

# ABILL

ENTITLED

AN ACT to Amend the Domestic Violence Act.

[ ]

BE IT ENACTED by The King’s Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Domestic Violence (Amendment) Act, 2023, and shall be read and construed as one with the Domestic Violence Act and all amendments thereto, and shall come into operation on a day to be appointed by the Minister by notice published published in the *Gazette*. Short title construction and commencement.

2.—(1) Section 3 of the principal Act is amended in subsection (1) by inserting next after the words “in accordance with this Act” the words “or make any other order that the Court considers just in the circumstances of the case”. Amendment of section 3 of principal Act.

(2) Section 3 of the principal Act is amended—

(a) by deleting subsection (2) and substituting therefor the following—

“ (2) An application for an order referred to in subsection (1)—

- (a) may be made by the spouse or parent who is the prescribed person in respect of whom the alleged conduct has been, or is likely to be, engaged in by the respondent;
- (b) where the alleged conduct is, or is likely to be, engaged in by the respondent against a child or dependant, may be made by—
  - (i) a person with whom the child or dependant—
    - (A) normally resides; or
    - (B) resides on a regular basis;
  - (ii) a parent or guardian of the child or dependant;
  - (iii) a dependant who is not mentally disabled;
  - (iv) a person who is approved, by the Minister responsible for social welfare, to carry out social welfare work;
  - (v) a constable;
  - (vi) any other person, whether or not the person is a member of the household of the child or dependant, with the leave of the court; or

- (vii) the Children’s Advocate, in the case where the alleged conduct is threatened against a child; or
  - (c) may be made by a person who is a member of the respondent’s household or who is in a visiting relationship with the respondent, in respect of the alleged conduct engaged in, or likely to be engaged in, by the respondent toward that person.”;
- (b) by deleting subsection (4) and substituting therefor the following—
  - “ (4) The Court in determining whether to grant leave under—
    - (a) subsection (2)(b)(vi), may take into account whether the application is in the best interests of the child or dependant, and in the case of a dependant who does not have a physical or mental disability, that the application is in accordance with the dependant’s best wishes and there is no conflict between the interest of the person seeking leave and the dependant; or
    - (b) subsection (3)(b), may take into account whether or not—
      - (i) the application is—
        - (A) in accordance with the wishes; or
        - (B) in the best interest, of the person entitled to apply; and
      - (ii) there is any conflict between the interests of the person seeking leave and the person entitled to apply.”;

(c) by inserting next after subsection (4), the following new subsection—

“ (5) The Minister may by order subject to affirmative resolution amend the list of persons who may apply for a protection order under subsection (2) or (3).”.

Amendment  
of section 4  
of principal  
Act.

3. Section 4 of the principal Act is amended—

(a) by deleting subsection (1) and substituting therefor the following—

“ (1) Application may be made to the Court for a protection order against a respondent in respect of alleged conduct, to—

(a) prohibit the respondent from—

- (i) entering or remaining in the household of any prescribed person;
- (ii) entering or remaining in any area specified in the protection order being an area in which the household residence of the prescribed person is located;
- (iii) harassing the prescribed person;
- (iv) entering or remaining in any particular place;
- (v) damaging any property owned by, or available for the use or enjoyment of, the prescribed person, or any property in the care or custody or situated at the household residence of the prescribed person; or
- (vi) taking possession of, converting or otherwise dealing with

property in a manner which constitutes abuse of the prescribed person;

- (b) direct the respondent to—
- (i) return to the prescribed person, property that is jointly or separately owned by the prescribed person that is in the respondent’s possession or under the respondent’s control; or
  - (ii) relinquish to the police any firearm (or prohibited weapon) which the respondent may have in the respondent’s possession or control and which may or may not have been used.”; and

(c) in subsection (2) by inserting next after the words “is satisfied” the words “on a balance of probabilities.”.

4. Subsection (1) of section 5 of the principal Act is amended by— Amendment of section 5 of principal Act.

- (a) deleting the words “ten thousand” and substituting therefor the words, “one million”;
- (b) deleting the words “six months” and substituting therefor the words “one year”; and
- (c) inserting next after subsection (1), the following new subsection—

“ (1A) The Minister may by order, subject to affirmative resolution, amend the monetary penalties provided under this Act.”.

Passed in the House of Representatives with three (3) amendments this 19th day of December, 2023.

JULIET HOLNESS

*Speaker.*

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to offer greater protection for victims who suffer the harmful effect of domestic violence by—

- (a) increasing the category of individuals who may make an application for an order;
- (b) expanding the scope of protection orders; and
- (c) increasing penalties for the breach of a protection order.

OLIVIA GRANGE  
Minister of Culture, Gender,  
Entertainment and Sport.



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As passed in the Honourable House of Representatives.

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SECTION 3 OF THE PRINCIPAL ACT WHICH  
IT IS PROPOSED TO AMEND

3.—(1) ... ..

(2) An application for an order referred to in subsection (1), may be made—

- (a) by the spouse or parent in respect of whom the alleged conduct has been, or is likely to be, engaged in by the respondent;
- (b) where the alleged conduct is used or threatened against a child or dependant by—
  - (i) a person with whom the child or dependant normally resides or resides on a regular basis;
  - (ii) a parent or guardian of the child or dependant;
  - (iii) a dependant who is not mentally disabled;
  - (iv) a person who is approved by the Minister responsible for social welfare to carry out social welfare work; or
  - (v) a Constable;

... ..

(4) In determining whether to grant leave under subsection (3)(b), the Court may take into account whether or not—

- (a) the application is—
  - (i) in accordance with the wishes; or
  - (ii) in the best interests,of the person entitled to apply; and
- (b) there is any conflict between the interests of the person seeking leave and the person entitled to apply.

SECTION 4 OF THE PRINCIPAL ACT WHICH  
IT IS PROPOSED TO AMEND

4.—(1) Application may be made to the Court for a protection order to prohibit the respondent—

- (a) from entering or remaining in the household residence of any prescribed person; or
- (b) from entering or remaining in any area specified in the order being an area in which the household residence of the prescribed person is located; or

- (c) from entering the place of work or education of any prescribed person; or
- (d) from entering or remaining in any particular place; or
- (e) from molesting a prescribed person by—
  - (i) watching or besetting the household residence, place of work or education of a prescribed person;
  - (ii) following or waylaying the prescribed person in any place;
  - (iii) making persistent telephone calls to a prescribed person;
  - (iv) using abusive language to or behaving towards a prescribed person in any other manner which is of such nature and degree as to cause annoyance to, or result in ill-treatment of the prescribed person; or
  - (v) damaging any property owned by, or available for the use or enjoyment of, the prescribed person, or any property in the care or custody or situated at the residence of the prescribed person.

(2) On hearing an application under subsection (1), the Court may make a protection order if it is satisfied that—

- (a) the respondent has used or threatened to use, violence against, or caused physical or mental injury to, a prescribed person and is likely to do so again; or
- (b) having regard to all circumstances, the order is necessary for the protection of a prescribed person.

SECTION 5 OF THE PRINCIPAL ACT WHICH  
IT IS PROPOSED TO AMEND

5.—(1) Where a protection order, whether interim or otherwise, is made and—

- (a) it is served personally on the respondent; and
- (b) the respondent contravenes the order in any respect,

the respondent commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.