



Domestic violence order breaches

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By law, 'domestic violence orders' include temporary protection orders and final protection orders. This means that if you have been named as a respondent, you can be criminally charged for breaching either order. It is therefore in the respondent's best interests to comply with all conditions on the order at all times.

If you have been named as a respondent on a [domestic violence](#) order, you may think that as soon as you walk out of court, that's the end of it. This is not correct. Not only are you required to strictly comply with all conditions on the order (for the duration of the order) but as a respondent, you are also liable to being criminally prosecuted for breaching the order.

What types of behaviours could breach a domestic violence order?

Domestic violence order conditions can be specific (such as no contact conditions), but they can also be very broad. For example, a standard condition of every order is that the respondent be of 'good behaviour' towards the aggrieved. Many examples of breaches therefore come before the courts.

Common examples we have encountered include:

- physical and sexual assaults;
- text messages, emails and phone calls;
- stalking;
- verbal abuse.

Importantly, even if the aggrieved instigates or invites the contact, if it is in breach of the order, you can still be charged and prosecuted.

What happens if I am charged with a domestic violence order breach?

If you are charged with a breach offence (under the *Domestic and Family Violence Protection Act 2012*), you will be required to attend court. Proceedings for breach offences are criminal proceedings, and in most instances, they can be finalised in the Magistrates Court.

Will I get bail if I'm charged with a breach of domestic violence orders?

If you are charged with a breach offence, you could be released on a Notice to Appear or granted bail by the watch house, or you could be remanded in custody to appear before a court.

If you are remanded in custody, you may want to make a bail application. Subject to certain circumstances, and unless the prosecution can show that the person charged poses an unacceptable risk, [bail will often be granted](#).

In considering whether you are an unacceptable risk, the court will have regard to matters including:

- the nature and seriousness of the breach;
- your character and antecedents;
- your criminal history; and
- the risk of further domestic violence being committed.

If your breach offence involved the use, threatened use or attempted use of violence to a person or property, or if you have been convicted of another offence of that nature within the last five years, or if you have been convicted of a previous breach offence within the last two years, you will be in what's called a 'show cause' position. If that happens, you must show cause as to why your continued detention is not justified.

What penalty will I receive for a domestic violence order breach?

The maximum penalty for breach of a domestic violence order is three years imprisonment, or five years imprisonment if, within the last five years, you have been previously convicted of a breach.

The type of penalty you could receive will depend on a range of factors, including:

- the nature and seriousness of the breach;
- your criminal history (particularly any previous breach convictions);
- your personal circumstances and otherwise good character.

Can a conviction for a breach of domestic violence orders have any other consequences?

If you are convicted of a breach offence, other consequences might include:

- the recording of a conviction;
- revocation of your weapons licence;
- revocation of your Blue Card; and
- a requirement to notify your professional body (for example if you are a lawyer or doctor).

Handy hints to avoid breaches of a domestic violence order

1. Familiarise yourself with the domestic violence order conditions and abide by them at all times. We suggest that our clients carry a copy of their conditions wherever they go.
2. If the order exposes you to an inevitable breach, consider making an application to vary the order. We can give you advice about this.
3. If the aggrieved instigates contact with you and/or invites you to do something that might breach one of the conditions, you can still be charged. If your order prohibits contact, do not accept the invitation or reciprocate the contact.
4. Keep contemporaneous diary entries/notes about your daily movements and keep copies of relevant text messages, emails and other electronic communications.
5. If you're concerned about potentially being 'set up' for a breach by the aggrieved, try to be accompanied by a witness when practicable.
6. If you're concerned about a breach allegation, gather evidence and contemporaneously record the incident you are worried about.
7. If you're approached by police, exercise your right to silence and contact our firm. We offer a 24-hour phone service.

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