

How do I prepare for court?



FAMILY VIOLENCE LAW HELP

www.familyviolencelaw.gov.au

Before court

Get legal advice



Try to get legal advice as soon as the Department become involved with your family. You can get free legal advice from your local Legal Aid office, Family Advocacy and Support Service or community legal centre. Some private lawyers offer you a free first appointment if you ask.

In most States and Territories, you will be helped by a duty lawyer on the first day of court.

After your first appearance in court, you will need to arrange a lawyer to represent you for the rest of your case:

- you can apply for legal aid—the duty lawyer on your first day at court will help you do this, or
- if you are not eligible for legal aid, you can choose to pay a private lawyer or represent yourself.



You may be able to get a lawyer who either works for Legal Aid or is paid by Legal Aid to represent you in your case. Legal Aid will look at how much you earn and what you own, like property or money, when it decides if they will pay a lawyer to handle your case. This is called getting legal aid.

You can get legal aid even if the other side, like your ex-partner, is getting legal aid too.



Write down important dates

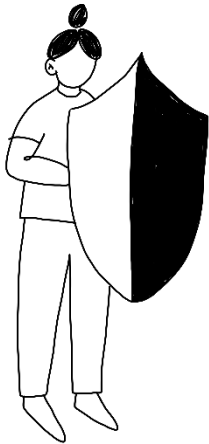
Write down when you need to go to court.

If you don't go, the court can still make an order without hearing your side of the story and you will be bound by any orders made.

Get a safety plan

If you're worried about your safety at court, you can talk to your lawyer about this or contact your local Children's Court or Youth Court (in South Australia). You should try to do this as early as possible.

The court may be able to make safety arrangements if you have experienced domestic and family violence. For example, if you don't want to be in the same waiting area as someone else or if you need support from security.



Make child care arrangements

The Children's Court and Youth Court don't have child care facilities.

Try to organise for someone to look after your children when you have to go to court.



On the day

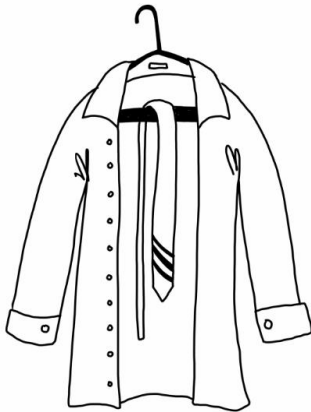


What to bring?

Make sure you have all your documents organised and ready.

Bring a friend or family member as a support person if you want.

Take pens and a notebook so you can write notes.



What should I wear?

You should dress neatly and tidily, like you are going to a job interview.

Don't wear a hat or sunglasses in the courtroom.

When should I get there? How long will court take?

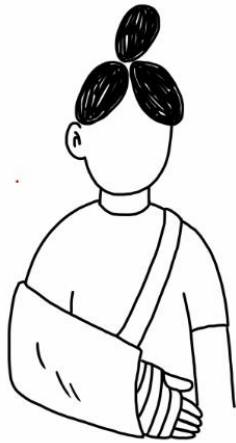
Try to get to court early so you can speak with your lawyer.

Be at least 15 minutes early and check which courtroom you need to go to.

Be prepared to be at court for most of the day. You may have to wait a while before your case is called. There may be other cases ahead of you.



Sometimes, your case will be in court quickly - usually to make a temporary decision or for the court to decide what should happen as the next step in your case. Other times, your case can be in court all day or for several days - usually to hear all of the evidence and for the court to make a final decision. You should talk to your lawyer about what to expect.



What if I can't make it to court?

It is very important to go to court. If you don't go to court, the court may go ahead and make orders about your children without hearing your side of the story.

If you can't go for a good reason, call your lawyer or the court and let them know. If you are very sick and can't go, get a doctor's certificate to prove this.

What should I do when I arrive?

Let your lawyer know you have arrived so you can talk to them. If you don't have a lawyer, you can ask court staff if there's a 'duty lawyer' you can speak to.

There may be several courtrooms. Find out which court room your case is in and wait until your case called.



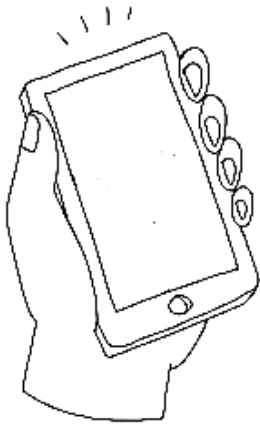
What if I don't have a lawyer on the day?

Most courts have lawyers who can give you free legal advice on the day about your case. They are sometimes called 'duty lawyers'.

In most States and Territories, you will be helped by a duty lawyer on the first day of court. A duty lawyer can give you advice about your legal options, and what you can expect to happen in court. They may be able to appear for you in court that day, help prepare court documents, and help negotiate on your behalf.



You don't need an appointment, but if you need legal help, you should arrive early on your court date. For more information, contact your local Legal Aid office.



What should I do when I go into the courtroom?

Turn your mobile phone off before you go into the courtroom.

If you want to, you can bow to the Judge as you enter and leave the courtroom. This is a custom that some people do to show respect for the court's role and powers

How do I talk to the Magistrate?

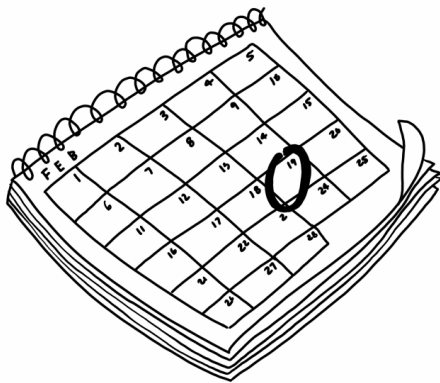
If you have a lawyer, your lawyer will probably do most of the talking. If you need to talk to the Magistrate, call them 'Your Honour'.



My case has been adjourned – what does this mean?

Often when your case first goes to court, it will be adjourned. This means it will be postponed so a final decision can be made later. If this happens, the court may make interim (temporary) orders which usually last until a final decision is made or a new interim order is made.

If your case is adjourned, it may give you a chance to address any issues affecting your parenting. You might want to work with support services and complete any programs the Department referred you to. This can help your case and may increase the chances of your children being returned to your care.



You may also be involved in meetings or conferences with the Department and other people to talk about how things are going and to see if any agreements can be made. How this works is different in each State and Territory, so you should get legal advice about what is involved. You may have to go to court several times before your case is finished.



When will the case be finished?

The case is finished when:

- a final Care Order is made—this can be either when all the parties agree, or can be decided by the court after a final hearing, or
- no order is made. This happens if the court decides your children are not in need of care and protection.

While we have tried to make the information here as up-to-date and accurate as possible, the law is complex and always changing. All legal problems are different. You should see a lawyer to get advice about your problem. Legal Aid NSW, National Legal Aid and the Commonwealth Attorney-General's Department are not liable for any errors or omissions, or for any loss or damage that arises from any person who relies on any information on this factsheet. This factsheet was developed in 2019.