



What are my rights if...

I want to separate from my partner...

What are my legal rights?

Try to get legal advice if you think you might have a legal problem, especially before going to court. Call Legal Aid Queensland on 1300 65 11 88

What is domestic violence?

Domestic violence behaviour includes when another person you are in a relationship with:

- is physically or sexually abusive to you, or
- is emotionally or psychologically abusive to you, or
- is economically abusive to you, or
- is threatening, or
- is coercive, or
- in any other way controls or dominates you and causes you to fear for your safety or wellbeing or that of someone else.

Examples of this type of behaviour include:

- injuring you or threatening to injure you - punching, strangling you, grabbing your throat, pushing, slapping, pulling your hair or twisting your arms
- repeatedly calling, SMS texting, or emailing you or contacting you on your social networking site without your consent
- damaging (or threatening to damage) your property eg punching holes in the walls or breaking plates
- stalking or following you or remaining outside your house or place of work
- monitoring you (unauthorised surveillance) including reading your text messages, your email account, your internet browser history, your social networking site
- putting you down or making racial taunts
- holding you against your will
- forcing you to engage in sexual activities without your consent
- getting someone else to injure, intimidate, harass or threaten you, or damage your property
- threatening to commit suicide or self-harm to scare you
- threatening you with the death or harm of another person, child or animal
- threatening to withdraw their care of you if you don't do something
- coercing you to give them your social security payments
- forcing you to sign a power of attorney to them against your will so that they manage your finances
- threatening to disclose your sexual orientation to your friends or family without your consent
- preventing you from making or keeping connections with your family, friends or culture, including cultural or spiritual ceremonies or practices.

If another person does any of these things you can apply to a magistrate at a magistrates court for a domestic violence order. You do not have to have been physically injured to have experienced domestic violence.

In Australia this behaviour is against the law.

I need to leave the family home quickly. Is there anywhere I can stay?

If you don't have any family or friends who can help, your local police might be able to help find temporary accommodation for you and your children at a women's refuge.

You can also call **1800 811 811** for refuge accommodation.

I need to speak to the police but I can't speak English. What should I do?



If you need to speak with the police urgently and you don't have a friend or relative who can help you, you can:

- phone the police on **000** and tell them the language you speak; the police should then organise an interpreter for you
- phone the Translating and Interpreting Service on **13 14 50** and ask for an interpreter to help you contact the police. This is a free and confidential service.

Remember:

Try to get legal advice as soon as possible if you think you might have a legal problem.

You can call Legal Aid Queensland on 1300 65 11 88 for the cost of a local call from anywhere in Queensland.

Legal Aid Queensland's staff will try to answer any questions you have and help you to find someone to assist you.

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,
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, 4910

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

Your notes:

1300 65 11 88
www.legalaid.qld.gov.au

My partner has been violent towards me. What can I do?

- Phone the police on 000 if you or a family member are in immediate danger.
- Get legal information or advice from Legal Aid Queensland on **1300 65 11 88** or call DV Connect on **1800 811 811** for help about accommodation and other practical things.
- You can apply for a domestic violence order to help protect you and your family.
- You can apply to the Department of Home Affairs to remain in Australia in your own right.
- You can receive telephone counselling and support on 1800 737 732 (1800 RESPECT).

What is a domestic violence order?

A domestic violence order tells your partner to stop being violent towards you, and may order them to stop contacting, approaching and locating you and any other family members or friends who have been a victim of the domestic violence. A domestic violence order may last for up to five years.

How do I apply for a domestic violence order?

You can apply for a domestic violence order yourself or get a police officer, solicitor or authorised person (friend, relative, community/welfare worker) to apply for you.

You should get legal advice before applying for a domestic violence order. Legal Aid Queensland provides free legal advice and may be able to help you get a domestic violence order. Legal Aid Queensland also has a free guide called “How to apply for a domestic violence order” that can help you through the process. The guide is available on our website www.legalaid.qld.gov.au or by calling **1300 65 11 88**.

Domestic and family violence duty lawyer

At some Magistrates Courts, there may be a domestic and family violence duty lawyer, who can help on your court date. The domestic and family violence duty lawyer can give you free legal information and advice and may be able to appear with you in court (in certain circumstances).

Can I leave the home I share with my partner?

In Australia, you can leave your marriage or relationship at any time without asking permission from anyone. If you want to leave your family home, you can.

In most cases, partners who are going to separate reach an agreement about who will leave the home. If they cannot agree, a family law court may be able to make an order that forces one partner to leave. Where there has been domestic violence, a domestic violence order can make one partner leave the home.

Different rules apply to rented and owned properties. Without one of these orders, you cannot be forced to leave a home.

You can also decide to live separately (not as a couple) but under the same roof as your former partner. You may have to tell your partner that you are separated for possible divorce proceedings and you should let Centrelink know about the change to your relationship.

What about our children?

Even if you do not live together, both parents still have responsibility for their children. This will be about who the children will live with and how the children spend time with or communicate with the other parent.

What if my partner says I will never see my children again if I leave?

This is not true. Both parents are responsible for raising their children, provided it is in the child’s best interests.

If you cannot agree with your partner about the arrangements for the children after separation, you can ask Legal Aid Queensland, a family relationship centre or a community organisation to help you and your former partner come to an agreement about the parenting arrangements for your children, or apply to a court to make a decision about these arrangements.

My partner says that if I leave I will not have anything... no property or furniture. Is this true?

What you are entitled to when you leave will depend on how long you were married or how long you lived with your former partner, what money or furniture you brought with you when you moved in together, what contributions (financial and non-financial) you have made to the relationship (such as looking after the children, housekeeping etc) and what you will need in the future.

What should I take with me if I decide to leave?

If you decide you want to leave the family home you should get legal advice.

If you leave with your children, it is reasonable to take whatever household items you need to meet the day-to-day needs of the children eg the washing machine, beds and linen, pots and pans, crockery and children’s toys.

You should also try to take important documents with you like passports, birth and marriage certificates, citizenship papers, tax file number, driver’s licence, health care card, private health insurance documents, bank statements, credit cards and any other documents relating to your personal finances.

You should try to get legal advice about what property to take

with you and how the property and assets can be divided before you leave.

It is a good idea to take your personal belongings with you including items of sentimental value like photographs, gifts, jewellery and items from your family. You can take jointly-owned property, like a car, or money from joint accounts.

Any property you take will be taken into account when adjusting the property division with your former partner in the future, whether by agreement or by court order. Some items might then have to be given back to your former partner.

How will I live if I have no money of my own?

- You may be eligible for Centrelink benefits depending on your personal circumstances. Contact Centrelink immediately to find out what you may be entitled to on **13 28 50** or 13 61 50. If you cannot speak English, contact the Centrelink Multilingual Service on **13 12 02**.
- You should contact the Child Support Agency on **13 12 72** to find out if you can get money from your partner to help pay for the cost of raising your children.
- To find out if you may be entitled to other money from your former partner, you should get legal advice. Contact Legal Aid Queensland on **1300 65 11 88**.

My partner says I will be deported if I leave. Is that true?

If you are an Australian permanent resident or citizen, your partner cannot have you deported if you separate.

If you are an applicant for a permanent visa, sponsored by your Australian partner, then your partner may contact the Department of Home Affairs if you separate. The Department of Home Affairs may then review your situation. Any decisions about your immigration status will be made by the Department of Home Affairs and not your partner.

A threat by a visa sponsor to have their partner deported often occurs with other forms of abuse and intimidation or control. It may mean you are experiencing domestic violence. If you leave your partner and have experienced domestic violence it may mean you can apply to the Department of Home Affairs to remain permanently in Australia in your own right.

If you are considering leaving your partner, you should get legal advice before making that decision. If you do separate from your sponsoring partner, then you should get legal advice urgently because a visa applicant must notify the Department of Home Affairs of any changes to their circumstances.

For more information contact:

- Legal Aid Queensland on **1300 65 11 88**
- Refugee and Immigration Legal Service on **(07) 3846 9300**
- Immigrant Women’s Support Service on **(07) 3846 3490**