

What can I do about family violence?

If you are the victim of family violence there are a number of things that you can do to get help.

Get legal advice or counselling

Your local community legal centre can give you legal advice and information on family violence. Most of these centres provide these services for free.

You can also contact SECASA family violence counselling service on (03) 9594 2289 and speak to the SECASA Duty Worker Monday – Friday between 9:00am and 5:30pm.

Apply for a family violence intervention order

A family violence intervention order is an order made under Victorian law that protects a family member from family violence. You can apply for a family violence intervention order at your local Magistrates' Court by filing out the application and signing it in front of the Registrar. There is no charge.

The person experiencing the family violence is called the "affected family member" and the person who the order is made against (that is, the person who is committing the family violence) is called the respondent. The following people can make an application for a family violence intervention order:

- ◆ The affected family member;
- ◆ A police officer;
- ◆ If you are an adult, any other person with the affected family member's written consent;
- ◆ If you are a child:
 - A parent;
 - Any other person with the written consent of a parent or with leave of the court
 - If you are over 14 years of age, you may apply with the leave of the court
- ◆ A guardian of the affected family member

If you fear for the safety of your children, you can include them as affected family members on your application for an intervention order.

When you fill out the application, there are a number of conditions listed on the form. You need to tick all the conditions that you would like to be included in the intervention order. These conditions include stopping the respondent from:

- ◆ Committing family violence;
- ◆ Intentionally damaging the family member's property or threatening to do so;
- ◆ Attempting to follow, locate or keep the person under surveillance;
- ◆ Publishing any material on the internet about the affected family member;
- ◆ Contacting the affected family member;
- ◆ Approaching or coming within a certain distance of the affected family member;
- ◆ Going or remaining within a certain distance of where the affected family member lives, works, attends school or childcare;

- ◆ Getting another person to do anything the respondent must not do under the order.

If parenting orders are in place, you may request that they be varied or removed if you believe the respondent may commit family violence against a child covered by those parenting orders.

Once an order is made you are considered a “protected person”. The intervention order will contain a number of conditions that stop the respondent from committing any more acts of family violence. The conditions that the order contains may not be the same as the ones you chose on the application. This is because the Magistrate makes the final decision about what conditions are to be included in the order.

There are two stages to a family violence intervention order:

- ◆ **Interim order** - you can apply for an interim order if you feel that you need protection straight away. A magistrate will make an interim order if they believe a person needs immediate protection. An interim order will protect you until a final hearing is held where a magistrate will decide whether a final order should be made. That is, an interim order is a temporary order which needs to be justified and granted by a magistrate if it is to become a permanent order;
- ◆ **Final order** - A final order will be made if the court believes that the respondent has committed family violence and is likely to do so again. A final order will protect you for the amount of time ordered by the court.

If a final order is made, but you are finding it difficult to live with, you can apply to the court to have it changed or revoked at any time.

If the respondent breaks any conditions of an intervention order you should write down exact details of what happened and call the police. Breaching an intervention order is very serious and the police can charge the respondent with a criminal offence.

Contact the Police

The police have the power to help protect you against family violence. You can contact the police about family violence at any time:

1. If you are in immediate danger, call “000” and ask for the police. A police member will attend; or
2. If it is not an emergency, call or go in person to your local police station.

The police can do a number of things to protect people against family violence. They can do the following even if you don’t want them to if they believe you are at risk:

1. Arrest a person

The police can arrest a violent person by applying for a warrant from the Magistrates’ Court. They may do this if you are in need of immediate protection.

2. Issue a family violence safety notice (FVSN)

A FVSN is a notice that police can issue under Victorian law to provide a family member immediate protection from family violence. A FVSN can be issued at any time of day.

FVSNs can be applied for by police officer who responds to an incident of family violence. The police officer can then apply to another officer, who is the rank of Sergeant or higher for a FVSN. FVSNs can only be applied for in certain circumstances:

1. The respondent must be an adult;
2. The respondent does not have a cognitive impairment;
3. There is no family law order or child protection order in place that would be inconsistent with the proposed FVSN;

4. There is no current intervention order in place;
5. The order is necessary to ensure the safety of the affected family member, protect a child or preserve property of the affected family member.

The Sergeant (or higher ranked police officer) will then make a decision as to whether to issue a FVSN in the circumstances.

If a FVSN is issued, it can contain any of the same conditions as an intervention order. These conditions include stopping the respondent from:

- ◆ Committing family violence;
- ◆ Intentionally damaging the family member's property or threatening to do so;
- ◆ Attempting to follow, locate or keep the person under surveillance;
- ◆ Publishing any material on the internet about the affected family member;
- ◆ Contacting the affected family member;
- ◆ Approaching or coming within a certain distance of the affected family member;
- ◆ Going or remaining within a certain distance of where the affected family member lives, works, attends school or childcare;
- ◆ Getting another person to do anything the respondent must not do under the order.

The FVSN starts when the notice is served on the respondent. The FVSN operates as an application for a family violence intervention order and remains in place until the matter comes before a magistrate to determine whether a final intervention order should be in place. A first hearing for a family violence intervention order must be within five days of the FVSN being issued.

If the respondent breaches the FVSN they can be charged with a criminal offence.

3. Apply for an intervention order

A police officer can apply for a family violence intervention order on your behalf. The respondent will be told that the order is a police decision. If the police choose to apply for you, they will represent you in court, however you may still need to attend the hearing to give evidence.

Links

Family violence intervention order application form

www.magistratescourt.vic.gov.au/forms/application-family-violence-intervention-order-fvio1

Find your closest community legal centre

www.fclc.org.au/find_a_clc.php



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