

Assessing the impacts of domestic and family violence sentencing reforms in Queensland

Consultation Paper - Community Summary



Queensland Sentencing
Advisory Council

Content warning: This community summary has information about domestic and family violence that some readers may find distressing. If this raises any issues for you and you need to talk to someone, help is available.

Lifeline Australia: 13 11 14

1800RESPECT: 1800 737 732

DV Connect – Womensline: 1800 811 811

DV Connect – Mensline: 1800 600 636

Sexual Assault Helpline: 1800 010 120

13YARN Aboriginal & Torres Strait Islander Crisis Support: 13 92 76

Kids Helpline: 1800 551 800

Relationships Australia: 1300 364 277

About the Council

The Queensland Sentencing Advisory Council (Council) gives the Queensland Attorney-General advice, when asked, about sentencing in Queensland. We also do research and give the community information to help promote greater understanding of sentencing issues.

The Council can have up to 14 people, with our members bringing together the views of victim survivors, criminal law experts and those with expertise in justice issues relating to domestic and family violence and affecting Aboriginal and Torres Strait Islander peoples.

About this summary

The Council has produced a consultation paper which looks at the issues and research around sentencing practices for domestic violence offences. This is detailed and technical and may not be accessible to everyone.

This community summary is a simplified version of our consultation paper. It will give you an overview about domestic violence offences and ask you to answer questions that the Council is interested in.

You can download the full consultation paper from our website.

www.sentencingcouncil.qld.gov.au

What we've been asked to do

The Attorney-General has asked us to look at 2 changes in the law to see if they are working.

The first change to the law we are looking at is the aggravating factor for a 'domestic violence offence'. From May 2016, if an offence is a domestic violence offence, a court must treat it as more serious unless there are exceptional circumstances.

This is a law under section 9(10A) of the *Penalties and Sentences Act 1992* (Qld), so we call it the 'section 9(10A) aggravating factor'.

The second change to the law we have been asked to review is the increase in maximum penalties for contravention of a domestic violence order. We call this a 'CDVO'. These penalties increased in October 2015.

We will let the Attorney-General know our views about whether any further changes are needed to make sure these laws are working as intended.

We want to hear from you

To help us decide if we should recommend any changes, we want to hear from:

- People with lived experience of domestic and family violence who have gone through the sentencing process
- Friends and family members of people with lived experience of domestic and family violence or who have committed acts of domestic violence
- People who work with people who have experienced or committed acts of domestic violence, including support and advocacy services, re-entry services, legal professionals, police officers, corrective services officers and other professionals and organisations
- Academics, experts, and researchers
- Members of the public

How to tell us what you think

The best way to tell us your views is to make a submission. There is no set format you need to follow when telling us what you think.

You can answer any or all the questions, or just tell us your story.

Email: submissions@sentencingcouncil.qld.gov.au

Post:

Queensland Sentencing Advisory Council

GPO Box 2360

Brisbane Qld 4001

Deadline: 10am Friday 9 May 2025

Visit our [website](#) for more information about how to make a submission and how we will use it.

Next steps

All submissions will help us respond to this review. You may want to tell us about other issues that you know about – we will look at all submissions.

A final report with findings and recommendations will be provided to the Attorney-General by 30 December 2025. Public release will follow later.

Stay up to date by [subscribing to our newsletter](#).

What we know

Domestic and family violence is a serious problem that impacts many people. We know that:

- 1 in 4 women have experienced violence by an intimate partner or family member (27%)
- 1 in 8 men have experienced violence by an intimate partner or family member (12%)

Many offences are never reported to the police. Even when reported, not all cases result in a conviction and sentencing. Reasons for this include insufficient evidence. Also, sometimes the victim survivor chooses not to proceed with legal action.

We are only looking at cases of domestic and family violence that led to a conviction and sentencing.



Understanding domestic violence

In Queensland, domestic violence means behaviour, or a pattern of behaviour, that:

- is physically, sexually, emotionally, psychologically, or economically abusive
- is threatening
- is coercive, or
- causes the other person to fear for their, or someone else's, safety or wellbeing.

Domestic violence can occur between two people who:

- are in, or have been in, an intimate personal relationship
- are in, or have been in, a family relationship, or
- have an informal care relationship.

Domestic violence may occur over time. It can be more than one act or series of acts and is considered in the context of the whole relationship.

A domestic violence offence

From 1 December 2015, a judge or magistrate can record any offence, except offences under the *Domestic and Family Violence Protection Act 2012* (Qld), as a domestic violence offence.

This can happen if the behaviour a person is convicted for is also domestic violence, associated domestic violence or the person's behaviour breaks (contravenes) the conditions of a domestic violence order.

The offence will appear in a person's criminal history as a domestic violence offence, helping a court understand if they have a pattern of domestic and family violence.

A person does not need to have a current domestic violence order to be convicted of a domestic violence offence.

How a judge or magistrate decides the sentence

A judge or magistrate will usually decide which type of sentence to give.

In Queensland, judges or magistrates must follow rules when deciding sentences. These rules are found in the *Penalties and Sentences Act 1992* (Qld), which provides a list of factors that must be considered. Most of these factors are listed in section 9.

The 's 9(10A) aggravating factor' is one of many things a judge or magistrate must consider.

The job of the judge or magistrate is to look at everything closely and decide on a sentence that is fair. This is called judges' discretion (choice) and it is an important part of how our legal system works.

The Attorney-General has asked us to remember the judge's important role to make a choice when deciding a sentence when we give our advice.

For more information about sentencing in Queensland, see the [Queensland Sentencing Guide](#) on our website.

Section 9(10A) aggravating factor

From May 2016, if an offence is a domestic violence offence, the court must treat this as an aggravating factor.

This means the offence must be treated as more serious because it happened within a context of domestic and family violence.

Because it is an aggravating factor, the person may receive a harsher sentence. For example, they may be more likely to spend longer in prison or receive a prison sentence instead of probation.

There can be exceptional circumstances where a court might not treat it as aggravating. This will depend on the circumstances. One example might be where a victim survivor wounded her partner who had been emotionally abusive and physically violent to her in the past.

Treating domestic violence as an aggravating factor does not change the maximum penalty for the offence. For example, if a person assaults another person causing them bodily harm, the maximum penalty is usually 7 years' imprisonment. This maximum penalty does not change just because if this offence is a domestic violence offence.

The role of section 9(10A) aggravating factor

We have been asked to focus on the impact section 9(10A) has had on sentencing outcomes and look at whether the factor has affected how satisfied victims are with the sentencing process.

The purpose of the section 9(10A) aggravating factor is to:

- ✓ make clear to a court a person's culpability (blameworthiness) is higher, which may result in a higher sentence
- ✓ reflect community's view that offences in a domestic and family context are more serious
- ✓ stop a person from engaging in this type of behaviour.



Question

Is the 's 9(10A) aggravating factor' working? Why or why not?

You might think about:

- Has there been a shift in sentences given?
- Are courts referring to domestic violence in all cases where this factor is present?
- Are fewer people reoffending?
- Are victim survivors being protected?
- Anything else?

Domestic violence order

A domestic violence order (DVO) is an official document issued by the court to stop threats or acts of domestic violence.

A DVO sets out rules that the 'respondent' (the person who has committed domestic violence) must obey. For example, they must not commit domestic violence against the other person.

It is designed to keep the 'aggrieved' (the person subjected to the violence) safe by making it illegal for the respondent to behave in specific ways, like not contacting the person. Children can also be included on a protection order.

The most important consideration for the court must be 'the safety, protection and wellbeing of people who fear or experience domestic violence, including children'.

A DVO is a civil order, but if the person does not follow the conditions, this is a criminal offence.

Contravention of a domestic violence order

If a person does not obey the conditions of a DVO, it is called a 'contravention'.

It is a criminal offence to contravene (fail to follow the conditions of) an order, and this will appear on the respondent's criminal history.

The maximum penalty

The maximum penalty for this offence has changed.

In 2012, the maximum penalty was 2 years' imprisonment (or 60 penalty units) or 3 years' imprisonment (or 120 penalty units) if they had another contravention (or similar) offence in the previous 5 years.

In 2015, the maximum penalty increased to 3 years' imprisonment (or 120 penalty units) or 5 years' imprisonment (or 240 penalty units) if the person has repeatedly contravened a domestic violence order or has committed another type of domestic violence offence in the previous 5 years.

Increase to the maximum penalty

The increase to the maximum penalty in 2015 was meant to stop people from committing domestic violence offences. It also was to show that the community did not accept domestic violence and that this form of behaviour would not be tolerated.



Question

Is the increase to maximum penalties of a domestic violence order working? Why or why not?

You might think about:

- Has there been a shift in sentences given?
- Are fewer people reoffending?
- Is the higher penalty discouraging people from failing to comply with the conditions of the DVO?
- Are people who have been harmed being protected?
- Anything else?

Is there anything else?

Is there anything else you would like to tell the Council about sentencing domestic violence offences?



More information

To find more information about the review, visit the [Council's website](#).

To keep up with the latest developments of this review please subscribe to [our newsletter](#).