

# Stronger domestic violence protections

## Consultation fact sheet

The Government of South Australia is seeking your feedback on proposed changes to the law to reduce domestic violence, strengthen protection for partners and families and ensure more offenders are brought to justice.

The proposed changes include:

- creating a new offence for strangulation
- increasing penalties for repeated breaches of intervention orders
- allowing video evidence recorded by police to be used in court
- expanding the definition of 'aggravated' domestic abuse to include more types of relationships.

### New offence – non-fatal strangulation

#### *Criminal Law Consolidation Act 1935*

It is common for perpetrators of domestic violence to use strangulation as a form of abuse. This behaviour frequently escalates to more severe violence or homicide.

If the incident does not result in death, it can currently be prosecuted as an assault or attempted murder.

Under the new offence, someone who chokes, strangles or suffocates their partner or family member can face a maximum of 7 years imprisonment.

Unlike an attempted murder charge, the prosecution does not need to prove an intent to kill.

A similar offence was introduced in Queensland in 2016, with almost 800

people charged within the first 12 months.

### Video evidence

#### *Evidence Act 1929*

In many cases, domestic violence offences may not be prosecuted. This can happen for a range of reasons, including a victim withdrawing their evidence due to fear and pressure from their abuser.

Allowing video and audio recordings taken by police to be admissible in court will help authorities gather the evidence they need to prosecute.

The government is proposing that this material can be used as evidence in court if the recording:

- occurs as soon as practicable after the offence
- occurs with the informed consent of the person who experienced the abuse
- includes a statement by the victim about their age, that they are being truthful and any other matter required by the regulations or rules of court.

### Have yourSAy

Consultation on the proposed changes closes on Friday 17 August 2018.

- Complete an online survey or participating in a discussion forum at [yourSAy.sa.gov.au](http://yourSAy.sa.gov.au)
- Email your response to [dvdiscussion@sa.gov.au](mailto:dvdiscussion@sa.gov.au).



## Expanding the definition of domestic relationships

### *Criminal Law Consolidation Act 1935*

When an offence is classified as 'aggravated', harsher penalties apply.

Under the current law, a domestic violence offence is classified as 'aggravated' if it occurs against a:

- current or former spouse
- current or former domestic partner
- certain children.

The government is proposing to expand the definition of an aggravated domestic violence offence to include more relationships, such as a:

- grandchild
- sibling
- carer
- person related according to Aboriginal or Torres Strait Islander kinship rules
- member of some other culturally recognised family group.

This change is consistent with the broader definition of domestic abuse in current intervention order laws.

The change means that an abuser's criminal record would more clearly show that their offence was domestic abuse. This is because 'aggravated' offences list the specific circumstances of the incident, which is not required for a basic offence.

This will allow more accurate data to be collected at a community level, and will support the government's state-wide domestic violence disclosure scheme trial.

## Intervention orders

### *Intervention Orders (Prevention of Abuse Act) 2009*

Intervention orders, previously called domestic violence restraining orders, exist to protect people from their abuser and set clear boundaries for perpetrators.

To apply for an intervention order, the behaviour of the perpetrator must be classified as abuse.

### Repeated breaches

The state government has committed to increasing penalties for people who repeatedly breach an intervention order.

The proposed changes double the current maximum penalties so that someone who breaches their intervention order 3 or more times could be jailed for 4 years or fined \$20,000.

### Forced marriage and other abuse

The government is proposing to add a specific reference to forced marriage in the state's intervention order laws.

This means that forced marriage will be clearly defined as a form of abuse, and could be used as the basis for seeking an intervention order.

To cover more situations and to intervene earlier to protect people from family violence, the government is also proposing to expand the definition of abuse to include:

- stopping someone from entering their own home
- taking invasive photos or videos of someone without their permission and threatening to share them.