

Applying for an intervention order

This factsheet is for people in South Australia seeking **protection from abuse**, especially those experiencing domestic, family or sexual violence.

An **intervention order** can protect you from all forms of abuse, including physical, sexual, emotional, psychological and financial abuse and coercive control.

What is an intervention order?

An intervention order is a **court order** against a person who makes you fear for your safety, to protect you from violence, intimidation or harassment. The person you fear (known as the **respondent**) must obey the court order. The order usually says that the respondent must not assault, threaten, harass or intimidate you. It can also prevent the respondent from contacting or visiting you.

An order can be made against anyone you fear including a current or former spouse or partner, relative, or neighbour. If you fear for your children's safety, you can include them in your application.

How to apply for an intervention order

If you have been assaulted, threatened, or had property damaged, **call the police** or go to a police station to make a report. The police can issue an **interim** (temporary) **intervention order** if the respondent is present with police or in custody. An intervention order starts as soon as the police hand it to the respondent.

If you have been experiencing abuse or coercive control, and can safely keep notes of what is happening (when and where things happened, and if there were witnesses), this may help you report to police later.

Write a list of the things that have made you feel scared or unsafe. When you apply for an intervention order, you will need to give a formal written statement covering things like:

- your relationship with the respondent
- the names and ages of any children you have
- whether your children witnessed the abuse or have been abused themselves
- any drug, alcohol or mental health issues
- whether the respondent has access to a weapon
- details of physical violence, threats, intimidation, stalking, property damage or dangerous driving
- details and evidence of any harassing phone calls, texts, emails or social media posts
- whether any other people close to you have also been threatened or have reason to be scared
- copies of any other court orders.

The police may also decide to charge the respondent with criminal offending after hearing your story.

Private applications

You can apply to the court for an intervention order yourself or with the help of a lawyer.

The **Women's DV Court Assistance Service** is a free specialist statewide legal service that supports women affected by family violence. Women can receive legal help to apply for, change or stop an intervention order, or make a police report if the respondent disobeys an order.

For more information and assistance, **call 1800 246 642**.

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What steps are involved?

1. Application

If the police have issued an interim intervention order, this will take the place of an application to the Magistrates Court and your case will proceed to a determination hearing (see step 4).

Alternatively, the police (or you) can apply for an intervention order at the Magistrates Court.

2. Preliminary hearing

After applying for an intervention order, a date for a preliminary hearing will be set. At this hearing, a magistrate will read your statement and decide if there are grounds to make an interim order. If you have applied to court yourself, you will need to give evidence at the preliminary hearing to support your application.

To make an interim order, the magistrate will need to accept that it is likely that the respondent will, without intervention, commit an **act of abuse** against you.

The respondent will **not** be at the preliminary hearing.

3. Letting the respondent know

The interim order will not come into force until the police hand it to the respondent personally. Once this has been done, you should tell the police if the order is not obeyed. Keep a copy of the order handy and provide a copy to others who may witness and report the respondent disobeying the order. This could include a childcare centre or school if the order bans the respondent from these locations.

4. Determination hearing

After an interim order comes into force, the respondent will be told to attend court on a particular date (usually within 8 days). If the respondent does not attend, the order may be made final.

At the determination hearing, the court can:

- **confirm the conditions** of the order and make it **final**
- **change the conditions** of the order and make it **final**
- **dismiss the application** and end the order
- **continue** the order and set a date for a **pre-trial conference**.

A respondent may disagree with what you say in your application, but may still agree to the order.

5. Going to trial

If the respondent disagrees with the order, a date will be set for a pre-trial conference. If an agreement cannot be reached at the conference, a trial will be scheduled. At the trial, the magistrate will hear the evidence and decide if a final order should be made.

In a domestic violence situation, there are procedures to **keep you safe** in court and to have the case resolved as quickly as possible. The court may make special arrangements for you to give evidence. You may be able to prerecord your evidence or give evidence from another room, have a friend or relative with you for emotional support, use a screen to hide the respondent from your view, or exclude the respondent from the courtroom.

The respondent is not allowed to cross-examine you (ask you questions about your evidence). If the respondent has a lawyer, the lawyer will ask you questions. If not, the magistrate will check the questions the respondent wishes to ask you and then the magistrate or someone the magistrate nominates will question you.

Do I have to go to court?

If you make the application yourself, you must attend every court hearing. If the police or your lawyer make the application, they will tell you if you need to attend the hearings. Your case may be more likely to succeed if you attend court. Bring a relative or friend to support you. Remember that the respondent will not be present at the preliminary hearing.

What does an intervention order include?

This really depends on your situation. Common conditions include:

- the respondent must not assault, threaten, harass or intimidate you
- the respondent must not contact or communicate with you in any way
 - this may be changed to allow contact through a lawyer or police or to arrange contact with children
- the respondent must not come within a certain distance of you or any other protected person (such as your children if they are also protected by the order)
- the respondent must not enter or remain within a specified distance of your home, workplace or other specified place, such as a childcare centre or school

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- the respondent must not follow you or keep you under surveillance, including by GPS tracking
- the respondent must leave the home
 - the respondent may be permitted to attend the home with a police officer at a planned time to collect their personal belongings.

Interim and final intervention orders require the respondent to give up their **firearms** and suspend firearms licences while the order is in force.

If you are, or were, in a domestic relationship with the respondent, the magistrate may refer the respondent to an **abuse prevention program**. This program helps men learn respectful ways of thinking and acting in relationships and is supported by a Women's Safety Service. This service may offer you safety advice while the respondent is in the program.

If the court believes that there is a reasonable likelihood of harm to family members because of problem gambling, it may also make a **problem gambling order**.

Your home

A respondent may be ordered to stay away from premises even if they own or rent them.

If you are in rented premises, then once you have an intervention order, you may change door or window locks without the landlord's consent. You will need to give the landlord a copy of the order, as well as the new key (unless the landlord is the respondent). You can also ask for the landlord's consent if you do not yet have an intervention order. If they refuse, you may apply to the South Australian Civil and Administrative Tribunal (SACAT) for permission.

If you are in rented premises as a tenant and wish to leave because of domestic abuse, you can end the tenancy with an intervention order or a report from a professional. If you wish to stay in premises that you have been living in with the respondent, you can apply to SACAT to remain in the premises as the sole tenant.

The **Women's DV Court Assistance Service** can help women with tenancy orders. **Call 1800 246 642.**

Can the respondent find out my address?

It is the policy of the police and the court not to give out your address. Tell the police if you do not want the respondent to know your address.

This information is general and not a substitute for legal advice. The Legal Services Commission provides free advice for most legal problems. 11.24

What if the intervention order is ignored?

The respondent must obey the order. They may be charged with a criminal offence if they ignore it. Serious penalties may apply, including prison.

How long does an order last?

An intervention order is ongoing and continues in force until it is stopped (revoked) by the court.

Can an order be changed or stopped?

Yes. The court may change (vary) or stop (revoke) an intervention order on application. The respondent must wait at least 12 months after the order is made to apply to vary or revoke it.

An application to vary or revoke an intervention order will only succeed if the respondent can prove that circumstances have changed and the order or a particular condition is no longer needed for your safety. Before any changes are made, the court will ask you what you think.

Does the order apply interstate?

Intervention orders issued in South Australia that are declared by the court to address a **domestic violence concern** are automatically recognised and enforceable across Australia. The same applies to domestic violence-related intervention orders issued interstate.

Will the order affect the respondent's criminal record or employment prospects?

An intervention order is not a criminal matter and will not give the respondent a criminal record. However, if the respondent **disobeys** the order, they may be charged with a **criminal offence** and get a criminal record.

If the respondent works with children or vulnerable people, an intervention order may be assessed as part of their work clearance but it will not necessarily prevent clearance.

We can help

For free help applying for an intervention order or a tenancy order, call the **Women's DV Court Assistance Service** on **1800 246 642.**

For free information and advice about intervention orders or other matters, call our **legal helpline** on **1300 366 424.**