

VIOLENCE AND FAMILY LAW

How does the family law system deal with family violence and child abuse?

Family violence and child abuse cannot be tolerated under any circumstances.

While State and Territory laws may be relevant in many cases, the family law system also has an important role to play in preventing, and dealing with, cases of family violence and child abuse.

How does family law protect children from family violence?

The Family Law Act states that protecting children from the risk of violence is a primary principle (along with the right of children to have a meaningful relationship with both their parents) when a court is considering a child's best interests.

This means that children must be protected from the direct harm of violence and the harm that results when they are exposed to family violence against other family members.

What is 'family violence'?

The Family Law Act defines 'family violence' as actions or threats by a person against another family member or their property. It also includes witnessing such actions or threats.

In cases of threats of violence or witnessing family violence, a person must reasonably fear for, or be apprehensive about, their personal wellbeing or safety. The court will consider whether it is reasonable for the person to fear or have an apprehension of violence.

This does not mean that actual violence would ever be seen as reasonable. No violence is acceptable.

Where there is violence or abuse, does 'shared parental responsibility' apply?

No, the court does not have to consider the parents sharing responsibility if there has been violence or child abuse or there is a risk of it.

Where there is violence or abuse, will children be required to spend 'equal time' or 'substantial time' with both parents?

No, if there has been violence or child abuse or there is a risk of it, the court does not have to consider a child spending equal time or substantial time with both parents.



Where there is violence or child abuse, will separating parents have to attend compulsory family dispute resolution?

No. Separating parents are not required to attend family dispute resolution before taking a parenting matter to a court.

Separating parents may *choose* to attend family dispute resolution that is tailored for cases involving violence, rather than going to court, but they are not required to do so — it would be an individual's decision, based on what they feel is best for them.

They should obtain information about the services and options (including alternatives to court action) that may be available to help them. This information can be provided by a family counsellor, a family dispute resolution practitioner, or by the Family Relationship Advice Line on 1800 050 321.

Separating parents don't have to get this information if there is a risk of abuse or violence.

How will the courts treat violence and abuse cases?

The law now requires that courts consider cases that raise issues of family violence or child abuse promptly.

The court will quickly consider the need to make any orders, ensure there is sufficient information available about the allegation of family violence or child abuse to resolve the issues, and ensure that appropriate protections are in place.

What other changes apply that relate to violence and abuse?

Additional measures include:

- the **provision to address false statements**: Where the court is satisfied that a person has knowingly made a false allegation or a false denial in the proceedings, the court must order that person to pay some or all of the costs of the other person in the proceedings. This means the court is able to address concerns about false allegations and denials (including those about violence or abuse) made in family law cases.
- the **power to require information**: The court can require State and Territory agencies to provide information and reports that they may have about allegations of family violence or abuse.
- a **case management approach**: Where court proceedings involve children, a less adversarial approach will mean the court can better focus on children's needs, and ensure that issues of violence and abuse are dealt with early in proceedings.