

STRONGER COMMUNITIES LEGISLATION AMENDMENT (DOMESTIC VIOLENCE) BILL 2020

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Schedule of the amendments referred to in the Legislative Council's message of 12 November 2020.

No. 1 **GOVT No. 1 [c2020-255E]**

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 **AJP No. 1 [c2020-257B]**

Page 3, Schedule 1. Insert after line 12—

**[1A] Section 9 Objects of Act in relation to domestic violence**

Insert after section 9(3)(f1)—

- (f2) the intersection between animal abuse and domestic violence,  
and

No. 3 **GRNS No. 1 [c2020-233A]**

Page 8, Schedule 2[3]. Insert after line 11—

**289UA Other parts of proceedings may be heard in camera**

- (1) The court may direct that any other part of any proceedings not specified in section 289U in relation to a domestic violence offence, or the entire proceedings, be held in camera.
- (2) The court may make a direction under this section on the court's own motion or at the request of a party to the proceedings.
- (3) In determining whether to make a direction under this section, the court is to consider the following matters—
  - (a) the need of the complainant to have any person excluded from those proceedings,
  - (b) the need of the complainant to have any person present in those proceedings,
  - (c) the interests of justice,
  - (d) any other matter that the court considers relevant.
- (4) The requirement under section 289U that any part of the proceedings in which evidence is given by a complainant be held in camera unless the court otherwise directs still applies whether or not a direction is made under this section.
- (5) If the court makes a direction under this section, it may, either absolutely or subject to conditions, exempt any person from the direction to the extent necessary to allow that person to be present as a support for a person giving evidence or for any other purpose that the court thinks fit.

- (6) This section does not affect—
  - (a) the entitlement of a complainant to have a person or persons present when giving evidence under section 306ZQ, or
  - (b) the entitlement of a vulnerable person to have a person present when giving evidence under section 306ZK.

No. 4 **GOVT No. 2 [c2020-255E]**

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.
- (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.