**Jurisdictional Analysis of the Justice Response to Domestic and Family Violence in Australia**

|  | **Civil/ criminal response** | **Stand-alone criminal offence of DFV** | **Civil order & legislation** | **Penalty breach civil order** | **Police issued orders/**  **duration** | **Penalty breach police issued orders** | **Conditions civil orders** | **Perpetrator accountability - mandatory treatment/**  **intervention orders** | **Specialist DFV courts** | **Open/**  **Closed**  **Courts**  **(Mag/**  **Special)** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Queensland** | Both | No | Domestic Violence Order  *Domestic and Family Violence Protection Act 2012* | Up to 3 yrs or 120 PUs[[1]](#footnote-1) (if within 5 yrs of previous conviction); otherwise up to 2 yrs or 60 PUs  *PU= $113.85* | Yes.  Police Protection Notice.  Up to 28 days. | Up to 2 yrs | 1. Mandatory standard condition – good behaviour & must not commit dv.  2. Any other condition necessary and desirable, including ouster condition & condition limiting contact with child.  Police protection notice – only standard condition & 24hr cool down condition | Yes.  Voluntary intervention orders. | No | Closed  In limited circumstances court can order it open. |
| **Victoria** | Both | No | Family violence intervention order (FVIO)  *Family Violence Protection Act 2008* | Summary offences: max 2 yrs 240 PUs  Indictable offences: max 5 yrs or 600 PUs  *PU= $147.61* | Yes  Family Violence Safety Notice  120 hours (soon to be extended to 5 working days) | Same as for FVIOs | Any condition necessary or desirable.  Police may only include the conditions listed in section 81(2)(a) to (f) in a FVSN | Yes [[2]](#endnote-1) | Yes [[3]](#endnote-2) | Open, unless ordered otherwise |
| **New South**  **Wales** | Both | No [[4]](#endnote-3) | Apprehended Domestic Violence Order  Apprehended Personal Violence Order  *Crimes (Domestic and Personal Violence) Act 2007* | 2 years or 50 PUs or both.  *PU= $110.00* | Yes.  Provision Order  28 days | 2 years or 50 PUs, or both. | Final Order/Interim Court Order:  1. Mandatory order not assault, molest, harass, threaten, interfere with, intimidate or stalk, and  2. Any other condition necessary or desirable  Provisional Order:   1. Mandatory order, and 2. May also include any of the conditions in s 35(2) except para (e) | No.  But voluntary attendance at rehabilitative programs is relevant to bail applications  Completion of treatment programs may also be required as part of the sentencing process [[5]](#endnote-4) | No, but DV lists in most courts. | Open to public, except if proceeding relate to child |
| **South Australia** | Both | No | Intervention Order  *Intervention Orders (Prevention of Abuse) Act 2009* | Max 2 yrs | No end date on any order issued by police or courts, operate indefinitely until revoked by court | Max 2 yrs | May prohibit/require a person from doing certain things, eg attending certain places  surrender weapon, vacate an address, return personal property. May impose other requirements. | Yes. Court can mandate defendant to attend an intervention program. Failing to comply amounts to an offence (monetary penalty only) | Some in metro. Adelaide  Each prosecution unit has a specialist domestic violence prosecutor. | Open, but in practice most Magistrates close the court (not backed by legislation). |
| **Western Australia** | Both | No | Restraining Order  *Restraining Orders Act 1997* | $6 000 or 2 yrs, or both. | Police Orders  Up to 72 hours | $6 000 or 2 yrs, or both. | Court may impose such restraints on the lawful activities and behaviour of the respondent as the court considers appropriate to prevent the respondent - committing family violence. | Yes  Voluntary &  Intervention Orders | Yes, Family Violence Courts [[6]](#endnote-5) | 6 DFV courts are open |
| **Tasmania** | Both | No | Family Violence Order  *Family Violence Act 2004* | 1st offence max 20 PUs or max 1 yr; 2nd offence max 30 PUs or 18 mths;  3rd offence - max 40 PUs or 2 yrs  4th+ 5 yrs max  *PU= $140.00* | Police Family Violence Orders Up to 12 months | Same as breach FVO | Family violence orders:  **S**uch conditions as the court considers are necessary or desirable… (list)  Police family violence orders: legislation lists number of conditions | Mandated access to the Family Violence Offender Intervention Program. | Family violence sessions in Magistrates Court | Open |
| **Northern Territory** | Both | No [[7]](#endnote-6) | Domestic Violence Order  *Domestic and Family Violence Act* | If adult or a child 2 yrs or 400 penalty units for 1st offence.  Previous conviction, min 7 days  (exceptions to this – if no harm is caused to anyone). The offence is one of strict liability.  *PU=$149.00* | Police DVO | Same as breach DVO | Court may impose restraints necessary or desirable.  Can also include:  Ancillary orders – to refrain from consuming alcohol, or submit to drug testing, breath test urine test, blood test,  Premises access order  Replacement tenancy agreement | Yes  Rehabilitation program order – defendant must consent before such an order can be made | No | Except where it is in the interests of justice for a court to be open, the court must be closed if the only protected person is a child or a vulnerable witness is giving evidence. |
| **ACT** | Both |  | Domestic Violence Order  [*Domestic Violence and Protection Orders Act 2008*](http://www.legislation.act.gov.au/a/2008-46/default.asp) | Maximum penalty: 500 PUs or 5 years or  both.  *PU =$150.00* | Emergency protection order  Up to making of final order | Court imposed penalty. | Options for an applicant to request when applying for an order listed in legislation [[8]](#endnote-7) | Court ordered. | Yes | Open, unless court orders otherwise |

1. PUs = penalty units [↑](#footnote-ref-1)
2. The two Family Violence Court Divisions of the Magistrates’ Court (at Ballarat and Heidelberg) and the Frankston and Moorabbin venues of the Magistrates’ Court may order a respondent to a final FVIO to undertake a men’s behaviour change program. This is a separate order to the FVIO – a counselling order [↑](#endnote-ref-1)
3. Family Violence Court Divisions (Heidelberg and Ballarat) The Divisions have magistrates with specialist family violence experience, applicant and respondent workers, court mandated men’s behaviour change programs, safe wait areas and specialist staff. Some other venues of the Magistrates’ Court also have specialist family violence services such as applicant support workers, safe wait areas or specialist registrars [↑](#endnote-ref-2)
4. A domestic violence offence is a personal violence offence committed by a person against another person with whom the person who commits the offence (on the balance of probabilities) has or has had a domestic relationship. Convictions are subsequently recorded as “domestic violence offences” [↑](#endnote-ref-3)
5. Either pre-sentence to assess the offender’s prospects of rehabilitation, or as part of the sentence order itself (*Crimes (Sentencing Procedure) Act 1992)* [↑](#endnote-ref-4)
6. In July 2008, the Commissioner of Police approved the exchange of information from the WA Police Family Protection Units/Victim Support Units to the Case Management Teams for the Family Violence Courts. The information is to be provided electronically. No physical presence at the case management meetings has been approved at this point in time. [↑](#endnote-ref-5)
7. However, it is an offence if adult does not report to police if believes on reasonable grounds that another person is likely to cause harm, or that life or safety of another person is under serious or imminent threat. [↑](#endnote-ref-6)
8. a) prohibited from being on premises where the aggrieved person lives; b) prohibited from being on premises where the aggrieved person works; c) prohibited from being on premises where the aggrieved person is likely to be; d) prohibited from being in a particular place; e) prohibited from being within metres of the aggrieved person; EXCEPT at Court EXCEPT at counselling/mediation, EXCEPT in accordance with an order made pursuant to the Family Law Act 1975 Other (specify) f) prohibited from contacting the aggrieved person, EXCEPT at Court EXCEPT at counselling/mediation EXCEPT in writing EXCEPT through a solicitor EXCEPT in order to facilitate Court proceedings EXCEPT in accordance with an order made pursuant to the Family Law Act 1975 Other (specify g) prohibited from harassing, threatening or intimidating the aggrieved person; h) prohibited from damaging the aggrieved person’s property; i) prohibited from causing someone else to do something mentioned in paragraph (f), (g) or (h); j) prohibited from taking possession of particular personal property that is reasonably needed by the aggrieved person or a child of the aggrieved person (provide description of the property); k) required to give the aggrieved person personal property that is in the respondent’s possession and is reasonably needed by the aggrieved person or a child of the aggrieved person (provide description of the property); l) prohibited from doing anything mentioned in paragraphs (a) to (g) or (i) in relation to a child/children of. [↑](#endnote-ref-7)