

# Family Violence Orders – challenging an order

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into our Hobart or Launceston office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

Family Violence Orders are designed to stop threats, property damage, violence, intimidating behaviour and emotional abuse in the future.

## What is a Family Violence Order (FVO) or Police Family Violence Order (PFVO)?

Both FVOs and PFVOs tell someone not to do certain things, especially not to commit family violence. If someone breaks an Order, they can be charged with another criminal offence. The Order has specific conditions which may include things like not allowing someone to be in certain places at certain times, to surrender any firearms, ammunition or any other weapons, or how to make contact with particular people. PFVOs are usually made for a year, but can be revoked, changed, or replaced with an FVO. FVOs last for as long as the Court considers necessary, or until an order is made extending, changing or revoking the FVO.

If you want to know more about FVOs please call Tasmania Legal Aid on 1300 366 611 between 9am and 5pm Monday to Friday.

## I am accused of family violence – how can I change or stop an order?

You may disagree with the accusation which caused Police or Courts to make the Order, or you might disagree with what the Order does not allow you to do, or both.

If you want to remove or change a PFVO, you can fill in a form from Tasmania Police. Police are unlikely to remove a PFVO. Police can only change a PFVO if everyone agrees – if the protected person agrees and if Police agree it is safe to do so.

If Police won't change or remove the Order, you can apply to the Court. Police can defend the Order staying in place. The protected person might agree with you, say the Order should stay in place, or can rely on Police to oppose your application. If the Court makes an Order to vary the PFVO, that new Order is a FVO.

If you disagree with the FVO you may apply to the Court to change (vary) or remove (revoke) the FVO. To vary or revoke a FVO the Court must be satisfied that there has been substantial change in the relevant circumstances since the FVO was made or last varied.

Only in very rare circumstances will a Court be satisfied that circumstances have changed sufficiently to revoke a FVO entirely. The conditions may be varied but rarely will a FVO be removed altogether. A FVO can be extended in circumstances where the Court considers that it is still necessary.

## Could I be arrested or taken into Police custody?

A person may be arrested and taken into custody where a Police Officer reasonably suspects that person has committed a family violence offence. A Police Officer may also enter a property and conduct a search if he or she reasonably suspects family violence has occurred.

A person taken into custody may be detained for a period reasonably required to enable the Police to:

- work out what you should be charged with in relation to family violence
- carry out a risk screening assessment to determine the likelihood of family violence being repeated or becoming more severe
- complete a safety audit about how to improve the safety of an affected person or affected child
- implement the measures identified by a safety audit, where it is practical to do so
- make and serve a PFVO or an application for a FVO.

A person taken into custody on suspicion of committing a family violence offence must be taken to Court as soon as is reasonably practical.

## Is bail available for family violence offences?

A person charged with a family violence offence will not be granted bail unless the Court or Police Officer is satisfied that the release of the person on bail would not be likely to adversely affect the safety, well-being and interests of an affected person or affected child.

If a person is charged with breaching a FVO or PFVO, they will be remanded in custody until they appear before a Magistrate to apply for bail.

## If convicted, what will a Court consider?

The court will favourably take into account any rehabilitation program completed by a person convicted of a family violence offence. But in circumstances where the offender knew or was reckless about a child being exposed to family violence or in situations where the victim was pregnant, the offender will face a more severe penalty.

## What supports are available?

- [Men's Line Australia](#)- 1300 78 99 78
- [Men's Referral Service](#)- 1300 766 491
- The [Defendant Health Liaison Service](#) assist people who have been charged with a family violence offence or who have been issued with a Police Family Violence Order or a Family Violence Order

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.