

56 Section 19 amended (Compellability of spouses and others in certain criminal proceedings)

- (1) Section 19(c), after "defined in"

insert

section 4 of

- (2) After section 19(c)

insert

(ca) an offence constituted by, or involving, conduct that is domestic violence as defined in section 5 of the *Domestic and Family Violence Act 2007*;

57 Chapter 11 inserted

After section 223

insert

Chapter 11 Transitional matters for Justice Legislation Amendment (Domestic and Family Violence) Act 2023**224 Definitions**

In this Chapter:

amending Act means the *Justice Legislation Amendment (Domestic and Family Violence) Act 2023*.

commencement means the commencement of Part 6 of the amending Act.

225 Application of amendment to section 19

- (1) Section 19, as amended by the amending Act, applies only in relation to a proceeding in which the hearing commences after the commencement.
- (2) Section 19, as in force immediately before the commencement, continues to apply in relation to a proceeding in which the hearing commenced before the commencement.

Part 7 Amendment of Sentencing Act 1995

58 Act amended

This Part amends the *Sentencing Act 1995*.

59 Section 3 amended (Interpretation)

Section 3(1)

insert

coercive control, see section 5B of the *Domestic and Family Violence Act 2007*.

60 Section 6A amended (Aggravating factors)

After section 6A(1)(f)

insert

- (fa) if the offender and the victim are, or were at the time of the commission of the offence, in a domestic relationship:
- (i) the offence included domestic violence in the nature of conduct that is physically or sexually abusive; or
 - (ii) the offence involved coercive control of the victim; or
 - (iii) the offence included domestic violence in the nature of exposing a child to conduct that constitutes domestic violence;

61 Section 52 replaced

Section 52

repeal, insert

52 Aggregate term of imprisonment

- (1) A court may impose one term of imprisonment in respect of a person found guilty of 2 or more offences.
- (2) Despite subsection (1), a court must not impose an aggregate term of imprisonment under subsection (1) if one of the offences is a sexual offence.
- (3) An aggregate term of imprisonment may be imposed under subsection (1) whether or not the offences are laid on complaint, information or indictment or any combination of them.

- (4) A court that imposes an aggregate sentence of imprisonment under subsection (1) must indicate to the guilty person the following:
 - (a) the fact that an aggregate sentence is being imposed;
 - (b) the sentence that would have been imposed for each offence if separate sentences were imposed instead of an aggregate sentence.
- (5) Subsection (3) does not limit any other requirement that a court has to record the reasons for its decision.
- (6) The term, and any non-parole period, of an aggregate sentence of imprisonment imposed under subsection (1) is not revoked or varied by a later sentence of imprisonment that the same or some other court later imposes in relation to another offence.
- (7) An aggregate sentence of imprisonment imposed under subsection (1) is not invalidated by a failure to comply with this section.
- (8) To avoid doubt, the Local Court may impose an aggregate sentence of imprisonment under subsection (1) that does not exceed 5 years.

62 Section 106B amended (Victim impact statements and victim reports)

Section 106B(9)

omit, insert

- (9) A victim must not be cross-examined on the content of the victim's victim impact statement.

63 Part 12, Division 13 inserted

Before Schedule 2

insert

Division 13 Transitional matters for Justice Legislation Amendment (Domestic and Family Violence) Act 2023**151 Definitions**

In this Division:

amending Act means the *Justice Legislation Amendment (Domestic and Family Violence) Act 2023*.

commencement means the commencement of Part 7 of the amending Act.

152 Application of amendment to section 6A

- (1) Section 6A, as amended by the amending Act, applies only relation to offences committed after the commencement.
- (2) Section 6A, as in force before the commencement, continues to apply in relation to offences committed before the commencement.
- (3) For this section:
 - (a) an offence is taken to be committed after the commencement only if all of the conduct constituting the offence occurred after the commencement; and
 - (b) any other offence is taken to be committed before the commencement.

Part 8 Amendment of Sentencing and Other Legislation Amendment Act 2022**64 Act amended**

This Part amends the *Sentencing and Other Legislation Amendment Act 2022*.

65 Section 38 repealed

Section 38

repeal

Part 9 Amendment of Domestic and Family Violence Regulations 2008

66 Regulations amended

This Part amends the *Domestic and Family Violence Regulations 2008*.

67 Regulation 3B repealed (Information sharing entities)

Regulation 3B

repeal

68 Regulations further amended

Schedule 2 has effect.

Part 10 Consequential amendments

69 Consequential amendments

Schedule 3 has effect.

Part 11 Repeal of Act

70 Repeal of Act

This Act is repealed on the day after it commences.

Schedule 1 Act further amended

section 39

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
sections 18(1) and 20(1)(a) and (b)	defendant	respondent
section 20(3)	access	exclusion
section 20(3), example	<i>access</i> <i>defendant</i>	<i>exclusion</i> <i>respondent</i>
sections 24(1), (1B), (2)(a)(i) and (ii) and (b) and 25(a)	defendant	respondent
section 84(1)(c)	Part 2.8, Division 2	Part 2.9
section 84(2)(c)(i), (ii) and (iii)	defendant	respondent
section 85A(2), examples 1, 2 and 3	<i>defendant</i>	<i>respondent</i>
sections 85B(1), (2) and (3), 85C and 85D(1)(a), (b) and (c) and (3)(a) and (b)	defendant <i>(all references)</i>	respondent
section 85D(2) and (3)(c)	defendant's	respondent's
section 85E heading	defendant	respondent
section 85E(1), (2) and (3)	defendant	respondent
section 85E(1) and (3)	defendant's	respondent's
section 85F heading	defendant	respondent
sections 85F(1)(a), (b) and (c) and (2)(a) and (b), 85G, 86 and 87	defendant <i>(all references)</i>	respondent

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 88, note	36 <i>Local Court</i>	63 <i>court</i>
sections 90(1)(a) and (b), (2)(a)(i) and (ii), 93(2)(b)(ii), 95(2), 97(1), 98(c), 100 and 103C(1) and (2)	defendant <i>(all references)</i>	respondent
section 103E(2), note 2	<i>defendant</i>	<i>respondent</i>
sections 103H(8)(a) and 103J(1), (2) and (4)(a)	defendant <i>(all references)</i>	respondent
section 103K, heading	defendant	respondent
sections 103K(1), (2), (3), (4) and (5), 103L(1)(a) and (b) and (3)(a) and (b), 103M(1) and (3), 103ZG(4), 103ZH(2), 103ZI(3) and 103ZK(5) and (7)	defendant <i>(all references)</i>	respondent
section 103ZK(5), note	<i>defendant</i>	<i>respondent</i>
section 107(2)(c)(i)	him or her	them
section 109(1)	his or her	the child's
section 111(1)(c)(i)	him or her	them
sections 115(2) and 117(1)(a) and (b)	defendant	respondent
section 118	Part 2.8, Division 2 or Part 2.9	Part 2.4, Division 2 or Part 2.6, Division 2
section 119, heading	defendant	respondent
section 119	defendant <i>(all references)</i>	respondent

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 120(2)(b)	Part 2.7 or 2.8 or confirmed with variations under Part 2.9 or 2.10	Part 2.6, Division 3, 4 or 5, Part 2.8 or 2.9 or confirmed with variation under Part 2.4, Division 3 or Part 2.7
sections 124N(4)(a) and 124Q(3)(a)	Internet	Agency's website

Schedule 2 Regulations further amended

section 68

Provision	Amendment	
	omit	insert
regulation 4	defendant (<i>all references</i>)	respondent
regulation 5(1), definitions <i>breath analysis, breath test, saliva test</i> and <i>urine test</i>	defendant's (<i>all references</i>)	respondent's
regulations 5(1), definitions <i>saliva test</i> and <i>urine test</i> , 6(1) and (2) and 7(1)(a) and (b), (2) and (3)	defendant (<i>all references</i>)	respondent
regulation 7(2)(a)	defendant's	respondent's
regulation 9	defendant's defendant (<i>all references</i>) his or her	respondent's respondent the respondent's
regulation 10(1), (2), (3) and (4)	defendant (<i>all references</i>)	respondent
regulation 10(1)(a)	his or her	the respondent's
regulation 11(1), (2) and (3)	defendant (<i>all references</i>)	respondent
regulation 11(1)(a)	his or her	the respondent's
regulation 12(1) and (2)(a) and (b)	defendant's	respondent's
regulations 12(1)(a) to (g) and (2), 13(1) and (2) and 15(c)(iv), (v) and (vi)	defendant (<i>all references</i>)	respondent

Schedule 3 Consequential amendments

section 69

Provision	Amendment	
	omit	insert
<i>Alcohol Harm Reduction Act 2017</i>		
section 4, definition <i>police DVO</i>	section 41(1)	section 28(1)
<i>Firearms Act 1997</i>		
section 3(1), definitions <i>interim domestic violence order</i> and <i>registered external order</i>	whole definition	
section 3(1)		<p><i>interim domestic violence order</i> means:</p> <p>(a) a domestic violence order made under Part 2.4 of the <i>Domestic and Family Violence Act 2007</i> that has not yet been confirmed under that Part; or</p> <p>(b) an interim court DVO; or</p> <p>(c) a domestic violence order of another jurisdiction that is of an interim or provisional nature.</p> <p><i>registered external order</i> means an external order, as defined in section 4 of the <i>Domestic and Family Violence Act 2007</i>, that is registered under Part 3.2 of that Act.</p>
section 3(1), definition <i>domestic violence order</i> , after "see"		section 4 of

Provision	Amendment	
	omit	insert
section 3(1), definition <i>interim court DVO</i>	35(1)	64