



Queensland

Coroners (Domestic and Family Violence Death Review and Advisory Board) Amendment Act 2015

Act No. 18 of 2015



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Contents

		Page
Part 1	Preliminary	
1	Short title	4
2	Commencement	4
Part 2	Amendment of Coroners Act 2003	
3	Act amended	4
4	Amendment of s 3 (Object of Act)	4
5	Insertion of new pt 4A.	5
	Part 4A Domestic and Family Violence Death Review and Advisory Board	
	Division 1 Preliminary	
	91A Purpose of pt 4A.	5
	91B Definitions for pt 4A	5
	Division 2 Establishment, functions and powers	
	91C Establishment.	8
	91D Functions	8
	91E Review function	9
	91F Relationship with coroners	9
	91G Powers	10
	91H Board must act independently and in public interest	10
	91I Administrative support for board.	10

Contents

Division 3	Membership	
91J	Members of board	10
91K	Chairperson	11
91L	Appointment of other members	11
91M	Deputy chairperson	12
91N	Conditions of appointment	13
91O	Term of appointment.	13
91P	Vacation of office	13
Division 4	Criminal history reports	
91Q	Criminal history report	14
91R	New convictions must be disclosed	15
Division 5	Proceedings of the board	
91S	Time and place of meetings	15
91T	Quorum	15
91U	Presiding at meetings.	16
91V	Conduct of meetings	16
91W	Minutes and other records	17
Division 6	Disclosure of conflict of interests	
91X	Disclosure of conflict of interest	17
Division 7	Accessing information	
91Y	Right to information	18
91Z	Board may enter into arrangement with State Coroner	20
91ZA	Information sharing arrangements with other jurisdictions	21
Division 8	Reporting	
91ZB	Annual report	22
91ZC	Report about systemic matter	22
Division 9	Miscellaneous	
91ZD	Confidentiality.	24
91ZE	Protection from liability for members and persons helping board perform functions	25
91ZF	Protection from liability for providing information	26
6	Amendment of sch 2 (Dictionary).	27



Queensland

Coroners (Domestic and Family Violence Death Review and Advisory Board) Amendment Act 2015

Act No. 18 of 2015

An Act to amend the Coroners Act 2003 to establish the Domestic and Family Violence Death Review and Advisory Board and for other particular purposes

[Assented to 22 October 2015]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Coroners (Domestic and Family Violence Death Review and Advisory Board) Amendment Act 2015*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Coroners Act 2003

3 Act amended

This part amends the *Coroners Act 2003*.

4 Amendment of s 3 (Object of Act)

Section 3—

insert—

- (e) establish the Domestic and Family Violence Death Review and Advisory Board to review deaths related to domestic and family violence to prevent or reduce the likelihood of those deaths.

5 Insertion of new pt 4A

After section 91—

insert—

**Part 4A Domestic and Family
Violence Death Review
and Advisory Board**

Division 1 Preliminary

91A Purpose of pt 4A

The purpose of this part is to establish the Domestic and Family Violence Death Review and Advisory Board to—

- (a) identify preventative measures to reduce the likelihood of domestic and family violence deaths in Queensland; and
- (b) increase recognition of the impact of, and circumstances surrounding, domestic and family violence and gain a greater understanding of the context in which domestic and family violence deaths occur; and
- (c) make recommendations to the Minister for implementation by government entities and non-government entities to prevent or reduce the likelihood of domestic and family violence deaths.

91B Definitions for pt 4A

In this part—

board means the Domestic and Family Violence Death Review and Advisory Board established under section 91C.

chairperson means the State Coroner or Deputy State Coroner holding office as chairperson under section 91K.

deputy chairperson means the person appointed as deputy chairperson of the board under section 91M.

domestic and family violence means domestic violence within the meaning of the *Domestic and Family Violence Protection Act 2012*, section 8.

domestic and family violence death means the death of a person (the **deceased person**)—

- (a) caused by another person (the **second person**) if—
- (i) the deceased person was or had been in a relevant relationship with the second person that involved domestic and family violence; or
 - (ii) at the time of death, the deceased person was in a relevant relationship with a person who was or had been in a relevant relationship with the second person that involved domestic and family violence; or
 - (iii) at the time of death, the second person mistakenly believed the deceased person was in a relevant relationship with a person who was or had been in a relevant relationship with the second person that involved domestic and family violence; or
 - (iv) at the time of death, the deceased person was a witness to or present at, or attempted to intervene in, domestic

and family violence between the second person and a person who was or had been in a relevant relationship with the second person; or

- (v) at the time of death, the deceased person was a witness to or present at, or attempted to intervene in violence between the second person and a person who the second person mistakenly believed was in a relevant relationship with a person who was or had been in a relevant relationship with the second person that involved domestic and family violence; or

- (b) by suicide or suspected suicide if the person was or had been in a relevant relationship with another person that involved domestic and family violence.

expert reports see section 91G(2)(b).

member means—

- (a) the chairperson; or
- (b) a member of the board appointed under section 91J(b).

relevant relationship see the *Domestic and Family Violence Protection Act 2012*, section 13.

Note—

Under the *Domestic and Family Violence Protection Act 2012*, section 13, a relevant relationship means an intimate personal relationship, a family relationship or an informal care relationship, as defined under that Act.

State employee means a person who is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

Division 2

Establishment, functions and powers

91C Establishment

The Domestic and Family Violence Death Review and Advisory Board is established.

91D Functions

- (1) The board has the following functions—
 - (a) to review domestic and family violence deaths in Queensland, including—
 - (i) deaths that occurred before the board was established; and
 - (ii) deaths that are still being investigated under this Act;
 - (b) to analyse data and apply research to identify patterns, trends and risk factors relating to domestic and family violence deaths in Queensland;
 - (c) to carry out, or engage other persons to carry out, research to prevent or reduce the likelihood of domestic and family violence deaths;
 - (d) to use data, research findings and expert reports to compile systemic reports into domestic and family violence deaths, including identifying key learnings and elements of good practice in the prevention and reduction in the likelihood of domestic and family violence deaths in Queensland;
 - (e) to make recommendations to the Minister about improvements to legislation, policies, practices, services, training, resources and communication for implementation by government entities and non-government entities to prevent or reduce the likelihood of domestic and family violence deaths in Queensland;

- (f) to monitor the implementation of recommendations made under paragraph (e).
- (2) The board may perform its functions in relation to the death of a person who dies outside Queensland if it is a reportable death mentioned in section 8(2)(b).
- (3) It is not a function of the board to carry out an investigation of a death.

91E Review function

Without limiting the matters to which the board may have regard in reviewing a domestic and family violence death, the board must consider the following matters—

- (a) the events leading up to the death;
- (b) any interaction with, and the effectiveness of, any support or other services provided to the deceased person and the person who caused the death;
- (c) the general availability of services mentioned in paragraph (b);
- (d) failures in systems or services that may have contributed to, or failed to prevent, the death.

91F Relationship with coroners

- (1) The board may review a domestic and family violence death even though the death is or may be the subject of investigation by a coroner.
- (2) The review is independent of, and separate to, the investigation by the coroner.

91G Powers

- (1) The board may do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without limiting subsection (1), the board may engage persons with appropriate qualifications and experience to—
 - (a) conduct research relevant to the board's functions; and
 - (b) prepare reports (*expert reports*) to help the board perform its functions.

91H Board must act independently and in public interest

- (1) In performing its functions, the board must act independently and in the public interest.
- (2) Without limiting subsection (1), the board is not subject to direction by anyone, including the Minister, about how it performs its functions.

91I Administrative support for board

The chief executive must ensure the board has the administrative support services reasonably required for the board to perform its functions effectively and efficiently.

Division 3 Membership

91J Members of board

The board consists of—

- (a) the chairperson; and

- (b) not more than 11 other persons appointed by the Minister that the Minister considers appropriate.

91K Chairperson

- (1) The Minister must appoint the State Coroner or the Deputy State Coroner as the chairperson of the board.
- (2) The chairperson holds office for the term stated in the person's instrument of appointment as chairperson.
- (3) The chairperson is responsible for leading and directing the activities of the board to ensure the board performs its functions appropriately.

91L Appointment of other members

- (1) In making an appointment of a member other than the chairperson, the Minister must ensure—
 - (a) the membership of the board reflects the diversity of the Queensland community and includes at least one member who is an Aboriginal or Torres Strait Islander; and
 - (b) the membership of the board includes representatives of government entities and non-government entities; and
 - (c) that members have experience, knowledge or skills the Minister considers relevant to the board's functions, for example, experience, knowledge or skills in relation to domestic and family violence, the justice system and health.
- (2) A person may not be appointed as a member if the person—

- (a) is an insolvent under administration under the Corporations Act, section 9; or
 - (b) has a conviction, other than a spent conviction, for an indictable offence; or
 - (c) is a member of the Legislative Assembly.
- (3) In this section—
- spent conviction* means a conviction—
- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
 - (b) that is not revived as prescribed by section 11 of that Act.

91M Deputy chairperson

- (1) The Minister may appoint a member of the board to be the deputy chairperson of the board.
- (2) A member may be appointed as the deputy chairperson at the same time as the person is appointed as a member.
- (3) A vacancy arises in the office of deputy chairperson if the person holding the office—
 - (a) resigns office by signed notice given to the Minister; or
 - (b) ceases to be a member.
- (4) A person resigning the office of deputy chairperson may continue to be a member.
- (5) The deputy chairperson is to act as chairperson—
 - (a) during a vacancy in the office of the chairperson; and
 - (b) during all periods when the chairperson is absent from duty or for another reason can not perform the duties of the office.

91N Conditions of appointment

- (1) A member is to be paid the remuneration and allowances decided by the Minister.
- (2) A member who is a State employee is not entitled to be paid remuneration for holding office as a member.
- (3) For matters not provided for by this Act, a member holds office on the terms and conditions decided by the Minister.

91O Term of appointment

- (1) A member is appointed for the term, of not more than 3 years, stated in the member's instrument of appointment.
- (2) A member may be reappointed.

91P Vacation of office

- (1) The office of a member becomes vacant if the member—
 - (a) completes the member's term of office and is not reappointed; or
 - (b) resigns from office by signed notice given to the Minister; or
 - (c) is an insolvent under administration under the Corporations Act, section 9; or
 - (d) is convicted of an indictable offence; or
 - (e) becomes a member of the Legislative Assembly; or
 - (f) is absent from 3 consecutive meetings of the board—
 - (i) without the board's permission; and
 - (ii) without reasonable excuse; or

- (g) is removed from office by the Minister under subsection (2).
- (2) The Minister may end the appointment of a member if the Minister is satisfied the member is incapable of satisfactorily performing the member's duties.

Division 4 Criminal history reports

91Q Criminal history report

- (1) To decide if a person can not be appointed or continue as a member, the Minister may ask the commissioner of the police service for—
 - (a) a written report about the criminal history of the person; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) However, the Minister may make the request only if the person has given the Minister written consent for the request.
- (3) The commissioner of the police service must comply with the request.
- (4) However, the duty to comply applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) The Minister must ensure the report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

91R New convictions must be disclosed

- (1) This section applies if a person who is a member is convicted of an indictable offence during the term of the member's appointment.
- (2) The person must, unless the person has a reasonable excuse, immediately give notice of the conviction to the Minister.

Maximum penalty—100 penalty units.

- (3) The notice must include all of the following—
 - (a) the existence of the conviction;
 - (b) when the offence was committed;
 - (c) details adequate to identify the offence;
 - (d) the sentence imposed on the person.

Division 5 Proceedings of the board

91S Time and place of meetings

- (1) The board may hold its meetings when and where it decides.
- (2) The chairperson—
 - (a) may at any time call a meeting of the board;
and
 - (b) must call a meeting if asked by at least 3 other members.

91T Quorum

A quorum for a meeting of the board is at least half of the members.

91U Presiding at meetings

- (1) The chairperson presides at all meetings of the board at which the chairperson is present.
- (2) If the chairperson is not present at a meeting, the deputy chairperson is to preside.
- (3) If neither the chairperson nor the deputy chairperson is present at a meeting, the member chosen by the members present is to preside.

91V Conduct of meetings

- (1) Subject to this division, the board may conduct its proceedings, including its meetings, as it considers appropriate.
- (2) The board may hold meetings, or allow members to take part in meetings, by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the meeting.
- (3) A member who takes part in a meeting of the board under subsection (2) is taken to be present at the meeting.
- (4) A question at a meeting of the board is to be decided by a majority of the votes of the members present at the meeting.
- (5) If the votes are equal, the member presiding has a casting vote.
- (6) A resolution is a valid resolution of the board, even though it is not passed at a meeting of the board, if—
 - (a) at least half the members give written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the board.

91W Minutes and other records

The board must keep—

- (a) minutes of its meetings; and
- (b) a record of any decisions and resolutions of the board.

Division 6 Disclosure of conflict of interests

91X Disclosure of conflict of interest

- (1) If—
 - (a) a member has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered at a meeting of the board; and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter;

the member must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the board.

- (2) Particulars of a disclosure made under this section must be recorded by the board in a register of interests kept for the purpose.
- (3) After a member has disclosed the nature of an interest in a matter, the member must not be present during a deliberation of the board about the matter, unless the board otherwise decides.
- (4) For the making of a decision by the board under subsection (3), a member who has a direct or

indirect pecuniary or other interest in a matter to which the disclosure relates must not—

- (a) be present during the deliberation of the board for the purpose of making the decision; or
 - (b) take part in the making of the decision by the board.
- (5) A contravention of this section does not invalidate a decision of the board.
- (6) However, if the board becomes aware a member contravened this section, the board must reconsider a decision made by the board in which the member took part in contravention of this section.

Division 7 Accessing information

91Y Right to information

- (1) To perform its functions, the board has a right to all information in the custody or under the control of a prescribed entity.
 - (2) The board may, by written notice given to a prescribed entity, require the entity, within a stated reasonable period—
 - (a) to give the information to the board; and
 - (b) if the information is contained in a document—to allow the board to inspect the document and take a copy of it.
 - (3) The notice must state the purpose for making the requirement.
 - (4) The prescribed entity must comply with the notice, unless the entity has a reasonable excuse.
- Maximum penalty—100 penalty units.

- (5) Without limiting subsection (4), it is a reasonable excuse for a prescribed entity to fail to comply with the notice because complying with the notice—
- (a) if the entity is an individual—might tend to incriminate the individual; or
 - (b) would require the entity to disclose information that is the subject of legal professional privilege; or
 - (c) would prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or
 - (d) would enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained; or
 - (e) would endanger a person’s life or physical safety; or
 - (f) would prejudice a prosecution or another matter before a court.
- (6) For subsection (1), information is not taken to be in the prescribed entity’s control merely because of an agreement between the prescribed entity and another entity under which the other entity must give the information to the prescribed entity.
- (7) For subsection (4), if the notice requires the prescribed entity to allow the board to inspect a document that contains exempt information, the entity may comply with the notice by allowing the board to inspect a copy of the document with any exempt information obliterated.
- (8) This section applies despite any other Act.

(9) In this section—

exempt information, for a prescribed entity, means information for which the entity considers it would not be required to give because of a reasonable excuse mentioned in subsection (5).

prescribed entity means any of the following—

- (a) the chief executive of a department;
- (b) the Queensland Family and Child Commission;
- (c) the commissioner of the police service;
- (d) an entity that provides services to persons in relevant relationships if those persons are affected by domestic and family violence deaths;
- (e) an entity prescribed by regulation.

91Z Board may enter into arrangement with State Coroner

- (1) The board may enter into an arrangement with the State Coroner about the exchange of information between a coroner and the board.
- (2) Without limiting what may be included in an arrangement, the arrangement may provide for—
 - (a) the board to be notified by a coroner that a reportable death is, or is likely to be, a domestic and family violence death and how and when the notification is to occur; and
 - (b) coroners giving the board access to the following documents for performing the board's functions—
 - (i) an investigation document that relates to the domestic and family violence death of a particular person;

- (ii) all investigation documents that relate to domestic and family violence deaths; and
 - (c) the board to give coroners access to documents in the board's possession or control that are relevant to an investigation; and
 - (d) how, when and where documents may be accessed under the arrangement.
- (3) The State Coroner may give the board access to an investigation document under the arrangement.
- (4) Sections 52(1)(c), 53, 54 and 55 do not apply in relation to access to an investigation document under the arrangement.
- (5) In this section—
investigation document includes a document obtained under the *Coroners Act 1958* that is similar in nature to an investigation document as defined in schedule 2.

91ZA Information sharing arrangements with other jurisdictions

- (1) For its functions, the board may enter into an arrangement with a corresponding entity about sharing or exchanging information held by the board or the corresponding agency.
- (2) Under the arrangement, the board may disclose information in its possession or under its control unless the disclosure would prejudice the investigation of a contravention or possible contravention of a law or an investigation by a coroner.

(3) However, before disclosing coronial information under the arrangement the board must consult the State Coroner about the proposed disclosure.

(4) In this section—

coronial information means information in the board's possession or under the board's control that was given to the board by the State coroner.

corresponding entity means an entity in another State that performs the same functions, or substantially the same functions, as the board

information includes a document.

Division 8 Reporting

91ZB Annual report

- (1) The board must, within 3 months after the end of each financial year, give the Minister a report (an *annual report*) in relation to the performance of the board's functions during the financial year.
- (2) The annual report must include information about the progress made during the financial year to implement recommendations made by the board during that year or previous financial years.
- (3) The Minister must table a copy of the report in the Legislative Assembly within one month after receiving it.

91ZC Report about systemic matter

- (1) The board may prepare a report about a matter arising from the performance of the board's functions.

- (2) Without limiting subsection (1), the board may prepare a report—
 - (a) about its findings in relation to a review carried out by the board; or
 - (b) making recommendations to the Minister about any other matter likely to prevent or reduce domestic and family violence deaths.
- (3) If the board proposes to include information adverse to a person in the report—
 - (a) the board must not include the information in the report unless, before the report is prepared, the board gives the person an opportunity to make submissions about the information; and
 - (b) if the person makes submissions and the board still proposes to include the information in the report, the board must ensure the person's submissions are fairly stated in the report
- (4) The board may, if it considers it appropriate, give a copy of the report to the Minister.
- (5) If the report includes information relating to a death that is still being investigated by a coroner, the board must—
 - (a) give the coroner a copy of the report; and
 - (b) if the board intends to give a copy of the report to the Minister—ensure the copy is given to the coroner before giving the Minister a copy.
- (6) If the board gives a copy of the report to the Minister, the board must make a recommendation about whether the report should be tabled in the Legislative Assembly.
- (7) The board may make a recommendation that a report be tabled in the Legislative Assembly only

if the report does not contain information that is in a form that identifies or may identify an individual in the individual's private capacity.

- (8) If the board recommends the report not be tabled in the Legislative Assembly, the Minister may table the report only if the Minister is satisfied the public interest in tabling the report outweighs any other considerations.
- (9) If the board recommends the report be tabled in the Legislative Assembly, the Minister must table the report within 5 sitting days after receiving it.

Division 9 Miscellaneous

91ZD Confidentiality

- (1) This section applies to a person who is or was—
 - (a) a member; or
 - (b) a person engaged to help in the performance of the board's functions.
- (2) The person must not disclose confidential information to anyone else other than to the extent the disclosure is permitted under this section.
Maximum penalty—200 penalty units.
- (3) Confidential information may be disclosed—
 - (a) in the performance of a function under this Act; or
 - (b) to the commissioner of the police service in connection with a possible criminal offence; or
 - (c) to a coroner to the extent it may relate to a reportable death; or

- (d) to the Crime and Corruption Commission;
or
- (e) to the ombudsman about the death of a person to the extent it is relevant to the performance of the ombudsman's functions;
or
- (f) to the extent otherwise required or permitted under this Act or another Act.

Example—

Confidential information may be disclosed under an arrangement with a corresponding entity under section 91ZA.

- (4) The person can not be compelled to disclose the confidential information, including giving evidence in relation to the confidential information, in any proceeding.
- (5) In this section—
confidential information means information that—
 - (a) is not publicly available; and
 - (b) is in a form that identifies or may identify an individual; and
 - (c) was acquired by, or may be accessed by, a person in the person's capacity as mentioned in subsection (1).

disclose includes give access to.

information includes a document.

91ZE Protection from liability for members and persons helping board perform functions

- (1) A member or a person engaged to help in the performance of the board's functions is not civilly liable for an act done, or omission made, honestly and without negligence under this part.

- (2) If subsection (1) prevents a civil liability attaching to a member or other person, the liability attaches instead to the State.
- (3) Subsection (1) does not apply to a member or other person who is a State employee.

Note—

For protection from civil liability in relation to State employees—see the *Public Service Act 2008*, section 26C.

91ZF Protection from liability for providing information

- (1) This section applies to an entity that gives information to the board as required by a notice under section 91Y.
- (2) The entity is not liable, civilly, criminally or under an administrative process, for giving the information.
- (3) Without limiting subsection (2)—
 - (a) the giving of the information does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct; and
 - (b) no liability for defamation is incurred by the entity because of the giving of the information.
- (4) The protection given to the entity by this section extends to—
 - (a) an entity that, in good faith, provided the person with any information on the basis of which the information was given; and
 - (b) an entity that was otherwise concerned in the giving of the information.

6 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

board, for part 4A, see section 91B.

chairperson, for part 4A, see section 91B.

deputy chairperson, for part 4A, see section 91B.

domestic and family violence, for part 4A, see section 91B.

domestic and family violence death, for part 4A, see section 91B.

expert reports, for part 4A, see section 91G(2)(b).

member, for part 4A, see section 91B.

relevant relationship, for part 4A, see section 91B.

State employee, for part 4A, see section 91B.

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