

FAMILY VIOLENCE INTERVENTION ORDERS (IVO'S)

What is Family Violence?

Family Violence is behaviour between family members that causes fear to an affected family member or members. The definition of Family Violence is broad and not only includes physical or sexual violence and also includes any behaviour that is used to control, threaten, force or dominate a family member through the use of fear. Therefore, emotional and financial abuse or dominance will also be considered an action of family violence.

The fear that an affected family member experiences need not necessarily be fear to themselves, rather, it can include fear for their property, another person or domestic pet. It is also important to note that a child who sees, hears or is in any way affected by family violence, will also be covered by the law.

What is a Family Violence Intervention Order?

A Family Violence Intervention Order (IVO) is a court order that protects an affected family member or members against family violence from a family member. The perpetrator of family violence will be known on the order as the Respondent.

An IVO includes conditions which prohibit the Respondent from using family violence against the affected family member and most commonly includes an order that the Respondent cannot go within a certain distance of the Affected Family Member (or members), and can lead to the Respondents removal from the family home.

If the Respondent breaks any conditions that are outlined on the IVO, the police can charge the Respondent with a criminal offence meaning the Respondent may end up having a criminal record. If you are charged with contravening an IVO you should seek immediate legal advice as this is considered a very serious offence and should therefore be dealt with appropriate legal advice.

An IVO can also significantly affect arrangements regarding the care any children and the Respondent's time spent with the children, particularly if they are named on the order as affected family members. If you are a Respondent on such an order, and, as such are being prohibited from spending time with your children, you should seek immediate family law advice.

How to seek an IVO

An affected family member can seek an intervention order in two ways;:

1. By applying to the magistrates court; or

2. The police may make an application for IVO if they believe an affected family member is in danger.

If an IVO is made against you

Once an application has been made against you, the police will serve on you a copy of the application detailing the allegations made against you and a summons to appear in Court on a scheduled date. It is also likely the the affected family will have been issued with an interim order for their protection. If an interim order has been made you must ensure you follow the conditions even if you plan on defending the order.

You will need to attend court on the date that is listed on the summons, if you do not then the order will proceed undefended and a full IVO will likely be made against you.

As the Respondent there are a number of options for dealing with an IVO;

1. Consent to the IVO being made against you without admission;
2. Agree to an undertaking not to commit family violence, rather than an order (this will need to be consented to by both parties and the Magistrate); or
3. Defend the IVO.

If you choose to consent to the IVO you may also be in a position to negotiate terms such as the removal of the children's names from the order, or access to the property to remove your belongings. Agreeing to an IVO does not give you a criminal record, however, as detailed above if you breach any conditions of the IVO you may be charged with a criminal offence.

If you choose to defend the order the matter will be adjourned and listed for a final hearing at a further date. Prior to the final hearing you must ensure you gather relevant evidence to support your defence and character witnesses to assist with your character determination.

If you are experiencing family violence or you have been issued with a summons for an IVO, we suggest you seek legal advice to further discuss your options.

Please feel free to contact our office on 8555 3895 to make an appointment to see a lawyer or email me on melissa@lyttletons.com.au.

Melissa Gibson
Lyttletons Lawyers