



Tools to Build African & CaLD Men as Leaders in the Prevention of Domestic Violence Project

DOMESTIC VIOLENCE LEGISLATION IN SOUTH AUSTRALIA

<https://sa.criminallegal.com.au/crimes/domestic-violence-south-australia/>

INTERVENTION ORDERS (PREVENTION OF ABUSE) REGULATIONS 2011

Domestic violence is the use of violence or intimidation to coerce, dominate, or control a spouse, domestic partner, or family member.

It can be punished as an assault or, if injury is inflicted, in a prosecution for causing harm.

An offence that is more specific to domestic violence is “contravention of an intervention order.” Contravention of an intervention order can be punished by imprisonment.

You should talk to a lawyer about the potentially serious consequences of that offence if you are charged.

Intervention Orders

The Magistrate’s Court of South Australia has the power to issue intervention orders. Although they are commonly issued to protect one spouse or domestic partner from abuse by the other, they can be issued to protect girlfriends or boyfriends, co-workers, or any other person who has a reasonable fear of being abused.

An intervention order can be entered whenever it is reasonable to suspect that the accused will, without intervention, commit an act of abuse against the protected person. Acts of abuse include:

- Causing physical injury
- Causing emotional or psychological harm
- An unreasonable denial of financial, social, or personal autonomy

“Emotional or psychological harm” does not include causing another person or feel ordinary or trivial distress, but it does include the infliction of mental illness, serious emotional distress, shock, and fear.

An intervention order directs the accused not to commit acts of abuse against the person named in the order. It can also impose specific restrictions on the accused, such as ordering the accused to:

- have no contact with the named person
- stay away from that person’s residence, workplace, or other place frequented by the person
- not come within a specified distance of that person
- refrain from harassing or intimidating the person
- refrain from taunting or stalking the person
- refrain from leaving messages or comments about the person on social networking sites
- return the person’s property

- surrender weapons
- participate in an intervention program

Contravention

The contravention of an intervention order is an offence under section 31 of the Intervention Orders (Protection of Abuse) Act. “Contravention” means disobeying the order or any of its requirements.

If the contravention involves failing to attend a required intervention program, the offence is punishable by a maximum fine of \$1,250. If the contravention involves disobedience of any other requirement of the order, it is punishable by imprisonment of up to 2 years.

Defences

To avoid the possibility of being charged with contravention of an intervention order, it is wise to go to court to contest the issuance of the intervention order. A lawyer can help you do that.

If you are charged with contravention, most defences center on disputing the evidence that you disobeyed the order. You might also have a defence if the order is ambiguous and failed to put you on notice that your alleged conduct violated the order. What constitutes “harassment,” for instance, is often a matter of opinion. To determine your best defence to the charge, you should consult a lawyer.

COMMONWEALTH LAW

FAMILY LAW ACT 1975 - SECT 4AB

http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/fla1975114/s4ab.html

Definition of family violence etc.

- (1) For the purposes of this Act, *family violence* means violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the *family member*), or causes the family member to be fearful.
- (2) Examples of behaviour that may constitute family violence include (but are not limited to):
 - (a) an assault; or
 - (b) a sexual assault or other sexually abusive behaviour; or
 - (c) stalking; or
 - (d) repeated derogatory taunts; or
 - (e) intentionally damaging or destroying property; or
 - (f) intentionally causing death or injury to an animal; or
 - (g) unreasonably denying the family member the financial autonomy that he or she would otherwise have had; or
 - (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or his or her child, at a time when the family

- member is entirely or predominantly dependent on the person for financial support; or
- (i) preventing the family member from making or keeping connections with his or her family, friends or culture; or
 - (j) unlawfully depriving the family member, or any member of the family member's family, of his or her liberty.
- (3) For the purposes of this Act, a child is *exposed* to family violence if the child sees or hears family violence or otherwise experiences the effects of family violence.
- (4) Examples of situations that may constitute a child being exposed to family violence include (but are not limited to) the child:
- (a) overhearing threats of death or personal injury by a member of the child's family towards another member of the child's family; or
 - (b) seeing or hearing an assault of a member of the child's family by another member of the child's family; or
 - (c) comforting or providing assistance to a member of the child's family who has been assaulted by another member of the child's family; or
 - (d) cleaning up a site after a member of the child's family has intentionally damaged property of another member of the child's family; or
 - (e) being present when police or ambulance officers attend an incident involving the assault of a member of the child's family by another member of the child's family.

FAMILY LAW ACT 1975 - SECT 60CF

Informing court of relevant family violence orders

- (1) If a party to the proceedings is aware that a family violence order applies to the child, or a member of the child's family, that party must inform the court of the family violence order.
- (2) If a person who is not a party to the proceedings is aware that a family violence order applies to the child, or a member of the child's family, that person may inform the court of the family violence order.
- (3) Failure to inform the court of the family violence order does not affect the validity of any order made by the court

FAMILY LAW ACT 1975 - SECT 60CG

Court to consider risk of family violence

- (1) In considering what order to make, the court must, to the extent that it is possible to do so consistently with the child's best interests being the paramount consideration, ensure that the order:
 - (a) is consistent with any family violence order; and
 - (b) does not expose a person to an unacceptable risk of family violence.
- (2) For the purposes of paragraph (1)(b), the court may include in the order any safeguards that it considers necessary for the safety of those affected by the order.