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FROM: DALO
DATE: 18 JANUARY 2021
TO: CHRISTINE DARRAH

SUMMARY

Business Area: Criminal Law Branch – Criminal Justice Policy & Legislation Division, Access to Justice Directorate.

Issue: Briefing on the principles of the Protection from Stalking Bill, for which Executive approval to introduce was endorsed at the Executive's meeting of 17 December 2020.

Restrictions: Official – Policy in development.

Action Required: Members to note the written briefing ahead of the oral briefing on 21 January 2021.

Attendees: Brian Grzymek, Deputy Director, Criminal Justice Policy & Legislation Division, Access to Justice Directorate
Andrew Laverty, Head of Criminal Law Branch, Criminal Justice Policy & Legislation Division, Access to Justice Directorate

BACKGROUND

Members will be aware that the Minister intends to introduce the Protection from Stalking Bill. Executive Agreement to the introduction of the Bill was granted at the Executive meeting on 17 December 2020. Subject to the Speaker's agreement it is anticipated that first stage consideration will take place on Monday 18 January 2021.

2. The Bill makes provisions to create a specific offence of stalking and introduce Stalking Protection Orders. A copy of the Bill and Explanatory and Financial Memorandum is attached (**Appendices A and B**). This paper summarises the key provisions in the Bill.

3. The oral briefing session provides an opportunity for the Bill team to give an outline of the key content of the Bill and for the Committee to ask questions or seek clarification on any matters contained within the draft legislation.

KEY ISSUES

4. The Bill will create a specific offence of stalking that will capture conduct or acts associated with stalking. It will also include provision for the introduction of Stalking Protection Orders.

5. The Bill will:

- include a list of behaviours, acts or conduct that would constitute stalking;
- include a “course of conduct,” i.e. that at least two incidents of stalking behaviour must have occurred;
- have greater penalties than existing offences of harassment;
- include an alternative conviction in a related offence of threatening or abusive behaviour that can be made out after a single act;
- enable the police to intervene in the early stages of stalking by use of Stalking Protection Orders;
- include a provision for interim Stalking Protection Orders, when there is an immediate risk of harm, whilst the main application for a Stalking Protection Order is being determined; and

- include an offence of breaching a Stalking Protection Order or an interim Stalking Protection Order.
6. The provisions will make it a criminal offence for a person to engage in a course of conduct, that a reasonable person would consider to be likely to cause another person to suffer fear, alarm or substantial distress.
7. The offence will be engaged where the accused engages in conduct or acts associated with stalking and could include behaviour such as:
- following the person or any other person;
 - contacting, or attempting to contact the person or any other person by any means;
 - publishing any statement or other material relating or purporting to relate to the person, or purporting to originate from the person or from any other person;
 - monitoring the use by a person, or any other person, of the internet, email or any other form of electronic communication;
 - entering any premises;
 - loitering in any place (public or private);
 - interfering with any property in the possession of the person or any person;
 - watching or spying on the person or any person;
 - giving anything to a person or leaving anything where it may be found by, given to or brought to the attention of the person or any other person; and
 - acting in any other way that a reasonable person, would expect would cause the person to suffer fear, alarm or substantial distress.
8. The Bill will also provide a defence for the behaviour where it can be demonstrated that, in the particular circumstances, the behaviour was deemed to be reasonable.



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9. The Bill will also provide that all victims of stalking will have automatic eligibility for assistance (such as the use of live links or screens at court) with giving evidence in proceedings.
10. The provisions are described in greater detail in the attached Explanatory and Financial Memorandum (EFM) at Annex B. The draft Bill is also attached at Annex A.
11. I trust this is helpful to Members of the Committee.

Yours sincerely,

[Signed]
DALO