

2021

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Prevention of Domestic and Family Violence)

Domestic Violence Agencies Amendment Bill 2021

A Bill for

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

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

1 **1 Name of Act**

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

3 **2 Commencement**

4 This Act commences on the day after its notification day.

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

7 **3 Legislation amended**

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

9 **4 New part 3A**

10 *insert*

11 **Part 3A Domestic and family violence**
12 **incident review**

13 **Division 3A.1 Preliminary**

14 **16A Purpose—pt 3A**

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

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

1 **16B Definitions—pt 3A**

2 In this part:

3 *advisory committee* means an advisory committee established under
4 section 16G.

5 *DFVR coordinator*—see section 16D (1).

6 *independent adviser* means an independent adviser appointed under
7 section 16I.

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

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

11 **16C Meaning of *domestic or family violence incident*—pt 3A**

12 (1) In this part:

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

15 (a) in circumstances involving family violence; and

16 (b) either—

17 (i) in the ACT; or

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

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

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

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

- 1 (ii) at the time of the incident, the affected person was in a
2 relevant relationship with a person who was, or had been,
3 in a relevant relationship with the perpetrator that involved
4 family violence; or
- 5 (iii) at the time of the incident, the perpetrator mistakenly
6 believed the affected person was in a relevant relationship
7 with a person who was, or had been, in a relevant
8 relationship with the perpetrator that involved family
9 violence; or
- 10 (iv) at the time of the incident, the affected person was a
11 witness to, present at, or attempted to intervene in, an
12 incident of family violence between the perpetrator and a
13 person who was, or had been, in a relevant relationship
14 with the second person; or
- 15 (v) at the time of the incident, the affected person was a
16 witness to, present at, or attempted to intervene in violence
17 between the perpetrator and a person who the perpetrator
18 mistakenly believed was in a relevant relationship with a
19 person who was, or had been, in a relevant relationship
20 with the perpetrator that involved family violence; or
- 21 (b) if the incident results in a person dying by suicide—the person
22 was, or had been, in a relevant relationship with another person
23 that involved family violence; or
- 24 (c) if the incident results in a person seriously harming themselves—
25 the person was, or had been, in a relevant relationship with
26 another person that involved family violence; or
- 27 (d) if the incident results in a person dying or being seriously
28 harmed in another way—the incident occurred in other
29 circumstances for which family violence was a contributing
30 factor.

- 1 (3) In this section:
2 *family member*—see the *Family Violence Act 2016*, section 9.
3 *relevant relationship*, of a person with another person, means the
4 person was, or has been, a family member of the other person.

5 **Division 3A.2 Domestic and family violence review**
6 **coordinator**

7 **16D DFVR coordinator—appointment**

- 8 (1) The Minister must appoint a public servant as the Domestic and
9 Family Violence Review Coordinator (the *DFVR coordinator*).
10 *Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.
11 (2) However, the Minister may only appoint the person as the
12 DFVR coordinator if satisfied that the person has suitable
13 qualifications and experience to exercise the functions of the
14 DFVR coordinator.

15 **16E DFVR coordinator—functions**

- 16 The DFVR coordinator's main functions are as follows:
17 (a) to keep a register of domestic and family violence incidents;
18 (b) to collect information about suspected domestic and family
19 violence incidents;
20 (c) to identify patterns and trends in relation to family violence;
21 (d) to undertake research that aims to help prevent or reduce the
22 likelihood of family violence;
23 (e) to identify areas requiring further research by the coordinator or
24 another entity that arise from the identified patterns and trends
25 in relation to family violence;

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

12 **16F DFVR coordinator—independence**

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

15 **16G Delegation by DFVR coordinator**

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

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

19 **Division 3A.3 Advisory committees and**
20 **independent advisers**

21 **16H Advisory committees**

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

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

3 **16I Independent advisers**

- 4 (1) The DFVR coordinator may appoint a person as an independent
5 adviser—

6 (a) on the request of an advisory committee, to assist the committee
7 in the exercise of its functions; or

8 (b) on the coordinator's own initiative, to assist the coordinator in
9 the exercise of the coordinator's functions.

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

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

13 **16J Conflict of interest**

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

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

19 **16K Register of domestic and family violence incidents**

- 20 (1) The DFVR coordinator may keep a register of domestic or family
21 violence incidents.

- 22 (2) The register may include—

23 (a) incidents that the DFVR coordinator suspects are domestic or
24 family violence incidents; and

25 (b) domestic or family violence incidents (or suspected domestic or
26 family violence incidents) occurring before the commencement
27 of this part.

- 1 (3) The register may be kept—
- 2 (a) in any form the coordinator considers appropriate, including
- 3 electronically; or
- 4 (b) in the form of 1 or more registers, or 1 or more parts.
- 5 **16L Register of domestic and family violence incidents—**
- 6 **content**
- 7 The register may include—
- 8 (a) any of the following information in relation to a person involved
- 9 in a domestic or family violence incident the DFVR coordinator
- 10 considers relevant to the exercise of the coordinator’s functions:
- 11 (i) personal identifying information;
- 12 (ii) personal circumstances;
- 13 (iii) health information relevant to family violence;
- 14 (iv) criminal history;
- 15 (v) history of family violence;
- 16 (vi) interaction with a community-based service; and
- 17 (b) any other demographic data available to the DFVR coordinator;
- 18 and
- 19 (c) any other information about a domestic or family violence
- 20 incident, or a person involved in an incident, that the
- 21 DFVR coordinator considers relevant to the exercise of the
- 22 coordinator’s functions.

- 1 **16M Register of domestic and family violence incidents—**
2 **access**
- 3 (1) The DFVR coordinator must ensure—
- 4 (a) that the register is accessed only by the following:
- 5 (i) a delegate of the coordinator;
- 6 (ii) a person authorised, in writing, by the coordinator to
7 access the register or part of it; and
- 8 (b) that personal information on the register is disclosed only to a
9 person with access to the register—
- 10 (i) for the purpose of exercising a function under this part; or
11 (ii) as otherwise required or authorised under this part.
- 12 (2) The DFVR coordinator must notify a person with access to the
13 register of the person’s obligations to deal with information on the
14 register in accordance with the requirements under this Act or another
15 territory or Commonwealth law.
- 16 **16N Information kept on register—admissibility of evidence**
- 17 (1) The following are not admissible as evidence in a proceeding before
18 a court:
- 19 (a) a record of information on the register;
- 20 (b) an oral statement made to a person exercising a function of the
21 DFVR coordinator;
- 22 (c) a document given to a person exercising a function of the
23 DFVR coordinator, but only to the extent that it was prepared
24 only for the person;
- 25 (d) a document prepared by a person exercising a function of the
26 DFVR coordinator.

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

3 (3) In this section:

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

6 **Division 3A.5 Information gathering and sharing**

7 **160 Power to ask for information—relevant entities**

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

11 (a) determine whether an incident is a domestic or family violence
12 incident; or

13 (b) otherwise exercise the coordinator’s functions.

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

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

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

22 (5) In this section:

23 *relevant entity* means each of the following:

24 (a) the chief police officer;

25 (b) a director-general of an administrative unit;

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

3 **16P Power to require information, document or other thing**

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

24 **Maximum penalty: 50 penalty units.**

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

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

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

4 **16Q Sharing information—corresponding interstate entities**

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

15 **16R Sharing information with Coroner’s Court**

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

24 **16S Providing information etc—other circumstances**

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

1 **16T Information sharing guidelines**

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

11 **16U Use and disclosure of protected information**

- 12 (1) An information holder commits an offence if—
- 13 (a) the information holder uses information; and
- 14 (b) the information is protected information about someone else;
- 15 and
- 16 (c) the information holder is reckless about whether the information
- 17 is protected information about someone else.
- 18 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 19 both.
- 20 (2) An information holder commits an offence if—
- 21 (a) the information holder does something that discloses
- 22 information; and
- 23 (b) the information is protected information about someone else;
- 24 and

- 1 (c) the information holder is reckless about whether—
- 2 (i) the information is protected information about someone
- 3 else; and
- 4 (ii) doing the thing would result in the information being
- 5 disclosed to someone else.
- 6 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 7 both.
- 8 (3) Subsections (1) and (2) do not apply if the information holder uses or
- 9 discloses protected information about someone else (the *protected*
- 10 *person*)—
- 11 (a) under this Act or another law applying in the ACT; or
- 12 (b) to the chief police officer in connection with a possible offence;
- 13 or
- 14 (c) in relation to the exercise of a function, as an information holder,
- 15 under this Act or another law applying in the ACT; or
- 16 (d) in a court proceeding; or
- 17 (e) with the protected person’s consent.
- 18 *Note* The defendant has an evidential burden in relation to the matters
- 19 mentioned in s (3) (see [Criminal Code](#), s 58).
- 20 (4) An information holder need not disclose protected information to a
- 21 court, or produce a document containing protected information to a
- 22 court, unless it is necessary to do so for this Act or another law
- 23 applying in the ACT.

- 1 (5) In this section:
- 2 ***court*** includes a tribunal, authority or person having power to require
3 the production of documents or the answering of questions.
- 4 ***disclose*** includes—
- 5 (a) communicate; or
- 6 (b) publish.
- 7 ***information*** means information, whether true or not, in any form and
8 includes an opinion and advice.
- 9 ***information holder*** means—
- 10 (a) a person who is, or has been—
- 11 (i) the DFVR coordinator; or
- 12 (ii) a person exercising a function of the DFVR coordinator;
13 or
- 14 (iii) a member of an advisory committee; or
- 15 (iv) an independent adviser; or
- 16 (b) anyone else who exercises or has exercised a function under this
17 Act.
- 18 ***produce*** includes allow access to.
- 19 ***protected information*** means information about a person that is
20 disclosed to, or obtained by, an information holder because of the
21 exercise of a function under this Act by the information holder or
22 someone else.
- 23 ***use***, in relation to information, includes make a record of the
24 information.

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

3 **16V Biennial report**

- 4 (1) The DFVR coordinator must report to the Minister about domestic or
5 family violence incidents included on the register (*registered*
6 *incidents*) during the reporting period.
- 7 (2) The report must include the following:
- 8 (a) the number of registered incidents;
- 9 (b) the incidence of interactions between people involved in
10 registered incidents and police, the courts or community-based
11 services.
- 12 (3) The DFVR coordinator may include in the report—
- 13 (a) demographic information about people involved in domestic or
14 family violence incidents; and
- 15 (b) any patterns or trends identified in relation to registered
16 incidents; and
- 17 (c) any recommendations about legislation, policies, practices or
18 services for implementation by the Territory and
19 non-government bodies to help prevent or reduce the likelihood
20 of family violence; and
- 21 (b) information about the implementation of any previous
22 recommendations of the DFVR coordinator; and
- 23 (c) any other matter the DFVR coordinator considers relevant.
- 24 (4) However the DFVR coordinator must not include in the report any
25 information that, in the opinion of the coordinator, would—
- 26 (a) disclose the identity of people involved in a registered incident;
27 or

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

13 **16W Other reports**

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

- 1 (5) In this section:
2 *registered incident*—see section 16V (1).

3 **Division 3A.7 Miscellaneous**

4 **16X Protection of DFVR coordinator etc from liability**

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

16 **16Y Review of part**

- 17 (1) The Minister must review the operation of this part as soon as
18 practicable after the end of its third year of operation.
19 (2) The Minister must present a report of the review to the Legislative
20 Assembly within 3 months after the day the review is started.
21 (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 2021.

3 Republications of amended laws

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

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