

1995

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

## Domestic Violence (Amendment) Bill 1995

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A BILL  
FOR

An Act to amend the *Domestic Violence Act 1986*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

### Short title

5 1. This Act may be cited as the *Domestic Violence (Amendment) Act 1995*.

### Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

10 (2) The remaining provisions commence on the day on which section 68T of the *Family Law Act 1975* of the Commonwealth commences.

### Principal Act

3. In this Act, "Principal Act" means the *Domestic Violence Act 1986*.<sup>1</sup>

### Interpretation

4. Section 3 of the Principal Act is amended by inserting the following definition:

5 “ ‘relevant family contact order’, in relation to a protection order or an interim protection order, means a Division 11 contact order within the meaning of Division 11 of Part 7 of the *Family Law Act 1975* of the Commonwealth that relates to access between the aggrieved person or the respondent, and any child of either of those persons;”.

### 10 Insertion

5. After section 8 of the Principal Act the following section is inserted:

#### Court to be informed of relevant contact orders

15 “8A. (1) The applicant for a protection order shall inform the Court of any relevant family contact order, or any pending application for such an order, of which the applicant is aware.

“(2) A failure to comply with subsection (1) does not affect the validity of a protection order or an interim protection order.”.

#### Matters to be taken into account

6. Section 10 of the Principal Act is amended—

20 (a) by inserting after paragraph (1) (e) the following paragraph:

“(ea) whether access between the aggrieved person or the respondent, and any child of either of those persons, is relevant to the making of the order, and to any relevant family contact order of which the Court is aware;”;

25 (b) by adding at the end the following subsection:

“(3) A failure to have regard to any of the matters mentioned in paragraph (1) (ea) does not affect the validity of a protection order or an order varying a protection order.”.

### Interim orders

30 7. Section 14 of the Principal Act is amended by inserting after subsection (2) the following subsections:

35 “(2A) In making an interim protection order, the Court shall have regard to whether access between the aggrieved person or the respondent, and any child of either of those persons, is relevant to the making of the order, and to any relevant family contact order of which the Court is aware.

“(2B) A failure to have regard to any of the matters mentioned in subsection (2A) does not affect the validity of an interim protection order or an order varying an interim protection order.”.

### **Variation and revocation of orders**

5       8. Section 18 of the Principal Act is amended by omitting subsection (4) and substituting the following subsections:

“(4) In determining whether to vary a protection order, the Court shall have regard to the matters specified in section 10.

10       “(5) In determining whether to revoke a protection order, the Court shall have regard to the matters specified in section 10, other than the matters specified in paragraph 10 (1) (ea).

“(6) In determining whether to vary an interim protection order, the Court shall have regard to—

15       (a) the need to ensure the safety of the aggrieved person pending the hearing and determination of the application for a protection order; and

      (b) the matters specified in subsection 14 (2A).

20       “(7) In determining whether to revoke an interim protection order, the Court shall have regard to the need to ensure the safety of the aggrieved person pending the hearing and determination of the application for a protection order.”.

### **Substitution**

9. Section 30A of the Principal Act is repealed and the following section substituted:

### **25 Exemptions from restrictions on publication**

“30A. Section 30 does not apply to—

(a) a party to proceedings under this Act who informs a person of the contents of an order made in those proceedings; or

30       (b) a person who, pursuant to subsection 68J (1) or (2) of the *Family Law Act 1975* of the Commonwealth, informs a court of a protection order or an interim protection order.”.

### **Application**

35       10. (1) The amendments effected by section 5 of this Act apply only in relation to applications for protection orders made after the commencement of this section.

(2) The amendments effected by sections 6 and 8 of this Act apply only in relation to protection orders and orders varying or revoking protection orders made after the commencement of this section.

5 (3) The amendments effected by sections 7 and 8 of this Act apply only in relation to interim protection orders and orders varying or revoking interim protection orders made after the commencement of this section.

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## NOTES

### Principal Act

1. Reprinted as at 31 January 1995.

### Relationship with Family Law Act

On the day on which the *Domestic Violence Act 1986* is amended by sections 4 to 9 (inclusive) of this Act the following note is inserted after section 8A of the Principal Act as amended by this Act:

**"NOTE: RELATIONSHIP WITH FAMILY LAW ACT**

Divisions 10 and 11 of Part 7 of the *Family Law Act* of the Commonwealth deals with the relationship between protection orders and contact orders within the meaning of that Part. In particular, section 68J imposes an obligation on certain persons to inform the court of any protection orders or interim protection orders and under section 68S certain persons may apply for a declaration of the extent to which a contact order is inconsistent with a protection order or an interim protection order."