

# STATES OF JERSEY



Jersey

## **DRAFT DOMESTIC ABUSE (JERSEY) LAW 202- (P.69/2022): SECOND AMENDMENT**

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Lodged au Greffe on 11th April 2022  
by the Senator T.A. Vallois  
Earliest date for debate: 25th April 2022

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**STATES GREFFE**



DRAFT DOMESTIC ABUSE (JERSEY) LAW 202- (P.69/2022):  
SECOND AMENDMENT

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**1 PAGE 30, PART 3 SUB-HEADING –**

Replace the sub-heading to Part 3 with –

“DOMESTIC ABUSE PROTECTION NOTICES AND ORDERS”.

**2 PAGE 30, BEFORE ARTICLE 5 –**

Before Article 5, insert –

**“5 Issuing domestic abuse protection notices**

- (1) A police officer of the rank superintendent or higher (a “senior officer”) may issue, or authorise an officer of a lower rank to issue, a domestic abuse protection notice to a person (“A”) if the senior officer has reasonable grounds to believe that –
  - (a) A has engaged in behaviour that is domestic abuse towards another person (“B”); and
  - (b) it is necessary to issue the notice to protect B from the risk of further domestic abuse carried out by A.
- (2) A senior officer may issue, or authorise the issue of, a domestic abuse protection notice to A regardless of whether B wishes the notice to be issued.
- (3) A domestic abuse protection notice must not be issued to a person who is under the age of 18.
- (4) Before issuing or authorising the issue of a domestic abuse protection notice, the senior officer must –
  - (a) consider any statements made by A or B on the matter;
  - (b) consider the welfare of any person under the age of 18 whose interests the officer considers relevant to the giving of the notice (whether or not that person and A are personally connected);
  - (c) if the notice will limit or prevent A from entering the premises where B lives, take reasonable steps to discover and consider the opinion of any other person who lives at the premises and is personally connected to A or B.
- (5) A domestic abuse protection notice must be in writing and must state –
  - (a) the grounds on which the notice has been issued; and
  - (b) the period for which the notice is in force, which must not be more than 48 hours, not counting time that falls on a Saturday or a day that is not a business day (as defined in Article 1(1) of the Public Holidays and Bank Holidays (Jersey) Law 1951).

- (6) A domestic abuse protection notice may –
  - (a) prohibit A from contacting B;
  - (b) prohibit A from coming within a specified distance of B; and
  - (c) if A and B live together at the same premises –
    - (i) require A to leave the premises,
    - (ii) prohibit A from entering the premises, and
    - (iii) prohibit A from evicting or excluding B from the premises.
- (7) A police officer must personally serve the domestic abuse protection notice on A.

## **6 Person issued domestic abuse protection notice must give name and address**

- (1) A person who is served with a domestic abuse protection notice must tell the police officer who serves the notice –
  - (a) the person’s full name; and
  - (b) if known at the time, the address at which the person will be residing while the notice is in force.
- (2) If, at the time a notice is served, the person does not know the address at which the person will be residing while the notice is in force, the person must notify an authorised officer of the address as soon as is practicable but, in any event, no later than 48 hours after the notice is served.
- (3) While a notice is in force, the person must notify an authorised officer if the address at which the person is residing changes.
- (4) A person who is required to provide information under this Article commits an offence and is liable to imprisonment for a term not exceeding 6 months and to a fine of level 3 on the standard scale if the person –
  - (a) fails, without reasonable excuse, to provide the information within the required timeframe; or
  - (b) knowingly provides false information.

## **7 Duration of domestic abuse protection notice**

- (1) A domestic abuse protection notice comes into force at the time it is served on the person to whom it is issued.
- (2) If, before the end of the specified period, an authorised officer withdraws the notice, the notice expires at the time it is withdrawn.
- (3) In all other cases, the notice expires at the end of the specified period.
- (4) In this Article, “the end of the specified period” means the end of the period stated in the notice in accordance with Article 5(5)(b).

**8 Power to arrest for breach of domestic abuse protection notice**

While a domestic abuse protection notice issued to a person is in force, a police officer may arrest the person if the officer has reasonable grounds to believe that the person has failed to comply with the notice.

**9 Restriction on issuing subsequent domestic abuse protection notice**

A police officer may not issue a domestic abuse protection notice to a person if –

- (a) the person has previously been issued a domestic abuse protection notice; and
- (b) the person has not engaged in behaviour that is domestic violence since the previous notice was issued.”,

and renumber the subsequent Articles accordingly.

SENATOR T.A. VALLOIS

## REPORT

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Domestic Abuse Protection Notices (“DAPNs”) were included in the original draft law that was put out for public consultation on 11th November 2021 with a deadline for comments on 22nd November 2021.

I am bringing this amendment to re-introduce DAPNs into the draft law because I believe it is important for us to debate and consider the pros and cons of having (what I perceive to be) an added safeguard for members of our community who may be at risk.

As a member of the Children, Education and Home Affairs Scrutiny Panel (CEHA), we have not had sufficient time to properly scrutinise this legislation and were only advised of the removal of DAPNs on the 4th of April during a briefing. Due to the insufficient time for appropriate scrutiny it was felt, on balance, that an individual member should bring forward amendments if they felt strongly about any particular area. Hence, the submission of this amendment.

To make it absolutely clear, I fully support the introduction of a Domestic Abuse Law in Jersey and believe it will go some way to further protect/safeguard our community, and I did not want to hold up the legislation and hold over for the next assembly to scrutinise although further scrutiny would be welcomed.

As mentioned, at a briefing of CEHA, we were informed of the removal of DAPNs and were referred to responses from consultations. I have not had the benefit of seeing the results of this consultation but I do understand why some may be concerned for their introduction.

However, I would like to expand the understanding of utilising the different tools that will be provided by this Law that will enable police and the courts to effectively manage such situations at a time of great difficulty, and the handling of such circumstances that may be faced, as each circumstance will be different.

Without notices, an arrest could be made on a higher evidential test than that required by a notice. There is then the ability to provide pre-charge or post-charge bail, however it is not a criminal offence to breach bail and can be arrested again.

In domestic abuse cases, we have seen through history and still today the difficulty with evidence gathering or the willingness of the victim to come forward due to a variety of scenarios. If a notice was established in this Law, the ability to identify patterns, assess and support first time incidences in a more appropriate way, and more importantly enable the appropriate tool to be used at the right time, may change actions, reflection of behaviour, prevention and separation to revisit before courts were involved.

The notice will act as evidence in itself and support the next evidentiary test for court and/or an order.

DAPNs provide a new type of protection for victims following domestic abuse incidents and can be issued by a senior police officer. The protection is, therefore, more immediate than existing remedies and can be used pre-charge as a non-molestation and eviction notice. This does not mean that safeguards are removed. The reinstated articles impose requirements and limitations upon the police officers.

Furthermore, DAPNs can be issued without the need of the victim’s consent on the assessment of all factors by the police officer.

I believe that these additional powers will help vulnerable persons who are, at times, unable or unwilling to help themselves and I would suggest that if this amendment were to be adopted that there be an assessment of the enforcement of this Law over a period of time to identify whether their use is helpful or not in a Jersey context and determine

whether any further changes need to be considered at that point rather than removing them now.

**Financial and manpower implications**

There are no additional financial and manpower implications arising from adoption of the amendment. A system of Domestic Abuse Protection Notices would need to be administered, but it is anticipated this would be done within existing resource provisions.