

c2020-255E
GOVT--Government

LEGISLATIVE COUNCIL

Stronger Communities Legislation Amendment (Domestic Violence) Bill 2020

First print

Proposed amendments

No. 1 **Commencement**

Page 2, clause 2. Insert after line 9—

- (2A) Schedule 2[3], to the extent it inserts section 289VA, commences on 1 September 2021 or on a day or days to be appointed by proclamation, whichever is sooner.

No. 2 **Cross-examination of domestic violence complainant by accused person**

Page 9, Schedule 2[3]. Insert after line 11—

289VA Arrangements for complainant giving evidence in proceedings for domestic violence offence when accused person is unrepresented

- (1) This section applies to proceedings during which the accused person is not represented by an Australian legal practitioner.
- (2) A complainant cannot be directly examined in chief, cross-examined or re-examined by the accused person, but may instead be examined—
 - (a) by a person appointed by the court, or
 - (b) through the use of court technology.
- (3) For the purposes of subsection (2), the regulations may prescribe the following—
 - (a) a class of person who may be appointed by the court,
 - (b) the type of technology that is suitable for use,
 - (c) the procedures that apply for asking questions of the complainant.
- (4) A person appointed by the court is to ask the complainant only the questions that the accused person requests that the person put to the complainant.
- (5) A person acting in the course of an appointment under this section must not independently give the accused person legal or other advice.
- (6) The court does not have a discretion to decline to appoint a person under this section, or to decline the use of court technology under this section, despite anything to the contrary in section 306ZL or another Act or law.
- (7) This section applies whether or not an audio visual link or other similar technology, or alternative arrangements, are used by the complainant to give evidence.

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- (8) If a person is appointed in proceedings before a jury, or court technology is used, the Judge must—
 - (a) inform the jury that it is standard procedure in these cases to appoint a person or use technology to put the questions to the complainant, and
 - (b) warn the jury not to draw any inference adverse to the accused person or to give the evidence any greater or lesser weight because of the arrangement.
 - (9) This section extends to proceedings instituted before the commencement of this section, including proceedings that have been partly heard.
 - (10) If a person appointed under this section is an Australian lawyer, anything done or omitted to be done when acting in the course of the appointment or otherwise in accordance with this section does not, if the thing was done or omitted to be done in good faith, subject the person personally to any action, liability, claim or demand.