

GOING TO COURT FOR AN INTERIM FVRO

This fact sheet has information about what happens in court when you ask to get an interim or temporary family violence restraining order (FVRO).

What is an interim FVRO?

If you want protection from violence, threats or abuse from a family member (or former family member), you might apply for an FVRO.

An FVRO is a court order that can be made to suit your situation and can tell a family member:

- ◆ to stay away from you
- ◆ to stop trying to communicate with you
- ◆ to stop behaving in certain ways towards you.



When you apply for an FVRO, you are allowed to ask the court for an interim FVRO. This is a temporary order that can be made and enforced while you go through the court process to get a final (longer term) FVRO. You can ask for this interim order to be made without the respondent being at court.

This interim application will be heard in 'closed court'. This means members of the public cannot come into the court during your hearing. You are allowed to bring a support person and have a lawyer with you.

When will the respondent find out about the FVRO application?

An interim FVRO is allowed to be made without having to tell the other person, the respondent, that you are applying for an FVRO against them.

The respondent will find out that you have applied for an FVRO:

- ◆ when the police give or serve the respondent an interim FVRO if the magistrate has made an interim FVRO, or
- ◆ when the respondent receives a notice or summons to come to court if the magistrate did not make an interim FVRO and put your application off to a final hearing.



What information does the respondent get about my interim hearing?

If the magistrate makes an interim FVRO, the respondent is allowed to get a copy of your application to the court (but not your address), your affidavit and a transcript of the hearing. The transcript sets out everything that you say in the first hearing.

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If you don't want the respondent to know where you are living, make sure you don't say your address out loud while you are in court.

What happens in the court room?

Oath or affirmation: what's the difference?

When you are called up to the witness box, the magistrate or court officer will ask if you want to make an oath or affirmation before giving your evidence. This is a promise to the court to tell the truth.

If you are religious, you can swear an oath on the Bible or the Koran. If you do not want to swear an oath, you can give an affirmation instead.

It does not matter which one you choose, both are treated as serious promises that what you will say in your evidence is the truth.

Telling the magistrate why you need an FVRO



A lawyer can help you think about all the things the magistrate might want to know about, and help you understand the things that might happen when you speak to the magistrate. Also looking over your court paperwork will help you sort out your thoughts and think about the most important points you need to make.

When you go into the court, you can tell the magistrate why you want an order and what rules you want in the order. They will read what you have written on your forms, or they will ask you to tell them your story in court. If you have a lawyer, the lawyer might ask you questions to help tell your story.

Otherwise, the magistrate will guide you through the process.

The magistrate can only make an interim FVRO if there are grounds for the order. It is important for the magistrate to hear from you about why you want the order.

In telling your story about what has happened, try to remember what the law says the magistrate must think about when deciding.



The three most important factors are:

- ◆ the need to make sure you are protected from family violence
- ◆ the need to prevent behaviour that could reasonably be expected to cause you to fear that family violence will happen against you, and
- ◆ the need to ensure the wellbeing of kids.

The magistrate can also find out about the respondent's criminal convictions and previous restraining orders from court records.

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What the court can do after hearing your evidence

At the end of the first hearing, the magistrate has 3 choices:

1. Make an interim FVRO

This is the starting point for getting a final FVRO. Once you have an interim FVRO, there are more steps before you can get a final FVRO.

The interim FVRO will only come into force (start) when the police have served a copy of the interim FVRO on the respondent.

The interim FVRO cannot be enforced unless the respondent has been served.



2. Set another hearing without making an interim FVRO

If the court does not make an interim FVRO and your case has not been dismissed, it will go to another hearing. The respondent will get a summons to come to court for the hearing. The magistrate will hear from both of you to decide whether to make a final FVRO.

You will not have the protection of an interim FVRO during this time and you cannot appeal the court's decision to not make an interim FVRO.



3. Dismiss your application

The magistrate can dismiss your application if they think that there is no basis to it or if you tell them that you don't want to continue with the process.

What you can do if you do not get an interim FVRO

1. Go to a final order hearing

If you have not been given an interim FVRO at the first hearing and your application has not been dismissed, it will be set down for a final order hearing at which both parties will be heard and a decision made.



In some courts, the matter will be listed for a mention or call over before it gets to a final order hearing. Check with the court if you are not sure what is happening on your next court date.

2. Withdraw your application

If the court is not going to make an interim FVRO, and you don't want to go to a final order hearing (because you don't want the respondent to know you are trying to get an FVRO), you also have the option of telling the magistrate you don't want to continue with the process. The magistrate will dismiss your application.

You can apply for a new interim FVRO if there is a new incident of family violence. Remember, the definition of family violence covers a lot more than physical violence.

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3. Lodge an appeal



If the court dismissed your application for an FVRO, you could appeal against that decision by going to the District Court of WA. You can download a guide on how to represent yourself in an appeal about a restraining order decision from the [District Court of WA website](#).

Get legal advice quickly if you are considering an appeal. Time limits apply.

You cannot appeal against the court's decision to not make an interim FVRO and list the case for a final order hearing.

4. Look at other ways to get protection

FVROs can be made in other court proceedings. FVROs and other court protections are available in cases in criminal courts, in child protection proceedings in the Children's Court and during Family Court proceedings. Get legal advice about these options.



Simple tips for going into court

- ◆ Dress neatly: no sunglasses, hats or singlets.
- ◆ Be on time.
- ◆ Bring your court forms, notes pens and paper.
- ◆ Don't bring food or drinks or chew gum.
- ◆ Switch off your mobile phone.
- ◆ Call the magistrate 'Your Honour'.
- ◆ Many people get nervous in court. Take your time – it's your application.
- ◆ If you do need to leave the court for any reason make sure that you tell the court orderly. If you don't tell them and your case is heard when you are not there your application might be cancelled. You would then need to make your application again.

