
Family Violence Orders

What is family violence?

In Victoria, family violence includes behavior by a person towards a family member that is physically or sexually abusive, emotionally or psychologically abusive, economically abusive, threatening, coercive or behavior that in any other way controls or dominates the family member and causes them to feel fear for their safety or wellbeing, or for the safety or wellbeing of another person.

Family violence also includes behavior by a person that causes a child to hear or witness or be exposed to the effects of family violence.

Who can apply for a family violence intervention order?

An affected person (the person who is the victim of family violence) or a police officer can apply for a family violence intervention order. If the affected family member is an adult, any other person can apply for the order with the written consent of the affected family member. If the affected family member is a child, the parent of the child or any other person with the written consent of a parent of the child can apply for the family violence intervention order.

Applications for family violence intervention orders are usually made at the Magistrates Court. In some circumstances, the applications can be made at the Children's Court of Victoria.

What orders can the Court make?

Family violence intervention orders can be made on a final or an interim basis. These orders can prevent a person from engaging in certain conduct, such as preventing them from committing family violence or damaging property. They can also restrain persons from approaching the affected person or attending their home.

The Court can make interim family violence intervention orders to ensure the safety of the affected family member, to preserve any property of the affected family member or to protect a child who has been exposed to family violence. These orders can be made in the absence of the respondent (the person against whom the order is made).

The Court can also make final family violence intervention orders if it is satisfied that, on the balance of probabilities, the respondent committed family violence against the affected family member and is likely to continue to do so or do so again.

What are the penalties for breaching a family violence intervention order?

The penalties for breaching a family violence intervention order include imprisonment and fines (or both). The police have the power to arrest persons who breach family violence intervention orders.

Relevance to family law proceedings

Family violence intervention orders are relevant to family law proceedings. The Family Court of Australia and the Federal Magistrates Court of Australia must be informed about any family violence orders which apply to a child or a member of the child's family.

The Family Court and the Federal Magistrates Court have the power to make orders which are inconsistent with family violence orders. For example, the Court could allow a respondent to a family violence order to facilitate the changeover of a child. The Court will only make these orders if it is in the best interests of the child to do so.