

Applying for a Domestic Violence Protection Order

Meaning of domestic violence

Domestic violence means behaviour by a person (the first person) towards another person (the second person) with whom the first person is in a relevant relationship that:

- is physically or sexually abusive; or
- is emotionally or psychologically abusive; or
- is economically abusive; or
- is threatening; or
- is coercive; or
- in any other way controls or dominates the second person and causes the second person to fear for the second person's safety or wellbeing or that of someone else.

Who is who?

In domestic violence cases the person having the violence perpetrated upon them is the "Aggrieved" and the person committing the acts of domestic violence is the "Respondent."

In most cases the Applicant and the Aggrieved are the same person, however, a police officer may also bring an application on behalf of the Aggrieved.

What do you need to prove?

A Court may make a Protection Order against a person (the Respondent) for the benefit of another person (the Aggrieved) if the Court is satisfied that:

- a relevant relationship exists between the Aggrieved and the Respondent; and
- the Respondent has committed domestic violence against the Aggrieved; and
- the Protection Order is necessary or desirable to protect the Aggrieved from domestic violence.

Obtaining an application

To apply for a Protection Order you will need to complete a Form DV1 - Application for Protection Order.

This document can be obtained from your local Magistrates Court Registry or you can download and print it from the Queensland Courts website (www.courts.qld.gov.au).

Tips for completing your application

Temporary Orders

When making an application you may seek to have a Temporary Order issued. This can be issued urgently or on the first hearing date of the matter. If you are seeking an Urgent Temporary Order it is essential that you explain, in detail, exactly why the Temporary Order needs to be granted and cannot wait until the first return date.

Example: For the past month the Respondent has come home from work every day and if the house is not cleaned to his standard he will hit me or throw me into the wall. I need an immediate order for him to leave the house because I feel unsafe.

Grounds for seeking a Protection Order

When setting out your grounds for needing a Protection Order it is essential that you particularise any incidents of domestic violence that occurred prior to the application. This is best done if you can give the date and the specific words used or actions taken. Any injuries resulting from the incident should be detailed as well. If you have evidence such as witnesses, photographs or text messages then you should include this information in the application. If the Respondent sees that you have evidence to prove your allegations then they may not contest the application.

Example: On 1 June 2016 the Respondent came to my house and bashed in my door with his fists, scaring me and causing damage to the door frame.

For more information please contact a TASC solicitor on 07 4616 9700. Your discussion will be confidential.

This factsheet is for general information purposes only. You should seek independent legal advice in respect to your specific circumstances.

Naming children and relatives/friends on the Order

If you intend to have children, relatives or friends named on your Order you need to particularise any incidents of domestic violence that have been perpetrated upon the named person/s.

Conditions

All Protection Orders contain the condition that the Respondent must be of good behaviour towards the Aggrieved and not commit acts of domestic violence. However, there are other conditions that can be included in the Order.

These conditions include that the Respondent must leave a premises (typically a shared home), that they must not go within a certain distance of your home or work, that they must not approach you, or that they must not contact you.

- If you tick “Yes” to one or more of these conditions, you need to be specific in your reasoning.

Example: The Respondent sends me up to ten text messages a day using abusive language such as...and I do not wish to continue receiving these messages”

Conclusion

A detailed application will present the strongest case to the Court that an order needs to be made for your protection.

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