

Crimes (Family Violence) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 states the purpose of the Act.

Clause 2 states that the Act will come into operation when proclaimed.

Clause 3 contains the definitions.

PART 2—INTERVENTION ORDERS

Clause 4 sets out the circumstances in which a court may make an intervention order.

Clause 5 (1) provides guidelines as to possible terms of an intervention order.

Clause 5 (2) sets out the factors a court is to take into account before making an intervention order.

Clause 6 provides that an intervention order remains in force for a period, not exceeding 12 months, specified by the court.

Clause 7 lists the persons entitled to make a complaint for an intervention order.

Clause 8 provides that an interim intervention order may be made in the absence of the defendant.

PART 3—PROCEDURE

Clause 9 provides that when a complaint for an intervention order is made, a Clerk of Courts may issue a summons or, where the circumstances are sufficiently grave, a warrant for the apprehension of the defendant.

Clause 10 states that if a complainant seeks a warrant to issue for the apprehension of the defendant, the complaint must be on oath and in writing.

Clause 11 specifies that if the complainant is not the aggrieved family member, the complainant must serve a copy of the complaint upon the aggrieved family member.

Clause 12 details the procedure to be followed if the defendant is not present at the hearing of the complaint.

Clause 13 deals with proceedings brought by a person other than an aggrieved family member or a member of the police force. Such proceedings must not commence or continue if the aggrieved family member objects.

Clause 14 states that consent orders may be made under this Act.

Clause 15 sets out the court's duty to explain the terms and effect of a proposed order to the defendant.

Clause 16 empowers a court to revoke or vary an order made under the Act and lists the persons entitled to apply for variation or revocation.

Clause 17 deals with service of intervention orders.

Clause 18 provides that an intervention order may be made even though the defendant has been charged with an offence arising out of the same conduct as that out of which the complaint for the intervention order arose.

PART 4—MISCELLANEOUS

Clause 19 provides that the *Bail Act 1977* applies to a defendant when the defendant comes before the court on return of a summons or when arrested pursuant to a warrant.

Clause 20 states that a defendant may appeal against the making of an intervention order to the County Court. The giving of notice of appeal does not stay the operation of the order, but the defendant may apply for stay of the order.

Clause 21 states that a complaint may appeal to the County Court against a decision not to make an order or the terms of the order.

Clause 22 provides that a defendant who breaches an intervention order is guilty of an offence.

Clause 23 empowers the police to arrest a defendant for breach of an intervention order.

Clause 24 restricts the publication of reports of proceedings involving children.

Clause 25 provides that an order made under this Act applies despite any order under the *Children's Court Act 1958*.

Clause 26 empowers the Governor in Council to make regulations with respect to matters under the Act.

PART 5—AMENDMENTS TO THE *CRIMES ACT 1958*

Clause 27 amends section 95 of the Crimes Act to the effect that the consent of the DPP is not required before a person can be charged with stealing or causing unlawful damage to his or her spouse's property.

Clause 28 limits the scope of the defence available to married persons under section 338 of the *Crimes Act 1958*. (Section 338 of the Crimes Act provides a married person with a defence to certain offences, including obstructing an officer of justice, if the offence is committed merely by receiving, relieving, comforting or assisting a spouse.)