

Domestic Violence Orders 1

What are they?



Magistrates Court

Some legal words explained:

Applicant: The person who is applying for the domestic violence order. This is usually the person seeking the protection, but can sometimes be the Police Officer, or other person making an application on the person's behalf.

Protected Person: Once a domestic violence order is made, the person on whose behalf the order is made is known as the protected person.

Defendant: The person who the application/domestic violence order is made against.

Vary: Change the conditions of the order.

Revoke: Stop or get rid of the order.

Consent: Agree.

Breach: Break or not follow the order.

Adjourn: Put off a Court matter to another day.

Domestic Violence Law in the NT

The purpose of the domestic violence law is to keep all people safe and protected from domestic violence. The law aims to reduce and prevent violence and to make people who commit domestic violence, take responsibility for their behaviour.

What is a Domestic Violence Order?

A domestic violence order is an order made by the Magistrates Court, or in some cases, the Police. The order is to try and protect the victim of domestic violence, their property and in some cases, their children, from domestic violence. The order sets out rules, or conditions that the defendant has to obey.

Who can apply for a Domestic Violence Order?

Any of the following people can apply to the Court for a domestic violence order:

- An adult or young person who is in a "domestic relationship" with the defendant;
- An adult acting on behalf and with the consent of another adult or child who is in a "domestic relationship" with the defendant;
- A Police Officer;
- Officer from Family & Children Services.

A young person is someone between the ages of 15 and 18. The Court will only allow a young person to apply for a domestic violence order on their own behalf if the Court is satisfied that the young person understands what the order means and why they are applying for it.

There are approved forms to be used when making an application. For help on how to fill these forms in, see brochure "How do I make an Application?".

What is a Domestic Relationship?

The meaning of domestic relationship is broad and includes:

- Family relationships, including marriage, de facto relationships (including same sex relationships) and traditional marriage in accordance with Aboriginal or Torres Strait Islander custom.
- Relatives including mothers, fathers, sisters and brothers, aunts and uncles, cousins, step-parents and in-laws.
- Relatives according to Aboriginal tradition or contemporary social practice.

- People who have been dating or engaged to each other. They do not have to have had a sexual relationship and can be of the same or opposite sex to each other.

- People who live together or have lived together in the past. This includes housemates and former housemates. A person can also apply for a domestic violence order against someone in a family relationship with a person they have lived with, for example, the mother of a former housemate.

- People who are (or have been) in a carer's relationship. This means that one of the people is dependant on the ongoing paid or unpaid care of the other person, whether or not they live together.

What if there is no domestic relationship between me and the other person?

If you need protection from someone who is not in a domestic relationship with you, but who is acting in a violent, threatening or abusive way towards you, you can apply to the Magistrates Court for a personal violence restraining order. (See brochure on Personal Violence Orders). For more information about personal violence restraining orders please contact one of the legal services listed at the end of the brochure.

What are my reasons for getting a Domestic Violence Order?

The Court or a Police Officer can only make your domestic violence order if there are reasonable grounds for you to fear that the defendant will commit domestic violence against you.

This means that in the application you need to explain to the Court why you believe that the defendant will commit domestic violence against you. You will need to give examples of things that the defendant has said or done that make you fear domestic violence.

What is Domestic Violence?

Domestic violence includes any of the following behaviours:

- Conduct causing harm. This includes hitting with an object, punching, slapping, pulling hair, biting, throwing things at you etc;
- Damaging property, including causing the injury or death of an animal;
- Intimidation. This includes a person causing another person to fear that domestic violence will be committed against them;
- Harassment. This includes a person regularly contacting another person by email, phone, letters, text messages or in person when they have been asked not to;
- Stalking a person. Stalking means deliberately following, watching or waiting for a person on at least two separate occasions;
- Economic abuse. This means things such as selling the other person's property without their consent, pressuring the person to hand over their credit card, or not letting the person have access to money.

Domestic violence also includes attempting or threatening to do any of these things.

What sort of things should I tell the Police or my Lawyer?

It is important to give your lawyer or the Police Officer who is helping you as much useful information as possible. You should tell your lawyer or the Police:

- If you and the defendant have any children;
- If you have any family law orders in place;
- If the defendant has been violent to you or anyone else in the past;
- If the defendant has a criminal record;
- Whether you live with the defendant and where you will stay if an order is made;
- If the defendant has any firearms.

Are there different types of Domestic Violence Order?

Yes, the Court can make different types of domestic violence orders depending on your situation.

Some examples of the types of orders you can ask for are:

- That the defendant must not contact or approach you at all (this includes through text messages, family members or letters);
- That the defendant must not act in a way that would amount to domestic violence, but can still have contact with you;
- That the defendant must not contact or approach you when he/she has been drinking alcohol or taking drugs;
- That the defendant will attend counselling or rehabilitation (this order will only be made with the defendant's consent).

Some examples of orders are set out – Form 4.

I don't want to see the defendant but we have children together

If you are making an application for a domestic violence order against the defendant and you have children together, you need to think carefully about what orders you ask for.

How do I get a Domestic Violence Order?

There are different ways to get a domestic violence order.

Urgent

If your matter is urgent, for example there is an immediate risk that the defendant will hit or hurt you, you should call the Police immediately. The Police can make an order without having to apply to the Court in some circumstances.

Not Urgent

In some cases, it will not be urgent to get a domestic violence order, but it will still be important. You or your lawyer or the Police can apply to the Magistrate's Court for a domestic violence order.

Your application must be in writing. Approved Forms should be used and are available at the Court.

I need more help

This brochure gives you information, but it is not legal advice. It is important to speak to a lawyer if you need legal advice about domestic violence.

Police Domestic & Personal Violence Protection Unit

- Alice Springs 8951 8888
- Darwin 8948 0110

Legal Advice and Advocacy

- NT Legal Aid Commission Legal Information Line 1800 019 343
- Central Australian Women's Legal Service 1800 684 055
- Central Australian Aboriginal Family Legal Unit 1800 088 884
- NPY (Ngaanyatjarra Pitjantjatjara Yankunytjatjara) Women's Council Aboriginal Corporation Domestic Violence Service 1800 180 840
- North Australian Aboriginal Family Violence Legal Service 1800 041 998
- Domestic Violence Legal Service (Darwin) 8999 3000
- Katherine Women's Information and Legal Service 1800 620 108
- Katherine Aboriginal Family Support Unit 8972 3200

Further information can be obtained by visiting our website at www.nt.gov.au/justice/ntmc/