

1992

LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL TERRITORY

PROTECTION ORDERS (RECIPROCAL ARRANGEMENTS)

(CONSEQUENTIAL AMENDMENTS) BILL 1992

EXPLANATORY MEMORANDUM

(Circulated by the Authority of

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Attorney-General)

**PROTECTION ORDERS (RECIPROCAL ARRANGEMENTS)
(CONSEQUENTIAL AMENDMENTS) BILL 1992**

OUTLINE

This Bill proposes the insertion of several provisions into both the *Domestic Violence Act 1986* and the *Magistrates Court Act 1930*.

One provision is consequential upon the establishment of similar procedures as proposed in the *Protection Orders (Reciprocal Arrangements) Bill 1992* in other Australian jurisdictions by the enactment of reciprocal legislation which will enable portability of domestic violence orders interstate. It relates to the possibility of an ACT protection order being registered in another jurisdiction and will require the Court to draw attention to this possibility and the subsequent enforceability which the order would acquire through registration. In addition the schedules of both the *Domestic Violence Act* and the *Magistrates Court Act* will draw further attention to the possibility of registration and enforceability in other jurisdictions, by an insertion on the face of all orders.

A provision is also to be inserted addressing the issue of cross border breaches, a problem of particular concern in the ACT given its geographic location. It ensures that a breach can be enforced when the offender re-enters the ACT despite the fact that it took place outside the Territory.

The Bill proposes minor changes to the interpretation provisions of both Acts, including adding a new category of persons to the definition of relative in the *Domestic Violence Act*.

FINANCIAL IMPLICATIONS

This Bill has no implications for government expenditure or revenue.

CLAUSE NOTES

Clauses 1,2,3 and 8: Formal Clauses

Clause 1,2,3 and 8 are formal requirements. They contain the short title of the Bill, a commencement provision, definition of the Principal Act to which Part II applies and definition of the Principal Act to which Part III applies.

PART II - AMENDMENT OF DOMESTIC VIOLENCE ACT 1986

Clause 4: Interpretation

Paragraph 4(a) inserts "step-brother" and "step-sister" into the definition of relative contained in the interpretation section of the Domestic Violence Act.

Paragraph 4(b) ensures that the term "vary" includes adaptation and modification. This is to accommodate changes made to interstate orders made under the new portability arrangements.

Clause 5: Explaining Proposed Orders

This clause adds to the list of matters contained in subsection 15(1) of the Domestic Violence Act that must be explained or caused to be explained to the respondent who is before the Court in relation to the granting of an order under sections 4 or 14. It requires that the respondent be told that the order may be registered interstate and enforced in any jurisdiction in Australia without notice of registration, noting that this is contingent on reciprocal legislation being in place.

Clause 6: Offence

Clause 6 amends section 27 of the Domestic Violence Act by adding words to ensure that conduct engaged in outside the Territory will constitute a breach of an order where appropriate.

Clause 7: Schedule 2

This clause amends the form used for interim protection orders and protection orders so that the respondent is alerted to the possibility that the order may be registered in a State or Territory having reciprocal legislation and enforced in this jurisdiction without notice.

PART III - AMENDMENT OF MAGISTRATES COURT ACT 1930

Clause 9: Interpretation

This clause ensures that the term "vary" includes adaptation and modification. This amendment is similar to the amendment in paragraph 4(b).

Clause 10: Explaining Proposed Orders

This clause is the same as clause 5 except that it amends section 206E of the Magistrates Court Act and concerns the respondent who is before the Court in relation to the granting of an order under sections 197 or 206C. Like clause 5, it requires that the respondent be told that the order may be registered interstate where reciprocal legislation is in place and enforced in the State or Territory of registration without notice of the registration.

Clause 11: Offence

Clause 11 amends section 206L of the Magistrates Court Act by adding words to ensure that conduct engaged in outside the Territory will constitute a breach of an order where appropriate. This amendment is similar in effect to the amendment in clause 6.

Clause 12: First Schedule

This clause amends the form used for interim restraining orders and restraining orders so that the respondent is alerted to the possibility that the order may be registered in a State or Territory having reciprocal legislation and enforced in this jurisdiction without notice. A similar amendment to the Domestic Violence Act is contained in clause 7.