

Representing yourself at your domestic and family violence application hearing

This factsheet will help you prepare for your domestic violence application hearing.

If you are experiencing domestic or family violence, you can ask the court for a domestic and family violence protection order to help stop the violence.

What is a domestic and family violence protection order?

A domestic violence order helps to protect you, your children and other people named on the order (other family or friends) from someone who is violent to you. A domestic violence order will include conditions to stop the respondent from behaving in a way that makes you feel unsafe. It is a court order that puts limits on the behaviour of the person who is being violent towards you.

When applying for a protection order, the person experiencing domestic or family violence is called the 'aggrieved', and the person who is being violent is the 'respondent'.

The court will make an order if it accepts:

- there has been an act of domestic violence, and
- you and the respondent are in one of the relationships covered by the law
- the court thinks a domestic violence order is necessary or desirable in your situation.

Get legal advice if you have an interstate protection order made before 26 November 2017.

Who does the order protect?

The *Domestic and Family Violence Protection Act 2012* provides protection from violence for people who are, or have been in:

- an intimate personal relationship (married, de facto, registered relationship, engaged, dating)
- a family relationship (a parent, or former parent, of a child, or your relatives)
- an informal care relationship (where one person is dependent on the other person for help in an activity of daily living like dressing and cooking for them).



Can family, friends and children be protected?

Family, friends and children can all be protected under a domestic violence protection order. They are referred to as “named persons” on the order. The magistrate may name another person on the order if the court is satisfied it is necessary and desirable to protect that person.

An order can include:

- a child of the aggrieved
- a child who usually lives with the aggrieved
- a relative of the aggrieved
- an associate of the aggrieved (eg friends, workmates, a new partner).

What do I need to prove to get an order?

You must be in a family or domestic relationship with the respondent and prove:

- the respondent has committed an act of family or domestic violence, and
- the protection order is necessary or desirable to protect you from domestic violence.

Going to a hearing

You should get legal advice before representing yourself in court at your domestic and family violence hearing.

If the respondent disagrees with a domestic violence protection order being made, your matter may go to a hearing. This is where both you and the respondent and any relevant witnesses will have to tell your story and possibly be cross-examined (asked questions about your story).

If you need to attend a hearing, you will be given a date at your first court visit. Your first court visit is called a “mention”. The court will also give you a date for when you need to exchange affidavits (sworn statements of evidence) with the respondent. You need to carefully follow the court’s deadlines and directions. If you don’t, your application could be dismissed or the evidence you provide may not be considered.

Tips for going to court:

- Arrive at court 30 minutes early.
- If you’d like extra support, you can talk to a domestic violence prevention worker who will be available at some courts. This person can go into court with you to support you.
- The duty lawyer cannot represent you at the final hearing.
- You can bring your own support person. Your support person is not permitted to speak for you unless they have made the application on your behalf.
- Hearings are held in a closed court—public are not allowed to watch or listen.
- You can ask the court to provide an interpreter before your hearing.
- There are no childcare facilities, so if you have to bring your children to court you will need someone to supervise them, or try and leave them with a family member, friend or child-carer.



How can I prepare for my hearing?

You will need a copy of your *Application for a protection order* (form DV01). This application will have been served on the respondent by the police so they know when to appear in court.

1. Make sure you have completed an *Affidavit* (form DV25) found on the Queensland Courts website (www.courts.qld.gov.au). See our factsheet *Completing an affidavit* (aggrieved or respondent version) for more information including how to write your affidavit, what evidence to include and when to lodge it.
2. Do you need an interpreter? If you do, contact the court well before your court appearance and ask them to arrange one. They will need to know your court date and your language.
3. Get legal advice about how to subpoena witnesses (this means getting the court to order the witness to appear and give evidence), any costs involved in subpoenaing witnesses and whether their evidence will help your case.
4. Let your witnesses know they must attend court in person and tell the court what happened. They cannot provide their evidence to the court in a letter or statement.

Preparing a chronology of incidents

A chronology of incidents is a list of incidents that have happened, including the most recent physical violence and any other kinds of abuse, threats or intimidation that have occurred.

Having a chronology of incidents is useful in preparing questions you may need to ask the respondent and other witnesses. If you want your protection order to include other people — like your children, friends, family or colleagues — you will need to prepare a chronology for them as well.

For each incident, write down the date, time and place it happened, and describe what happened, who witnessed the incident and what extra evidence you might have to show the court about the incident. This could include:

- reports from doctors who treated you
- photos of injuries, showing the date the photos were taken (if possible)
- photos of any damage caused to property
- police information certificate (respondent's criminal record)—this will need to be subpoenaed
- telephone records including phone call logs, messages and images sent
- printouts of emails
- printouts of any social media posts, comments or messages.

If you have electronic evidence like voicemail messages, CDs or DVDs or other electronic files that you want to play in court, ring the court before your hearing to make sure the court has suitable equipment to play the evidence. You may have to bring your own equipment with you.



Get legal advice

If the respondent has related criminal proceedings and they are not finalised before your hearing, get legal advice about whether you should try to have the domestic and family violence protection order hearing put off until those matters are finalised.

You should get legal advice before attempting to represent yourself in court for the hearing of your domestic and family violence application.

You may be eligible to apply for legal aid for a lawyer to represent you in court. Talk to the lawyer about this when you get legal advice.

For more information, read our *How to apply for a domestic violence order* guide.

Do you need extra help accessing our services?



If you would like this factsheet explained in your language, please phone the Translating and Interpreting Service on 13 14 50 to speak to an interpreter. Ask them to connect you to Legal Aid Queensland. If you are deaf or have a hearing or speech impairment you can contact us using the National Relay Service. To make a call, go to the National Relay Service Website and ask for 1300 65 11 88 (Legal Aid Queensland's legal information line). These are free services.

Your local Legal Aid Queensland office:

BRISBANE

44 Herschel St, 4000

BUNDABERG

3rd Floor, WIN Tower,
Cnr Quay & Barolin Sts, 4670

CABOOLTURE

Ground Floor, Kingsgate
42 King St, 4510

CAIRNS

Level 2, Cairns Square Complex,
42-52 Abbott St, 4870

INALA

Level 1, Inala Commonwealth
Offices, 20 Wirraway Pde, 4077

IPSWICH

Level 7, 117 Brisbane St, 4305

MACKAY

Ground Floor,
17 Brisbane St, 4740

MAROOCHYDORE

Ground Floor, M1 Building
1 Duporth Ave, 4558

MOUNT ISA

6 Miles St, 4825

ROCKHAMPTON

Ground Floor, 35 Fitzroy St, 4700

SOUTHPORT

Level 2, 7 Bay St, 4215

TOOWOOMBA

1st Floor, 154 Hume St, 4350

TOWNSVILLE

Level 4, Northern Securities
Building, 22 Walker St, 4810

WOODRIDGE

1st Floor, Woodridge Place,
Cnr Ewing Rd & Carmody St, 4114

For more information
about our services visit
legalaid.qld.gov.au

or phone **1300 65 11 88** or **1300 650 143**
(Aboriginal and Torres Strait Islander Information Line)

