



# **APPLYING FOR AN INTERVENTION ORDER**

## **APPLYING FOR AN INTERVENTION ORDER**

This booklet explains the court procedure to apply for an Intervention Order in the Magistrates' Court

# Contents

Taking action against family violence	<b>3</b>
About Intervention Orders	<b>4</b>
Standard orders	<b>6</b>
If there are children involved	<b>7</b>
How the police can help	<b>8</b>
Guns	<b>9</b>
Steps in getting an Intervention Order	<b>10</b>
Step 1: Applying for an Intervention Order	<b>12</b>
What to tell the Registrar	<b>14</b>
Step 2: Waiting for the hearing date	<b>16</b>
Step 3: Getting the order	<b>18</b>
Living with your order	<b>20</b>
Guide to getting an order	<b>22</b>
Services you can use	<b>24</b>

## Stalking

Intervention Orders are mainly intended to protect people from family violence.

You can also apply for an Intervention Order against *anyone* who is stalking you – whether they're a member of your family or not.

Stalking includes repeatedly following someone, telephoning them or sending messages, loitering near their house or workplace, keeping someone under surveillance and any other repeated behaviour that makes the victim fear for their safety. It must happen more than once for it to be stalking.



# Taking action against Family Violence

'Family violence' includes physical violence, threats, abuse and emotional and psychological intimidation. You can take action to stop it:

## 1. Call the police.

The police may apply for an Intervention Order for you. They may also charge the violent person with a criminal offence. See page 8 for how the police can help.

## 2. Get a court order.

You can apply for an Intervention Order yourself through the Magistrates' Court (or Children's Court if you're under 17). See page 12 for how to apply yourself. There are support services that can help you do this.

## What an Intervention Order is

An Intervention Order is a court order made by a magistrate under the *Crimes (Family Violence) Act 1987*. Its purpose is to protect you from family violence or stalking by a member of your family or household, or someone you have had a close relationship with.

An Intervention Order can be made without the other person ('the defendant') being in court. But it only has legal force once the defendant has been given ('served with') the order.

## Domestic violence outreach services

There are many local domestic violence outreach services across Victoria. They can give you information and advice, and help you take action against a violent or abusive person. Many of them will help you deal with the police and go to court with you. They can also refer you to free legal services that can give you advice.

The court or police refer you to a local service.

## You are not alone

For help in dealing with family violence and referral to local agencies, ring :

## Women's Domestic Violence Crisis Service of Victoria (24 hours)

9373 0123 1800 015 188 (country callers)

## Domestic Violence and Incest Resource Centre

9486 9866 TTY 9417 1255

## Free legal advice and help

Some courts have Intervention Order support schemes which give free legal help to people applying for an Intervention Order. Check with your court.

# About Intervention Orders

## What the order protects you from

A magistrate can make an Intervention Order against the other person

### IF:

- they have harassed or molested you or behaved in an offensive manner, or
- they have assaulted or threatened to assault you, or
- they have damaged or threatened to damage your property, or
- they have repeatedly stalked you (see page 2)

### AND IF:

- they are likely to do it again.

An Intervention Order is a way of protecting you from the other person's behaviour *in the future*. Regardless of what the person has done in the past, the magistrate will only make an Intervention Order if you have reason to fear the behaviour will continue.

You can get an Intervention Order even if there's been no physical violence.

## How long it protects you

A temporary order can be made, which will cover the time that it will usually take for the defendant to be summoned to the court hearing. (see page 15)

Your final order will be for whatever length of time the magistrate thinks suitable, e.g. three months, one year, three years. If you still need the order at the end of that time, make sure you apply for another order about a month before the order finishes.

## It's not a criminal case

Applying for an Intervention Order is a civil procedure, not a criminal one. That means it's regarded as a personal dispute. Even if the police are involved, your application for an Intervention Order doesn't mean that the other person is being charged with a criminal offence (although the police can do this as well). They don't get a criminal record just because the magistrate decides to make an Intervention Order. If they *break* the terms of the order, however, that is a criminal offence.

## Who you can get an order against

You can only apply for a Intervention Order against a member of your family (or a person who is stalking you, see page 2).

'Family member' includes your spouse (married or de facto), ex-spouse, parents, children and relatives. It also includes any person with whom you have had an intimate personal relationship (e.g. boyfriend or girlfriend – including a same-sex partner), your guardian (if you're under 17), or a person who has ordinarily been a member of your household. If you are sharing household expenses but have no other relationship with the person you may not be able to apply for a family violence Intervention Order, but you may be able to apply under stalking legislation (see page 2).

The term 'relatives' includes people who are your relatives through past and present marriages and de facto relationships, as well as your blood relations.

## What an order can include

An Intervention Order might contain a number of separate conditions. Each of these restricts the behaviour of the other person in some specific way.

The standard orders used by the court are listed on the next page. Think about which of these you need and whether you have any special needs which they do not cover. The magistrate can vary them or add to them. You don't have to have all the orders listed.

## Words used in the order

The person applying for the order is called either the 'complainant' or the 'aggrieved family member'.

The person who the order is against is called the 'defendant'.



# Standard Orders

## Behaviour towards you

The order can say that the defendant is prohibited from: assaulting, harassing, molesting, threatening or intimidating you, the complainant.

## Having no contact with you

The order can say that the defendant is prohibited from: approaching, telephoning or contacting you, except (a) if you are with a police officer (such as to collect belongings) or (b) to have counselling or to have contact with your child by agreement with you or by a court order or (c) to take part in mediation by agreement with you.

## Staying away from your home or work

The order can say that the defendant is prohibited from: Being at or within a certain distance of the premises situated at . . . or any other premises where the complainant lives or works. The distance is often 200 metres, but it can be any specified distance.

The distance needs to be enough to protect you, but not so far that it limits the freedom of movement of the other person unfairly or unnecessarily.

If you don't want the defendant knowing where you live or work, these addresses can be left out. In practice, this

means that the other person cannot live with you. If they are living with you now, it means that they will have to move out (see page 20).

## Staying away from a specified place

There may be a place where you go regularly which you need the other person to stay away from, e.g. a house you visit or somewhere you go for classes.

## Protecting your property

The order can say that the defendant is prohibited from: Damaging your property or jointly owned property.

## Other people harassing you

The order can say that the defendant is prohibited from: Causing another person to engage in conduct prohibited by this order.

Sometimes the defendant may try to get around the order by getting another person, such as their new partner or a brother or sister, to continue harassing you.

## Removing guns

The order can say that the defendant is prohibited from: Possessing, carrying or using firearms (see page 9).

# If there are children involved

Get legal advice about family law issues *before* applying for an Intervention Order, especially if you're worried about your children's safety.

## Are the children at risk from the defendant?

If you believe your children are at risk of harm you can include them in your Intervention Order. You may have to prove the need for this in any later family law proceedings relating to the children. Courts take the view that children should be allowed to see both their parents unless there is a strong reason for them not to.

## Intervention Orders and family law orders

Intervention Orders are designed to deal with family violence. They are quite separate from family law orders about divorce, property or the parenting of children. The relationship between Intervention Orders and family law orders is quite complex.

Your Intervention Order doesn't stop the defendant from applying under the Family Law Act for a contact order *allowing* them to see the children. When making a contact order the court will take the Intervention Order into account.

## You might need to get current family law orders changed

There may be a conflict between an Intervention Order and a family law contact order. Talk to the registrar about this. Get legal advice about whether you need to get your contact order changed.

When making a temporary (interim) Intervention Order the magistrate can suspend the family law contact order for 21 days. This will give you time to get legal advice and apply for a different contact order.

## Avoiding the defendant at contact visits

Think about how contact with the children can be managed to reduce contact between you and the defendant. Is there a neutral place where the children can be picked up and dropped off?

## Including children in an Intervention Order

You can include children under 17 in your Intervention Order. If you want a separate order for them, you can make a separate application on their behalf. A child between 14 and 17 can make an application in their own name if the court agrees. Ask the registrar about this. An application by a child is usually heard in the Children's Court.

# How the Police can help

## Call the police

If you've been assaulted, harassed or threatened, or your property has been damaged, ring the police immediately.

They have the power to:

- *arrest* the offender,
- *search* for and remove weapons. If you tell them the defendant has a gun, they *must* remove it,
- *charge* the offender with a criminal offence,
- *apply* for an Intervention Order on your behalf.

The police cannot *give* you an Intervention Order themselves – only a magistrate can do that.

## Police applying for an order for you

If you've called the police, and there have been threats, an assault, sexual abuse, property damage or there are concerns for your safety, they *must apply* for an Intervention Order on your behalf. If the police apply for the order on your behalf, the police prosecutor will handle the case at court, but you will still have to go to court on the day of the hearing (see page 18).

The police can apply over the telephone or by fax for a Warrant to arrest the offender – if you need immediate protection after hours or if you're in an isolated spot and it's too far to get to the courthouse.

You will have to go to court on the day of the final hearing for the order to be made.

The police can apply for an Intervention Order without your agreement if they believe this is necessary to protect you or your children.

In practice, the police will often tell you to go to the Magistrates' Court to apply for the order yourself. If you're too afraid to do this, you can insist on the police helping you with the application.

## Police approach varies

The approaches taken by individual police officers and different police stations vary. If possible, write down the name of the police officer who attends and their police station, in case you need to follow up with them later. If you're unhappy about how the police have handled it, use the complaint procedure described on page 21.

The domestic violence support service in your area may be able to help you in dealing with your local police (see back cover).

**In some places, the police *always* apply for the Intervention Order for you and you don't have to apply at court yourself. Check with your local police or court.**

# Guns

---

## Tell the police

If you think you are at risk because the defendant has a gun you should tell the police. They have the power to go into the defendant's house, search, and remove any guns in the defendants' possession. The police *must* act if you tell them you are in danger because of a gun.

## Tell the court

You should also tell the court registrar that you're worried about guns when you apply for the Intervention Order. The registrar can alert the police who must then seize the defendant's guns.

With a temporary order, the magistrate has the power to *suspend* the defendant's gun licence – this means that the defendant must surrender all guns to police.

## Defendant not allowed to have a gun

Once a final Intervention Order is made, the defendant's gun licence is *automatically* cancelled – regardless of whether the Intervention Order mentions guns.

This means that the defendant is not allowed to have a gun. This prohibition lasts while the Intervention Order is in place and for five years after the order finishes.

The defendant will be told that the licence is cancelled and that all guns must be handed to the police. If the defendant doesn't the police can seize the guns.

If the defendant has a reason for having a gun, such as working as a security guard, then an application can be made to the Magistrates' Court by the defendant to get the gun licence back. Both the police and you must be notified and can object to the defendant being allowed to have and use a gun.

**Tell the registrar if you're worried about the defendant having a gun.**



# Steps in getting an Intervention Order

There are three steps in getting an Intervention Order:

## 1. You apply

You have to go to a Magistrates' Court, see a court **registrar** and fill in an application (called a 'Complaint'). (See pages 12-13 for more detail.)

## 2. Defendant is notified

The **police** will notify the defendant about your Complaint (see page 16).

## 3. Court hearing

The **magistrate** will decide whether to make the order (see pages 18-19).

See page 22 for a summary of these steps.

## Take control of your case

Even if the police have helped you make your application, they probably won't come to the hearing. You have to live with the outcome and you need to be in control of your own case.

This means:

- Get medical treatment if you need it.
- Use a domestic violence support service (see page 3).
- Get legal advice *before* the hearing day.
- Think about what sort of order you need and how it will work in practice.
- Make sure you have all the information you need to give to the court.
- Keep a diary of continuing violent behaviour or harassment, noting the time, date and place.

## Get legal advice first

It's a good idea to get legal advice, especially if there are children involved or the defendant is planning to oppose the order. A lawyer can tell you:

- how to apply and prepare for the hearing,
- what to do about family law issues.

If you don't understand what the lawyer says, ask questions. If you still don't understand, say so!

You can get *free* legal advice from Victoria Legal Aid or a community legal centre (see back cover). Some courts also have legal help available.

## How to prove you need an order

Your evidence will show the magistrate why you need an Intervention Order. When you make your application, give the court registrar as much of this information as you have (what to tell the registrar is discussed on page 14).

Too much is better than too little.

### Your story

Your account of what has happened is the most important part of your evidence. *Even if you have no other evidence, you can still get an order based on what you tell the magistrate.*

At the first hearing before the magistrate, you will be asked to go into the witness box, swear an oath (or an affirmation) to tell the truth, and tell the magistrate in detail, step by step, what happened and *why you're afraid it could happen again.*

Start with the most recent and most serious abuse. It's a good idea to write down what you want to say before you go to court, so that it's all clear in your mind.

## Other evidence

This isn't essential, but if you do have other sorts of evidence, tell the registrar and the magistrate:

- **Witnesses:** Occasionally other people will have seen or heard what the defendant did. They must have seen or heard something themselves, not just rely on what you or someone else told them.
- **Photos:** You may have photos of injuries caused by the defendant.
- **Letters or other papers:** Take any written material showing threats or intimidation, including e-mail messages or answering machine tapes.
- **Medical evidence:** A doctor's report describing physical injuries is good evidence. If the defendant is opposing the order, you may also need to bring the doctor to give evidence in person. Ask the court registrar about this.
- **Police statements:** If the police were called and took a statement from you, they should have given you a copy of this. The police themselves won't usually come to court. If you think it's important to have them there to give evidence, you would have to summons them to court. Ask the court registrar how to do this.

# – Step 1: Applying for an Intervention Order

## It might take all day

Making an application can take a long time. It's not just a matter of quickly filling in a form. You will be interviewed by the court registrar and you may have to go into the courtroom for the magistrate to decide whether to grant an interim (temporary) order. You will then have to wait for a copy of the order.

## Ring for an appointment

If possible, ring the court beforehand and make a time to see the registrar. Tell the court staff if you need to see the registrar urgently.

## Interpreters

If you or the defendant are going to need an interpreter for the court hearing, tell the registrar this when you apply for the order. You may also need help from an interpreter when the registrar interviews you.

**Getting an Intervention Order can take a few weeks, but you may be able to get a temporary order to protect you until a final order is made.**

## Help at court

It's a good idea to take someone with you when you go to see the registrar, to help you tell your story clearly and to help you remember what the registrar says. This can be a friend, a domestic violence support worker or someone from Court Network.

Court Network volunteers give support to people at court and can make referrals to other community resources. They are not lawyers and can't give legal advice, but they can tell you about court procedure. You can ring them before you go to court (see back cover).

## Which court?

You should go to the nearest Magistrates' Court. You might prefer to go to one further away for safety reasons and you should explain this to the registrar at that court. Some courts will take your application, but will want you to go back to your nearest court for the final hearing. If you have a good reason for not going to your nearest court, you can insist on another court dealing with it.

## How to apply

### 1. Go to court counter

Tell the court staff that you want to apply for an Intervention Order. You may be asked to fill in an information sheet while you wait for the registrar to see you.

### 2. Interview with registrar

The registrar will ask you what has happened and whether you think it will happen again. This will help them fill in the Complaint form and work out what sort of conditions you need in the order (see page 6). What to tell the registrar is covered in detail on page 14.

*If you need immediate protection*, the registrar can send you into the courtroom so that the magistrate can decide whether to make an interim order (see page 18). The court may be busy and you may have to wait until the magistrate has time to hear your case.

Alternatively, if the registrar or magistrate is satisfied that your personal safety is seriously threatened or that your property is likely to be damaged, they can issue a *Warrant* for the police to arrest the defendant (see page 16).

### 3. Sign the Complaint

Once the registrar has completed the Complaint form, you sign it. First check that the details of the complaint are correct and that the orders asked for are the ones you want.

### 4. Get court date for the hearing

Your copy of the Complaint form will have the date and time for the final hearing on it. You *must* attend court on that day. If you fail to attend, the order will not be made.

### Interim (temporary) order

This order lasts for a few weeks. *An interim order can only be made by a magistrate, not the court registrar.*

The order can be made without the defendant being there or knowing anything about it. *But the order is not effective until the defendant has been given a copy of the order by the police.* Ring the police or the court in the next day or two to check that this has been done. It may not be safe for you to go home until you know the defendant has received the order and has left the house.

If the defendant breaks ('breaches') any of the conditions in an interim order, they can be charged with a criminal offence (see page 21).

# What to tell the Registrar

When you go to the court to make your application for an Intervention Order, take with you all the relevant information. As well as the things listed on page 11, take any previous court orders and any family law orders. Some of what the registrar needs to know may be extremely personal – *be prepared for this*. The registrar will need to know the following sorts of information.

## Personal details:

- your name, address, telephone number and date of birth (if you're in a refuge or emergency housing, you don't have to give your address, but the court will need some way of contacting you),
- name, address, telephone number, occupation and age (date of birth if you know it) of the defendant.

## Relationship:

- your relationship to the defendant (whether married to them, boyfriend/girlfriend etc.),
- information about the relationship such as how long it has been going, whether you're separated or not.

## Children:

- names and birthdates of your children and whether they're the defendant's children,
- whether the children are at risk of violence or abuse and need to be included in the Intervention Order,
- whether you want family law contact orders varied or suspended.

## Other court orders:

- whether you have had any other Intervention Orders against the person,
- whether there are any family law parenting orders – either already made or in progress.

## Helpful information about the defendant

To help the police find the defendant, you should also give the registrar information about the defendant, such as:

- work address,
- car registration number, colour and make of car,
- address of close friends or family where they visit,
- other places they often go to, such as the pub, gym,
- physical description of defendant, plus *recent photo*,
- whether the defendant has a gun and where it's kept.

## Why you want the order:

- Give details of what has happened, including dates, times, places. Start with the most recent events.
- Include all incidents of physical violence, and also other forms of abuse or intimidation. Describe any threats to use weapons or actual use of them.
- Be as specific as possible, e.g. Last Wednesday night he punched me in the stomach during an argument; or she said she would kill me if I went out to visit my friend. Tell it word for word if you can.
- Talk about why you're afraid it will happen again.

Tell the registrar as much as you can. *Don't rely on them to ask you questions.* If the magistrate doesn't understand or have enough information in your application, you will have to answer more questions publicly in court.

## Type of order:

- Say what sort of conditions you want in the order (see page 6). These are listed on the standard Complaint form with a box to tick. You can vary them to suit your situation, e.g. you may need special conditions about issues like how to get your belongings out of the house (see page 20).

Think about how the order will work in practice. Make sure you can obey the order too. Otherwise you can be charged with helping the defendant to breach the order. You may need to get the order varied if your circumstances change. See page 20 for more information.

## Victims counselling scheme

If you apply for an Intervention Order you may be entitled to free counselling sessions with a psychologist, social worker or loss and grief counsellor. The Victims Referral and Assistance Service can provide you with information about legal, financial and emotional support. A listing of support services and counsellors is available. See back cover for contact details.

# Step 2: Waiting for the Hearing Date

## Defendant must be notified

The court registrar will send the complaint form to the police so that they can give it to the defendant (this is called 'serving' the documents). The court documents will tell the defendant the date and time of the court hearing.

There are two ways this can happen:

### 1. The defendant can be served with a Summons

This may take several days. They will also receive any interim order that has been made.

### 2. The defendant can be arrested on Warrant

This should happen quite quickly. The defendant will probably be released on bail until the court hearing date. The bail conditions should be similar to Intervention Order conditions, e.g. the defendant will not be allowed to approach or harass you.

## Defendant's reaction

You may be at risk from the defendant during the time after your application has been made and before the final hearing date. They may be angry that you have applied for an order.

**Ring the police immediately on 000** if the defendant harasses, assaults or threatens you or your property. If you have an interim order or if the defendant is on bail and breaks the bail conditions by approaching you, the police can arrest and charge them.

## Defendant's options

The defendant can:

- **agree to the order**  
They don't have to come to court (unless they're on bail) or do anything else, but can come if they want to.
- **agree to the order being made, but disagree with your allegations**  
This is called consenting to the order 'without admissions'. They would have to come to court to tell the magistrate that. You will still get your order and it will still have the same force.
- **oppose ('contest') the order**  
They would have to come to court and tell the magistrate their version of events.

The defendant may also ask the magistrate to put different conditions in the order before they agree to it being made.

## Defendant wanting an order against you

The defendant may suggest that they will agree to an order being made if you also agree to an order being made against you, i.e. you both agree to stay away from each other. *Don't agree to having an Intervention Order made against you unless you first get legal advice.* Breaking an order has serious legal consequences (see page 21).

## Stay in touch with the court

If you haven't heard from the court a few days before the hearing, ring the registrar to check if the defendant has been notified (by Summons or by arrest Warrant). No order can be made until the defendant has been served with the court documents. If the defendant has not been served with the documents, the court date may be changed and you may need to get an interim order extended.

## It's hard to change the court date

If you get to court and discover that the defendant is there with a lawyer ready to oppose the order, you can ask the magistrate to put the case off to another day. Some magistrates will agree to this, but other magistrates will insist on the case proceeding or will only agree if you pay the defendant's legal costs.

It's better to bring your witnesses and be ready to go ahead on the day. Check with the court registrar what is likely to happen at that particular court.

## You must attend court

The magistrate won't make an order if you're not there and may drop your application altogether (unless the police are applying for the order for you).

If you have a good reason for not coming, such as a medical emergency, ring the court beforehand and tell the registrar.

**If the defendant is trying to intimidate you out of going to court, tell the police or the court registrar immediately.** You can also ring one of the support services listed on page 3.

If you genuinely change your mind about needing the order, write to the court or ring the registrar and tell them why. Otherwise it will be noted on the court file that you just didn't turn up. This might look bad for you if you want to apply in the future for another Intervention Order. Also, if you haven't let the court know in advance and the defendant comes to court with a lawyer, you may have to pay legal costs.

# Step 3: Getting the Order

## You may be at court all day

The court usually starts hearing cases at 10am. Get there about half an hour before. Your case may not be heard straightaway and you should arrange to be there for the whole day. It's better not to take children to court.

## When you first arrive

Tell the court staff your name so they know you're there. They can then organise the order in which cases will be heard. If the police applied for the order on your behalf, also let the police prosecutor know that you are there. If the defendant is contesting the order, your case may not be heard until the afternoon, or it may be put off to another day.

Don't go too far away – you need to be able to hear your name being called when the magistrate is ready for you.

## Help at court

Many courts have people who can help by explaining what will happen or going into court with you. Ask the court staff what help will be available.

## If you're afraid at court

If you're worried about your safety, tell the court staff. They can arrange for you to wait somewhere away from the defendant or refer you to a support agency at court.

## Dealing with defendant or their lawyer

If the defendant has a lawyer they may want to talk to you. You don't have to talk to them if you don't want to. Don't let yourself be pressured into dropping the case or agreeing to different conditions in the order. Tell the registrar if this is a problem.

## What happens at the hearing

When your name is called, go into the courtroom. Stand behind the table at the front of the court, facing the magistrate. The magistrate or clerk will tell you what to do.

### If the defendant isn't there

You will have to go into the witness box and swear an oath (or make an affirmation) to tell the truth. The magistrate will have your Complaint form, but they will ask you to tell them clearly in your own words why you need an order. Give them any written evidence, e.g. doctor's report, and say why you're afraid the defendant will continue to be a threat to you.

### If you already have an interim order

You may not have to go into the witness box, but the magistrate may check if the situation has changed.

Tell the magistrate about any more incidents. If the defendant hasn't been served with the court documents yet, you may get another interim order for a few weeks.

## **If the defendant is there and agrees to the order**

Both you and the defendant stand behind the long table at the front. The magistrate will check that the defendant agrees to the order being made.

## **If the defendant is there and opposes the order**

The magistrate may ask the defendant why they are contesting the order. They might end up agreeing to the order being made, although they still disagree with some things in your Complaint form.

If the defendant still wants to contest, then the magistrate will hear the case. Sometimes it will be put off to another day to allow more preparation time. *Make sure your interim order is extended to the new hearing date.*

The magistrate will hear your version of events first, then the defendant's.

Both of you can ask each other questions, call witnesses and give the magistrate any written evidence.

## **The order is made**

If the magistrate is satisfied that you need an order, they will read out the terms of the order and tell you how long it's for. Listen carefully to make sure the terms are suitable.

You can ask the magistrate to consider making changes. The magistrate will explain to the defendant that they will face penalties if they break the terms of the order.

## **Wait for a copy of the order**

Once the order is made leave the courtroom and wait in the foyer for your copy. It can take a while to be typed. Read the order before you leave. Ask the court staff if there's anything you don't understand.

The order will be registered on the police database and a copy will be sent to your local police station.

## **Defendant must get a copy of the order**

*The order has no legal force until the defendant knows what the order says.* If they are not at court the registrar will send a copy of the order to the police to deliver to the defendant. This can take a few days. Check with the police or court to find out if the order has been served.

# Living with your Order

## Keep a copy of the order with you

Carry your Intervention Order with you. Give a copy to the places where you and your children regularly go, such as school, kindergarten, childcare, work. Then they can call the police if necessary.

## Help from the police

You may need to get help from your local police to deal with practical issues. You can arrange to have the police present while the defendant moves out or collects their belongings. It is not up to the police to evict the defendant.

If the Intervention Order says that the defendant must not come within a certain distance of your house, then they must move out – usually by a specific date. If they don't the police can arrest them for breaching the order.

You can also get the police to go with you to get personal belongings from the house where the defendant is living.

Again, the role of the police is to make sure that the terms of the order aren't breached. They're not there to help you move your things, but only to ensure that no intimidation or assault occurs.

## Changing the order

You must obey the order too – you can't give the defendant permission to ignore the order. *Otherwise you can be charged by the police with aiding and abetting the defendant to commit a criminal offence in breaking the order.*

Circumstances may change after you get the Intervention Order. If you want to renew contact with the defendant, you must go back to court *first* and apply to change ('vary') the order.

For example, you may decide that the defendant can come to your house, but you can still have an Intervention Order that says they must not assault, molest or threaten you or damage your property.

If you want to vary the order, contact the court registrar. The registrar will fill in the court forms for you and organise for the defendant to be notified. You would then have to come back on another day and go before a magistrate who will make the decision.

Either party can apply to vary the order at any time – the other person will be notified.

## Breach of order

If the defendant breaks *any* of the conditions of the Intervention Order (temporary or final), they can be charged by the police with a criminal offence. The police can arrest the defendant. If found guilty the defendant can be fined up to \$24,000 or imprisoned for up to two years.

Keep a diary of events, writing down dates, times and exactly what happens and what is said. This makes it easier for the police to take action against the defendant.

*No breach is trivial.* Even driving past your house when they have been ordered not to go within 200 metres of it is significant. You can ring the police and report it.

The police must act on a complaint that the defendant has broken the conditions. They should take a signed statement from you. Then they will interview the defendant and any witnesses before deciding to lay any charges.

## If you're unhappy with police action

Ring the police station where you made your report and speak to the Section Sergeant. If this doesn't work, there are formal complaint procedures. Any 24-hour police station can help you with this or you can complain to the Deputy Ombudsman (Police Complaints). You can also contact a community legal centre (see back cover).

## Travelling interstate

If you go interstate you can get your order registered and enforced by the police there. Check with the local court in that State about what to do.

## Appeals

If you are unhappy with the magistrate's decision, you can appeal to the County Court. You must do this within one month. Speak to the registrar at the Magistrates' Court about how to appeal. Get legal advice first.

### When the order is due to end

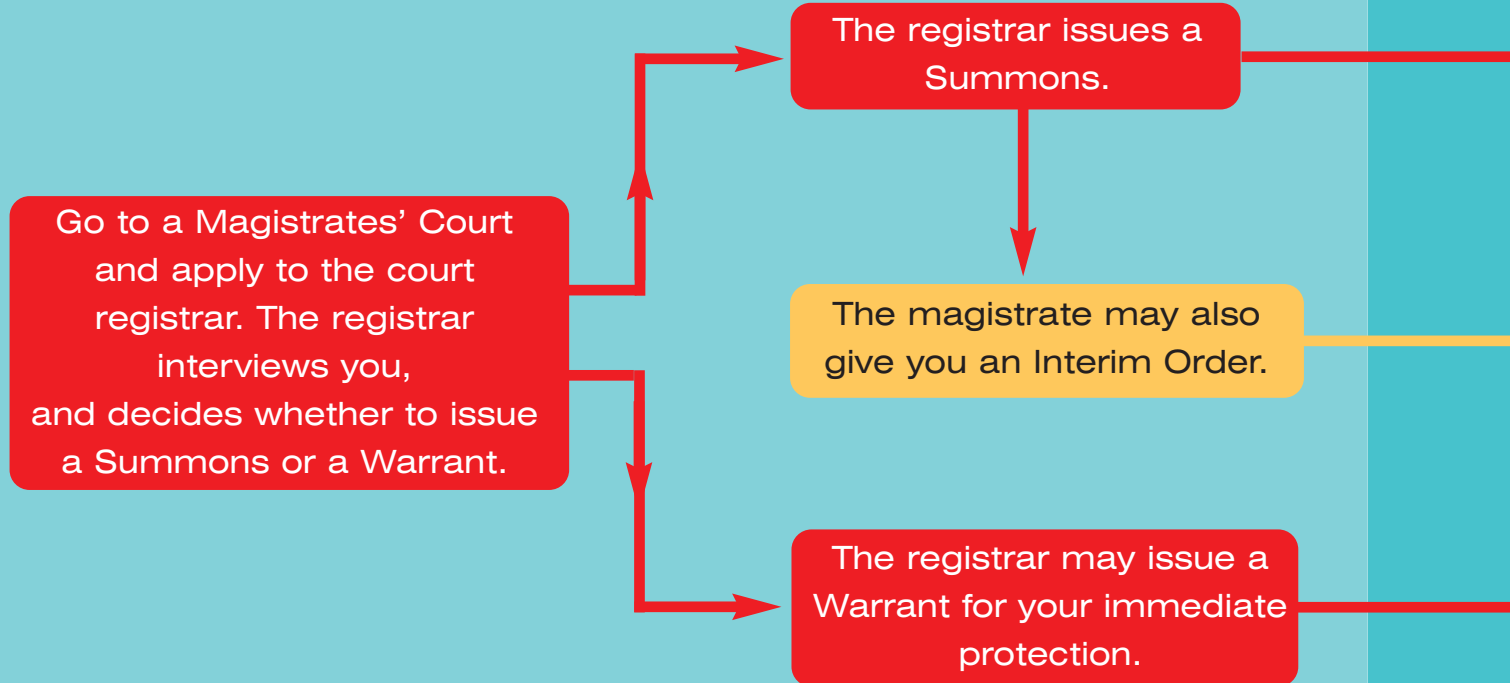
**If you need the order to be extended, apply 3-4 weeks before it finishes. You won't receive notice that your order is about to end.**

# Guide to Getting an Order

## 1.

### YOU MAKE AN APPLICATION

## 2



## DEFENDANT NOTIFIED

## 3. COURT HEARING

The police 'serve' the Summons on the defendant.

The police 'serve' the Interim Order and the Summons on the defendant.

The police arrest the defendant. Usually they release him/her on bail with conditions.

Go to the court for the hearing. The magistrate decides whether to make the order.

# SERVICES YOU CAN USE

## Urgent cases

### Police emergency number: 000

If you're assaulted, molested or threatened out of hours RING THE POLICE. They have the power to seize weapons and the power to lay criminal charges.

### Domestic Violence 24-hour crisis line:

9373 0123  
1800 015 188 (country callers)  
If your local police won't act and you're still afraid, ring this number.

## Court help

### Magistrates Courts

For telephone numbers see listing under Justice Department in the White Pages.

### Court Network

Information and support before, during and after court  
9603 7433  
1800 681 614 (country callers)

### Translating and Interpreting Service (24 hours)

131 450

## Legal help

### Women's Legal Service Victoria

For legal advice and referral  
9642 0877  
1800 133 302 (country callers)  
9642 0334 (TTY)

### Federation of Community Legal Centres

For referral to a community legal centre or court support scheme  
9602 4949

### Aboriginal Family Violence Prevention and Legal Service

96543111

### Aboriginal Legal Service

9419 3888

### Victoria Legal Aid

9269 0120  
1800 677 402 (country callers)

## Support services

### Domestic Violence and Incest Resource Centre

Information, Family Violence information line and referral to local agencies.  
9486 9866  
9417 1255 (TTY)  
Country callers can reverse the charges.

### Immigrant Women's Domestic Violence Service

Telephone support and information in other languages.  
9898 3145

### Women's Information and Referral Exchange

Telephone counselling, advice and referral for women  
1300 134 130

### Victims Referral and Assistance Service

For help in dealing with the effects of a crime  
9603 9797  
1800 819 817 (country callers)



  
Victoria Law Foundation

Produced and published by the Victoria Law Foundation and Victoria Legal Aid.

Written by Lynn Buchanan and Jennifer Lord. Designed by Richard Brownfield

© Victoria Law Foundation and Victoria Legal Aid

Reprint December 2002

ISBN 0-9586307-1-2

The material in this booklet is a general guide only. It is not intended to be and should not be relied on as a substitute for professional legal advice.