

LEGISLATIVE ASSEMBLY

OPEN COURTS BILL 2013

(Amendments and New Clauses to be moved by Mr Clark)

1. Clause 3, after line 24, insert the following definition—

"business day means a day other than a Saturday, a Sunday or a public holiday within the meaning of the **Public Holidays Act 1993**;"

2. Clause 3, after line 27 insert the following definitions—

"corresponding interstate order has the same meaning as it has in the **Family Violence Protection Act 2008**;

corresponding New Zealand order has the same meaning as it has in the **Family Violence Protection Act 2008**;"

3. Clause 3, page 3, lines 4 and 5, omit the definition of *family violence* and insert—

"family violence intervention order has the same meaning as it has in the **Family Violence Protection Act 2008**;

family violence offence means—

(a) an offence where—

(i) the accused is a person who, at the time of the alleged offence, is subject to a family violence intervention order, a family violence safety notice, a corresponding interstate order or a corresponding New Zealand order; and

(ii) the complainant or alleged victim is a person who is protected by the order or notice referred to in subparagraph (i); and

(iii) the conduct comprising the alleged offence, if established, includes conduct by the accused which is a contravention of the order or notice referred to in subparagraph (i); or

(b) an offence where the conduct comprising the alleged offence, if established, constitutes family violence within the meaning of the **Family Violence Protection Act 2008** by the accused against the complainant or alleged victim and the conduct could reasonably have justified the making of a family violence intervention order or a family violence safety notice applying to the accused and protecting the complainant or alleged victim;

family violence safety notice has the same meaning as it has in the **Family Violence Protection Act 2008**;"

4. Clause 3, page 3, line 10, omit "18" and insert "20".

5. Clause 3, page 3, line 31, omit "15" and insert "17".

6. Clause 3, page 4, line 18, omit "23 or 24" and insert "25 or 26".
7. Clause 10, line 12, omit "18" and insert "20".
8. Clause 11, line 17, omit "24" and insert "26".
9. Clause 15, line 5, omit "16" and insert "18".
10. Clause 16, line 16, after "prevent" insert "a real and substantial risk of".
11. Clause 16, line 17, after "justice" insert "that cannot be prevented by other reasonably available means".
12. Clause 16, after line 17 insert—

Example

Another reasonably available means may be directions to the jury."
13. Clause 16, line 25, omit "party to," and insert "complainant".
14. Clause 16, line 26, omit "in," and insert "in".
15. Clause 16, lines 27 and 28, omit "family violence" and insert "a family violence offence".
16. Clause 17, page 14, line 13, after "subsection (2)" insert "(a), (c), (d), (e) or (f)".
17. Clause 18, lines 26 to 32 and page 15, lines 1 to 14, omit all words and expressions on these lines.
18. Clause 18, page 15, line 17, omit "16" and insert "18".
19. Clause 25, line 23, omit "24" and insert "26".
20. Clause 25, line 26, omit "24" and insert "26".
21. Clause 27, line 16, omit "26" and insert "28".
22. Clause 28, page 22, line 4, after "prevent" insert "a real and substantial risk of".
23. Clause 28, page 22, line 5, after "justice" insert "that cannot be prevented by other reasonably available means".
24. Clause 28, page 22, after line 5 insert—

Example

Other reasonably available means may include directions to the jury, making a proceeding suppression order, or orders excluding only certain persons or a more limited class of persons from the court or tribunal."
25. Clause 28, page 22, line 13, omit "party to" and insert "complainant".
26. Clause 28, page 22, line 15, omit "family violence" and insert "a family violence offence".
27. Clause 32, line 7, omit "15" and insert "17".

28. Clause 32, line 11, omit "15" and insert "17".

29. Clause 33, line 16, omit "32" and insert "34".

NEW CLAUSES

30. After clause 9 insert the following new clauses—

"AA Notice of applications for suppression orders

- (1) Subject to subsection (3), an applicant for a suppression order must give 3 business days' notice of the making of the application to—
 - (a) the court or tribunal in which the application is to be made; and
 - (b) the parties to the proceeding to which the application relates.
- (2) Notice under subsection (1) must be in accordance with rules of court (if any) applying in the court or tribunal in which the application is made.
- (3) The court or tribunal may hear an application for a suppression order despite the failure of the applicant to give notice in accordance with subsection (1) if the court or tribunal is satisfied that—
 - (a) there was a good reason for the notice not being given or not being given within the required time period; or
 - (b) it is in the interests of justice that the court or tribunal hear the application without notice being given.
- (4) This section does not apply to the making of a proceeding suppression order by a court or tribunal on its own motion.

BB Notifications to relevant news media organisations

- (1) On receiving a notice under section 10(1), the court or tribunal must take reasonable steps to ensure that any relevant news media organisation is notified of the application for a suppression order.
- (2) Notification under this section may be by electronic communication or any other means that the court or tribunal considers appropriate.
- (3) In this section, *relevant news media organisation* means a news media organisation which the court or tribunal would ordinarily ensure was sent notice of the making of a suppression order."