Fighting Domestic Violence - Australia

7. Endnotes

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[1]   Larcombe, W. and Heath, M. “Developing the Common Law and Rewriting the History of Rape in Marriage in Australia: PGA v The Queen” (2012), [www.austlii.edu.au/au/journals/SydLRev/2012/35.pdf](file:///C%3A/Users/gsbdxb/Downloads/www.austlii.edu.au/au/journals/SydLRev/2012/35.pdf).

[2]    *Pfennig v. R* [(1995) 182 CLR 461](http://www.austlii.edu.au/cgi-bin/LawCite?cit=%281995%29%20182%20CLR%20461), 483-4 (Mason CJ, Deane and Dawson JJ).

[3]    See [Terminology — National Domestic and Family Violence Bench Book (aija.org.au)](https://dfvbenchbook.aija.org.au/terminology/) at 3.

[4]    Ministry of Justice, *About Family Violence and Protection Orders* (web page), <https://www.justice.govt.nz/assets/Documents/Publications/About-Family-Violence-and-Protection-Orders-Booklet.pdf>.

[5]    <https://dvls.nt.gov.au/forms/>.

[6]    <https://lsc.sa.gov.au/resources/InterventionOrdersFactsheet.pdf>.

[7]    <https://www.magistratescourt.tas.gov.au/going_to_court/restraint_orders>.

[8]    <https://www.legalaid.vic.gov.au/find-legal-answers/family-violence-intervention-orders>.

[9]    <https://www.magistratescourt.wa.gov.au/R/restraining_orders.aspx>.

[10]    Ministry of Justice, *Apply for a Protection Order* (web page), <https://www.justice.govt.nz/family/family-violence/apply-for-a-protection-order/>.

[11]    <https://www.legalaid.nsw.gov.au/publications/factsheets-and-resources/apprehended-violence-orders-applicants>.

[12]    <https://www.legalaid.qld.gov.au/Find-legal-information/Relationships-and-children/Domestic-and-family-violence/Applying-for-a-domestic-violence-protection-order>.

[13]    <https://www.gotocourt.com.au/criminal-law/tas/restraint-orders/>.

[14]    <https://www.legalaid.vic.gov.au/find-legal-answers/family-violence-intervention-orders/going-to-court>.

[15]    <https://www.legalaid.wa.gov.au/find-legal-answers/restraining-orders/restraining-orders/family-violence-restraining-orders/court>.

[16]    <https://www.alrc.gov.au/publication/family-violence-a-national-legal-response-alrc-report-114/11-protection-orders-and-the-criminal-law-3/protection-order-conditions-and-the-criminal-law-2/>.

[17]    *Ibid*.

[18]    <https://www.alrc.gov.au/publication/family-violence-a-national-legal-response-alrc-report-114/11-protection-orders-and-the-criminal-law-3/protection-order-conditions-and-the-criminal-law-2/>.

[19]    Section 36 of the NSW Act.

[20]    Sections 22 and 25(1) of the Penalties and Sentences Act 1992 (Queensland).

[21]    [*Ibid*.](https://www.police.govt.nz/advice-services/family-violence/protection-orders)

[22]    Section 47 of the ACT Act.

[23]    Section 93 of the ACT Act.

[24]    Section 24 of the ACT Act.

[25]    Section 35(1) of the ACT Act.

[26]    Section 35(2) of the ACT Act.

[27]    Section 86 of the ACT Act.

[28]    Section 24 of the NSW Act.

[29]    Section 79A(1) of the NSW Act.

[30]    Section 79A(6) of the NSW Act.

[31]    Section 79B(1) of the NSW Act.

[32]    [https://www.lawaccess.nsw.gov.au/Pages/representing/lawassist\_avo/lawassist\_gettingavo\_home/lawassist\_
pinopaftercourt\_avo/lawassist\_vary\_pinop.aspx#:~:text=If%20you%20apply%20to%20extend%20the%20AVO%20the%20day%20before,made%20or%20it%20is%20revoked](https://www.lawaccess.nsw.gov.au/Pages/representing/lawassist_avo/lawassist_gettingavo_home/lawassist_pinopaftercourt_avo/lawassist_vary_pinop.aspx#:~:text=If%20you%20apply%20to%20extend%20the%20AVO%20the%20day%20before,made%20or%20it%20is%20revoked).

[33]    [https://www.lawaccess.nsw.gov.au/Pages/representing/lawassist\_avo/lawassist\_forms\_avo/Sample-Application-to-Vary-(extend)-Apprehended-Violence-Order.aspx](https://www.lawaccess.nsw.gov.au/Pages/representing/lawassist_avo/lawassist_forms_avo/Sample-Application-to-Vary-%28extend%29-Apprehended-Violence-Order.aspx).

[34]    Section 73 of the NSW Act; <https://www.lawaccess.nsw.gov.au/Pages/representing/lawassist_avo/lawassist_gettingavo_home/lawassist_pinopaftercourt_avo/lawassist_vary_pinop.aspx>.

[35]    Section 35(3) of the NT Act.

[36]    Section 27 of the NT Act.

[37]    Section 49 of the NT Act.

[38]    Section 51 of the NT Act.

[39]    <https://www.qld.gov.au/law/crime-and-police/abuse-family-matters-and-protection-orders/apply-for-a-protection-order#start-application>.

[40]    <https://www.courts.qld.gov.au/going-to-court/domestic-violence/domestic-violence-orders/applying-for-a-domestic-violence-order>.

[41]    Section 165 of the Queensland Act.

[42]    Section 98 of the Queensland Act.

[43]    Section 97(1) of the Queensland Act.

[44]    Section 86(2) of the Queensland Act; <https://www.courts.qld.gov.au/__data/assets/pdf_file/0017/162170/dva-f-4.pdf>.

[45]    Section 91(1) of the Queensland Act.

[46]    <https://lsc.sa.gov.au/cb_pages/interventionordersfactsheet.php>.

[47]    Sections 18(3)(d) and 21(7)(c) of the Interventions Orders (Prevention of Abuse) Act 2009 (South Australia).

[48]    Section 11 of the Interventions Orders (Prevention of Abuse) Act 2009 (South Australia).

[49]    *Ibid*.

[50]    Section 26(1) of the Interventions Orders (Prevention of Abuse) Act 2009 (South Australia).

[51]    Section 26(5) of the Interventions Orders (Prevention of Abuse) Act 2009 (South Australia).

[52]    Section 9A of the Tasmanian Act.

[53]    Section 8 of the Tasmanian Act.

[54]    Section 9(1) of the Tasmanian Act.

[55]    Section 9(2) of the Tasmanian Act.

[56]    Section 19 of the Tasmanian Act.

[57]    Section 20(1) of the Tasmanian Act.

[58]    Section 31(3)(b) of the Victorian Act.

[59]    <https://www.legalaid.vic.gov.au/find-legal-answers/family-violence-intervention-orders/what-police-do-about-family-violence/family-violence-safety-notices>.

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[61]    Section 60L of the Victorian Act.

[62]    <https://www.legalaid.vic.gov.au/find-legal-answers/family-violence-intervention-orders/going-to-court>.

[63]    Section 60 of the Victorian Act.

[64]    Section 99 of the Victorian Act.

[65]    <https://www.womenslegal.org.au/family-violence/#:~:text=How%20long%20does%20the%20intervention,they%20think%20you%20need%20it>.

[66]    Section 106(1) of the Victorian Act.

[67]    Section 106(2) of the Victorian Act.

[68]    <https://www.legalaid.wa.gov.au/find-legal-answers/restraining-orders/restraining-orders/responding-restraining-order-applications>.

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[70]    <https://www.legalaid.wa.gov.au/find-legal-answers/restraining-orders/restraining-orders/responding-restraining-order-applications>.

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[72]    Section 16A(2) of the WA Act.

[73]    <https://www.legalaid.wa.gov.au/find-legal-answers/restraining-orders/restraining-orders/varying-cancelling-extending-or-appealing>.

[74]    Ministry of Justice, *About Family Violence and Protection Orders* (web page), <https://www.justice.govt.nz/assets/Documents/Publications/About-Family-Violence-and-Protection-Orders-Booklet.pdf>.

[75]    <https://www.courts.act.gov.au/__data/assets/pdf_file/0012/1377795/Do-you-need-protection-from-violence-ACT-Magistrates-Court-June-2019.pdf>.

[76]    Section 4 of the NT Act.

[77]    Section 30A(1) of the WA Act.

[78]    [*Ibid*.](https://www.police.govt.nz/advice-services/family-violence/protection-orders)

[79]    <https://www.alrc.gov.au/publication/family-violence-a-national-legal-response-alrc-report-114/11-protection-orders-and-the-criminal-law-3/protection-order-conditions-and-the-criminal-law-2/>.

[80]    Section 21 of the ACT Act.

[81]    Section 34 of the ACT Act.

[82]    Section 22 of the NSW Act.

[83]    Section 38 of the NSW Act.

[84]    Section 35 of the NT Act.

[85]    Section 18 of the NT Act.

[86]    Section 44 of the Queensland Act.

[87]    Section 37 of the Queensland Act.

[88]    Section 6 of the Interventions Orders (Prevention of Abuse) Act 2009 (South Australia).

[89]    Section 21 of the Interventions Orders (Prevention of Abuse) Act 2009 (South Australia).

[90]    Section 23 of the Interventions Orders (Prevention of Abuse) Act 2009 (South Australia).

[91]    Section 23 of the Tasmanian Act.

[92]    Section 16, Tasmanian Act.

[93]    Section 53(1) of the Victorian Act.

[94]    Section 74(1) of the Victorian Act.

[95]    <https://www.legalaid.wa.gov.au/resources/self-help-kits-and-guides/interim-family-violence-restraining-order-guide>.

[96]    Section 10D of the WA Act.

[97]    [*Ibid*.](https://www.police.govt.nz/advice-services/family-violence/protection-orders)

[98]    Section 11 of the Children and Young People Act 2008 (Australian Capital Territory).

[99]    Section 16 of the ACT Act.

[100]    Section 16A of the ACT Act.

[101]    Section 48 of the NSW Act.

[102]    Section 3 of the Children and Young Persons (Care and Protection) Act 1998 (New South Wales).

[103]    Section 28 of the NT Act.

[104]    Section 13 of the Care and Protection of Children Act 2007 (Northern Territory).

[105]    Sections 21, 22 and 25 of the Queensland Act.

[106]    Section 8 of the Child Protection Act 1999 (Queensland).

[107]    Section 20(1) of the Interventions Orders (Prevention of Abuse) Act 2009 (South Australia).

[108]    Section 20(2) of the Interventions Orders (Prevention of Abuse) Act 2009 (South Australia).

[109]    Section 16 of the Children and Young People (Safety) Act 2017 (South Australia).

[110]    Section 15 of the Tasmanian Act.

[111]    Section 3(1) of the Children, Young Persons and Their Families Act 1997 (Tasmania).

[112]    Section 45 of the Victorian Act.

[113]    Section 3 of the Children, Youth and Families Act 2005 (Victoria).

[114]    Section 18 of the WA Act.

[115]    Section 3 of the Children and Community Services Act 2004 (Western Australia).

[116]    Section 18 of the Victims of Crime (Financial Assistance) Act 2016 (Australian Capital Territory).

[117]    Sections 19, 20 and 21 of the Victims of Crime (Financial Assistance) Act 2016 (Australian Capital Territory).

[118]    Section 22 of the Victims of Crime (Financial Assistance) Act 2016 (Australian Capital Territory).

[119]    Section 11 of the Victims of Crime (Financial Assistance) Act 2016 (Australian Capital Territory).

[120]    Section 13 of the Victims of Crime (Financial Assistance) Act 2016 (Australian Capital Territory).

[121]    Section 14 of the Victims of Crime (Financial Assistance) Act 2016 (Australian Capital Territory).

[122]    Section 15(1) of the Victims of Crime (Financial Assistance) Act 2016 (Australian Capital Territory).

[123]    Section 19-23 of the Victims of Crime (Financial Assistance) Act 2016 (Australian Capital Territory); <https://www.canberracommunitylaw.org.au/street-law-fact-sheet-18.html>.

[124]    Section 96(1)(a) of the Victims of Crime (Financial Assistance) Act 2016 (Australian Capital Territory); Section 12(1) of the Victims of Crime (Financial Assistance) Regulation 2016 (Australian Capital Territory).

[125]    Section 96(1)(b) of the Victims of Crime (Financial Assistance) Act 2016 (Australian Capital Territory); Section 12(2) of the Victims of Crime (Financial Assistance) Regulation 2016 (Australian Capital Territory).

[126]    <https://knowmore.org.au/wp-content/uploads/2019/02/Can-I-get-compensation-ACT.pdf>.

[127]    <https://knowmore.org.au/wp-content/uploads/2019/02/Can-I-get-compensation-ACT.pdf>.

[128]    Section 6 of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[129]    Section 7(1) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[130]    Section 7(2) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[131]    Section 8(1) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[132]    Section 8(2) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[133]    Section 8(3) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[134]    Section 9(1) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[135]    Section 9(3) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[136]    Section 16(3) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[137]    Section 14(1) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[138]    Section 14(2) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[139]    Section 15 of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[140]    Section 16(1) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[141]    Section 16(2)(a) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[142]    Section 16(2)(b) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[143]    Section 17(1) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[144]    <https://knowmore.org.au/wp-content/uploads/2019/02/Can-I-get-compensation-NSW.pdf>.

[145]    <https://www.lawaccess.nsw.gov.au/Pages/representing/driving_offences_and_crime/driving_and_crime_after_court/paying_costs.aspx>.

[146]    Section 9(1)(a) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[147]    Section 9(1)(b) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[148]    Section 9(2) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[149]    Section 11(1) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[150]    Section 11(2) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[151]    Section 13(1) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[152]    Section 13(2) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[153]    Section 15(1) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[154]    Section 10(2) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[155]    Sections 10(3) and (4) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[156]    Section 12(2) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[157]    Sections 12(3) and (4) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[158]    Section 12(5) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[159]    Section 14(2) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[160]    Section 16 of the Victims of Crime Assistance Act 2006 (Northern Territory).

[161]    Section 54(2) of the Victims of Crime Assistance Act 2006 (Northern Territory).

[162]    <https://knowmore.org.au/wp-content/uploads/2019/02/Can-I-get-compensation-NT.pdf>.

[163]    <https://knowmore.org.au/wp-content/uploads/2019/02/Can-I-get-compensation-NT.pdf>.

[164]    Section 26(1) of the Victims of Crime Assistance Act 2009 (Queensland).

[165]    Section 26(2) of the Victims of Crime Assistance Act 2009 (Queensland).

[166]    Section 26(3) of the Victims of Crime Assistance Act 2009 (Queensland).

[167]    Section 26(4) of the Victims of Crime Assistance Act 2009 (Queensland).

[168]    Section 26(5) of the Victims of Crime Assistance Act 2009 (Queensland).

[169]    Section 38(1) of the Victims of Crime Assistance Act 2009 (Queensland).

[170]    Section 41(1) of the Victims of Crime Assistance Act 2009 (Queensland).

[171]    Section 44(1) of the Victims of Crime Assistance Act 2009 (Queensland).

[172]    Section 48 of the Victims of Crime Assistance Act 2009 (Queensland).

[173]    Queensland government, *A Guide for Victims of Crime in Queensland* (July 2017).

[174]    <https://knowmore.org.au/wp-content/uploads/2019/02/Can-I-get-compensation-Queensland.pdf>.

[175]    <https://knowmore.org.au/wp-content/uploads/2019/02/Can-I-get-compensation-Queensland.pdf>.

[176]    Section 17(1)(a) of the Victims of Crime Act 2001 (South Australia).

[177]    Section 18(2) of the Victims of Crime Act 2001 (South Australia).

[178]    Section 17(1)(b) of the Victims of Crime Act 2001 (South Australia).

[179]    Section 4 of the Victims of Crime Act 2001 (South Australia).

[180]    Section 17(2) of the Victims of Crime Act 2001 (South Australia).

[181]    Section 17(3) of the Victims of Crime Act 2001 (South Australia).

[182]    Section 17(4) of the Victims of Crime Act 2001 (South Australia).

[183]    <https://lawhandbook.sa.gov.au/print/ch35s02.php>.

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[186]    Section 2(1) of the Victims of Crime Assistance Act 1976 (Tasmania).

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[189]    Section 2(2) of the Victims of Crime Assistance Act 1976 (Tasmania).

[190]    Section 4(2) of the Victims of Crime Assistance Act 1976 (Tasmania).

[191]    Section 2(1) of the Victims of Crime Assistance Act 1976 (Tasmania).

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[193]    Section 4(3) of the Victims of Crime Assistance Act 1976 (Tasmania).

[194]    Section 2(1) of the Victims of Crime Assistance Act 1976 (Tasmania).

[195]    <https://womenslegaltas.org.au/wordy/wp-content/uploads/2020/04/4-Victims-of-Crime-Assistance.pdf>.

[196]    Section 4(4) of the Victims of Crime Assistance Act 1976 (Tasmania).

[197]    Section 4(1A) of the Victims of Crime Assistance Act 1976 (Tasmania).

[198]    Department of Justice Victims Support Services — Victims Assistance Unit, *Application for Victims of Crime Assistance*.

[199]    <https://knowmore.org.au/wp-content/uploads/2019/02/Can-I-get-compensation-Tasmania.pdf>.

[200]    <https://knowmore.org.au/wp-content/uploads/2019/02/Can-I-get-compensation-Tasmania.pdf>.

[201]    Section 18 of the Victims of Crime Assistance Act 1996 (Victoria); <https://www.victimsofcrime.vic.gov.au/going-to-court/applying-for-financial-assistance-from-vocat>.

[202]    Section 7 of the Victims of Crime Assistance Act 1996 (Victoria).

[203]    Section 8 of the Victims of Crime Assistance Act 1996 (Victoria).

[204]    Section 9 of the Victims of Crime Assistance Act 1996 (Victoria).

[205]    Section 10 of the Victims of Crime Assistance Act 1996 (Victoria).

[206]    Section 11 of the Victims of Crime Assistance Act 1996 (Victoria).

[207]    Section 12 of the Victims of Crime Assistance Act 1996 (Victoria).

[208]    Section 48(4) of the Victims of Crime Assistance Act 1996 (Victoria).

[209]    <https://www.vocat.vic.gov.au/how-apply/frequently-asked-questions#3anchor>.

[210]    *Ibid*.

[211]    Section 3 of the Victims of Crime Assistance Act 1996 (Victoria).

[212]    Section 3 of the Victims of Crime Assistance Act 1996 (Victoria).

[213]    <https://www.victimsofcrime.vic.gov.au/going-to-court/financial-assistance-and-compensation-for-victims-of-crime>.

[214]    <https://www.victimsofcrime.vic.gov.au/going-to-court/financial-assistance-and-compensation-for-victims-of-crime>.

[215]    Section 9 of the Criminal Injuries Compensation Act 2003 (Western Australia).

[216]    Section 12 of the Criminal Injuries Compensation Act 2003 (Western Australia); <https://www.wa.gov.au/organisation/department-of-justice/criminal-injuries-compensation-victims-of-crime>.

[217]    Sections 3 of the 4(1) Criminal Injuries Compensation Act 2003 (Western Australia).

[218]    Section 3 of the Criminal Injuries Compensation Act 2003 (Western Australia).

[219]    <https://www.wa.gov.au/organisation/department-of-justice/criminal-injuries-compensation-victims-of-crime>.

[220]    <https://www.wa.gov.au/organisation/department-of-justice/criminal-injuries-compensation-victims-of-crime>.

[221]    <https://knowmore.org.au/wp-content/uploads/2019/02/Can-I-get-compensation-WA-1.pdf>.

[222]    Section 19-23 of the Victims of Crime (Financial Assistance) Act 2016 (Australian Capital Territory).

[223]    Sections 14(1)(b) and 15 of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[224]    Section 18(1) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[225]    Section 18(3) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[226]    Section 18(2) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[227]    Section 18(4) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[228]    Section 18(5) of the Victims Support and Rehabilitation Act 1996 (New South Wales).

[229]    Section 10(5) of the NT Act.

[230]    Section 12(6) of the NT Act.

[231]    Section 14(3) of the NT Act.

[232]    Sections 39(e), 42(e) and 45(e) of the Victims of Crime Assistance Act 2009 (Queensland).

[233]    Section 20(1) of the Victims of Crime Act 2001 (South Australia); <https://lawhandbook.sa.gov.au/print/ch35s02.php>.

[234]    Section 4(2)/ of the Victims of Crime Assistance Act 1976 (Tasmania).

[235]    Sections 4(3) and 4(4) of the Victims of Crime Assistance Act 1976 (Tasmania).

[236]    Sections 8(2)(c) and 10(3) of the Victims of Crime Assistance Act 1996 (Victoria).

[237]    Section 17 Victims of the Crime Assistance Act 1996 (Victoria).

[238]    Sections 6(2) and 12(1) of the Victims of Crime Assistance Act 1996 (Victoria).

[239]    Section 3 of the Victims of Crime Assistance Act 1996 (Victoria).

[240] More information, including contact details, is available on this [web page](https://www.1800respect.org.au/services/nt-police-domestic-violence-unit-alice). Similar resources exist in the other states and territories. For New South Wales, see this [web page](https://www.dvnsw.org.au/). For Victoria, see this [web page](https://www.vic.gov.au/family-violence-statewide-support-services). For Queensland, see this [web page](https://www.justice.qld.gov.au/initiatives/end-domestic-family-violence/our-progress/enhancing-service-responses/specialist-support-services). For South Australia, see this [web page](https://www.rasa.org.au/services/post-separation/support-services/). For Western Australia, see this [web page](https://www.police.wa.gov.au/Crime/Victims-of-crime/Help-for-victims-of-crime). For Tasmania, see this [web page](https://www.wa.gov.au/organisation/department-of-communities/family-and-domestic-violence-services-and-resources). For the Australian Capital Territory, see this [web page](https://www.police.act.gov.au/safety-and-security/family-violence).

[241] Section 49(1) of the NSW Act.

[242] Section 49(4) and (5) of the NSW Act.

[243] Section 49(6) of the NSW Act.

[244] Sections 13, 13A, 14 and 15 of the Victorian Act.

[245] Section 24 of the Victorian Act.

[246] Section 100 (1) of the Qld Act.

[247] Section 100(2) of the Qld Act.

[248] Section 18 of the SA Act.

[249] Section 62A of the WA Act.

[250] Section 62B of the WA Act.

[251] Section 62C of the WA Act.

[252] Sections 10 and 14 of the Tas Act.

[253] Section 126B of the Police Administration Act 1978(Northern Territory).

[254] Sections 99 and 100 of the ACT Act.

[255] Further information in relation to domestic violence legislation in New South Wales can be found on [this web page](https://www.gotocourt.com.au/criminal-law/nsw/domestic-violence/).

[256] For example, in New South Wales, you apply for an apprehended domestic violence order. In Victoria, you can apply for a family violence intervention order. In Queensland and the Northern Territory, you can apply for a domestic violence order. In Western Australia, the types of restraining orders that can be applied for are family violence restraining orders, violence restraining orders or misconduct restraining orders. In South Australia, you can apply for an intervention order. In Tasmania, you can apply for a family violence and restraint order. In the Australian Capital Territory, you can apply for a family violence order.

[257] For more information, see this [Queensland Government court web page](https://www.courts.qld.gov.au/going-to-court/domestic-violence/national-domestic-violence-order-scheme/national-domestic-violence-order-scheme-information-guide).

[258] For more information see this [NSW Police Force Information Sheet](https://www.police.nsw.gov.au/__data/assets/pdf_file/0005/689936/General_DV_Information_Sheet_.pdf) and this [web page](https://www.gotocourt.com.au/criminal-law/nsw/domestic-violence/).

[259] For more information on eligibility, see this [NSW Legal Aid web page](https://www.legalaid.nsw.gov.au/get-legal-help/applying-for-legal-aid?a=7785).

[260] For more information on the DVDS, see this [NSW Legal Aid web page](https://www.legalaid.nsw.gov.au/what-we-do/services/domestic-violence-practitioner-scheme).

[261] For more information on applying for an intervention order, please see this [Magistrates' Court of Victoria web page](https://www.mcv.vic.gov.au/intervention-orders/personal-safety-intervention-orders/applying-intervention-order-psio).

[262] For more information on applying for an intervention order, please see this [Magistrates' Court of Victoria web page](https://www.mcv.vic.gov.au/intervention-orders/personal-safety-intervention-orders/applying-intervention-order-psio).

[263] For more information on applying for a domestic violence order, see this [Queensland government court web page](https://www.courts.qld.gov.au/going-to-court/domestic-violence/domestic-violence-orders/applying-for-a-domestic-violence-order).

[264] For more information on applying for a domestic violence order, see this [Queensland government court web page](https://www.courts.qld.gov.au/going-to-court/domestic-violence/domestic-violence-orders/applying-for-a-domestic-violence-order).

[265] For more information on intervention orders, see this [South Australia Police web page](https://www.police.sa.gov.au/your-safety/intervention-orders).

[266] For more information on intervention orders, see this [South Australia Police web page](https://www.police.sa.gov.au/your-safety/intervention-orders).

[267] Section 62G of the WA Act.

[268] For more information on violence restraining orders and misconduct restraining orders in Western Australia, see this [web page](https://www.gotocourt.com.au/criminal-law/wa/restraining-orders/).

[269] For more information on restraining orders and family violence orders, see this [Magistrates' Court of Tasmania web page](https://www.magistratescourt.tas.gov.au/going_to_court/restraint_orders).

[270] For more information on restraining orders and family violence orders, see this [Magistrates' Court of Tasmania web page](https://www.magistratescourt.tas.gov.au/going_to_court/restraint_orders).

[271] For more information on the Women's Legal Service Tasmania, [see this web page](https://womenslegaltas.org.au/).

[272] For more information on who can apply for a domestic violence order, see this [Northern Territory government web page](https://nt.gov.au/law/courts-and-tribunals/domestic-violence-orders/who-can-apply-for-a-domestic-violence-order).

[273] For more information on how to apply for a domestic violence order, see this [Northern Territory government web page](https://nt.gov.au/law/courts-and-tribunals/domestic-violence-orders/how-to-apply-for-a-domestic-violence-order).

[274] For more information on going to court for a domestic violence order, see this [Northern Territory government web page](https://nt.gov.au/law/courts-and-tribunals/domestic-violence-orders/going-to-court-for-a-dvo-application).

[275] For more information on personal protection orders and family violence orders, see this [ACT Magistrates' Court webpage](https://www.courts.act.gov.au/magistrates/law-and-practice/family-violence-and-protection-orders).

[276] For more information on personal protection orders and family violence orders, see this [Legal Aid ACT fact sheet.](https://www.legalaidact.org.au/sites/default/files/files/publications/family_violence_personal_protection_order_3.pdf)

[277] For more information on personal protection orders and family violence orders, see this [Legal Aid ACT fact sheet.](https://www.legalaidact.org.au/sites/default/files/files/publications/family_violence_personal_protection_order_3.pdf)

[278] For more information on personal protection orders and family violence orders, see this [Legal Aid ACT fact sheet](https://www.legalaidact.org.au/sites/default/files/files/publications/family_violence_personal_protection_order_3.pdf).

[279] For example, in New South Wales cases include *Murdock v. Betham* [2018] NSWDC 192 (AUD 243,254 awarded to victim wife); *Elliott v. Kotsopoulos* [2009] NSWDC 164 (AUD 324,549 awarded to de facto partner for assault and battery); *Ainsworth v. Ainsworth* [2002] NSWCA 130 (wife awarded AUD 572,815 for unlawful assault).

[280] For more information, see this [NSW government web page](https://victimsservices.justice.nsw.gov.au/victims-services/how-can-we-help-you/victims-support-scheme.html).

[281] Victoria: information in relation to Victim Services, Support and Reform (VSSR) is available on this [Victorian government web page](https://www.victimsofcrime.vic.gov.au/victim-services-support-and-reform); Queensland: information is available on this [Queensland government web page](https://www.qld.gov.au/law/crime-and-police/victims-and-witnesses-of-crime); Western Australia: information in relation to the Victim Support Service is available on this [WA government web page](https://www.wa.gov.au/service/community-services/counselling-services/victim-support-service#:~:text=Is%20a%20voluntary%20and%20free,available%20to%20victims%20of%20crime); South Australia: information in relation to Victims of Crime in South Australia is available on this [SA government web page](https://www.voc.sa.gov.au/); Northern Territory: information in relation to the Victims of Crime support service is available on this [NT government web page](https://victimsofcrime.org.au/); Australian Capital Territory: information in relation to Victim Support is available on this [ACT government web page](https://www.victimsupport.act.gov.au/); Tasmania: information in relation to the Victims Support Service is available on this [Tasmanian government web page](https://www.justice.tas.gov.au/victims).

[282] Section 14(4) of the NSW Act.

[283] Section 13.2 of the Criminal Code Act 1995 (Commonwealth); Sections 140(1) and (2) and 141 of the Evidence Act 1995 (Commonwealth).

[284] Division 13A of the Commonwealth Act; Section 16 of the NSW Act; Sections 74, 76(1), 76(2), 77A, 77B, 102 and 106 of the Victorian Act; Div 1 and Section 145 of the Queensland Act; Section 28 of the SA Act; Section 3 of the WA Act; Sections 16 and 34 of the Tasmanian Act; Section 13 of the ACT Act; Sections 4 and 18 of the NT Act.

[285] For example, Sections 23(7) and 66EA(5) of the Crimes Act 1900 (New South Wales); Section 3(2) of the Crimes Act 1958 (Victoria); Section 229B(3) of the Criminal Code Act 1899 (Queensland); Sections 20A, 50(3) and (11), and 66(3) of the Criminal Law Consolidation Act 1935 (South Australia); Sections 56(3) and 66B(6) of the Crimes Act 1900 (Australian Capital Territory); and Sections 43BS and 43V of the Criminal Code Act 1983 (Northern Territory).

[286] *Neat Holdings Pty Ltd v. Karajan Holdings Pty Ltd* (1992) 110 ALR 449 at 450 (Mason CJ, Brennan, Deane and Gaudron JJ); Section 140(2) of the Evidence Act 1995 (Commonwealth).

[287] Section 55 of the Evidence Act 1995 (Commonwealth).

[288] *Peacock v. R* (1911) 13 CLR 619 at 630.

[289] Section 59 of the Evidence Act 1995 (Commonwealth).

[290] Part 3.6 of the Evidence Act 1995 (Commonwealth).

[291] Sections 101A, 102, 103, 104. 106, 108, 108A, 108B, 108C and 110 of the Evidence Act 1995 (Commonwealth).

[292] Part 3.3 of the Evidence Act 1995 (Commonwealth).

[293] Section 69ZT of the Commonwealth Act.

[294] Section 69ZV(2) of the Commonwealth Act.

[295] Sections 69ZW(1) and (2) of the Commonwealth Act.

[296] Section 84 of the Criminal Procedure Act (New South Wales).

[297] Section 86 of the Criminal Procedure Act (New South Wales).

[298] Sections 289F and 289F(5) of the Criminal Procedure Act (New South Wales).

[299] Sections 289U and 289V of the Criminal Procedure Act (New South Wales).

[300] Section 360 of the Criminal Procedure Act 2009 (Victoria).

[301] Section 367 of the Victorian Act.

[302] Sections 354 and 356 of the Criminal Procedure Act 2009 (Victoria).

[303] Division 6 of the Evidence Act 1977(Queensland).

[304] Section 21N of the Evidence Act 1977(Queensland).

[305] Section 150 of the Queensland Act.

[306] Section 151 of the Queensland Act.

[307]Section 13BB of the Evidence Act 1929 (South Australia).

[308] Section 13BB(4) of the Evidence Act 1929 (South Australia).

[309] Section 13A(2) of the Evidence Act 1929 (South Australia).

[310] Section 13B of the Evidence Act 1929 (South Australia).

[311] Section 106R(1) of the Evidence Act 1906 (Western Australia).

[312] Section 106R(4) of the Evidence Act 1906 (Western Australia).

[313] Section 106RA of the Evidence Act 1906 (Western Australia).

[314] Section 25A of the Evidence Act 1906 (Western Australia).

[315] Section 8(2A) of the Evidence (Children and Special Witnesses) Act 2001(Tasmania).

[316] Section 13A(2)(b) of the Evidence (Children and Special Witnesses) Act 2001(Tasmania).

[317] Section 8A of the Evidence (Children and Special Witnesses) Act 2001(Tasmania).

[318] Sections 21H and 21J of the Evidence Act 1939(Northern Territory).

[319] Section 21AB of the Evidence Act 1939(Northern Territory).

[320] Section 21QA of the Evidence Act 1939(Northern Territory).

[321] Chapter 4 of the Evidence (Miscellaneous Provisions) Act 1991(Australian Capital Territory).

[322] Section 47 of the Evidence (Miscellaneous Provisions) Act 1991(Australian Capital Territory).

[323] Section 48 of the Evidence (Miscellaneous Provisions) Act 1991(Australian Capital Territory).

[324] Sections 49 and 50 of the Evidence (Miscellaneous Provisions) Act 1991(Australian Capital Territory).

[325] Section 68 of the Evidence (Miscellaneous Provisions) Act 1991(Australian Capital Territory).

[326] Section 81B of the Evidence (Miscellaneous Provisions) Act 1991(Australian Capital Territory).

[327] ACT; Section 81K(2) of the Evidence (Miscellaneous Provisions) Act 1991(Australian Capital Territory).

[328] Section 25 of the NSW Act; Section 55(1)(b) of the Victorian Act; Section 21(2) of the SA Act; Section 20 of the WA Act.

[329] Section 22(3) of the NSW Act.

[330] Section 22(3) of the NSW Act.

[331] Section 53(1) of the Victorian Act.

[332] Section 53AB(1) of the Victorian Act.

[333] Sections 23 (2) and (3), and 27 of the Queensland Act.

[334] Section 45 of the Queensland Act.

[335] Section 18(1) of the SA Act.

[336] Section 11A of the WA Act.

[337] Sections 16 and 23 of the Tasmanian Act.

[338] Section 106D(1)(a) of the Justices Act 1959 (Tasmania).

[339] Section 35 of the NT Act.

[340] Section 21 of the ACT Act.

[341] Section 10.2 of the Criminal Code Act 1995 (Commonwealth); Section 40 of the Criminal Code Act 1983 (Northern Territory); Section 31(1)(c) and (d) of the Criminal Code Act 1899 (Queensland); Section 20(1) of the Criminal Code Act 1924 (Tasmania); Section 3220 of the Crimes Act 1958 (Victoria); Section 32 of the Criminal Code Act Compilation Act 1913 (Western Australia).

[342] Section 10.4 of the Criminal Code Act 1995 (Commonwealth); Section 42 of the Criminal Code 2002 (Australian Capital Territory); Section 418 Crimes Act 1900 (New South Wales); Section 15 of the Criminal Law Consolidation Act 1935 (South Australia); Section 322K of the Crimes Act 1958 (Victoria); Section 248 of the Criminal Code Act Compilation Act 1913 (Western Australia) and Section 43BD of the Criminal Code Act 1983 (Northern Territory).

[343] Section 46 of the Criminal Code Act 1924 (Tasmania).

[344] Section 271 of the Criminal Code Act 1899 (Queensland).

[345] Section 272 of the Criminal Code Act 1899 (Queensland).

[346] Part 3 of the Mental Health and Cognitive Impairment Forensic Provisions Act *2020* (New South Wales); Part 8A of the Criminal Law Consolidation Act 1935 (South Australia); Part 4 of the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997(Victoria).

[347] Section 7.3(8) of the Criminal Code Act 1995 (Commonwealth); Section 27(1) of the Criminal Code 2002 (Australian Capital Territory); Section 27 of the Criminal Code Act 1899 (Queensland); Section 43C of the Criminal Code Act 1983 (Northern Territory); Section 27 of the Criminal Code Act Compilation Act 1913 (Western Australia).

[348] Section 16(1) of the Criminal Code Act 1924 (Tasmania).

[349] Section 18 of the Crimes Act 1900 (New South Wales).

[350] Sections 61I, 61JA, 61KC, 61KD, and 61KE of the Crimes Act 1900 (New South Wales).

[351] Sections 59 and 61 of the Crimes Act 1900 (New South Wales).

[352] Section 14(1) of the NSW Act.

[353] Sections 40 and 38(1) of the Crimes Act 1958 (Victoria).

[354] Sections 31(1) and (2) of the Crimes Act 1958 (Victoria).

[355] Section 123 of the Victorian Act.

[356] Section 352 of the Queensland Act.

[357] Section 349 of the Queensland Act.

[358] Section 245 of the Queensland Act; *Hall v. Fonceca* [1983] WAR 309 at [40] and [313].

[359] Section 177 of the Queensland Act.

[360] Section 20(1) of the Criminal Law Consolidation Act 1935 (South Australia).

[361] Section 56(1) of the Criminal Law Consolidation Act 1935 (South Australia).

[362] Section 48 of the Criminal Law Consolidation Act 1935 (South Australia).

[363] Section 31 of the SA Act.

[364] Sections 222 and 323 of the Criminal Code Act Compilation Act 1913 (Western Australia).

[365] *Hall v. Fonceca* [1983] WAR 309.

[366] Sections 61(1) and (1A) of the WA Act.

[367] Sections 182 and 127 of the Criminal Code Act 1924(Tasmania).

[368] Section 185 of the Criminal Code Act 1924 (Tasmania).

[369] Section 1061 of the Justices Act 1959 (Tasmania).

[370] Section 192(3) of the Criminal Code Act 1983 (Northern Territory).

[371] Section 188 of the Criminal Code Act 1983 (Northern Territory).

[372] Section 120 of the NT Act.

[373] Sections 24 and 26 of the Crimes Act 1900 (Australian Capital Territory).

[374] Sections 51–53 of the Crimes Act 1900 (Australian Capital Territory).

[375] Section 43 of the ACT Act.

[376] Section 167 of the Police Act 1990(New South Wales).

[377] Section 53 of the Summary Offences Act 1966 (Victoria).

[378] Section 314(1) of the Crimes Act 1958 (Victoria).

[379] Section 123 of the Criminal Code Act 1899 (Queensland).

[380] Section 62 of the Summary Offences Act 1953(South Australia).

[381] Section 62 of the Summary Offences Act 1953(South Australia).

[382] Section 62 of the Summary Offences Act 1953(South Australia).

[383] Section 242 of the Criminal Law Consolidation Act 1935(South Australia).

[384] Section 171 of the Criminal Code Act Compilation Act 1913 (Western Australia).

[385] Section 124 of the Criminal Code Act Compilation Act 1913 (Western Australia).

[386] Section 125 of the Criminal Code Act Compilation Act 1913 (Western Australia).

[387] Section 44A of the Police Offences Act 1935(Tasmania).

[388] Section 44A of the Police Offences Act 1935(Tasmania)

[389] Section 68A of the Summary Offences Act 1923(Northern Territory).

[390] Section 96 of the Criminal Code Act 1995 (Commonwealth).

[391] Section 97 of the Criminal Code Act 1995 (Commonwealth).

[392] Sections 268 and 14(3) of the Criminal Code Act 1995 (commonwealth); Section 61HE(2) of the Crimes Act 1900 (New South Wales); Section 36(1) of the Crimes Act 1958 (Victoria); Section 348(1) of the Criminal Code Act 1899 (Queensland); Section 46(2) of the Criminal Law Consolidation Act 1935 (South Australia); Section 319(2) of the Criminal Code Act Compilation Act 1913 (Western Australia); Section 192(1) of the Criminal Code Act 1983 (Northern Territory); Schedule 1, Section 2A of the Criminal Code Act 1924 (Tasmania); Section 67 of the Crimes Act 1900 (Australian Capital Territory).

[393] For example, Section 48 of the Criminal Law Consolidation Act 1935 (South Australia) and Section 36(2)(m) of the Crimes Act 1958 (Victoria).

[394] Section 61K of the Crimes Act 1900 (New South Wales); Section 42 of the Crimes Act 1958 (Victoria); Section 351 of the Criminal Code Act 1899 (Queensland); Section 51 of the Crimes Act 1900 (Australian Capital Territory); Section 192(7) of the Criminal Code Act 1983 (Northern Territory).

[395] Section 55 of the Crimes Act 1900 (Australian Capital Territory); Section 66C of the Crimes Act 1900 (New South Wales); Section 127 of the Criminal Code Act 1983 (Northern Territory); Section 251 of the Criminal Code Act 1899 (Queensland); Section 49 of the Criminal Law Consolidation Act 1935 (South Australia); Schedule 1, Section 124 of the Criminal Code Act 1924 (Tasmania); Section 49B of the Crimes Act 1958 (Victoria); Section 321 of the Criminal Code Act Compilation Act 1913 (Western Australia).

[396] Section 55A of the Crimes Act 1900 (Australian Capital Territory); Section 73 of the Crimes Act 1900 (New South Wales); Section 128 of the Criminal Code Act 1983 (Northern Territory); Section 217 of the Criminal Code Act 1899 (Queensland); Section 57 of the Criminal Law Consolidation Act 1935 (South Australia); Schedule 1, Section 2A of the Criminal Code Act 1924 (Tasmania); Sections 49C, 49E, 49G, 49L of the Crimes Act 1958 (Victoria); Section 322 of the Criminal Code Act Compilation Act 1913 (Western Australia).

[397]    If there are any situations where a domestic violence victim can refuse to testify (e.g., due to fear of retaliation from an abuser) but a case/action can still continue.

[398]    Section 18(2) of the Evidence Act 1995 (commonwealth). Australia has a uniform evidence law that has been largely adopted by New South Wales, Tasmania, Victoria, the Australian Capital Territory and the Northern Territory. New South Wales has a separate procedure for excusing a family member witness in domestic violence proceedings (Section 279 of the Criminal Procedure Act 1986 (New South Wales)). South Australia legislation has similar provisions to the uniform law (Section 21 of the Evidence Act 1929 (South Australia)). Queensland has no such provisions. Western Australia makes a wife or husband a compellable witness for the prosecution, relevantly, if the accused is charged on the complaint of the wife or husband with an offense committed with respect to the property of the wife or husband (Section 9(c)(iii) of the Evidence Act 1906 (Western Australia)). Western Australia also makes a wife or husband a compellable witness if they have been charged with offenses in the Second Schedule, which include assaults, threats and criminal damage.

[399]    Section 18(7) of the Evidence Act 1995 (commonwealth).

[400]    *R v. A1 (No 2)* [2019] NSWSC 663 at [59].

[401]    See, for example, *R v. A2; R v. KM; R v. Vaziri (No 4)* (2015) 253 A Crim R 574; 2015 NSWSC 1306.

[402]    See, for example, *R v. A1 (No 2)* [2019] NSWSC 663.

[403]    Please provide a summary of any domestic violence laws/rules or criminal/civil procedure codes that provide specific protections for children who are witnesses in a domestic violence case or petition for a protection order, or identify any differences in procedure with respect to minors versus adults who testify in such cases.

[404]    Section 11 of the Marriage Act 1961 (commonwealth).

[405]    Section 12 of the Marriage Act 1961 (commonwealth).

[406]    Section 270.7A of the Criminal Code Act 1995 (commonwealth).

[407]    Section 95 of the Criminal Code Act 1995 (commonwealth).

[408]    Sections 99-101 of the Criminal Code Act 1995 (commonwealth).

[409]    Section 43A of the Crimes Act 1900 (New South Wales).

[410]    Harm involves physical injury or sexual abuse; a child or young person suffering emotional or psychological harm of such a kind that the emotional or intellectual development of the child or young person is or is likely to be significantly damaged; or the physical development or health of a child or young person being significantly harmed — Section 227 of the Children and Young Persons (Care and Protection) Act 1998 (New South Wales).

[411]    Section 227 of the Children and Young Persons (Care and Protection) Act 1998 (New South Wales).

[412]    Section 228 of the Children and Young Persons (Care and Protection) Act 1998 (New South Wales).

[413]    Section 66A of the Crimes Act 1900 (New South Wales).

[414]    Section 66C of the Crimes Act 1900 (New South Wales).

[415]    Section 66C of the Crimes Act 1900 (New South Wales).

[416]    Per Section 66C of the Crimes Act 1900 (New South Wales), this includes inflicting harm, being in company, the victim being under the authority of the offender, the victim being under the influence of alcohol or drugs, or the victim having a disability or impairment.

[417]    Section 66C of the Crimes Act 1900 (New South Wales).

[418]    Section 66C of the Crimes Act 1900 (New South Wales).

[419]    Section 66B of the Crimes Act 1900 (New South Wales).

[420]    Section 66D of the Crimes Act 1900 (New South Wales).

[421]    Section 66D of the Crimes Act 1900 (New South Wales).

[422]    Section 66DA of the Crimes Act 1900 (New South Wales).

[423]    Section 66DB of the Crimes Act 1900 (New South Wales).

[424]    Section 66DB of the Crimes Act 1900 (New South Wales).

[425] Section 66DC of the Crimes Act 1900 (New South Wales).

[426]    Section 66DD of the Crimes Act 1900 (New South Wales).

[427]    Section 66DD of the Crimes Act 1900 (New South Wales).

[428]    Section 66DE of the Crimes Act 1900 (New South Wales).

[429]    Section 66DE of the Crimes Act 1900 (New South Wales).

[430]    Section 66EA of the Crimes Act 1900 (New South Wales).

[431]    Section 66EA of the Crimes Act 1900 (New South Wales).

[432]    Section 66EA of the Crimes Act 1900 (New South Wales).

[433]    Section 66EB of the Crimes Act 1900 (New South Wales).

[434]    Section 66EB of the Crimes Act 1900 (New South Wales).

[435]    Section 66EB of the Crimes Act 1900 (New South Wales).

[436]    Section 78A of the Crimes Act 1900 (New South Wales).

[437]    Section 78A of the Crimes Act 1900 (New South Wales).

[438]    Section 78A Crimes Act 1900 (New South Wales).

[439]    Section 91D of the Crimes Act 1900 (New South Wales).

[440]    Section 91D of the Crimes Act 1900 (New South Wales).

[441]    Section 91D of the Crimes Act 1900 (New South Wales).

[442]    Section 91G of the Crimes Act 1900 (New South Wales).

[443]    Section 91G of the Crimes Act 1900 (New South Wales).

[444]    Section 91G of the Crimes Act 1900 (New South Wales).

[445]    Section 24 of the Crimes Act 1958 (Victoria).

[446]    Actions that constitute harm are defined as significant harm (physical injury or sexual abuse); emotional or psychological harm of such a kind that the child’s emotional or intellectual development is or is likely to be significantly damaged; or the child’s physical development or health being significantly harmed — Section 493(1).

[447]    Section 493 of the Children, Youth and Families Act 2005 (Victoria).

[448]    Section 49A of the Crimes Act 1958 (Victoria).

[449]    Section 49B of the Crimes Act 1958 (Victoria).

[450]    Section 49D of the Crimes Act 1958 (Victoria).

[451]    Section 49F of the Crimes Act 1958 (Victoria).

[452]    Section 49H of the Crimes Act 1958 (Victoria).

[453]    Section 49J of the Crimes Act 1958 (Victoria).

[454]    Section 49K of the Crimes Act 1958 (Victoria).

[455]    Section 49M of the Crimes Act 1958 (Victoria).

[456]    Section 49P of the Crimes Act 1958 (Victoria).

[457]    Section 49Q of the Crimes Act 1958 (Victoria).

[458]    Section 49R of the Crimes Act 1958 (Victoria).

[459]    Section 49S of the Crimes Act 1958 (Victoria).

[460]    This is described as a child, stepchild or lineal descendant.

[461]    Sections 50C and 50D of the Crimes Act 1958 (Victoria).

[462]    Section 51B of the Crimes Act 1958 (Victoria).

[463]    Section 51C of the Crimes Act 1958 (Victoria).

[464]    Section 51D of the Crimes Act 1958 (Victoria).

[465]    Section 51G of the Crimes Act 1958 (Victoria).

[466]    Section 328 of the Criminal Code Act 1899 (Queensland).

[467]    Section 210 of the Criminal Code Act 1899 (Queensland).

[468]    Section 210 of the Criminal Code Act 1899 (Queensland).

[469]    Section 210 of the Criminal Code Act 1899 (Queensland).

[470]    Where the abuse is carnal knowledge — Section 213 of the Criminal Code Act 1899 (Queensland).

[471]    Where the abuse is anything other than carnal knowledge — Section 213 of the Criminal Code Act 1899 (Queensland).

[472]    Section 213 of the Criminal Code Act 1899 (Queensland).

[473]    Section 215 of the Criminal Code Act 1899 (Queensland).

[474]    Section 215 of the Criminal Code Act 1899 (Queensland).

[475]    Section 217 of the Criminal Code Act 1899 (Queensland).

[476]    Section 217 of the Criminal Code Act 1899 (Queensland).

[477]    Section 217 of the Criminal Code Act 1899 (Queensland).

[478]    Section 218B of the Criminal Code Act 1899 (Queensland).

[479]    Section 218B of the Criminal Code Act 1899 (Queensland).

[480]    Where the abuse is carnal knowledge — Section 219 of the Criminal Code Act 1899 (Queensland).

[481]    Where the abuse is anything other than carnal knowledge — Section 219 of the Criminal Code Act 1899 (Queensland).

[482]    Section 219 of the Criminal Code Act 1899 (Queensland).

[483]    Section 229B of the Criminal Code Act 1899 (Queensland).

[484]    Section 222 of the Criminal Code Act 1899 (Queensland).

[485]    Section 222 of the Criminal Code Act 1899 (Queensland).

[486]    Section 222 of the Criminal Code Act 1899 (Queensland).

[487]    Section 228 of the Criminal Code Act 1899 (Queensland).

[488]    Section 228 of the Criminal Code Act 1899 (Queensland).

[489]    Or 20 years if not using a hidden network or anonymizing service — Section 228A of the Criminal Code Act 1899 (Queensland).

[490]    Or 20 years if not using a hidden network or anonymizing service — Section 228B of the Criminal Code Act 1899 (Queensland).

[491]    Or 14 years if not using a hidden network or anonymizing service — Section 228C of the Criminal Code Act 1899 (Queensland).

[492]    Or 14 years if not using a hidden network or anonymizing service — Section 228D of the Criminal Code Act 1899 (Queensland).

[493]    Or life if the child dies — Section 14 of the Criminal Law Consolidation Act 1935 (South Australia).

[494]    Section 14A of the Criminal Law Consolidation Act 1935 (South Australia).

[495]    Section 49(1) of the Criminal Law Consolidation Act 1935 (South Australia).

[496]    Section 49(3) of the Criminal Law Consolidation Act 1935 (South Australia). “Neglect” is defined as failing to provide adequate care or effective medical, therapeutic or remedial treatment for the child — Section 28(1).

[497]    Section 50(1) of the Criminal Law Consolidation Act 1935 (South Australia). This can also be a child under 18 years old if the adult was in a position of authority (which includes a parent) in relation to the person — Section 50(12) of the Criminal Law Consolidation Act 1935 (South Australia).

[498]    Section 56(1) of the Criminal Law Consolidation Act 1935 (South Australia); on the assumption the offense will be aggravated because the offender is abusing a position of authority (such as a parent). The offense is automatically aggravated if the victim is under 14 years old.

[499]    Section 58(1) of the Criminal Law Consolidation Act 1935 (South Australia).

[500]    Section 72(1) of the Criminal Law Consolidation Act 1935 (South Australia).

[501]    Section 63 of the Criminal Law Consolidation Act 1935 (South Australia); on the assumption the offense will be aggravated because the offender is abusing a position of authority (such as a parent). Non-aggravated: 10 years.

[502]    Section 63A of the Criminal Law Consolidation Act 1935 (South Australia). Aggravated offense: seven years.

[503]    Section 63B of the Criminal Law Consolidation Act 1935 (South Australia); on the assumption the offense will be aggravated because the offender is abusing a position of authority (such as a parent). Non-aggravated: 10 years.

[504]    Section 68(1) of the Criminal Law Consolidation Act 1935 (South Australia).

[505]    Section 68(1) of the Criminal Law Consolidation Act 1935 (South Australia).

[506]    Section 68(2) of the Criminal Law Consolidation Act 1935 (South Australia).

[507]    Section 68(2) of the Criminal Law Consolidation Act 1935 (South Australia).

[508]    Sections 262 and 263 of the Criminal Code Act Compilation Act 1913 (Western Australia).

[509]    Section 101 of the Children and Community Services Act 2004 (Western Australia).

[510]    Section 320(2) of the Criminal Code Act Compilation Act 1913 (Western Australia).

[511]    Section 321(7) of the Criminal Code Act Compilation Act 1913 (Western Australia); on the assumption the child is under the care, supervision or authority of the offender (such as a parent). Otherwise, 14 years.

[512]    Section 322(2) of the Criminal Code Act Compilation Act 1913 (Western Australia); on the assumption the child is under the care, supervision or authority of the offender (such as a parent).

[513]    Section 320(3) of the Criminal Code Act Compilation Act 1913 (Western Australia).

[514]    Section 321(7) of the Criminal Code Act Compilation Act 1913 (Western Australia); on the assumption the child is under the care, supervision or authority of the offender (such as a parent). Otherwise, 14 years.

[515]    Section 322(3) of the Criminal Code Act Compilation Act 1913 (Western Australia); on the assumption the child is under the care, supervision or authority of the offender (such as a parent).

[516]    Section 320(4) of the Criminal Code Act Compilation Act 1913 (Western Australia).

[517]    Section 321(8) of the Criminal Code Act Compilation Act 1913 (Western Australia); on the assumption the child is under the care, supervision or authority of the offender (such as a parent). Otherwise, seven years.

[518]    Section 322(4) of the Criminal Code Act Compilation Act 1913 (Western Australia); on the assumption the child is under the care, supervision or authority of the offender (such as a parent).

[519]    Section 320(5) of the Criminal Code Act Compilation Act 1913 (Western Australia).

[520]    Section 321(8) of the Criminal Code Act Compilation Act 1913 (Western Australia); on the assumption the child is under the care, supervision or authority of the offender (such as a parent). Otherwise, seven years.

[521]    Section 322(5) of the Criminal Code Act Compilation Act 1913 (Western Australia); on the assumption the child is under the care, supervision or authority of the offender (such as a parent).

[522]    Section 320(6) of the Criminal Code Act Compilation Act 1913 (Western Australia).

[523]    Section 321(8) of the Criminal Code Act Compilation Act 1913 (Western Australia); on the assumption the child is under the care, supervision or authority of the offender (such as a parent). Otherwise, seven years.

[524]    Section 322(6) of the Criminal Code Act Compilation Act 1913 (Western Australia); on the assumption the child is under the care, supervision or authority of the offender (such as a parent).

[525]    Section 321A(4) of the Criminal Code Act Compilation Act 1913 (Western Australia).

[526]    Section 186(1)(a) of the Criminal Code Act Compilation Act 1913 (Western Australia).

[527]    Section 204(2) of the Criminal Code Act Compilation Act 1913 (Western Australia).

[528]    Section 217(2) of the Criminal Code Act Compilation Act 1913 (Western Australia).

[529]    Section 218 of the Criminal Code Act Compilation Act 1913 (Western Australia).

[530]    Section 219(2) of the Criminal Code Act Compilation Act 1913 (Western Australia).

[531]    Sections 177 and 178 of the Criminal Code Act 1924 (Tasmania).

[532]    Section 389 of the Criminal Code Act 1924 (Tasmania).

[533]    Actions that constitute harm are defined as significant harm (physical injury or sexual abuse); emotional or psychological harm of such a kind that the child’s emotional or intellectual development is or is likely to be significantly damaged; or the child’s physical development or health being significantly harmed — Section 91(1) of the Children, Young Persons and Their Families Act 1997 (Tasmania).

[534]    Section 91 of the Children, Young Persons and Their Families Act 1997 (Tasmania).

[535]    Sections 124 and 389 of the Criminal Code Act 1924 (Tasmania).

[536]    Sections 125 and 389 of the Criminal Code Act 1924 (Tasmania).

[537]    Sections 125A and 389 of the Criminal Code Act 1924 (Tasmania).

[538]    Sections 125B and 389 of the Criminal Code Act 1924 (Tasmania).

[539]    Sections 125C and 389 of the Criminal Code Act 1924 (Tasmania).

[540]    Sections 125D and 389 of the Criminal Code Act 1924 (Tasmania).

[541]    Sections 130 and 389 of the Criminal Code Act 1924 (Tasmania).

[542]    Sections 130A and 389 of the Criminal Code Act 1924 (Tasmania).

[543]    Sections 130B and 389 of the Criminal Code Act 1924 (Tasmania).

[544]Sections 133 and 389 of the Criminal Code Act 1924 (Tasmania).

[545]Section 39(1) of the Crimes Act 1900 (Australian Capital Territory).

[546]Section 39(3) of the Crimes Act 1900 (Australian Capital Territory).

[547]Section 55(1) of the Crimes Act 1900 (Australian Capital Territory).

[548]Section 55(2) of the Crimes Act 1900 (Australian Capital Territory).

[549]Section 55A of the Crimes Act 1900 (Australian Capital Territory); on the assumption that the young person is under the adult’s “special care,” e.g., by virtue of being a parent.

[550]Section 56(1) of the Crimes Act 1900 (Australian Capital Territory).

[551]Section 56(1) of the Crimes Act 1900 (Australian Capital Territory); on the assumption that the young person is under the adult’s “special care,” e.g., by virtue of being a parent.

[552]Section 61(1) of the Crimes Act 1900 (Australian Capital Territory).

[553]Section 61(2) of the Crimes Act 1900 (Australian Capital Territory).

[554]Section 61A(2) of the Crimes Act 1900 (Australian Capital Territory); on the assumption that the young person is under the adult’s “special care,” e.g., by virtue of being a parent. See Section 55A(5).

[555]Section 62(1) of the Crimes Act 1900 (Australian Capital Territory).

[556]Section 62(2) of the Crimes Act 1900 (Australian Capital Territory).

[557]Section 62(3) of the Crimes Act 1900 (Australian Capital Territory).

[558]Section 66(1)(a) of the Crimes Act 1900 (Australian Capital Territory).

[559]Section 66(1)(b) of the Crimes Act 1900 (Australian Capital Territory).

[560]Section 66(1)(b) of the Crimes Act 1900 (Australian Capital Territory).

[561]Section 64(1) of the Crimes Act 1900 (Australian Capital Territory).

[562]Section 64(3) of the Crimes Act 1900 (Australian Capital Territory).

[563]Section 64A(1) of the Crimes Act 1900 (Australian Capital Territory).

[564]Section 183 of the Criminal Code Act 1983 (Northern Territory).

[565]Section 125B(1) of the Criminal Code Act 1983 (Northern Territory).

[566]Section 125E of the Criminal Code Act 1983 (Northern Territory).

[567]Section 127(3) of the Criminal Code Act 1983 (Northern Territory).

[568]Section 127(2) of the Criminal Code Act 1983 (Northern Territory); on the assumption the child is under the care of the offender (e.g., a parent).

[569]Section 128 of the Criminal Code Act 1983 (Northern Territory); on the assumption the child is under the special care of the offender (e.g., a parent). The sentence is four years if the child is 17 years old.

[570]Section 131A(2) of the Criminal Code Act 1983 (Northern Territory). If in the course of the relationship the offender committed an offense of a sexual nature for which the offender is liable to imprisonment for at least seven years, the offender is liable in respect of maintaining the relationship to imprisonment for 20 years.

[571]Section 132(4) of the Criminal Code Act 1983 (Northern Territory).

[572]Section 132(2) of the Criminal Code Act 1983 (Northern Territory).

[573]Section 134(3) of the Criminal Code Act 1983 (Northern Territory).

[574]Section 134(2) of the Criminal Code Act 1983 (Northern Territory).

[575]Section 134(1) of the Criminal Code Act 1983 (Northern Territory).

[576]See Section 16A of the Crimes Act 1914 (commonwealth); Section 7(1)(a) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 5(1)(a) of the Sentencing Act 1995 (Northern Territory); Section 5(1)(a) of the Sentencing Act 1991 (Victoria); Section 6(1) of the Sentencing Act 1995 (Western Australia). The principle of proportionality is also part of the common law of Australia. See *R v. Dole* [1975] VR 754 at 762; *Channon v. R* (1978) 20 ALR 1; 33 FLR 433 at 443 per Brennan J; *Veen v. R* (1979) 143 CLR 458 at 469, 482-3 and 496.

[577]Crimes (Sentencing) Act 2005 (Australian Capital Territory); Sentencing Act 1995 (Northern Territory); Crimes (Sentencing Procedure) Act 1999 (New South Wales); Penalties and Sentences Act 1992 (Queensland); Sentencing Act 2017 (South Australia); Sentencing Act 1997 (Tasmania); Sentencing Act 1991 (Victoria); Sentencing Act 1995 (Western Australia). See also Crimes Act 1914 (commonwealth) in respect of commonwealth offenses.

[578]See Section 6 of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section 5(a) of the Sentencing Act 1995 (Northern Territory); Section 3A; Section 9(1) of the Penalties and Sentences Act 1992 (Queensland); Sections 3 and 4 of the Sentencing Act 2017 (South Australia); Section 5 of the Sentencing Act 1991 (Victoria).

[579]See *R v. Vasin* (1985) 39 SASR 45 at 48; *James v. R* (1985) 14 A Crim R 364 at 365-6 per Burt J, at 370 per Franklyn J; *R v. Skipper* (1992) 64 A Crim R 260 at 262-3 per Seaman J.

[580]See Section 17A of the Crimes Act 1914 (commonwealth); Sections 10(2) and 133G (young offenders) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 5(1) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section 9(2)(a) of the Penalties and Sentences Act 1992 (Queensland); Section 5(4)-(4C) of the Sentencing Act 1991 (Victoria); Sections 6(4) and 39(3) of the Sentencing Act 1995 (Western Australia).

[581]*Hardy v. Rigby* [2020] NTSC 42 [43]-[44].

[582]Section 5(2)(f) of the Sentencing Act 1995 (Northern Territory); Section 9(2)(g) of the Penalties and Sentences Act 1992 (Queensland); Section 5(2)(g) of the Sentencing Act 1991 (Victoria); Sections 6(2)(c) and (d) of the Sentencing Act 1995 (Western Australia) (these provisions refer directly to aggravating and mitigating factors, leaving wide discretion for judges to consider any factors they believe relevant).

[583]Section 33(1)(a) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 5(2)(b) of the Sentencing Act 1995 (Northern Territory); Sections 9(2)(c) and (3)(d) of the Penalties and Sentences Act 1992 (Queensland); Section (11)(1)(a) of the Sentencing Act 2017 (South Australia); Section 5(2)(c) of the Sentencing Act 1991 (Victoria); Section 16A (2)(a) of the Crimes Act 1914 (commonwealth).

[584]Section 33(1)(i) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 5(2)(c) of the Sentencing Act 1995 (Northern Territory); Section 9(2)(d) of the Penalties and Sentences Act 1992 (Queensland); Section 5(2)(d) of the Sentencing Act 1991 (Victoria).

[585]Section 9 (10A) of the Penalties and Sentences Act 1992 (Queensland).

[586]Section 21A(2)(eb) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales).

[587]Section 9(3)(c) of the Penalties and Sentences Act 1992 (Queensland); Section (11)(1)(b) of the Sentencing Act 2017 (South Australia); Sections 5(2)(da) and (db) of the Sentencing Act 1991 (Victoria); Sections 16A (2)(d) of the Crimes Act 1914 (commonwealth).

[588]Section 33(1)(d) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory).

[589]Section 21A(2)(a) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales).

[590]Section 33(1)(g) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory).

[591]Section 21A(2)(cb) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section 11A(1)(f) of the Sentencing Act 1997 (Tasmania) (with respect to sexual offenses).

[592]Section 33(1)(gb) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 21A(2)(l) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales).

[593]Section 11A(1)(b) of the Sentencing Act 1997 (Tasmania) (with respect to sexual offenses).

[594]Section 6A(h) of the Sentencing Act 1995 (Northern Territory).

[595]Sections 6A(b) and (f) of the Sentencing Act 1995 (Northern Territory); Sections 21A(2)(b) and (c) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section 9(3)(e) of the Penalties and Sentences Act 1992 (Queensland) (which refers to the nature or extent of the violence used or intended to be used); Section 11A(1)(e) of the Sentencing Act 1997 (Tasmania) (with respect to sexual offenses).

[596]Section 16A (c) of the Crimes Act 1914 (commonwealth); Section 33(1)(c) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 21A(2)(m) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section 16A (2)(c) of the Crimes Act 1914 (commonwealth).

[597]Section 6A(a) of the Sentencing Act 1995;Section 21A(2)(e) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section 11A(1)(d) of the Sentencing Act 1997 (Tasmania) (with respect to sexual offenses).

[598]Section 21A(2)(h) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section 11B of the Sentencing Act 1997 (Tasmania) (racial motivation only); Section 5(2)(daaa) of the Sentencing Act 1991 (Victoria).

[599]Section 33(1)(u) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 21A(2)(k) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section (11A)(a) of the Sentencing Act 1997 (Tasmania) (with respect to sexual offenses).

[600]Section 21A(2)(o) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales).

[601]Section 21A(2)(f) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales).

[602]Section 16A (2) (e) of the Crimes Act 1914 (commonwealth); Sections 33 (1) (e) and (f) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 5(2)(b) of the Sentencing Act 1995; Section 21A(2)(g) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section 9(2)(c)(i) and (e) of the Penalties and Sentences Act 1992 (Queensland); Section (11)(1)(c) of the Sentencing Act 2017 (South Australia); Section 5(2)(daa) of the Sentencing Act 1991 (Victoria).

[603]Section 5(2)(da) of the Sentencing Act 1995 (Northern Territory).

[604]Sections 9(3)(a) and (b) of the Penalties and Sentences Act 1992 (Queensland).

[605]Section 21A(2)(i) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section 9(3)(f) of the Penalties and Sentences Act 1992 (Queensland).

[606]Section 5(2)(g) of the Sentencing Act 1995 (Northern Territory); Section 9(2)(h) of the Penalties and Sentences Act 1992 (Queensland).

[607]Section 21A(2)(ib) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales).

[608]Section 21A(2)(ea) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales).

[609]Section 9 (2)(c)(ii) of the Penalties and Sentences Act 1992 (Queensland).

[610]Section 5(2)(ba) of the Sentencing Act 1995 (Northern Territory).

[611]Section 21A(2)(d) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Sections 9(3)(g) and (10) of the Penalties and Sentences Act 1992 (Queensland); Section (11)(1)(d) of the Sentencing Act 2017 (South Australia). In contrast, Section 7(2)(b) of the Sentencing Act 1995 (Western Australia) provides that an offender’s criminal record is not an aggravating factor.

[612]Section 21A(2)(j) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales) (this may include a community correction order or a domestic violence order); Section 9(2)(n) of the Penalties and Sentences Act 1992 (Queensland) (this refers to compliance with a community-based order).

[613]Section 16A (2)(ma) of the Crimes Act 1914 (commonwealth).

[614]Section 21A(3)(a)of the Crimes (Sentencing Procedure) Act 1999 (New South Wales).

[615]Section 33(1)(q) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Sections 21A(3)(c) and (d) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales).

[616]Section 21A(3)(e) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales).

[617]Section 33(1)(m) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 5(2)(e) of the Sentencing Act 1995 (Northern Territory); Section 21A(3)(f) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Sections 9(2)(f) and (3)(h) of the Penalties and Sentences Act 1992 (Queensland); Section (11)(1)(d) and (f) of the Sentencing Act 2017 (South Australia); Section 5(2)(f) of the Sentencing Act 1991 (Victoria); Section 16A (2)(m) of the Crimes Act 1914 (commonwealth).

[618]Sections 21A(3)(g) and (g) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Sections (11)(1)(e) and (h) of the Sentencing Act 2017 (South Australia).

[619]Section 33(1)(n) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory).

[620]Section 33(1)(o) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 16A (2)(p) of the Crimes Act 1914 (commonwealth).

[621]Section 33(1)(p) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); voluntary intoxication is not a mitigating factor in Queensland or Tasmania; Section 9(9A) of the Penalties and Sentences Act 1992 (Queensland); Section 11C of the Sentencing Act 1997 (Tasmania).

[622]Section 33(1)(t) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory).

[623]Sections 33(1)(h) and (w) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 9(3)(i) of the Penalties and Sentences Act 1992 (Queensland); Section 16A (2)(f) of the Crimes Act 1914 (commonwealth); Section 21A(3)(i) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section (11)(1)(g) of the Sentencing Act 2017 (South Australia) in New South Wales and South Australia, remorse is only relevant if the offender provides evidence of having taken responsibility for their actions and the offender has acknowledged or made reparations for any injury, loss or damage caused by their actions.

[624]Section 21A(3)(j) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales).

[625]Section 9(2)(o) of the Penalties and Sentences Act 1992 (Queensland).

[626]Section 9(2)(p) of the Penalties and Sentences Act 1992 (Queensland).

[627]Section 33(1)(k) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 21A(3) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section 16A (2)(fa) of the Crimes Act 1914 (commonwealth) (under the Commonwealth Act, a judge is to consider a failure to comply with pretrial disclosure and ongoing disclosure obligations relating to the offense).

[628]Section 33(1)(l) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 5(2)(h) of the Sentencing Act 1995 (Northern Territory); Sections 21A(3)(m) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Sections 9(2)(i), 13A and 13B of the Penalties and Sentences Act 1992 (Queensland); Section 16A (2)(h) of the Crimes Act 1914 (commonwealth).

[629]Section 5(2)(ha) of the Sentencing Act 1995; Section 21A(3)(l) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales).

[630]Section 33(1)(s) of the Crimes (Sentencing) Act 2005 (Northern Territory).

[631]Section 33(1)(r) of the Crimes (Sentencing) Act 2005 (Northern Territory).

[632]Sections 5(2)(k), (m), (n), (o) and (p) of the Sentencing Act 1995 (Northern Territory); Sections 9(2)(j), (k), (l) and (m) of the Penalties and Sentences Act 1992 (Queensland).

[633]Section 33(1)(j) of the Crimes (Sentencing) Act 2005 (Australian Capital Territory); Section 5(2)(j) of the Sentencing Act 1995 (Northern Territory); Section 21A(3)(k) of the Crimes (Sentencing Procedure) Act 1999 (New South Wales); Section 13 of the Penalties and Sentences Act 1992 (Queensland); Section 5(2)(e) of the Sentencing Act 1991 (Victoria); Section (9AA) of the Sentencing Act 1995 (Western Australia); Section 16A (2)(g) of the Crimes Act 1914 (commonwealth).

[634]The offense in this section is unlawfully causing harm.

[635]*Osland v. The Queen* (1998) 197 CLR 316, per Callinan J at [239].

[636]*Ibid* per Kirby J at [167].

[637]*Ibid* per Kirby J at [167].

[638]Elizabeth Sheehy *et al*., “Securing fair outcomes for battered women charged with homicide: analysing defence lawyering in R v Falls” (2014) *Melbourne University Law Review* 38(6) 675.

[639]Sections 271(2) and 272 of the Criminal Code Act 1899 (Queensland).

[640]Geraldine Mackenzie *et al*., Homicide in Abusive Relationships: A Report on Defences (Report prepared for the Attorney-General and Minister for Industrial Relations, 2009) 26-27.

[641]Australian Law Reform Commission, “Chapter 14: Homicide Defences and Family Relationships in Criminal Laws,” Family Violence — A National Legal Response, Report No 114 (2010) 624; Law Reform Commission of Western Australia, “Chapter 4: Defences to Homicide,” A Review of the Law of Homicide: Final Report (2007) 158; Victorian Law Reform Commission, Defences to Homicide: Final Report (2004) 59, 61, 63; Lenny Roth *et al*., Provocation and Self-Defence in Intimate Partner and Homophobic Homicides, New South Wales Parliamentary Library Research Service Briefing Paper 3/07 (2007) 35.

[642]Queensland Law Reform Commission, A Review of the Excuse of Accident and the Defence of Provocation, Report No. 64 (2008) 313.

[643]Criminal Code (Abusive Domestic Relationship Defense and Another Matter) Amendment Bill 2010 (Queensland).

[644]    Explanatory Note, Criminal Code (Abusive Domestic Relationship Defense and Another Matter) Amendment Bill 2010 (Queensland) 2-4.

[645]Michelle Edgely *et al*., “Women who kill their abusers: How Queensland’s new abusive domestic relationships defence continues to ignore reality” (2011) *Flinders Law Journal* 13(25), 126.

[646]*R v. Falls, Coupe, Cummings-Creed & Hoare* [2010] QSC. This decision is unreported. A summary from the Supreme Court of Queensland’s National Domestic and Family Violence Benchbook is available.

[647]Victorian Law Reform Commission, *Defences to Homicide Final Report*, (Final Report, August 2004).

[648]*Osland v. The Queen* (1998) 197 CLR 316 [56].

[649]Geraldine Mackenzie *et al*., Homicide in Abusive Relationships: A Report on Defences (Report prepared for the Attorney-General and Minister for Industrial Relations, 2009) 33.

[650]Go To Court, *Battered Women Syndrome: Women who kill their partners* (web page, unknown), [Battered woman syndrome (gotocourt.com.au)](https://www.gotocourt.com.au/legal-news/battered-woman-syndrome/).

[651]Stella Tarrant, “Self defence against intimate partner violence” (2018) *University of Western Australia* (thesis) Introduction, 198.

[652]Australian Human Rights Commission, “Fact Sheet: Domestic and family violence — a workplace issue, a discrimination issue” (Fact sheet, 4 December 2014), <https://humanrights.gov.au/our-work/sex-discrimination/publications/fact-sheet-domestic-and-family-violence-workplace-issue>. This is only a policy proposal that was put forward by the Australian Human Rights Commission and domestic/family violence has not been included in the list of protected attributes in anti-discrimination legislation in Australia at this stage.

[653]VicHealth, *The Health Costs of Violence: Measuring the Burden of Disease Caused by Intimate Partner Violence* (Report, 2004) 8.

[654]National Council to Reduce Violence Against Women and Their Children, *The Cost of Violence Against Women and Their Children* (Report, March 2009) 5.

[655]Natasha Cortis and Jane Bullen, *Domestic violence and women’s economic security. Building Australia’s Capacity for prevention and redress: Final report* (ANROWS Horizons, 05/2016, October 2016) 56.

[656]Ludo McFerran, *Safe at Home, Safe at Work? National Domestic Violence and the Workplace Survey* (Survey, 2011) 10.

[657]Safe Work Australia, *Family & domestic violence* (Web page, 3 February 2021), <https://covid19.swa.gov.au/covid-19-information-workplaces/industry-information/office/family-domestic-violence?tab=tab-toc-worker>.

[658]Andrea Durbach, “Domestic violence discrimination and the consolidation of Commonwealth anti-discrimination laws” (Speech, Melbourne, 5 December 2011), <https://humanrights.gov.au/about/news/speeches/domestic-violence-discrimination-and-consolidation-commonwealth-anti>.

[659]The Magistrates’ Court of the Australian Capital Territory, *Personal Protection and Workplace Protection Orders* (web page, unknown), <https://www.courts.act.gov.au/magistrates/law-and-practice/family-violence-and-protection-orders/personal-protection-and-workplace-orders>.

[660]These orders are also referred to as personal safety intervention orders or apprehended violence orders depending on the relevant state or territory in Australia.

[661]Family Relationships Online (an Australian government initiative), *Family Violence Orders* (web page, unknown), <https://www.familyrelationships.gov.au/dealing-violence/family-violence-orders>.

[662]The Magistrates’ Court of Victoria, *Personal safety intervention orders (PSIO)* (web page, 12 April 2021) <https://www.mcv.vic.gov.au/intervention-orders/personal-safety-intervention-orders-psio>.

[663]Australian government, Attorney-General’s Department, *National Domestic Violence Order Scheme* (web page, unknown), <https://www.ag.gov.au/families-and-marriage/families/family-violence/national-domestic-violence-order-scheme>.

[664]Queensland courts, *What is a domestic violence order?* (web page, 27 June 2018), <https://www.courts.qld.gov.au/going-to-court/domestic-violence/domestic-violence-orders/what-is-a-domestic-violence-order>.

[665]The Magistrates’ Court of Victoria, *Family violence intervention orders* (web page, 18 May 2021), <https://www.mcv.vic.gov.au/family-matters/family-violence-intervention-orders-fvio>; the Magistrates’ Court of Victoria, *Applying for an intervention order (FVIO)* (web page, 14 October 2020), <https://www.mcv.vic.gov.au/intervention-orders/family-violence-intervention-orders/applying-intervention-order-fvio>.

[666]New South Wales Police Force, *Apprehended Violence Orders (AVO)* (web page, unknown), <https://www.police.nsw.gov.au/crime/domestic_and_family_violence/apprehended_violence_orders_avo>.

[667]“Restraining Orders,” *Magistrates’ Court of Western Australia* (web page, unknown), <https://www.magistratescourt.wa.gov.au/r/restraining_orders.aspx>; “Family Violence Restraining Orders (FVROs),” *Legal Aid WA* (web page), <https://www.legalaid.wa.gov.au/find-legal-answers/restraining-orders/restraining-orders/family-violence-restraining-orders-fvros>.

[668]“Intervention orders (including domestic violence orders),” *Courts Administration Authority of South Australia* (web page, 2021), <https://www.courts.sa.gov.au/going-to-court/representing-yourself/intervention-orders/>; “Intervention orders,” *South Australia Police* (web page, 2021), <https://www.police.sa.gov.au/your-safety/intervention-orders>; “Intervention orders,” *Legal Services Commission of South Australia* (web page, 2021), <https://lawhandbook.sa.gov.au/ch21s07s02.php>.

[669]“Family Violence & Restraint Orders,” *Magistrates’ Court of Tasmania* (web page, 2021), <https://www.magistratescourt.tas.gov.au/going_to_court/restraint_orders>.

[670]The Magistrates’ Court of the Australian Capital Territory, *A guide for people applying for Personal Protection orders (PPOs), including Workplace Protection Orders (WPOs)* (document, unknown), <https://www.courts.act.gov.au/__data/assets/pdf_file/0020/1055009/9566RR-ACT-Magistrates-Court-Form-3-Workplace-Protection-Order_FA-ONLINE.pdf>.

[671]The Magistrates’ Court of the Australian Capital Territory, *Family Violence Orders* (web page, unknown), <https://www.courts.act.gov.au/magistrates/law-and-practice/family-violence-and-protection-orders/family-violence-orders>.

[672]Northern Territory Local Court, *Domestic Violence Applications and Personal Violence Restraining Orders* (web page, unknown), <https://localcourt.nt.gov.au/going-to-court/domestic-violence-applications-and-personal-violence-restraining-orders>.

[673]Family Law Amendment (Federal Family Violence Orders) Bill 2021 (commonwealth); Parliament of Australia, *Family Law Amendment (Federal Family Violence Orders) Bill 2021* (web page, 2021), <https://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bId=r6698>.

[674]Fair Work Ombudsman, *Unfair Dismissal* (web page, unknown), <https://www.fairwork.gov.au/ending-employment/unfair-dismissal>.

[675]Fair Work Commission, *Unfair Dismissals Benchbook:* *Who is protected from Unfair Dismissal* (web page, 1 July 2021), <https://www.fwc.gov.au/unfair-dismissals-benchbook/coverage-unfair-dismissal/who-protected-from-unfair-dismissal>.

[676]From 1 July 2021, the high income threshold is AUD 158,500. See Fair Work Commission, *Unfair Dismissals Benchbook: High income threshold* (web page, 1 July 2021), <https://www.fwc.gov.au/unfair-dismissals-benchbook/coverage-unfair-dismissal/high-income-threshold>. The threshold increases slightly each 1 July.

[677]JobWatch, Family and Domestic Violence and Employment Law Fact Sheet (web page, January 2019), <https://jobwatch.org.au/resource/family-and-domestic-violence-and-employment-law/>.

[678]Fair Work Ombudsman, *National Employment Standards* (web page, unknown), <https://www.fairwork.gov.au/employment-conditions/national-employment-standards>. Casual employees only get some National Employment Standard entitlements and they do not get paid annual or paid personal/carer’s leave. Casual employees do get unpaid family and domestic violence leave.

[679]Section 106Aof the Fair Work Act 2009 (commonwealth).

[680]Sections 106A-106E of the Fair Work Act 2009 (commonwealth).

[681]Section 106B(1), Note 1 of the Fair Work Act 2009 (commonwealth).

[682]Section 106B(3) of the Fair Work Act 2009 (commonwealth).

[683]The entitlements will vary depending on the type of worker and any other agreements in place, such as an enterprise agreement. Permanent employees are entitled to all of the types of leave listed in this table, but casual employees are only entitled to the unpaid carer’s leave and unpaid family and domestic violence leave listed in this table.

[684]Section 87 of the Fair Work Act 2009 (commonwealth).

[685]Section 88 of the Fair Work Act 2009 (commonwealth).

[686]Section 87 of the Fair Work Act 2009 (commonwealth).

[687]Section 97 of the Fair Work Act 2009 (commonwealth).

[688]Section 107 of the Fair Work Act 2009 (commonwealth).

[689]Section 96 of the Fair Work Act 2009 (commonwealth).

[690]Section 102 of the Fair Work Act 2009 (commonwealth).

[691]Section 107 of the Fair Work Act 2009 (commonwealth).

[692]Section 106A of the Fair Work Act 2009 (commonwealth).

[693]Section 107 of the Fair Work Act 2009 (commonwealth).

[694]Section 113 of the Fair Work Act 2009 (commonwealth).

[695]Regulation 1.23 of the Regulations.

[696]Regulation 1.23(2) of the Regulations.

[697]Regulation 1.23(4) of the Regulations.

[698]Regulation 1.23(6) of the Regulations.

[699]Regulation 1.23(6) of the Regulations.

[700]Regulations 1.24 and 1.25 of the Regulations.

[701]Regulation 1.23(9) of the Regulations.

[702]Section 60CC(2)(b) of the Commonwealth Act.

[703]Section 4AB of the Commonwealth Act.

[704]Section 60CC(2A) of the Commonwealth Act; See *May and Blackthorn & Anor* [2018] FCWA 23 where sole responsibility of a child was awarded to the paternal grandmother where it was held that the need to protect the child from harm from family violence outweighed the benefit of the child having a meaningful relationship with both parents.

[705]Section 60CG(1)(b) of the Commonwealth Act.

[706]Section 60CC(3)(k) of the Commonwealth Act.

[707]Section 60CF of the Commonwealth Act.

[708]Section 61DA(1) of the Commonwealth Act.

[709]Section 61DA(2) of the Commonwealth Act.

[710]The form and further information is available at the federal circuit court website at [http://www.federalcircuitcourt.gov.au//wps/wcm/connect/fccweb/forms-and-fees/court-forms/diy-kits/notice-risk](http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/forms-and-fees/court-forms/diy-kits/notice-risk).

[711]Section 67ZBB of the Commonwealth Act.

[712]Section 60CC(3)(a) of the Commonwealth Act.

[713]Section 60CC(3)(a) of the Commonwealth Act.

[714]Section 60CE of the Commonwealth Act.

[715]Section 60CD of the Commonwealth Act.

[716]The question focuses on whether there are any laws that would prevent a landlord from asking someone to move out due to nuisances/police presence that are actually caused due to domestic violence (e.g., the abuser showing up at the victim’s home).

[717][Social housing legal responses to crime and anti-social behaviour: impacts on vulnerable families (ahuri.edu.au)](https://www.ahuri.edu.au/__data/assets/pdf_file/0018/42147/AHURI-Final-Report-314-Social-housing-legal-responses-to-crime-and-anti-social-behaviour-impacts-on-vulnerable-families.pdf).

[718][Social housing legal responses to crime and anti-social behaviour: impacts on vulnerable families (ahuri.edu.au)](https://www.ahuri.edu.au/__data/assets/pdf_file/0018/42147/AHURI-Final-Report-314-Social-housing-legal-responses-to-crime-and-anti-social-behaviour-impacts-on-vulnerable-families.pdf).

[719][Notice to vacate in rental properties — Consumer Affairs Victoria](https://www.consumer.vic.gov.au/noticetovacate).

[720][Social housing legal responses to crime and anti-social behaviour: impacts on vulnerable families (ahuri.edu.au)](https://www.ahuri.edu.au/__data/assets/pdf_file/0018/42147/AHURI-Final-Report-314-Social-housing-legal-responses-to-crime-and-anti-social-behaviour-impacts-on-vulnerable-families.pdf).

[721][Social housing legal responses to crime and anti-social behaviour: impacts on vulnerable families (ahuri.edu.au)](https://www.ahuri.edu.au/__data/assets/pdf_file/0018/42147/AHURI-Final-Report-314-Social-housing-legal-responses-to-crime-and-anti-social-behaviour-impacts-on-vulnerable-families.pdf).

[722][Ending a tenancy | New South Wales Fair Trading](https://www.fairtrading.nsw.gov.au/housing-and-property/renting/ending-a-tenancy#Endingatenancybecauseofdomesticviolence2).

[723][Domestic violence in a rented property | New South Wales Fair Trading](https://www.fairtrading.nsw.gov.au/housing-and-property/renting/during-a-tenancy/domestic-violence-in-a-rented-property).

[724][Family violence — information for renters and rental providers — Consumer Affairs Victoria](https://www.consumer.vic.gov.au/resources-and-tools/family-violence).

[725]<https://www.rta.qld.gov.au/renting/covid-19-changes/domestic-and-family-violence>.

[726]<https://www.sa.gov.au/topics/housing/renting-and-letting/domestic-violence-protections-for-renters>.

[727]Section 17 of the Family Violence Act 2004 (Tasmania), <https://www.legislation.tas.gov.au/view/whole/html/inforce/2021-04-20/act-2004-067>; Section 37 of the Residential Tenancy Act 1997 (Tasmania), <https://www.legislation.tas.gov.au/view/whole/html/inforce/current/act-1997-082>.

[728]<https://www.dcls.org.au/tenants-advice/dfv-and-tenancy/>.

[729]Section 23 of the NT Act, <https://legislation.nt.gov.au/en/Legislation/DOMESTIC-AND-FAMILY-VIOLENCE-ACT-2007>.

[730]<https://www.facs.nsw.gov.au/domestic-violence/police-law-help/getting-an-avo/chapters/exclusion-orders>.

[731]<https://www.facs.nsw.gov.au/domestic-violence/police-law-help/getting-an-avo/chapters/exclusion-orders>.

[732]<https://www.facs.nsw.gov.au/domestic-violence/police-law-help/getting-an-avo/chapters/exclusion-orders>.

[733]<https://www.facs.nsw.gov.au/domestic-violence/police-law-help/getting-an-avo/chapters/exclusion-orders>.

[734]<https://www.police.vic.gov.au/intervention-orders>.

[735]<https://www.police.vic.gov.au/intervention-orders>.

[736]<https://www.police.vic.gov.au/intervention-orders>.

[737]Section 63 of the Queensland Act, <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2012-005>.

[738]Section 64(1) of the Queensland Act, <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2012-005>.

[739]Section 112(1a)(c) of the Residential Tenancies Act 1995 (South Australia), <https://www.sa.gov.au/topics/housing/renting-and-letting/domestic-violence-protections-for-renters>.

[740]Section 112(1b) of the Residential Tenancies Act 1995 (South Australia).

[741]Section 112(2) of the Residential Tenancies Act 1995 (South Australia).

[742]Sections 16 and 17 of the Tasmanian Act.

[743]Sections 21 and 22 of the NT Act.

[744]Section 22(2) of the NT Act.

[745]Section 23 of the NT Act.

[746]Section 10G of the WA Act.

[747]Section 10D of the WA Act.

[748]Section 16 of the Family Violence Act 2016 (Australian Capital Territory).

[749]Section 36 of the Family Violence Act 2016 (Australian Capital Territory).

[750]Section 38(a) of the Family Violence Act 2016 (Australian Capital Territory).

[751]Section 39 of the Family Violence Act 2016 (Australian Capital Territory).

[752]Section 37 of the Family Violence Act 2016 (Australian Capital Territory).

[753][https://www.lawaccess.nsw.gov.au/Pages/representing/lawassist\_avo/lawassist\_gettingavo\_home/lawassist\_
pinopaftercourt\_avo/lawassist\_consequence\_pinop.aspx](https://www.lawaccess.nsw.gov.au/Pages/representing/lawassist_avo/lawassist_gettingavo_home/lawassist_pinopaftercourt_avo/lawassist_consequence_pinop.aspx).

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