



New South Wales

Crimes (Domestic and Personal Violence) Amendment (Coercive and Controlling Behaviour) Bill 2020

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Crimes (Domestic and Personal Violence) Act 2007* to create an offence of engaging in abusive behaviour of another person within a domestic relationship.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date that is 12 months after the date of assent to the proposed Act.

Schedule 1 Amendment of Crimes (Domestic and Personal Violence) Act 2007 No 80

Schedule 1[3] creates an offence of engaging in a course of behaviour that is abusive of another person with whom the person has, or has had, a domestic relationship (*abusive behaviour offence*). The offence carries a maximum penalty of imprisonment for 10 years or a fine of \$5,500, or both.

For the purposes of the proposed offence, a person engages in a course of behaviour that is abusive of another person if—

- (a) the behaviour—
 - (i) is violent, menacing or intimidating, or

- (ii) has, or is reasonably likely to have, one or more of the following effects—
 - (A) making the other person dependent on, or subordinate to, the person,
 - (B) isolating the other person from friends, relatives or other sources of support,
 - (C) controlling, regulating or monitoring the other person’s day-to-day activities,
 - (D) depriving the other person of, or restricting the other person’s, freedom of action,
 - (E) frightening, humiliating, degrading or punishing the other person, and
- (b) the person intends to cause, or is reckless as to whether the course of behaviour causes, the other person to suffer physical, emotional or psychological harm, including fear, alarm or distress, and
- (c) behaviour of a type referred to in paragraph (a) occurs on 2 or more occasions, and
- (d) a reasonable person would consider the course of behaviour to be likely to cause the other person to suffer physical, emotional or psychological harm, including fear, alarm or distress.

Behaviour may have, or be reasonably likely to have, an effect on a person even if the conduct is directed at—

- (a) a third person, including a child, relative or friend of the person, or
- (b) the property of the person, or
- (c) a companion animal or any other domesticated animal.

Schedule 1[1] and [2] enable a court, when determining whether a person’s conduct amounts to stalking, to have regard to any pattern of violence in the person’s behaviour constituting an abusive behaviour offence.

Schedule 1[4] provides that all apprehended violence orders are taken to specify that the defendant is prohibited from engaging in behaviour that would constitute an abusive behaviour offence. **Schedule 1[5]** requires a court to make an interim apprehended violence order against a defendant charged with an abusive behaviour offence for the protection of the person against whom the offence appears to have been committed.

Schedule 2 Amendment of other Acts

Schedule 2.1 makes a consequential amendment to the *Crimes (Sentencing Procedure) Act 1999*.

Schedule 2.2 makes consequential amendments to the *Criminal Procedure Act 1986*.