

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

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Question No. 42

Senator Evans asked the following question at the hearing on 24 May 2006:

How do the laws between the States in respect of Domestic Violence differ?

The answer to the honourable senator's question is as follows:

Domestic violence is dealt with under State and Territory law for which the Attorney-General's Department is not responsible.

From our research, we understand that in all jurisdictions domestic violence offences are dealt with under the equivalent of the Crimes Act¹ as crimes against the person, such as assault or murder. However, domestic violence restraining orders are dealt with in separate legislation in all jurisdictions, except in NSW, where it is contained in the Crimes Act itself. The relevant provisions and legislation in each State and Territory in relation to breaches of restraining orders are:

Jurisdiction	Legislation	Provision
ACT	<i>Domestic Violence and Protection Orders Act 2001</i>	34
NSW	<i>Crimes Act 1900</i>	562I
Qld	<i>Domestic and Family Violence Protection Act 1989</i>	80
NT	<i>Domestic Violence Act</i>	10
SA	<i>Domestic Violence Act 1994</i>	15
Vic	<i>Crimes (Family Violence) Act 1987</i>	22
WA	<i>Restraining Orders Act 1997</i>	61
Tas	<i>Family Violence Act 2004</i>	35

There are differences between the jurisdictions in the way Indigenous family relationships are treated. For example, in the *Domestic Violence Act* (NT) the definition of domestic relationship includes 'a relative according to Aboriginal tradition or contemporary social practice'. The other jurisdictions do not refer to Aboriginal tradition or practice specifically. However, the ACT and Qld definition of relative/family relationship is broad and includes any person who could reasonably be regarded as a relative; and the WA definition of related takes into consideration the cultural, social or religious backgrounds of the two persons.

¹ NSW, ACT and Vic have a Crimes Act; SA has a Criminal Law Consolidation Act; and Qld, Tas, WA and NT have a Criminal Code Act.