

First print



New South Wales

Crimes Amendment (Apprehended Violence Orders) Bill 1997

Explanatory note

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

Overview of Bill

The objects of this Bill are to amend the *Crimes Act 1900*:

- (a) to require a person who applies for, or for a variation of, an apprehended violence order (an *AVO*), to inform the court of any relevant family contact order that has been made or is being sought (that is, of any order relating to contact with children of the parties made pursuant to the *Family Law Act 1975* of the Commonwealth), and
- (b) to require a court, in deciding whether or not to make or vary an *AVO*, to consider whether contact with any children of the parties is relevant to the making or variation of the *AVO* and to have regard to any relevant family contact order of which it has been informed.

This Bill is part of a package of model Commonwealth/State provisions agreed to by the Standing Committee of Attorneys General to resolve possible conflicts between family contact orders and *AVOs*.

Crimes Amendment (Apprehended Violence Orders) Bill 1997

Explanatory note

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 a day to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendment to the *Crimes Act 1900* set out in Schedule 1.

Schedule 1 Amendment

Schedule 1 contains the amendment to the *Crimes Act 1900* described above.

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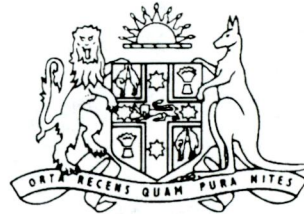


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Crimes Amendment (Apprehended Violence Orders) Bill 1997

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New South Wales

Crimes Amendment (Apprehended Violence Orders) Bill 1997

No. , 1997

A Bill for

An Act to amend the *Crimes Act 1900* to ensure that contact with any children of the parties is taken into account when apprehended violence orders are made or varied.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Amendment (Apprehended Violence Orders) Act 1997*.

2 Commencement

5

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

3 Amendment of Crimes Act 1900 No 40

The *Crimes Act 1900* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Section 3)

Section 562FA

Insert after section 562F:

- 562FA Consideration of contact with children** 5
- (1) A person who applies for, or for a variation of, an apprehended violence order must inform the court of:
- (a) any relevant family contact order of which the person is aware, or
 - (b) any pending application for a relevant family contact order of which the person is aware. 10
- (2) In deciding whether or not to make or vary an apprehended violence order, the court must:
- (a) consider whether contact between the protected person, or between the defendant, and any child of either of those persons is relevant to the making or variation of the order, and 15
 - (b) have regard to any relevant family contact order of which the court has been informed.
- (3) An apprehended violence order, or a variation of such an order, is not invalid merely because of a contravention of this section. 20
- (4) Subsection (1) applies to applications made after the commencement of this section and subsection (2) applies to the making or variation of apprehended violence orders after that commencement. 25
- (5) In this section:
- application* for an order means a complaint for an order.
- apprehended violence order* includes an interim order under section 562BB, but does not include a telephone interim order. 30

Crimes Amendment (Apprehended Violence Orders) Bill 1997

Schedule 1 Amendment

protected person means the person for whose protection an order is made or sought.

relevant family contact order means a section 68R contact order (within the meaning of Division 11 of Part 7 of the *Family Law Act 1975* of the Commonwealth) that relates to contact between the protected person, or between the defendant, and any child of either of those persons.

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New South Wales

Crimes Amendment (Apprehended Violence Orders) Bill 1997

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This PUBLIC BILL, originated in the LEGISLATIVE COUNCIL and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council

Clerk of the Parliaments



New South Wales

Crimes Amendment (Apprehended Violence Orders) Bill 1997

Act No , 1997

An Act to amend the *Crimes Act 1900* to ensure that contact with any children of the parties is taken into account when apprehended violence orders are made or varied.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Amendment (Apprehended Violence Orders) Act 1997*.

2 Commencement

5

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

3 Amendment of Crimes Act 1900 No 40

The *Crimes Act 1900* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Section 3)

Section 562FA

Insert after section 562F:

- 562FA Consideration of contact with children** 5
- (1) A person who applies for, or for a variation of, an apprehended violence order must inform the court of:
- (a) any relevant family contact order of which the person is aware, or
 - (b) any pending application for a relevant family contact order of which the person is aware. 10
- The court is required to inform the applicant of the obligation of the applicant under this subsection.
- (2) In deciding whether or not to make or vary an apprehended violence order, the court must: 15
- (a) consider whether contact between the protected person, or between the defendant, and any child of either of those persons is relevant to the making or variation of the order, and
 - (b) have regard to any relevant family contact order of which the court has been informed. 20
- (3) An apprehended violence order, or a variation of such an order, is not invalid merely because of a contravention of this section.
- (4) Subsection (1) applies to applications made after the commencement of this section and subsection (2) applies to the making or variation of apprehended violence orders after that commencement. 25
- (5) In this section:
- application* for an order means a complaint for an order. 30
 - apprehended violence order* includes an interim order under section 562BB, but does not include a telephone interim order.

Crimes Amendment (Apprehended Violence Orders) Bill 1997

Schedule 1 Amendment

protected person means the person for whose protection an order is made or sought.

relevant family contact order means a section 68R contact order (within the meaning of Division 11 of Part 7 of the *Family Law Act 1975* of the Commonwealth) that relates to contact between the protected person, or between the defendant, and any child of either of those persons.

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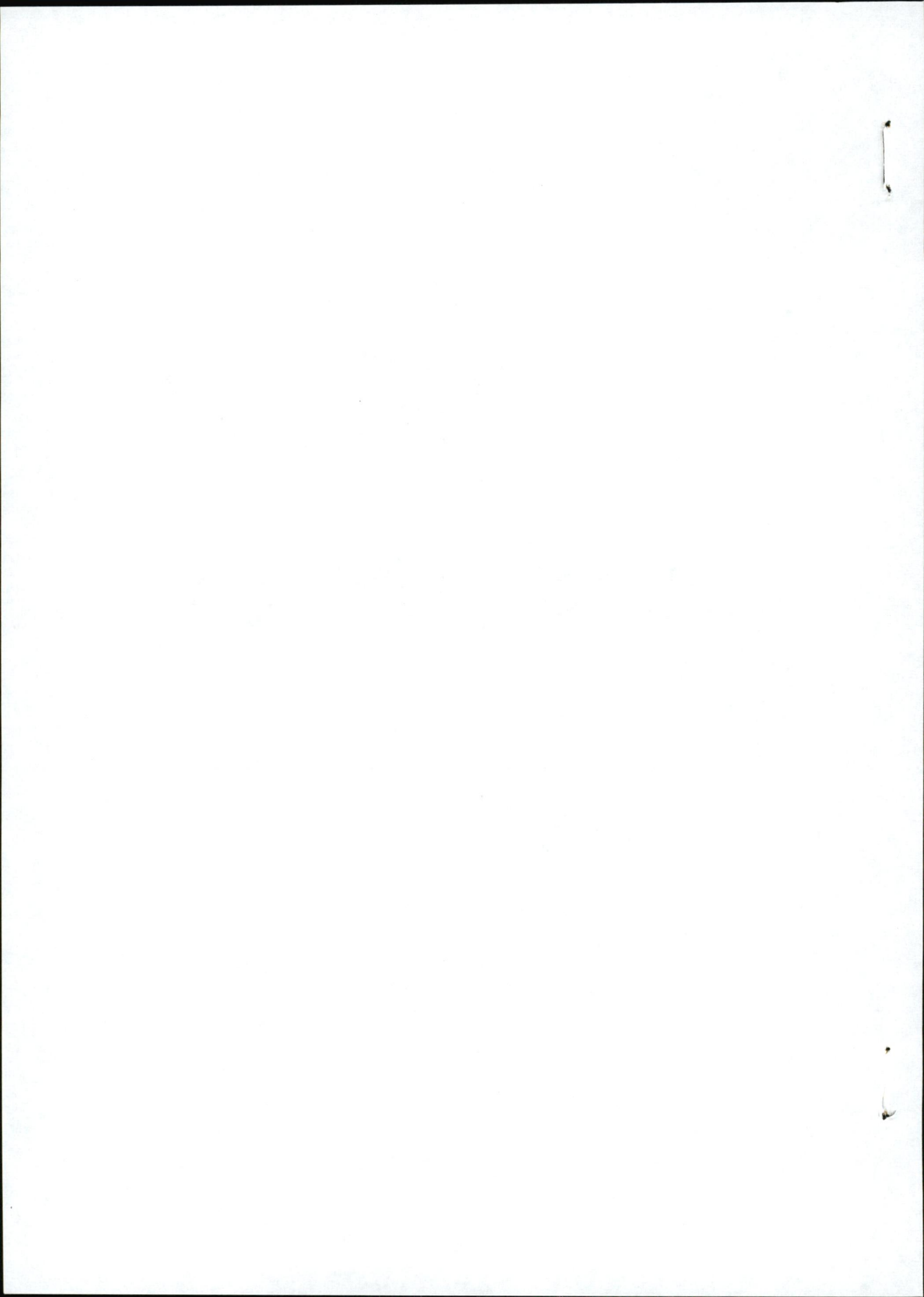


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New South Wales

Crimes Amendment (Apprehended Violence Orders) Act 1997 No 14

Act No 14, 1997

An Act to amend the *Crimes Act 1900* to ensure that contact with any children of the parties is taken into account when apprehended violence orders are made or varied. [Assented to 29 May 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Amendment (Apprehended Violence Orders) Act 1997*.

2 Commencement

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

3 Amendment of Crimes Act 1900 No 40

The *Crimes Act 1900* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Section 3)

Section 562FA

Insert after section 562F:

562FA Consideration of contact with children

- (1) A person who applies for, or for a variation of, an apprehended violence order must inform the court of:
 - (a) any relevant family contact order of which the person is aware, or
 - (b) any pending application for a relevant family contact order of which the person is aware.

The court is required to inform the applicant of the obligation of the applicant under this subsection.

- (2) In deciding whether or not to make or vary an apprehended violence order, the court must:
 - (a) consider whether contact between the protected person, or between the defendant, and any child of either of those persons is relevant to the making or variation of the order, and
 - (b) have regard to any relevant family contact order of which the court has been informed.
- (3) An apprehended violence order, or a variation of such an order, is not invalid merely because of a contravention of this section.
- (4) Subsection (1) applies to applications made after the commencement of this section and subsection (2) applies to the making or variation of apprehended violence orders after that commencement.
- (5) In this section:

application for an order means a complaint for an order.

apprehended violence order includes an interim order under section 562BB, but does not include a telephone interim order.

protected person means the person for whose protection an order is made or sought.

relevant family contact order means a section 68R contact order (within the meaning of Division 11 of Part 7 of the *Family Law Act 1975* of the Commonwealth) that relates to contact between the protected person, or between the defendant, and any child of either of those persons.

[Minister's second reading speech made in—
Legislative Council on 9 April 1997
Legislative Assembly on 22 May 1997]

BY AUTHORITY