



Australian Capital Territory

Domestic Violence Agencies Amendment Act 2021

A2021-21

An Act to amend the *Domestic Violence Agencies Act 1986*

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

1 Name of Act

This Act is the *Domestic Violence Agencies Amendment Act 2021*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

This Act amends the *Domestic Violence Agencies Act 1986*.

4 New part 3A

insert

Part 3A Domestic and family violence incident review

Division 3A.1 Preliminary

16A Purpose—pt 3A

The purpose of this part is to establish the role of the Domestic and Family Violence Review Coordinator to—

- (a) identify preventative measures to reduce family violence; and
- (b) increase recognition of the impact of, and circumstances surrounding, family violence and gain a greater understanding of the context in which family violence occurs; and
- (c) make recommendations to the Minister for implementation by government and the private-sector to prevent or reduce the likelihood of family violence.

16B Definitions—pt 3A

In this part:

advisory committee means an advisory committee established under section 16G.

DFVR coordinator—see section 16D (1).

independent adviser means an independent adviser appointed under section 16I.

register means the register of domestic or family violence incidents kept under section 16K.

serious harm—see the [Criminal Code](#), dictionary.

16C Meaning of *domestic or family violence incident*—pt 3A

(1) In this part:

domestic or family violence incident means an incident resulting in the death of, or serious harm to, a person that occurs—

(a) in circumstances involving family violence; and

(b) either—

(i) in the ACT; or

(ii) if the incident involves a person who lived in the ACT at the time of the incident—outside of the ACT.

(2) For this section, an incident occurs in *circumstances involving family violence* if—

(a) if the death of, or serious harm to, a person (an *affected person*) resulting from the incident was caused by another person (the *perpetrator*)—

(i) the affected person was, or had been, in a relevant relationship with the perpetrator that involved family violence; or

- (ii) at the time of the incident, the affected person was in a relevant relationship with a person who was, or had been, in a relevant relationship with the perpetrator that involved family violence; or
 - (iii) at the time of the incident, the perpetrator mistakenly believed the affected person was in a relevant relationship with a person who was, or had been, in a relevant relationship with the perpetrator that involved family violence; or
 - (iv) at the time of the incident, the affected person was a witness to, present at, or attempted to intervene in, an incident of family violence between the perpetrator and a person who was, or had been, in a relevant relationship with the second person; or
 - (v) at the time of the incident, the affected person was a witness to, present at, or attempted to intervene in violence between the perpetrator and a person who the perpetrator mistakenly believed was in a relevant relationship with a person who was, or had been, in a relevant relationship with the perpetrator that involved family violence; or
- (b) if the incident results in a person dying by suicide—the person was, or had been, in a relevant relationship with another person that involved family violence; or
- (c) if the incident results in a person seriously harming themselves—the person was, or had been, in a relevant relationship with another person that involved family violence; or
- (d) if the incident results in a person dying or being seriously harmed in another way—the incident occurred in other circumstances for which family violence was a contributing factor.

- (3) In this section:

family member—see the [Family Violence Act 2016](#), section 9.

relevant relationship, of a person with another person, means the person was, or has been, a family member of the other person.

Division 3A.2 Domestic and family violence review coordinator

16D DFVR coordinator—appointment

- (1) The Minister must appoint a public servant as the Domestic and Family Violence Review Coordinator (the *DFVR coordinator*).

Note For laws about appointments, see the [Legislation Act](#), pt 19.3.

- (2) However, the Minister may only appoint the person as the DFVR coordinator if satisfied that the person has suitable qualifications and experience to exercise the functions of the DFVR coordinator.

16E DFVR coordinator—functions

The DFVR coordinator's main functions are as follows:

- (a) to keep a register of domestic and family violence incidents;
- (b) to collect information about suspected domestic and family violence incidents;
- (c) to identify patterns and trends in relation to family violence;
- (d) to undertake research that aims to help prevent or reduce the likelihood of family violence;
- (e) to identify areas requiring further research by the coordinator or another entity that arise from the identified patterns and trends in relation to family violence;

- (f) to make recommendations about legislation, policies, practices and services for implementation by the Territory and non-government bodies to help prevent or reduce the likelihood of family violence;
- (g) to contribute to national research and review of domestic and family violence policy and undertake associated research;
- (h) to monitor the implementation of the coordinator's recommendations;
- (i) to report to the Minister;
- (j) any other function given to the coordinator under this Act or another territory law.

16F DFVR coordinator—independence

The DFVR coordinator is not subject to the direction of the director-general in the exercise of the coordinator's functions.

16G Delegation by DFVR coordinator

The DFVR coordinator may delegate the coordinator's functions under this Act to another public servant.

Note For laws about delegations, see the [Legislation Act](#), pt 19.4.

Division 3A.3 Advisory committees and independent advisers

16H Advisory committees

- (1) The DFVR coordinator may establish advisory committees to assist the coordinator in the exercise of the coordinator's functions.
- (2) An advisory committee must, on request of the DFVR coordinator, provide advice to the coordinator on the exercise of the coordinator's functions.

- (3) In exercising its functions, an advisory committee may consult with independent advisers appointed under section 16I.

16I Independent advisers

- (1) The DFVR coordinator may appoint a person as an independent adviser—
- (a) on the request of an advisory committee, to assist the committee in the exercise of its functions; or
 - (b) on the coordinator's own initiative, to assist the coordinator in the exercise of the coordinator's functions.

Note For laws about appointments, see the [Legislation Act](#), pt 19.3.

- (2) An appointment may be subject to conditions stated in the appointment.

16J Conflict of interest

A member of an advisory committee or independent adviser must take all reasonable steps to avoid being placed in a position where a conflict of interest arises when advising the DFVR coordinator.

Division 3A.4 Register of domestic and family violence incidents

16K Register of domestic and family violence incidents

- (1) The DFVR coordinator may keep a register of domestic or family violence incidents.
- (2) The register may include—
- (a) incidents that the DFVR coordinator suspects are domestic or family violence incidents; and
 - (b) domestic or family violence incidents (or suspected domestic or family violence incidents) occurring before the commencement of this part.

- (3) The register may be kept—
 - (a) in any form the coordinator considers appropriate, including electronically; or
 - (b) in the form of 1 or more registers, or 1 or more parts.

16L Register of domestic and family violence incidents—content

The register may include—

- (a) any of the following information in relation to a person involved in a domestic or family violence incident the DFVR coordinator considers relevant to the exercise of the coordinator’s functions:
 - (i) personal identifying information;
 - (ii) personal circumstances;
 - (iii) health information relevant to family violence;
 - (iv) criminal history;
 - (v) history of family violence;
 - (vi) interaction with a community-based service; and
- (b) any other demographic data available to the DFVR coordinator; and
- (c) any other information about a domestic or family violence incident, or a person involved in an incident, that the DFVR coordinator considers relevant to the exercise of the coordinator’s functions.

16M Register of domestic and family violence incidents—access

- (1) The DFVR coordinator must ensure—
 - (a) that the register is accessed only by the following:
 - (i) a delegate of the coordinator;
 - (ii) a person authorised, in writing, by the coordinator to access the register or part of it; and
 - (b) that personal information on the register is disclosed only to a person with access to the register—
 - (i) for the purpose of exercising a function under this part; or
 - (ii) as otherwise required or authorised under this part.
- (2) The DFVR coordinator must notify a person with access to the register of the person's obligations to deal with information on the register in accordance with the requirements under this Act or another territory or Commonwealth law.

16N Information kept on register—admissibility of evidence

- (1) The following are not admissible as evidence in a proceeding before a court:
 - (a) a record of information on the register;
 - (b) an oral statement made to a person exercising a function of the DFVR coordinator;
 - (c) a document given to a person exercising a function of the DFVR coordinator, but only to the extent that it was prepared only for the person;
 - (d) a document prepared by a person exercising a function of the DFVR coordinator.

(2) This section is subject to section 16R (Sharing information with Coroner's Court).

(3) In this section:

court includes a tribunal, authority or person with power to require the production of documents or the answering of questions.

Division 3A.5 Information gathering and sharing

16O Power to ask for information—relevant entities

(1) The DFVR coordinator may, in writing, ask a relevant entity to give the coordinator information held by the entity that the coordinator considers reasonably necessary to—

- (a) determine whether an incident is a domestic or family violence incident; or
- (b) otherwise exercise the coordinator's functions.

(2) However, the DFVR coordinator must not ask for information in relation to a domestic or family violence incident resulting in serious harm to a person without the consent of the harmed person.

(3) The relevant entity must comply with the request within a reasonable time, being not more than 15 working days after receiving the request.

(4) However, the relevant entity need not comply with the request if the entity gives the DFVR coordinator a reasonable excuse for not complying.

(5) In this section:

relevant entity means each of the following:

- (a) the chief police officer;
- (b) a director-general of an administrative unit;

- (c) a community-based service;
- (d) an entity prescribed by regulation.

16P Power to require information, document or other thing

- (1) This section applies if the DFVR coordinator believes on reasonable grounds that a person can give information or produce a document or other thing that the coordinator considers necessary to exercise their functions.
- (2) The DFVR coordinator may, by written notice given to the person, require the person to give the information in writing or produce the document or other thing.
- (3) However, the DFVR coordinator must not give a notice—
 - (a) to a family member of a person who has died or is seriously harmed in a domestic or family violence incident; or
 - (b) in relation to a domestic or family violence incident resulting in serious harm to a person without the consent of the harmed person.
- (4) The notice must state how, and the time within which, the person must comply with the requirement.
- (5) A person commits an offence if—
 - (a) the person is required by a notice under this section to give information or produce a document or other thing; and
 - (b) the person fails to give the information or produce the document or other thing.

Maximum penalty: 50 penalty units.

Note 1 The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

Note 2 Giving false information is an offence against the [Criminal Code](#), s 338.

- (6) Subsection (5) does not apply if the person has a reasonable excuse for failing to give the information or produce the document or other thing to the DFVR coordinator as required.

16Q Sharing information—corresponding interstate entities

- (1) The DFVR coordinator may enter into an agreement with an entity that exercises a function under a law of a State, corresponding or substantially corresponding to a function of the coordinator, to share information relevant to the function.
- (2) Also, the DFVR coordinator may enter into an agreement with a State to share information for the purpose of contributing to national research or review of domestic and family violence policy.
- (3) The DFVR coordinator must ensure an agreement provides that information shared with the entity is protected to the extent it is protected under this part and any other territory law.

16R Sharing information with Coroner’s Court

- (1) This section applies if the DFVR coordinator is satisfied that giving information kept on the register would assist the Coroner’s Court in an inquest concerning the death of a person relating to a domestic or family violence incident or suspected incident.
- (2) The DFVR coordinator may give the information to the Coroner’s Court.
- (3) The Coroner’s Court may use the information in relation to the inquest.

16S Providing information etc—other circumstances

Nothing in this division prevents a person sharing information with, or producing a document or other thing to, the DFVR coordinator, or the coordinator using any information given, or document or other thing produced, for the exercise of the coordinator’s functions.

16T Information sharing guidelines

- (1) A relevant entity may make guidelines (*information sharing guidelines*) for how the entity is to share information with the DFVR coordinator under this division.
- (2) Before making a guideline, the entity—
 - (a) must consult the DFVR coordinator; and
 - (b) may consult anyone else the entity considers appropriate.
- (3) A guideline is a notifiable instrument.
- (4) In this section:
relevant entity—see section 16O (5).

16U Use and disclosure of protected information

- (1) An information holder commits an offence if—
 - (a) the information holder uses information; and
 - (b) the information is protected information about someone else;
and
 - (c) the information holder is reckless about whether the information is protected information about someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.
- (2) An information holder commits an offence if—
 - (a) the information holder does something that discloses information; and
 - (b) the information is protected information about someone else;
and

- (c) the information holder is reckless about whether—
 - (i) the information is protected information about someone else; and
 - (ii) doing the thing would result in the information being disclosed to someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsections (1) and (2) do not apply if the information holder uses or discloses protected information about someone else (the *protected person*)—
 - (a) under this Act or another law applying in the ACT; or
 - (b) to the chief police officer in connection with a possible offence; or
 - (c) in relation to the exercise of a function, as an information holder, under this Act or another law applying in the ACT; or
 - (d) in a court proceeding; or
 - (e) with the protected person's consent.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

- (4) An information holder need not disclose protected information to a court, or produce a document containing protected information to a court, unless it is necessary to do so for this Act or another law applying in the ACT.

(5) In this section:

court includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

disclose includes—

- (a) communicate; or
- (b) publish.

information means information, whether true or not, in any form and includes an opinion and advice.

information holder means—

- (a) a person who is, or has been—
 - (i) the DFVR coordinator; or
 - (ii) a person exercising a function of the DFVR coordinator; or
 - (iii) a member of an advisory committee; or
 - (iv) an independent adviser; or
- (b) anyone else who exercises or has exercised a function under this Act.

produce includes allow access to.

protected information means information about a person that is disclosed to, or obtained by, an information holder because of the exercise of a function under this Act by the information holder or someone else.

use, in relation to information, includes make a record of the information.

Division 3A.6 Reports about domestic and family violence incidents

16V Biennial report

- (1) The DFVR coordinator must report to the Minister about domestic or family violence incidents included on the register (*registered incidents*) during the reporting period.
- (2) The report must include the following:
 - (a) the number of registered incidents;
 - (b) the incidence of interactions between people involved in registered incidents and police, the courts or community-based services.
- (3) The DFVR coordinator may include in the report—
 - (a) demographic information about people involved in domestic or family violence incidents; and
 - (b) any patterns or trends identified in relation to registered incidents; and
 - (c) any recommendations about legislation, policies, practices or services for implementation by the Territory and non-government bodies to help prevent or reduce the likelihood of family violence; and
 - (b) information about the implementation of any previous recommendations of the DFVR coordinator; and
 - (c) any other matter the DFVR coordinator considers relevant.
- (4) However the DFVR coordinator must not include in the report any information that, in the opinion of the coordinator, would—
 - (a) disclose the identity of people involved in a registered incident;or

- (b) allow the identity of a person involved in a registered incident to be easily worked out.
- (5) The DFVR coordinator must give the Minister the report within 4 months after the end of the review period.
- (6) The Minister must present the report to the Legislative Assembly within 6 sitting days after the day the report is given to the Minister.
- (7) Within 3 months after receiving a report under subsection (1), the Minister must give information to the DFVR coordinator about any action the Minister has taken, or will take, in relation to the matters raised in the report.
- (8) In this section:
reporting period means a period of 2 years, beginning on 1 July 2021.

16W Other reports

- (1) The DFVR coordinator may, at any time, prepare a report for the Minister on any matter arising in connection with the exercise of the coordinator's functions.
- (2) However, the DFVR coordinator must not include in the report any information that, in the opinion of the coordinator, would—
 - (a) disclose the identity of people involved in a registered incident;
or
 - (b) allow the identity of a person involved in a registered incident to be easily worked out.
- (3) The Minister must present the report to the Legislative Assembly within 6 sitting days after the day the report is given to the Minister.
- (4) Within 3 months after receiving a report under subsection (1), the Minister must give information to the DFVR coordinator about any action the Minister has taken, or will take, in relation to the matters raised in the report.

- (5) In this section:

registered incident—see section 16V (1).

Division 3A.7 Miscellaneous

16X Protection of DFVR coordinator etc from liability

- (1) The DFVR coordinator, or a person acting under the direction of the coordinator, is not civilly liable for conduct engaged in honestly and without recklessness—
- (a) in the exercise of a function under this Act; or
 - (b) in the reasonable belief that the conduct was in the exercise of a function under this Act.
- (2) Any liability that would, apart from this section, attach to the DFVR coordinator, or a person acting under the direction of the coordinator, attaches instead to the Territory.
- (3) In this section:
- conduct* means an act or omission to do an act.

16Y Review of part

- (1) The Minister must review the operation of this part as soon as practicable after the end of its third year of operation.
- (2) The Minister must present a report of the review to the Legislative Assembly within 3 months after the day the review is started.
- (3) This section expires 4 years after the day it commences.

5 Dictionary, note 2

substitute

Note 2 For example, the [Legislation Act](#), dict, pt 1 defines the following terms:

- administrative unit
- bankrupt or personally insolvent
- chief police officer
- director-general (see s 163)
- police officer
- public servant
- territory law.

6 Dictionary, new definitions

insert

advisory committee, for part 3A (Domestic and family violence incident review)—see section 16B.

DFVR coordinator, for part 3A (Domestic and family violence incident review)—see section 16B.

domestic or family violence incident, for part 3A (Domestic and family violence incident review)—see section 16C.

independent adviser, for part 3A (Domestic and family violence incident review)—see section 16B.

register, for part 3A (Domestic and family violence incident review)—see section 16B.

serious harm, for part 3A (Domestic and family violence incident review)—see section 16B.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 23 June 2021.

2 Notification

Notified under the [Legislation Act](#) on 21 September 2021.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Domestic Violence Agencies Amendment Bill 2021, which was passed by the Legislative Assembly on 16 September 2021.

Clerk of the Legislative Assembly

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