

Safe at home

How to get a family violence intervention order

This booklet is about family violence intervention orders. It can help you or someone you know who has experienced family violence.



Do you need this booklet in a different format?

Visit our website (www.legalaid.vic.gov.au) and search for *Safe at home: how to get a family violence intervention order*. You can also phone (03) 9269 0234 and ask for Community Legal Education. We can talk with you about what you need.

Produced by Victoria Legal Aid

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

- visit our website (www.legalaid.vic.gov.au)
- use our Legal Help Chat on the website, Monday to Friday, 8 am to 6 pm, excluding public holidays
- phone Legal Help on 1300 792 387, Monday to Friday, 8 am to 6 pm, excluding public holidays.

For business queries phone (03) 9269 0234.

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Disclaimer: This publication is a general guide only. It is not legal advice. If you need to, please get legal advice about your situation.

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Victoria Legal Aid

We serve the Victorian community by providing information, legal advice and education with a focus on the prevention and early resolution of legal problems.

We prioritise more intensive legal services, such as legal advice and representation, to those who need it the most, using evidence to inform what we do. We also recognise the connections between legal and social issues in the way we do our work and advocate for change.

We work to address the barriers that prevent people from accessing the justice system, by participating in systemic reforms and strategic advocacy.

ABOUT THIS BOOKLET

There are things you can do to get protection from **family violence**.

A **family violence intervention order** is one option. An intervention order is a court order that can help protect you from a **family member** who has used family violence. Family violence is sometimes called domestic violence, domestic abuse or intimate partner violence.

Anyone can experience family violence. It happens across communities and in all kinds of relationships. Your experience might be different to someone else's.

Under family violence law, 'family member' has a special meaning. A family member can be someone you are related to or have had an intimate personal relationship with, whether short or long-term. They can also be someone you treat like a family member, for example, a carer or support worker.

This booklet is about family violence intervention orders. It explains what they are and how they work. It also explains what the law says about family violence. It can help you understand your options.

This booklet covers:

- how to apply for an intervention order
- how to get ready for a court hearing
- what happens at court.

This booklet does not cover intervention orders where there is no family-like relationship.

Getting more help

This booklet gives general information, not legal advice.

There are legal and family violence services that can support you. You can get free help. **Go to** 'More information and where to get help' on page 35.

Legal words

We have explained some words in 'What do these words mean?' on page 2. These words are also highlighted in **bold** the first time they appear in each section.

WHAT DO THESE WORDS MEAN?

affected family member – this is you, and other family members named in the application for an intervention order or family violence safety notice. If an intervention order is made to protect you, you are then called a protected person

applicant – the person asking for the order. This can be you or someone else, like a police officer or parent

application – the form asking the court to make an intervention order. It has information about you, your family member, your relationship, if you have any children, the family violence incident(s) and how you want to be protected

breach – when the respondent (person accused of family violence) does not follow the order or safety notice

conditions – the rules of the order or safety notice, which the respondent must follow

contravention – when the respondent does not follow the conditions; when they breach the order or safety notice

criminal record – a police record of the crimes a person has been found guilty of

duty lawyer – a lawyer from Victoria Legal Aid, a community legal centre or private practice who gives free legal help at court. They can explain your choices, give you information and refer you to other help

evidence – information used in court to help the magistrate make a decision

exclusion condition – a condition of an intervention order that stops the respondent from being at your home

family member – someone you have a family-like relationship with, including your partner, children, relatives, carer, support worker and anyone you treat as family. It includes someone you dated or had an intimate relationship with, even if it was short-term or there was no sexual relationship. It also includes anyone you used to have a family-like relationship with, such as an ex-partner

family violence – behaviour by your family member that includes being violent, abusive or causing you fear. It includes physical, sexual, emotional, verbal, social or financial abuse. It can also include damage to property or harassment. For children, it includes seeing, hearing and being exposed to the violence or its effects

family violence intervention order – a court order to protect you, your children and property that has rules about how the respondent can behave. For example, it might say that they are not to threaten you. They must follow the rules exactly. If they breach the order, it is serious and the police can charge them with a criminal offence

magistrate – the name for the judge in the Magistrates' Court

registrar – a person who works for the court

respondent – the person accused of family violence. They are called respondent because they are responding to the application

serve – delivery of a court document to someone

summons – a court document that tells a person they must go to court

warrant – a court document authorising the police to do something, like arrest a person and hold them in custody. The police may use this form to arrest the respondent



WHAT THE LAW SAYS ABOUT FAMILY VIOLENCE

What can I do if I feel unsafe?

Everyone should feel safe in their relationships.

Nobody has the right to hurt, threaten, harass or intimidate you. This includes people in your family, as well as people you treat like family or have had an intimate personal relationship with.

It does not matter where you were born, your age, disability, gender, sexuality, or what kind of relationship or family you are in.

If you feel unsafe, there are services that can help you. **Go to** 'Who can help with family violence?' on page 7 and 'More information and where to get help' on page 35.

You can also apply for a court order to protect you from **family violence**. In Victoria, this order is called a **family violence intervention order**.

If the police are involved they can ask for an order for you.

You can take action to stop family violence.

What is family violence?

Family violence is when a **family member** makes you feel unsafe and afraid. It can start with small things and get worse over time. It does not mean that bad things are happening all the time.

It may include:

- hitting you or pushing you around (physical abuse)
- threatening to hurt you, someone close to you, or your pet, or to damage your property
- forcing you to have sex or take part in sexual acts (sexual abuse)
- calling you names, putting you down or stopping you from seeing family or friends (emotional or psychological abuse)
- using technology in a controlling way to track where you are or what you do
- forcing you to marry someone or pay a dowry before or after marriage
- controlling your money (financial abuse).

Children are badly affected by family violence. The law says that a child also suffers family violence if they:

- hear or see family violence
- comfort or help a family member who has been hurt
- see damaged property in the family home
- are present when the police arrive after family violence has been reported.

Family violence may make you feel many different emotions, such as fear, shame, worry about the future or confusion. You may still love or care about the person who is doing these harmful things. You might feel a sense of duty towards them. Often these feelings make it hard to take action to stop violence, but the most important thing is to be safe.

'He has never hit me but gets really angry and says he's going to hurt me. It's really scary. I don't feel safe in my own home.'

You do not have to have a physical injury to have experienced family violence. No-one has the right to hurt or threaten you.

'My daughter has threatened me. She says I have to transfer the title of my house to her or she won't look after me anymore, but I love her and don't want to get her in trouble with the law.'

If you are an older person experiencing family violence from a family member, carer or support worker, you can contact the services at the end of this booklet. You can also apply for an intervention order.

Who is a family member?

Under family violence law, 'family member' has a special meaning. Family member can mean:

- someone you have an intimate personal relationship with, whether short or long-term – for example, your spouse, partner, boyfriend, girlfriend or someone you dated (intimate means close, not whether you have sex)
- your child or the child of a person you have a close personal relationship with
- a relative by birth, marriage or adoption – for example, your brother-in-law
- someone you treat like family – for example, a carer, support worker, guardian or someone related to you in your culture.

The law also protects you from anyone who was a family member in the past, such as an ex-partner.

In a family violence safety notice or intervention order, the family member accused of family violence is called the **respondent**. This is because they are responding to the **application**.

What is a family violence intervention order?

A family violence intervention order helps protect you from a person who has been accused of family violence. It is a court order made by a **magistrate** in the Magistrates' Court of Victoria. It can help you stay safe.

An order has **conditions** (rules) to stop the respondent behaving in a way that makes you unsafe or feel unsafe. An order can also protect your children, property or people supporting you. You have a say in what conditions will help you.

There are two types of family violence intervention orders:

- **Interim order** – a temporary order that lasts until a magistrate decides whether to make a final order. The respondent must follow the conditions of the interim order, like they would with a final order.
- **Final order** – an order made if a magistrate believes the respondent has used family violence and is likely to again. The order will last until the end date set by the magistrate.

'But I feel too ashamed to take out an intervention order. I don't want to embarrass my family.'

There is no shame in protecting yourself and your family. You have the right to do this. Remember it is violence that breaks up families, not your action to try to stop it.

What if the family member using violence is my child?

Some young people may use violence or abuse against their siblings, parents or other adults in the home. This can be difficult because you may be worried about consequences for them if you tell the police or ask for help. You may also worry that your parenting is responsible for the violence.

The most important thing is that you, your child and others are safe.

There are specialist services that work with young people who use violence and their families. You can contact The Orange Door. They will listen to your worries and work with you to find help and support for your family.

You could also talk to other counselling and support services, like Parentline or Safe Steps.

Go to 'More information and where to get help' on page 35.

WHO CAN HELP WITH FAMILY VIOLENCE?

Although it can be hard to talk about, if you feel unsafe there are many people and services that can help you. Having support makes a difference.

As well as professional services, consider talking to someone you trust, like a friend, relative, doctor or someone in your community. They can give you practical and emotional support. Together you could work out who you will call or where you will go if something goes wrong.

If you need medical treatment, visit a doctor or hospital.

Victoria Police

If you are in danger and need urgent help, phone 000 and ask for the police.

Tell the police if you need an interpreter or disability support so they can arrange these as quickly as possible. In an emergency, police may ask someone in your family or a neighbour to translate.

If it is not an emergency, you can call or go to your local police station.

If the police get a report of **family violence**, they must investigate. They will look at the risk to your safety and act to protect you. They can do this even if you do not want them to but must listen to what you want.

The police can:

- arrest or hold your **family member** in custody
- give them a family violence safety notice
- remove guns and other weapons.

If the police get involved and believe your safety is in danger, they may apply for an intervention order for you and handle the case at court.

The police are also responsible for giving the **respondent** court documents (such as the **application** and any orders) and explaining these are serious. This is called **serving** them.

Family violence safety notice

If the police get a report of family violence, they can use a safety notice to protect you. They will give a copy to you and the respondent. A safety notice has **conditions** about how the respondent can behave. For example, it might say they cannot come near you or threaten you. It might say they must leave your home immediately.

A safety notice can only be used when the person accused of family violence is 18 years or older.

A safety notice works like an intervention order. The respondent must follow the conditions and come to court on the date in the notice (which must be within 14 days of the safety notice being issued by police). If the respondent does not follow the conditions, they are breaking the law and can be arrested.

If the police have used a family violence safety notice, they will come to court to apply for an intervention order.

Family violence services

In Victoria and Australia, there are many family violence services that can help you. These are sometimes called domestic violence services. These services are confidential.

They can give you practical, emotional and financial support, and help plan for your safety. You can ask them questions about family violence, safety, intervention orders, going to court and other topics.

You can talk to them even if you are unsure whether your situation is family violence.

Their help is often available by phone, online chat or email. Some services have offices you can visit. Contact details for some of these services are listed under 'More information and where to get help' on page 35.

'I can't leave him. I don't have anywhere to go. I don't know anyone. He says he'll find me.'

Only you can make the decision to leave. If you have nowhere to stay, a family violence service may be able to help find a safe place for you and your children to live. This could be a shelter or refuge. Most shelters and refuges cannot be contacted directly, so the respondent will not be able to find you.

Legal help

Getting an intervention order is a legal process, so legal advice will help you understand your options. It is best to talk to a lawyer before you apply or go to court, if possible.

A lawyer can:

- explain the law and your options
- give you advice about applying for an intervention order
- help you prepare for the hearing
- represent (speak for) you at court
- help you understand what an order means
- support you to get help with other legal issues, like family law.

Victoria Legal Aid can help with free information and advice about family violence. You can phone us on 1300 792 387. You can also visit our website (www.legalaid.vic.gov.au):

- to message us using Legal Help Chat
- for information about the law, intervention orders and going to court
- for publications and videos.

We have an online tool called 'My safety tool' that can help you learn more about family violence and where to get help (www.legalaid.vic.gov.au/my-safety).

Community legal centres also give free legal help. There are many community legal centres across Victoria.

You could also pay for a private lawyer.

You may be able to speak with a **duty lawyer** at court. A duty lawyer is a lawyer from Victoria Legal Aid, a community legal centre or a private practitioner who gives people free legal help. Duty lawyers only help on the day at court. They cannot give ongoing support for your case.

If you want to meet with a duty lawyer, you can ask the **registrar** when you get to court. You can also ask Victoria Legal Aid or your local community legal centre whether a duty lawyer will be available on your hearing day.

Go to 'More information and where to get help' on page 35.

Court staff and services

Court staff include **magistrates**, who make decisions about intervention orders, registrars and other staff.

Some courts have specialist family violence workers called **applicant** practitioners. Applicant practitioners can talk with you about the court and intervention order process and help plan for your safety. They can also connect you with other services and programs.

The court can connect you with First Nations, LGBTIQ+ and other specialist services. These may be in person, online or over the phone.

Information and referral officers are available at some courts. They can help you understand the court process, legal system and what services might work best for you. They cannot give legal advice.

You can also contact Court Network. Court Network volunteers can tell you about how court works, give you non-legal information and other support.

Services are often busy helping lots of people, so it is best to ask before you go to court, to give them time to arrange support. You can also ask the registrar when you get to court whether any support services are available that day.

Go to 'More information and where to get help' on page 35.



HOW INTERVENTION ORDERS WORK

The court will make an intervention order if it decides that you need protection. The order has **conditions** that the **respondent** must follow.

If the order is followed and working, the court may not get involved again. The court will get involved again if someone applies to change, cancel or extend the order.

Go to 'Can the order be changed or cancelled?' on page 33.

The respondent will not get a **criminal record** if an order is made.

The police must investigate if the respondent:

- **breaches** the order
- acts violently towards you or damages your property.

If they do not follow the conditions, the respondent can get into serious trouble and be charged. Breaching an intervention order is a crime. If found guilty they could get a criminal record.

What does an intervention order say?

The order will list the conditions that the respondent must follow.

Not every order has the same conditions. You can ask for certain conditions to help you feel safe. **Go to** 'What conditions can I ask for in the application?' on page 18.

The respondent can also ask the **magistrate** to change or not include certain conditions.

The magistrate will listen to both sides but ultimately decides what conditions to include on the order. In choosing the conditions, the magistrate will do what they think is safest for you and your children. **Go to** 'What conditions can the magistrate put in the order?' on page 31.

An intervention order can say that the respondent must not:

- hurt or threaten to hurt you
- behave in an offensive manner towards you
- harass, stalk or intimidate you
- come near you, your home, school or where you work
- contact you through phone, email, social media or other ways
- post about you on the internet
- damage or threaten to damage your home or things
- get someone else to hurt or threaten you or do any of the things in the order
- have a gun or other weapons.

The order can say whether the respondent can have contact with your children, and how that will work. The order can also protect your children if they are at risk of harm. **Go to** 'How can an order protect children?' on page 13.

A condition might also remove the respondent from your home. This is called an **exclusion condition**.

The order may include specific circumstances where the respondent is allowed to do something the conditions say they cannot. This is called an exception. For example, they will likely be allowed to communicate with you through a lawyer. Or collect their things from the family home if a police officer or someone else you approve is with them.

The magistrate can make an exception that allows parents to communicate in writing (emails or text messages) for the purpose of child arrangements only. The magistrate can also change or suspend a parenting order.

The intervention order will last until the end date set by the magistrate. If you still feel unsafe when the order is due to end, you can apply to extend it. **Go to** 'What do I do when the order is due to finish?' on page 34.

Can an order be made if I do not want it?

Even if you do not want an order, the police may apply for one if they think you or your children are at risk of **family violence**. The respondent will be told that this is a police decision.

The magistrate will consider what you want but can still make an intervention order even if you disagree. If this happens, a final order can only have limited conditions. These include stopping the respondent from:

- using family violence
- damaging your property
- getting someone else to use family violence or damage your property.

There are things you can do to have a say. You can tell the police and magistrate that you do not want the order or certain conditions. **Go to** 'If the police applied for the order' on page 23.

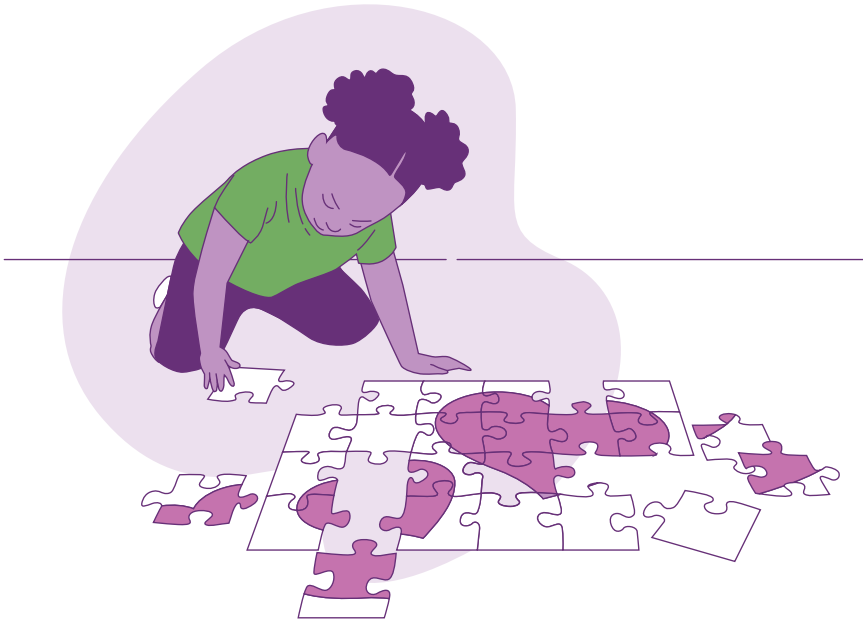
How can an order protect children?

The court can make intervention orders to protect children. You can ask for your order to protect your children or apply for a separate order.

If you have not included your children in your **application**, the magistrate may still ask if your children have heard, seen or been exposed to family violence. If they have, the magistrate may decide to include them on your order or make a separate order, even if you do not agree. It is the magistrate's job to make sure children are safe.

The court will try to make sure your children are not involved in the hearings.

'I still love him, but I want what's best for my daughter, so I had to do something.'



STEPS TO GET A FAMILY VIOLENCE INTERVENTION ORDER

Step 1: You decide to apply for an order. You can find the **application** form on the Magistrates' Court website (www.mcv.vic.gov.au). You can also apply in person at any Magistrates' Court in Victoria. Visit or contact a Magistrates' Court for more information.

Application

Step 2: Fill in an application form. You can do this online or contact your local court to apply. Once the court receives your application, the **registrar** will contact you to explain next steps.

Step 3: You have an appointment with the registrar. This may be on the phone if you submitted your application online, or you may need to go to your local court. In your interview, tell the registrar as much as you can. The registrar can tell you about legal and support services that can help you. Get legal advice as soon as possible.

If the **respondent** has hurt you or damaged your property, the registrar can make a **warrant** to arrest them.

If you do not feel safe, you can ask for protection straight away through an interim order. Tell the registrar if you want an interim order. You will need to go to a court hearing to explain to a **magistrate** why you need immediate protection.

Step 4: The registrar gives you a copy of your court documents. This might be an application and **summons**, application and warrant, or an interim order if the magistrate has made one. Check all details are correct. The documents will tell you the date of your next court hearing. On these documents, you are called the **affected family member** and the person you are applying for protection from is called the respondent.

The respondent is served

Step 5: The registrar sends the forms to the police. The police will **serve** the respondent with the application, any orders and any other court forms. They will also arrest them if there is a warrant. If there is an interim order, the police will let you know when they have served it.

Court hearing

Step 6: It is important to take part in the hearing. The court will support you to take part in the way that is safest and best for you. You can attend the hearing in person at court or online from your home or another location. You must tell the court how you want to take part in the hearing.

What happens next depends on whether the respondent agrees to the order.

Note: This is a general guide. It might be slightly different for you, as each situation is different.

APPLYING FOR A FAMILY VIOLENCE INTERVENTION ORDER

You can decide to apply for an order. Or the police may apply if they are called to a report of **family violence**. Whoever applies, there are actions for you to take.

Where can I apply for an order?

You can apply through the Magistrates' Court of Victoria if you are over 18. Go to the Magistrates' Court website (www.mcv.vic.gov.au) and search 'apply for a **family violence intervention order**' to apply online.

If you want to apply in person, contact your local Magistrates' Court to make an appointment. You can find contact details for your local court on the Magistrates' Court website.

If you are under 18 you can apply at any Children's Court in Victoria (www.childrenscourt.vic.gov.au).

What should I think about before applying?

Asking for an order means going through a legal process and going to court. It is best to get legal advice before applying. There are also many services that can give you non-legal support before, during and after court. **Go to** 'Who can help with family violence?' on page 7.

If you are thinking about an intervention order, gather information such as:

- keeping a diary
- keeping text, social media and voicemail messages, emails and letters
- taking photos of injuries and property damage.

This can help you remember what happened when you tell the court. You can also use it as **evidence**.

What do I need to have with me when I apply?

When you apply, it helps to have evidence to show why you need an intervention order. Evidence is information used in court to help the **magistrate** make a decision.

Telling the court what happened is the most important part of your evidence. You can apply for an order without any other evidence or witnesses. It does not matter if no-one saw the violence towards you. The magistrate will listen to what you say happened.

'He was always very careful to never leave a mark on me and always made sure no-one saw what happened. He said without evidence I couldn't do anything.'

Having other types of evidence can support your case, but you can get an intervention order just by telling the court what happened to you.

Evidence may include:

- what you say
- photos of injuries or damage to property
- police statements
- court orders
- doctors' reports
- a diary
- text, social media or voicemail messages, emails or letters.

Keep gathering evidence even after an order is made. This will help you if the order is **breached**.

Now is a good time to think about whether you have any witnesses who can support your case. What they say is also evidence. You may have witnesses who saw or heard the family violence. The police may have been involved. You may have seen a doctor who can tell the court about your injuries. If you spoke with a psychologist about the family violence, they may also be able to tell the court this.

You do not need to bring any witnesses the first time you go to court, or to your first hearing.

How do I apply?

To apply for an order:

1. Fill in an **application** form online or at court.
2. Have an interview with a **registrar**. A registrar is a person who works for the court and helps you apply for an intervention order.
3. Get a hearing date. A magistrate might also make an interim order.

If you apply online, the registrar will contact you to explain next steps.

If applying at court, go to the counter and say you want to apply for a family violence intervention order. You will need to fill in an application form. This form helps the registrar prepare your application. Note that anytime you go to court, you will need to go through a security screening. **Go to** 'What happens when I arrive at court?' on page 26.

If you are not comfortable speaking, writing or reading English, or if you have a hearing or speech impairment, tell the court. They can get an interpreter for you.

Court staff are busy, but they understand the court process and will try to help you as much as they can. Tell them if you are worried about your safety while you are at court, now or for next time.

It might be stressful and take a while, so you may want to bring a friend, relative, support worker or someone else who can support you. They can also help you talk about what happened.

What conditions can I ask for in the application?

The application form will ask you what **conditions** you want in the order. There are examples of common conditions on the form to help you, but you can ask for any conditions that help you feel safe, based on your situation.

The standard conditions include:

- stopping the **respondent** from using family violence against you
- making the respondent move out of your home (an **exclusion condition**)
- being able to keep your personal property or get it back from the respondent
- stopping the respondent phoning, texting, emailing or contacting you in any way
- stopping the respondent publishing anything about you on the internet or social media
- stopping the respondent coming near you, where you live or work or any other place you tell the court
- stopping the respondent having a gun or other weapon.

You can ask for a condition to stop the respondent getting someone else to harass you or breach the order for them.

If you have children with the respondent, the order does not stop them having contact, unless the children are at risk of harm. Make sure the conditions are right for you and your children.

What will the court ask me?

When you meet with the registrar, tell them about what happened, including dates, times and places. It helps to give as much detail as you can. If you are filling in a paper form and run out of space, you can add more pages.

Start with the most recent event. Explain why you are afraid it might happen again. Tell the registrar if the respondent has used or threatened to use a gun or other weapon.

The registrar will ask you about:

- your relationship with the respondent
- whether you have children with the respondent, and details about them
- what happened, including dates, times and places
- how the family violence has affected you
- why you are afraid it will happen again
- whether the police were involved and what they did
- previous court orders, such as parenting or intervention orders, and if you want them changed
- how to contact the respondent, including home and work addresses
- whether the respondent has a gun and permit and where they keep the gun.

The registrar may ask personal questions about what happened to you. It may be upsetting remembering the details. ‘More information and where to get help’ on page 35 has information about counselling and other services that can support you. Help is available.

Can I get an order straight away?

You might be able to get a temporary order, called an interim order. This is to help you get protection until the court decides whether to make a final order. Once the respondent has been **served** with an interim order, they must follow its conditions. If they do not, and they breach the order, the police can take action.

If you want an interim order, tell the registrar that you need immediate protection and what you need to feel safe. Sometimes, in urgent cases, the magistrate will look at your paperwork on the same day and make an interim order. They will do this if they believe you need protection straight away.

Either way, you will need to come back on another day so the court can decide whether to make a final order.

What happens after the interview?

After the interview, the registrar types up your application. Check the details are correct and the conditions are what you want. Once you agree with the application, the registrar will ask you to sign it to confirm that the contents are true and correct.

The registrar will give you a copy of your court documents. This might be an application and **summons**, application and **warrant**, or an interim order if the magistrate has made one. The documents will have the date of your next hearing. Check all details are correct.

If you do not understand something, ask the registrar to explain. It is important to understand how the court documents work to protect you.



How does the respondent find out about the order?

The registrar will send a copy of the application, summons and any other court documents to the police. The police will find the respondent and serve the documents. If there is an arrest warrant, the police will arrest them.

If the respondent or someone else tries to scare you out of going to court or withdrawing your application, tell the police immediately.



GOING TO THE COURT HEARING

What is a hearing?

A hearing is when a **magistrate** listens to the **application** for a **family violence intervention order**. There are different types of hearings and you may only have one, or you may have a few. Every case is different.

The first 'mention hearing' is usually several weeks after the application form is filled in. It may be sooner if the **respondent** has been arrested.

Do I have to go to the hearing?

It is important to take part in the hearing, whether in person or online, so that you can have a say. If you do not go, the magistrate might still make an intervention order or dismiss the application.

Can I change the hearing date?

To ask about changing the hearing date, contact the court as soon as you can. Changing the date might be possible, but can be hard to do.

What if I do not feel safe going to the hearing?

'I was too scared to face him at court. I wasn't sure what he'd do.'

If you do not feel safe going to court, tell the **registrar** as soon as possible so they can organise:

- for you to attend the hearing online
- court security or police to keep an eye on you
- a separate area for you to wait in
- help from a support service.

You might be able to attend the hearing online without going to the court building. If a remote hearing is possible, the court may be able to arrange a secure location and a **family violence** worker to support you on the day. You might also be able to attend online from your home.

Some courts can put up screens in the courtroom so you do not have to see or be seen by the respondent.

You could also ask a friend, relative or support worker to travel with you to and from court and stay with you at court. Note that the magistrate might ask your support person to wait outside the courtroom during the hearing. For example, if they are under 18 years old.

How can I prepare for the hearing?

Get legal advice

It is important to talk to a lawyer before the hearing. If you or the respondent has not had independent legal advice, the hearing may be delayed until this happens.

Legal advice will help you prepare for the hearing, especially if you:

- are unsure how an intervention order can protect you
- have children who may be affected by the order
- are on a visa (are not an Australian permanent resident or citizen)
- already have a family court or children's court order
- disagree with the police making the application.

If the police applied for the order

The police **applicant's** name will be on the application you received. It is a good idea to talk to the police before the hearing to:

- understand what will happen
- understand what the police want
- tell them what you want to happen and what **conditions** you want the order to have.

If you do not agree with the order being made or with something the police want, you should get advice from a lawyer. Even though the police and magistrate can make an order without your consent, it is important that you have a say.

Tell the court about yourself and what you need for the hearing

You should fill in a *Pre-court information form* as soon as possible. Visit the Magistrates' Court website (www.mcv.vic.gov.au) and search 'pre-court information form – applicant'. The form helps the court understand how to safely contact you and what support you need. You can also phone or email the court.

Before your hearing, you can ask the court about:

- getting an interpreter
- accessibility, adjustments and support you need at court
- support workers and services
- your safety at court, including when arriving and leaving
- any questions you have about court.



Plan to be at court for the whole day

Even if your documents say to arrive in the morning, your hearing might be much later. Below are some things you may want to consider.

If you have children under 18, try to arrange care for them so they do not have to come to court

Children may not be allowed in the courtroom during the hearing, to protect them from hearing about violence. If your children are at childcare or school, consider asking someone to pick them up and stay with them until you get home. If you cannot arrange care for your children on the hearing day, contact the court to discuss your options.

Wear clothes that are comfortable and neat

Sometimes emotions, like stress, can make you feel extra hot or cold, so consider bringing layers. You can wear culturally significant clothing, such as a headscarf.

Plan how you will get to and from court

You might ask someone to drive or travel with you on public transport. Consider where you will park, and whether you may need to pay for this. If taking public transport, work out the route and times. Allow extra time so you do not worry about being late.

Take the day off work if you can

It is common to have to spend the whole day at court.

Employees in Australia who are experiencing family violence can get paid family and domestic violence leave. This includes full-time, part-time and casual employees. Visit the Fair Work Ombudsman website (www.fairwork.gov.au) and search 'family violence leave' for more information.

Taking care of yourself before, during and after court

Going to court can bring up a lot of emotions. If you find it very difficult or tiring, know that this is common and you are not alone.

It is a good idea to arrange support before the hearing day. You could talk to a friend, relative or support service about what you might find helpful. They could come to court with you to offer practical and emotional support, and help you understand what happens. Consider asking a friend to spend time with you in the evening after the hearing. They may also help you feel safer.

What should I bring to court?

Remember that you might need to be at court all day. If you can, it is a good idea to bring:

- any paperwork you have about your case – paper or on your phone
- your phone, charger and a power bank – it may be difficult to find a place to charge your phone at court
- snacks and water – you might not wish to leave the waiting area when waiting for your case to be called, so may want to bring some food and drinks
- any medication you need to take during the day
- things to help you feel comfortable and pass the time – for example, photos, magazines or crossword puzzles.

Courts usually close for an hour at lunchtime. This is a good opportunity to get some fresh air.

The court is likely to be busy with lots of people waiting for their hearing. Being as prepared as possible may help you feel more comfortable.

What time should I get to court?

Before the hearing date, contact the court to check what time you need to be there. It is usually best to arrive 30 minutes before the court's first hearing of the day. If you have made special safety arrangements with the court, arrive when they have told you to.

What happens when I arrive at court?

Some courts have separate entrances and waiting areas for **affected family members** and respondents. You can contact the court before you go to ask.

When you get to court, you will go through a security screening. This is to stop people bringing items that are not allowed, like drugs or anything that could be used as a weapon. Make sure you do not bring anything sharp, such as a pocketknife. It is also best not to bring glass bottles or containers.

You might need to go through a metal detector. Security staff might use a wand to scan your body.

After security, go to the family violence counter and tell the registrar you have arrived. Talk to the registrar about:

- any safety arrangements you have made with the court, or if you do not feel safe
- if you have arranged to meet a support worker, interpreter or **duty lawyer** – the registrar may be able to help you find them
- whether you can meet with a duty lawyer or support worker, if you have not already arranged this
- which courtroom your hearing will be in.

You can wait in the waiting area or courtroom. Do not go far away. You need to be able to hear your name being called when the magistrate is ready for you. If you are worried you will not hear your name, tell the registrar.

Do I have to talk to the respondent or their lawyer?

Even though the respondent has the right to argue against the order in court, they do not have the right to hassle you. They are not allowed to try to pressure or scare you into stopping or changing the order.

Tell the registrar, court security or the police if the respondent or someone else hassles or approaches you.

If the respondent has a lawyer, their lawyer may want to talk to you or your lawyer before you go into the courtroom. They might be able to tell you whether the respondent is agreeing to the order.



DURING THE HEARING

Because everyone's situation is different, different things can happen during a hearing.

What happens in the courtroom?

When your name is called, go into the courtroom. Go behind the table at the front of the room, facing the **magistrate**. The magistrate or clerk (the person who helps the magistrate) will tell you what to do. If your lawyer is with you, they can tell you what to do.

If you can, you must:

- bow to the magistrate when you (or they) enter and leave the courtroom
- call the magistrate 'Your Honour' when you speak to them
- stand when the magistrate speaks to you and when you speak to them
- speak clearly and answer all questions the magistrate asks you.

If you are attending online, keep your microphone muted and video off, except when the magistrate is dealing with your case. It is important to behave respectfully, like you would if you were in the courtroom.

Try to stay calm even if the other person behaves badly.

What happens next may depend on what the **respondent** decides to do. They can:

- agree to an intervention order being made
- ask for an undertaking instead of an order
- argue against an order being made (contest it)
- ignore the **summons** or bail and not go to court.

The magistrate will have the **application**, but they may still ask you to tell them in your own words why you need an order. You may have to go into the witness box and swear an oath (or make an affirmation) promising to tell the truth.

Say why you are afraid the respondent will continue to be a threat to you. You can give the court any written **evidence** you have. For example, a doctor's report.

If you already have an interim order, the magistrate might just ask if anything has changed since the interim order was made.

If the police made the application, the magistrate will ask them questions.

What if the respondent does not come to court?

If the respondent does not go to the hearing, the magistrate can still make an order.

What if the respondent agrees to the order?

If the respondent comes to court the magistrate will ask if they agree to the intervention order being made. They can agree to:

- everything in the application
- follow the **conditions**, but not agree with what was said about them in the application (this is called ‘consenting without admissions’)
- an order being made, but ask the magistrate to change the conditions so they are not at risk of **breaching** the order when trying to follow them.

The magistrate will ask you what you think about any changes before they make a final decision.

What is an undertaking?

An undertaking is a written promise that the respondent makes to you and the court that they will follow certain conditions. The respondent may ask whether you would agree. You do not have to. It is your choice.

Get legal advice before you agree. An undertaking does not offer you as much protection as an intervention order can.

If you both agree to an undertaking, and the court allows it, the court marks the application as withdrawn, which means stopped.

If the respondent breaches the conditions on the undertaking, you or the police can apply again for an intervention order.

Unlike breaching an order, breaching an undertaking is not a crime. This means the police might not get involved if it is breached.

What if the respondent contests the order?

The respondent has a right to argue against an order being made. If this happens, the magistrate can only make a final order after hearing evidence. The magistrate will not hear the respondent’s whole case at the first or second hearing.

The first hearing that both you and the respondent go to is called a mention hearing. You might have more than one mention hearing.

If an agreement is not reached at a mention hearing, you might have to go to a directions hearing. The magistrate uses a directions hearing to work out what is needed for a final hearing. A final hearing is also called a contested hearing.

CONTESTED HEARING

A contested hearing is when the **magistrate** hears all the **evidence** from both sides, including witnesses. The police might also give evidence.

A magistrate might not set a date for a contested hearing until you and the **respondent**:

- have had a chance to get a lawyer
- are ready for the contested hearing
- agree to the date of the contested hearing.

At the contested hearing the magistrate will listen to you first, then the respondent.

How do I prepare for a contested hearing?

Usually, you need to prepare to tell the court what happened to you. If possible, you may need to organise evidence, including witnesses, to support what you say.

If you have not spoken to a lawyer yet, you need to now. Ask them what you need to prepare for the contested hearing.

You and the respondent can each find your own lawyer. If you do not have one, the court may order Victoria Legal Aid to arrange a lawyer for you for this hearing. This is only for the part of the hearing called cross-examination, explained below. This might mean having to fill in a Victoria Legal Aid form.

Can the respondent ask me questions in court?

If the respondent has a lawyer, their lawyer can ask you questions in court. If you have a lawyer, they can question the respondent for you. This is called cross-examination. Your lawyer can explain how this will work and can 'object' (try to stop) any inappropriate questions.

You might be able to give evidence online by video or in other ways to help you feel safer.

If the respondent does not have a lawyer and has refused one organised by Victoria Legal Aid, they are not usually able to question you. They also usually will not be able to ask your child or any other protected person questions. The respondent may not be able to tell their story.

You can agree to the respondent asking you questions directly. However, the magistrate may not let them do this.

THE COURT MAKES AN INTERVENTION ORDER

When can the magistrate make an order?

The **magistrate** can make an order if both you and the **respondent** agree to it. This could happen at the first mention hearing, or any other hearing.

If the respondent does not agree, the magistrate can only make an order if they have heard **evidence** and believe:

- it is likely that there has been **family violence** by the respondent towards you, and
- it is likely to continue.

The magistrate can make an order if you disagree, but there are limits on the **conditions** the order can include. **Go to** 'Can an order be made if I do not want it?' on page 12.

What conditions can the magistrate put in the order?

The magistrate can include conditions that were in the **application**. They can also include other conditions they think will keep you or your children safe, even about things that were not in the application.

To decide what conditions are going to give the most protection, the magistrate might ask you many questions. They will want to be clear on details about:

- any children you have
- your living arrangements.

If you have children, the magistrate may allow the respondent to continue to spend time with them, if it can be done safely. If it cannot be done safely, the order will include conditions to stop the respondent having contact or spending time with your children. Because these arrangements can affect family law court orders, get legal advice before agreeing to these types of conditions.

The magistrate must decide if it is safe for the respondent to stay in the same home as you. The court could make an **exclusion condition**. This means the respondent cannot live, visit or go near where you live.

If the respondent is under 18 and the court is considering an exclusion condition, the magistrate must think about:

- where the respondent will live
- what other support they will get.

What should I do if an intervention order is made?

When the magistrate makes a decision, make sure you understand what it means. Ask the magistrate, **registrar** or your lawyer to explain anything you do not understand. Read all the paperwork you are given. If you have difficulty reading, ask someone to help you.

Be clear about what the conditions in the order mean. Make sure you know what you and the respondent can and cannot do.

What if I disagree with the decision?

If you or the respondent are unhappy with the magistrate's decision or with the conditions in the order, either of you might be able to:

- appeal to the County Court
- apply to change the order – **go to** 'Can the order be changed or cancelled?' on page 33.

An appeal must be lodged within 30 days of the magistrate's decision. You will need to show that the magistrate made a mistake when deciding your case.

Contact the court registrar for more information. Get legal advice before you apply to change, cancel or appeal the order.

LIVING WITH AN INTERVENTION ORDER

Do I need to keep it with me?

It is a good idea to keep a copy of the order with you – either paper or on your phone. Keep a copy in the places where you regularly go, such as work. If you have children, give a copy to their kindergarten, childcare or school.

What if the respondent disobeys the order?

If someone does not follow the **conditions** of an interim or intervention order it is called a **contravention** or **breach**. Breaching an intervention order is a crime.

The **respondent** must follow the conditions, even if you tell them it is okay not to.

‘A piece of paper is not going to stop him. He won’t listen to what the court says. Once other people know he’ll just get more angry.’

Breaching a court order is serious. Keep a diary about what happens and gather **evidence**. Call or tell the police every time the order is breached. The police must investigate. The police will take a statement from you. They will then interview the respondent and any witnesses.

If the police charge the respondent with breaching the order or safety notice, they must go to court. If the respondent is found guilty they could get a large fine or go to prison.

Can the order be changed or cancelled?

Intervention orders can be changed or cancelled, but only a **magistrate** can make these decisions.

If you want to apply to vary (change) or cancel the order, contact the **registrar**. The registrar will help fill in the forms and tell the respondent. You will then have to go back to court. Get legal advice before you do this.

The magistrate must ask if any children named in the order still need protection. The magistrate may not agree to cancel an order if there are children involved.

Other people named on the order can also apply to change it. A respondent must get the court’s permission to do this. You will be told if the respondent applies to change the order.

What if I want to have contact with the respondent?

If you have an order that does not allow contact between you and the respondent, you must get the order changed before you can have contact. The respondent is not allowed to breach the order, even if you say it is okay.

If you have an order that allows contact between you, you can keep the order. If the respondent does not follow the conditions, tell the police immediately.

What do I do when the order is due to finish?

If you still do not feel safe when the order is due to end, you can apply to extend it. Contact the registrar. You need to apply for an extension before the order finishes.

No-one will remind you that the order is going to end soon. It is up to you to check this.

Can I move interstate or overseas?

Yes, where you live is your decision. However, if you have children and plan to take them with you, you need to get legal advice first.

If you are thinking about moving overseas and want to know if your order will protect you, get legal advice.

Your intervention order will continue to work wherever you are in Australia. The police in Australia must enforce the order. The respondent can be charged if they breach the order.

It is best to keep a copy of the order with you.

For the court, making the order might be the final step. For you, it might be the start of a different life. Take control by knowing how the order can work for you.

MORE INFORMATION AND WHERE TO GET HELP

You can always phone 000 and ask for the police.

Legal services

Victoria Legal Aid

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

- visit our website (www.legalaid.vic.gov.au)
- use our Legal Help Chat on the website, Monday to Friday, 8 am to 6 pm, excluding public holidays
- phone Legal Help on 1300 792 387 Monday to Friday, 8 am to 6 pm, excluding public holidays.

Do you need help phoning us?



Translating and Interpreting Service

Phone: 131 450

www.tisnational.gov.au



National Relay Service

TTY: phone 133 677

Speak and Listen: phone 1300 555 727

Internet Relay users: visit the National Relay Service

(<https://nrschat.nrsconnect.gov.au/nrs/internetrelay>)

SMS relay: text 0423 677 767

Video Relay: use Skype or the National Relay Service app

Local offices

We have offices all over Victoria. All offices are accessible to people with disability.

www.legalaid.vic.gov.au/our-offices

Djirra

Legal support for people experiencing family violence who are Aboriginal or Torres Strait Islander. Or a parent or carer of an Aboriginal or Torres Strait Islander child.

Phone: 1800 105 303

www.djirra.org.au

Federation of Community Legal Centres

Community legal centres can give free legal information and advice. Use the website to find your local community legal centre.

www.fclc.org.au

Law Institute of Victoria

Referral to a private lawyer.

Phone: (03) 9607 9550

www.liv.asn.au/referral

Tip: the Victorian Legal Services Board + Commissioner has made a short video and easy English fact sheet listing six questions to ask about legal costs before hiring a private lawyer. Visit their website (www.lsb.vic.gov.au) and search 'Six questions to ask about legal costs'.

Q+Law

Legal services for Victorian LGBTIQ+ communities.

Phone: (03) 9968 1002

Email: qlawadmin@fls.org.au

Seniors Rights Victoria

Services for older people experiencing family violence or elder abuse.

Phone: 1300 368 821

www.seniorsrights.org.au

Victims Legal Service Helpline

Legal advice and support for people who have suffered injury or loss because of a crime and need help getting financial help or compensation.

Phone: 1800 531 566

Victorian Aboriginal Legal Service

Legal services and support for Aboriginal and Torres Strait Islander peoples.

Phone: 1800 064 865

www.vals.org.au

Women's Legal Service Victoria

Legal advice and support for women experiencing family violence, separation or divorce.

Phone: 1800 133 302

www.womenslegal.org.au

Court

Magistrates' Court of Victoria

Where family violence intervention orders are made. They can answer questions about court and how to apply for an intervention order. Use their website to find your local court.

www.mcv.vic.gov.au

Pre-court information form: www.mcv.vic.gov.au/pre-court-information-form-applicant-and-affected-family-member

Other support services

1800RESPECT

Family violence and sexual assault counselling service. Available 24 hours a day, seven days a week.

Phone: 1800 737 732

www.1800respect.org.au

Court Network

Information and support for people going to court.

Phone: 1800 571 239

www.courtnetwork.com.au

inTouch Multicultural Centre Against Family Violence

Family violence support for victim survivors from migrant and refugee backgrounds.

Phone: 1800 755 988

www.intouch.org.au

Kids Helpline

Phone and online counselling and support for young people aged five to 25. Available 24 hours, seven days.

Phone: 1800 55 1800

www.kidshelpline.com.au

Lifeline

Crisis support and suicide prevention services. Available 24 hours, seven days.

Phone: 13 11 14

www.lifeline.org.au

MensLine Australia

Phone and online counselling and support for men. Available 24 hours, seven days.

Phone: 1300 78 99 78

www.mensline.org.au

No to Violence Men's Referral Service

Phone and online counselling, information and referrals. For men and those concerned about their behaviour or the safety of their family members.

Phone: 1300 766 491

www.ntv.org.au

Parentline

Counselling and support on parenting issues for parents and carers of children from birth to 18 years old.

Phone: 13 22 89

<https://services.dffh.vic.gov.au/parentline>

Rainbow Door, Switchboard Victoria

Information, support and referral for LGBTIQA+ Victorians, their friends and family.

Phone: 1800 729 367

www.rainbowdoor.org.au

Safe Steps Family Violence Response Centre

Support for people experiencing or afraid of family violence. Can help find crisis accommodation (a shelter) if you need to leave your home immediately.

Available 24 hours, seven days.

Phone: 1800 015 188

Email: safesteps@safesteps.org.au

www.safesteps.org.au

The Orange Door

Help for people experiencing family violence or who have experienced it in the past.

People who have used family violence can also get help. Visit their website to find your local office.

www.orangedoor.vic.gov.au

Victims of Crime Helpline

Information and support for people affected by crime, including family violence.

Phone: 1800 819 817

www.victimsofcrime.vic.gov.au

WIRE

Support, referrals and information on any issue for women, non-binary and gender diverse people in Victoria.

Phone: 1300 134 130

www.wire.org.au

Useful Victoria Legal Aid resources

To order publications

We have free publications about the law. Some are available in multiple languages.

To order or download, visit 'Publications' on our website

(www.legalaid.vic.gov.au/publications).

Phone (03) 9269 0234 and ask for Community Legal Education to find out more.

Our public law library

Open Monday to Friday, 9 am to 5 pm, excluding public holidays.

570 Bourke Street

Melbourne VIC 3000

Phone: (03) 9269 0232

Safe at home

Victoria Legal Aid

For free information about the law and how we can help you, please visit our website (www.legalaid.vic.gov.au). For more information or advice, call Legal Help on 1300 792 387 Monday to Friday 8 am to 6 pm.

Offices

Melbourne

Suburban offices

Broadmeadows

Dandenong

Frankston

Ringwood

Sunshine

Regional offices

Bairnsdale

Ballarat

Bendigo

Geelong

Horsham

Mildura

Morwell

Shepparton

Warrnambool



Publication orders

For more information on publications:

www.legalaid.vic.gov.au/publications

Phone: (03) 9269 0234

Email: cle@vla.vic.gov.au

