

# Family Proceedings (Dissolution for Family Violence) Amendment Bill

Member's Bill

## Explanatory note

### General policy statement

Everyone deserves to live a life free of violence and all people should have the right to feel safe in a relationship and to leave that relationship if they experience family violence. Addressing family violence is essential for improving the wellbeing of families and children. This Bill intends to reduce the harm that family violence causes in New Zealand by allowing a party to a marriage or civil union to apply for an order dissolving a marriage or civil union if they have been the victim of family violence inflicted by the other party in the relationship (as evidenced by a court's decision to register a protection order under the Family Violence Act 2018 or via the Sentencing Act 2002).

### Clause by clause analysis

*Clause 1* is the title clause.

*Clause 2* provides for a delayed commencement of the bill. The reason for the delay is to allow the courts to prepare for the new law and make any necessary changes to court administration and procedure.

*Clause 3* provides that the Bill amends the Family Proceedings Act 1980 (the **principal Act**).

*Clause 4* amends section 38, which relates to the power of a Registrar of the Family Court to make an order for dissolution of a marriage or civil union where the application for dissolution is uncontested. The amendment adds family violence as a ground for dissolution to be established by affidavit accompanying the application.

*Clause 5* amends section 39 to account for the exception to be set out in *new section 39A*.

*Clause 6* inserts *new section 39A*, which provides that, as an exception to section 39, an application for dissolution of a marriage or civil union can be made on the ground of family violence. *New section 39A* permits the dissolution without requiring that parties live apart for 2 years.

*Clause 7* amends section 174 of the Act which relates to appeals of decisions made under the Act to add a decision under *new section 39A* to the exception to the rule on stay of proceedings.

*Clause 8* amends section 175 of the Act which relates to appeals from decisions of the High Court made under the Act to include *new section 39A* in the list of sections under which a marriage or civil union may be dissolved.

*Angie Warren-Clark*

## **Family Proceedings (Dissolution for Family Violence) Amendment Bill**

Member's Bill

### **Contents**

	Page
1 Title	1
2 Commencement	1
3 Principal Act	1
4 Section 38 amended (Power to make order for dissolution)	2
5 Section 39 amended (Grounds for dissolution)	2
6 New section 39A inserted (Dissolution for family violence)	2
39A Dissolution for family violence	2
7 Section 174 amended (Appeals from decision of District Court and Family Court)	3
8 Section 175 amended (Appeals from decisions of High Court)	3

### **The Parliament of New Zealand enacts as follows:**

#### **1 Title**

This Act is the Family Proceedings (Dissolution for Family Violence) Amendment Act **2023**.

#### **2 Commencement**

5

This Act comes into force on the day that is 6 months after the date on which it receives the Royal assent.

#### **3 Principal Act**

This Act amends the Family Proceedings Act 1980.

**4 Section 38 amended (Power to make order for dissolution)**

In section 38(2)(d)(i), after “established under section 39(2)”, insert “or **section 39A(2)**”.

**5 Section 39 amended (Grounds for dissolution)**

In section 39(1), replace “An application” with “Subject to **section 39A**, an application”.

**6 New section 39A inserted (Dissolution for family violence)**

After section 39, insert:

**39A Dissolution for family violence**

(1) Despite section 39, an application for an order dissolving a marriage or civil union may be made on the ground that a party to the marriage or civil union has been the victim of family violence inflicted by the other party. 10

(2) The ground for the order is established in law if—

(a) a party to the marriage or civil union is a protected person under a protection order or under a registered foreign protection order; and 15

(b) the other party is the respondent.

(3) For the purposes of **subsection (2)**, it is sufficient evidence to provide a copy of—

(a) the court’s decision to make or register the protection order under the Family Violence Act 2018, or to make the order under the Sentencing Act 2002; or 20

(b) the order.

(4) Where the ground for the making of the order is established under **subsection (2)**, the court shall, subject to section 45, make an order dissolving the marriage or civil union. 25

(5) To avoid doubt, there is no requirement that the parties to the marriage or civil union live apart for 2 years for this ground to be established.

(6) In this section—

**protection order** has the meaning given in section 8 of the Family Violence Act 2018 and includes an order made under section 123B of the Sentencing Act 2002. 30

**family violence, protected person, protection order, registered foreign protection order, and respondent** have the meanings given in section 8 of the Family Violence Act 2018.

**7 Section 174 amended (Appeals from decision of District Court and Family Court)**

In section 174(9), replace “under section 34 or section 39(4)” with “under section 34, section 39(4), or **section 39A(4)**”.

**8 Section 175 amended (Appeals from decisions of High Court)**

5

In section 175(2), replace “under section 34 or section 39(4)” with “under section 34, section 39(4), or **section 39A(4)**”.