

- The respondent must not come within a certain distance of you or any other protected persons (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.
- The respondent must not follow you or keep you under surveillance, including by GPS tracking.
- The respondent must leave the home premises.
 - The respondent may be permitted to attend the home in the presence of a police officer at a prearranged time to collect their personal belongings.

Interim and final intervention orders require the respondent to surrender 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 aims to help 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 issue a **problem gambling order**.

Your home

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

You may change door or window locks, even if the premises are rented. If locks are changed on rented premises, the landlord must be given a key (unless the landlord is the respondent).

If you are in rented premises, and the respondent has been living with you in those premises as a co-tenant, you may apply to the South Australian Civil and Administrative Tribunal (SACAT) to either:

- remain in the premises as the sole tenant (if you can afford the rent), or
- terminate the tenancy (with the co-tenant liable for any loss or damage they have caused).

The Women's Domestic Violence Court Assistance Service (WDVCAS) can assist women with tenancy orders. Call WDVCAS on 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.

What if the intervention order is ignored?

The respondent must obey the order and may be charged with a criminal offence if it is ignored. Serious penalties may apply, including significant terms of imprisonment.

How long does an intervention 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. An application can be made to the court to have an order changed (varied) or stopped (revoked). The respondent must wait at least 12 months after the order is issued 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 such that the order or a particular condition is no longer necessary 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 such intervention orders issued interstate.

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

Receiving an intervention order is not a criminal matter and does 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.

Legal Helpline 1300 366 424
Child Support Advice 8111 5576

Legal Services Commission Offices

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| • Adelaide Office
159 Gawler Place
Adelaide 5000
Telephone 8111 5555 | • Port Adelaide Office
263 St Vincent Street
Port Adelaide 5015
Telephone 8111 5460 |
| • Elizabeth Office
Suite 2 Windsor Building
1 Windsor Square
(off Playford Boulevard)
Elizabeth Shopping Centre
Elizabeth 5112
Telephone 8111 5400 | • Port Augusta Office
34 Flinders Terrace
Port Augusta SA 5700
Telephone 8686 2200 |
| • Noarlunga Office
Noarlunga House
Ramsay Place
Noarlunga Centre 5168
Telephone 8111 5340 | • Whyalla Office
17A Forsyth Street
Whyalla 5600
Telephone 8620 8500 |

Do you need help calling us?

- | | |
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| • National Relay Service TTY users phone 133 677 | • National Relay Service Internet Relay users visit nrschat.nrsccall.gov.au |
| • National Relay Service Speak and Listen users phone 1300 555 727 | |

Visit us online at lsc.sa.gov.au

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

Applying for an intervention order



Who is this information for?

This information is for people in South Australia applying for an intervention order for **protection from abuse**, especially those experiencing domestic or family violence. An intervention order can provide protection from all forms of abuse, including physical, sexual, emotional, psychological, social and financial.

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.

Legal Help for all South Australians

How can I 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 have the power to 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.

Before you make a report, make a list of the things that have made you fear the person or feel unsafe. Include details of when and where these things happened and if there were any witnesses. It is helpful to have a written statement prepared before you talk to police.

Your statement should include:

- 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 Federal Circuit and Family Court orders or Child Protection 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. For legal advice about intervention orders, call the **Legal Helpline** on 1300 366 424.

The **Women's Domestic Violence Court Assistance Service** (WDVCAS) is a specialist statewide legal service that supports women affected by domestic or family violence. Women can receive free legal assistance to make an application, change or stop an intervention order, or make a report to police if the respondent disobeys an order. For more information and assistance, call 1800 246 642.

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 brought the application yourself, you will need to give evidence at the preliminary hearing to support your application. The magistrate will need to be satisfied that it is reasonable to suspect that the respondent will, without intervention, commit an **act of abuse** against you and that an intervention order is appropriate in the circumstances. The respondent will not be present at this 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 (for example, a childcare centre or school if the respondent is prohibited from them in the order).

4. Determination hearing

After an interim order comes into force, the respondent will be directed 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 ensure your protection in court and to have the case resolved as quickly as possible. The court may make special arrangements for you to give evidence, such as by way of audio visual recording, closed circuit television transmission to the court, having a relative or friend with you for emotional support, using a screen to obscure the respondent from your view, or excluding 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 ask them.

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 is included in an intervention order?

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.
- If appropriate, the respondent may be permitted contact with you through a lawyer or the police, or in writing, to arrange contact with your children, or pursuant to any parenting plan or parenting order, or to exchange information about the welfare of children.