

Authorised Version

Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026

No. 1 of 2026

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Victoria

**Justice Legislation Amendment (Family
Violence, Stalking and Other Matters)
Act 2026[†]**

No. 1 of 2026

[Assented to 10 February 2026]

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The purposes of this Act are—

- (a) to amend the **Family Violence Protection Act 2008**—
 - (i) to further provide for service of family violence intervention orders and other documents; and

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- (ii) in relation to the duration of final orders; and
 - (iii) to provide for consideration of misidentification, age and cognitive impairment in making family violence intervention orders and, in the case of misidentification, issuing of family violence safety notices;
 - (iv) to ensure a family violence intervention order cannot be made against a child aged under 12 years; and
 - (v) in relation to legal representation in contested family violence intervention order applications; and
 - (vi) to remove limitations on making of family violence intervention orders where family violence occurred outside Victoria; and
 - (vii) to further clarify behaviours constituting family violence; and
 - (viii) in relation to conditions of family violence intervention orders and family violence safety notices, including conditions relating to animals; and
 - (ix) to ensure continuing protection of a family violence intervention order made to protect a child; and
- (b) to amend the **Crimes Act 1958** in relation to—
- (i) the offence of stalking; and
 - (ii) alternative verdicts that a jury may reach in the trial of a person charged with a penetrative sexual offence; and

- (iii) the operation of transitional provisions;
and
- (c) to amend the **Criminal Procedure Act 2009**
in relation to—
 - (i) the offence of stalking; and
 - (ii) the functions of intermediaries; and
- (d) to amend the **Evidence (Miscellaneous Provisions) Act 1958** in relation to notice requirements in respect of evidence of confidential communications and protected health information; and
- (e) to amend the **Jury Directions Act 2015**—
 - (i) to apply certain jury directions to the offence of non-fatal strangulation and intimate image offences; and
 - (ii) to re-enact repealed jury directions in relation to consent; and
- (f) to amend the **Personal Safety Intervention Orders Act 2010**—
 - (i) in relation to the meaning of stalking under that Act; and
 - (ii) to provide for a court to make an interim order on its own motion in a criminal proceeding or matter relating to bail; and
- (g) to make minor and technical amendments to those Acts.

2 Commencement

- (1) This Act (other than Divisions 2 and 3 of Part 2, Division 1 of Part 3, Divisions 1 and 4 of Part 4, Part 5, Part 6 and Divisions 1 and 2 of Part 7) comes into operation on the day after the day on which it receives the Royal Assent.

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Matters) Act 2026
No. 1 of 2026

Part 1—Preliminary

- (2) Division 2 of Part 2, Division 1 of Part 3, Divisions 1 and 4 of Part 4, Part 5, Part 6 and Division 2 of Part 7 come into operation on 26 April 2026.
- (3) Subject to subsection (4), Division 3 of Part 2 and Division 1 of Part 7 come into operation on a day or days to be proclaimed.
- (4) If a provision referred to in subsection (3) does not come into operation before 10 November 2026, it comes into operation on that day.

Part 2—Amendment of Family Violence Protection Act 2008

Division 1—Stage 1 amendments

3 Definitions for this Division

In section 60A of the **Family Violence Protection Act 2008**—

- (a) in the definition of *application or appeal relating to bail*, in paragraph (f), for "section 18AG." **substitute** "section 18AG;";
- (b) **insert** the following definition—

"relevant party means, in a criminal proceeding, the party who—

 - (a) is accused; or
 - (b) has been found guilty; or
 - (c) is appealing having been found guilty; or
 - (d) has had their finding of guilt set aside on appeal."

4 Court may make interim order on its own motion in a criminal proceeding

(1) In section 60C(1) of the **Family Violence Protection Act 2008**—

- (a) for "an accused" **substitute** "a relevant party";
- (b) for "the accused" **substitute** "the relevant party".

(2) In section 60C(3)(b) of the **Family Violence Protection Act 2008**, for "person accused" **substitute** "relevant party".

- (3) In section 60C(4) of the **Family Violence Protection Act 2008**, for "accused" (wherever occurring) **substitute** "relevant party".

5 Interim order to protect child if interim order made under section 60B or 60C

In section 60F(1)(a) and (b) of the **Family Violence Protection Act 2008**, for "accused" **substitute** "relevant party".

6 Oral explanation of interim order

- (1) In section 60G(1) of the **Family Violence Protection Act 2008**, for "accused" (where twice occurring) **substitute** "relevant party".
- (2) In section 60G(2) of the **Family Violence Protection Act 2008**—
- (a) for "an accused" **substitute** "a relevant party";
 - (b) for "the accused" (where twice occurring) **substitute** "the relevant party".

7 Documents to be given to adult accused who is before the court

- (1) In the heading to section 60H of the **Family Violence Protection Act 2008**, for "accused" **substitute** "relevant party".
- (2) In section 60H of the **Family Violence Protection Act 2008**, for "accused" (where twice occurring) **substitute** "relevant party".

8 Service of interim order and other documents

In section 60I(1) of the **Family Violence Protection Act 2008**, for "accused" **substitute** "relevant party".

9 Interim order taken to be application for a family violence intervention order and treated as application under this Act

In section 60J(a)(ii) of the **Family Violence Protection Act 2008**, for "accused" substitute "relevant party".

10 Mention date and hearing for proceeding for final order

In section 60L(a)(i) and (ii) of the **Family Violence Protection Act 2008**, for "accused" substitute "relevant party".

11 Court may order alternative service

At the foot of section 202A(1) of the **Family Violence Protection Act 2008** insert—

"Note

An order for alternative service may not be made with respect to service on a child or service of a family violence safety notice—see section 202."

12 Presumption as to effective service by post, electronic communication

(1) In section 202B(1) of the **Family Violence Protection Act 2008**—

- (a) after "section 202A(3)" insert "or 202C(3)";
- (b) after "alternative service" insert "or substituted service".

(2) In section 202B(3) of the **Family Violence Protection Act 2008**—

- (a) after "alternative service" insert "or substituted service";
- (b) after "section 202A(3)" insert "or 202C(3)".

13 Substituted service

After section 202C(2) of the **Family Violence Protection Act 2008** insert—

- "(3) If the court makes an order under subsection (1), the court may order that the document be taken to have been served—
- (a) on the happening of any specified event; or
 - (b) on the expiry of any specified time."

Division 2—Stage 2 amendments

Subdivision 1—Service

14 Service of counselling orders, eligibility report etc.

In section 138(1)(b) and (2) of the **Family Violence Protection Act 2008**, for "10 days" substitute "15 days".

15 Substituted service

- (1) In section 202C(1) of the **Family Violence Protection Act 2008**, for "not possible" substitute "not practicable".
- (2) For section 202C(2) of the **Family Violence Protection Act 2008** substitute—

"(2) An order under subsection (1) may not be made with respect to the service of—

 - (a) a family violence safety notice; or
 - (b) any document that is required under this Act to be served on a person who is a child."

(3) After section 202C(2) of the **Family Violence Protection Act 2008** insert—

- "(2A) The court may make an order for substituted service on the application of a party to the proceeding or on its own motion.
- (2B) Without limiting any matter to which the court may have regard in deciding whether to make an order under subsection (1) or the steps to be specified in the order, the court may have regard to the following—
- (a) any risk to the safety of the affected family member, the protected person or any other person of any delay in service of the document;
 - (b) the nature and number of any previous attempts to serve the person;
 - (c) any reason that personal service is not practicable;
 - (d) the manner of service proposed and the likelihood that it will bring the document to the attention of the person to be served;
 - (e) any evidence that the person to be served has been deliberately avoiding service;
 - (f) any impairment or vulnerability of the person to be served;
 - (g) any known view of the protected person or affected family member on—
 - (i) the manner of service proposed;
and
 - (ii) the likelihood that it will bring the document to the attention of the person to be served; and

- (iii) any risks to the safety of the protected person or affected family member."

Subdivision 2—Extraterritoriality

16 Court may make interim order

For section 53(3) of the **Family Violence Protection Act 2008** substitute—

- "(3) The court may make an interim order whether or not—
- (a) some or all of the alleged family violence occurred outside Victoria; and
 - (b) the affected family member was outside Victoria at the time at which some or all of the family violence alleged in the application for the family violence intervention order occurred.

Note

The application for the family violence intervention order must be made to the proper venue of the court—see section 42."

17 Power of court to make final order

For section 74(3) of the **Family Violence Protection Act 2008** substitute—

- "(3) The court may make a final order whether or not—
- (a) some or all of the family violence constituting grounds for the order occurred outside Victoria; and
 - (b) the affected family member was outside Victoria at the time at which some or all of the family violence constituting grounds for the family violence intervention order occurred.

Note

The application for the family violence intervention order must be made to the proper venue of the court—see section 42."

Subdivision 3—Conditions and meaning of *family violence*

18 Definitions

In section 4 of the **Family Violence Protection Act 2008** insert the following definition—

"*stalking* has the same meaning as it has in section 21A of the **Crimes Act 1958**";

19 Meaning of *family violence*

In section 5(2) of the **Family Violence Protection Act 2008**—

(a) after paragraph (ba) insert—

"(bb) stalking a family member;"

(b) after paragraph (d) insert—

"(da) using or misusing, or attempting or threatening to use or misuse, systems, processes and providers of services as a means of coercing or controlling a family member;

Examples

1. Intentional misuse of court processes for the purpose of coercing or controlling a family member.
2. Making malicious allegations or reports about the family member to entities such as Victoria Police, child protection services, health services, family services, and entities having responsibility for immigration.

- (db) influencing or attempting to influence the actions or decisions of providers of family, health and other services as a means of coercing or controlling a family member;"
- (c) for paragraph (e) **substitute**—
 - "(e) causing or threatening to cause the death or mistreatment of, or injury to, an animal, whether or not the animal belongs to the family member to whom the behaviour is directed so as to control, dominate or coerce the family member;

Example

Mistreatment of an animal may include withholding the animal's food, water, shelter or medication.

- (f) causing or threatening to cause the sale, removal, abandonment, rehoming or surrendering of an animal, whether or not the animal belongs to the family member to whom the behaviour is directed so as to control, dominate or coerce the family member."

20 Conditions to be included in family violence intervention order

In section 81(2) of the **Family Violence Protection Act 2008**—

- (a) after paragraph (a) **insert**—
 - "(ab) prohibiting the respondent from locating or attempting to locate the protected person; and
 - (ac) prohibiting the respondent from using an animal to commit family violence against the protected person; and";

(b) after paragraph (e) **insert**—

"(ea) if a specified animal is the personal property of the protected person, prohibiting the respondent from being anywhere within a specified distance of the specified animal or a specified place where a specified animal is kept; and".

21 Conditions about personal property

(1) After section 86(a) of the **Family Violence Protection Act 2008 insert**—

"(ab) if a specified animal is the personal property of the protected person, a condition directing the respondent—

(i) to return the specified animal to the protected person; and

(ii) if the court considers appropriate or necessary, to return to or give to the protected person any items that are reasonably necessary for the care, health or wellbeing of the animal;

Example

Items may include the animal's food, shelter or medication."

(2) At the end of section 86 of the **Family Violence Protection Act 2008 insert**—

"(2) A condition referred to in subsection (1)(a) or (ab) may include the manner in which the property or items are to be returned to or given to the protected person, including that the return of the specified animal or items take place in the presence of a police officer or another specified person.

Example

A specified person may be a family friend who is trusted by the protected person and the respondent."

Subdivision 4—Legal representation

22 Representation of respondent

(1) Before section 71(1) of the **Family Violence Protection Act 2008** insert—

"(1AA) This section applies if the respondent has not obtained legal representation after being given a reasonable opportunity to do so for any of the following purposes—

- (a) cross-examination of a protected witness, if the respondent is prohibited under section 70(3) from cross-examining the protected witness;
- (b) cross-examination by the legal representative of a protected witness who is the applicant."

(2) For section 71(1) of the **Family Violence Protection Act 2008** substitute—

"(1) The court must order Victoria Legal Aid to offer the respondent legal representation for any purpose referred to in subsection (1AA)."

(3) In section 71(4) of the **Family Violence Protection Act 2008**—

- (a) for "the legal representation offered under subsection (1)" **substitute** "legal representation offered under subsection (1) for the cross-examination of a protected witness";
- (b) for "protected person" **substitute** "protected witness".

23 Representation of applicant

For section 72(2) of the **Family Violence Protection Act 2008** substitute—

- "(2) The court, unless the protected witness objects, must order Victoria Legal Aid to provide legal representation for the protected witness for the following purposes—
- (a) the cross-examination of the protected witness by the respondent's legal representative;
 - (b) the cross-examination of the respondent by the protected witness."

Subdivision 5—Transitional provisions

24 New Division 16 of Part 14 inserted

After Division 15 of Part 14 of the **Family Violence Protection Act 2008** insert—

"Division 16—Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026

236 Definitions

In this Division—

amending Act means the **Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026**.

237 Legal representation

Sections 71 and 72 as amended by Subdivision 4 of Division 2 of Part 2 of the amending Act apply on and after the commencement of that Subdivision in respect of a proceeding for a family violence intervention order that—

- (a) commences on or after the commencement of that Subdivision; or
- (b) had been commenced but not determined before the commencement of that Subdivision.

238 Service of counselling orders, eligibility report etc.

- (1) Section 138(1) as amended by section 14 of the amending Act applies on and after the commencement of section 14 to the service of an order made under section 129, 130 or 137 which, immediately before that commencement, had not been served on the respondent.
- (2) Section 138(2) as amended by section 14 of the amending Act applies on and after the commencement of section 14 to the service of a copy of a report or certificate which, immediately before that commencement, had not been served on the respondent.

239 Substituted service—applications made before commencement

Despite its amendment by section 15 of the amending Act, section 202C as in force immediately before that commencement continues to apply in respect of any application for substituted service made, but not determined, before that commencement.

240 Extraterritorial family violence

- (1) Section 53 as amended by section 16 of the amending Act applies to the making of an interim order on or after the commencement of section 16 irrespective of—

- (a) when the application for the family violence intervention order was made; and
 - (b) whether the family violence alleged in the application occurred before, on or after the commencement of section 16.
- (2) Section 74 as amended by section 17 of the amending Act applies to the making of a final order on or after the commencement of section 17 irrespective of—
 - (a) when the proceeding commenced; and
 - (b) whether the family violence constituting grounds for making the order occurred before, on or after the commencement of section 17.

241 Conditions

Sections 81 and 86 as amended by Subdivision 3 of Division 2 of Part 2 of the amending Act apply on and after the commencement of Subdivision 3 to—

- (a) the making of a family violence intervention order; or
- (b) the variation of a family violence intervention order—

irrespective of when the application for the family violence intervention order or the application for the variation was made."

Division 3—Stage 3 amendments

Subdivision 1—Service

25 Definitions

In section 4 of the **Family Violence Protection Act 2008** insert the following definitions—

"**Governor**, of a prison, has the same meaning as it has in the **Corrections Act 1986**;

prison has the same meaning as in the **Corrections Act 1986**;

prisoner has the same meaning as in the **Corrections Act 1986**;"

26 New sections 202BA, 202BB and 202BC inserted

After section 202B of the **Family Violence Protection Act 2008** insert—

"202BA Service of documents on respondents in prison

- (1) This section applies to an adult respondent who is a prisoner held in a prison.
- (2) A document that is required to be served under this Act on the respondent may be served by leaving it with the Governor of the prison if—
 - (a) the person serving the document, or another person on their behalf, confirms that the respondent will be present at the prison for a visit at a specified time; and
 - (b) the respondent has been advised before the visit that the purpose of the visit is to serve the respondent with a document under this Act; and

- (c) the respondent—
 - (i) refuses to accept the visit; or
 - (ii) accepts the visit but refuses to accept service of the documents during the visit.
- (3) For the purposes of this Act, the document is taken to have been personally served on the respondent when it is left with the Governor of the prison.
- (4) The Governor must deliver the document, or cause it to be delivered, to the respondent as soon as reasonably practicable after it has been left with the Governor.

202BB Prisoner released from custody before document can be delivered

- (1) If the respondent ceases to be a prisoner before the Governor of the prison can deliver or cause to be delivered to the respondent a document left under section 202BA, the Governor must as soon as possible—
 - (a) notify the Chief Commissioner of Police that the document was not delivered to the respondent before the respondent ceased to be a prisoner; and
 - (b) give to the Chief Commissioner of Police a true copy of the document.
- (2) The Chief Commissioner of Police must deliver the document, or cause it to be delivered, to the respondent as soon as reasonably practicable after it has been given to the Chief Commissioner of Police.

202BC Governor of prison may delegate function

The Governor of a prison, by instrument, may delegate any function under section 202BA or 202BB to an officer or class of officer within the meaning of section 14 of the **Corrections Act 1986**."

27 Proof of service

For section 203(2) of the **Family Violence Protection Act 2008** substitute—

- "(2) For the purposes of subsection (1)(a), the certificate of service may certify that service has taken place only if that service was by—
- (a) a police officer; or
 - (b) the appropriate registrar of a court; or
 - (c) a person in a prescribed class of person."

28 Certificate of service

In section 206 of the **Family Violence Protection Act 2008**—

- (a) for all words and expressions starting "If, under" and ending "registrar must" **substitute** "A police officer, appropriate registrar of a court or person in a prescribed class who is required or permitted under section 203(2) to certify that a document has been served on a person must";
- (b) after paragraph (b) **insert**—
 - "(ba) if the certificate is completed by a person in a prescribed class, includes the person's name and the prescribed details; and";

- (c) in paragraph (e), for "or appropriate registrar" **insert** ", appropriate registrar or prescribed person".

Subdivision 2—Default duration of final order

29 Definitions

In section 4 of the **Family Violence Protection Act 2008** **insert** the following definition—

"total effective sentence" has the same meaning as in the **Criminal Procedure Act 2009**;"

30 New sections 96B and 96C inserted

After the heading to Division 7 of Part 4 of the **Family Violence Protection Act 2008** **insert**—

"96B Court may specify period for which order in force—adult respondent

- (1) The court may specify in a final order against a respondent who is an adult the period for which the order is in force.
- (2) The period specified under subsection (1) is to be either—
 - (a) the applicable default period under subsection (3) or (4); or
 - (b) a different period that the court considers is appropriate.
- (3) The default period is 24 months unless—
 - (a) at the time the final order is made, the respondent is serving a term of imprisonment; and
 - (b) the offence for which the respondent is serving that term of imprisonment is either—
 - (i) an offence against this Act; or

- (ii) an offence constituted wholly or partly by conduct that is family violence; and
- (c) the affected family member is a victim in relation to that offence; and
- (d) the end of the total effective sentence under which the respondent is serving that imprisonment is more than 12 months away.
- (4) In the circumstances described in subsection (3), the default period is the period ending 12 months after the end of the total effective sentence referred to in that subsection.
- (5) Without limiting subsection (2)(b), the period specified under subsection (1) may be an indefinite period.

Note

Section 97 sets out what matters the court may or must take into account in making a decision as to the period for which the final order is to be in force.

96C Court must specify period for which order in force—child respondent

- (1) The court must specify in a final order against a respondent who is a child the period for which the order is in force.
- (2) The period specified under subsection (1) must not exceed 12 months unless there are exceptional circumstances.

Note

Section 97 sets out what matters the court may or must take into account in making a decision as to the period for which the final order is to be in force."

31 Section 97 amended

- (1) For the heading to section 97 of the **Family Violence Protection Act 2008** substitute—
"Matters taken into account in deciding on duration of final order".
- (2) Section 97(1) of the **Family Violence Protection Act 2008** is repealed.

32 Section 98 repealed

Section 98 of the **Family Violence Protection Act 2008** is repealed.

33 Duration of order

In section 99(b) of the **Family Violence Protection Act 2008**, for "until" substitute "for a period of 24 months, unless".

Subdivision 3—Misidentification and consideration of age or impairment

34 Application for family violence safety notice

At the end of section 24 of the **Family Violence Protection Act 2008** insert—

- "(2) In considering whether the family violence safety notice is necessary for a purpose referred to in subsection (1)(e), the police officer, as far as practicable, must consider whether the respondent has been misidentified by having regard to—
- (a) the nature of the incident involving family violence in the context of the entire relationship between the affected family member and the respondent; and
 - (b) any history of family violence between the affected family member and the respondent; and

- (c) whether any of the family violence may have been committed by the respondent in self-protection or to protect another person; and
 - (d) whether the respondent has any characteristics that tend to increase the risk of being misidentified, including the following—
 - (i) age;
 - (ii) race;
 - (iii) sex;
 - (iv) sexual orientation;
 - (v) gender identity;
 - (vi) disability;
 - (vii) being Aboriginal or Torres Strait Islander.
- (3) For the purposes of subsection (2)(d)(vii), the police officer must ask the respondent (if present) whether they are Aboriginal or Torres Strait Islander, unless—
 - (a) the police officer already has information from which it is reasonable to believe that the respondent is or is not Aboriginal or Torres Strait Islander; or
 - (b) the respondent has already stated to the police officer that they are or are not Aboriginal or Torres Strait Islander."

35 Decision about family violence safety notice

After section 26(1) of the **Family Violence Protection Act 2008** insert—

- "(1A) In considering whether the family violence safety notice is necessary for a purpose referred to in subsection (1)(b), the police officer, as far as practicable, must consider whether the respondent has been misidentified by having regard to—
- (a) the nature of the incident involving family violence in the context of the entire relationship between the affected family member and the respondent; and
 - (b) any history of family violence between the affected family member and the respondent; and
 - (c) whether any of the family violence may have been committed by the respondent in self-protection or to protect another person; and
 - (d) whether the respondent has any characteristics that tend to increase the risk of being misidentified, including the following—
 - (i) age;
 - (ii) race;
 - (iii) sex;
 - (iv) sexual orientation;
 - (v) gender identity;
 - (vi) disability;
 - (vii) being Aboriginal or Torres Strait Islander."

36 Court may make interim order

After section 53(1C)(a) of the **Family Violence Protection Act 2008** insert—

"(ab) without considering any matter in section 53AC; and".

37 New section 53AAA inserted

After section 53 of the **Family Violence Protection Act 2008** insert—

"53AAA Consideration of misidentification

As far as practicable, in considering whether to make an interim order under section 53(1) the court must have regard to whether the respondent has been misidentified by having regard to—

- (a) the nature of the incident involving family violence in the context of the entire relationship between the affected family member and the respondent; and
- (b) any history of family violence between the affected family member and the respondent; and
- (c) whether any of the family violence may have been committed by the respondent in self-protection or to protect another person; and
- (d) whether the respondent has any characteristics that tend to increase the risk of being misidentified, including the following—
 - (i) age;
 - (ii) race;
 - (iii) sex;
 - (iv) sexual orientation;

- (v) gender identity;
- (vi) disability;
- (vii) being Aboriginal or Torres Strait Islander."

38 New section 53AC inserted

After section 53AB of the **Family Violence Protection Act 2008** insert—

"53AC Additional considerations—interim order against respondent who is a child or who has a cognitive impairment

- (1) In deciding whether to make an interim order under section 53(1) against a respondent who is a child, the court may consider the respondent's ability to do the following, taking into account the respondent's age and maturity—
 - (a) understand the nature and effect of an interim order;
 - (b) comply with the conditions of the interim order.
- (2) If the court is satisfied that the respondent has a cognitive impairment, in deciding whether to make an interim order under section 53(1), the court may consider the respondent's ability to do the following, taking into account the respondent's cognitive impairment—
 - (a) understand the nature and effect of an interim order;
 - (b) comply with the conditions of the interim order."

39 New sections 60CA and 60CB inserted

After section 60C of the **Family Violence
Protection Act 2008** insert—

"60CA Consideration of misidentification

As far as practicable, in considering whether to make an interim order under section 60B or 60C against a relevant party, the court must have regard to—

- (a) the nature of the incident involving family violence in the context of the entire relationship between the family member and the relevant party; and
- (b) any history of family violence between the family member and the relevant party; and
- (c) whether any of the family violence may have been committed by the relevant party in self-protection or to protect another person; and
- (d) whether the relevant party has any characteristics that tend to increase the risk of being misidentified as a respondent, including the following—
 - (i) age;
 - (ii) race;
 - (iii) sex;
 - (iv) sexual orientation;
 - (v) gender identity;
 - (vi) disability;
 - (vii) being Aboriginal or Torres Strait Islander.

60CB Additional considerations—relevant party who is a child or who has a cognitive impairment

- (1) In deciding whether to make an interim order under section 60B or 60C against a relevant party who is a child, the court may consider the relevant party's ability to do the following, taking into account the relevant party's age and maturity—
 - (a) understand the nature and effect of an interim order;
 - (b) comply with the conditions of the interim order.
- (2) If the court is satisfied that the relevant party has a cognitive impairment, in deciding whether to make an interim order under section 60B or 60C, the court may consider the relevant party's ability to do the following, taking into account the relevant party's cognitive impairment—
 - (a) understand the nature and effect of an interim order;
 - (b) comply with the conditions of the interim order."

40 New sections 76A and 76B inserted

After section 76 of the **Family Violence Protection Act 2008** insert—

"76A Consideration of misidentification

- (1) As far as practicable, in considering whether to make a final order under section 74 the court must consider whether the respondent has been misidentified by having regard to—

- (a) the nature of the incident involving family violence in the context of the entire relationship between the affected family member and the respondent; and
 - (b) any history of family violence between the affected family member and the respondent; and
 - (c) whether any of the family violence may have been committed by the respondent in self-protection or to protect another person; and
 - (d) whether the respondent has any characteristics that tend to increase the risk of being misidentified, including the following—
 - (i) age;
 - (ii) race;
 - (iii) sex;
 - (iv) sexual orientation;
 - (v) gender identity;
 - (vi) disability;
 - (vii) being Aboriginal or Torres Strait Islander.
- (2) As far as practicable, in considering whether to make a final order under section 76, the court must consider whether the respondent or additional respondent has been misidentified by having regard to—
- (a) the nature of the incident involving family violence in the context of the entire relationship between the protected person and the additional respondent, or the additional applicant and the respondent; and

- (b) any history of family violence between the protected person and the additional respondent, or the additional applicant and the respondent; and
- (c) whether any of the family violence may have been committed by the respondent or additional respondent in self-protection or to protect another person; and
- (d) whether the respondent or additional respondent has any characteristics that tend to increase the risk of being misidentified, including the following—
 - (i) age;
 - (ii) race;
 - (iii) sex;
 - (iv) sexual orientation;
 - (v) gender identity;
 - (vi) disability;
 - (vii) being Aboriginal or Torres Strait Islander.

76B Additional considerations—final order against respondent who is a child or who has a cognitive impairment

- (1) In deciding whether to make a final order under section 74 or 76(1) against a respondent who is a child, the court may consider the respondent's ability to do the following, taking into account the respondent's age and maturity—
 - (a) understand the nature and effect of a final order;

- (b) comply with the conditions of the final order.
- (2) If the court is satisfied that the respondent for a final order under section 74 or 76(1) has a cognitive impairment, in deciding whether to make the final order, the court may consider the respondent's ability to do the following, taking into account the respondent's cognitive impairment—
 - (a) understand the nature and effect of a final order;
 - (b) comply with the conditions of the final order."

41 Consent orders

- (1) After section 78(1)(a) of the **Family Violence Protection Act 2008** insert—
 - "(ab) in the case of a proceeding for a final order under section 74 or 76, without considering any matter in section 76B; and"
- (2) In section 78(2) of the **Family Violence Protection Act 2008**, after "child" insert "or the court is satisfied that the respondent has a cognitive impairment".
- (3) After section 78(7) of the **Family Violence Protection Act 2008** insert—
 - "(8) A court may refuse to make a final order under section 74 to which the parties to the proceeding have consented if the court believes that the respondent has been misidentified by having regard to—
 - (a) the nature of the incident involving family violence in the context of the entire relationship between the affected family member and the respondent; and

- (b) any history of family violence between the affected family member and the respondent; and
 - (c) whether any of the family violence may have been committed by the respondent in self-protection or to protect another person; and
 - (d) whether the respondent has any characteristics that tend to increase the risk of being misidentified, including the following—
 - (i) age;
 - (ii) race;
 - (iii) sex;
 - (iv) sexual orientation;
 - (v) gender identity;
 - (vi) disability;
 - (vii) being Aboriginal or Torres Strait Islander.
- (9) A court may refuse to make a final order under section 76 to which the parties to the proceeding have consented if the court believes the respondent or additional respondent has been misidentified by having regard to—
- (a) the nature of the incident involving family violence in the context of the entire relationship between the protected person and the additional respondent, or the additional applicant and the respondent; and

- (b) any history of family violence between the protected person and the additional respondent, or the additional applicant and the respondent; and
- (c) whether any of the family violence may have been committed by the respondent or additional respondent in self-protection or to protect another person; and
- (d) whether the respondent or additional respondent has any characteristics that tend to increase the risk of being misidentified, including the following—
 - (i) age;
 - (ii) race;
 - (iii) sex;
 - (iv) sexual orientation;
 - (v) gender identity;
 - (vi) disability;
 - (vii) being Aboriginal or Torres Strait Islander."

Subdivision 4—Minimum age of respondent

42 Definitions

In section 4 of the **Family Violence Protection Act 2008**, at the foot of the definition of *respondent* insert—

"Note

An application for a family violence intervention order must not be made against a child aged under 12 years: see section 45A."

43 Meaning of *family violence intervention order, final order and interim order*

At the foot of section 11 of the **Family Violence Protection Act 2008** insert—

"Note

An application for a family violence intervention order must not be made against a child aged under 12 years: see section 45A."

44 New section 45A inserted

After section 45 of the **Family Violence Protection Act 2008** insert—

"45A Applications against children aged under 12 years not permitted

An application for a family violence intervention order must not be made against a child who, at the date of the application, is aged under 12 years."

45 Court may make interim order

In the note at the foot of section 53(1) of the **Family Violence Protection Act 2008**—

(a) for "Note" **substitute—**

"Notes

1. An application for a family violence intervention order must not be made against a child aged under 12 years: see section 45A.";

(b) before "See" **insert "2."**

46 Court hearing application or appeal relating to bail may make own motion interim order

- (1) In section 60B(1) of the **Family Violence Protection Act 2008**, for "subsection (3)" **substitute "subsections (3) and (4)".**

(2) After section 60B(3) of the **Family Violence Protection Act 2008** insert—

"(4) The court must not make an interim order under this section against an accused aged under 12 years."

47 Court may make interim order on its own motion in a criminal proceeding

(1) In section 60C(1) of the **Family Violence Protection Act 2008**, for "subsection (4)" substitute "subsections (4) and (5)".

(2) After section 60C(4) of the **Family Violence Protection Act 2008** insert—

"(5) The court must not make an interim order under this section against a relevant party aged under 12 years."

48 Power of court to make final order

At the foot of section 74(1) of the **Family Violence Protection Act 2008** insert—

"Note

An application for a family violence intervention order must not be made against a child aged under 12 years: see section 45A."

49 Exclusion of child respondent from residence

At the foot of section 83(1) of the **Family Violence Protection Act 2008** insert—

"Note

An application for a family violence intervention order must not be made against a child aged under 12 years: see section 45A."

50 Contravention of family violence intervention order

The note at the foot of section 123(2) of the **Family Violence Protection Act 2008** is repealed.

51 Contravention of order intending to cause harm or fear for safety

The note at the foot of section 123A(2) of the **Family Violence Protection Act 2008** is repealed.

52 Persistent contravention of notices and orders

The note at the foot of section 125A(1) of the **Family Violence Protection Act 2008** is repealed.

Subdivision 5—Continuing protection for protected persons included as children

53 Definitions

In section 4 of the **Family Violence Protection Act 2008** insert the following definition—

"former child protected person means an adult protected person who was included as a protected person in a family violence intervention order as a child;"

54 Explanation of interim order

After section 57(1)(c) of the **Family Violence Protection Act 2008** insert—

"(ca) if a protected person is a child, that the interim order continues until it expires whether or not the protected person becomes an adult in the meantime;"

55 Explanation of interim order—child respondents

After section 57A(2)(d) of the **Family Violence Protection Act 2008** insert—

"(da) if a protected person is a child, that the interim order continues until it expires whether or not the protected person becomes an adult in the meantime;"

56 Expiry of interim order

At the end of section 60 of the **Family Violence Protection Act 2008** insert—

"(2) If a protected person is a child when the interim order is made, the interim order continues to protect that person until it ends under subsection (1), whether or not the person becomes an adult in the meantime."

57 Explanation of final order

After section 96(1)(c) of the **Family Violence Protection Act 2008** insert—

"(ca) if a protected person is a child, that the final order continues in force whether or not the protected person becomes an adult; and".

58 Explanation of final order—child respondents

After section 96A(2)(c) of the **Family Violence Protection Act 2008** insert—

"(ca) if a protected person is a child, that the final order continues in force whether or not the protected person becomes an adult; and".

59 Duration of order

At the end of section 99 of the **Family Violence Protection Act 2008** insert—

"(2) If a protected person is a child when the final order is made, the final order continues to protect that person until it ends under subsection (1), whether or not the protected person becomes an adult in the meantime."

60 Power of court to vary or revoke family violence intervention order

In section 100(2) of the **Family Violence Protection Act 2008**—

(a) for paragraph (b) **substitute**—

"(b) the safety of any person protected by the family violence intervention order, including any former child protected person;"

(b) for paragraph (c) **substitute**—

"(c) the views of any person protected by the family violence intervention order, including any former child protected person;"

(c) for paragraph (d) **substitute**—

"(d) whether any of the protected persons are legally represented, including any former child protected person;"

(d) in paragraph (e), for "the protected person" **substitute** "a protected person (including any former child protected person)".

61 New section 103A inserted

After section 103 of the **Family Violence Protection Act 2008** insert—

"103A Continuing protection of former child protected person

(1) This section applies to an application for variation or revocation of a family violence intervention order if—

(a) more than one adult is a protected person for the order; and

- (b) at least one but not all of the adult protected persons is a former child protected person.
- (2) If the court is satisfied that there has been a change in the need to protect the former child protected person from being subjected to family violence committed by the respondent the court may, on its own motion—
 - (a) either—
 - (i) in the case of an application to vary or revoke an interim order, make a new interim order for the former child protected person as a protected person if satisfied on the balance of probabilities—
 - (A) that the former child protected person has been subjected to family violence committed by the respondent; and
 - (B) that the interim order is necessary to protect the former child protected person pending a final decision about the application; or
 - (ii) in the case of an application to vary or revoke a final order, make a new final order under section 74 or 76 for the former child protected person as a protected person; and
 - (b) vary the order to which the application under section 100 relates as the court considers necessary.

- (3) An interim order under subsection (2)(a)(i) is an order in the proceeding under section 53, and for the purposes of any proceeding for any final order under section 74 or 76 the applicant is—
- (a) if the initial application referred to in section 53(1) was made by a police officer, the Chief Commissioner of Police; or
 - (b) in any other case, the former child protected person."

62 New section 106A inserted

After section 106 of the **Family Violence Protection Act 2008** insert—

"106A Extension of final order including former child protected person

- (1) This section applies to a final order if—
- (a) more than one adult is a protected person for the order; and
 - (b) at least one but not all of the adult protected persons is a former child protected person.
- (2) On an application under this Division to extend the final order, the court may, on its own motion—
- (a) make a new final order under section 74 or 76 for a former child protected person as a protected person; and
 - (b) vary the final order to which the application relates as the court considers necessary.
- (3) Subsection (2) applies whether or not the court also extends the final order under section 106(2)."

63 Application made by police officer

In section 110(2) of the **Family Violence Protection Act 2008**, for "protected person does not" **substitute** "protected persons do not".

64 Persons on whom application must be served

In section 113(a) of the **Family Violence Protection Act 2008**, after "made" **insert** "including any former child protected person".

65 Service of orders

In section 201(c)(ii) of the **Family Violence Protection Act 2008**, after "proceeding" **insert** "including any former child protected person".

Subdivision 6—Transitional provisions

66 New sections 242 to 249 inserted

After section 241 of the **Family Violence Protection Act 2008 insert—**

"242 Indefinite final orders

(1) A final order—

- (a) that is made before the commencement of Subdivision 2 of Division 3 of Part 2 of the amending Act; and
- (b) in which there is not specified the period for which the order is to be in force—

remains in force until it is revoked by the court or set aside on appeal.

- (2) Subsection (1) applies despite the amendments made to Division 7 of Part 4 by Subdivision 2 of Division 3 of Part 2 of the amending Act.

243 Service

This Act as amended by section 26 of the amending Act applies on and after the commencement of that section in respect of a proceeding for a family violence intervention order that—

- (a) commences on or after the commencement of that section; or
- (b) had been commenced but not determined before the commencement of that section.

244 Misidentification, age and cognitive impairment

This Act as amended by Subdivision 3 of Division 3 of Part 2 of the amending Act applies to the making of a family violence intervention order on and after the commencement of that Subdivision irrespective of when the application for the family violence intervention order was made.

245 Existing family violence intervention orders—continuing protection of former child protected persons

- (1) On and after the commencement of section 56 of the amending Act, section 60 as amended by section 56 applies in respect of an interim order that is in force immediately before that commencement.
- (2) On and after the commencement of section 59 of the amending Act, section 99 as amended by section 59 applies in respect of a final order that is in force immediately before that commencement.

- (3) On and after the commencement of sections 61 and 62 of the amending Act, sections 103A and 106A apply in respect of a family violence intervention order that is in force immediately before that commencement.

246 Variation, revocation and extension proceedings

This Act as amended by Subdivision 5 of Division 3 of Part 2 of the amending Act applies in respect of a proceeding for the variation, revocation or extension of a family violence intervention order that—

- (a) commences on or after the commencement of that Subdivision; or
- (b) had been commenced but not determined before the commencement of that Subdivision.

247 Increase in minimum age of respondent—existing family violence intervention order

- (1) If immediately before the commencement day a family violence intervention order is in force against a respondent who was aged under 12 years on the date that the application for the order was made, the order, by virtue of this section, ceases to have effect on the commencement day.

Note

A family violence intervention order includes a final order and an interim order: see section 11.

- (2) To avoid doubt, if a family violence intervention order ceases to have effect under this section, the respondent is released from any obligation to comply with the conditions of the order.

(3) In this section—

commencement day means the day on which
Subdivision 4 of Division 3 of Part 2 of
the amending Act comes into operation.

**248 Applications against respondent aged
under 12 years—dismissal of applications**

(1) This section applies to—

- (a) an application made before the
commencement day—
 - (i) for a family violence intervention
order against a child who was
aged under 12 years on the date of
making that application; or
 - (ii) to vary, revoke or extend a family
violence intervention order, where
the respondent for that order was
aged under 12 years on the date
the application for the family
violence intervention order was
made; and
- (b) that immediately before the
commencement day, had not been
finally determined.

(2) As soon as practicable after the
commencement day—

- (a) the court must dismiss the application;
and
- (b) any order made under section 73A for
the Secretary to provide an assessment
report in respect of the child ceases to
have effect.

- (3) Despite section 46, as soon as practicable after the commencement day, the court must dismiss any application for leave under section 45(d)(ii), (iii) or (e)(ii) that has been made in respect of a respondent who is aged under 12 years at the date of the application that has not been finally determined immediately before the commencement day.
- (4) As soon as reasonably practicable after an application has been dismissed under this section, but no later than the date on which the application was listed for its next hearing, the court must notify the following persons of the dismissal of the application—
 - (a) the child;
 - (b) any other party to the proceeding.
- (5) In this section—

commencement day means the day on which
Subdivision 4 of Division 3 of Part 2 of
the amending Act comes into operation.

**249 Increase in minimum age of respondent—
power to resolve transitional difficulties in
proceeding**

- (1) A court may make any order it considers appropriate to resolve a difficulty in a proceeding that arises because of the operation of section 247 or 248, including any difficulty that arises as a consequence of the dismissal of an application or the family violence intervention order ceasing to have effect.
- (2) An order under subsection (1)—
 - (a) may be made on application of a party to the proceeding or on the court's own initiative; and

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- (b) has effect despite any provision to the contrary made by or under any Act (other than the **Charter of Human Rights and Responsibilities Act 2006**).
- (3) This section is **repealed** on the fifth anniversary of the day on which it comes into operation."

Part 3—Amendment of Crimes Act 1958

Division 1—Stalking

67 Stalking

- (1) For section 21A(1) of the **Crimes Act 1958** substitute—

"(1) A person (A) commits an offence if—

- (a) A engages in a course of conduct in relation to another person (B); and
- (b) the course of conduct includes any conduct specified in subsection (2); and
- (c) either—
 - (i) A intends that the course of conduct will cause a result described in subsection (3) or believes that the course of conduct will probably cause such a result; or
 - (ii) A ought to understand, in all the particular circumstances, that the course of conduct will probably cause a result described in subsection (3) and the course of conduct does cause such a result.

- (1A) A person who commits an offence against subsection (1) is liable to level 5 imprisonment (10 years maximum).

- (1B) For the purposes of subsection (1)(a), A engages in a course of conduct in relation to B if—

- (a) either—
 - (i) A engages in conduct on more than one occasion; or

- (ii) A engages in conduct that is protracted; and
 - (b) the conduct shows a continuity of purpose in relation to B."
- (2) In section 21A(2) of the **Crimes Act 1958**—
 - (a) for "A person (the offender) stalks another person (the victim) if the offender engages in a course of conduct which includes any of the following" **substitute** "For the purposes of subsection (1)(b), the following are specified";
 - (b) for "the victim" (wherever occurring) **substitute** "B";
 - (c) for "the victim's" (wherever occurring) **substitute** "B's";
 - (d) in paragraph (d), for "the offender" **substitute** "A";
 - (e) after paragraph (da) **insert**—
 - "(dab) causing or threatening to cause harm to any animal—
 - (i) while in the presence of B or any other person; or
 - (ii) in circumstances where the harm or the threat of harm will be discovered by or brought to the attention of B or any other person;"
 - (f) in paragraph (g)(ii)—
 - (i) for "his or her" **substitute** "B's";
 - (ii) for "person—" **substitute** "person.";

- (g) **omit** "with the intention of causing physical or mental harm to the victim, including self-harm, or of arousing apprehension or fear in the victim for his or her own safety or that of any other person."
- (3) For section 21A(3) of the **Crimes Act 1958** **substitute**—
- "(3) Each of the following is a result for the purposes of subsection (1)(c)—
- (a) physical or mental harm to B, including self-harm;
 - (b) apprehension or fear in B for B's own safety or that of any other person."
- (4) In section 21A(6) and (7) of the **Crimes Act 1958**, for "the victim" **substitute** "B".

Division 2—Alternative verdicts

68 New section 425 inserted

Before section 426 of the **Crimes Act 1958** **insert**—

"425 Alternative verdicts for certain sexual offences

- (1) On the trial of a person charged with an offence against a provision specified in column 2 of an item in the Table, if the jury are not satisfied that the person is guilty of the offence charged or of an attempt to commit the offence charged but are satisfied that the person is guilty of an offence against a provision specified in column 3 of that item (an ***alternative offence***), the jury may acquit the person of the offence charged and find the person guilty of the alternative offence and the person is liable to punishment accordingly.

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Part 3—Amendment of Crimes Act 1958

Table		
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item No.</i>	<i>Offence charged</i>	<i>Alternative offence</i>
1	Section 38(1) (rape)	Section 40(1) (sexual assault) Section 42(1) (assault with intent to commit a sexual offence)
2	Section 39(1) (rape by compelling sexual penetration)	Section 41(1) (sexual assault by compelling sexual touching) Section 42(1) (assault with intent to commit a sexual offence)
3	Section 49A(1) (sexual penetration of a child under the age of 12)	Section 42(1) (assault with intent to commit a sexual offence) Section 49B(1) (sexual penetration of a child under the age of 16) Section 49D(1) (sexual assault of a child under the age of 16)
4	Section 49B(1) (sexual penetration of a child under the age of 16)	Section 42(1) (assault with intent to commit a sexual offence) Section 49D(1) (sexual assault of a child under the age of 16)

Authorised by the Chief Parliamentary Counsel

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Part 3—Amendment of Crimes Act 1958

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item No.</i>	<i>Offence charged</i>	<i>Alternative offence</i>
5	Section 50C(1) (sexual penetration of a child or lineal descendant)	Section 42(1) (assault with intent to commit a sexual offence) Section 49D(1) (sexual assault of a child under the age of 16) Section 49E(1) (sexual assault of a child aged 16 or 17 under care, supervision or authority)
6	Section 50D(1) (sexual penetration of a step-child)	Section 42(1) (assault with intent to commit a sexual offence) Section 49D(1) (sexual assault of a child under the age of 16) Section 49E(1) (sexual assault of a child aged 16 or 17 under care, supervision or authority)

- (2) On the trial of a person charged with an offence against section 49C(1) (sexual penetration of a child aged 16 or 17 under care, supervision or authority), if the jury are not satisfied that the person is guilty of the offence charged or of an attempt to commit the offence charged but are satisfied that the person is guilty of—

- (a) an offence against section 31(1)
(assault) constituted by assault with
intent to commit the offence charged;
or
 - (b) an offence against section 49E(1)
(sexual assault of a child aged 16 or 17
under care, supervision or authority)—
- the jury may acquit the person of the offence
charged and find the person guilty of that
other offence and the person is liable to
punishment accordingly."

Division 3—Transitional provisions

69 New sections 641 to 643 inserted

At the end of Part 7 of the **Crimes Act 1958**
insert—

**"641 Transitional provision—Justice
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Stalking and Other Matters) Act 2026—
stalking**

- (1) Section 21A as amended by Division 1 of
Part 3 of the amending Act applies only to
offences alleged to have been committed on
or after the commencement day.
- (2) For the purposes of subsection (1), if an
offence is alleged to have been committed
between 2 dates, one before and one on or
after the commencement day, the offence is
alleged to have been committed before the
commencement day.
- (3) In this section—

***amending Act* means the Justice
Legislation Amendment (Family
Violence, Stalking and Other
Matters) Act 2026;**

commencement day means the day on which
Division 1 of Part 3 of the amending
Act comes into operation.

**642 Transitional provision—Justice
Legislation Amendment (Family Violence,
Stalking and Other Matters) Act 2026—
alternative verdicts**

- (1) Section 425 as inserted by Division 2 of
Part 3 of the amending Act applies only to a
proceeding for an offence alleged to have
been committed on or after the
commencement day.
- (2) For the purposes of subsection (1), if an
offence is alleged to have been committed
between 2 dates, one before and one on or
after the commencement day, the offence is
alleged to have been committed before the
commencement day.
- (3) In this section—

amending Act means the **Justice
Legislation Amendment (Family
Violence, Stalking and Other
Matters) Act 2026**;

commencement day means the day on which
Division 2 of Part 3 of the amending
Act comes into operation.

**643 Transitional provision—Justice
Legislation Amendment (Family Violence,
Stalking and Other Matters) Act 2026—
jury directions**

- (1) On and after the day on which Division 2 of
Part 6 of the amending Act commences,
section 626(1) and (2) no longer has the
effect of preserving the operation of
sections 37, 37AAA and 37AA (as in force

before 1 July 2015) for offences alleged to have been committed before 1 July 2015.

Note

See Division 1AAB of Part 5 of the **Jury Directions Act 2015** for jury directions in relation to consent for sexual offences alleged to have been committed before 1 July 2015.

- (2) Subsection (1) does not apply to—
- (a) a trial that has commenced (within the meaning of the **Criminal Procedure Act 2009**) before the day on which Division 2 of Part 6 of the amending Act commences; or
 - (b) a summary hearing, committal proceeding, pre-trial hearing, appeal, case stated or special hearing referred to in section 4A(1) of the **Jury Directions Act 2015** for which the specified day is before the day on which Division 2 of Part 6 of the amending Act commences.
- (3) In this section—
- amending Act*** means the **Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026**;
- specified day*** means—
- (a) for a committal proceeding under the **Criminal Procedure Act 2009**, the day on which the committal hearing commences; and

- (b) for a case stated under the **Criminal Procedure Act 2009** or Part 5.4 of the **Children, Youth and Families Act 2005**, the day of the commencement of the hearing from which the question of law arises; and
 - (c) in any other case, the day of the commencement of the summary hearing, the pre-trial hearing, the hearing of the appeal, or the special hearing (as the case requires).
- (4) On and after the commencement of Chapter 8 of the **Youth Justice Act 2024**, the reference in the definition of *specified day* to Part 5.4 of the **Children, Youth and Families Act 2005** is taken to include a reference to Chapter 8 of the **Youth Justice Act 2024**."

Division 4—Statute law revision

70 Statute law revision

- (1) In section 464O(3)(a) and (b) of the **Crimes Act 1958**, for "1 month" **substitute** "one month".
- (2) In section 464O(3A) of the **Crimes Act 1958**, for "1 month" **substitute** "one month".
- (3) In section 464ZG(4)(b)(i) and (ii) of the **Crimes Act 1958**, for "1 month" **substitute** "one month".
- (4) In section 464ZGE(3)(c)(i) and (ii) of the **Crimes Act 1958**, for "1 month" **substitute** "one month".

Part 4—Amendment of Criminal Procedure Act 2009

Division 1—Procedural matters relating to offence of stalking

71 Powers of court at directions hearing

In section 181(2)(d) of the **Criminal Procedure Act 2009**, for "or a family violence offence" **substitute** ", a family violence offence or an offence against section 21A(1) of the **Crimes Act 1958** (stalking)".

72 Application of Division—Division 3 of Part 8.2

In section 353(1) of the **Criminal Procedure Act 2009**—

(a) in paragraph (b), for "offence." **substitute** "offence; or";

(b) after paragraph (b) **insert**—

"(c) an offence against section 21A(1) of the **Crimes Act 1958** (stalking).".

73 Application of Division—Division 4 of Part 8.2

After section 359(1)(b) of the **Criminal Procedure Act 2009** **insert**—

"(ba) an offence against section 21A(1) of the **Crimes Act 1958** (stalking); or".

74 Application of Division—Division 5 of Part 8.2

(1) In the heading to section 366 of the **Criminal Procedure Act 2009** **omit** "this".

(2) In section 366(1) of the **Criminal Procedure Act 2009**—

(a) after paragraph (ab) **insert**—

"(ac) an offence against section 21A(1) of the **Crimes Act 1958** (stalking); or";

(b) in paragraph (d), for "(a), (ab) or (b)" **substitute** "(a), (ab), (ac) or (b)".

75 Application of Division—Division 6 of Part 8.2

In section 369(1) of the **Criminal Procedure Act 2009**—

(a) in paragraph (b), for "offence." **substitute** "offence; or";

(b) after paragraph (b) **insert**—

"(c) an offence against section 21A(1) of the **Crimes Act 1958** (stalking).".

76 Time limits for special hearing

(1) In section 371(1A) of the **Criminal Procedure Act 2009**—

(a) in paragraph (b), for "12 months." **substitute** "12 months; or";

(b) after paragraph (b) **insert**—

"(c) for a trial in a criminal proceeding that relates (wholly or partly) to a charge for an offence against section 21A(1) of the **Crimes Act 1958** (stalking), a period of 12 months.".

(2) In section 371(1B) of the **Criminal Procedure Act 2009**, after "a family violence offence" **insert** "or an offence against section 21A(1) of the **Crimes Act 1958** (stalking)".

77 Admissibility of evidence from special hearing

In section 374(2)(b)(ii)(A) and (iii) of the **Criminal Procedure Act 2009**, for "or the family violence offence" **substitute** ", the family violence offence or the offence against section 21A(1) of the **Crimes Act 1958** (stalking)".

78 Application of Division—Division 1 of Part 8.2A

In section 389A(1) of the **Criminal Procedure Act 2009**—

(a) after paragraph (b) **insert**—

"(ba) an offence against section 21A(1) of the **Crimes Act 1958** (stalking); or";

(b) in paragraph (d), for "(a) or (c)" **substitute** "(a), (ba) or (c)".

Division 2—Intermediaries

79 Directions which may be given at ground rules hearings

After section 389E(2) of the **Criminal Procedure Act 2009** **insert**—

"(3) In deciding whether to give a direction under this section, the court may have regard to any recommendations provided by an intermediary."

80 Section 389I amended

(1) In the heading to section 389I of the **Criminal Procedure Act 2009**, for "**Function**" **substitute** "**Functions**".

(2) In section 389I(1) of the **Criminal Procedure Act 2009**—

(a) for "function of an intermediary is" **substitute** "functions of an intermediary are";

- (b) in paragraph (b), for "person." **substitute** "person; and";
- (c) after paragraph (b) **insert—**
 - "(c) to provide recommendations to the court regarding effective communication with the witness; and
 - (d) to otherwise assist the court and any legal representative of a party to the proceeding to communicate with the witness."
- (3) After section 389I(1) of the **Criminal Procedure Act 2009 insert—**
 - "(1A) An intermediary may provide the recommendations referred to in subsection (1)(c) in the form of a written report.
 - (1B) An intermediary may perform the function referred to in subsection (1)(d) at a hearing or as the court otherwise directs."

Division 3—Statute law revision

81 Statute law revision

In section 387E(2) of the **Criminal Procedure Act 2009**, for "taken" **substitute** "take".

Division 4—Miscellaneous

82 Meaning of *sexual offence*

In section 4(1)(f) of the **Criminal Procedure Act 2009**, for "paragraph (a), (b), (c), (d) or (e)" **substitute** "paragraphs (a) to (e)".

83 New section 464 inserted

After section 463 of the **Criminal Procedure Act 2009** insert—

"464 Transitional provision—Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026

- (1) Division 3 of Part 8.2, as amended by a provision of Division 1 of Part 4 of the **Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026**, applies to a criminal proceeding that commences on or after the day on which that provision comes into operation.
- (2) Division 6 of Part 8.2, as amended by a provision of Division 1 of Part 4 of the **Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026**, applies to a criminal proceeding in which an indictment is filed on or after the day on which that provision comes into operation."

Part 5—Amendment of Evidence (Miscellaneous Provisions) Act 1958

84 Definitions

In section 32B(1) of the **Evidence (Miscellaneous Provisions) Act 1958** insert the following definition—

"parent has the same meaning as in the **Youth Justice Act 2024**;"

85 Prosecuting party to ensure notice is given to protected person—criminal proceedings

(1) In section 32CD(1) of the **Evidence (Miscellaneous Provisions) Act 1958**—

- (a) **omit** ", subject to this section,";
- (b) for "to the protected person" **substitute** "in accordance with this section unless the court waives the requirement to do so under subsection (5)".

(2) After section 32CD(1) of the **Evidence (Miscellaneous Provisions) Act 1958** insert—

"(1A) If the protected person is neither a child nor a person with a cognitive impairment, notice under subsection (1) is to be given to the protected person.

(1B) If the protected person is a child or a person with a cognitive impairment, notice under subsection (1) is to be given to one or more of the following persons, as chosen by the prosecuting party—

- (a) the protected person;

- (b) subject to subsection (1D)—
 - (i) a parent or guardian of the protected person; or
 - (ii) another person.
- (1C) The prosecuting party must have regard to the following matters when choosing, under subsection (1B), to whom the notice is to be given—
 - (a) whether the protected person can understand the notice;
 - (b) the appropriateness of a parent or guardian of the protected person or another person receiving the notice;
 - (c) any preference indicated by the protected person as to who should receive the notice.
- (1D) The prosecuting party must not choose, under subsection (1B), that a notice is to be given to a particular person (other than the protected person) if—
 - (a) the person is alleged to have been involved in the commission of an offence to which a confidential communication, or protected health information, which is the subject of the application for leave relates; or
 - (b) the prosecuting party has reason to believe that the person is not aware of the proceeding; or
 - (c) the prosecuting party has reason to believe that giving notice to the person would be likely to—
 - (i) prejudice the conduct of the proceeding; or

- (ii) pose an unacceptable risk of harm to the safety or wellbeing of the protected person."

(3) In section 32CD(5) of the **Evidence (Miscellaneous Provisions) Act 1958**—

(a) in paragraph (a)—

- (i) for "all reasonable steps to locate the protected person were taken"
substitute "all reasonable steps were taken to locate the person to whom notice is to be given";
- (ii) for "the protected person has not been located" **substitute** "that person has not been located";

- (b) in paragraph (c), for "the protected person has already been given notice" **substitute** "notice has already been given".

86 Restriction on granting leave

In section 32D(1A) of the **Evidence (Miscellaneous Provisions) Act 1958**—

(a) in paragraph (b)—

- (i) for "all reasonable steps to locate the protected person were taken"
substitute "all reasonable steps were taken to locate the person to whom notice is to be given under section 32CD";
- (ii) for "the protected person has not been located" **substitute** "that person has not been located";

- (b) in paragraph (d), for "the protected person has already been given notice" **substitute** "notice has already been given".

87 New section 170 inserted

After section 169 of the **Evidence (Miscellaneous Provisions) Act 1958** insert—

"170 Transitional provision—Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026

- (1) On and after the commencement of the amendments to Division 2A of Part II made by the **Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026**, that Division as in force immediately before that commencement continues to apply, despite those amendments, to—
 - (a) an ongoing application for leave under section 32C(1); and
 - (b) the evidence to which that application relates.
- (2) For the purposes of subsection (1), an application for leave under section 32C(1) is ongoing if—
 - (a) notice was given in respect of that application in accordance with section 32CD as in force immediately before the commencement of the amendments to section 32CD made by the **Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Act 2026**; and
 - (b) the application was not determined before that commencement."

Part 6—Amendment of Jury Directions Act 2015

Division 1—Consent and reasonable belief in consent

88 Definitions

In section 3 of the **Jury Directions Act 2015**, for the definition of *sexual offence* substitute—

"*sexual offence* has the meaning given by section 3A;"

89 New section 3A inserted

After section 3 of the **Jury Directions Act 2015** insert—

"3A Meaning of *sexual offence*

- (1) In this Act, *sexual offence* has the same meaning as in the **Criminal Procedure Act 2009**.
- (2) Additionally, an offence in respect of which a defence is raised under section 34AF of the **Crimes Act 1958** is a *sexual offence*."

90 Application of Division—Division 1 of Part 5

- (1) In section 45 of the **Jury Directions Act 2015**, for "for an offence against any provision in Subdivision (8A), (8B), (8C) or (8D) of Division 1 of Part I of the **Crimes Act 1958** or a charge for an offence of conspiracy, incitement or attempt to commit an offence against any of those provisions." **substitute** "for—
 - (a) an offence against any provision in Subdivision (8A), (8B), (8C), (8D) or (8FAAB) of Division 1 of Part I of the **Crimes Act 1958**; or

- (b) an offence of attempting to commit, or of incitement or conspiracy to commit, an offence referred to in paragraph (a); or
 - (c) an offence in respect of which a defence is raised under section 34AF of the **Crimes Act 1958**".
- (2) After note 4 at the foot of section 45 of the **Jury Directions Act 2015** insert—
- "4A Subdivision (8FAAB) provides for offences relating to intimate images."

91 Direction on consent

- (1) For the note at the foot of section 46(2) of the **Jury Directions Act 2015** substitute—
- "Note**
- For the meaning of consent and the circumstances in which a person does not consent, see—
- for an offence against any provision in Subdivision (8A), (8B), (8C) or (8D) of Division 1 of Part I of the **Crimes Act 1958**, sections 36 and 36AA of that Act; or
 - for an offence against any provision in Subdivision (8FAAB) of Division 1 of Part I of the **Crimes Act 1958**, sections 53P and 53Q of that Act; or
 - for an offence in respect of which a defence is raised under section 34AF of the **Crimes Act 1958**, sections 34AG and 34AH of that Act."

(2) For the note at the foot of section 46(4)(a) of the **Jury Directions Act 2015** substitute—

"Note

These circumstances are set out at—

 - for an offence against any provision in Subdivision (8A), (8B), (8C) or (8D) of Division 1 of Part I of the **Crimes Act 1958**, section 36AA of that Act; or
 - for an offence against any provision in Subdivision (8FAAB) of Division 1 of Part I of the **Crimes Act 1958**, section 53Q of that Act; or

Part 6—Amendment of Jury Directions Act 2015

- for an offence in respect of which a defence is raised under section 34AF of the **Crimes Act 1958**, section 34AH of that Act."
- (3) In section 46(4)(b) of the **Jury Directions Act 2015**, for "section 36AA of the **Crimes Act 1958**" substitute "section 34AH, 36AA or 53Q of the **Crimes Act 1958** (as the case requires)".

92 Direction on reasonable belief in consent

In section 47(3)(a) of the **Jury Directions Act 2015**, for "section 36AA of the **Crimes Act 1958**" substitute "section 34AH, 36AA or 53Q of the **Crimes Act 1958** (as the case requires)".

Division 2—Re-enacting repealed jury directions in relation to consent

93 New Division 1AAB of Part 5 inserted

After Division 1AA of Part 5 of the **Jury Directions Act 2015** insert—

"Division 1AAB—Consent and accused's awareness in relation to consent (offences before 1 July 2015)

44Q Application of Division

- (1) This Division applies to a criminal proceeding that relates (wholly or partly) to a charge for an offence that is—
- (a) a sexual offence; and
 - (b) alleged to have been committed before 1 July 2015.
- (2) For the purposes of subsection (1)(b), if a sexual offence is alleged to have been committed between 2 dates and—

- (a) one of the dates is before 1 July 2015;
and
- (b) the other date is 1 July 2015 or a later
date—

the offence is alleged to have been
committed before 1 July 2015.

44R Direction on consent

- (1) The prosecution or defence counsel may
request under section 12 that the trial judge
direct the jury on consent.
- (2) In making a request referred to in subsection
(1), the prosecution or defence counsel
(as the case requires) must specify one or
more of the following matters on which the
trial judge is requested to direct the jury—
 - (a) the meaning of consent set out in
section 36 of the **Crimes Act 1958**;
 - (b) that the law deems a circumstance
specified in section 36 of the **Crimes
Act 1958** to be a circumstance in which
the complainant did not consent;
 - (c) that if the jury is satisfied beyond
reasonable doubt that a circumstance
specified in section 36 of the **Crimes
Act 1958** exists in relation to the
complainant, the jury must find that the
complainant was not consenting;
 - (d) that the fact that a person did not say or
do anything to indicate free agreement
to a sexual act at the time at which the
act took place is enough to show that
the act took place without that person's
free agreement;

- (e) that the jury is not to regard a person as having freely agreed to a sexual act just because—
 - (i) the person did not protest or physically resist; or
 - (ii) the person did not sustain physical injury; or
 - (iii) on that or an earlier occasion, the person freely agreed to engage in another sexual act (whether or not of the same type) with the accused, or a sexual act with another person.
- (3) In this section, a reference to section 36 of the **Crimes Act 1958** is a reference to section 36 of the **Crimes Act 1958** as in force immediately before its repeal by section 7(2) of the **Crimes Amendment (Sexual Offences and Other Matters) Act 2014**.

Note

Section 14 requires the trial judge to give this direction, if requested, unless there are good reasons for not doing so. Section 16 requires the trial judge to give a direction if the trial judge considers that there are substantial and compelling reasons for doing so.

44S Direction on accused's awareness

- (1) This section applies if evidence is led or an assertion is made that the accused believed that the complainant was consenting to the sexual act.
- (2) The prosecution or defence counsel may request under section 12 that the trial judge direct the jury that, in considering whether the prosecution has proved beyond reasonable doubt that the accused was aware

that the complainant was not consenting or might not have been consenting, the jury must consider—

- (a) any evidence of the accused's belief in consent; and
- (b) whether that belief was reasonable in all the relevant circumstances having regard to—
 - (i) in the case of a proceeding in which the jury finds that a circumstance specified in section 36 of the **Crimes Act 1958** exists in relation to the complainant, whether the accused was aware that that circumstance existed in relation to the complainant; and
 - (ii) whether the accused took any steps to ascertain whether the complainant was consenting or might not be consenting, and if so, the nature of those steps; and
 - (iii) any other relevant matters.
- (3) In this section, a reference to section 36 of the **Crimes Act 1958** is a reference to section 36 of the **Crimes Act 1958** as in force immediately before its repeal by section 7(2) of the **Crimes Amendment (Sexual Offences and Other Matters) Act 2014**.

Note

Section 14 requires the trial judge to give this direction, if requested, unless there are good reasons for not doing so. Section 16 requires the trial judge to give a direction if the trial judge considers that there are substantial and compelling reasons for doing so."

94 Heading to Division 1 of Part 5 amended

In the heading to Division 1 of Part 5 of the **Jury Directions Act 2015**, after "offences" insert "on or".

95 Application of Division—Division 1 of Part 5

For note 5 at the foot of section 45 of the **Jury Directions Act 2015** substitute—

"5 The application of this Division is further limited by reference to when the offence is alleged to have been committed. See the transitional provisions in clause 1 of Schedule 1 and in the Schedule more generally. For sexual offences alleged to have been committed before 1 July 2015—see Division 1AAB."

Division 3—Redundant references to conspiracy or incitement

96 Application of Division—Division 1AA of Part 5

In section 44O of the **Jury Directions Act 2015** omit "or a charge for an offence of conspiracy or incitement to commit a sexual offence".

97 Application of Division—Division 1A of Part 5

(1) In section 47A(1) of the **Jury Directions Act 2015** omit "or a charge for an offence of conspiracy or incitement to commit a sexual offence".

(2) For section 47A(3) of the **Jury Directions Act 2015** substitute—

"(3) If the sexual offence is an offence of attempting to commit, or of incitement or conspiracy to commit, another offence, subsection (2) applies in relation to the acts alleged to constitute, or that would constitute, the other offence."

98 Application of Division—Division 2 of Part 5

In section 48 of the **Jury Directions Act 2015**
omit "or a charge for an offence of conspiracy or
incitement to commit a sexual offence".

99 Application of Division—Division 3 of Part 5

In section 54A of the **Jury Directions Act 2015**
omit "or a charge for an offence of conspiracy or
incitement to commit a sexual offence".

100 Application of Division—Division 4 of Part 5

In section 54E of the **Jury Directions Act 2015**
omit "or a charge for an offence of conspiracy or
incitement to commit a sexual offence".

101 Application of Division—Division 5 of Part 5

In section 54I of the **Jury Directions Act 2015**
omit "or a charge for an offence of conspiracy or
incitement to commit a sexual offence".

Division 4—Transitional provisions

102 Schedule 1—Transitional provisions

After clause 7 of Schedule 1 to the **Jury
Directions Act 2015** insert—

**"8 Justice Legislation Amendment (Family
Violence, Stalking and Other Matters)
Act 2026**

- (1) An amendment made to this Act by a
provision of Part 6 of the **Justice
Legislation Amendment (Family Violence,
Stalking and Other Matters) Act 2026**
applies only to—
- (a) a trial that commences (within the
meaning of the **Criminal Procedure
Act 2009**) on or after the
commencement of that provision of
Part 6; or

- (b) a summary hearing, committal proceeding, pre-trial hearing, appeal, case stated or special hearing referred to in section 4A(1) for which the specified day is on or after the commencement of that provision of Part 6.

Note

See section 44Q and clause 1 of this Schedule for the relevant time periods within which an offence is alleged to have been committed for Division 1AAB or Division 1 of Part 5 to apply.

- (2) In this clause—

specified day means—

- (a) for a committal proceeding under the **Criminal Procedure Act 2009**, the day on which the committal hearing commences; and
- (b) for a case stated under the **Criminal Procedure Act 2009** or Part 5.4 of the **Children, Youth and Families Act 2005**, the day of the commencement of the hearing from which the question of law arises; and
- (c) in any other case, the day of the commencement of the summary hearing, the pre-trial hearing, the hearing of the appeal, or the special hearing (as the case requires).

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- (3) On and after the commencement of Chapter 8 of the **Youth Justice Act 2024**, the reference in the definition of *specified day* to Part 5.4 of the **Children, Youth and Families Act 2005** is taken to include a reference to Chapter 8 of the **Youth Justice Act 2024**."

Part 7—Amendment of Personal Safety Intervention Orders Act 2010

Division 1—Interim orders made on court's own motion

103 Definitions

(1) In section 4 of the **Personal Safety Intervention Orders Act 2010**, in the definition of *court*—

(a) in paragraph (b), for "court;" substitute
"court; or"; and

(b) after paragraph (b) insert—

"(c) in relation to an interim order made
under Division 3A of Part 3, the court
hearing the criminal proceeding in
which the order is made;"

(2) In section 4 of the **Personal Safety Intervention Orders Act 2010**, in the definition of *interim order*, after paragraph (a) insert—

"(ab) made under section 43C or 43D, and
includes an order made under section 43C or
43D as varied under section 80; and"

104 New Division 3A of Part 3 inserted

After section 43 of the **Personal Safety
Intervention Orders Act 2010** insert—

"Division 3A—Interim orders made on court's own motion

43A Definitions for this Division

In this Division—

application or appeal relating to bail means
any of the following under the **Bail
Act 1977**—

- (a) an application for bail;
- (b) an application to vary conditions of bail;
- (c) an application to extend bail;
- (d) an application to revoke bail;
- (e) an appeal under section 18A;
- (f) an appeal under section 18AG;

relevant offence means any of the following offences—

- (a) a sexual offence listed in clause 1 of Schedule 1 to the **Sentencing Act 1991**;
- (b) a violent offence listed in clause 2 of Schedule 1 to the **Sentencing Act 1991**;
- (c) an offence against section 21A of the **Crimes Act 1958** (stalking);

relevant party means, in a criminal proceeding, the party who—

- (a) is accused; or
- (b) has been found guilty; or
- (c) is appealing having been found guilty; or
- (d) has had their finding of guilt set aside on appeal.

43B Application of Division

This Division does not apply to a relevant party who was a child at the time of the alleged commission of a relevant offence.

43C Court hearing application or appeal relating to bail may make own motion interim order

- (1) Subject to section 43E, a court hearing an application or appeal relating to bail in respect of a relevant offence may make an interim order against a relevant party to protect an alleged victim of the relevant offence if the court is satisfied, on the balance of probabilities, that the interim order is necessary to ensure the safety of the alleged victim pending a decision about a final order.
- (2) A court may make an interim order under this section on its own motion.
- (3) Without limiting subsection (1), in deciding whether it is appropriate to make an interim order, the court may consider—
 - (a) whether the relevant party has a cognitive impairment; and
 - (b) if the court is satisfied the relevant party has a cognitive impairment, the relevant party's ability to do the following—
 - (i) understand the nature and effect of an interim order;
 - (ii) comply with the conditions of the interim order.
- (4) An interim order may be made under this section for more than one alleged victim of the relevant offence if the court is satisfied under subsection (1) in relation to each of the alleged victims.

43D Court may make interim order on its own motion in a criminal proceeding

- (1) Subject to section 43E, a court hearing a criminal proceeding for a relevant offence may make an interim order against a relevant party to protect an alleged victim of the relevant offence if the court is satisfied, on the balance of probabilities, that the interim order is necessary to ensure the safety of the alleged victim pending a decision about a final order.
- (2) A court may make an interim order under this section on its own motion.
- (3) Without limiting subsection (1), in deciding whether it is appropriate to make an interim order, the court may consider—
 - (a) whether the relevant party has a cognitive impairment; and
 - (b) if the court is satisfied the relevant party has a cognitive impairment, the relevant party's ability to do the following—
 - (i) understand the nature and effect of an interim order;
 - (ii) comply with the conditions of the interim order.
- (4) The court may make an interim order under subsection (1)—
 - (a) at any stage of the criminal proceeding, including during any committal hearing, any trial, any sentencing hearing or any appeal; and
 - (b) whether or not the person accused is found guilty of the offence; and

- (c) whether or not the charge is withdrawn or the prosecution of the offence is discontinued.
- (5) An interim order may be made under this section for more than one alleged victim if the court is satisfied under subsection (1) in relation to each of the alleged victims of the relevant offence.

43E Court must not make interim order in certain circumstances

The court must not make an interim order under section 43C or 43D if—

- (a) the alleged victim is a family member of the relevant party; or
- (b) there is an existing personal safety intervention order that protects the alleged victim from the relevant party; or
- (c) an application for a personal safety intervention order that protects the alleged victim from the relevant party has been made but not finally determined.

Note

Under Division 2A of Part 4 of the **Family Violence Protection Act 2008**, a court may make an interim order on its own motion to protect a family member of the relevant party.

43F Prosecutor not party to proceeding for interim order

- (1) The prosecutor in any criminal proceeding in which an interim order is made or proposed to be made under this Division is not a party to the proceeding, and has no standing or

status in the proceeding, only for the purposes of the making of the interim order.

- (2) Nothing in subsection (1) affects the status, function or standing of a prosecutor in relation to the criminal proceeding other than the making of the interim order.

43G Material before the court for making interim orders under this Division

- (1) Nothing in Division 4 applies to the making of an interim order under section 43C or 43D.
- (2) An interim order under section 43C or 43D must be made on the material before the court in the hearing of the application or appeal relating to bail, or the criminal proceeding.

43H Interim order to protect child if interim order made under section 43C or 43D

- (1) This section applies if—
- (a) the court makes an interim order under section 43C or 43D; and
 - (b) the court is satisfied, on the balance of probabilities, that a child who is a family member of the protected person has been subjected to prohibited behaviour committed by the relevant party.
- (2) Subject to subsection (3), if the court is satisfied that it is necessary to make an interim order to protect the child or ensure the safety of the child pending a decision about a final order, the court may—

- (a) if the child's need for protection is substantially the same as that of the person to be protected by the interim order, include the child in the interim order as a protected person; or
 - (b) otherwise, make a separate interim order for the child as a protected person.
- (3) The court must not make an interim order for the child if—
 - (a) the child is a family member of the relevant party; or
 - (b) there is an existing personal safety intervention order that protects the child from the relevant party; or
 - (c) an application for a personal safety intervention order that protects the child from the relevant party has been made but not finally determined.

Note

Under Division 2A of Part 4 of the **Family Violence Protection Act 2008**, a court may make an interim order on its own motion to protect a family member of the relevant party.

43I Oral explanation of interim order

- (1) If the court makes an interim order under this Division and the relevant party or the protected person or both are before the court, the court must give the relevant party and the protected person (as the case requires) a clear oral explanation of the matters referred to in section 40(1).

- (2) A failure by the court to give an oral explanation in accordance with this section does not affect the validity of the interim order.

43J Documents to be given to relevant party who is before the court

If the court makes an interim order under this Division, and the relevant party is before the court, the court must give the relevant party—

- (a) a copy of the interim order; and

Note

See section 174 regarding provision of the interim order.

- (b) a brief written statement of the reasons for making the interim order; and
(c) a written notice of the matters referred to in section 40(1) in the form prescribed by the rules of the court making the interim order.

43K Service of interim order and other documents

If the court makes an interim order under this Division—

- (a) the appropriate registrar for the court must arrange for the relevant party who is not before the court to be served with—
(i) a copy of the interim order; and
(ii) a brief written statement of the reasons for making the interim order; and

- (iii) a written notice of the matters referred to in section 40(1) in the form prescribed by the rules of the court making the interim order; and
- (b) the appropriate registrar for the court must arrange for the protected person to be served with—
 - (i) a copy of the interim order; and
 - (ii) a brief written statement of the reasons for making the interim order; and
 - (iii) a written notice of the matters referred to in section 40(1) in the form prescribed by the rules of the court making the interim order.

Note

See section 174 regarding provision of the interim order.

43L Interim order taken to be application for personal safety intervention order and treated as application under this Act

If an interim order is made under section 43C or 43D, for the purposes of this Act—

- (a) the interim order is taken to be—
 - (i) an application for a personal safety intervention order; and
 - (ii) a summons for the relevant party to attend the relevant court at the first mention date stated in the order for the application for a personal safety intervention order; and

- (b) the Chief Commissioner of Police is taken to be the applicant in relation to the application; and
- (c) any interim order made under section 43H(2)(b) is taken to form part of the application referred to in paragraph (a); and
- (d) an application for a personal safety intervention order referred to in paragraph (a) may be withdrawn or otherwise dealt with as an application in accordance with this Act.

43M Interim orders made by Supreme or County Court to be transferred to Magistrates' Court for final determination

- (1) If an interim order is made by the Supreme Court or the County Court under section 43C or 43D the proceeding for the final order is transferred to the Magistrates' Court for determination.
- (2) On an application under Division 10, the Magistrates' Court may revoke or vary the interim order as if the order had been made by that court.

43N Mention date and hearing for proceeding for final order

If an interim order is made by a court under this Division, the Magistrates' Court must ensure that—

- (a) the proceeding for the final order is listed for mention—
 - (i) if the relevant party was before the court when the interim order was made, within 14 days of the making of the order; or

- (ii) otherwise, within 14 days of the interim order being served on the relevant party; and
- (b) the hearing to determine the final order is listed as soon as practicable."

Division 2—Stalking

105 Meaning of *stalking*

- (1) In section 10(1) of the **Personal Safety Intervention Orders Act 2010**—

- (a) for "A person (the *first person*) stalks another person (the *second person*) if the first person engages in a course of conduct" **substitute** "A person (A) stalks another person (B) if";
- (b) for paragraph (a) **substitute**—
"(a) A engages in a course of conduct in relation to B; and";
- (c) in paragraph (b)—
 - (i) for "that includes" **substitute** "the course of conduct includes";
 - (ii) for "the second person" (wherever occurring) **substitute** "B";
 - (iii) for "the second person's" (wherever occurring) **substitute** "B's";
 - (iv) in subparagraph (vii), for "the first person" **substitute** "A";
 - (v) after subparagraph (viia) **insert**—
"(viiab) causing or threatening to cause harm to any animal—
(A) while in the presence of B or any other person; or

- (B) in circumstances where the harm or the threat of harm will be discovered by or brought to the attention of B or any other person;"
- (vi) in subparagraph (x)(B)—
 - (A) for "his or her" **substitute** "B's";
 - (B) for "person." **substitute** "person; and";
- (d) after paragraph (b) **insert**—
 - "(c) either—
 - (i) A intends that the course of conduct will cause a result described in subsection (2A) or believes that the course of conduct will probably cause such a result; or
 - (ii) A ought to understand, in all the particular circumstances, that the course of conduct will probably cause a result described in subsection (2A) and the course of conduct does cause such a result."
- (2) For section 10(2) of the **Personal Safety Intervention Orders Act 2010 substitute**—
 - "(2) For the purposes of subsection (1)(a), A engages in a course of conduct in relation to B if—
 - (a) either—
 - (i) A engages in conduct on more than one occasion; or
 - (ii) A engages in conduct that is protracted; and

- (b) the conduct shows a continuity of purpose in relation to B.
- (2A) Each of the following is a result for the purposes of subsection (1)(c)—
 - (a) physical or mental harm to B, including self-harm;
 - (b) apprehension or fear in B for B's own safety or that of any other person."

106 New Division 7 of Part 13 inserted

After Division 6 of Part 13 of the **Personal Safety Intervention Orders Act 2010** insert—

**"Division 7—Justice Legislation
Amendment (Family Violence, Stalking
and Other Matters) Act 2026**

**203 Transitional provision—Justice
Legislation Amendment (Family Violence,
Stalking and Other Matters) Act 2026**

- (1) Section 10 as amended by the amending Act applies in relation to the making of an order under this Act on or after the commencement day, irrespective of when the application for the order was made.
- (2) In this section—

amending Act means the **Justice
Legislation Amendment (Family
Violence, Stalking and Other
Matters) Act 2026**;

commencement day means the day on which
Division 2 of Part 7 of the amending
Act comes into operation."

Division 3—Statute law revision

107 Statute law revision

- (1) In section 74(2)(b) of the **Personal Safety Intervention Orders Act 2010** omit "and Early Childhood Development".
- (2) In the heading to section 75 of the **Personal Safety Intervention Orders Act 2010** omit "and Early Childhood Development".
- (3) In section 75(1), (2)(a) and (2)(b) and (3) of the **Personal Safety Intervention Orders Act 2010** omit "and Early Childhood Development".

Part 8—Repeal of this Act

108 Repeal of this Act

This Act is **repealed** on 10 November 2027.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

[†] *Minister's second reading speech—*

Legislative Assembly: 14 November 2025

Legislative Council: 20 November 2025

The long title for the Bill for this Act was "A Bill for an Act to amend the **Family Violence Protection Act 2008**, the **Crimes Act 1958**, the **Criminal Procedure Act 2009**, the **Evidence (Miscellaneous Provisions) Act 1958**, the **Jury Directions Act 2015** and the **Personal Safety Intervention Orders Act 2010** and for other purposes."