



# Family Violence

This information sheet contains **important information** for litigants who have experienced, or are alleged to have perpetrated, family violence. This information is **not** a substitute for legal advice.

## About Family Violence

Family Violence means violent, threatening or other behaviour that coerces or controls a family member or causes them to be fearful (Section 4AB *Family Law Act 1975* (Cth)).

Protecting family members, and particularly children, from the effects of family violence is central to all determinations of what is in a child's best interest. Ensuring the safety of all people engaged in the family law system, including when attending Court, is high priority for the Court<sup>1</sup>.

## Safety at Court

Litigants concerned about their safety when attending Court events can contact the Family Court's Registry to arrange a safety plan prior to the listing.

## Family Advocacy and Support Service (FASS)

The Family Advocacy & Support Service (FASS) is a free legal and support service provided by Legal Aid to assist family law litigants who have been affected by family violence. For more information about FASS, litigants can attend the free Legal Aid Family Law Duty Service at each Registry between 10am and 3pm, Monday to Friday or contact the Legal Aid Office.

## Personal Cross-Examination

**Unrepresented litigants** will be **unable** to cross-examine the other party at an interim or a final hearing if there are allegations of family violence **and**:

- i) Either party has been charged with or convicted with an offence involving violence or threat of violence to the other party;
- ii) A final Family Violence Order applies to both parties;
- iii) An injunction has been made under the Family Law Act for the personal protection of one party against another; or
- iv) The Court determines the prohibition should apply<sup>2</sup>.

In matters involving family violence which **do not** fall into the above categories, the Court can provide alternative protections<sup>3</sup>, such as cross-examination via video link.

Litigants prohibited from cross-examining another party can either engage a private legal practitioner to act for them or apply to the Commonwealth Family Violence and Cross-Examination of Parties Scheme ('the Scheme') to obtain legal representation.

**Unrepresented litigants who do not have legal representation either privately or through the Scheme will be unable to cross-examine the other party at the final hearing.** For further information litigants can attend the free Legal Aid Family Law Duty Service at each Registry between 10am and 3pm, Monday to Friday or contact the Legal Aid Office.

<sup>1</sup> Family Court of Australia website

<sup>2</sup> Family Law Act section 102NA

<sup>3</sup> Family Law Act section 102NB