



Queensland

Bail (Domestic Violence) and Another Act Amendment Act 2017

Act No. 9 of 2017

An Act to amend the Bail Act 1980 and the Corrective Services Act 2006 for particular purposes

[Assented to 30 March 2017]



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Bail (Domestic Violence) and Another Act Amendment Act 2017

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The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Bail (Domestic Violence) and Another Act Amendment Act 2017*.

1A Commencement

Sections 4 and 6(2) commence on a day to be fixed by proclamation.

Part 2 Amendment of Bail Act 1980

2 Act amended

This part amends the *Bail Act 1980*.

4 Amendment of s 11 (Conditions of release on bail)

(1) Section 11—

insert—

(9B) Without limiting a court's power to impose a condition on bail under another provision of this section, a court may impose on the bail a condition that the defendant wear a tracking device while the defendant is released on bail.

(9C) If bail for a person is subject to a condition mentioned in subsection (9B), the court may impose any other condition the court considers necessary to facilitate the operation of the

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tracking device.

Examples of conditions a court may consider necessary to facilitate the operation of a tracking device required to be worn by a defendant—

- a condition that requires the defendant to attend at a stated place to be fitted with the tracking device
- a condition that requires the defendant to take stated and other reasonable steps to ensure the tracking device and any equipment necessary for the operation of the tracking device are, or remain, in good working order
- a condition that requires the defendant to permit a police officer to enter stated premises to install equipment necessary for the operation of the tracking device
- a condition that requires the defendant to permit a police officer to take stated and other reasonable steps to ensure the tracking device and any equipment necessary for the operation of the tracking device are, or remain, in good working order
- a condition that requires the defendant to comply with a direction given by a police officer that is reasonably necessary for the operation of the tracking device

(2) Section 11(10)—

insert—

tracking device means an electronic device capable of being worn, and not removed, by a person for the purpose of the Queensland police service, or the chief executive of the department in which the *Corrective Services Act 2006* is administered, finding or monitoring the geographical location of the person.

6 Amendment of s 16 (Refusal of bail)

(1) Section 16(2)—

insert—

-
- (f) if the defendant is charged with a domestic violence offence or an offence against the *Domestic and Family Violence Protection Act 2012*, section 177(2)—the risk of further domestic violence or associated domestic violence, under the *Domestic and Family Violence Protection Act 2012*, being committed by the defendant.

Note—

See section 15(1)(e) for the power of a court to receive and take into account evidence relating to the risk of further domestic violence or associated domestic violence.

(2) Section 16—

insert—

- (2A) However, in assessing whether there is an unacceptable risk with respect to any event specified in subsection (1)(a) a court must not have regard to the effect on the risk of imposing a condition under section 11(9B).

(3) Section 16(3)—

insert—

- (g) with a relevant offence;

(4) Section 16—

insert—

- (7) In this section—

domestic violence offence see the Criminal Code, section 1.

relevant offence means—

- (a) an offence against the Criminal Code, section 315A; or
- (b) an offence punishable by a maximum penalty of at least 7 years imprisonment if

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the offence is also a domestic violence offence; or

- (c) an offence against the Criminal Code, section 75, 328A, 355, 359E or 468 if the offence is also a domestic violence offence; or
- (d) an offence against the *Domestic and Family Violence Protection Act 2012*, section 177(2) if—
 - (i) the offence involved the use, threatened use or attempted use of unlawful violence to person or property; or
 - (ii) the defendant, within 5 years before the commission of the offence, was convicted of another offence involving the use, threatened use or attempted use of unlawful violence to person or property; or
 - (iii) the defendant, within 2 years before the commission of the offence, was convicted of another offence against the *Domestic and Family Violence Protection Act 2012*, section 177(2).

7 Insertion of new s 19CA

After section 19C—

insert—

19CA Stay of release decision relating to relevant domestic violence offence

- (1) This section applies if—
 - (a) a decision has been made about release under this part or the *Youth Justice Act 1992*, part 5, for a defendant charged with a relevant domestic violence offence; and

- (b) the prosecutor or other person appearing on behalf of the Crown applies to the reviewing court for a review of the decision.
- (2) The decision about release is stayed until the earlier of the following—
 - (a) the reviewing court makes an order under section 19B(6) or 19C(5);
 - (b) the application for the review of the decision is discontinued;
 - (c) 4p.m. on the day that is 3 business days after the day on which the decision about release was made.
- (3) A decision about release does not entitle a person to be at liberty while the decision is stayed.

8 Amendment of s 19D (Warrants in aid of orders under section 19B or 19C)

- (1) Section 19D, heading, after ‘or 19C’—

insert—

or stay under section 19CA

- (2) Section 19D—

insert—

- (2) Also, a reviewing court may, for giving effect to a stay under section 19CA, issue a warrant for the apprehension of the defendant directing that the defendant be brought before a stated court.

9 Insertion of new s 36BA

After section 36B—

insert—

[s 9A]

36BA Review of domestic violence provisions

- (1) The Minister must ensure the operation of the domestic violence provisions is reviewed as soon as practicable after the day that is 2 years after the commencement of the provisions.
- (2) The review must include a review of whether the domestic violence provisions—
 - (a) have been effective in protecting people from domestic violence; and
 - (b) have had sufficient regard to rights and liberties of defendants; and
 - (c) remain appropriate.
- (3) The Minister must, as soon as practicable after the review is finished, table in the Legislative Assembly a report on the outcome of the review.
- (4) In this section—

domestic violence provisions means sections 19CA and 19D(2).

9A Insertion of new s 46

After section 45—

insert—

46 Transitional provision for Bail (Domestic Violence) Amendment Act 2017

- (1) Sections 11 and 16, as amended by the amending Act, apply in relation to the release of a person on bail on or after the commencement.
- (2) For subsection (1), it is irrelevant whether the alleged offence in relation to which the person is released on bail happened, or the proceeding for the offence was started, before or after the commencement.
- (3) In this section—

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- (ii) if the victim is deceased, an immediate family member of the deceased victim; or
- (iii) if the victim is under 18 years or has a legal incapacity, the victim's parent or guardian; or
- (iv) another person who—
 - (A) gives the chief executive documentary evidence of the prisoner's history of violence against the person; or

Example—

a domestic violence order under the *Domestic and Family Violence Protection Act 2012*, whether or not the order is current

- (B) satisfies the chief executive the person's life or physical safety could reasonably be expected to be endangered because of a connection between the person and the offence;

- (b) for a prisoner mentioned in subsection (1)(c)—

- (i) a person who gives the chief executive documentary evidence of the prisoner's domestic violence against the person, whether or not the domestic violence constitutes the offence for which the person is imprisoned; or

Example—

a domestic violence order under the *Domestic and Family Violence Protection Act 2012*, whether or not the order is current

- (ii) a person who satisfies the chief executive the person's life or physical

safety could reasonably be expected to be endangered because of a risk of domestic violence committed by the prisoner against the person.

- (3) The application must be accompanied by documentary evidence satisfying the chief executive of the applicant's identity.
- (4) The applicant may nominate an entity to receive the prisoner information for the applicant.

Example of entity—

a victims' support agency

- (5) In this section—

offence of violence means an offence in which the victim suffers actual or threatened violence.

12 Insertion of new s 324A

After section 324—

insert—

324A Right of eligible persons to receive particular information

- (1) The chief executive must give an eligible person the following information about a prisoner in relation to whom the eligible person is registered—
 - (a) the prisoner's eligibility dates for discharge or release;
 - (b) the prisoner's date of discharge or release;
 - (c) the fact, and date, of the death or escape of the prisoner;
 - (d) the fact, and date, of any particular circumstances relating to the prisoner that could reasonably be expected to endanger the eligible person's life or physical safety.

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Examples of particular circumstances relating to a prisoner—

- the prisoner is mistakenly discharged before the prisoner's discharge day
- the prisoner is granted leave under chapter 2, part 2, division 8 without supervision

(2) The information must be given to the person—

- (a) for information mentioned in subsection (1)(a)—as soon as practicable after the chief executive becomes aware of the information; or
- (b) for information mentioned in subsection (1)(b)—at least 14 days before the prisoner's date of discharge or release; or
- (c) for information mentioned in subsection (1)(c) and (d)—immediately after the chief executive becomes aware of the information.

(3) If the eligible person nominated an entity under section 320(4) to receive the information, the chief executive may give the information to the nominee.

13 Amendment of s 325 (Releasing information)

(1) Section 325, heading, after 'Releasing'—

insert—

other

(2) Section 325(1)(d) and (e)—

omit.

(3) Section 325(1)(g)—

omit, insert—

(g) other exceptional events relating to the prisoner.

- (4) Section 325(1)(f) and (g)—
renumber as section 325(1)(d) and (e).

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