

Victims of Family Violence (Strengthening Legal Protections) Legislation Bill

Government Bill

As reported from the Justice Committee

Commentary

Recommendation

The Justice Committee has examined the Victims of Family Violence (Strengthening Legal Protections) Legislation Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

This bill seeks to strengthen the courts' statutory powers to respond to litigation abuse in family proceedings. Litigation abuse is using the court system to harass, annoy, or harm another person. Examples of such abuse are:

- filing excessive documents with the court that require a response from a party to the proceeding
- forcing the victim to attend multiple court sessions to respond to an application.

The bill is an omnibus bill that would amend several statutes, principally the Family Court Act 1980, the District Court Act 2016, and the Senior Courts Act 2016. It would provide a way for judges to stop people from using the legal system to abuse others.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Restriction on commencing or continuing proceedings

Clause 5 of the bill would insert section 12B into the Family Court Act. New section 12B would allow a judge of the Family Court to stop a party from taking further steps in specified family proceedings. To do this, the judge would need to be satisfied that the party has:

- exhibited conduct that is an abuse of the court, including conduct intended to harass or annoy any other party to the proceeding
- had a reasonable opportunity to be heard.

Some submitters expressed concern that a judge must be satisfied that conduct is an “abuse of the court” to make an order. We heard that the phrase “abuse of the court” frames the behaviour as procedural impropriety rather than abuse, which downplays the harm felt by the victim.

We consider that the intention of the bill is to stop litigation abuse of a party to the proceedings, rather than abuse of the court. We therefore recommend amending proposed section 12B(1)(a) so that the judge must be satisfied that a party to the proceeding has exhibited conduct that is litigant abuse.

Definition of “abuse”

Clause 5 of the bill as introduced describes abuse of the court as conduct that is intended to harass or annoy any other party to a proceeding. We think the terms “harass” and “annoy” do not appropriately reflect the serious nature of litigation abuse, or the harm suffered by abuse victims.

We recommend replacing “abuse of the court” as introduced with a definition of “litigant abuse” in proposed new section 12B(8), which would more precisely describe the behaviour.

Litigant abuse would mean abuse of another party to the proceedings, and:

- would include conduct intended to annoy, harass, or harm, or that amounts to psychological abuse (as defined in section 11 of the Family Violence Act 2018)
- may include acts that form part of a pattern of behaviour (even if all or any of those acts, when viewed in isolation, appear to be minor or trivial).

Conduct outside of proceedings

New section 12B(4)(b) of the bill as introduced states that, when making an order, a judge must consider a party’s “conduct outside of the proceeding (including in any related proceedings) that is intended to harass or annoy any other party to the proceedings”.

Some submitters considered that “conduct outside of the proceedings” is overly broad. They suggested including a list of criteria to define abusive “conduct outside of the proceedings”. We consider that a list could unintentionally risk narrowing how the section is interpreted based on the examples provided. Further, listing every possible type of conduct risks omitting relevant conduct, now or in the future.

We recommend amending section 12B(4)(b) so a judge must have regard to a party’s conduct that is litigant abuse in any other proceeding. We also propose inserting section 12B(4)(ba), so a judge must also consider the party’s conduct outside of proceedings that is intended to annoy, harass, or harm another party to the proceeding, or that amounts to psychological abuse of any other party to the proceeding.

Applicability of the Care of Children Act

Section 4 of the Care of Children Act 2004 states that the welfare and best interests of children must be the paramount consideration in all decisions about their guardianship and care. We are satisfied that when the new provisions are used in proceedings directly relating to the care of children, the bill is clear that section 4 of the Care of Children Act would apply.

However, the bill is not clear whether an application could be made in proceedings that do not relate to the care of children, but a resulting order would affect the care of children. We consider that the welfare and best interests of children must be the paramount consideration where an order under these new provisions could affect their guardianship or care. We recommend amending the bill so that section 4 of the Care of Children Act would apply to a judge’s consideration of an application for an order.

Section 141 of the Care of Children Act 2004 sets out a process to stop a person from initiating proceedings relating to the care of children if they have persistently engaged in vexatious proceedings. Under the bill as introduced, this conduct would likely amount to abuse of the court as described in proposed new section 12B. Therefore, clause 22 of the bill as introduced would repeal section 141 of the Care of Children Act.

However, we consider that section 141 could still be relevant to vexatious conduct which does not amount to litigation abuse in care of children proceedings. We therefore recommend amending clause 22 to retain section 141 of the Care of Children Act. We also recommend amending section 141(3) to specify that nothing in section 141 would limit the operation of the new sections in the Family Court Act, District Court Act, or Senior Courts Act, as inserted by the bill.

Changes to other statutes

The bill as introduced would insert new section 216A into the District Court Act 2016 and new section 169A into the Senior Courts Act 2016. We propose amending these new sections in line with the amendments proposed for new section 12B of the Family Court Act 1980.

Stalking and abuse of the bill

We heard from some submitters that women are disproportionately affected by stalking. The most dangerous, violent, and persistent form of stalking is conducted by women's partners and ex-partners. Submitters told us that stalkers are increasingly using litigation abuse to target their victims.

We note that three pieces of legislation deal with different elements of stalking in New Zealand. However, we consider that none offers protection from all forms of stalking and harassment by all types of stalker. We note that a proposed Member's bill would introduce a new offence for stalking. The bill would focus on victims' rights and prevent people being the repeated target of threats, assaults, and serious physical violence.

Some submitters expressed concern that this bill would provide abusers with a new tool to engage in intimate partner violence. They suggested that abusers could use the bill to prevent a victim of family violence from trying to use the court process to raise genuine safety concerns for their children, or to progress other proceedings. We are satisfied that the amended bill would minimise these risks. Our proposed amendments would allow a judge of the proceedings to decide whether litigation abuse has occurred, as defined in section 12B(8). Section 12B(2) grants the judge leave to restrict or continue any proceedings based on their determination.

Appendix

Committee process

The Victims of Family Violence (Strengthening Legal Protections) Legislation Bill was referred to the Justice Committee of the 53rd Parliament on 29 August 2023. The committee called for submissions on the bill with a closing date of 8 September 2023. It received and considered submissions from 21 interested groups and individuals.

The bill was reinstated with this committee in the 54th Parliament on 6 December 2023. We heard oral evidence from seven submitters.

Advice on the bill was provided by the Ministry of Justice. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

James Meager (Chairperson)

Hon Ginny Andersen

Jamie Arbuckle

Cameron Brewer

Tākuta Ferris

Paulo Garcia

Dr Tracey McLellan

Rima Nakhle

Tamatha Paul

Todd Stephenson

Hon Dr Duncan Webb

Hon Marama Davidson participated in our consideration of this bill.

Related resources

The documents received as advice and evidence are available on the Parliament website.

**Victims of Family Violence (Strengthening Legal
Protections) Legislation Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Paul Goldsmith

Victims of Family Violence (Strengthening Legal Protections) Legislation Bill

Government Bill

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**Victims of Family Violence (Strengthening Legal
Protections) Legislation Bill**

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Victims of Family Violence (Strengthening Legal Protections) Legislation Act **2023**.
- 2 Commencement** 5
- (1) This Act comes into force on a date set by Order in Council.
- (2) Any part of the Act that has not come into force 1 year after Royal assent comes into force then.
- (3) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 10

Part 1
Substantive amendments

Subpart 1—Amendments to Family Court Act 1980

- 3 Principal Act**
This subpart amends the Family Court Act 1980. 15
- 4 New section 2A inserted (Transitional, savings, and related provisions)**
After section 2, insert:
- 2A Transitional, savings, and related provisions**
The transitional, savings, and related provisions set out in **Schedule 4 1AA** have effect according to their terms. 20
- 5 New section 12B inserted (Restriction on commencing or continuing proceedings under specified Acts in cases of litigant abuse)**
After section 12A, insert:
- 12B Restriction on commencing or continuing proceedings under specified Acts in cases of litigant abuse** 25
- (1) This section applies if a Judge—
- (a) is satisfied that, having regard to all of the circumstances, a party to a proceeding under a specified Act has exhibited conduct that is ~~an abuse of the court~~ litigant abuse; and
- (b) has given the party a reasonable opportunity to be heard. 30
- (2) The Judge may at any time during the course of the proceeding, on the court's initiative or on an interlocutory application for the purpose, order that the party may do any or all of the following only with the leave of a Judge:

- (a) take any further step in the proceeding (including in an interlocutory proceeding):
- (b) take any further step in a related proceeding (including in an interlocutory proceeding) under a specified Act ~~where if~~ there is evidence that the party has exhibited conduct in that proceeding that is ~~an abuse of the court~~ litigant abuse: 5
- (e) ~~commence a new proceeding under a specified Act of any kind, or of any specified kind, or in respect of any specified person or matter, or take any further step in that new proceeding.~~
- (c) commence, or take any further step in, a new proceeding (or an interlocutory proceeding) under a specified Act that is— 10
- (i) of any kind, or of any specified kind; or
- (ii) in respect of any specified person; or
- (iii) in respect of any specified matter.
-
- Guidance note** 15
- Section 4 of the Care of Children Act 2004 applies to a Judge's decision to—
- (a) make an order under **subsection (2)** if the order would affect proceedings involving the guardianship of, or the role of providing day-to-day care for, or contact with, a child; or
- (b) grant leave in respect of an order made under **subsection (2)** if the leave would affect proceedings involving the guardianship of, or the role of providing day-to-day care for, or contact with, a child. 20
-
- (3) However, an order made under **subsection (2)** does not prevent the party from lodging an appeal or filing a judicial review in respect of a proceeding (including an interlocutory proceeding). 25
- (4) ~~In considering the circumstances under **subsection (1)(a)**, the Judge must have regard to—~~ The Judge must have regard to the following in considering the circumstances referred to in **subsection (1)(a)**:
- (a) the party's conduct during the course of the proceeding; and
- (b) ~~the party's conduct outside of the proceeding (including in any related proceedings) that is intended to harass or annoy any other party to the proceedings or the related proceedings; and~~ 30
- (b) the party's conduct in any other proceedings (including any interlocutory or related proceedings) that is litigant abuse; and
- (ba) the party's conduct outside of proceedings that is intended to annoy, harass, or harm another party to the proceeding, or that amounts to psychological abuse (as defined in section 11 of the Family Violence Act 2018) of any other party to the proceeding or the related proceedings; and 35
- (c) any other matter that the Judge considers relevant. 40

- (5) An order made under **subsection (2)** continues in force for 3 years unless—
- (a) the order specifies a shorter period, in which case the order continues in force for that shorter period; or
 - (b) in the Judge’s opinion, there are extraordinary circumstances that warrant a longer period (which may not exceed 5 years), in which case the order continues in force for that longer period. 5
- (6) An applicant for an order under **subsection (2)**, or a party subject to an order under **subsection (2)**, may appeal to the High Court against the whole or a part of the Judge’s decision to make, or refuse to make, an order under **subsection (2)**. 10
- (7) Nothing in this section limits—
- (a) any provision in any other enactment that empowers the court to restrict the commencement or continuation of any proceeding; or
 - (b) the inherent powers of the court.
- (8) In this section,— 15
- ~~abuse of the court~~ includes conduct that is intended to harass or annoy any other party to a proceeding
- litigant abuse** means abuse of another party to the proceedings, and—
- (a) includes conduct that is intended to annoy, harass, or harm that other party, or that amounts to psychological abuse (as defined in section 11 of the Family Violence Act 2018); and 20
 - (b) may include a number of acts that form part of a pattern of behaviour (even if all or any of those acts, when viewed in isolation, appear to be minor or trivial)
- related proceedings** means any proceedings under a specified Act that involve the same parties 25
- specified Act** means— any of the following Acts:
- (a) the Status of Children Act 1969;
 - (b) the Domestic Actions Act 1975;
 - (c) the Property (Relationships) Act 1976: 30
 - (d) the Family Proceedings Act 1980;
 - (e) the Child Support Act 1991;
 - (f) the Care of Children Act 2004;
 - (g) the Family Violence Act 2018.
- 6 Section 17 amended (Certain enactments amended)** 35
- In section 17, replace “the Schedule” with “**Schedule 2**”.

7 New Schedule ~~1~~ 1AA inserted

Insert the **Schedule ~~1~~ 1AA** set out in **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act.

8 Schedule amended

In the Schedule heading, replace “**Schedule**” with “**Schedule 2**”.

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Subpart 2—Amendments to District Court Act 2016

9 Principal Act

This subpart amends the District Court Act 2016.

10 Cross-heading above section 213 amended

In the cross-heading above section 213, after “*proceedings*”, insert “, *including proceedings under Acts specified in **section 216A***”.

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11 New section 216A and cross-heading inserted

After section 216, insert:

Restriction on continuing or commencing certain proceedings under specified Acts in cases of litigant abuse

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216A Restriction on continuing or commencing certain proceedings under specified Acts in cases of litigant abuse

(1) This section applies to ~~a court~~ the court when—

- (a) ~~having exercising~~ concurrent jurisdiction with the Family Court; or
- (b) acting under section 15 of the Family Court Act 1980.

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(2) This section applies if a Judge—

- (a) is satisfied that, having regard to all of the circumstances, a party to a proceeding under a specified Act has exhibited conduct that is ~~an abuse of the court~~ litigant abuse; and
- (b) has given the party a reasonable opportunity to be heard.

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(3) The Judge may at any time during the course of the proceeding, on the court’s initiative or on an interlocutory application for the purpose, order that the party may do any or all of the following only with the leave of a Judge:

- (a) take any further step in the proceeding (including in an interlocutory proceeding);
- (b) take any further step in a related proceeding (including in an interlocutory proceeding) under a specified Act ~~where if~~ there is evidence that the party has exhibited conduct in that proceeding that is ~~an abuse of the court~~ litigant abuse;

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(e)	commence a new proceeding under a specified Act of any kind, or of any specified kind, or in respect of any specified person or matter, or take any further step in that new proceeding.	
(c)	<u>commence, or take any further step in, a new proceeding (or an interlocutory proceeding) under a specified Act that is—</u>	5
	(i) <u>of any kind, or of any specified kind; or</u>	
	(ii) <u>in respect of any specified person; or</u>	
	(iii) <u>in respect of any specified matter.</u>	
<hr/>		
	Guidance note	
	<u>Section 4 of the Care of Children Act 2004 applies to a Judge's decision to—</u>	10
(a)	<u>make an order under subsection (3) if the order would affect proceedings involving the guardianship of, or the role of providing day-to-day care for, or contact with, a child; or</u>	
(b)	<u>grant leave in respect of an order made under subsection (3) if the leave would affect proceedings involving the guardianship of, or the role of providing day-to-day care for, or contact with, a child.</u>	15
<hr/>		
(4)	However, an order made under subsection (3) does not prevent the party from lodging an appeal or filing a judicial review in respect of a proceeding <u>(or an interlocutory proceeding).</u>	
(5)	In considering the circumstances under subsection (2)(a), the Judge must have regard to— <u>The Judge must have regard to the following in considering the circumstances referred to in subsection (2)(a):</u>	20
	(a) the party's conduct during the course of the proceeding; and	
	(b) the party's conduct outside of the proceeding (including in any related proceedings) that is intended to harass or annoy any other party to the proceeding or the related proceedings; and	25
	(b) <u>the party's conduct in any other proceedings (including any interlocutory or related proceedings) that is litigant abuse; and</u>	
	(ba) <u>the party's conduct outside of proceedings that is intended to annoy, harass, or harm another party to the proceeding, or that amounts to psychological abuse (as defined in section 11 of the Family Violence Act 2018) of any other party to the proceeding or the related proceedings; and</u>	30
	(c) any other matter that the Judge considers relevant.	
(6)	An order made under subsection (3) continues in force for 3 years unless—	35
	(a) the order specifies a shorter period, in which case the order continues in force for that shorter period; or	
	(b) in the Judge's opinion, there are extraordinary circumstances that warrant a longer period (which may not exceed 5 years), in which case the order continues in force for that longer period.	40

- (7) An applicant for an order under **subsection (3)**, or a party subject to an order under **subsection (3)**, may appeal to the High Court against the whole or a part of the Judge's decision to make, or refuse to make, an order under **subsection (3)**.
- (8) Nothing in this section limits— 5
- (a) any provision in any other enactment that empowers the court to restrict the commencement or continuation of any proceeding; or
- (b) the inherent powers of the court.
- (9) In this section,— 10
- ~~**abuse of the court** includes conduct that is intended to harass or annoy any other party to a proceeding~~
- litigant abuse** means abuse of another party to the proceedings, and—
- (a) includes conduct that is intended to annoy, harass, or harm that other party, or that amounts to psychological abuse (as defined in section 11 of the Family Violence Act 2018); and 15
- (b) may include a number of acts that form part of a pattern of behaviour (even if all or any of those acts, when viewed in isolation, appear to be minor or trivial)
- related proceedings** means any proceedings under a specified Act that involve the same parties 20
- specified Act** means— any of the following Acts:
- (a) the Status of Children Act 1969;
- (b) the Domestic Actions Act 1975;
- (c) the Property (Relationships) Act 1976;
- (d) the Family Proceedings Act 1980; 25
- (e) the Child Support Act 1991;
- (f) the Care of Children Act 2004;
- (g) the Family Violence Act 2018.
- 12 Schedule 1AA amended**
- In Schedule 1AA,— 30
- (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and
- (b) make all necessary consequential amendments.
- Subpart 3—Amendments to Senior Courts Act 2016
- 13 Principal Act**
- This subpart amends the Senior Courts Act 2016. 35

14 Cross-heading above section 166 amended

In the cross-heading above section 166, after “*proceeding*”, insert “, *including proceedings under Acts specified in **section 169A***”.

15 New section 169A and cross-heading inserted

After section 169, insert:

5

*Restriction on continuing or commencing certain proceedings under specified
 Acts in cases of litigant abuse*

**169A Restriction on commencing or continuing proceedings under specified
 Acts in cases of litigant abuse**

- (1) This section applies if a Judge— 10
- (a) is satisfied that, having regard to all of the circumstances, a party to a proceeding ~~under a specified Act~~ has exhibited conduct that is ~~an abuse of the court~~ litigant abuse; and
 - (b) has given the party a reasonable opportunity to be heard.
- (2) The Judge may at any time during the course of the proceeding, on the court’s initiative or on an interlocutory application for the purpose, order that the party may do any or all of the following only with the leave of a Judge: 15
- (a) take any further step in the proceeding (including in an interlocutory proceeding):
 - (b) take any further step in a related proceeding (including in an interlocutory proceeding) under a specified Act: 20
 - (e) ~~commence a new proceeding under a specified Act of any kind, or of any specified kind, or in respect of any specified person or matter, or take any further step in that new proceeding.~~
 - (c) commence, or take any further step in, a new proceeding (or an interlocutory proceeding) under a specified Act that is— 25
 - (i) of any kind, or of any specified kind; or
 - (ii) in respect of any specified person; or
 - (iii) in respect of any specified matter.

Guidance note

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Section 4 of the Care of Children Act 2004 applies to a Judge’s decision to—

- (a) make an order under **subsection (3)** if the order would affect proceedings involving the guardianship of, or the role of providing day-to-day care for, or contact with, a child; or
- (b) grant leave in respect of an order made under **subsection (3)** if the leave would affect proceedings involving the guardianship of, or the role of providing day-to-day care for, or contact with, a child. 35

- (3) ~~In considering the circumstances under **subsection (1)(a)**, the Judge must have regard to—~~ The Judge must have regard to the following in considering the circumstances referred to in **subsection (1)(a)**:
- (a) the party's conduct during the course of the proceeding; and
 - (b) ~~the party's conduct outside of the proceeding (including in any related proceedings) that is intended to harass or annoy any other party to the proceeding or the related proceedings; and~~ 5
 - (b) the party's conduct in any other proceedings (including any interlocutory or related proceedings) that is litigant abuse; and
 - (ba) the party's conduct outside of proceedings that is intended to annoy, harass, or harm another party to the proceeding, or that amounts to psychological abuse (as defined in section 11 of the Family Violence Act 2018) of any other party to the proceeding or the related proceedings; and 10
 - (c) any other matter that the Judge considers relevant. 15
- (4) An order made under **subsection (2)** continues in force for 3 years unless—
- (a) the order specifies a shorter period, in which case the order continues in force for that shorter period; or
 - (b) in the Judge's opinion there are extraordinary circumstances that warrant a longer period (which may not exceed 5 years), in which case the order continues in force for that longer period. 20
- (5) An applicant for an order under **subsection (2)**, or a party subject to an order under **subsection (2)**, may appeal against the whole or a part of the Judge's decision to make, or refuse to make, an order under **subsection (2)** to— 25
- (a) the Court of Appeal; or
 - (b) the Supreme Court (with the leave of the Supreme Court).
- (6) Nothing in this section limits— 30
- (a) any provision in any other enactment that empowers the court to restrict the commencement or continuation of any proceeding; or
 - (b) the inherent powers of the court.
- (7) In this section,—
- ~~**abuse of the court** includes conduct that is intended to harass or annoy any other party to a proceeding~~
- court** means the High Court or the Court of Appeal
- litigant abuse** means abuse of another party to the proceedings, and— 35
- (a) includes conduct that is intended to annoy, harass, or harm that other party, or that amounts to psychological abuse (as defined in section 11 of the Family Violence Act 2018); and

(b) may include a number of acts that form part of a pattern of behaviour (even if all or any of those acts, when viewed in isolation, appear to be minor or trivial)

proceeding means—

- (a) a proceeding under a specified Act: 5
- (b) an appeal proceeding under a specified Act:
- (c) judicial review of a proceeding under a specified Act

related proceedings means any proceedings under a specified Act that involve the same parties

specified Act means— any of the following Acts: 10

- (a) the Status of Children Act 1969:
- (b) the Domestic Actions Act 1975:
- (c) the Property (Relationships) Act 1976:
- (d) the Family Proceedings Act 1980:
- (e) the Child Support Act 1991: 15
- (f) the Care of Children Act 2004:
- (g) the Family Violence Act 2018.

16 Schedule 5 amended

In Schedule 5,—

- (a) insert the Part set out in **Schedule 3** of this Act as the last Part; and 20
- (b) make all necessary consequential amendments.

Part 2

Consequential amendments

Subpart 1—Amendment to Family Proceedings Act 1980

17 Principal Act 25

This subpart amends the Family Proceedings Act 1980.

18 Section 163 amended (Vexatious proceedings)

After section 163(2), insert:

- (3) Nothing in this section limits **section 12B** of the Family Court Act 1980 or **section 216A** of the District Court Act 2016. 30

Subpart 2—Amendment to Child Support Act 1991

19 Principal Act

This subpart amends the Child Support Act 1991.

20 Section 227 amended (Vexatious proceedings)

After section 227(2), insert:

- (3) Nothing in this section limits **section 12B** of the Family Court Act 1980 or **section 216A** of the District Court Act 2016.

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Subpart 3—Amendment to Care of Children Act 2004

21 Principal Act

This subpart amends the Care of Children Act 2004.

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22 ~~Section 141 repealed (Power to restrict commencement of proceedings if vexatious proceedings previously instituted)~~

~~Repeal section 141.~~

22 Section 141 amended (Power to restrict commencement of proceedings if vexatious proceedings previously instituted)

15

Replace section 141(3) with:

- (3) Nothing in this section limits—
- (a) sections 166 to 169 of the Senior Courts Act 2016 (which empowers the High Court to make orders restricting the institution or continuation of vexatious proceedings); or
- (b) **section 12B** of the Family Court Act 1980 (which empowers the Family Court to make orders restricting the commencement or continuation of proceedings under specified Acts where there has been litigant abuse); or
- (c) **section 216A** of the District Court Act 2016 (which empowers the District Court to make orders restricting the commencement or continuation of proceedings under specified Acts where there has been litigant abuse); or
- (d) **section 169A** of the Senior Courts Act 2016 (which empower the High Court, the Court of Appeal, and the Supreme Court to make orders restricting the commencement or continuation of proceedings under specified Acts where there has been litigant abuse).

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Schedule 1
New Schedule 1 1AA inserted into Family Court Act 1980

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Schedule 1AA
Transitional, savings, and related provisions

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s 2A

Part 1
**Provision relating to Victims of Family Violence (Strengthening
Legal Protections) Legislation Act 2023**

- 1 Application of section 12B** **10**
- (1) This clause applies to **section 12B** (as inserted by the Victims of Family Violence (Strengthening Legal Protections) Legislation Act **2023**).
- (2) That section applies, on and after its commencement (the **commencement**), to— **15**
- (a) proceedings commenced on or after the commencement; and
- (b) proceedings commenced before the commencement and not finally determined (including any rehearing, retrial, or appeal) before the commencement.
- (3) However, in determining whether to make an order under **section 12B(2)**, the Judge must only have regard to a party's conduct that occurred after the commencement. **20**

Schedule 2

New Part 2 of Schedule 1AA inserted into District Court Act 2016

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Part 2

Provision relating to Victims of Family Violence (Strengthening
Legal Protections) Legislation Act 2023

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2 Application of section 216A

- (1) This clause applies to **section 216A** (as inserted by the Victims of Family Violence (Strengthening Legal Protections) Legislation Act **2023**).
- (2) That section applies, on and after its commencement (the **commencement**), to—
- (a) proceedings commenced on or after the commencement; and
- (b) proceedings commenced before the commencement and not finally determined (including any rehearing, retrial, or appeal) before the commencement.
- (3) However, in determining whether to make an order under **section 216A(3)**, the Judge must only have regard to a party's conduct that occurred after the commencement.

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Schedule 3
New Part 3 of Schedule 5 inserted into Senior Courts Act 2016

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Part 3
**Provision relating to Victims of Family Violence (Strengthening
Legal Protections) Legislation Act 2023**

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13 Application of section 169A

- (1) This clause applies to **section 169A** (as inserted by the Victims of Family Violence (Strengthening Legal Protections) Legislation Act **2023**).
- (2) That section applies, on and after its commencement (the **commencement**), to—
- (a) proceedings commenced on or after the commencement; and
- (b) proceedings commenced before the commencement and not finally determined (including any rehearing, retrial, or appeal) before the commencement.
- (3) However, in determining whether to make an order under **section 169A(2)**, the Judge must only have regard to a party's conduct that occurred after the commencement.

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Legislative history

22 August 2023
29 August 2023

Introduction (Bill 285–1)
First reading and referral to Justice Committee