



# Applying for domestic violence orders in Queensland

**Date: Monday December 21, 2020**

A domestic violence order (also called a domestic violence protection order) can only be made if a “*relevant relationship*” exists between the person seeking the order (the aggrieved) and the person who has committed the violence (the respondent). Section 13 of the *Domestic and Family Violence Protection Act (2012)* (**the Act**) defines a “*relevant relationship*” as:

1. an intimate personal relationship; or
2. a family relationship; or
3. an informal care relationship.

## 1. Defining ‘an intimate personal relationship’

Under section 14 the Act, an intimate personal relationship is either:

1. a spousal relationship; or
2. an engagement relationship; or
3. a couple relationship.

### a) Spousal relationships

A spousal relationship exists between spouses. A spouse includes a former spouse as well as a parent or former parent of any child of the relationship. An example of a former parent is where the birth parent stops being a parent of a child.

A parent in these circumstances means a child’s mother or father and anyone else having parental responsibility for the child other than child protection. For an Aboriginal or Torres Strait Islander child, a parent is a person regarded by tradition or custom as being a parent of that child.

It is important to note that a parent does not include a person standing in the place of a child on a temporary basis; or an approved foster carer for the child.

## b) Engagement relationships

An engagement relationship exists between two persons if the persons are currently, or were engaged to be married to each other. It includes a betrothal under cultural or religious tradition.

## c) Couple relationships

A couple relationship exists between two people if the persons have currently, or have had a relationship as a couple. The court will have regard to numerous factors in deciding if a couple relationship exists.

These include:

- the circumstances of the relationship – the degree of trust between the persons and the level of each person's dependence on and commitment to the other person;
- the length of the relationship;
- the frequency of contact between the persons;
- the degree of intimacy;
- whether the trust, dependence or commitment is/was of the same level;
- whether one of the persons is/was financially dependent on the other;
- whether the persons own/ed any property together;
- whether the persons have/had joint bank accounts;
- whether the relationship involves/involved a sexual relationship; and
- whether the relationship is/was exclusive.

A couple relationship may exist even if the court makes a negative finding in relation to any or all of the latter six factors above.

For example, two elderly people who form a relationship based upon companionship or an interest in travelling could be in a couple relationship. The two people may not reside together and may not be financially dependent on each other but still be in a relationship that involves trust, emotional dependence and commitment and frequent contact such that it can be characterised as a couple relationship.

A couple relationship may exist between same-sex persons.

Dating once or on several occasions does not automatically mean a couple relationship exists.

## 2. Defining 'a family relationship'

The Act defines a family relationship to exist between two persons if one of them is, or was, a relative of the other. A relative of a person is someone who is ordinarily understood to be or to have been connected to the person by blood or marriage.

Former relatives can include a person's former mother-in-law (where the person is no longer in a spousal relationship with the son or daughter).

Examples of a person's relative can include a:

- spouse;
- child;
- stepchild;
- parent;
- step-parent;
- sibling;
- grandparent;
- aunt;
- nephew;
- cousin;
- half-brother;
- mother/father-in-law or aunt/uncle-in-law.

## 3. Defining 'an informal care relationship'

An informal care relationship requires only one person to be, or have been dependent on another person.

For example, this could be a carer who helps in an activity of daily living such as dressing or personal grooming, preparing or assisting persons with eating meals, shopping for a person's groceries or telephoning to make medical appointments for a person.

This category can include a carer who is receiving a pension or allowance for providing the care, or who is reimbursed for out of pocket expenses. Importantly, an informal care relationship does not arise between a child and a parent of that of a child.

## Domestic violence applications involving minors and parents

A common question we receive relates to children under 18 years of age. Can a domestic violence application be made against his/her own parents or vice versa?

The answer to this is no.

This area is covered by the child protection system which applies to children under 18 years where the child is at unacceptable risk of harm. The child cannot be named as either an aggrieved or a respondent where there is a family relationship between the child and the other party.

## Domestic violence applications involving minors in an intimate personal relationship

A child can, however, be protected by a domestic violence order by including the child as a named person in any application which is made for the benefit of another person (for example, the mother) as the aggrieved.

If there is an intimate personal relationship (that is, a spousal or engagement or couple relationship) or an informal care relationship that exists between the child under 18 and the other person, then a child can be named as an aggrieved or a respondent in the application.

## Urgent assistance to keep you safe

If your safety or that of your children is at imminent risk, call **000** and, where possible, leave the premises to a safer place.

If you are experiencing domestic violence that puts your safety and/or the safety of your children at risk (physical, emotional or financial), you can **contact DV Connect on [1800 811 811](tel:1800811811)** for immediate assistance. They operate 24/7.

## Hall Payne no longer provides services in family law

If you require assistance with your family law matter, we recommend you contact the relevant Law Society in your State or Territory for a referral:

- **Queensland:** [1300 367 757](tel:1300367757)
- **NSW:** [02 9926 0333](tel:0299260333)
- **Victoria:** [03 9607 9311](tel:0396079311)
- **Tasmania:** [03 6234 4133](tel:0362344133)
- **South Australia:** [08 8229 0200](tel:0882290200)
- **Western Australia:** [08 9324 8600](tel:0893248600)
- **Northern Territory:** [08 8981 5104](tel:0889815104)
- **ACT:** [02 6274 0300](tel:0262740300)

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