

Family violence intervention order applications

For respondents

What is family violence?

Family violence is behaviour from a person to their family members that includes being violent, abusive, controlling or causing fear. It can be physical, sexual, emotional, verbal, social or financial. It can also include damage to property. For children, it includes seeing, hearing or being exposed to this behaviour. The law says family violence is wrong and everyone has a right to feel safe.

Who is a family member?

A family member can be a husband, wife, girlfriend, boyfriend, parent, child, sibling, grandparent, an ex-partner or anyone you treat like a family member. For example, a carer, guardian or someone related to you in your culture. Family violence can happen in all relationships, including lesbian, gay, bisexual, trans and gender diverse, intersex, queer and questioning relationships.

What is an intervention order?

A family violence intervention order is a court order that protects a family member, children and property from violence. Intervention orders have rules called 'conditions' that you must follow. For example, the order may say that you cannot hurt or threaten your family members or damage property. If you do not follow the rules, the police can charge you with a crime.

If you break a condition, you can be charged.

Intervention order conditions cannot be broken by agreement. If you do not understand the conditions, talk to a lawyer.

Intervention orders made in Victoria are recognised everywhere else in Australia. If you or your family members move interstate, the order will still apply.

Who is who in an intervention order?

The person who asked for the order is 'the applicant'. They could be a police officer or a family member. The family member and any children are 'affected family members'.

You will be called the 'respondent'.

The person who you will listen to your case at court is 'the magistrate'.

This fact sheet will help you understand:

- family violence and family violence intervention orders
- how a lawyer can help you
- what might happen at court.



If there is anything you do not understand about your paperwork or your situation, speak with a lawyer.

Victoria Legal Aid can help you find a lawyer to help with your case. **See** 'More help and information' at the end of this fact sheet.

Why are the police involved?

If police get a report of family violence, they must check that everyone is safe. The police have a duty to protect people from family violence, especially children. If there is a risk, the police must act, even if your family member does not want them to. It is a police decision.

Do I need to go to court?

Going to court to talk to the magistrate is called a 'case' or 'hearing'. The magistrate will decide whether to make an intervention order. The court can get you an interpreter if you need one.

Speak to a lawyer as soon as you can about if you need to go to court. There are different ways that you can be a respondent. The police may have given you:

- a family violence safety notice
- a summons or bail undertaking
- an application. This is a statement of what the applicant said happened and the order they want
- an interim intervention order. This is a temporary intervention order.

Do I need to see a lawyer?

If you have an intervention order or family violence safety notice against you, a lawyer can help explain what the rules (conditions) are. A lawyer can also explain what your choices are at court. A lawyer can get you an interpreter, if you need one. You can usually get help from a free lawyer the first time you go to court. After that, you may need to get your own lawyer. If you don't know whether you need to get your own lawyer, call Victoria Legal Aid. **See** 'More help and information' at the end of this fact sheet.

What are my choices at court?

You can:

- agree to an intervention order. You do not have to agree to what is said about you in the application
- argue against (contest) the whole intervention order
- ask to change the rules (conditions) of the order
- offer an undertaking instead of an order. This is a promise to not use violence. Talk to a lawyer about when you can do this.

You can ask a lawyer about these choices. Talk to a lawyer even if you do not want to argue against the order. It is important to know what you are agreeing to. Your lawyer may be able to talk to the applicant or their lawyer for you.

What happens if I agree to an order?

You can agree to an intervention order being made, but not agree with what was said about you in the application. This is called 'consent without admissions'. The court can make an order without deciding if you did what was said in the application.

At some courts, the magistrate may also order you to have counselling. Ask the court or your lawyer whether you must go.

An intervention order does not give you a criminal record. But if you break the rules of the order you could pay a large fine, go to jail or get a criminal record.

An intervention order affects what you can do. But it does not affect all your rights. You can still ask for family law orders about children and property.

Because an intervention order does affect some of your rights, you should see a lawyer especially if:

- you have children. The order can have rules about how you see or care for them
- you disagree with any of the rules (conditions)
- you have any reason to own a gun or other weapon. For example, you need one for work. The order can ban you from having a gun for five years.

What if I'm under 18?

The court must make sure you have appropriate care, supervision and a place to live before making a rule (condition) that you cannot go into your home.

It is very important you speak to a lawyer if someone applies for an intervention order against you. You can ask to speak with a free lawyer when you go to court.

What if I do not agree with an order?

You or your lawyer will tell the magistrate you do not agree to an order. You will have to come back to court for a contested hearing.

Before the contested hearing, there will be a directions hearing. The directions hearing is where the court asks for more details about the application and what you say about it. You must go to court for this.

If there is a temporary (interim) order it will last until the next court date. It is a crime if you break this order. Police can charge you. Breaking a temporary order is as serious as breaking a final order. If you are found guilty, you could get a large fine, go to jail or get a criminal record.

What happens at a contested hearing?

The court will hear evidence from both sides before making a final decision. This includes listening to witnesses who saw or heard what happened. To make a family violence intervention order, the magistrate must decide that there was family violence by you towards your family member and the violence is likely to continue.

Your family member may tell their story in court.

You will not be able to ask your family member any questions. Only a lawyer can do this. You may also need a lawyer to tell your side of what happened, or to speak to witnesses.

If you do not have a lawyer already, the court can tell Victoria Legal Aid to get a lawyer for you. You may need to tell Victoria Legal Aid information about your finances. It is important that you tell the court and your lawyer your current address and phone number. You may not have to pay for a lawyer for the contested hearing.

Can an order be changed or cancelled?

Yes, but only by a magistrate. Your family member cannot end an order or change any of the rules (conditions). If you want to change or end your order, you must ask a magistrate first.

Ask a lawyer if you are not sure about anything. A lawyer can give you more information about your options and help you work out what you need to do.

More help and information

Victoria Legal Aid

For free information about the law and how we can help you:

- visit our website www.legalaid.vic.gov.au
- call Legal Help on 1300 792 387, Monday to Friday 8 am to 6 pm, excluding public holidays

Federation of Community Legal Centres

Call to find a community legal centre near you
Tel: (03) 9652 1500
www.fclc.org.au

Law Institute of Victoria

Referral to a private lawyer
Tel: (03) 9607 9550
www.liv.asn.au

No to Violence/Men's Referral Service

Tel: 1300 766 491
www.ntv.org.au



Translating and Interpreting Service
Tel: 131 450



National Relay Service
TTY users: call 133 677
Speak and Listen users: call 1300 555 727
Internet relay users: <https://nrschat.nrscall.gov.au>
SMS relay users: 0423 677 767

Do you need this fact sheet in a different format?

Please go to www.legalaid.vic.gov.au and search *Family violence intervention order applications: for respondents* for an accessible version of this fact sheet. You can also ring (03) 9269 0234 and ask for Publications. We can talk with you about what you need.