

How does the court consider domestic and family violence?



FAMILY VIOLENCE LAW HELP

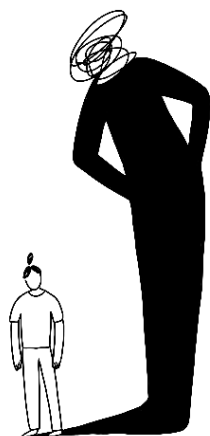
www.familyviolencelaw.gov.au



If you have experienced domestic and family violence, it's important to get legal advice about how the court may consider domestic and family violence in your case.

The Family Courts take domestic and family violence very seriously. When making Parenting Orders, the court considers what is in your child's best interests by considering a number of factors.

Protecting your child from harm including from domestic and family violence is the main thing the court considers. The court also considers whether there has been any domestic and family violence and any Domestic Violence Orders, as well as other factors.

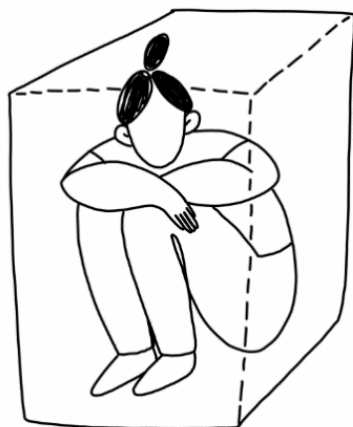


Every case is different, so it's important to get legal advice about your situation.

Under family law, 'family violence' means when one person uses violent, threatening or other behaviour to pressure or control a family member, or that causes them to be fearful.

Some examples of family violence under are listed below. However, this is not a complete list. If something isn't listed, that doesn't mean it's not family violence.

- Physical abuse
- Sexual abuse
- Stalking
- Verbal abuse
- Damaging property
- Hurting animals
- Financial abuse
- Social abuse
- Exposing a child to domestic and family violence





How does the court find out if there's been domestic and family violence?

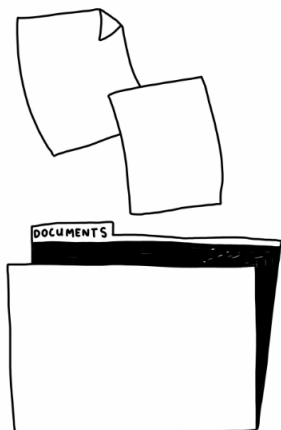
If your case goes to the Family Courts, you and the other parent must tell the court if:

- there has been any domestic and family violence in your case
- there are any Domestic Violence Orders in place for or against you or your children (and give the court a copy)
- a child protection department have ever been involved with your family.

You have a duty to disclose this information to the court.

The Family Courts may make orders to:

- get evidence from police records or child protection agencies
- get evidence from other courts, for example - about any Domestic Violence Orders
- appoint an Independent Children's Lawyer
- have your family meet a family consultant or another expert who will write a report and make recommendations to the court.



Each parent or their lawyer may issue subpoenas (a written order) to get information like medical or other records.

I have experienced domestic and family violence – how do I tell the court?



You must tell the Family Courts about any domestic and family violence by:

- providing a copy of any Domestic Violence Orders
- setting out what happened in your Affidavit
- by filing a Notice of Risk
- telling the Judge what happened when you give evidence if your matter goes to final hearing.

You will need to go into detail about the domestic and family violence in your affidavit (written statement), even if the violence hasn't been reported to the police, your doctor or anyone else. You can get legal advice about how to write an affidavit. The Federal Circuit Court website has information about [Preparing Affidavits](#).



A Notice of Risk is a court form and is filed at court. It sets out whether there has been any domestic and family violence and if there is a risk of domestic and family violence.

Police records and other external evidence can be important evidence in your case. But, there doesn't have to be police records or other external evidence for the Court to decide that the domestic and family violence happened.



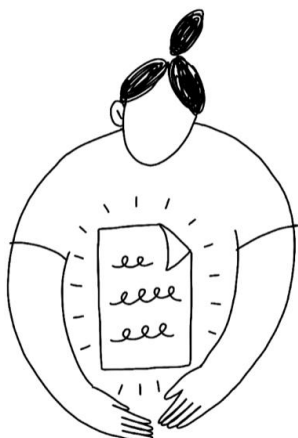
What orders will the court make if there's been domestic and family violence?

If you have experienced domestic and family violence, you should get legal advice about what orders the court may make in your case.

The Family Courts take domestic and family violence very seriously. When making Parenting Orders, the court considers what is in your child's best interests by considering a number of factors.

Protecting your child from harm including from domestic and family violence is the main thing the court considers. The court also considers whether there has been any domestic and family violence and any Domestic Violence Orders, as well as other factors.

If there is evidence that the children won't be safe with a parent, the court may decide that one parent should have less time, supervised time or no time with them. It depends on the facts of your individual case, so it's important to get legal advice.



I have experienced domestic and family violence – can the Family Courts make orders for my protection?

The Family Courts can order Personal Protection Injunctions. This can help protect you by ordering the other person not to do certain things. It is different to a Domestic Violence Order, so it's important to get legal advice about Personal Protection Injunctions and Domestic Violence Orders.

What if someone breaks an injunction?

If you have a Personal Protection Injunction and the other person breaks the order you should get legal advice about the next steps. This may include reporting the breach to the police and telling the Family Courts. If you, or someone you are with is in immediate danger - call police on Triple Zero (000).

