

Domestic and Family Violence Protection Act 2012 **Key Features**

1. *Preamble and guiding principles:*

- The addition of a preamble and principles to guide the administration of the legislation to make a clear statement that domestic and family violence is a violation of human rights and is not acceptable in Queensland communities.
- One intention of the preamble and principles is to remind professionals involved with individuals experiencing domestic and family violence of the nature, dynamics and impacts of domestic and family violence and recognises that the civil response set out in the Act should operate with, not instead of, the criminal law.

2. *New Definitions:*

- The Act includes a new definition for domestic and family violence which includes behaviour such as economic, emotional and psychological abuse, physical or sexual abuse or other behaviour which controls or dominates another person.
- The new definitions of domestic and family violence contained in the Act reflect the contemporary understanding of domestic and family violence, particularly regarding the types of relationships and behaviours covered by the new legislation. The nature and characteristics of domestic and family violence comprise behaviours used to exert power and control over another person.
- In addition, the definition includes behaviour that is physically or sexually abusive, threatening or coercive, or behaviour that in any other way controls or dominates another person.

Please refer to [Definition for 'Domestic Violence'](#) for more information

3. *Grounds for making a protection order*

- Under existing legislation, the *Domestic and Family Violence Protection Act 1989*, the grounds on which a court must be satisfied in determining whether or not to make a protection order are that:
 - an act of domestic violence has occurred;
 - a domestic relationship exists; and

- the person who committed domestic violence is likely to commit domestic violence again, or if the act of domestic violence was a threat, that the person is likely to carry out the threat.
- The new Act replaces the 'likelihood' element with a requirement that a court be satisfied that an order is necessary or desirable to protect an aggrieved from domestic violence. This change focuses the court on the protective needs of the aggrieved and whether imposing conditions on the respondent's behaviour is necessary or desirable to meet these needs.
- The court may still consider evidence which suggests that domestic violence may occur again, or a threat may be carried out, however the court does not need to be satisfied that such an event is 'likely'.
- Further, a court can look at other factors, including whether an aggrieved is in fear, when it is determining whether an order is necessary or desirable to protect an aggrieved from domestic violence.

4. *Naming children on domestic violence orders*

- Currently, the *Domestic and Family Violence Protection Act 1989* does not provide any specific guidance to a court when it is considering whether to include a child as a named person a domestic violence order. A named person receives the same protection as the aggrieved.
- The effects on children of witnessing or being exposed to domestic violence are well documented and can include medium and long term psychological harm. The new Act includes specific considerations for including children on orders such as whether naming the child is necessary or desirable to protect the child from being exposed to domestic violence.

Please refer to [Naming children on orders](#) for more information

5. *Police powers and functions*

- The Act places a more proactive duty on police officers to investigate suspected domestic violence and to take action to respond. The Act makes it clear that this obligation is in addition to a police officer's responsibility to investigate a criminal

offence and includes a requirement for an officer to make a written record of his or her reasons for not taking any action after an investigation.

- Police protection notices: The introduction of short-term police protection notices mean that police can issue a protection notice to provide immediate safety to the victim. A notice will act as an application to the court for a protection order. A police protection notice includes the option of a 24 hour 'cool down' condition, where the respondent to the notice is required to leave stated premises and not approach or contact the aggrieved during the cool down period.
- Changes to detention powers: The new Act provides police with powers to detain a respondent in high risk situations where there is a danger of injury to a person or property. The detention period can continue for up to eight hours where a person is intoxicated and incapable of understanding the requirements of an order, application or release conditions and for up to four hours where a person's demeanour may present an ongoing danger of injury or property damage. These detention powers are subject to strict requirements and include requirements to record particulars in the enforcement acts register.
- Power to direct a person to remain: Some respondents have managed to avoid being charged with a breach of a domestic violence order by making it difficult for police to serve the order on the respondent. An order is not enforceable if it has not been served. Under the new Act, police have the power to require a person to remain at a location for the time reasonably necessary for the police officer to serve the respondent or advise them of the conditions of an order if the officer does not have a copy of the order. This will improve the safety of victims by increasing the opportunities for police to ensure that service requirements are met and protection orders can be enforced.

Please refer to [Addressing gaps in protection](#) and [Police powers](#) for more information

Other key new features of the Act

- [Increased penalties for breach offences](#)
- [Provisions for witnesses in domestic violence proceedings](#)
- [Powers of the Childrens Court](#)