

# INTERVENTION ORDERS



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## 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 further violence, intimidation or harassment. The person you fear (known as the defendant) must obey the order made by the court. An intervention order prohibits the defendant from assaulting, harassing, threatening, stalking, or intimidating you. An order can be made against anyone you fear including a spouse, a relative, a neighbour or someone with whom you have had an intimate relationship. 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 have 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 defendant is present or in custody. An intervention order starts once the police hand it to the defendant.

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

Your statement should include details about:

- Your relationship with the other person
- If you have children, their names and age
- If the children witnessed the abuse or have been abused themselves
- If there are any drug, alcohol or mental health issues
- If the other person has access to a weapon
- Details of physical violence, threats, intimidation, stalking, property

- damage or dangerous driving
- Any harassing phone calls, texts, facebook posts or emails. Where possible, show these to the police.
- Whether any other people close to you have also been threatened or have reason to be scared
- Copies of any Family Court orders or Child Protection orders

The police may also decide to lay criminal charges against the defendant after hearing your story. Only the police can do this – you cannot lay or withdraw charges.

## WHY WON'T THE POLICE ALWAYS HELP?

They may feel there is not enough evidence. If you disagree, ask to be referred to the Family Violence Investigation Unit in your area. If the police are unwilling to act, you can make your own application - by yourself or with the help of a lawyer. For legal advice about Intervention Orders, call the Legal Help Line 1300 366 424.

## WHAT STEPS ARE INVOLVED?

### 1. APPLICATION

If immediate protection is required, ask the police to issue an interim order. If the order is not urgent, the police (or you) can apply for an intervention order at the Magistrates Court. It can take several days to arrange a preliminary hearing.

### 2. PRELIMINARY HEARING

At the preliminary hearing, a magistrate will read your statement and if he or she decides there is enough evidence, an interim order will be made. The defendant will not be present at this hearing.

### 3. LETTING THE DEFENDANT KNOW

The interim intervention order does not take effect until the police hand it to the defendant personally. Once this has been done, it

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is in force and you should tell the police if it is not obeyed. It is helpful to keep a copy of the order handy, and provide a copy to others who may witness and report any breaches to the police, e.g. a child's school if it is included in the order.

## 4. DETERMINATION HEARING

After the issuing of an interim intervention order, the defendant will be required to attend at a date set by the court. If the defendant does not attend court, the order will be made final.

At this hearing the court can:

- confirm the interim order and make it final, or
- substitute the interim order for a final intervention order (this will occur if the order needs to be changed), or
- dismiss the application and end the interim order, or
- adjourn the hearing if necessary, for example, if the defendant has not yet been served, or
- if the defendant opposes the application, set another date for hearing evidence.

If the matter is not resolved, a date will be set for a trial to decide if an order should be made. In a domestic abuse situation where the application is contested, there are procedures to ensure your protection in court and to have the case resolved as quickly as possible.

## DO I HAVE TO GO TO COURT?

If you make the application yourself, you must attend. If the police are making the application, they will say if you are required to attend. Your case may be more likely to succeed if you appear in court. It is a good idea to bring a friend to support you.

## WHAT IS COVERED?

This depends very much on your situation. Here are some of the conditions that can be ordered:

- Your protection, the protection of other family members and any children. If it is appropriate that your child has some contact with the defendant, the intervention order can take this into account.
- The defendant can be ordered to allow you to access or use property or to return property to you.
- An intervention order (including an interim intervention order issued by the police) must include a term requiring the defendant to surrender any firearm and any firearms licence, suspending any firearms licence and disqualifying the defendant from having a firearms licence while the intervention order is in force.

- The court can also order that the defendant attend a violence intervention program. If the court (not the police) believes 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 defendant may be ordered to stay away from premises even if they own or rent them.

If you are in rented premises, and the defendant has been living with you in those premises, you can apply to the South Australian Civil and Administrative Tribunal (SACAT) to either:

- remain in the premises as the sole tenant (if you are able to pay the rent), or
- terminate the tenancy (with a co-tenant liable for any loss or damage they have caused)

It may be possible for the defendant, if they were a co-tenant, to remain in the premises as the sole tenant.

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 defendant).

For legal advice about your home, call the Legal Help Line 1300 366 424.

## CAN THE DEFENDANT FIND OUT MY ADDRESS?

It is the policy of the police and the court not to give out the victim's address. Tell the police if you do not wish the defendant to know your address.

## WHAT IF THE INTERVENTION ORDER IS IGNORED?

The defendant must obey the order and may be charged with a criminal offence if it is ignored.

## HOW LONG DOES AN ORDER LAST?

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

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## CAN AN ORDER BE CHANGED OR STOPPED?

Yes. An application can be made to the court to have an order changed or stopped. The defendant has to wait at least 12 months after the order was issued to apply to change or stop it. In any event, an application will only be successful if the defendant can prove that there has been a substantial change in circumstances since the order was made.

## ENFORCEMENT OF ORDERS NATIONWIDE

Since 25 November 2017, all intervention orders issued in South Australia (addressing a domestic violence concern) are automatically recognised and enforceable nationwide. The same applies to those issued in other states. They are now automatically recognised and enforceable in South Australia.

If your order was issued prior to 25 November 2017, you will need to apply for a declaration that it addresses a domestic violence concern before it can be recognised and enforced nationwide. If you are moving to another state and are concerned the defendant will follow you, you should apply for this declaration before you move.

If you have a foreign order, for example, from New Zealand, it can also be recognised and enforced as if it was a South Australian order; but you must register it here first. If serving the registered order on the defendant would be unsafe for you, the court can order that the order take effect without service on the defendant.

## RECEIVING AN INTERVENTION ORDER

Receiving an intervention order is not a criminal matter and does not give the defendant a criminal record. However, if the defendant disobeys (breaches) the order, then the defendant may be charged with a criminal offence and get a criminal record.

The fact that a person is a defendant to an intervention order may be assessed within a children, disability services or similar employment clearance check, but may or may not impact on the outcome.

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For details of publication and legal information resources

visit [lsc.sa.gov.au](http://lsc.sa.gov.au) or telephone 8111 5555

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