

Personal Violence Restraining Orders *Justices Act* section 82



Magistrates Court

Can I get an order to stop violence against me if I am not in a domestic relationship with the other person?

Yes you can apply for a Personal Violence Restraining Order through the Magistrates Court.

Under what circumstances can I apply for a Personal Violence Restraining Order?

You can apply for a Personal Violence Restraining Order (PVRO) against a person if that person has committed a personal violence offence against you or it is likely a personal violence offence is going to be committed against you by that person.

What is a personal violence offence?

Personal violence offences are defined in section 80 of the *Justices Act* but generally include any offences of assault, indecent assault, reckless behaviour which may cause you personal injury etc. If you are unsure whether the behaviour towards you is included in the definition, you should get some legal advice.

Who can I get an Order against?

You can get an Order against anyone who has or has threatened to commit a personal violence offence against you. If that person is someone related to you or you have a domestic relationship with them, it may be more appropriate to make an application under the *Domestic and Family Violence Act*. (refer to our brochures regarding that Act).

You cannot apply for an Order against someone who is under 15 years old.

How do I apply?

The Court staff at any Registry of the Magistrates Courts will have a form they can give to you to fill in or you can visit our website at www.nt.gov.au/justice/ntmc and follow the links to the forms.

The relevant form is form number 1.

You will need to file an affidavit in support of your application setting out the circumstances leading up to your application. Your affidavit should contain an explanation of what has happened between you and the defendant, how you know the defendant and why you believe there is a chance of further violence between you.

Once you have filled in your application form and completed an affidavit/statutory declaration, you need to file it at the nearest Registry of the Court of Summary Jurisdiction.

What happens once I file an Application?

All applications will be referred to the Community Justice Centre for mediation before they can be put before a Magistrate for a decision (section 86).

If there has been a history of violence between you and the defendant or you have been to mediation before, let the Registry staff know and they can decide whether you need to go to mediation.

You will then be contacted by an Officer of the Community Justice Centre to arrange a date and time for mediation.

What happens at the Community Justice Centre (“CJC”)?

You and the defendant will be given a date and time for a mediation by the CJC. At that mediation you will be asked to discuss the issues between you and try and reach a solution to the problem.

If after mediation no resolution is made, then the CJC will write a report on the mediation to the Court and the Court will list your application for a date and time before a Magistrate.

How does the matter get to Court?

Once the Court receives a report from the CJC, the application will be listed for a mention before the Court and parties will receive a notice of the next Court date. You should turn up to the Court House mentioned on the Notice at the date and time set.

If for some reason you cannot make it to the Court at the time and date allocated, you should tell the Court, preferably in writing. If you want the matter to be adjourned to another day, indicate when it is convenient to you and **give contact details** so that the Court can advise you of the next date.

Note: just because you ask for an adjournment, does not mean that the Court will give that adjournment. The application could be dealt with by the Court in your absence if you do not turn up.

What do I do when I get to Court?

There will be a date, time and Court House written on the notice of mention you receive from the Court. Usually the time will be 10:00am and you should get yourself to the Court House at least 15 minutes before the allocated time. Somewhere in the Court House there will be a Court list, look for your name and next to your name there will be a court number. Go to that Court Room and make yourself known to the Court Officer who should be just outside of that Court Room. The Court Officer may make themselves known to you by calling out your name just before 10:00am.

Of course if the Court House has only one Court Room, then you should go to that Court Room and wait outside. If you are unsure of where you should be, go and see one of the staff at the Registry and they should be able to assist you.

If you have a lawyer involved, find them and let them know you are present, if not, then let the Court Officer assigned to the Court Room know you are present. You should be able to identify the Court Officer as the person standing outside the Court Room with a list in their hands.

When do I actually have to be in the Court Room?

You will be asked to go into the Court Room by the Court Officer just before the Magistrate is brought into the Court, it is best to go in and wait for your turn. If you do not feel comfortable about being inside the Court for whatever reason, as long as you stay nearby so that you can hear your name called by the Court Officer, it is okay to stay outside the Court Room. You may want to stay outside if you have young children with you or you are uncomfortable being in the same room as the other person.

How do I know it is my turn?

You will see that there are other people in the same Court Room as you are in and that is because all of the applications for domestic violence orders and personal violence orders are listed in the one day. You should wait for your name to be called and move forward to the "bar table" which is the table facing the Magistrate, when it is called. If you are outside once Court has started and your name is called, then when you enter the Court go straight to the bar table and introduce yourself to the Magistrate.

What do I have to tell the Magistrate?

If you are the Applicant you need to tell the Magistrate what orders you want and why. You should have all of the relevant information in your supporting affidavit. If the defendant does not turn up, the Magistrate may ask you to get into the witness box and give some further evidence. Answer any questions the best you can and then the Magistrate will be able to decide whether or not an order should be made.

If you are a Defendant you will be asked by the Magistrate if you oppose the order being made, consent to the orders or consent to the orders with some variations. If you oppose, then the matter will be given another date for a hearing and the Magistrate may make some orders about filing affidavits in support of your side of the story.

Will the Order be made on that first day?

Depending on a lot of factors, an order may be made on the first day. It is unlikely to be made on that day if the defendant is opposing the application. It is more likely that a further date for a hearing will be set.

Do's and Don'ts of the Court Room

You should turn off your mobile phone before entering the Court Room.

If you have young children with you who have become restless, you should take them outside until your matter is heard.

When entering and leaving the Court Room while the Magistrate is in the room, you should give a short bow towards the Magistrate.

Listen when you are being spoken to by the Magistrate and do not interrupt. However once the Magistrate is finished talking, do not be afraid to voice any concerns you have with the Magistrate.

Stand when you are being spoken to by the Magistrate and stand when you want to speak to the Magistrate.

Do not swear, shout or mumble when talking in Court, speak clearly and try to keep any temper under control.