



Western Australia

Family Court Amendment Act 2021

As at 09 Sep 2021

No. 16 of 2021

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Family Court Amendment Act 2021

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Western Australia

Family Court Amendment Act 2021

No. 16 of 2021

An Act to amend the *Family Court Act 1997*.

[Assented to 9 September 2021]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *Family Court Amendment Act 2021*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. Act amended

This Act amends the *Family Court Act 1997*.

4. Part 8 Division 3 inserted

At the end of Part 8 insert:

**Division 3 — Cross-examination of parties where
allegations of family violence**

219AJ. Application of Division

- (1) In this section —
commencement day means the day on which the *Family Court Amendment Act 2021* section 4 comes into operation;
specified day means the day after the period of 90 days beginning on commencement day.
- (2) This Division applies to cross-examinations occurring on or after the specified day in proceedings instituted before, on or after the commencement day.

219AK. Mandatory protections for parties in certain cases — FLA s. 102NA

- (1) The requirements of subsection (2) apply if, in proceedings under this Act —
 - (a) a party (the *examining party*) intends to cross-examine another party (the *witness party*); and
 - (b) there is an allegation of family violence between the examining party and the witness party; and
 - (c) any of the following are satisfied —
 - (i) either party has been convicted of, or is charged with, an offence involving violence, or a threat of violence, to the other party;
 - (ii) a family violence order (other than an interim order) applies to both parties;
 - (iii) an injunction under section 235 or 235A for the personal protection of either party is directed against the other party;
 - (iv) the court makes an order that the requirements of subsection (2) are to apply to the cross-examination.
- (2) Both of the following requirements apply to the cross-examination —
 - (a) the examining party must not cross-examine the witness party personally;
 - (b) the cross-examination must be conducted by an Australian legal practitioner acting on behalf of the examining party.

- (3) The court may make an order under subsection (1)(c)(iv) —
 - (a) on its own initiative; or
 - (b) on the application of —
 - (i) the witness party; or
 - (ii) the examining party; or
 - (iii) if an independent children’s lawyer has been appointed for a child in relation to the proceedings — that lawyer.

219AL. Court-ordered protections in other cases — FLA s. 102NB

- (1) Subsection (2) applies if, in proceedings under this Act —
 - (a) a party (the *examining party*) intends to cross-examine another party (the *witness party*) personally; and
 - (b) there is an allegation of family violence between the examining party and the witness party; and
 - (c) section 219AK does not apply to prevent the examining party cross-examining the witness party personally.
- (2) The court must ensure that during the cross-examination there are appropriate protections for the party who is the alleged victim of the family violence.

5. Section 243 amended

- (1) In section 243(1) delete the passage that begins with “A person” and ends with “disseminate” and insert:

A person commits a crime if the person publishes in a newspaper or periodical publication or by radio broadcast, television or other electronic means, or otherwise disseminates

- (2) In section 243(1) delete the Penalty and insert:

Penalty for this subsection:

- (a) for an individual, imprisonment for 12 months and a fine of \$5 500;
- (b) for a body corporate, a fine of \$11 000.

Summary conviction penalty for this subsection:

- (a) for an individual, a fine of \$2 750;
- (b) for a body corporate, a fine of \$5 500.

- (3) In section 243(2) delete the passage that begins with “A person” and ends with “disseminate” and insert:

A person commits a crime if the person, except as permitted by the rules, publishes in a newspaper or periodical publication or by radio broadcast, television or other electronic means, or otherwise disseminates

- (4) In section 243(2) delete the Penalty and insert:

Penalty for this subsection:

- (a) for an individual, imprisonment for 12 months and a fine of \$5 500;

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(b) for a body corporate, a fine of \$11 000.

Summary conviction penalty for this subsection:

(a) for an individual, a fine of \$2 750;

(b) for a body corporate, a fine of \$5 500.

(5) Delete section 243(5).

(6) After section 243(8)(a) insert:

(aa) the communication of any pleading, transcript of evidence or other document to an authority of a State or Territory that has responsibilities relating to the welfare of children and is prescribed by the regulations for the purposes of this paragraph; or

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