



Legislation explained

*Domestic and Family Violence
Protection Act 2012*



**Queensland
Government**

If English isn't your first language and you need help because of domestic and family violence please call the Translating and Interpreting Service on **13 14 50** and ask them to transfer you to DVConnect on **1800 811 811** for help. If your life is in danger, call the Police on Triple Zero (000).

Amharic

በቤተሰብ ሁከት ላቢያ እርዳታ ከፈለጉ እባክዎ ለተርጉምና እስተርጓሚ አገልግሎት በስልክ **13 14 50** ይደውሉና እርዳታ ለማግኘት ወደ የቤተሰብ ሁከት ማገናኛ/DVConnect በስልክ **1800 811 811** እንዲያስተላልፉዎት መጠየቅ ነው። ለህይወትዎ የሚያስጋ ከሆነ ስለ **000** ለፖሊስ መደወል ነው።

Arabic

محتاج لامتلا دجری، یلزمتلا فتملا یسب کتعاملت فحاجت تک اذا کلموت بلطو **50 14 13** مقرلا بلع قیفتلاو قیترتلا فمجرتل تک اذاو کتعاملت **1800 811 811** مقرلا بلع DVConnect ب مقرلا بلع فطرشلاب لمتلا برطخل فمصرع' کتلیح **000**

Bosnian

Ako vam je potrebna pomoć u vezi nasilja u porodici, molimo nazovite Službu za prevodjenje i tumačenje na **13 14 50** i zatražite da vas spoje sa DVConnect na **1800 811 811** za pomoć. Ako vam je život u opasnosti, nazovite policiju na **000**.

Croatian

Ako vam je potrebna pomoć zbog nasilja u obitelji, molimo vas nazovite Službu za prevodjenje i tumačenje (TIS) na tel. **13 14 50** i zatražite da vas spoje s DVConnect na broj **1800 811 811**. Ako vam je život u opasnosti, nazovite policiju na broj **000**.

Hindi

यदि घरेलू दंडिसा के फलस्वरूप आपको सियता की आवश्यकता ितो तो कृपया अनखु ा ि र्वं िभाषणिया सेवा (Translating and Interpreting

Service) को **13 14 50** पर फोन करें और उनसे षन्वे िन करें षक सियता के षलप ्वे आपको **1800 811 811** पर ट् ांसफर करें। यदि आपका जीवित खतरे में ितो, तो पुषलस को **000** पर फोन करें।

Japanese

ドメスティックバイオレンスで援助を必要とする場合は、電話 **13 14 50** の翻訳・通訳サービスにお電話の上、援助 を受けるために、電話**1800811811**のDVConnectにつ なくよう 依頼して下さい。生命の危険がある場合は、電話 **000** で警察に電話 をして下さい。

Kirundi

Niwaba ukeneye imfashanyo kubera ihoterwa ryu muhira, urasabwe guhamagara Ishirahamwe riraba ivy'Ubusumuzi ku numero **13 14 50**, usabe ko baguhamagarira umushinga witwa DVConnect ku numero **1800 811 811** kugira bagufashe. Ubonye amagara yawe ari mu mazi abira, ca uhamagara Polisi ku numero **000**.

Russian

Если вам нужна помощь в связи с насилием в семье, позвоните в Службу письменных и устных переводов

(Translating and Interpreting Service) по номеру **13 14 50** и попросите, чтобы вас соединили со Службой DVConnect по номеру **1800 811 811**, и вам будет предоставлена помощь. Если вашей жизни угрожает опасность, позвоните в полицию по номеру **000**.

Samoa

Afai e te manaomia se fesoasoani ona o faasauaga i aiga faamolemole valaau i le Auaunaga o Faaliiliupu ma Faamatalaupu i le **13 14 50** ma fesili i a latou e tu'u oe i le DVConnect i le **1800 811 811** (Fesootaiga i Faasauaga i Aiga) mo se fesoasoani. Afai ua lamatia lou ola, valaau Leoleo i le **000**.

Simplified Chinese

如果你因家庭暴力而需要帮助，请致电笔译和口译服务(电话：**13 14 50**)，请他们为你转接DVConnect电话**1800 811 811**求助。如果你面临生命危险，请拨电话**000**报警。

Serbian

Уколико вам је потребна помоћ због насиља у породици, молимо вас назовите преводилачку службу на број **13 14 50** и затражите да

вас споје са ДиВиКонект на **1800 811 811** да вам помогну. Ако вам је живот у опасности, назовите полицију на број **000**.

Spanish

Si necesita ayuda debido a violencia doméstica, sírvase llamar al Servicio de traducción e interpretación (Translating and Interpreting Service) al **13 14 50** y solicítele que le transfieran la llamada a DVConnect al número **1800 811 811** para obtener ayuda. Si su vida está en peligro, llame a la policía (Police) al **000**.

Swahili

Kama unahitaji usaidizi kwa sababu ya vurugu kwenye namba tafadhali pigia Huduma ya Utafsiri na Ukalimani kwenye namba ya simu **13 14 50** na uliza wakuelekeze kwa DVConnect kwenye namba **1800 811 811** kwa usaidizi. Kama maisha yako yako hatarini, pigia Polisi simu kwenye **000**.

Tagalog

Kung kailangan mo ng tulong dahil sa karahasan sa tahanan, pakitawagan ang Serbisyo ng Tagasalinwika sa **13 14 50** at hilingin sa kanilang ilipat ang tawag mo sa DVConnect sa **1800 811 811** para matulungan. Kung nanganganib ang iyong buhay, tawagan ang Pulisya sa **000**.

Thai

หากท่านต้องการความช่วยเหลือเนื่องมาจากการใช้กำลังรุนแรงในครอบครัว โปรดโทรศัพท์ไม่ทิ้งการแม่และสาม **13 14 50** แล้วขอให้เขาคัดสายไปที่ DVConnect **1800 811 811** เพื่อขอความช่วยเหลือ หากชีวิตของท่านตกอยู่ในอันตราย โปรดโทรศัพท์ถึงตำรวจ **000**

Tigrynia

ብምክንያት ብቢታዊ ጥምጃ ሓገዝ እንተደሊኹም በጃኹም ብቅጽፎ ስልኪ **13 14 50** ናብ ትርጉምን እስተርጓሚዬ ግልጋሎት (Translating and Interpreting Service) ብምርዳል ናብ ብቢታዊ ጥምጃ/DVConnect ብቅጽፎ ስልኪ **1800 811 811** ኣራክቡኒ ኣልኪም ጎርጌም። ህይወትኩም ኣብ ሓደጋ እንተልቶ ድግግ ናብ **000** ብምርዳል ፖሊስ ጸውዑ።

Vietnamese

Nếu quý vị cần trợ giúp vì bị bạo hành trong gia đình, vui lòng gọi Dịch vụ Thông Phiên dịch theo số

13 14 50 và xin chuyển máy đến DVConnect theo số **1800 811 811** để được trợ giúp. Nếu quý vị bị nguy hiểm đến tính mạng, gọi Cảnh sát theo số **000**.

About this booklet

The Department of Child Safety, Youth and Women provides and funds a range of initiatives to support people affected by domestic and family violence, including court support, specialist counselling for adults and children, and a state-wide telephone helpline.

The phone numbers for domestic and family violence services are included in the back of this booklet.

The purpose of this booklet is to:

- explain the *Domestic and Family Violence Protection Act 2012*, and
- provide information about seeking protection by applying for a protection order using this Act.

To order additional copies of this booklet email

Violence_Prevention_Team@qld.gov.au

For further information please visit **www.qld.gov.au/domesticviolence**

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The legislation

The *Domestic and Family Violence Protection Act 2012* (the Act) recognises that freedom from domestic and family violence is a human right and that people subjected or exposed to domestic and family violence can experience physical, emotional and psychological harm.

The Act states that the safety, protection and wellbeing of people who are experiencing or who fear domestic or family violence, including children, are paramount.

The main objectives of the Act are to:

- maximise the safety, protection and wellbeing of people who fear or experience domestic violence and to minimise disruption in their lives
- prevent or reduce domestic violence and the exposure of children to domestic violence
- ensure that people who commit domestic violence are held accountable for their actions.

These objectives are achieved by allowing a court to make a domestic violence order to provide protection against further domestic violence and imposing consequences for breaching a domestic violence order or police protection notice.

Police also have immediate powers to respond to domestic and family violence incidents, including the power to issue a police protection notice.

Breaching a domestic violence order or a police protection notice is a criminal offence with serious consequences.

Information contained in this brochure should only be used as a guide. You may be able to seek legal advice through Women's Legal Service via **1800 957 957**, Legal Aid Queensland **1300 65 11 88** or community legal centres.

Copies of the Act can be obtained by visiting www.legislation.qld.gov.au

What is domestic and family violence?

Domestic violence is abusive, threatening or coercive behaviour used by one person to control or dominate another person within a relevant relationship.

Behaviour that may constitute domestic and family violence includes, but is not limited to:

- physical or sexual abuse (e.g. hitting, pushing, strangulation or unwanted sexual contact)
- emotional or psychological abuse (e.g. belittling, making comments to make a person feel bad about themselves)
- economic abuse (e.g. limiting a person's access to money or unreasonably making them account for every cent)
- threatening behaviour (e.g. forcing a person to behave in a certain way by threatening to hurt a child or pet or someone else)
- coercive behaviour (e.g. stalking, threats, or other intimidation to force a person to change their mind about something, or to act in a certain way), or
- behaviour that in any way controls, dominates or causes a person to fear for their personal safety or wellbeing.

The behaviours in the above list are not the only behaviours that may be domestic and family violence.

When a person asks someone else to commit abusive or violent behaviour towards an individual they currently or previously had a relationship with, this is also considered domestic violence.

Domestic and family violence can happen once but it usually involves an ongoing pattern of violence or abuse over time. This may cause an individual to live in fear of another person, most often their partner. Sometimes people use the term 'walking on eggshells' to describe how they feel.

Remember, if anyone's life is in danger, especially your own call the police on Triple Zero (000) or ask someone to make the call for you.

Those who are deaf or have a speech or hearing impairment can call the Text Emergency Call 106 by using a teletypewriter.

What is a ‘relevant’ relationship under the Act?

Protection under the Act is available to a person in a relevant relationship which is defined as:

- an intimate personal relationship;
- a family relationship; or
- an informal care relationship.

An intimate personal relationship includes a broad range of relationships. These include:

- **Spousal relationships**

- a former spouse
- a defacto partner
- a parent, or former parents, of a child:
 - parent means a child’s mother or father and anyone else having or exercising parental responsibility for the child (other than the chief executive)
 - a parent of an Aboriginal child includes a person who, under Aboriginal custom, is regarded as the parent of the child
 - a parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as the parent of the child.

A person standing in the place of a parent on a temporary basis is not included in the definition of parent nor are approved foster carers or approved kinship carers.

- **Engagement relationships**

- this relationship exists if two persons are or were engaged to be married to each other, including a betrothal under cultural or religious tradition.

- **Couple relationships**

- this relationship exists if two persons have or had a relationship as a couple, even if the persons are the same gender
- this relationship does not exist merely because 2 persons date or dated each other on a number of occasions
- in making a decision about the existence of a couple relationship, a court can consider a very wide variety of factors. These include:
 - the circumstances of the relationships (for example: the degree of trust; the level of each person’s dependence on, and commitment to, the other person)

- the length of time of the relationship
- the frequency of contact between persons
- the degree of intimacy between persons.

Further, a court can consider the below:

- whether the trust, dependence or commitment is or was of the same level
- whether one of the persons is or was financial dependent on the other
- whether the persons jointly own or owned any property
- whether the persons have or had joint bank accounts
- whether the relationships involves or involved a relationship of a sexual nature
- whether the relationship is or was exclusive.

However, even if the court makes a negative finding about the above, the court can still make a finding that a couple relationship exists.

In this way, the Act is very broad and expansive in its view of couple relationships.

Family relationships exist if one of them was the relative of the other. ‘Relative’ is someone who is ordinarily understood to be or to have been connected to the person by blood or marriage, including a spouse, a child, a parent, a sibling, a grandparent, an aunt or uncle, a cousin, a step-relative, half-relatives and in-laws. Children under the age of 18 cannot access protection, in their own right, in the context of a family relationship. The *Child Protection Act 1999* sets out the relevant law for the protection of children within families.

For some people, such as Aboriginal and Torres Strait Islander peoples, a wider group of people may be considered as family and may be recognised under the Act.

Informal care relationships exist where one person is or was dependent on another person for help in an activity of daily living. This includes assistance with dressing or grooming, meal preparation or helping a person with eating. This does not include help provided by a paid person but where the care is provided without payment.

A person receiving a pension or allowance for the help provided can be part of an informal care relationship.

Who is the ‘aggrieved’ and who is the ‘respondent’?

The Act and the court use particular terms to refer to the people involved in domestic violence proceedings.

The **aggrieved** is the victim of the domestic and family violence or the person that a domestic violence order or police protection notice is made to protect.

The **respondent** is the perpetrator of the domestic and family violence (the person who has used abusive, threatening or coercive behavior against the other) and the person the domestic violence order or police protection notice is made against.

How does the Act protect someone from domestic and family violence?

The Act provides for domestic violence orders and police protection notices.

What is a domestic violence order?

A domestic violence order is an order made by a court with conditions that aim to stop the perpetrator (the respondent) from committing further acts of domestic or family violence against the victim (the aggrieved).

A domestic violence order can be either:

- a protection order (an order made by a court when a final decision is made in relation to an application)
- a temporary protection order (an order made by a court before a final decision is made about whether a protection order should be put in place).

A court can make a domestic violence order if they believe it will protect someone from domestic or family violence. The Act allows a court to make a protection order if they are satisfied that:

- a relevant relationship as defined under the Act exists
- domestic or family violence has occurred
- an order is necessary or desirable to protect an individual from domestic or family violence.

A judge may also make a domestic violence order when the court convicts a person of a criminal offence involving domestic or family violence.

A domestic violence order may also be made in the Children’s Court during a child protection proceeding.

Further details about domestic violence orders, including how to apply, are set out in this document.

How can the police help?

Police have many powers under the Act. One of those powers is the ability to issue a **police protection notice** which gives immediate protection to someone affected by domestic and family violence. This is to ensure the protection of an individual without relying on the immediate availability of a court to hear an application for a protection order.

What is a police protection notice?

A police protection notice is a short-term notice issued by police that requires the respondent to be of good behaviour and not commit domestic or family violence against the aggrieved. It may also include other specific conditions to protect the aggrieved. The police can name and include a child, a relative or associate of the aggrieved in the notice.

When police are called to a place where domestic or family violence is occurring, or is thought to have occurred, police officers may be able to immediately issue a police protection notice against the person accused of committing domestic or family violence, provided:

- the police officer is present at the same location as, or has made a reasonable attempt to locate and talk to, that person; and
- the police officer reasonably believes that:
 - the person accused has committed domestic or family violence
 - no domestic violence order or police protection notice (including interstate) has been made in relation to the person accused and the person impacted by the violence
 - a police protection notice is necessary or desirable to protect the person impacted by the violence, and
 - the accused person should not be taken into custody.

Under the Act, a police protection order is taken to be an application for a protection order made by a police officer. The police protection notice is in effect for a short period of time until the application for a protection order can be heard by a court.

A breach of a police protection notice is a criminal offence which can result in up to 3 years imprisonment, or a fine of 120 penalty units.

What other powers do the police have?

Police can direct a respondent to move to and/or remain at a particular place (for a maximum of 2 hours) to allow the respondent to be served with:

- an application for a protection order; or
- a domestic violence order; or
- issued or served with a police protection notice.

It is an offence not to comply with this direction from police.

The police have the power to investigate suspected domestic and family violence and officers are required to record their reasons if no further action is taken after an investigation.

Police can:

- apply for a domestic violence order on behalf of an aggrieved
- investigate potential breaches where a domestic violence order is already in force, and charge a person with a criminal offence if there is evidence that a breach of the domestic violence order has occurred
- where the perpetrator presents a danger of personal injury or property damage, take them into custody for a maximum period of four hours (or a maximum period of 8 hours if the person is intoxicated or a court approves an extension to the detention period)
- charge the perpetrator with a criminal offence.

Who can apply for a protection order?

An application for a protection order may be made by:

- the person affected by the domestic and family violence (the 'aggrieved')
- an authorised person for the aggrieved (this can include a friend, relative or a worker at a domestic violence service)
- a police officer, or
- a person acting under another Act, such as a guardian for a personal matter of the aggrieved, or an attorney for a personal matter under an enduring power of attorney.

Who can be protected by a domestic violence order?

A domestic violence order can protect the aggrieved, as well as a child of the aggrieved, a relative or an associate of the aggrieved.

The Act aims to prevent children from witnessing and experiencing the effects of domestic and family violence.

Exposure to domestic and family violence can have serious impacts on children.

Being named on the order provides the relatives, associates or children of the aggrieved with the same level of protection as the aggrieved. Respondents are required to be of good behaviour towards the named person/s and not commit an act of associated domestic violence against person/s named in the order.

Associated domestic violence means domestic violence by a respondent towards:

- a child of an aggrieved; or
- a child who usually lives with an aggrieved; or
- a relative of an aggrieved; or
- an associate of an aggrieved.

The respondent must also comply with any other condition on the order.

If the named person is a child, the respondent must be of good behaviour towards the child, not commit associated domestic violence against the child, and not expose the child to domestic violence.

Under the Act a child is exposed to domestic violence if the child sees or hears domestic violence or otherwise experiences the effects of domestic violence. Examples include:

- overhearing threats of physical abuse
- overhearing repeated derogatory taunts, including racial taunts
- experiencing financial stress arising from economic abuse
- seeing or hearing an assault
- comforting or providing assistance to a person who has been physically abused
- observing bruising or other injuries of a person who has been physically abused
- cleaning up a site after property has been damaged, or
- being present at a domestic violence incident that is attended by police officers.

If the court becomes aware of the existence of a child of the aggrieved, or a child that normally lives with the aggrieved, the court must consider whether the child should be named in the domestic violence order, regardless of whether the application for the order names the child.

The applicant for a protection order must tell the court of any existing family law orders or family law order applications. The court is then required to consider any existing family law order it is aware of and whether that order needs to be revived, varied, suspended or discharged if it is inconsistent with the protection needed by the aggrieved.

Can children and young people be applicants and respondents to domestic violence orders?

Children and young people under 18 years old and experiencing domestic and family violence can apply for a protection order in certain circumstances. They can be named as the aggrieved or respondent in a domestic violence order or a police protection notice if an intimate personal relationship or an informal care relationship (but not a family relationship) exists between the child and the other party named in the application.

Where a child is a party to an application, the Act provides specific safeguards. For example, it allows the court to adjourn or delay a protection order application hearing if the child or young person has not had a reasonable opportunity to obtain legal representation.

The Act also states that if a document must be given, or served to a child, the person responsible for doing so must also give a copy of the document to the child's parents (unless special circumstances prevent this) and generally must not provide the document to the child in the vicinity of the child's school.

Children and young people under 18 years of age can't apply for a protection order against their parents or other family members, as this is considered a child protection issue and should be dealt with under the *Child Protection Act 1999*.

For more information about child protection issues, contact Child Safety at 1800 811 810 or visit their website www.csyw.qld.gov.au/child-family and search for 'Regional Intake Services'.

Parents cannot apply for protection orders against their children who are under 18 years old. However, if the child is 18 years or older, the parents may apply for a protection order.

How long do domestic violence orders last?

A temporary protection order remains in place until a court hears and decides the application for the related (final) protection order, or until that application is withdrawn.

A protection order can last for any period the court considers appropriate to protect the aggrieved person and any other person named on the order. However, unless the court is satisfied there are reasons for a shorter period, the order must be for five years. When deciding the duration of a protection order, the most important principle for the court to consider is the safety, protection and wellbeing of people who fear or experience domestic violence, including children.

If the court does not specify a duration for the order, the order will remain in place for five years starting after the day it is made.

What conditions are included in the order?

All domestic violence orders must include conditions that state:

- the respondent must be of good behaviour towards the aggrieved and any named person and must not commit domestic violence or associated domestic violence
- if a child is a named person, the respondent must not expose the child to domestic violence.

The court must also consider imposing extra conditions to help protect the aggrieved, their relatives, associates and children from further domestic violence.

These conditions may include preventing the respondent from:

- approaching or attempting to approach the aggrieved or a named person, including stating a minimum distance for the respondent to stay from the aggrieved or a named person
- contacting (for example, by telephone, text message, email or social media) or attempting to contact, or asking someone else to contact, the aggrieved or a named person
- locating or attempting to locate, or asking someone else to locate, the aggrieved or a named person if their whereabouts are not known to the respondent
- engaging in stated behaviour towards a child of the aggrieved, or a child who usually lives with the aggrieved, including going to places associated with the child, such as the child's school or day care centre.

The court may also:

- order the respondent to return personal property to the aggrieved
- allow the aggrieved to retrieve personal property, including by returning to a former home
- prevent or limit contact between the respondent and a child of the respondent to the extent necessary for the child's safety and wellbeing
- impose conditions for the protection of an unborn child where the aggrieved is pregnant at the time of the domestic violence order (regardless of whether or not the respondent is the father of the child)
- impose an ouster condition (explained in further detail below) to prevent the respondent from remaining at, or returning to a particular premises (including a place in which the respondent and aggrieved own, rent, live or where they have lived together)
- if an ouster condition is imposed, provide a certain time for the respondent to return to the premises to recover the respondent's personal property.

Ouster conditions

A court may impose an ouster condition prohibiting the respondent from remaining at, or entering particular premises, or approaching within a certain distance of the premises. This can be the home of the aggrieved, or where the aggrieved, or a named person, lives, works or frequently goes.

The Act requires a court making a domestic violence order to always consider whether to impose an ouster condition for the aggrieved's usual place of residence. Before deciding whether to include such a condition in an order, the court must consider several factors including:

- whether the aggrieved and any child living with them can continue to live safely in the residence if the ouster condition is not made
- any views or wishes expressed by the aggrieved about imposing the condition
- the need to ensure continuity and stability in the care of any child living with the aggrieved
- particular accommodation needs of the aggrieved, any affected child or the respondent.

Ouster conditions can be made regardless of whether the respondent has a legal or equitable interest in the premises (for example, where the respondent owns, partly owns or rents the premises) or where the aggrieved and respondent live, or have previously lived, together in the premises.

The respondent may be allowed to return to the premises to recover certain personal property stated in a return condition made with the ouster condition. A police officer may be required to supervise the ouster or return conditions. If the respondent does not comply with the conditions, they are considered to be in breach of the domestic violence order which is a criminal offence.

For more information about circumstances that involve a rental or an owned property refer to pages 23 and 24.

Intervention orders

The Act aims to hold respondents accountable for their behaviour. In order to help respondents change their behaviour and increase the safety and protection of the aggrieved, the court may make an intervention order.

An intervention order requires the respondent to attend an approved intervention program and/or counselling provider. The court will only make an intervention order if it is satisfied that an approved provider is available at a location reasonably convenient to the respondent, having regard to where they live or work.

The respondent will be asked by the court to agree to the order and comply with it, and the consequences of not complying must be explained to the respondent. If the respondent fails to comply with an intervention order, the provider will give both the court and the Police Commissioner information about the contravention.

The court must consider information about a respondent's failure to complete a program or counselling under an intervention order when making or varying domestic violence orders in the future. The court may consider a respondent's compliance with an intervention order, but must not refuse to make a domestic violence order or decide to vary an order merely because of this compliance.

After the court makes an intervention order, the respondent will be assessed by the approved provider to determine if they are suitable to participate in a program or counselling. The assessment takes into account the respondent's:

- character
- personal history
- language skills
- disabilities
- psychiatric or psychological conditions, and
- alcohol or drug addiction.

Weapons

Under the *Weapons Act 1990*, a person may not hold a weapons license if a protection order has been made against them in the last five years.

When a temporary protection order, police protection notice or release conditions are issued against a respondent, any weapons license is suspended for the duration of the order, notice or conditions. The Act allows the court to impose a condition prohibiting access to other items that have been used or threatened to be used as a weapon in a domestic violence incident, even where the item is not ordinarily a weapon under the Weapons Act.

The order may inform respondents that their licenses have been revoked and provide information about the surrender of their weapons and weapon licenses.

Making an application for a domestic violence order

Applications for domestic violence orders are made at a court using a form to explain the reasons the applicant needs protection from domestic violence. An application can be made by the aggrieved, a police officer, or another person asked by the aggrieved to act on their behalf.

The application form number is DVo1, and it can be accessed on the courts website: <https://www.courts.qld.gov.au/going-to-court/domestic-violence/forms>

The form is also available from domestic violence services or at any courthouse.

Instructions for completing the application can be found at: https://www.courts.qld.gov.au/__data/assets/pdf_file/0003/162174/dva-f-1a.pdf

The completed form needs to be lodged with a court. It is important to fill in this form correctly and with as much information as possible. The information on the form will help the court who hears the application to decide if a domestic violence order should be made and what its conditions should be.

It is important to be as specific as possible. In some courts, there are court support workers who can help the applicant with their application.

How does the respondent know an application has been made?

The Act requires the police to personally serve a copy of the application on the respondent. If the aggrieved or an approved person makes an application to the court, the clerk of the court will give a copy of the application to the officer in charge of the police station nearest to where the respondent lives or was last known to live. The police will then make sure that the respondent is served with a copy of the application.

The applicant for a protection order can request that the application be heard before the respondent is served with the application so that a temporary protection order may be made. It will depend on the availability of the court as to how soon the application can be heard if it is urgent.

The applicant must state clearly in the application the reasons why it is necessary or desirable for the aggrieved to be protected by a temporary protection order before the respondent is served with a copy of the application.

The mention

When the applicant lodges the form at the courthouse, they will be given a first court date. This court date is called the mention.

If the aggrieved and respondent both agree to the order, the court may make a protection order at the mention. If the two parties do not agree the court may make a temporary protection order and/or set a date for the hearing.

If the respondent is not present at the mention the court may make a final protection order in their absence. This can only happen if the police have served the respondent with the application.

If the respondent is not present and has not been served with a copy of the application, the court may adjourn the case and make another date for the mention. If this happens the court may also make a temporary protection order that is valid until a final decision is made on the application for a protection order.

The hearing

A hearing may be scheduled if the respondent and aggrieved do not agree about the application for a protection order. At the hearing the court will listen to evidence from the aggrieved, the respondent, and any relevant witnesses. The court will then make a decision about whether a domestic violence order should be made.

At the hearing the applicant may be represented by a police prosecutor, legal aid solicitor, private solicitor or themselves.

Legal representation

Applicants for protection orders do not need to have a lawyer to attend court. However, it may be useful for them to get some legal advice to help clearly understand the court process, and identify the information the court needs to make a decision. Telephone numbers of free legal services are at the back of this booklet.

Giving evidence in court

The court receives evidence in a number of different ways. The court may receive written evidence, such as the application or affidavits (written statements confirmed by oath or affirmation) prepared by other witnesses. The court can also receive oral or verbal evidence from people who personally attend and speak in court.

The law provides a number of protections for witnesses. It is usual for people to be worried about giving oral evidence in court. For people who have experienced domestic or family violence, this can be made worse by the fear of being in the same room with, or potentially questioned by the respondent who has perpetrated violence against them. The court must consider putting in place special arrangements when the aggrieved, child or another person who can be protected by a domestic violence order is giving evidence. These measures are meant to reduce the stress or trauma that the witness might otherwise experience.

The safeguards the court might use include:

- giving evidence from another location by a video-link
- a screen or one-way glass being placed so the witness cannot see the respondent while giving evidence
- a person approved by the court providing emotional support to the witness in the courtroom, or
- if the witness has a physical or mental disability, ensuring they can give evidence in a way that will minimise the witness' distress.

The court has the ability to make any other arrangements it considers appropriate.

Who can be cross-examined?

If an aggrieved or another person named in the application as needing protection under the protection order is giving evidence, the court may order that the respondent may not cross-examine them in person if it is likely to cause the witness to suffer emotional harm or distress or be so intimidated as to be disadvantaged as a witness.

A respondent cannot cross-examine a child.

These rules only apply where a respondent does not have a lawyer and is conducting their own case.

In these circumstances, the court will ask the respondent to advise when they have arranged for a lawyer to act for them or if they instead choose not to cross-examine the witness. A lawyer for the respondent can cross-examine the aggrieved, a child or a named person. However, here are rules under the *Evidence Act 1977* about the type of questions a lawyer can ask and what are considered “improper questions”.

Improper questions include those that contain inappropriate language, are misleading, confusing, annoying, harassing, intimidating, offensive, oppressive or repetitive. These may be disallowed by the court or not required to be answered.

Who can be present in court during domestic and family violence hearings?

Because of the sensitive nature of domestic and family violence and the involvement of children in some cases, proceedings are conducted in a closed court (which means members of the public are not allowed inside the court) and there are restrictions on publishing information about these cases to the public.

The aggrieved can have a support person in court with them for assistance. The support person must be an adult and could be a friend, relative, Elder or community worker.

Details about domestic violence proceedings that might identify the people involved cannot usually be published publicly in any way. This includes in newspapers, magazines, on the internet, broadcast on television or radio, or by any other means that reaches the general public.

Given the nature of domestic violence court proceedings, courts are generally not considered appropriate places for children.

Parties should ensure they have appropriate care for children during court hearings as staff in the court registry can't look after children while their carers are in court.

What happens when the domestic violence order is made?

The respondent must be given a copy of the order. The police will serve the respondent with a copy of the order if the respondent was not present in court when the order was made. The aggrieved will also be provided with a copy of the order if they are present in court. If the aggrieved is not present, a copy of the order will be posted to their last known address.

The court has a duty to explain the domestic violence order to the respondent and the aggrieved if they are in court when the order is made. A clerk of the court, an interpreter, a local community justice group or Elders may explain the order, verbally or by the use of written notes.

What happens if the respondent breaches the domestic violence order?

If a respondent is aware of the domestic violence order and disobeys the order, he/she may be charged with breaching the domestic violence order, which is a criminal offence.

The maximum penalty is three years imprisonment or 120 penalty units. A penalty unit in Queensland is \$130.55 (current from 1 July 2018). If the respondent has previously breached an order or has been convicted of a domestic violence offence within the preceding five years the maximum penalty is 240 penalty units or five years imprisonment.

How can a domestic violence order be changed?

An application to vary (change) an order can be made by:

- the aggrieved
- the respondent
- a named person
- an authorised person for the aggrieved
- a person acting for the aggrieved or respondent
- other person named in the order under another Act (for example, a person acting under the *Powers of Attorney Act 1998*), or
- a police officer.

The application needs to be made in the approved form (DVO4, available at www.courts.qld.gov.au), state the nature of the variation sought, and filed in the court. Variations to the order may be related to conditions, length of order or named persons in the order.

The court must be convinced that the aggrieved is not being pressured or threatened by the respondent before the court can vary a domestic violence order. The court needs to consider whether the safety or wellbeing of the aggrieved would be negatively affected by varying the order. The aggrieved and the respondent will be provided with a copy of the varied domestic violence order.

What if the aggrieved or respondent disagrees with the court's decision?

If an aggrieved or respondent does not agree with the court's decision to make, vary, refuse to make or refuse to vary a domestic violence order, they may appeal to a higher court. If the person seeking to appeal the court's decision was in court, they have 28 days from the decision date to file their appeal.

If the person appealing was not in court when the original decision was made, they have 28 days from the day on which the decision is served on them or a police officer tells them about the decision — whichever day comes first.

An appeal is started by filing a Notice of Appeal form in the District Court (Form 96). This form is available on the courts website at www.courts.qld.gov.au/forms under the *Uniform Civil Procedure Rules 1999*. The person starting the appeal proceedings (called the appellant) must pay a filing fee.

Is an interstate domestic violence order recognised in Queensland?

The National Domestic Violence Order Scheme (NDVOS) commenced on 25 September 2017. Under the NDVOS, any Australian domestic violence order made on or after 25 November 2017 (in a participating jurisdiction) is automatically recognised and enforceable in any Australian state or territory as soon as it is made and served on the respondent.

This applies to both temporary and final court-issued domestic violence orders, as well as orders and notices issued by police officers. This means that if the aggrieved moves to Queensland from interstate or interstate from Queensland, they do not need to manually register their order.

Also, any restrictions included in an interstate order (for example, disqualification from holding a weapons license) are recognised in Queensland and other jurisdictions.

Queensland or interstate orders made prior to 25 November 2017 are not automatically recognised or enforceable across borders under the NDVOS. While existing orders continue to apply within the state they were made (or manually registered in), if the aggrieved or respondent plans to move interstate, they need to apply to a court to have the order declared for it to be enforceable.

New Zealand domestic violence orders

Domestic violence orders made in New Zealand are not automatically recognised by the NDVOS. An order made in New Zealand still needs to be manually registered in Queensland (or another state) but once registered it will be enforceable in all Australian jurisdictions.

To register a New Zealand order in Queensland, an application form (Form DV35) found at www.courts.qld.gov.au/forms must be filed in any Queensland Magistrates Court. There is no cost to register an order. If no change to the order is needed, the order will be registered by the clerk in the registry and the aggrieved/respondent will not need to go to a court hearing. If the order needs to be changed, the application will be listed for court and the applicant will receive a court appearance date.

What if the aggrieved and respondent rent a property together?

If the aggrieved and respondent share a rented house or flat, they can seek an order about the rented premises. For example, if an ouster condition is imposed on a respondent who is listed as a tenant on a rental agreement, the aggrieved may be able to apply for an order under the *Residential Tenancies and Rooming Accommodation Act 2008* to be recognised as the tenant instead of the respondent or for an order ending the tenancy.

A tenancy matter can be heard by a court at the same time as the court hears an application for a domestic violence order. The respondent or aggrieved can also have a tenancy decided separately by the Queensland Civil and Administrative Tribunal (QCAT).

The court or QCAT can make orders including:

- inserting the name of the aggrieved on the tenancy agreement as the tenant (even if they were not listed as the tenant before)
- removing the respondent's or aggrieved person's name from the tenancy agreement
- restraining the person who committed an act of domestic or family violence from causing further damage or injury, or
- ending the tenancy agreement.

To get an order about a tenancy agreement, the aggrieved needs to complete a separate application form (Form 2 – Application for minor civil dispute – residential tenancy dispute). The residential tenancy dispute form is available at www.qcat.qld.gov.au and can be lodged at the court at the same time as the application for a domestic violence order.

For more information contact the Residential Tenancies Authority on 1300 366 311 or visit <https://www.rta.qld.gov.au/Renting/During-a-tenancy/Serious-problems-during-a-tenancy/Domestic-violence-in-a-rental-property> or Tenants Queensland on 1300 744 263. Tenants Queensland provides a toolkit for domestic and family violence service providers <https://tenantsqld.org.au/dv-toolkit/>.

What if the aggrieved and respondent own a property together?

As noted above, a court can impose an ouster condition to stop the respondent from entering or living at a place, even if both parties jointly own the property. However, the distribution of property at the end of a relationship is a complex matter. The aggrieved and respondent should seek legal advice if they own a property together and do not want to continue the relationship.

General information about property settlements is available on the Legal Aid Queensland website at: <http://www.legalaid.qld.gov.au/Find-legal-information/Relationships-and-children/Dividing-your-property>.

Helpful services

A range of legal and community agencies in Queensland offer services that provide information, referral, counselling and support for people affected by domestic and family violence. A list of agencies and respective phone numbers is provided on the following page. Those people wishing to learn more could also consult their local telephone book or search online for services located in their region.

Remember, do not let anyone's life be placed in danger, especially your own. In an emergency, call the police on Triple Zero (000) or ask someone else to contact them for you.

Legal Services

Adult Guardian

Brisbane (07) 3234 0870

Regional 1300 653 187

(assists adults who are unable to make decisions for themselves due to illness, injury or disability)

Caxton Legal Centre.... (07) 3214 6333

Child Safety After Hours

..... 1800 177 135

(24 hours, for concerns about children)

Legal Aid Queensland ... 1300 651 188

Violence Prevention and Women's Advocacy Legal Service (07) 3917 0597

Public Trustee (07) 3564 2878
..... 1300 651 591

Residential Tenancies Authority

..... 1300 366 311

Qld Statewide Tenant Advice

and Referral Service..... 1300 744 263

(9am–5pm Monday–Friday, with extended hours to 7pm Tuesdays and Wednesdays)

Women's Legal Service

Brisbane (07) 3392 0670

Statewide..... 1800 957 957

Domestic and Family Violence Support Services

Domestic violence services provide support, counselling, referral and information to people affected by domestic and family violence.

Brisbane	(07) 3217 2544
Bundaberg.....	(07) 4153 6820
Cairns.....	(07) 4033 6100
Caboolture.....	(07) 5498 9533
Emerald.....	1300 523 985
Fraser Coast.....	(07) 4194 0172
Gladstone.....	(07) 4979 1456
Gold Coast.....	(07) 5532 9000
Gympie.....	(07) 5413 8088
Mackay.....	(07) 4957 3888
Mount Isa.....	(07) 4749 1901
Ipswich.....	(07) 3816 3000
Roma.....	1300 477 433
Redlands.....	(07) 3050 3060
Rockhampton.....	(07) 4926 9726
Logan City.....	(07) 3050 3060
Toowoomba.....	(07) 4642 1354
Sunshine Coast.....	(07) 5430 9300
Townsville.....	(07) 4721 2888

DVConnect Womensline 1800 811 811
(24 hours a day, 7 days a week)
Womensline provides counselling, referral and assistance to access refuge accommodation for women experiencing domestic and family violence.

DVConnect Mensline.... 1800 600 636
(9am to midnight, 7 days a week)
Mensline provides counselling, information and referral to men affected by domestic and family violence.

Other Community Support

1800 RESPECT

National.....1800 737 732
National sexual assault, domestic family violence counselling service

Statewide Sexual Assault Helpline

.....1800 010 120
(7.30am to 11.30pm 7 days a week)

Immigrant Women's Support Service (IWSS) Brisbane..... (07) 3846 3490

IWSS provides culturally appropriate support, information and referral for women and children of non-English speaking backgrounds, who are experiencing domestic violence.

National Disability Insurance Scheme (NDIS) Toll free Hotline..1800 800 110

Elder Abuse Prevention Unit Helpline
.....1300 651 192
(Monday to Friday, 9am to 5pm)

Seniors Enquiry Line.....1300 135 500
(Monday to Friday, 9am to 5pm)
TTY users phone 133 677 then ask for 1300 135 500

Kids Helpline.....1800 55 1800
(for young people up to age 25)

Lifeline.....13 11 14
24 hour Crisis Counselling Line

National Relay Service

If you are deaf, or have a hearing impairment or speech impairment, contact the National Relay Service:
TTY users phone TTY/voice calls
.....133 677
Speak and Listen users phone
.....1300 555 727
SMS relay service text..0423 677 767

Translator Interpreter Service National

If you require an interpreter, TIS National can provide an interpreter immediately over the phone. Call 131 450.

Further information

For more information about domestic and family violence prevention see:

- ***Increasing your safety: Information for people who experience abuse and violence in relationships.***
This booklet contains information for people who experience abuse and/or violence in relationships.

To order additional copies of this booklet email
Violence_Prevention_Team@qld.gov.au

For further information about domestic and family violence, please visit
www.qld.gov.au/domesticviolence
or call **13 QGOV (13 74 68)**

To view the *Domestic and Family Violence Protection Act 2012* please visit:
www.legislation.qld.gov.au