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BILLS DIGEST

Digest No. 1712

Domestic Violence (Enhancing Safety) Bill 2008 (2009 No 9-2)

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| Date of Introduction: | 16 December 2008 |
| Portfolio: | Justice |
| Select Committee: | Justice and Electoral |
| Date report presented: | 26 June 2009 |
| Published: 24 September 2009 Prepared by John McSoriley BA LL.B, Barrister Legislative Analyst P: (04) 471-9626 (Ext. 9626) F: (04) 471-1250 | Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status. Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill. |

Purpose

The aim of this Bill as introduced is to amend the Domestic Violence Act 1995, the Sentencing Act 2002 and the Bail Act 2000 to improve and strengthen the domestic violence legislative regime.

The Bill as introduced is described in [Bills Digest No 1655](#).

Main Provisions

Police safety orders

The Select Committee has recommended changing the term "Police order" in the Bill to "Police safety order" and clarifying that where a person is arrested for an offence that is not an offence involving domestic violence, but is an offence, under any enactment, involving the use of violence against the relevant person, an order may still be issued to ensure the safety (rather than just the "immediate" safety) of that person. Other detailed amendments in relation to such an order are recommended including the insertion of a requirement that all firearms licences (as well as all weapons) are to be

surrendered by the person subject to the order (*Part 1, Clause 7, inserting New Part 6A into the Act, amending the title of Part 6, substituting the term "Police safety order" for the term "Police order" throughout the Part and the Bill, amending New Sections 124A-124E*).

Service of order and arrest and detention powers relating to service

The Select Committee has recommended that it be provided in the Bill that a Police safety order must be served as soon as practicable on the person against whom the order is issued and if an order is not served within 48 hours from the time of issue, it lapses. Power is also given to a constable who is proposing to issue a Police safety order to detain the person concerned for a period, not exceeding two hours, that may be necessary for the constable to:

- obtain authorisation if the constable is not a "qualified constable" under the Act;
- issue the order; or
- serve the order.

The Select Committee has also recommended the addition to this provision of an offence, carrying as a maximum penalty a fine of \$500, to cover situations where a person against whom an order is to be issued fails to remain where directed by the constable, so that arrangements can be made for the order to be issued and served. A person may be arrested for this offence without warrant (*Part 1, Clause 7, inserting new Part 6A into the Act, inserting New Sections 124FA and 124FB*).

Failure or refusal to comply with order

The Select Committee has recommended new and more detailed provisions to clarify how the Police and the District Court deal with a person who fails or who refuses to comply with an order (*Part 1, Clause 7, inserting New part 6A into the Act, substituting New Section 124I and inserting New Sections 124IA-124IF*).

Protection orders under the Sentencing Act

The Select Committee has recommended that the courts be able to issue a protection order against an offender where the victim of the offence has already made an application for a protection order and that application is awaiting determination in a Family Court or District Court. Those existing proceedings in the Family Court or District Court for a protection order would then end (*Part 2, Clause 9 of the Bill, inserting New Section 123B into the Sentencing Act, deleting paragraph (c) of subsection (1) and adding subsections (4 and (5))*).

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