

Passed by both Houses



New South Wales

# Bail and Other Legislation Amendment (Domestic Violence) Bill 2024

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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney,*

*, 2024*



New South Wales

## **Bail and Other Legislation Amendment (Domestic Violence) Bill 2024**

Act No \_\_\_\_\_, 2024

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An Act to amend the *Bail Act 2013* and the *Surveillance Devices Act 2007* as part of the Government's response to domestic violence.

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*I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.*

*Assistant Speaker of the Legislative Assembly.*

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**The Legislature of New South Wales enacts—**

**1 Name of Act**

This Act is the *Bail and Other Legislation Amendment (Domestic Violence) Act 2024*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

## Schedule 1 Amendment of Bail Act 2013 No 26

### [1] Section 4 Definitions

Insert in alphabetical order in section 4(1)—

**domestic violence offence** has the same meaning as in the *Crimes (Domestic and Personal Violence) Act 2007*.

**intimate partner**, of a person (the **first person**), means a person who—

- (a) is or has been married to the first person, or
- (b) is or has been a de facto partner of the first person, or

**Note—** “De facto partner” is defined in the *Interpretation Act 1987*, section 21C.

- (c) has or has had an intimate personal relationship with the first person, whether or not the intimate relationship involves or has involved a relationship of a sexual nature.

**serious domestic violence offence** means—

- (a) an offence under the *Crimes Act 1900*, Part 3 with a maximum penalty of 14 years imprisonment or more if the offence is committed by a person against an intimate partner, or
- (b) an offence under a law of the Commonwealth, another State or Territory or another jurisdiction that is similar to an offence under that part.

### [2] Section 16B Offences to which the show cause requirement applies

Insert after section 16B(1)(c)—

- (c1) a serious domestic violence offence,
- (c2) an offence under the *Crimes Act 1900*, section 54D,

### [3] Section 18 Matters to be considered as part of assessment

Insert after section 18(1)(d)—

- (d1) behaviour engaged in by the accused that may, under the *Crimes (Domestic and Personal Violence) Act 2007*, section 6A(2), constitute domestic abuse,

**Examples of behaviour—** behaviour that is physically abusive or violent, including strangulation and sexual assault, animal abuse and stalking

### [4] Section 18(1)(o)

Insert “or a domestic violence offence against an intimate partner” after “serious offence”.

### [5] Section 28B

Insert after section 28A—

#### **28B Bail condition must impose electronic monitoring for certain offences**

- (1) This section applies if an accused person is—
  - (a) subject to the requirement to show cause under section 16A for a show cause offence referred to in section 16B(1)(c1), and
  - (b) granted bail.
- (2) The grant of bail must be subject to a bail condition that the accused person be subject to electronic monitoring, unless the bail authority is satisfied sufficient reasons exist, in the interests of justice, to justify not imposing the condition.

**Note—** See also section 30A, which provides for matters relating to electronic monitoring.

- (3) To avoid doubt, nothing in this section—
- (a) prevents a bail authority, in relation to matters to which this section does not apply, from imposing a bail condition in accordance with this Act that an accused person be subject to electronic monitoring, or
  - (b) requires or permits a bail authority, in making a decision under Division 1A or Division 2, to be satisfied the accused person's detention is not justified, or there is not an unacceptable risk, on the basis a bail condition may be imposed requiring the accused person to be subject to electronic monitoring under this section.
- (4) The regulations may provide for matters relating to the supervision, monitoring and enforcement of electronic monitoring imposed on accused persons as a bail condition under this section.

**[6] Section 29 Limitation on power to impose pre-release requirements**

Insert after section 29(1)(e)—

- (f) a requirement that the accused person be subject to electronic monitoring.

**[7] Section 29(5A)**

Insert after section 29(5)—

- (5A) The regulations may provide for matters relating to the supervision, monitoring and enforcement of electronic monitoring imposed on accused persons as a pre-release requirement under this section.

**[8] Section 40 Stay of release decision if detention sought**

Insert at the end of section 40(5), definition of *serious offence*, paragraph (b)—

, or

- (c) a serious domestic violence offence, or
- (d) an offence against the *Crimes Act 1900*, section 54D, or
- (e) an offence against a provision of the *Crimes Act 1900*, Part 3, Division 10, Subdivision 2.

**[9] Section 70A**

Insert after section 70—

**70A Registrar must not make bail decision**

An authorised justice who is a registrar must not make a bail decision.

**[10] Section 102**

Insert after section 101—

**102 Review of certain provisions**

- (1) The Minister must conduct a review of the reviewable provisions to identify if—
  - (a) the policy objectives of the reviewable provisions remain valid, and
  - (b) the terms of the reviewable provisions remain appropriate for achieving the objectives.
- (2) The review must be commenced within 6 months after the period of 3 years after the commencement of the reviewable provisions.

- (3) A report on the outcome of the review must be tabled in each House of Parliament within 1 year after the last day by which the review must commence.
- (4) In this section—  
*reviewable provisions* means the provisions of this Act amended or inserted by the *Bail and Other Legislation Amendment (Domestic Violence) Act 2024*.

**[11] Schedule 3 Savings, transitional and other provisions**

Insert after clause 14—

**Part 5 Provision consequent on enactment of Bail and Other Legislation Amendment (Domestic Violence) Act 2024**

**15 Application of amendments**

An amendment made to this Act by the *Bail and Other Legislation Amendment (Domestic Violence) Act 2024* extends to offences committed or alleged to have been committed, or charged, before the commencement of the amendment.

## **Schedule 2      Amendment of Surveillance Devices Act 2007 No 64**

**[1] Section 56 Consent of Attorney General to prosecutions**

Omit “Proceedings” in section 56(1).

Insert instead “Subject to subsection (1A), proceedings”.

**[2] Section 56(1A)**

Insert after section 56(1)—

- (1A) Subsection (1) does not apply to proceedings for an offence against section 9 where the offence is charged as a domestic violence offence, within the meaning of the *Crimes (Domestic and Personal Violence) Act 2007*.