

# Family violence intervention order applications

## For affected family members

### 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 to protect you, your children and your property from violence. Intervention orders have rules called conditions. The person accused of violence must follow these rules. For example, the order may say they cannot hurt or threaten you or damage your property. If they do not follow these rules, the police can charge them with a crime. If they are found guilty, they could pay a large fine, go to jail or get a criminal record.

Intervention order conditions cannot be broken with your agreement. If the conditions in an intervention order do not work for you, talk to a lawyer. A lawyer can help you ask the court to change them.

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

### Who is who in an intervention order?

The person who asks for the intervention order is 'the applicant'. This could be you or a police officer if they apply on your behalf.

You and any children who saw, heard or were hurt by family violence are 'affected family members'.

The person accused of violence is 'the respondent'.

The person who will decide your case in 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 see if everybody is safe. The police have a duty to protect you, your children and your property. They will act if they believe you might be hurt from family violence. The police can do this even if you do not want them to.

The police can also give the respondent a family violence safety notice. This is like a temporary order which lasts until you go to court. If the respondent breaks any of the rules (conditions) of a family violence safety notice, you can call the police. The police can arrest the respondent.

### Do I need to go to court?

Going to court to talk to a magistrate is called a 'case' or 'hearing'.

At court you can say what you want to happen, even if the police made the application for you. The court will decide if you need an intervention order. The court can get you an interpreter, if you need one. You can get help from a free lawyer at court.

If you are worried about being safe at court, tell the court or a family violence service. They can help to make a plan for you to be safe at court. **See** 'More help and information' at the end of this fact sheet.

### Do I need to see a lawyer?

It is a good idea to speak to a lawyer because you have the right to have a say about the order and the rules (conditions).

The police or the respondent may ask for something at court you do not agree with. It is important that you understand what your options are. A lawyer can explain your options, help you decide what to do and talk for you in court if you want them to. A lawyer can get you an interpreter if you need one.

In court, the magistrate will ask if you had legal advice. You may have to get legal advice before the magistrate will hear your case.

## What should I tell my lawyer?

You should tell your lawyer:

- if you feel unsafe or afraid at court
- if you have children
- what you need to feel safe. For example, if you do not want the respondent to come to your home
- if you believe that the respondent has a gun or another weapon.

Your lawyer will tell the court this. If you do not have a lawyer, you should tell the court these things.

## What can the respondent do in court?

The respondent can:

- agree to an intervention order being made
- argue against (contest) the whole intervention order
- ask to change the rules (conditions) of the order
- offer an undertaking. This is a promise to not use violence. You do not have to agree to an undertaking if it does not make you feel safe.

You can ask your lawyer what these mean. Your lawyer may be able to talk to the respondent or their lawyer for you.

## What happens if the respondent agrees to an intervention order?

The respondent can agree to an intervention order being made, even if they do not agree with what was said about them in the application. If they do this, the magistrate will still make an order to protect you. Call the police if the respondent breaks the rules of the order.

If the respondent is under 18, the court must make sure they have a place to live before making a rule (condition) that they cannot go to their usual home.

## Does an intervention order change my parenting order?

It depends. If there is a risk of family violence towards your children, a magistrate may stop a parenting order. Speak to a lawyer if you have a parenting order.

## Does an intervention order affect Child Protection or my visa?

It depends. Speak to a lawyer as soon as you can.

## What if the respondent does not agree with an order?

If the respondent wants to argue against (contest) the order, there will be a contested hearing. This will not happen on the first date at court. Before the contested hearing, there will be a directions hearing. This is where the court asks for more details about the application. Ask your lawyer or the court staff if you need to come back on any other dates.

If there is a temporary order (interim order) this will last until the next court date. Breaking the rules (conditions) of a temporary order is as serious as breaking a final order. Call the police if the respondent breaks any of the rules.

## What happens at a contested hearing?

The magistrate hears evidence from both sides before making a final decision. This includes listening to witnesses who saw or heard what happened. If the magistrate thinks there was violence and the violence is likely to continue, they will make a family violence intervention order.

You may have to tell your story in court. This can be difficult. You can ask for legal help and other support.

The respondent cannot ask you questions. If they have a lawyer, their lawyer can ask you questions.

If you do not have a lawyer already, the magistrate can tell Victoria Legal Aid to pay for a lawyer for you. It is important that you tell the court or your lawyer your current address and phone number.

**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 Police

If you or your children are in danger and need urgent help call 000 and ask for the police

### Victoria Legal Aid

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

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

### Magistrates' Court of Victoria

Tel: (03) 9628 7777 (Melbourne) or find your local court online [www.mcv.vic.gov.au](http://www.mcv.vic.gov.au)

### Federation of Community Legal Centres

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

### Law Institute of Victoria

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

### Safe Steps

Family violence response centre for women and children  
Tel: 1800 015 188 (24 hours)  
[www.safesteps.org.au](http://www.safesteps.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](http://www.legalaid.vic.gov.au) and search *Family violence intervention order applications: for affected family members* 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.

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