

# Safe at Home

## The Law Relating to Family Violence

Sep 2015

### Relationships in which family violence can occur

The *Family Violence Act 2004* and its definition of “family violence” relates to behaviour occurring between people aged 16 years and over, who are, or have been:

- married;
- in a de facto relationship; or
- in a ‘significant’ intimate relationship, including same-sex relationships (‘significant’ relationships are defined in the *Relationships Act 2003*).

### What is a family violence offence?

The following conduct can constitute a family violence offence:

- Assault including sexual assault, or rape, or attempting or threatening to do so.
- Abduction (kidnapping) or attempting or threatening to do so.
- Stalking, for example, following a partner or an ex-partner, or telephoning or emailing them so as to cause them apprehension or fear; or entering or interfering with their property without their consent.
- Economic abuse, for example, preventing a partner from participating in decisions over joint financial assets or preventing them from accessing joint assets.

- Emotional abuse or intimidation, for example, by behaving in a way that causes a partner’s freedom of movement to be limited. This can include preventing them from socialising with people outside the relationship, and from having contact with family members.

### Features of the law relating to family violence

The law relating to family violence in Tasmania includes the following features:

- Police can enter premises, conduct searches, seize weapons and evidence, and make arrests without a warrant in circumstances where they suspect family violence has occurred.
- It is lawful for police to detain a person suspected of committing family violence for the period necessary to prepare and serve a Police Family Violence Order, or to conduct a risk assessment and a safety audit.
- A **risk assessment** is an assessment of the magnitude of the risk posed by the accused person to the victim of family violence and any affected children. A **safety audit** is an assessment of the safety of the premises in which the victim resides.
- A person charged with a family violence offence will not be granted bail unless their release on bail would not adversely affect the

safety, wellbeing and interests of a victim or affected child.

- Where police are satisfied that a person has committed family violence they may make a **Police Family Violence Order (PFVO)** with respect to that person. Such an Order can require the offender or alleged offender to move out of their current residence, not to enter certain premises, to surrender firearms, and to refrain from behaviour such as assault, harassment, and approaching or contacting people named in the order.
- Magistrates can also make a **Family Violence Order (FVO)** on the application of victims, police or any other person given permission by the court.
- These Orders can include conditions to remove the offender's or alleged offender's name from a tenancy agreement. (For further information on this subject refer to the information sheet *Controlling Family Violence*

– *Police Family Violence Orders and Family Violence Orders*).

- The *Family Violence Act 2004* requires courts to consider matters such as the presence of children and pregnancy as aggravating factors when determining sentences with respect to a family violence offender.
- The law relating to family violence can also require persons found guilty of a family violence offence to attend a family violence rehabilitation program as part of their sentence. (For further information on this subject refer to the information sheet *Family Violence - Offenders*).

Organisation/Name	Services	Contact details or sites
<b>EMERGENCY</b>	<b>Ask for police</b>	<b>000</b>
<b>Safe at Home</b>	Information sheets	<a href="http://www.safeathome.tas.gov.au">www.safeathome.tas.gov.au</a>
<b>Safe at Home</b>	Family Violence Response and Referral Line	Ph: 1800 633 937

## Safe at Home

**Phone:** (03) 6165 4988

**Email:** [safeathome@justice.tas.gov.au](mailto:safeathome@justice.tas.gov.au)

**Web:** [www.safeathome.tas.gov.au](http://www.safeathome.tas.gov.au)

