

Navigating Domestic and Family Violence



Domestic violence is often an overt or subtle expression of a power imbalance, resulting in one person living in fear of another, and usually involves an ongoing pattern of abuse over a period of time.

Under the Domestic and Family Violence Act 2012 (Qld), the Court can issue Domestic Violence Orders, also known as Protection Orders, to protect individuals from acts of violence.

This resource will help you identify if you or someone you know are a victim of domestic violence, and what to do if you are served with an application for a protection order.

What is domestic violence?

Domestic violence is behaviour in a relevant relationship that is, but not limited to:

- Is physically or sexually abusive; or
- Is emotionally or psychologically abusive; or
- Is economically abusive; or
- Is threatening; or
- Is coercive; or
- Controls or dominates another person causing fear for that person's own safety or the safety of someone else.

What is a relevant relationship?

The law in Queensland provides protection for the following types of relationships:

- An intimate personal relationship (married, engaged, de facto or dating)
- A family relationship (children, relatives, or parents)
- An informal care relationship (someone who is dependent upon another for help in activities of daily living).

How can a court help protect me and my loved ones from domestic violence?

A court can issue Domestic Violence Orders. Otherwise known as a 'Protection Order,' this legally binding document limits an individual's behaviour to prevent further harm from coming to the aggrieved and anyone else named on the protection order.

Children, relatives, friends and work colleagues can be named on the protection order if there has been violence, or threats of violence, made towards them.

How does a protection order limit behaviour?

Conditions within a protection order can include, but are not limited to:

- Approaching workplaces, homes, schools, kindies, etc. of those named on the order
- Going near the anyone named in the order, ie. You might need to stay at least 100m away in public spaces.
- Stopping any communication with those named on the order

Who can apply for a Protection Order?

The following people can apply for Protection Orders:

- an aggrieved person
- a person with written authority to act on the behalf for the aggrieved person
- a person with authority granted from a relevant Act for the aggrieved.

Police Officers can also apply for a protection order on the behalf of an aggrieved if, after an investigation, it is reasonable to believe domestic violence has been committed.

What if I'm Served an Application for a Protection Order?

When served with application for a protection order there will be a set date for you to appear in court and respond to the application. If you do not attend, a protection order may be imposed on you in your absence.

When in court, you have three options:

1. Consent to the protection order

Agree to all terms and conditions of the order. This option is not recommended if you have not yet received legal advice.

2. Request adjournment

Choose this option if you have not yet received legal advice. By explaining to the magistrate that you need more time to get advice, an adjourned date will be set for you to return and respond to the application. Note that a temporary protection may be imposed on you until the adjourned date.

3. Contest the protection order

If you disagree with a protection order being made against you, a contested hearing date will be set. At the contested hearing, you will need to provide evidence why the domestic violence order should not be made.

Regardless of whether you choose to consent or contest a protection order, seek legal advice.

Will I get a criminal record?

Having a protection order made against you is not a criminal offence, however, breaching a Protection Order is a criminal offence and carries significant penalties.

If you believe you are a victim of domestic violence, or if you have been served with a protection order application, get in touch with the family law team today.

TOWNSVILLE

Level 1/84 Denham Street
PO Box 1015
Townsville QLD 4810
+61 7 4722 0220

INGHAM

45 Lannercost Street
PO Box 364
Ingham QLD 4850
+61 7 4776 1488

CONTACT DETAILS

www.kswlawyers.com.au
info@kswlawyers.com.au



**Keir Steele
Waldon**
Lawyers