



Queensland

Domestic and Family Violence Protection Act Amendment Youth Act 2021

Youth Act No. 6 of 2021

An Act to amend the Domestic and Family Violence Protection Act 2012

[Assented to 13 October 2021]



Queensland

Domestic and Family Violence Protection Act Amendment Youth Act 2021

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The Youth Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Youth Act may be cited as the *Domestic and Family Violence Protection Act Amendment Youth Act 2021*.

2 Commencement

This Youth Act commences on a day to be fixed by proclamation.

3 Main Purpose of Youth Act

The main purpose of this Youth Act is to provide Queensland citizens with the tools required to target the root of domestic and family violence. The success of this bill requires particular attention in providing both the victim and culprit with rehabilitation services, education and protection in circumstances of domestic and family violence.

4 Definitions

In this Youth Act—

Aboriginal or Torres Strait Islander means a person who is a descendant of an Aboriginal or Torres Strait Islander, who identifies as an Aboriginal or Torres Strait Islander.

Conference means the initial meeting and any subsequent meeting between the Council and the parties to be and/or currently engaged within a program of rehabilitation.

the Council the Queensland Domestic and Family Violence oversight and Intervention Council.

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Court has the meaning given by the *Bail Act 1980*.

Defendant has the meaning given by the *Bail Act 1980*.

Defendant's community has the meaning given by the *Bail Act 1980*.

Indigenous means the Aboriginal and Torres Strait Islander peoples of Queensland.

LGBTQI+ means anyone identifying with a diverse sexual orientation or gender identity.

Penalty has the meaning given by the *Penalties and Sentences Act 1992*.

Penalty unit has the meaning given by the *Penalties and Sentences Act 1992*.

Potentially Vulnerable includes persons who are a part of groups particularly susceptible to issues stemming from domestic violence offences, including women, youth, first nations people, rural communities, LGBTQI+ people, those with disabilities and any other vulnerable persons.

Victim means a person who has been adversely subjected to ill treatment, whether physical, emotional, mental, financial and/or child abuse, from a partner, defacto, spouse, family member, etc. in the form of domestic, family and/or sexual violence.

Part 2 Domestic and Family Violence Protection Act 2012

Division 1 Establishment of the Domestic and Family Violence oversight body

5 Amendment of the Domestic and Family Violence Act 2012

This part amends the *Domestic and Family Violence Protection Act 2012*.

6 Establishment

The Queensland Domestic and Family Violence Oversight and Intervention Council is established.

7 Functions of the Council

- (1) The functions of the council are—
- (a) When requested by an original or appellate court, to provide the court with a document holding the views of the Council regarding giving or reviewing of a guideline judgement; and
 - (b) To advise the Attorney-General on sentencing matters regarding domestic violence, as well as related cases of sexual violence and child abuse by the perpetrator; and
 - (c) To provide the potentially vulnerable members of a community—
 - (i) with the tools to recognise the signs of family violence and abusive relationships they, or their family or friends may experience; and
 - (ii) the knowledge with what steps to take and how to gain support from the committee;

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- (d) To provide people within the community recognised as a potential victim of domestic violence, and/or victim of sexual or child abuse and to provide them with the resources they need to seek out help from the authorities, the committee, shelters, support systems or relevant NGO's in a discrete manner they have been trained to perform, in order to not escalate the situation;
- (e) To provide a source of accurate and well-versed information accessible—
 - (i) Online; or
 - (ii) in person via community outreach programs; and
 - (iii) community members and stakeholders who have approached the committee.
- (f) Conduct investigations and research across all communities regarding domestic violence and abuse within relationships and families, particularly—
 - (i) First Nations people;
 - (ii) Immigrants;
 - (iii) People in the LGBTQI+ Community;
 - (iv) People with intellectual and/or physical disabilities;
 - (v) The elderly.
- (g) To collate the findings from the research, come to data-driven conclusions, provide well-informed recommendations, and publish the information;
- (h) To provide the immediate assistance to victims of domestic violence, and related sexual and child violence by consensually connecting the victim with one or more the following, however it is not limited to—
 - (i) Emergency Services;
 - (ii) Police Department and/or relevant Officers;
 - (iii) A Magistrate to assess and potentially implement a temporary and/or permanent Protection Order;

- (iv) Domestic violence shelters;
 - (v) Family Services; or
 - (vi) Any other service which the Council sees necessary.
- (i) To provide continued support for the victim through a long-term case manager appointed through the council and to connect the victim to—
- (i) Social workers;
 - (ii) Psychologists and/or counsellors;
 - (iii) Legal and financial advisors;
 - (iv) Potentially helpful NGO's that the Council has partnered with.

8 Powers of the council

- (1) In this section, resources include support services, further engagement teams, medical teams, mental health services, online engagement services, community groups and any other thing.
- (2) The Council has the power to—
- (a) Gather the relevant information to contact the parties involved in a complaint;
 - (b) Have the ability to connect the parties with appropriate resources to facilitate the rehabilitation and support processes of the aggrieved and the respondent as the Council sees fit; and
 - (c) Perform any other action or function that is in line with the purpose and object of the council pursuant to this Youth Act.
- (3) The Attorney-General may grant the Council any other power needed for its proper function pursuant to this Youth Act.

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9 Voluntary Engagement

- (1) Upon the Council being notified of a Youth Domestic Violence Order (YDVO) being issued, they are to make contact with the parties and organise a conference.
- (2) In this conference, the parties and the Council are to come to a mutual agreement as to the course of action to be taken within the rehabilitation program.
- (3) Both parties must, to the best possible extent, voluntarily agree to engage in the processes and programs provided by the Council—
 - (a) If parties fail to engage with the agreed or issued program after three unsuccessful attempts, the Council may refer the parties back to the referring Court;
 - (b) The Court may make any summons or orders necessary as to mandate engagement of the Parties with the Council and rehabilitation;
 - (c) Where the Parties continue to fail to engage with the Council on one further occasion, the Council may refer the matter to the Courts for further proceedings.
- (4) Where the parties, in deciding in a program of rehabilitation, fail to come to agreement with the Council, the Council may recommend that a particular course of action be undertaken—
 - (a) The Governor in Council shall be permitted to make an order requiring that the named parties engage with the program—
 - (i) The conference shall follow the same rules as the proceedings of the Council per Division 4 of this Act.

Division 2 Membership of the Queensland Domestic and Family Violence Oversight and Intervention Council

10 Council Membership

- (1) The size of the committee will be as determined by the Governor in Council, in consultation with the Council.
- (2) When a new person is potentially up for appointment to the council, the Governor in Council and the Minister for Justice, Women, and the Prevention of Domestic and Family Violence must first approve if satisfied with their expertise, relevant experience.
- (3) The Governor in Council and the Minister for Justice, Women, and the Prevention of Domestic and Family Violence give approval prior to an appointment to the council based on expertise and relevant experience.
- (4) The minimum number of members from minority groups—
 - (a) Minimum of two (2) Aboriginal Person and/or Torres Strait Islander persons must be in the committee, one of whom must identify as female; and
 - (b) Minimum of one (1) person identifying as a member of the LGBTIQ+ Community must be in the committee; and
 - (c) Minimum of two (2) people who have been victims of domestic, family and/or sexual violence must be appointed to the committee.
- (5) People with relevant personal experiences or are a part of a community where domestic and family violence are of niche or higher severities, are especially regarded when considering the appointment of council members.
- (6) The specific experience, expertise and roles within the Queensland Domestic and Family Violence Oversight and Intervention Council that need to be fulfilled by members of the committee are as followed—

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- (a) Elected Chairperson and elected Deputy Chairperson;
- (b) Victims of domestic, family and/or sexual violence;
- (c) Specialised and experienced person regarding justice matters relating to domestic and family violence;
 - (i) Specialised representative from a relevant branch of law enforcement; corrective services, including offender rehabilitation, and domestic, family and/or sexual violence prevention;
 - (ii) Specialised and experienced person regarding criminal law, criminal prosecutions, criminal defence representation, civil liberties;
- (d) Specialised and experienced persons who can offer significant insight and can facilitate the ongoing support and aid for those affected by domestic, family and/or sexual violence—
 - (i) Social workers with extensive relevant experience who are able to advise and consult with partnered social workers appointed to cases involving domestic, family and/or sexual violence on behalf of the council;
 - (ii) Psychologists with extensive relevant experience who are able to advise and consult with partnered social workers appointed to cases involving domestic, family and/or sexual violence on behalf of the council;
 - (iii) Child social workers and psychologists with extensive relevant experience who are able to advise and consult with partnered social workers appointed to cases involving domestic, family and/or sexual violence involving children/minors on behalf of the council;
 - (iv) Housing representatives who are able to facilitate and provide relevant information and resources in relation to helping victims of domestic violence seek immediate shelter and permanent residence;

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- (v) Financial advisers who can give reliable and accurate information regarding domestic violence victims and their finances going forward;
- (7) Specialists and researchers who have extensive experience investigating cases of domestic violence, family violence and/or sexual violence in different aspects and/or niches in our communities, and can form educated recommendations regarding actions the council can take in order to help prevent these cases and suggest best practices to support the victims of DV.
 - (8) Informed members within our State with relevant and valuable insight and can accurately represent the different niche communities affected by domestic, family and/or sexual violence—
 - (a) Indigenous Spokespersons with experience with DV and SV within Indigenous communities;
 - (b) People of colour and immigrants with relevant experience regarding domestic, family and/or sexual violence;
 - (c) People identifying as a part of the LGBTQI+ Community with relevant experience regarding domestic, family and/or sexual violence;
 - (d) People who/have lived with a mental illness and/or disability and have relevant experience regarding domestic, family and/or sexual violence.
 - (9) Legislation Justice Officer responsible to an individual youth and who can connect and question the youth on important cultural and community basis.

11 Chairperson and deputy chairperson

- (1) Upon the development of the council, the Governor in Council is to consult the Attorney-General and the current Minister for Justice, Women, and the Prevention of Domestic and Family Violence, then appoint a chairperson, deputy chairperson, and other members of the council.

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- (2) After the initial development of the council, every three years, a new chairperson and deputy chairperson can be appointed. Candidates will nominate themselves and the council will anonymously vote on the candidates. The potential candidate for chairperson and deputy chairperson will have their portfolio submitted to the residing Governor in Council, Attorney-General and Minister for Justice, Women, and the Prevention of Domestic and Family Violence for approval.
 - (a) The residing Governor in Council, Attorney-General and Minister for Justice, Women, and the Prevention of Domestic and Family Violence are entitled to request a meeting and/or interview with the potential candidate before approving.
 - (b) If approved, the successful candidates become the chairperson and deputy chairperson of the council.
 - (c) If not approved, the council will repeat the nomination and voting process in accordance with Part 10, Section 1.
 - (d) The existing or past chairpersons and deputy chairpersons can nominate themselves and be appointed again after the three year term has ended if their.
- (3) Any new member to the council must first serve 6 months before being eligible to nominate themselves for a chairperson or a deputy chairperson.
- (4) The deputy chairperson must act as chairperson—
 - (a) during a vacancy in the office of chairperson; and
 - (b) during all periods when the chairperson is absent from duty or for another reason can not perform the duties of the office.

12 Term of appointment

- (1) A member of the council holds office for the term, not longer than 3 years, stated in the member's instrument of appointment.

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- (2) Subsection (1) does not prevent a member from being reappointed.

13 Conditions of appointment

- (1) A member is entitled to be paid the remuneration and allowances decided by the Governor in Council.
- (2) A member holds office on the terms, not provided for by this Act, decided by the Governor in Council.
- (3) The members are appointed under this Act and not the *Public Service Act 2008*.

14 Vacancy in office

- (1) A member's office becomes vacant if—
- (a) the member resigns office by signed notice given to the Attorney-General; or
 - (b) the member's appointment is terminated by the Governor in Council under subsection (3); or
 - (c) the member passes away.
- (2) A notice given by a member under subsection (1)(a)—
- (a) must—
 - (i) state the day the member's resignation takes effect; and
 - (ii) be given to the Attorney-General at least 30 days before the stated day; and
 - (b) takes effect on the stated day or another day agreed between the member and the Attorney-General.
- (3) The Governor in Council may terminate the appointment of a member if the Attorney-General, Minister for Justice, Women, and the Prevention of Domestic and Family Violence, the council's chairperson or deputy chairperson recommends that the member's appointment be terminated.

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- (4) A member of the council may also lodge a formal complaint with the Governor in Council which will lead to an investigation, and potentially termination of the.
- (5) The Attorney-General may recommend that a member's appointment be terminated only if satisfied that the member—
 - (a) is incapable of performing the member's duties; or
 - (b) has been convicted, including by summary conviction, of an indictable offence; or
 - (c) has neglected the member's duties or performed them incompetently or inefficiently; or
 - (d) has made a serious breach of the councils ethics code, including but not limited to;
 - (i) Releasing or sharing confidential information about victims who the council have given their services to; or
 - (ii) Found to be refusing help to in-need victims without proper reasoning.
- (6) Decisions made by the council are not invalidated by defect or irregularity in the appointment of a member of the council, including in the appointment of the chairperson or deputy chairperson.
 - (a) However, if a decision made by the council is believed to have been different if the council was entire by the Governor in Council, Attorney-General and Minister for Justice, Women, and the Prevention of Domestic and Family Violence, the are able to request a consult with other experienced specialists, and that the decision is reconsidered and then implemented after the appointment of the new council member.

Division 3 Proceedings

15 Conduct of business

Subject to this division, the council may conduct its business, including its meetings, in the way it considers appropriate.

16 Quorum

A quorum for a meeting of the council is a majority of the council's members for the time being.

17 Voting Method

- (1) The Council is to seek to make unanimous decisions among its members, where reasonably practicable—
 - (a) Where a unanimous decision is not reasonably practicable, a simple majority is required.
- (2) During votes, the Chairperson is not to be granted a vote—
 - (a) Where there is a tie amongst members, the Chairperson shall be granted the ability to vote.
 - (i) Voting shall take place by secret ballot.
- (3) The Chairperson is to count votes and report results to members.

18 Regularity and Form of Meetings

- (1) Meetings may take place by any appropriate means, including but not limited to—
 - (a) Teleconferencing;
 - (b) In-Person;
 - (c) Video Conferencing;
 - (d) Or any other appropriate means that the Chairperson believes is appropriate.

[s 19]

- (2) Where a meeting is to take place in person, the Chairperson is to give notification to all members of the Council of the time and place of a meeting no later than 21 days before a meeting.
- (3) Any person attending a meeting via teleconferencing, video conferencing or some other technological means will be taken to have attended the meeting and thus be entitled to full voting and speaking rights.
- (4) Meetings shall take place at least 6 times per calendar year.
- (5) All rules provided in this section, except that of 16(1), shall be taken to also apply to conferences—
 - (a) Where the meeting to take place is a conference, the Chairperson must take into consideration the ability of the party to engage with particular types of meeting.
 - (b) Where a meeting is to take place by technological means, to the Chairs best extent, they should make arrangements to ensure the proper engagement of the parties with the conference.

19 Presiding at meetings

- (1) The chairperson presides at all meetings of the council at which the chairperson is present.
- (2) If the chairperson is absent from a meeting, the deputy chairperson presides.
- (3) If neither the chairperson nor deputy chairperson is present at a meeting, a member of the council chosen by the members present is to preside.

20 Conduct at meetings

- (1) A question at a council meeting is decided by a majority of the votes of the members present at the meeting.
- (2) Each member present at a meeting has a vote on each question to be decided.

- (3) If there is an equality of votes at a meeting, the member presiding at the meeting also has a casting vote.
- (4) A member present at a meeting may abstain from voting.
- (5) A meeting may be held using any technology allowing reasonably contemporaneous and continuous communication between members.
 - (a) Examples of permitted technology include, but are not limited to, teleconferencing, recently published online journals and statistics.
- (6) A member who takes part in a meeting under subsection (5) is taken to be present at the meeting.
- (7) Similar to an parliamentary etiquette, council members must refrain from saying anything that could be considered offensive or insulting.
 - (a) Continued offences from a single council member can result in the chairperson submitting a report to the Governor in Council, who will then decide upon the disciplinary action taken.

21 Minutes

The council must keep thorough minutes of all of their meetings.

Division 4 Other matters

22 Engaging other persons in council business to better perform duties and functions

- (1) The council may engage with non-council persons with relevant experience or qualification for consultations, these people may include but are not limited to—
 - (a) Successful and knowledgeable researchers who investigate domestic, family and sexual violence in different communities;

[s 23]

- (b) Persons who have been victims of domestic, family and sexual violence and/or have seen it first hand, thus have an in-depth understanding and realistic point of view.
- (2) The engagement may be in an honorary capacity or for remuneration.

23 Reports

- (1) The council must give the Governor in Council, Attorney-General and Minister for Justice, Women, and the Prevention of Domestic and Family Violence written report—
 - (a) each financial year, by the date requested in writing by the Attorney-General; and
 - (b) otherwise, as requested in writing by the Attorney-General.
- (2) A report under subsection (1)(a)—
 - (a) must include information about—
 - (i) performance of the council’s functions, in particular about the provision of information to the community to enhance knowledge and understanding of matters about sentencing; and
 - (ii) the work to be carried out by the council in the future in performing the council’s functions; and
 - (iii) Conclusions and recommendations that have been made by the researchers and other council members in regards to action that is to be taken in order to potentially prevent future cases of domestic violence and necessary support to the victims of domestic, family and sexual violence.
 - (b) must be tabled in the Legislative Assembly by the Attorney-General within 14 sitting days after the Attorney-General receives the report.

Division 5 Establishment of the Youth Domestic Violence Order

24 Limitations on the Age of Domestic Violence Protection Order

Section 32

Insert—

- (1) Domestic Violence Protection Orders can only be given to those 17 years old and above.

25 Trial Period

- (1) Pursuant to this Act, the Council shall act on a trial basis for **5 years** after the date of Royal Assent.
- (2) The Attorney-General shall make a determination by proclamation as to the trial location of the council, and the courts which it is to engage with—
 - (a) Such a trial location shall be based prescribed to two local government areas; and
 - (b) There shall be one local government area of a regional area to be selected, and one of an urban area.
- (3) Upon **5 years** being reached, the Council is to prepare a report for the Attorney-General outlining the efficacy of the program and the outcomes it has achieved—
 - (a) The report must include, but is not limited to;
 - (i) Information on the numbers of people referred to the Council;
 - (ii) Outlining of the outcomes achieved by peoples referred to the Council;
 - (iii) Case-studies on particular persons engaged with the program;

[s 26]

- (iv) Recommendations as to legislative amendments to be made to the Council to ensure its efficiency and efficacy;
 - (v) Whether or not the trial period should be extended, and if so, for how long; and
 - (vi) Whether or not the program should be expanded to other local government areas and court systems.
- (4) Where the report recommends the extension of a trial period per subsection 21(3)(a)(v), the Attorney-General shall be permitted to extend the trial period.
- (a) The trial will be permitted to be extended a maximum of one time; and
 - (b) Where the trial is extended one time, the time the trial will be said to have run for will be 5 years, in addition to the extension made by the Attorney-General—
 - (i) Where the Council makes no recommendation as to whether or not the trial period should be extended, the trial period will end 5 years after commencement.
 - (ii) Upon the finalisation of the trial period, the YDVO shall become available to all courts for individuals residing in Queensland.

26 Functions of the Youth Domestic Violence Protection Order

Section 21(A)

Insert—

- (1) Youth aged between 10 and 16 will be charged with a Youth Domestic Violence Order.
 - (a) A young person at risk of being charged with a YDVO must be provided with a justice officer who can cater to the individual needs of the youth, provided by

the Domestic and Family Violence oversight body.

- (b) The Justice officer before determining the charge of a YDVO must investigate the details of the youth to target areas of issues and to provide relevant services to assist the youth.

27 Breaches of Youth Domestic Violence Order (Criminality)

Section 181(4)(a)

Insert—

- (4) (a) If a person with a Youth Domestic Violence Order breaches their YDVO, the court must proceed with the following—
 - (i) The first breach of a Domestic Violence Order is not recorded on a Child’s Criminal Record; and
 - (ii) The child must be court ordered to engage in case management provided by the Domestic and Family Violence oversight body to address the root causes of their offending for a minimum period of 6 months; and
 - (iii) The court must decide whether or not to record a conviction for the offence in appropriate and exceptional circumstances.

28 Amendment of s 126 (Particular safeguards for detention of a child)

Section 126(8)

Insert—

[s 29]

- (a) The Queensland Domestic and Family Violence Oversight and Intervention Council must be notified of the youth being taken into custody;
 - (i) The Council may be notified by email, in formal meeting, by telephone, or any other appropriate method;
 - (ii) The Council must be notified within 24 hours of the youth being taken into custody;
- (b) The relevant legal guardian, appropriate service provider, social worker or psychologist must be contacted to notify the detention of the young person.
 - (i) Notification must be given within 72 hours of the youth being taken into custody.
- (c) The young person must be connected to support services outlined by the Committee Task Force.
- (d) If the young person is already engaged in a support service, the support service must be notified.
- (e) If the youth is an Indigenous person, the services provided must be executed by at least one Identified Indigenous service provider.

29 Amendment of s 188 (Giving documents to a child)

Section 188(2)

Insert—

- (2) A person responsible for giving the document to, or serving the document on, the child—
 - (a) Must ensure there is a parent, legal guardian, appropriate service provider, social worker or psychologist present when the documents are served to a child by the person responsible for giving the document; and

- (b) Must also give a copy of the document to a parent of the child; and
- (c) Must explain the details of the documents to the child twice, once by the person responsible for giving the document, and once again by someone listed in s 188(2)(a).

Division 6 In-Between Scheme

30 Insertion of new s 50A (Conditions of temporary protection orders)

Section 50A

Insert—

- (1) A court may make the conditions of a temporary order in the same terms as a protection order.
- (2) A court must provide rehabilitation options supplied by the Queensland Domestic and Family Violence Oversight and Intervention Council. This must occur in reasonable time when the TPO is issued.
- (3) Rehabilitation options must included and are not limited to—
 - (a) Court appointed psychiatrist exams;
 - (i) If a respondent is seeking rehabilitation through the means of a psychiatrist, the respondent and the aggrieved must seek separate psychiatrists;
 - (b) Wellbeing services (therapy, community engagement, outreach programs etc) must be available for those facing DVOs during their time with TPOs.
- (4) If a court appointed psychiatrist and the Queensland Domestic and Family Violence

[s 31]

Oversight and Intervention Council sign off on the defendant with a TPO, a DVO may not occur if the court and council believe the defendant is no longer a risk to the community.

31 Amendment of s 100 (Police officer must investigate domestic violence)

S 100 (5)

Omit, insert—

- (5) The police commissioner and all officers involved in the investigation must keep written record in hard copy or electronic form and supply the record to the Queensland Domestic and Family Violence Oversight and Intervention Council.

S 100A

Insert—

- (1) This section links police responsibilities in investigating domestic and family violence with the Queensland Domestic and Family Violence Oversight and Intervention Council;
- (2) The police must contact and inform the Queensland Domestic and Family Violence Oversight and Intervention Council of any suspicion of domestic and family violence;

32 Insertion of new s 116A (Considerations prior to multiple arrests)

- (1) This section applies if a police officer investigating domestic violence under section 100 receives a complaint of domestic violence from two or more opposing parties.
- (2) Prior to making an arrest under section 117, the police officer must consider—
 - (a) prior complaints of domestic violence;

- (b) relative severity of injuries;
 - (c) likelihood of future harm; and
 - (d) actions in self-defence or defence of another party.
- (3) An act of self-defence is not domestic violence.