

Magistrates Courts

Practice Direction No. 4 of 2022

Issued: 29 April 2022

Amended: 1 August 2023

Domestic and Family Violence

Introduction

1. This Practice Direction commences on 30 April 2022 and applies to all proceedings including proceedings commenced prior to 30 April 2022.
2. The Practice Direction is to be read together with:
 - a. the *Domestic and Family Violence Protection Act 2012* (the DV Act);
 - b. the *Domestic and Family Violence Protection Rules 2014* (the DV Rules).

Purpose

3. The purpose of this Practice Direction is to facilitate procedural consistency in the determination of applications for Domestic Violence Orders under the DV Act while allowing for flexible case-management to ensure justice is done in individual cases.
4. While it is recognised that local conditions may require adjustment to the practices and procedures set out in this Practice Direction, adherence to this Practice Direction is encouraged, wherever possible.
5. Nothing in this Practice Direction is to be taken as removing or limiting the discretion of a Magistrate.

Safety Planning

6. If a party fears for their safety, or the safety of another, attending Court they should contact the Court where they will be attending, preferably at least two days before the Court date, so that a safety plan can be developed.
7. Contact details for all Courthouses across Queensland can be found here: <https://www.courts.qld.gov.au/contacts/courthouses>.
8. A party, if they have not previously contacted the Courthouse, should inform Courthouse staff or security staff of any concerns they have for their safety when they arrive at the Courthouse on the day of the hearing of a domestic violence Application.

Requesting a Hearing Before an Application for a Domestic Violence Order is Served

9. When an applicant, who is not a police officer applicant, is seeking a temporary protection order before a respondent is served with an Application for a Protection Order or an Application to Vary a Domestic Violence Order, the applicant may request under s.36 or s.90 of the DV Act that the Application be heard by the Court.

10. If the applicant is unable to obtain the services of a person qualified under the *Oaths Act 1867* to make the verification or variation declaration (see sections 36(2)(b) and 90(2)(b) of the DV Act) the applicant may still request, under those sections, the Application be heard by the Court. Subject to local arrangements the request can be made in person, by email or by telephone to the Registrar of a Courthouse.
11. When the applicant makes such request, the Registrar will refer the request to a Magistrate who will advise the Registrar when a Court will be convened to consider the making of the order sought. The applicant, with the leave of the Court, may appear by audio visual or audio link.
12. If the Applicant has not made a verification declaration as required under s. 32(2)(d) (for a protection order Application) or a variation declaration as required under s. 86(2)(d) of the DV Act (for an Application to vary a domestic violence order) the applicant must verify on oath or affirmation before the Magistrate that the Application is true and correct (s. 47A of the DV Act).
13. The Magistrate will then note on the Application that the applicant has verified, on oath or affirmation, that the Application is true and correct and then proceed with hearing the application for a temporary protection order.
14. If a temporary protection order is made that order and the endorsed copy of the application will be provided to the Queensland Police Service to serve on the relevant parties.
15. If additional evidence is to be relied upon, this should be reduced to writing and a copy provided to the Court. The Court may order that the copy of additional evidence be served on the respondent with the original Application.
16. If a Magistrate decides not to convene the Court the applicant will be notified by registry staff and advised that their Application will need to be declared before an authorised person and returned to the registry before registry staff can complete the processing of the Application and send to the Queensland Police Service for service, prior to the Application being heard.

Non- disclosure orders

17. Under ss.36A and 90A of the DV Act, the police commissioner must ensure a copy of the respondent's criminal history and domestic violence history in the possession of the commissioner is given to the Court.
18. If the Application is made by a police officer, the criminal history and domestic violence history will be either:
 - a. Filed with the Application or prior to the first hearing of the Application (s.36A(2)(a) of the DV Act); or
 - b. Given to the court when the Application is first heard (s.36A(2)(b) of the DV Act).
19. If the applicant is not a police officer, the police commissioner will ensure the respondent's criminal history and domestic violence history will be either:
 - a. Filed in Court prior to the first hearing of the Application (s.36A(2)(a) of the DV Act); or
 - b. Given to the court when the Application is first heard (s.36A(2)(b) of the DV Act).

20. Section 90A of the DV Act prescribes a similar procedure for an Application to Vary a Domestic Violence Order.
21. Rule 19B of the DV Rules provides for an identical copy of the respondent's criminal history and domestic violence history to be given to the respondent before the first hearing of the Application.
22. Whilst ss.35 and 89 of the DV Act provide for a copy of an Application for a Domestic Violence Order or an Application to Vary a Domestic Violence Order to be given to an aggrieved, a copy of the respondent's criminal history and domestic violence history should not be attached to the Application for a Domestic Violence Order or an Application to Vary a Domestic Violence Order before the first hearing of the Application.
23. At the first or subsequent mention after the respondent has been provided with a copy of the respondent's criminal history or domestic violence history, the Court on its own initiative or on the application of the respondent may consider whether to make an application for a non-disclosure order under s.160A of the DV Act.
24. The Court may make an order that a person must not disclose all or part of the information contained in the respondent's criminal history or domestic violence history (s.160A(2) of the DV Act).
25. If an order is made that provides for part of the respondent's criminal history or domestic violence history not to be disclosed, the Court may request that the Commissioner of Police give the aggrieved and to the Court within 14 business days, a fresh copy of the history with the appropriate deletions made.
26. Draft orders are set out in **Annexure B**.

Substituted service

27. Where a document is required to be personally served by police and police are having difficulty effecting personal service, an application may be made to the Court for a substituted service order.
28. An application for substituted service should not be made:
 - a. at the same time an Application for a Domestic Violence Order or an Application to Vary a Domestic Violence Order is made, or
 - b. because the respondent's address is not known by the applicant.
29. If the application is made by a police officer, the police officer must file with the application:
 - a. An affidavit of attempted police service; and
 - b. A draft substituted service order.
30. If the application is made by a party to the proceeding, the party may file
 - a. A draft substituted service order.
31. If the application is made by a party to the proceeding:
 - a. as soon as reasonably practicable, the registry will give a copy of the application to the commissioner of police; and
 - b. the commissioner of police will prepare and file with the Court an affidavit of attempted personal service.
32. If a police officer serves a document on a respondent under a substituted service order, the police officer must file a statement of substituted police service with the

registry of the DFVP court hearing the proceeding, unless the Court orders otherwise (r.14AA of the DV Rules).

33. An example of a substituted service order is in **Annexure B**.

Hearing of an Application for a Domestic Violence Order in Court

34. An applicant, who is not a police officer, and respondent should appear in person except:

- a. when they are legally represented;
- b. their appearance by audio visual or audio link has been approved by the Court; or
- c. their appearance has been excused by the Court.

35. An applicant, respondent or aggrieved wishing to appear by audio visual or audio link or to have their appearance excused should contact the Court to seek an order to that effect. A party may be required to provide a direct telephone number for the party to be contacted when required to appear.

36. At the first hearing of an Application for a Domestic Violence Order, the respondent will be asked to indicate whether they will be consenting or opposing the making of a final order. If the respondent is unable to make that determination, or needs legal advice, the Application will be adjourned for 21 days or such further time determined to be appropriate by a Magistrate.

37. The Court may make a temporary protection order at the first mention of an Application for a Domestic Violence Order or set a subsequent date for an interim hearing.

38. Applications listed for hearing will be dealt with in the order determined by the presiding Magistrate. This will ordinarily be based on the following criteria:

- a. video links and matters with an interpreter where a specific time is booked;
- b. matters with ***urgent circumstances***;
- c. matters where only the aggrieved appears;
- d. matters where both parties are legally represented;
- e. matters where one party is legally represented; and
- f. matters where parties are not legally represented.

Urgent circumstances can include circumstances relating to the safety, health, or the particular circumstances of a party.

Hearing of Cross-Applications

39. Where:

- a. an original Application and a cross Application are before the same court;
or
- b. the variation Application and cross Application are before the same court;
and
- c. the Court is aware of both Applications

s.41C of the DV Act requires the Court to hear Applications together.

40. Where:

- a. an original Application and a cross Application are before different courts;
or
 - b. the variation Application and the cross Application are before different courts; and
 - c. A court hearing the Application is aware of both Applications
- s. 41D of the DV Act requires a Court to consider whether to hear the Applications together or order the Application before the Court to be dealt with by the other Court.
- 41. When a Court determines the Applications will be heard together in the Court it is sitting in that Registry will notify the Court where the other Application is being heard in writing of the determination. The Registry of the other Court will forward the Application and Court file to the Court where all Applications will be heard.
 - 42. When a Court determines the Application will be heard by the other Court the Registry will notify the other Court where the other Application is being heard in writing of the determination. The Registry will forward the Application and Court file to the other Court where all Applications will be heard.
 - 43. When a Court determines the Application will be heard separately the Registrar of the Court will notify the Court where the other Application is being heard of the determination of the Magistrate within 3 days.

Hearing of Application for a Protection Order or Variation of a Domestic Violence Order where Applicant and/or Respondent are Absent

- 44. Pursuant to ss. 39 or 94 of the DV Act, the Court, if satisfied that the respondent has been served with a copy of the Application (or, under s.112 of the DV Act, a copy of a Police Protection Notice) the Court may hear and determine the Application if the respondent fails to appear.
- 45. If the applicant for a Protection Order is not an aggrieved the applicant should produce to the Court a document verifying a copy of the Application has been given to the aggrieved in accordance with s. 35 of the DV Act.
- 46. The Court may order before determining the Application for a Protection Order, if it considers it necessary and appropriate, that an adult named person be given a copy of the Application in accordance with r. 18 of the DV Rules.
- 47. If the respondent to an Application to Vary a Domestic Violence order is the aggrieved the Application must be served by a police officer on both the aggrieved and any named person who is affected by the Application (s. 88(3) of the DV Act).
- 48. If more restrictive conditions are sought by an applicant, the Court may require the filing and service of an amended Application (r. 22 (a) of the DV Rules) setting out the reasons for the additional conditions.

Hearing of Application for a Protection Order or Variation of a Domestic Violence Order when the Making of the Order is Opposed

- 49. Where a respondent indicates that an Application is opposed, or on a second or later mention remains unable to indicate whether the Application is opposed or agreed too, the Application will usually, subject to further direction by a Magistrate, proceed as follows:
 - a. Directions, in accordance with **Annexure A**, for filing evidence will be made with the following timeframes:
 - i. Applicant's material to be filed within 5 weeks;

- ii. Respondent's material to be filed with 4 weeks after that;
- iii. Any applications for subpoena to be filed at least 1 week before Review Mention.
- b. A notice, in accordance with **Annexure D** will be given to parties without legal representation.
- c. A Review Mention will be listed 2 weeks after the closing date for filing.
- d. A hearing date will be given at the Review Mention.

Review Mention

- 50. Save for the aggrieved in an Application for a Domestic Violence Order brought by a police officer or when a party is legally represented, all parties are expected to personally appear at the Review Mention.
- 51. If a respondent does not appear the Application may be determined, then and there on the material filed pursuant to ss. 37 and 39 or ss. 91 and 94 of the DV Act in accordance with the notice given in **Annexure A**.
- 52. If a respondent appears and an applicant does not appear the Application for a Domestic Violence Order may be dismissed without deciding pursuant to ss. 38(2)(c) and 38(3) or 93(2)(c) and 93(3) of the DV Act in accordance with the notice give in **Annexure A**.
- 53. With leave of the Court a party may attend the Review Mention by audio visual link or audio link.
- 54. At the Review Mention the parties will be expected to indicate:
 - a. that they have received the material ordered to be filed;
 - b. whether the parties will be legally represented;
 - c. what witnesses are required for cross-examination;
 - d. whether an unrepresented respondent requires a protected witness for cross-examination;
 - e. whether an order is sought under s.151(2) that the respondent (if unrepresented) may not cross-examine the protected witness in person and must inform the Court by a stated time whether the respondent has
 - i. arranged for a lawyer to act for the respondent; or
 - ii. arranged for a lawyer to act for the respondent for cross-examination of the protected witness; or
 - iii. has decided not to cross-examine the protected witness;
 - f. any special arrangements requested for the aggrieved or witness including, for example: whether the aggrieved or witness will give evidence by audio visual link or audio link;
 - g. if the parties are legally represented, what is not contested in the Application and/or what are the issues in contest;
 - h. whether leave of the Court will be sought to ask a child to swear an affidavit, file an affidavit, produce a document and/or be called as a witness in the proceeding;
 - i. whether an interpreter is required for a party or a witness;

- j. whether, under r. 34 of the DV Rules, there are any media exhibits sought to be tendered and whether those exhibits will be in a form capable of being played or viewed in the DV Court; and
 - k. when under r. 34(2) of the DV Rules the media exhibit is to be filed in the Court registry; and
 - l. a time estimate for the length of hearing.
55. If a respondent does not intend to be legally represented at the hearing the Court may order that the respondent not cross-examine the protected witness (the aggrieved, a child or a relative or associate of the aggrieved who is named in the Application) in person if the Court is satisfied, under s.151 of the DV Act, that the cross-examination is likely to cause the protected witness to –
- a. suffer emotional harm or distress; or
 - b. be so intimidated as to be disadvantaged as witness.
56. Ordinarily the Court will determine applications under s. 151 at the Review Mention unless a further date is set.
57. **Annexure B** sets out draft orders that may be made at a Review Mention.

Application for Summary Dismissal

58. An application for summary dismissal of an Application may be heard by a Magistrate on the first hearing of an Application for a Domestic Violence Order or on another date subject to Court business.
59. Before determining an application for summary dismissal, the Magistrate may give the applicant the opportunity to file an amended Application or further evidence.

Contested Applications where there are Concurrent Criminal Proceedings

60. Section 138 of the DV Act provides that a Court may deal with an Application even if a person concerned in the Application has been charged with an offence arising out of conduct on which the Application is based.
61. Such Applications will progress, unless otherwise ordered by a Magistrate, in the same manner as other contested Applications.

Applications brought by the Director of Child Protection Litigation in the Childrens Court

62. When an application is brought to vary an existing domestic violence order under s. 43 of the DV Act, the Director of Child Protection Litigation (DCPL) is to notify the Registrar of the Court where the order was originally made to request a copy of that Court file be transferred to the Childrens Court considering the application to vary.
63. On an application to vary by the DCPL, the DCPL is to serve a copy of their application on each party of the Child Protection application and, if the original Applicant for a Domestic Violence Order was a police officer, the Queensland Police Service.
64. If the application is opposed by a party to the proceeding the application will be heard by the Childrens Court in the same manner as a contested application under the DV Act subject to any order by the Childrens Court Magistrate.

Subpoenas

65. When Request for Subpoena (Form DV22A) and Subpoena (Form DV22) is filed the request will usually be heard at the Review Mention.

66. If a Request for Subpoena for production of documents is sought that application should be made in sufficient time for inspect and copy orders to be considered at the Review Mention. A special mention may be requested with the other party given notice of the application. The other party is excused from attendance if they do not object to the issue of the Subpoena.
67. If a Subpoena for production issues and the Inspect and Copy Application is not able to be heard at a Review Mention the Magistrate may:
- a. Set a date when the Application to Inspect and Copy subpoenaed Documents (Form DV32) will be heard. This will, generally, be the return date for when the documents are produced.
 - b. If the other party does not object to the Application to Inspect and Copy the material, they need not attend.
68. Inspect and Copy orders (**Annexure C**) may be made in Chambers at the discretion of the Magistrate subject to compliance with r. 45 of the DV Rules.

Draft Consent Orders

69. When parties are legally represented (including by a duty lawyer) and there is agreement as to the terms of a domestic violence order (including an order to vary an existing domestic violence order) a pro forma setting out terms of the agreement may be given to the Magistrate. Draft forms will be available to legal representatives from the Registry.
70. Notwithstanding the consent of the parties the Court may refuse to make or vary a domestic violence order under s. 51 of the DV Act if the Court believes the making or variation of the order may pose a risk to the safety of an aggrieved, any named person or a child affected by the order.
71. The Court may, if in its opinion it is in the interests of justice to do so, conduct a hearing in relation to the particulars of the Application in accordance with s. 51(5)(a) of the DV Act. If the Court decides to hold a hearing it may of its own accord proceed in accordance with paragraphs [34] to [38] of this Practice Direction.
72. Notwithstanding the consent of the parties the Court will still consider, as required by law, naming a child of the aggrieved or a child who usually lives with the aggrieved (ss. 53 and 54 of the DV Act) and imposing an ouster condition on the respondent (s. 57(2) of the DV Act).



Judge Janelle Brassington
Chief Magistrate
1 August 2023

ANNEXURE A to Practice Direction 4 of 2022

HEARING OF DOMESTIC VIOLENCE APPLICATIONS

DIRECTIONS AND ORDERS

The purpose of these directions is to ensure that each party to the hearing of a contested Domestic Violence Application has his or her evidence prepared and presented to the other party in advance of the date of hearing.

To assist in the preparation of hearing material the Domestic and Family Violence Protection Act 2012 (QLD) and the Domestic & Family Violence Rules 2014 (QLD) can be accessed on www.legislation.qld.gov.au/browse/inforce and all Forms referred to below are available from www.courts.qld.gov.au.

Please contact the [Registry Details] if you require any additional assistance on [Phone Number] or email [email]

DIRECTIONS

1. Evidence in chief from the parties and their witnesses shall be by affidavit or signed written statement.
2. No affidavit or statement shall be admitted into evidence unless the maker of the statement is made available for cross-examination except with the consent of the opposing party or by the leave of the Court.
3. Leave to call further oral evidence in chief may only be granted if the events or conversations occurred after the relevant date for the filing and serving of the affidavits or statements or in exceptional circumstances.
4. A person under the age of eighteen (who is not an aggrieved or respondent) may only be asked to swear an affidavit for the proceeding with leave of the Court and an affidavit so sworn may only be filed with the leave of the Court.
5. An unrepresented respondent who wishes to cross examine a protected person at a hearing must advise the Court of that intention at the review mention.
6. Material to be served on the other party by filing (2) copies in Registry with the copy for the other party in a sealed envelope. The other party must collect that material after filing date.
7. Any media exhibit (such as video or audio recordings) must be filed at least 7 days prior to the review date, and all other parties notified - *Section 34 of the Domestic and Family Violence Protection Rules 2014.*

ORDERS

1. The applicant/party (.....), <insert name> shall file and serve affidavits or statements of all witnesses to be called by or on behalf of the applicant on or before.....(5 weeks).
2. The respondent/party (.....) <insert name> shall file and serve affidavits or statements of all witnesses to be called by or on behalf of the respondent on or before.....(4 weeks).
3. The matter is listed for review mention at 9am on
(2 weeks after last filing date).

If an applicant or respondent does not attend the review mention the Application may be heard and determined on the papers at the review mention.

4. All applications for the issue of subpoenas to be filed at least 1 week prior to the review mention date. Applications will be determined by the Court at the review mention. If a subpoena for production of documents is sought application for leave must be made in sufficient time for the material to be available to the Court on a review mention. Arrangements for additional mentions can be made by request in writing to the Court with notice to the other party.

Issued by Magistrate

on

Applicant

Respondent

Signed by the parties on [Date]

IMPORTANT NOTICE

A RESPONDENT WHO IS NOT REPRESENTED BY A LAWYER MAY NOT BE ABLE TO CROSS-EXAMINE A PROTECTED WITNESS AT A HEARING IF THE COURT MAKES AN ORDER UNDER S. 151(2) OF THE DOMESTIC AND FAMILY VIOLENCE PROTECTION ACT 2012.

SECTION 151 (2) PROVIDES A COURT CAN OF ITS OWN INITIATIVE OR ON THE APPLICATION OF A PARTY ORDER THAT A RESPONDENT WHO DOES NOT HAVE A LAWYER MAY NOT CROSS-EXAMINE A PROTECTED WITNESS IF THE COURT IS SATISFIED CROSS-EXAMINATION IS LIKELY TO CAUSE THE PROTECTED WITNESS TO (A) SUFFER EMOTIONAL HARM OR DISTRESS OR (B) BE SO INTIMIDATED AS TO BE DISADVANTAGED AS A WITNESS.

A PROTECTED WITNESS IS (A) THE AGGRIEVED (B) A CHILD OR (C) A RELATIVE OR ASSOCIATE OF THE AGGRIEVED WHO IS NAMED IN THE APPLICATION. IF THE PROTECTED WITNESS IS A CHILD THE COURT MUST MAKE AN ORDER THAT A CHILD NOT BE CROSS-EXAMINED.

APPLICATIONS WILL BE HEARD AT THE REVIEW MENTION.

ANNEXURE B to Practice Direction 4 of 2022

Orders for a Child to give evidence/file an affidavit made under s. 148 of the Domestic and Family Violence Protection Act 2012:

A child can only be called to give evidence with the leave of the Court after considering:

- (a) *the desirability of protecting children from unnecessary exposure to the court system*
- (b) *the harm that could occur to the child and to family relationships if the child gives evidence (s. 148)*

Being satisfied that the child

- ☐ is at least 12 years; and
- ☐ is represented by a lawyer; and
- ☐ agrees to give evidence

I give leave for the child to swear and file an affidavit / give evidence.

Orders for Protected Witnesses made under s. 150(2) of the Domestic and Family Violence Protection Act 2012

Under s. 150(2) the Court must consider whether to make the orders in s. 150(2) of the DV Act

- ☐, is an aggrieved / a child / a relative or associate of the aggrieved named in the proceeding and is a protected witness.
- ☐ I have considered whether to make orders under s. 150(2) of the DV Act.

(If the protected witness is a child then the Court must make at least one of the starred directions: s. 150(3) of the Act)

- ☐ I make the orders as attached.

- ☐ I decline to make any order.

I order under s. 150(2):

- ☐ that the protected witness give evidence outside the courtroom and the evidence be transmitted to the courtroom by means of an audio visual link.*
- ☐ that the protected witness give evidence outside the courtroom and an audio visual record of the evidence be made and replayed in the courtroom.*
- ☐ while the protected witness is giving evidence, that a screen, one-way glass or other thing be placed so the protected witness cannot see the respondent.*
- ☐ while the protected witness is giving evidence, that the respondent be held in a room apart from the courtroom and the evidence be transmitted to that room by means of an audio visual link.*

☐ that the protected witness be accompanied by, a person approved by the Court for the purpose of providing emotional support.

☐ As the protected witness..... has a physical or mental disability the protected witness will give evidence in a way that in my opinion will minimise the protect witness's distress, namely.....
.....
.....
.....

☐ I consider the following arrangements for the protected witness to give evidence are appropriate:

.....
.....
.....
.....
.....

Order Restricting Cross-Examination of a Protected Witness (Where Protected Witness is an Aggrieved or a relative or associate of the aggrieved named in the proceeding)

- ☐ Pursuant to s. 151 of the DV Act I am satisfied that cross-examination in person is likely to cause the protected witness to:
- ☐ suffer emotional harm or distress; or
 - ☐ be so intimidated as to be disadvantaged as a witness
- ☐ I order that the respondent may not cross-examine the protected witness in person; and
I require the respondent to advise the Court by(14 days) whether s/he has:
- ☐ Arranged a lawyer to act for the respondent
 - ☐ Arranged a lawyer to act for the respondent for cross-examination
 - ☐ Has decided not to cross-examine the protected witness.

Order Restricting Cross-Examination of a Protected Witness (Where Protected Witness is Child)

- ☐ As the protected witness is a child (under the age of 18) years I must make an order under s. 151(3). I order that the respondent may not cross-examine the protected witness in person and I require the respondent to advise the Court by(14 days) whether s/he has:
- ☐ Arranged a lawyer to act for the respondent
 - ☐ Arranged a lawyer to act for the respondent for cross-examination

Orders about disclosure of, or aggrieveds access to, respondent's criminal history or domestic violence history

- ☐ Pursuant to s.160A of the *Domestic and Family Violence Protection Act 2012* (the Act), the respondent's ☐ criminal history and/or ☐ domestic violence history has/have been ☐ filed/☐ given to the Court hearing an application under the Act.
- ☐ I am satisfied that ☐ all of the respondent's ☐ criminal and/or ☐ domestic violence history is not relevant to deciding the application.

I order under s.160A(5)

- ☐ the aggrieved/☐ the applicant [if the applicant is not the aggrieved, the respondent or a police officer]
 - (i) must not be given a copy of the respondent's ☐ criminal and/or ☐ domestic violence history; and
 - (ii) must not be told about the contents of the respondent's ☐ criminal and/or ☐ domestic violence history.
- ☐ If a copy of the of all of the respondent's ☐ criminal and/or ☐ domestic violence history has been given to ☐ the aggrieved/☐ the applicant [if the applicant is not the aggrieved, the respondent or a police officer] – the copy must be returned to the Court.....[insert date or period of time]

OR

Part of a respondent's criminal and/or domestic violence history

- ☐ I am satisfied that ☐ **the part of** the respondent's ☐ criminal and/or ☐ domestic violence history is consisting of
.....
[insert description e.g., offences committed when the respondent was a child] is not relevant to deciding the application.

I order under s.160A(5)

- ☐ The aggrieved/☐ the applicant [if the applicant is not the aggrieved, the respondent or a police officer]
 - (i) must not be given a copy of that part of the respondent's ☐ criminal and/or ☐ domestic violence history; and
 - (ii) must not be told about the contents of that part of the respondent's ☐ criminal and/or ☐ domestic violence history
- ☐ If a copy of the part of the respondent's ☐ criminal and/or ☐ domestic violence history has been given to ☐ the aggrieved/☐ the applicant [if the applicant is not the aggrieved, the respondent or a police officer] – the copy must be returned to the Court.....[insert date or period of time.

Request for respondent's criminal history or domestic violence history in existing applications (s. 234 of the DV Act)

- ☐ Being satisfied that there is an ☐ application for a protection order ☐ application for variation of a domestic violence order I request a ☐ criminal history and/or ☐ a domestic violence history be ☐ filed in the Court at before (date) ☐ given to the Court aton (date)

Draft substituted service orders under s. 184A of the DV Act

1. The applicant may serve the respondent by completing each of the following steps
 - i. Posting a copy of this order and the Application (*or describe the other service documents*) to (*Address*)
 - ii. Sending an email to (*email*) attaching the service document/s
 - iii. Sending an SMS to (*phone number*) stating "(Describe documents have been posted to (*address*) and email to (*email address*)). Service will be deemed effective 7 days from today."
2. Service will be deemed effective 7 days after to completion of all steps as set out in paragraph 1 herein.

Orders for special witnesses made under s. 21A of the Evidence Act 1977

- ☐ is a special witness.
I order:
- ☐ that the special witness give evidence in a room—(i) other than that in which the court is sitting; and (ii) from which all persons other than those specified by the Court are excluded.
- ☐ that a person approved by the Court, be present while the special witness is giving evidence or is required to appear in court for any other purpose in order to provide emotional support to the special witness.
- ☐ that a videorecording of the evidence of the special witness or any portion of it be made under such conditions as are specified in the order and that the videorecorded evidence be viewed and heard in the proceeding instead of the direct testimony of the special witness.
- ☐ the special conditions for the taking of the video recorded evidence are:
- ☐ while the evidence is being presented at the proceeding, all persons other than those specified by the Court be excluded from the room in which it is sitting.
 - ☐ That as the special witness is representing herself a screen be placed between the special witness and the respondent when they are at the bar table

Orders to Remove Scandalous or Oppressive Material

Rule. 22 of the *Domestic and Family Violence Protection Rules 2014*

☐ The affidavit of

.....contains scandalous or oppressive material.

☐ I order

☐ It be removed from the file

☐ A new affidavit be filed without that material.

Inspect and Copy Order –Applicant/Respondent not Represented by a Lawyer

Pursuant to r. 45 of the *Domestic and Family Violence Protection Rules 2014* I order:

1. The Applicant/Respondent have/has leave to inspect the document/s produced.
 2. The Applicant/Respondent may not copy documents.
 3. Except with leave of the Court, the Applicant/Respondent will not, otherwise than for the purpose of those proceedings, divulge, communicate, or refer to any person any information obtained from inspection of any document or thing produced by the Court to them.
 4. A party permitted to inspect the documents produced may call for the documents to be produced in Court.
-

File Number-

Inspect and Copy Order- Legal Representative/s

Pursuant to r. 45 of the *Domestic and Family Violence Protection Rules 2014* I order:

1. Legal representatives for the respondent/applicant/aggrieved have leave to inspect and copy the document/s produced by.....
2. The legal representative/s for the respondent/applicant/aggrieved may only use the copy of any document for the sole purposes of these proceedings and for no other purpose except with the leave of a Court.
3. Except with leave of the Court, the legal representative will not, otherwise than for the purpose of those proceedings, divulge, communicate, or refer to any person any information obtained from inspection of any document or thing produced by the Court to them or a copy of any document or thing so produced to, and inspected by them.
4. Upon completion of these legal proceedings the documents are to be destroyed.

ANNEXURE D to Practice Direction 4 of 2022

IMPORTANT REMINDER PROHIBITION ON PUBLICATION

(s.159 *Domestic and Family Violence Protection Act 2012*)

1. It is an offence to publish:

- (a) Information given in evidence in a Court; or
- (b) Information that identifies, or is likely to lead to the identification of, a person as –
 - (i) A party to a proceeding under this Act; or
 - (ii) A witness in a proceeding under this Act (other than a police officer); or
 - (iii) A child concerned in a proceeding under this Act.

Maximum penalty –

- (a) For an individual – 100 penalty units or 2 years imprisonment; or
- (b) For a corporation – 1,000 penalty units.

2. This does not apply –

- (a) If the Court expressly authorises the information to be published; or
- (b) If each person to whom the information relates consents to the information being published; or
- (c) To the display of a notice in the premises of a court; or
- (d) To the publication of information for the purpose of a recognised series of law reports or an official website for the publication of judgements, if the information does not identify, and is not likely to lead to the identification of, a person mentioned in 1(b); or
- (e) To the publication of information for approved research, if the information does not identify, and is not likely to lead to the identification of, a person mentioned in 1(b); or
- (f) If the publication is expressly permitted or required under this or another Act; or
- (g) If the publication is permitted under a regulation.

Information includes a photograph, picture, videotape and any other visual representation.

Publish means publish to the public by television, radio, the internet, newspaper, periodical, notice, circular or other form of communication.