

# **Victims' Orders Against Violent Offenders Bill**

Government Bill

As reported from the Law and Order  
Committee

## **Commentary**

### **Recommendation**

The Law and Order Committee has examined the Victims' Orders Against Violent Offenders Bill and recommends that it be passed with the amendments shown.

### **Introduction**

The bill seeks to recognise the ongoing effects of serious violent offending on victims by giving them the power to apply for a non-contact order against the offender, which prohibits the offender from having any form of contact with the victim. The orders can be temporary or final, and aim to limit the chances of a victim coming into contact with the person who offended against them. There are other types of orders currently existing to protect victims, but they have limitations. The bill incorporates the definition of "victim" from the Victims' Rights Act 2002.

This commentary covers the main amendments we recommend to the bill. It does not cover minor or technical amendments.

## **Current legislation**

There are a range of measures currently in place aimed at preventing offenders from coming into contact with their victims. The Domestic Violence Act 1995 provides for protection orders, aimed at victims of domestic violence, and the Harassment Act 1997 for restraining orders, which protect from harassment. Parole conditions can also be used to restrict the access to a victim of a serious crime on release of an offender, and an offender can be bound over to keep the peace. These orders are generally time-limited, with only a protection order able to exist indefinitely. Bonds can last up to one year, as can restraining orders unless the imposing judge specifies otherwise. Parole conditions cannot extend more than six months after the offender's statutory release date, unless the offender has an indeterminate sentence. There is currently no long-term mechanism in place by which the Police or the courts can prevent an offender from coming into contact with a victim in the absence of a domestic relationship or evidence of deliberate harassment.

A victim may not apply for a non-contact order if another form of order is currently in place, but they can apply to have the existing order discharged and a non-contact order imposed.

## **Purpose**

We recommend amending clause 3 to explicitly acknowledge the ongoing effects of serious violent offending for victims.

## **Meaning of violent offender**

Clause 5 of the bill as drafted defines a violent offender as being a person convicted of a violent offence for which they have been sentenced to a term of imprisonment of five years or more. We recommend that this be changed to imprisonment of more than two years, to make it consistent with the definition of "long-term sentence" in the Parole Act 2002, and because an offence can have a serious impact on the victim, and yet not attract a sentence that reached the proposed threshold.

In coming to our decision to recommend the reduction in qualifying sentence we were careful to balance the rights of the victim to avoid contact with the offender with those of the offender to resume a normal life after having paid their debt to society. Submitters agreed

with us that there are human rights issues involved in making decisions about the imposition of orders, and we received advice that orders must be viewed as protective not punitive. The courts will have discretion in making orders to ensure they are made only in appropriate cases.

The number of released prisoners who meet the sentencing criteria over the last five years has shown a slight upwards trend, but has remained under 1000 every year. The number of victims seeking a non-contact order is likely to be low; however this is difficult to estimate.<sup>1</sup> Some victims will be covered by protection or restraining orders.

### **Final non-contact orders to apply to others**

We recommend that the bill provide, under our recommended new clause 11B, for final non-contact orders to extend to associates of the offender under certain circumstances. To meet the criteria under new clause 11B, the offender would have to have encouraged the associate to behave in proscribed ways set out in the bill, and the associate would have to have engaged in that behaviour, and that behaviour is harming the victim's recovery from the initial offence. In these circumstances a final contact order can be made against both the offender and the associate and they would each be liable for their actions under the bill.

The definition of associate has been inserted into clause 4.

### **Applying for an order**

Under clause 7 of the bill as drafted a victim can apply to a District Court for a non-contact order at any time after the offender has been released from prison. We recommend this be amended so that applications can be made any time after sentencing. This would protect victims from any attempt by an offender to contact the victim from within prison, or any attempts by associates of the offender to do so. It would also cover any gap in protection for a victim between the release of an offender and a non-contact order being made.

We also recommend amending clause 7 to allow an application for a non-contact order to be made without notice if the court is satisfied

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<sup>1</sup> Regulatory Impact Statement prepared by the Ministry of Justice.

that the delay resulting from proceeding on notice could entail undue hardship for the victim.

We recommend clause 11 be amended and new clause 11A be inserted to provide for two types of non-contact orders, temporary and final. A temporary non-contact order is made on application without notice; it prohibits the offender from making any form of contact with the victim but does not include any specific restrictions on the offender. A final non-contact order is made on application with notice and can include prohibitions on the offender entering, residing in, or undertaking employment in a specified area.

We recommend new clause 15B be inserted so that an offender can apply to the court to be heard on whether a temporary non-contact order will become final. When the offender does not exercise that right, unless the temporary order is discharged, and subject to prescribed methods of ensuring the offender is fully informed of the process and his or her rights, the temporary non-contact order should automatically become a final order three months after it is made.

It is expected that there will be only minor costs involved for victims who choose to apply for a non-contact order, and applicants will not require legal representation in most cases.

### **Duration, variation, and discharge of non-contact orders**

A non-contact order starts on the day on which it is served on either the offender or an associate.

A final non-contact order remains in force for the period the court specifies when it imposes it. If the court does not specify a period, the order expires two years from the date on which it starts. We recommend clause 15 be amended so that associates may apply to the court to have a non-contact order discharged so far as it relates to them.

We also recommend amending clause 15 so that a non-contact order discharged by the court on the application of a victim or offender would also cease to apply to any associate. We recommend that new clause 15A be inserted so that a non-contact order made against an offender would be discharged if the offender's conviction or sentence were quashed or otherwise set aside or substituted so that the offender no longer meets the definition of violent offender under this bill.

We recommend that new clause 13A be inserted so that both victims and offenders can apply for a variation of any conditions or directions imposed in respect of a temporary non-contact order. We recommend amending clause 14 of the bill to apply only to final non-contact orders. For final orders, the victim or offender may apply, and the court may grant, variations on the restrictions relating to the offender entering, residing, or working within a specified area, imposed by the order, or on the duration of the order.

### **Breach of a non-contact order**

We recommend amending clause 18 of the bill, so that an associate as well as an offender would commit an offence if they do anything prohibited in the order without reasonable excuse. If an offender or associate is convicted of an offence they should be liable for a custodial sentence of two years or less or a fine of \$5000 or less.

## **Appendix**

### **Committee process**

The Victims' Orders Against Violent Offenders Bill was referred to the committee on 29 August 2013. The closing date for submissions was 10 October 2013. We received and considered ten submissions from interested groups and individuals, and we heard three submissions. We received advice from the Ministry of Justice.

### **Committee membership**

Jacqui Dean (Chairperson)

Jacinda Ardern

David Clendon

Hon Phil Goff

Hon Todd McClay

Ian McKelvie

Mark Mitchell

Richard Prosser

Lindsay Tisch

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**Victims' Orders Against Violent  
Offenders Bill**

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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

~~text deleted unanimously~~

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*Hon Judith Collins*

# **Victims' Orders Against Violent Offenders Bill**

Government Bill

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**Victims' Orders Against Violent  
Offenders' Bill**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**  
This Act is the Victims' Orders Against Violent Offenders Act  
**2013.**

**2 Commencement** 5  
This Act comes into force on the day that is 6 months after the  
date on which it receives the Royal assent.

**Part 1**  
**Preliminary provisions**

**3 Purpose** 10  
(1) The purpose of this Act is to reduce the likelihood of a vic-  
tim of a violent offence coming into contact with the offender  
subsequent to the offender's release from prison in any case  
where that contact would be detrimental to the victim.

(2) To achieve this purpose, the Act empowers the court, on the 15  
application of a victim, to make a non-contact order prohibit-  
ing the offender from having any form of contact with the vic-  
tim.

This Act—

(a) acknowledges the ongoing effects of serious violent of- 20  
fending for victims; and

(b) with a view to lessening those effects, empowers the  
court, on the application of a victim, to make a non-  
contact order prohibiting the offender from having any  
form of contact with the victim. 25

**4 Interpretation**  
In this Act, unless the context otherwise requires,—  
**associate** means a person against whom a final non-contact  
order applies pursuant to a direction made under **section 11B**  
**Board** has the meaning given to it by section 4(1) of the Parole  
Act 2002 30

**child** means a boy or girl under the age of 14 years

**court** means a District Court, and includes a District Court Judge

**encourage** includes to incite, counsel, or procure

**final non-contact order** means a non-contact order referred to in **section 9(4)** 5

**immediate family**, in relation to a victim,—

(a) means a member of the victim's family, whānau, or other culturally recognised family group, who is in a close relationship with the victim at the time of the violent offence; and 10

(b) to avoid doubt, includes a person who is—

(i) the victim's spouse, civil union partner, or de facto partner; or

(ii) the victim's child or stepchild; or

(iii) the victim's brother or sister or stepbrother or stepsister; or 15

(iv) a parent or step-parent of the victim; or

(v) a grandparent of the victim

**incapable**, in relation to a person,—

(a) means that the person— 20

(i) lacks, wholly or partly, the capacity to understand the nature, and to foresee the consequences, of decisions in respect of matters relating to his or her personal care and welfare; or

(ii) has the capacity to understand the nature, and to foresee the consequences, of decisions in respect of matters relating to his or her personal care and welfare, but wholly lacks the capacity to communicate decisions in respect of matters of that kind; and 25 30

(b) includes the person being in a state of continuing unconsciousness

**non-contact order** means an order made under **section 10**

**non-contact order** means—

(a) a temporary non-contact order: 35

(b) a final non-contact order

**standard extended supervision conditions** means the standard extended supervision conditions set out in section 107JA of the Parole Act 2002

**release conditions** has the meaning given to it by section 4(1) of the Parole Act 2002

5

**temporary non-contact order** means a non-contact order referred to in **section 9(3)**

**victim**—

(a) means—

(i) a person against whom a violent offence is committed by another person; and 10

(ii) a person who, through or by means of a violent offence committed by another person, suffers physical injury, or loss of, or damage to, property; and 15

(iii) a parent or legal guardian of a child, or of a young person, who falls within **subparagraph (i)** or **(ii)**, unless that parent or guardian is charged with the commission of, or convicted or found guilty of, or pleads guilty to, the violent offence concerned; and 20

(iv) a member of the immediate family of a person who, as a result of a violent offence committed by another person, dies or is incapable, unless that member is charged with the commission of, or convicted or found guilty of, or pleads guilty to, the violent offence concerned; but 25

(b) despite **paragraph (a)**, if a violent offence is committed by a person, does not include any other person who (whether as a principal or party or accessory after the fact or otherwise)— 30

(i) is charged with the commission of, or convicted or found guilty of, that offence; or

(ii) is charged with the commission of, or convicted or found guilty of, an offence relating to the same incident or series of incidents as that offence 35

**violent offence** has the meaning given to serious violent offence by section 86A of the Sentencing Act 2002

**violent offender** or **offender** has the meaning given to it by **section 5**

**young person** means a boy or girl of or over the age of 14 years but under 17 years, but does not include a person who is or has been married or is in a civil union. 5

## 5 Meaning of violent offender or offender

(1) In this Act, **violent offender** or **offender**, in relation to a victim, means a person who at any time—

(a) has been convicted of a violent offence that affected the victim; and 10

(b) has been sentenced to a term of imprisonment of ~~5 years~~ or more than 2 years in respect of that offence.

(2) For the purposes of **subsection (1)(b)**, it does not matter if,—

(a) at the time the sentence of imprisonment was imposed, the person was already subject to a term of imprisonment for ~~another offence~~ or 1 or more other offences; 15  
or

(b) the sentence of imprisonment was imposed concurrently with another sentence of imprisonment for ~~another offence~~ or 1 or more other offences. 20

## 6 Act binds the Crown

This Act binds the Crown.

## Part 2

### Non-contact orders

#### *Applications*

25

## 7 Application for non-contact order

(1) A victim of a violent offence may make an application to the court for a non-contact order ~~in respect of~~ against a violent offender ~~at any time after the offender has been released from prison~~ at any time after the offender has been sentenced in ~~respect of the offence.~~ 30

(2) However, a victim may not make an application under **subsection (1)** if—

- (a) there is in force a protection order against the offender made under the Domestic Violence Act 1995 and the victim is a protected person under that order; or
- (b) there is in force a restraining order against the offender made under the Harassment Act 1997 for the protection of the victim. 5
- (2A) An application under **subsection (1)** may be made—
- (a) without notice, if the court is satisfied that the delay that would be caused by proceeding on notice would or might entail undue hardship for the victim; or 10
- (b) on notice.
- (3) For the purposes of **subsection (2)**, **protected person** has the meaning given to it by section 2 of the Domestic Violence Act 1995.
- 8 Disclosure of offender's address** 15
- (1) This section applies if—
- (a) an application for a non-contact order is made on notice by a victim; and
- (b) the victim does not know the full name ~~or~~ and address of the offender; and 20
- (c) the Registrar of the court in which the application is made has good reason to believe that the full name and address of the offender is known to—
- (i) the Commissioner of Police;
- (ii) the chief executive of the Department of Corrections. 25
- (2) If this section applies, the Registrar may request either or both of the persons specified in **subsection ~~(1)(c)~~ (1)(c)(i) and (ii)** to supply to the Registrar the full name and address of the offender. 30
- (3) As soon as practicable after receiving a request under **subsection (2)**, a person must—
- (a) respond to that request; and
- (b) supply to the Registrar the information requested if that information is known. 35
- (4) If information is supplied to the Registrar under **subsection (3)**, court staff—

- (a) must treat that information as confidential; and
- (b) must not disclose the information other than to—
  - (i) effect service of the application on the offender; and
  - (ii) enable the court to consider the victim's application; and
  - (iii) effect service of any order made under **section 9** on the offender.

*Making non-contact orders*

- 9 Power to make non-contact order** 10
- (1) The court may make a non-contact order if it is satisfied that—
- (a) there are ongoing effects of the offending for the victim; and
  - (b) the possibility of contact between the victim and the violent offender will be detrimental to the victim's ability to ~~deal with~~ manage those effects; and
  - (c) the making of the order is reasonably necessary to avoid contact between the victim and the violent offender; and
  - (d) taking into account all of the circumstances, the making of the order is justified. 20
- (2) The court may make a non-contact order under **subsection (1)** in respect of a violent offender, even if there has previously been a non-contact order in force against the offender, on the application of the same, or any other, victim.
- (3) A non-contact order made on an application without notice is a temporary order. 25
- (4) A non-contact order made on an application on notice is a final order.
- 10 Existence of conditions imposed by Board or court not to preclude making of non-contact order** 30
- A court may make a non-contact order even if the violent offender is subject to any of the following types of conditions imposed by the Board or the sentencing court in relation to the violent offence that affected the victim:
- (a) release conditions: 35
  - (b) standard extended supervision conditions:



*Effect of non-contact orders*

**11 Effect of temporary non-contact order**

- (1) A temporary non-contact order prohibits the offender against whom it is made from—
- (a) doing, or threatening to do, any of the following: 5
    - (i) watching, loitering near, or preventing or hindering access to or from the ~~protected~~ victim's place of residence, business, employment, educational institution, or any other place that the offender knows the victim visits often; ~~or~~ 10
    - (ii) following, stopping, or accosting the victim; ~~or~~
    - (iii) making contact with the victim (whether by telephone, ~~email~~ electronic message, correspondence, or in any other way); ~~or~~
    - (iv) giving offensive material to the victim, or leaving offensive material where it will be found by, given to, or brought to the attention of the victim; and 15
  - (b) encouraging any other person to do any of the acts specified in **paragraph (a)** to the victim, where those acts, if done by the offender, would be prohibited by the order; ~~and~~ 20
  - (c) entering any area that may be specified by the court; and
  - (d) residing within any area that may be specified by the court; and 25
  - (e) engaging in employment in any area that may be specified by the court.
- (2) When making a temporary non-contact order, the court may, in relation to any of the prohibitions in **subsection (1)**, impose any conditions or make any directions that it considers reasonably necessary in the circumstances. 30

**11A Effect of final non-contact order**

- (1) A final non-contact order prohibits the offender against whom it is made from—
- (a) doing, or threatening to do, any of the following: 35
    - (i) watching, loitering near, or preventing or hindering access to or from the victim's place of residence, business, employment, educational insti-

- tution, or any other place that the offender knows the victim visits often:
- (ii) following, stopping, or accosting the victim:
  - (iii) making contact with the victim (whether by telephone, electronic message, correspondence, or in any other way): 5
  - (iv) giving offensive material to the victim, or leaving offensive material where it will be found by, given to, or brought to the attention of the victim; and 10
- (b) encouraging any other person to do any of the acts specified in **paragraph (a)** to the victim, where those acts, if done by the offender, would be prohibited by the order; and
- (c) entering any area that may be specified by the court; and 15
- (d) residing within any area that may be specified by the court; and
- (e) engaging in employment in any area that may be specified by the court.
- (2) When making a non-contact order, the court may, in relation to any of the prohibitions in **subsection (1)**, impose any conditions or make any directions that it considers reasonably necessary in the circumstances. 20
- Direction that final non-contact order apply to other persons* 25
- 11B Application for direction that final non-contact order apply against other persons**
- (1) A victim may apply to the court for a direction that a final non-contact order against the offender also apply against any other person named in the application on the grounds that— 30
- (a) the person—
    - (i) has been encouraged by the offender to engage in behaviour of the kind described in **section 11A(1)(a)**; and
    - (ii) has engaged in any of those kinds of behaviour; and 35

- (b) the person's behaviour has been, and continues to be, detrimental to the victim's ability to manage the effects of the offending.
- (2) An application may be made under **subsection (1)**—
- (a) at the same time as making the application on notice for a final non-contact order; or 5
- (b) at any subsequent time while the final non-contact order continues in force.
- (3) On hearing an application made under **subsection (1)**, the court may direct that the final non-contact order apply against any other person named in the application if the court is satisfied that— 10
- (a) the grounds in that subsection have been established; and
- (b) the person engaged in the behaviour without a lawful purpose. 15
- (4) Where, pursuant to **subsection (3)**, a final non-contact order applies against any person, that person is prohibited from engaging in behaviour of the kind described in **section 11A(1)(a)**. 20

*Commencement of non-contact orders*

**12 Commencement of non-contact order**

- (1) A ~~non-contact~~ In relation to an offender against whom a non-contact order is made, the order commences on the day on which it is served on the offender ~~against whom the order is made.~~ 25
- (2) In relation to an associate against whom a final non-contact order is directed to apply, the order commences on the day on which it is served on the associate.

*Duration, variation, and discharge of non-contact orders*

30

**13 Duration of final non-contact order**

- (1) A final non-contact order may be made for such period (whether longer or shorter than 2 years) as the court may specify. 35
- (2) A final non-contact order continues in force until—

- (a) it is discharged under **section 15 or 15A**; or
- (b) the expiry of the period specified by the court; or
- (c) if no period is specified by the court, the expiry of 2 years from the date on which the order commences.

**13A** **Variation of temporary non-contact order** 5

The victim or the offender may at any time make an application to have varied any conditions or directions imposed under **section 11(2)** in respect of a temporary non-contact order.

**14** **Variation of final non-contact order**

(1) The victim or the offender may at any time make an application to have a final non-contact order varied. 10

(2) On the hearing of an application made under **subsection (1)**, the court may, if it thinks fit,—

(a) vary or discharge a prohibition specified in 1 or more of the following: 15

(i) **section 11A(1)(c)**;

(ii) **section 11A(1)(d)**;

(iii) **section 11A(1)(e)**;

(b) reduce or extend the duration of the order, whether by specifying a period under **section 13(1)** or by reducing or extending any such specified period. 20

(3) The court must not extend the duration of a final non-contact order under this section unless the court is satisfied that the extension is, in all of the circumstances, justified.

**14** **Power to vary non-contact order** 25

(1) The court may, if it thinks fit, vary a non-contact order on the application of the victim or the offender against whom the order is made—

(a) by varying or discharging a prohibition specified in 1 or more of the following: 30

(i) **section 11(1)(c)**;

(ii) **section 11(1)(d)**;

(iii) **section 11(1)(e)**;

(b) by reducing or extending the duration of the order, whether by specifying a period under **section 13(1)** or by reducing or extending any such specified period. 35

- (2) ~~The court must not extend the duration of a non-contact order under this section unless the court is satisfied that the extension is, in all of the circumstances, justified.~~

**15 Power to discharge non-contact order**

~~The court may, if it thinks fit, discharge a non-contact order on the application of the victim or the offender against whom the order is made.~~ 5

**15 Discharge of non-contact order on application**

(1) The victim or the offender may at any time make an application to have a non-contact order discharged. 10

(2) An associate may at any time make an application to have a non-contact order discharged in so far as it relates to the associate.

(3) On hearing an application made under **subsection (1)**, the court may, if it thinks fit, discharge the non-contact order, in which case the non-contact order also ceases to apply in respect of every associate. 15

(4) On hearing an application made under **subsection (2)**, the court may, if it thinks fit, discharge the non-contact order in so far as it relates to the associate. 20

**15A Discharge of non-contact order by operation of law**

(1) A non-contact order made against an offender is discharged by operation of law if—

(a) the offender's conviction for the violent offence that affected the victim is quashed or otherwise set aside; 25  
or

(b) the offender's sentence for the violent offence that affected the victim is—

(i) quashed or otherwise set aside; or

(ii) substituted with a non-custodial sentence; or 30

(iii) substituted with a sentence of imprisonment for a term of 2 years or less.

(2) A non-contact order that is discharged by operation of law ceases to have effect against every associate.

Procedure after temporary non-contact order  
made**15B Offender may require hearing**

- (1) Where the court makes a temporary non-contact order, the offender is entitled to notify the court that he or she wishes to be heard on whether a final non-contact order should be substituted for the temporary non-contact order. 5
- (2) The temporary non-contact order must contain a notice to the offender that clearly states—
- (a) the offender's right under **subsection (1)**; and 10
  - (b) that, subject to **section 15D**, if the offender does not take any steps in the proceedings, the temporary non-contact order becomes a final non-contact order by operation of law 3 months after the date on which it was made. 15
- (3) If, under **subsection (1)**, the offender notifies the court that he or she wishes to be heard, the Registrar of the court must assign a hearing date, which must be—
- (a) as soon as practicable; and
  - (b) unless there are special circumstances, not later than 42 days after receipt of the offender's notice. 20

**15C Procedure where offender does not require hearing**

- (1) If the offender does not notify the court under **section 15B** that he or she wishes to be heard then, unless the temporary non-contact order is earlier discharged, the order becomes a final non-contact order by operation of law 3 months after the date on which it is made. 25
- (2) However, a temporary non-contact order does not become a final non-contact order under **subsection (1)** unless the offender has been served with a copy of the order at least 10 days before the 3-month period specified in **subsection (1)** elapses. 30
- (3) If, pursuant to **subsection (2)**, a temporary non-contact order does not become a final non-contact order, the court may from time to time extend the period within which the temporary non-contact order may be served and the temporary non-con- 35

tact order continues in force until the expiry of any such extensions.

(4) Any extension or extensions under **subsection (3)** may not extend the period within which a temporary non-contact order may be served by more than 3 months in total. 5

(5) If the period for service of a temporary non-contact order has been extended under **subsection (3)** and at the expiry of that period the temporary non-contact order has not been served, the order lapses.

**15D Court may require hearing before order becomes final** 10

(1) If, on or after making a temporary non-contact order, the court considers that there is good reason why the order should not become final in accordance with **section 15C(1)** without a hearing at which the victim or the offender, or both, are present or represented, the court, of its own motion, may direct that there be a hearing. 15

(2) A direction made under **subsection (1)** may be made even though the offender does not wish to be heard.

(3) If, pursuant to **subsection (1)**, the court directs that there be a hearing, the Registrar must assign a hearing date as soon as practicable. 20

(4) If the court makes a direction under **subsection (1)**, it may issue a summons requiring the offender to attend the court at a place and time specified in the summons.

**15E Procedure where hearing required** 25

If, pursuant to **section 15B**, the offender notifies the court that he or she wishes to be heard, or in any other case where a hearing is required or held, the court may at the hearing—

- (a) discharge the temporary non-contact order; or
- (b) make the temporary non-contact order a final non-contact order (with or without variation). 30

**16 Vexatious proceedings**

(1) A court may dismiss any proceedings before it under **section 14 or 15** if it is satisfied that they are—

- (a) frivolous; or 35

- (b) ~~vexatious; or~~
- (c) ~~an abuse of the procedure of the court.~~
- (2) ~~If a court is satisfied that a person has persistently instituted vexatious proceedings under **section 14 or 15**, the court may, after giving the person an opportunity to be heard, make an order prohibiting the person from commencing any proceedings under those sections without the leave of the court.~~ 5

*Enforcement of non-contact orders*

**17 Copies of orders to be sent to Police**

- (1) This section applies to the following orders: 10
  - (a) a non-contact order; and
  - (b) an order varying a non-contact order; and
  - (c) an order discharging a non-contact order.
- (2) On the making of an order to which this section applies, the Registrar of the court in which the order is made must ensure that a copy of the order is made available, without delay, to the constable in charge of the Police station nearest to where the victim resides. 15
- (3) For the purposes of this section, a copy of an order may be made available in any of the following ways: 20
  - (a) by sending the copy by means of electronic transmission (whether by fax, ~~email~~ electronic message, or other similar means of communication):
  - (b) by entering the copy on a database maintained in electronic form, where that database may be accessed by the constable to whom the copy is required to be made available: 25
  - (c) by sending the order by ordinary post:
  - (d) by making the copy available in such other manner as is appropriate in the circumstances. 30

**18 Offence to breach non-contact order**

- (1) An offender against whom a non-contact order is made commits an offence if the offender, without reasonable excuse, does anything prohibited by the order.
- (2) ~~An offender who is convicted of an offence against this section is liable on conviction to—~~ 35



- (a) imprisonment for a term not exceeding 6 months; or
- (b) a fine not exceeding \$5,000.
- (3) However, an offender who is convicted of an offence against this section is liable to imprisonment for a term not exceeding 2 years if— 5
  - (a) that offender has 2 or more previous convictions for offences against this section in relation to a non-contact order made on the application of the same victim; and
  - (b) at least 2 of those offences were committed not earlier than 3 years before the commission of the offence being dealt with by the court. 10
- (2) An associate against whom a final non-contact order is directed to apply commits an offence if the associate, without reasonable excuse, does anything prohibited by the order.
- (3) An offender or associate who is convicted of an offence against this section is liable to— 15
  - (a) imprisonment for a term not exceeding 2 years; or
  - (b) a fine not exceeding \$5,000.

*Miscellaneous matters*

- 18A Admission of evidence** 20
- In any proceedings under this Act (other than criminal proceedings), and whether by way of hearing in the first instance or by way of appeal, the court may receive any evidence, whether or not admissible under the Evidence Act 2006, if the court is satisfied that the admission of the evidence is in the interests of justice. 25
- 18B Vexatious proceedings**
- (1) A court may dismiss any proceedings before it under **section 14 or 15** if it is satisfied that they are— 30
    - (a) frivolous; or
    - (b) vexatious; or
    - (c) an abuse of the procedure of the court.
  - (2) If a court is satisfied that a person has persistently instituted vexatious proceedings under **section 14 or 15**, the court may, after giving the person an opportunity to be heard, make an 35

order prohibiting the person from commencing any proceedings under those sections without the leave of the court.

**18C Explanation of orders**

- (1) Where, in any proceedings under this Act (other than criminal proceedings), the offender or associate, as the case may be, is before the court, then on making a non-contact order (other than an order discharging a non-contact order), the Judge must explain to that person— 5
- (a) the effect of the order; and
- (b) the consequences that may follow if the person fails to comply with the terms of the order; and 10
- (c) the means by which the order can be varied or discharged.
- (2) A Registrar may give the explanation required by **subsection (1)**. 15
- (3) Failure to give the explanation required by **subsection (1)** does not affect the validity of the order made.
- (4) Where the court makes an order under this Act, the copy of the order that is given to or served on the offender (and, where applicable, the associate) must include a notice stating— 20
- (a) the consequences that may follow if the person fails to comply with the terms of the order; and
- (b) the means by which the order can be varied or discharged.
- (5) Failure to include in a copy of an order made under this Act the notice required by **subsection (4)** does not affect the validity of the order made. 25

**19 Power to arrest for breach of non-contact order**

If a non-contact order is in force, any constable may arrest, without warrant, any person who the constable has good cause to suspect has breached the non-contact order. 30

*Rules*

**20 Rules of court**

- (1) In addition to all the other powers conferred by the District Courts Act 1947, the Governor-General may from time to time, by Order in Council, make rules— 5
- (a) regulating the practice and procedure of District Courts in proceedings under this Act:
- (b) providing for such matters as are contemplated by this Act or necessary for giving full effect to ~~the its~~ provisions ~~of this Act~~ and for its due administration. 10
- (2) Without limiting **subsection (1)**, rules made under that subsection may—
- (a) prescribe such forms as are necessary for the purposes of this Act, or authorise any specified person or persons to prescribe or approve forms, and require the use of such forms: 15
- (b) apply, with or without modification, provisions of the District Courts Rules 2009.
- (3) In the absence of any rules under this section or in any situation not covered by such rules, the District Courts Rules 2009 apply, with all necessary modifications, to proceedings under this Act. 20

*Sharing of information relating to criminal proceedings*

**21 Amendment to Criminal Procedure Act 2011** 25

- (1) This section amends the Criminal Procedure Act 2011.
- (2) In section 387(1)(h), replace “or the Harassment Act 1997” with “, the Harassment Act 1997, or the Victims’ Orders Against Violent Offenders Act **2013**”.

*Sharing of information about non-contact orders* 30

**22 Amendment to Privacy Act 1993**

- (1) This section amends the Privacy Act 1993.
- (2) In Schedule 5, under the heading “Police records”, insert after the item relating to restraining orders: 35

<u>Non-contact orders</u>	<u>Details of non-contact orders made under the <b>Victims' Orders Against Violent Offenders Act 2013</b></u>	<p><u>Department of Corrections (access is limited to obtaining information about any offender who is subject to a non-contact order while also subject to—</u></p> <ul style="list-style-type: none"> <li><u>(a) a full-time custodial sentence (including while released on parole or subject to an extended supervision order made under section 107I of the Parole Act 2002 or to conditions imposed under section 93 of the Sentencing Act 2002); and</u></li> <li><u>(b) a sentence of intensive supervision, community detention, community work, or supervision; or</u></li> <li><u>(c) a non-association order; or</u></li> <li><u>(d) a sentence of home detention (including while subject to post-detention conditions).</u></li> </ul> <p><u>Access is for the purpose of managing the offender's sentence and any post-sentence conditions in a manner consistent with any non-contact order.)</u></p>
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**Victims' Orders Against Violent  
Offenders Bill**

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**Legislative history**

27 May 2013  
27 August 2013

Introduction (Bill 126–1)  
First reading and referral to Law and Order  
Committee

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