

New Violence Prevention Laws

Domestic and Family Violence Protection Act 1989

WHAT'S NEW?

Since 10th March 2003 changes have been made to the *Domestic Violence (Family Protection) Act 1989*. This Act has been retitled the *Domestic and Family Violence Protection Act 1989*. It continues to cover "spouses" and now also includes:

- Intimate Personal Relationships
- Family Relationships
- Informal Care Relationships

RELATIONSHIPS COVERED IN THE ACT

- **Spousal relationships** include people who are married, separated or divorced; people of the same or opposite sex who are living, or have lived together as a couple; and the biological parents of a child. Age is irrelevant in this category.
- **## Intimate Personal Relationships** include where people are or were engaged to be married, or were betrothed or promised to another under cultural or religious tradition, and people of the same or opposite sex who are or were in dating relationships where their lives became "enmeshed". Age is irrelevant in this category.
- **Family Relationships** include people 18 years and over who are considered to be relatives of each other by blood or marriage or where the person is reasonably regarded as a relative such as in the wider concept of relative used by aboriginal people, Torres Strait Islanders and some non English speaking background communities.
- **Informal Care Relationships** include relationships where one person is providing personal care to another due to disability, illness or impairment; the care involves an activity required for daily living such as bathing or eating; and the care arrangement has been made informally rather than through a formal care agency.

"ENMESHMENT"

The concept of enmeshment is used to differentiate between casual dating relationships and relationships where the lives of the couples impact on each other. These relationships are difficult to define and the

legislation provides some guidance for the courts in deciding whether enmeshment exists.

The court may consider the length of the relationship, frequency of contact, the level of intimacy, and the degree of commitment. A sexual relationship is not necessary for enmeshment to exist.

CHILDREN

The *Domestic and Family Violence Protection Act 1989* does **not** apply to people under 18 years in any relationship which involves a parent or family member. The Child Protection system applies in instances where there is violence or abuse between a person under 18 years and her/his parents or family members (but not spouse).

DEFINITION OF VIOLENCE

Domestic and Family violence is about one person using abusive tactics to control another. Abusive tactics can be many things including actually doing or threatening to do any of the following:

- Wilful injury to the other person – eg punching, slapping, hitting, strangling, kicking, pushing
- Wilful damage to the other person's property – eg hurting pets, breaking furniture, punching holes in the walls, breaking belongings
- Intimidation or harassment of the other person – eg repeated verbal or emotional abuse, name calling, insults, humiliation; repeatedly telephoning, stalking/following; or in the case of a carer, threatening to withdraw care from the person who is disabled
- Indecent behaviour towards the other person without consent includes, but is not only, unwanted sexual behaviour.

Some of these behaviours eg hitting, strangling, destroying property and stalking constitute criminal offences and action could be taken under the *Criminal Code* in addition to an application for a Protection Order.

HOW DO I GET PROTECTION?

1. If you need urgent help, contact the Police. Police must investigate your situation and they may make an application for a Protection Order on your behalf. Police can also apply for an Order without your consent if they believe it is necessary.
2. You can go to a Police Station or Courthouse and fill out an application for a Protection Order.
3. You can authorise an adult (eg friend, relative, counsellor) to make the application for you.

The Police at the court can assist you to present your application to the Magistrate. Some courts also have specialist domestic violence Court Support Workers who may be able to assist.

WHAT DIFFERENCE WILL A PROTECTION ORDER MAKE?

A Protection Order places conditions on the behaviour of the person using violence (called the respondent) to prevent further violence. Orders can be made to suit the particular circumstances of the person requiring protection. All orders say that the person committing the domestic violence has to be of good behaviour and not commit domestic violence.

The court can also impose specific conditions that stop the respondent from doing things like:

- o Going near your place of residence, study or work
- o Staying in a home that you have shared with him/her
- o Going near or within a certain range (eg 100m) of you, your relatives or others named in the order.

WHAT ABOUT WEAPONS?

Under the *Weapons Act 1990*, a person who is named as a respondent to a Protection Order will have all weapons licences revoked and will not be able to apply for another licence until five (5) years have passed since the making of the Order. Respondents who have access to weapons in the course of their work and do not require a licence for this (eg Qld police personnel, those involved in the manufacturing, assembling, transporting and warehousing of weapons, or experimental / scientific work with weapons) will not be permitted to possess weapons for the duration of the Protection Order (usually two years).

FURTHER INFORMATION AND ASSISTANCE

If you are in immediate danger call 000

Legal Aid Queensland Services:

- Domestic Violence Unit ph 1300 651 188 (men and women)
- Women's Legal Aid ph 1300 651 188

Women's Legal Service ph 1800 677 278 or 07 3392 0670 (Brisbane)

dvconnect - Domestic and Family Violence Telephone Service (DFVTS):

- Women's Domestic Violence Line ph 1800 811 811 (24 hours/7 days)
- Men's line – for men ph 1800 600 636 Mon – Fri (9am – 5pm)

Immigrant Women's Support Service (IWSS) ph 3846 3490 (Brisbane)

Website: www.iwss.org.au

Aboriginal and Torres Strait Islander Women's Legal and Advocacy Service
Ph 1800 442 450

Kinnections ph 07 3435 4300

www.kinnections.com.au

Crimestoppers ph 1800 333 000

Elder Abuse Prevention Unit ph 1300 651 192 (office hours)

Local Contact