

Domestic Violence (Enhancing Safety) Bill

Government Bill

Explanatory note

General policy statement

Background: need for reform

For a significant number of victims of violence, the most dangerous place they can be in is in their own home. In 2007/2008 family violence accounted for approximately 39% of homicides, 42% of kidnappings and abductions, 44% of grievous assaults, and 64% of serious assaults. We cannot legislate away behaviour when it is driven by broader social attitudes that will shift only over time. However, the way in which agencies respond to family violence can save lives and reduce the number of victims. This bill is predicated on the belief that there is still more that can be done to strengthen the criminal justice response from Police and criminal courts to protect victims of family violence, and help prevent them from becoming just another statistic.

Main changes to existing law

The Bill amends the Domestic Violence Act 1995, the Sentencing Act 2002, and the Bail Act 2000.

Amendments to Domestic Violence Act 1995 regarding enforcement

The Bill's provisions strengthen Police enforcement of the Domestic Violence Act 1995 in a number of ways. The current prescribed criteria for arresting respondents who breach protection orders are repealed. The provisions of the Crimes Act 1961 will apply so that a person whom a Police employee has good cause to suspect has committed a breach of a protection order may be arrested without a warrant, and without consideration of any other criteria.

The Bill also reforms the structure of, and penalties to, the offence provisions.

The key enforcement initiative is the introduction of an "on the spot" order issued by the Police for the purpose of protecting victims of domestic violence. These Police orders are most likely to be made when the Police have been called to a domestic violence incident in the home. The purpose of the Police order is to ensure the immediate safety of the victims by removing the alleged violent person from the home for a period of up to five days. The order will provide a period of safety in which victims can consider their future options. The victims' consent to the order will not be required.

The Police order may be made by Police in situations where there is insufficient evidence of an offence to arrest, but where the Police believe there is a likelihood of domestic violence occurring and a Police order is necessary to protect the safety of the victim. Safeguards against the inappropriate issue of Police orders are provided. A process, as well as penalties, have been provided for dealing with breaches of the Police order.

Amendments to Sentencing Act 2002

The Bill proposes that when the criminal courts are sentencing a person convicted of a domestic violence offence the courts must consider making a protection order on behalf of the victim (if such an order is not currently in force) if it is satisfied that the making of the order is necessary for the protection of the victim, and the victim does not object to the making of the order.

If the protection order is made, the defendant will be required to attend the compulsory stopping violence programme. The protection order may be made in addition to imposing a sentence or making any

other order. The criminal courts' role will, however, be restricted to making the protection order. Conditions, variations to the protection order, and matters relating to children will be dealt with by the Family Court.

Amendments to Bail Act 2000

The Bill will amend the Bail Act 2000 to ensure that when the Police have arrested a person for alleged domestic violence offending the Police may impose bail conditions that will provide more explicit protection for children.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on a date to be appointed by the Governor-General by Order in Council, and that one or more Orders in Council may be made appointing different commencement dates for different provisions.

Part 1

Amendments to Domestic Violence Act 1995

Clause 3 provides that *Part 1* amends the Domestic Violence Act 1995.

Clause 4 repeals section 32(3), which provides that a direction to attend a programme is a condition of a protection order. The purpose of making a direction a condition of the order is to make non-attendance an offence under section 49. However, this is no longer necessary because *new section 49A* (as inserted by *clause 5*) creates a separate and specific offence for failure to attend a programme.

Clause 5 substitutes *new sections 49 and 49A*. The effect of the substitution is to—

- remove the first and second tier penalty structure for the offence of contravening a protection order, leaving only the current maximum penalty of a term of imprisonment not exceeding 2 years:

- separate out the offence of failing to attend a programme as directed, and retain the current penalty of up to 6 months' imprisonment or a fine not exceeding \$5,000 for that offence.

A consequential amendment is also made to Part 2 of Schedule 1 of the Summary Proceedings Act 1957, to ensure that the offence of contravening a protection order is an indictable offence that may be tried summarily.

Clause 6 repeals section 50 and substitutes *new section 50*, which is the same as existing section 50(1) but with consequential amendments to ensure consistency with the language of the Policing Act 2008 and to refer to *new section 49A* (as inserted by *clause 5*). Existing section 50(2), which prescribes a number of statutory criteria that an arresting officer must consider before arresting a person who he or she has good cause to suspect has breached a protection order is not included in *new section 50*. This is to align section 50 with other legislation, in particular the Crimes Act 1961, which permits arrest without a warrant where there is good cause to suspect an offence has been committed, without consideration of any other criteria.

Clause 7 inserts a *new Part 6A* (*new sections 124A to 124K*), which is about Police-issued orders.

New section 124A is the interpretation section for this new Part and includes definitions of constable and qualified constable.

New section 124B sets out when a qualified constable may issue a Police order, and the matters that a constable must have regard to when considering whether to issue an order.

New section 124C provides that a Police order may be made without needing to obtain the consent of the person for whose safety the order is proposed to be issued.

New section 124D provides that a Police order may not be made against a child.

New section 124E sets out the effect of a Police order. A person against whom an order is made must immediately surrender any firearm or weapon in his or her possession or control and vacate any land or building occupied by the person named in the order for whose safety the order is made. A condition of the order is that the person against whom the order is made refrain from engaging in certain behaviours, which mirrors the standard conditions of a protection order set out in section 19.

New section 124F provides that while a Police order continues in force against any person, the provisions of a parenting order or agreement affording that person the day-to-day care of, or contact with, a child are suspended where the child is living with the person for whose safety the order was issued.

New section 124G requires a Police order to be served on the person against whom the order is issued. That person may meanwhile be detained for up to 2 hours. The order must be explained both to the person against whom the order is issued and the person for whose safety the order is issued.

New section 124H provides that a Police order comes into force immediately after service and continues in force for the period specified in the order, which must not exceed 5 days.

New section 124I provides that if a person served with a Police order refuses or fails to comply with the order, that person may be taken into custody and brought before a District Court. The District Court may direct that the Police order continue in force for up to a further 5 days, or direct that another Police order be issued, or make a temporary protection order.

New section 124J requires that a person taken into custody under *new section 124I* must be brought before a District Court within 24 hours.

New section 124K provides the Crown and Police immunity from criminal and civil liability except when acting in bad faith or without reasonable care.

Part 2

Amendments to Sentencing Act 2002

Clause 8 provides that *Part 2* amends the Sentencing Act 2002.

Clause 9 inserts a new heading *Protection orders* and *new sections 123A to 123G*, which empower a Judge when sentencing a person for a domestic violence offence to issue a protection order for the protection of the victim.

New section 123A is an interpretation provision and includes definitions of domestic relationship and domestic violence offence.

New section 123B sets out when a court may make a protection order against an offender. It must be satisfied that the order is necessary for the protection of the victim of the offence and that the victim of

the offence does not object to the making of the order. A protection order may be made in addition to imposing a sentence or making any other order.

New section 123C sets out the provisions of the Domestic Violence Act 1995 that apply to a protection order made under *new section 123B*. These provisions apply as if the protection order were a final protection order made under the Domestic Violence Act 1995.

New section 123D requires the Judge or Registrar to give certain explanations to the offender.

New section 123E requires the Registrar to immediately issue the protection order and, wherever practicable, to give a copy of the order to the offender before he or she leaves the court. The offender may be detained in the custody of the court for up to 2 hours for this purpose.

New section 123F requires the court to send a copy of the protection order to the Family Court nearest to where the victim resides. On receipt, the Family Court must enter the order in the records of the Family Court.

New section 123G provides that as soon as an order has been entered in the records of the Family Court, the order is to be treated as a final protection order made by that Court under the Domestic Violence Act 1995, and specified provisions of that Act are to apply.

Part 3

Amendment to Bail Act 2000

Clause 10 provides that *Part 3* amends the Bail Act 2000.

Clause 11 amends section 21 by providing that, if a person is charged with a domestic violence offence, the Police may impose any bail conditions considered reasonably necessary to protect any child who is in a domestic relationship with that person.

Regulatory impact statement

Executive summary

Despite a comprehensive set of laws designed to protect women, children, and men from violence in the home, New Zealand continues to have high rates of domestic violence, affecting thousands of New Zealanders from all cultures, backgrounds, and circumstances. During the 13 years of operation of the Domestic Violence Act 1995

(DVA), concerns have been raised about the need to strengthen the ability of the DVA to achieve its object of reducing and preventing domestic violence, and providing victims with effective legal protection. Legislative amendment is required to provide an optimal legislative response to domestic violence that will benefit all members of society.

Adequacy statement

The Ministry of Justice confirms that the analysis contained in this Regulatory Impact Statement meets the adequacy requirements. The need for regulatory reform has been considered in consultation with a range of stakeholders, and included a public domestic violence discussion document as well as consultation with government agencies and non-government organisations (NGOs) involved in the domestic violence sector.

Despite a comprehensive set of laws designed to protect women, children, and men from violence in the home, New Zealand continues to have high rates of domestic violence, affecting thousands of New Zealanders from all cultures, backgrounds and circumstances. The New Zealand Police recorded more than 80,000 offences and incidents as family violence in 2007. Although it is difficult to measure, the social and economic cost of domestic violence is significant, both for victims experiencing violence and for children who witness it. Offending can inflict emotional harm, serious physical injury, and death.

Although there is a general consensus that the principles of the DVA are sound, concerns raised with the Ministry of Justice about particular aspects of the DVA during its 13 years of operation indicated a need for further examination and consultation. Many concerns related to the need to strengthen the ability of the DVA to achieve its object of reducing and preventing domestic violence, and providing victims with effective legal protection. This strengthening requires legislative reform in order to improve the way the DVA operates. Further non-legislative reform is being undertaken, including improvements to law enforcement procedures and changes to NGO sector funding.

There are concerns that the DVA does not provide adequate protection for victims through an appropriately strong enforcement response — especially at the time that Police are called to a domes-

tic violence incident, including those incidents involving breaches of protection orders — and about the ability to protect children of alleged offenders in setting Police bail conditions. Concerns were also raised about the structure of the offences relating to breach of protection orders and their penalties.

The above issues raise concerns about the effectiveness of the current DVA that affect all parties — victims, respondents, and children — as well as the Police and the court system. Keeping the status quo exposes all of these key stakeholders to levels of risk that will be minimised by the reform proposals.

Objectives

The reforms seek to strengthen the DVA and related legislation to ensure an optimal response to domestic violence. In line with the object of the DVA, the policy objectives of the reforms are to—

- strengthen the enforcement response to better protect victims and to hold offenders accountable; and
- enable the courts in the criminal jurisdiction to make protection orders in certain circumstances.

Alternative options

Non-regulatory options

An effective legislative response to domestic violence forms an important component of the overall government's response to family violence, but it operates within other measures such as prevention and education.

In each case where legislative reform is proposed, regulation is viewed as providing the best way to achieve the desired policy objectives and non-regulatory options are considered to provide a less effective response.

Alternative regulatory options

The public domestic violence discussion document *A Review of the Domestic Violence Act 1995 and Related Legislation* sets out a range of regulatory options for some reform proposals. These alternative regulatory measures were discounted after careful consideration of the issues and after consultation. Many offered a weak or partial

solution, especially in terms of victim safety. Other options did not adequately balance the rights of all parties.

Status quo

Problems with the status quo gave rise to the issues consulted on in regard to proposals for change. Therefore, retaining the status quo in each case would only serve to perpetuate the particular problem under consideration.

Preferred option

Legislative reform

The preferred options involve amending the law to—

- strengthen the enforcement response to better protect victims and hold offenders accountable by—
 - introducing a new on-the-spot order issued by Police to protect victims of domestic violence:
 - extending considerations under Police bail to include the safety of any children in a domestic relationship with the alleged offender:
 - repealing the arrest without warrant for breach criteria:
 - removing the two-tier penalty system:
 - creating a separate offence for failure by a respondent to attend a programme:
- improve links between the Family Court and the criminal court by allowing the criminal court to issue a protection order when sentencing a domestic violence related case, where the offender is in a domestic relationship with the victim, based on the same criteria for protection orders in the Family Court, with any variations or matters relating to children being referred to the Family Court.

Benefits

The proposed reforms will improve Justice sector outcomes and assist in enhancing the safety of New Zealand society. The proposals assist in achieving these outcomes by reducing crime and the impact of crime, increasing the accountability of offenders, and creating a more trusted justice system.

The reforms will increase protection for private individuals, including children, who are victims of domestic violence, and the accountability of offenders by strengthening the enforcement response, including the introduction of a Police-issued on-the-spot order. Better links between the Family Court and the criminal court will improve court processes.

Costs

The implementation costs of the proposals will fall on Vote: Courts, Vote: Police, and Vote: Corrections. Increased costs for courts will arise from greater access to programmes and a greater range of judicial directions, including increased judicial and staff time, training, and information technology changes. Police face costs relating to the issue of on-the-spot orders. Corrections will have increased costs due to an expected increase in convictions for breach of protection orders. These justice sector agencies appropriately bear the costs of proposals aimed at improving justice sector outcomes.

Implementation and review

The proposals will be implemented through the Domestic Violence (Enhancing Safety) Bill.

Consultation

The following agencies have been consulted on this paper: Department of Corrections, Office for Disability Issues, Office of the Children's Commissioner, Department of Labour, Ministry of Pacific Island Affairs, the Families Commission, New Zealand Police, Ministry of Social Development, Te Puni Kōkiri, the Treasury, and the Ministry of Women's Affairs.

The Department of the Prime Minister and Cabinet was informed.

Hon Simon Power

Domestic Violence (Enhancing Safety) Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
 This Act is the Domestic Violence (Enhancing Safety) Act **2008**.
- 2 Commencement** 5
- (1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.
- (2) One or more Orders in Council may be made appointing different dates for the commencement of different provisions and for different purposes. 10

Part 1
Amendments to Domestic Violence Act
1995

- 3 Principal Act amended**
This Part amends the Domestic Violence Act 1995. 5
- 4 Power to direct respondent or associated respondent to attend programme**
Section 32(3) is repealed.
- 5 New sections 49 and 49A substituted**
- (1) Section 49 is repealed and the following sections are substituted: 10
- “49 Offence to contravene protection order**
- “(1) Every person commits an offence who, without reasonable excuse,—
- “(a) does any act in contravention of a protection order; or 15
- “(b) fails to comply with any conditions of a protection order.
- “(2) Every person who commits an offence against this section is liable on conviction on indictment to imprisonment for a term not exceeding 2 years. 20
- “49A Offence to fail to comply with direction**
- “(1) Every person commits an offence who, without reasonable excuse, fails on any occasion to comply with a direction made under section 32(1) or (2) to attend a specified programme.
- “(2) Every person who commits an offence against this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$5,000.” 25
- (2) The second column of the item relating to the Domestic Violence Act 1995 in Part 2 of Schedule 1 of the Summary Proceedings Act 1957 is consequentially amended by omitting “49(3)” and substituting **“49(2)”**. 30
- 6 New section 50 substituted**
Section 50 is repealed and the following section substituted:

“50 Power to arrest for breach of protection order

Where a protection order is in force, any constable may arrest, without warrant, any person whom the constable has good cause to suspect has committed a breach of the order (other than a breach that constitutes an offence against **section 49A**).” 5

7 New Part 6A inserted

The following Part is inserted after section 124:

“Part 6A**“Police orders**

10

“124A Interpretation

In this Part, unless the context otherwise requires,—

“**constable** has the meaning given to it by section 4 of the Policing Act 2008

“**Police order** means an on-the-spot order issued by a qualified constable under **section 124B** 15

“**qualified constable** means a constable who is of or above the level of position of sergeant.

“124B Qualified constable may issue Police order

“(1) A qualified constable may issue a Police order against a person (**person A**) who is in a domestic relationship with another person (**person B**) if the constable— 20

“(a) does not arrest person A for an offence; but

“(b) has reasonable grounds to believe, having regard to the matters specified in **subsection (2)**, that the issue of a Police order is necessary to ensure the immediate safety of person B. 25

“(2) When considering whether to issue a Police order against person A, the constable must have regard to the following matters:

“(a) whether, in the circumstances, he or she considers it is likely that— 30

“(i) person A has used, or is using, domestic violence against person B:

“(ii) person A has used, or is using, domestic violence against any other person with whom he or she has a domestic relationship: 35

- “(b) whether there is a serious likelihood that person A will use, or again use, domestic violence against person B:
- “(c) the welfare of any children residing with person B:
- “(d) the hardship that may be caused if the order is issued:
- “(e) any other matter the constable considers relevant. 5
- “(3) A constable who is not a qualified constable may issue a Police order under this section only if he or she is authorised by a qualified constable to do so.
- “124C Consent to issue of order not required**
- A Police order may be issued without the consent of the person 10
for whose safety the order is proposed to be issued.
- “124D Police order not to be issued against child**
- A Police order may not be issued against a child.
- “124E Effect of Police order**
- “(1) A person against whom a Police order is issued must immedi- 15
ately—
- “(a) surrender to a constable any firearm or other weapon in his or her possession or control:
- “(b) vacate any land or building occupied by a person at risk, whether or not he or she has a legal or equitable interest 20
in the land or building.
- “(2) It is a condition of every Police order that the person against whom the order is issued must not—
- “(a) physically or sexually abuse a person at risk; or
- “(b) threaten to physically or sexually abuse a person at risk; 25
or
- “(c) damage, or threaten to damage, property of a person at risk; or
- “(d) engage, or threaten to engage, in other behaviour, including intimidation or harassment, that amounts to 30
psychological abuse of a person at risk; or
- “(e) encourage any person to engage in behaviour against a person at risk, where the behaviour, if engaged in by the person against whom the order is issued, would be 35
prohibited by the order; or

- “(f) watch, loiter near, or prevent or hinder access to or from the place of residence, business, or employment of a person at risk, or an educational institution attended by a person at risk, or any other place that a person at risk visits often; or 5
- “(g) follow a person at risk about or stop or accost a person at risk in any place; or
- “(h) where a person at risk is present on any land or building, enter or remain on that land or building in circumstances that constitute a trespass; or 10
- “(i) make any other contact with a person at risk (whether by telephone, correspondence, or otherwise) except such contact as is reasonably necessary in any emergency.
- “(3) In this section, **person at risk** means—
- “(a) the person named in the Police order for whose safety the order is issued; and 15
- “(b) any child residing with that person.
- “124F Suspension of parenting orders, etc**
- “(1) This section applies where—
- “(a) a Police order is issued; and 20
- “(b) a child is residing with a person named in the Police order for whose protection the order is issued (a **protected child**); and
- “(c) a parenting order or day-to-day care or contact agreement is in force in respect of a protected child; and 25
- “(d) the person against whom the Police order is issued is a party to that parenting order or agreement.
- “(2) While a Police order continues in force against any person, the provisions of a parenting order or an agreement affording to that person the day-to-day care of, or contact with, a protected child are suspended. 30
- “124G Police order to be served and explained**
- “(1) A constable who issues a Police order must arrange for the order to be served on the person against whom the order is issued. 35
- “(2) For the purpose of **subsection (1)**, the constable may detain the person against whom the order is to be issued for a period,

not exceeding 2 hours, that may be necessary to enable the order to be issued and served.

“(3) A constable who issues a Police order must, if and to the extent that it is reasonably practicable to do so in the circumstances, either at the time of issue or service of the order, explain to the person against whom the order is issued,— 5

“(a) the purpose, duration, and effect of the order; and

“(b) the consequences that may follow if the person against whom the order is issued contravenes the order.

“(4) A constable who issues a Police order must also, either before or after issue and service of the order, explain to the person for whose safety the order is issued the matters set out in **subsection (3)(a) and (b)**. 10

“**124H Duration of Police order**

“(1) A Police order comes into force immediately on being served on the person against whom the order is issued. 15

“(2) A Police order continues in force for the period specified in the order, but that period must not exceed 5 days.

“(3) In considering the period to be specified in the order, the qualified constable must have regard to the matters set out in **section 124B(2)**. 20

“**124I Failure to comply with Police order**

“(1) In this section,—

“**person A** means a person against whom a Police order is issued 25

“**person B** means the person named in a Police order for whose safety the order is issued.

“(2) If a person A refuses or fails to comply with a Police order, a constable may, using such force as is reasonably necessary, take person A into custody. 30

“(3) A person A who is taken into custody under **subsection (2)** must be brought before a District Court as soon as possible.

“(4) Where the District Court is satisfied that a person A has refused or failed to comply with a Police order, the District Court may,— 35

- “(a) if the Police order has not expired, direct that the Police order continue in force for a further period not exceeding 5 days from that time; or
- “(b) if the Police order has expired, direct that another Police order be issued in the same terms as the expired order and served in accordance with **section 124G**; or 5
- “(c) if person B does not object and without an application from any person, issue a temporary protection order under section 14 against person A for the protection of person B. 10
- “(5) However, the District Court may not issue an order referred to in **subsection (4)(c)** if person B has made an application for a protection order against person A that is currently pending determination by a Court.
- “124J District Court summons 15**
- “(1) If a person to whom **section 124I(3)** applies is not brought before a District Court within 24 hours of being taken into custody, the person must, at the expiry of that period, be released and may be summoned to appear before a District Court.
- “(2) Where a person is summoned under **subsection (1), section 124I(4) and (5)** applies. 20
- “124K Police employees, etc, protected from proceedings**
- No action or proceedings may be brought against the Crown or any constable in respect of any thing done, or omitted to be done, for the purpose of carrying out the provisions of this Part, where the Crown or the constable acted in good faith and with reasonable care.” 25

Part 2

Amendments to Sentencing Act 2002

- 8 **Principal Act amended 30**
This Part amends the Sentencing Act 2002.
- 9 **New heading and sections 123A to 123G inserted**
 The following heading and sections are inserted after section 123:

*“Protection orders***“123A Interpretation of terms used in this section and sections 123B to 123G**

For the purpose of this section and **sections 123B to 123G**, unless the context otherwise requires,— 5

“child has the meaning given to it by section 2 of the Domestic Violence Act 1995

“domestic relationship has the meaning given to it by section 4 of the Domestic Violence Act 1995

“domestic violence offence means an offence against any enactment (other than the Domestic Violence Act 1995) involving the use of violence against a person, other than a child, with whom the offender is, or has been, in a domestic relationship 10

“victim of the offence means the person against whom the offence was committed by the offender 15

“violence has the meaning given to it by section 3(2) of the Domestic Violence Act 1995.

“123B Protection order

“(1) This section applies if—

“(a) the offender is convicted of a domestic violence offence; and 20

“(b) there is not currently in force a protection order against the offender made under the Domestic Violence Act 1995 for the protection of the victim of the offence; and

“(c) the victim of the offence has not made an application under the Domestic Violence Act 1995 for a protection order against the offender that is currently pending determination by a Family Court or District Court. 25

“(2) The court may issue a protection order against the offender if— 30

“(a) it is satisfied that the making of the order is necessary for the protection of the victim of the offence; and

“(b) the victim of the offence does not object to the making of the order.

“(3) A protection order may be made under this section in addition to imposing a sentence or making any other order. 35

“123C Provisions applying to protection order made under section 123B

- “(1) Subject to the modifications set out in **subsection (2)**, the following provisions apply so far as applicable to a protection order made under **section 123B** as if that order were a final protection order made under the Domestic Violence Act 1995: 5
- “(a) sections 16(1) and **(5)**, 19 (except subsection (3)), 20 (except subsection (5)), 21 (except subsections (2)(a), (4), and (5)), 24(3), 25(1) (except paragraph (a)), 26(1), 28 (except subsection (6)), 32(1) and (4), and 33 of the Domestic Violence Act 1995; and 10
- “(b) section 27 of the Domestic Violence Act 1995, except that the court may not impose a condition relating to the matters set out in subsection (2) of that section.
- “(2) The modifications referred to in **subsection (1)** are as follows: 15
- “(a) every reference to protection order or final order must be read as a reference to an order made under **section 123B**;
- “(b) every reference to the respondent must be read as a reference to the offender: 20
- “(c) every reference to the applicant or protected person must be read as a reference to the victim of the offence.

“123D Explanation of protection order

- “(1) On making a protection order, the Judge or Registrar must explain to the offender— 25
- “(a) the effect of the order; and
- “(b) the consequences that may follow if the offender fails to comply with the terms of the order; and
- “(c) the means by which the order can be varied or discharged. 30
- “(2) Failure to give the explanation required by **subsection (1)** does not affect the validity of the order made.

“123E Protection order to be issued and served on offender

- “(1) Where the court issues a protection order under **section 123B**, the Registrar of that court must— 35
- “(a) immediately issue the order; and

- “(b) wherever practicable, serve a copy of the order on the offender before he or she leaves the court.
- “(2) For the purpose of **subsection (1)**, the court may direct that the offender be detained in the custody of the court for a period, not exceeding 2 hours, that may be necessary to enable the order to be issued and a copy served on the offender. 5
- “**123F Protection order to be sent to Family Court**
- “(1) Immediately after the issue of a protection order in accordance with **section 123E**, the court must send a copy of the order to the Family Court nearest to where the victim of the offence resides. 10
- “(2) On receipt of a copy of an order under **subsection (1)**, the Registrar of the Family Court must enter the order in the records of the Family Court.
- “**123G Protection order treated as if made by Family Court** 15
- As soon as an order has been entered in the records of the Family Court under **section 123F(2)**,—
- “(a) the order is to be treated as if it were a final protection order made by that court under the Domestic Violence Act 1995; and 20
- “(b) sections **16(1A) and (1B)**, 22(2)(b) and (6), 23, **28E, 28F**, 29 to 31, 34, 35, 38 to 44, 45(2), 46(1), 47(1), **47A to 47C**, 48, **49, 49A(1)(a) and (2)**, 50, 82, and 88 to 90 of the Domestic Violence Act 1995 apply to the order accordingly.” 25

Part 3

Amendment to Bail Act 2000

- 10 **Principal Act amended**
This Part amends the Bail Act 2000.
- 11 **Defendant admitted to bail by Police employee** 30
 Section 21 is amended by inserting the following subsections after subsection (4):
- “(4A) If a person charged with a domestic violence offence is granted bail under this section, the Police employee who takes

the bail bond of that person may, in addition to the conditions that may be imposed under subsections (3) and (4), also impose any condition that he or she considers reasonably necessary to protect any child who is in a domestic relationship with that person.

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“(4B) For the purposes of this subsection and **subsection (4A)**,—

“**domestic relationship** has the same meaning given to it by section 4 of the Domestic Violence Act 1995

“**domestic violence offence** means an offence against any enactment involving the use of violence against a person with whom the offender is, or has been, in a domestic relationship

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“**violence** has the meaning given to it by section 3(2) of the Domestic Violence Act 1995.”

