

Family Violence Fact Sheet

Family Violence Intervention Orders

Family Violence Intervention Orders (FVIOs) can be used to keep family members safe from family violence. This fact sheet provides information about what FVIOs are, how you can get an FVIO and the penalties for breaking an FVIO.

What is family violence?

Family violence is violence committed or threatened by one member of a family against the person or property of another member of the family.

Who is considered a family member?

Family members include:

- Parents and children, including children of an intimate partner
- People sharing an intimate personal relationship (for example, married, de facto or domestic partners)
- People you treat like a family member (for example, a carer, guardian or person who is related to you within the family structure of your culture)
- Relatives by birth, marriage or adoption
- Anyone who was a family member in the past.

Family violence is harmful behaviour by a person towards a family member.

What is harmful behaviour?

Harmful behaviour includes physical abuse, sexual abuse, psychological or emotional abuse, economic abuse, social abuse, spiritual/religious abuse, legal abuse, stalking, reproductive abuse, neglect, and image-based abuse.

Do threats and verbal abuse count as family violence?

Yes – if a family member verbally abuses or threatens to hurt you or another person in any way that causes you to fear for your own or that other person's safety, this will count as family violence even if the family member does not carry out their threats.

Example: Joshua's (he/him) husband frequently gets angry and threatens to hit him. He has never hit him before, but Joshua feels scared and unsafe in his own home.

This is an example of family violence as Joshua's husband has threatened to physically abuse him. It does not matter whether Joshua's husband has carried out his threats.

Child exposure to family violence

Family violence may also constitute behaviour where a child is exposed to, witnesses or is affected by harmful behaviour, and may include:

- overhearing threats of physical abuse by a family member
- seeing or hearing an assault of a family member
- comforting or helping an abused family member
- cleaning up after property has been damaged by a family member
- being present when police officers attend an incident involving physical abuse of a family member.

How and where can I get help?

There are a number of services which exist to provide support to both victims and perpetrators of family violence

The Orange Door

orangedoor.vic.gov.au

1800RESPECT

1800 737 732 • 1800respect.org.au

Sexual Assault Crisis Line

1800 806 292 • sacl.com.au

Safe Steps Family Violence Response Centre

1800 015 188 • safesteps.org.au

Victoria Police 000

If you are in immediate danger, call 000.

If you have trouble understanding or speaking English, tell the first police officer you speak to so they can get an interpreter as quickly as possible.

If it is not an emergency, you can call or go to your local police station or court location. The courts are open Monday to Friday, 9am–4.30pm.

If the police get a report of family violence, they must respond. The police can:

- arrest or hold your family member in custody.
- issue a family violence safety notice against your family member.
- remove guns and other weapons from your family member.
- apply for an interim intervention order on your behalf.

What is a Family Violence Intervention Order (FVIO)?

An FVIO is a court written order made by a judge that protects a protected person(s) from further family violence or harm. An FVIO may stop the respondent from conducting certain behaviours or contact with protected persons.

There are **two different types of FVIOs**: final and interim orders.

- 1. A final order** is a longer-term order that is made if a magistrate believes the protected person needs protecting, after listening to a range of evidence during a court hearing.
- 2. An interim order** is a temporary order made by the magistrate for the immediate safety of a protected person. This is usually granted in the meantime while the magistrate is deciding whether or not to make a final order. The court must be satisfied that granting an interim order is necessary to ensure the safety and protection of the protected person and their property.

What conditions may be included in a FVIO?

A FVIO may contain conditions that can stop you from doing a range of behaviours or actions. Some conditions included in an FVIO may:

- prohibit you from committing family violence against the protected person
- exclude you from the protected person's residence
- stop you from doing actions that relate to the use of personal property, such as stop you from using the family car
- stop you from approaching, calling, or otherwise contacting the protected person
- stop you from being anywhere within a specified distance of the protected person or a specified place, including the place where the protected person lives
- stop you from causing another person to engage in conduct prevented by the order

- revoke, cancel, or suspend a weapons approval or firearms authority held by you.

Consequences of breaking an FVIO

Commencement of the order:

Once you have been served with an FVIO and an explanation of that order has been given to you, the order starts. From this point on, you must not break the conditions of the order.

Result of breaking (breaching) an FVIO:

If you breach any of the conditions in an FVIO, it becomes a criminal matter, that may be added to your record. Severe penalties may follow; therefore, it is very important you strictly obey all the conditions in the FVIO.

Penalties for breaking an FVIO

If you do break an FVIO, the penalty can be up to 2 years imprisonment and/or a fine of up to \$44,380.80 (fine amount adjusted annually on 1 July).

If you break the FVIO by intentionally causing physical or mental harm to the protected person, or if you know your conduct will probably cause them physical or mental harm, the penalty is up to 5 years imprisonment and/or a fine of up to \$110,952 (fine amount adjusted annually on 1 July).

If a police officer believes on reasonable grounds that a person has breached an FVIO the officer may, without a warrant, arrest and detain the person.

If the protected person permits contact or the breaking of my FVIO conditions, will I still be breaching my FVIO?

It is important you understand the gravity of the conditions in the FVIO. Once a FVIO has been created by the magistrate, the order cannot be changed without going back to court. Therefore, even if the protected person encourages or authorises your conduct that breaks the FVIO, you will still be considered to have breached the

FVIO and the protected person will not be penalised for authorising that conduct.

For example:

- The protected person invites or allows you to have access to the residence or another place which breaks the FVIO
- The protected person allows you to spend time with the protected person or your child which breaks the order or notice.

Note: The information in this document is general information only and should not be relied on as legal advice. It is current as at 30 March 2023. If you need further assistance, please contact Deakin Law Clinic.

