

# Examining Aspects of Family Violence Intervention Orders for Children and Young Adults:

Stage 1 – Protection for children  
who turn 18 while on a Family  
Violence Intervention Order

Issues Paper

**Published by the Victorian Law Reform Commission**

The Victorian Law Reform Commission was established under the *Victorian Law Reform Commission Act 2000* (Vic) as a central agency for developing law reform in Victoria.

© Victorian Law Reform Commission 2025

This publication of the Victorian Law Reform Commission follows the Melbourne University Law Review Association Australian Guide to Legal Citation (4th ed, 2017).

For accessibility, case citations in this paper include the medium neutral citation (MNC) applied by the court and the relevant law report citation. This enables readers to access copies of the cases from freely available databases such as AustLII.

This paper reflects the law at 1 February 2025.

Title:

**Examining Aspects of Family Violence  
Intervention Orders for Children and Young Adults:**

Stage 1 – Protection for children who turn 18  
while on a Family Violence Intervention Order

ISBN: 978-0-6452813-4-7

This office is located on the land of the Traditional Custodians, the people of the Kulin Nations. We acknowledge their history, culture and Elders both past and present.

**Chair**

The Hon. Anthony North KC

**Acting Chair** (*from January 2024*)

The Hon. Jennifer Coate AO

**Commissioners**

Liana Buchanan

Kathleen Foley SC

Professor Bernadette McSherry

Dan Nicholson

Dr Vivian Waller

**Chief executive officer**

Merrin Mason PSM

**Reference team**

Emma Cashen (*team leader, community law reform*)

Hannah Withers (*senior research and policy officer*)

Kate Robb (*senior research and policy officer*)

Natalie Young (*Information and communications officer*)

**Cover design**

Stephen Banham, Letterbox

**Text layout**

Georgie Hollins, GH2 Design

# Examining Aspects of Family Violence Intervention Orders for Children and Young Adults:

Stage 1 – Protection for children  
who turn 18 while on a Family  
Violence Intervention Order

Issues Paper

---

GPO Box 4637  
Melbourne  
Victoria 3001  
Australia

Level 3  
333 Queen Street  
Melbourne  
Victoria 3000  
Australia

**Telephone**  
+61 3 8608 7800

**Freecall**  
1300 666 555  
(within Victoria)

**Email**  
[law.reform@lawreform.vic.gov.au](mailto:law.reform@lawreform.vic.gov.au)

[lawreform.vic.gov.au](http://lawreform.vic.gov.au)



# Contents

<b>Acknowledgement of victim-survivors of family violence</b>	<b>iv</b>
<b>Note on content</b>	<b>iv</b>
<b>Our Terms of Reference</b>	<b>v</b>
<b>Introduction</b>	<b>1</b>
A community law reform project	1
Our approach	1
A guide to this Stage 1 Issues Paper	2
Language we use	2
<b>Glossary</b>	<b>3</b>
<b>How to tell us your views</b>	<b>5</b>
Making a submission	5
Formal consultations	5
<b>Part 1: Background</b>	<b>6</b>
What is family violence?	6
Family violence and children	7
Family Violence Intervention Orders	8
What happens when a child protected by a FVIO turns 18?	13
<b>Part 2: Your views</b>	<b>15</b>
Question 1 - Your experience of how the law is applied	15
Question 2 - Your experience of the impact of the law	17
Question 3 - Your views on options for reform	18
<b>Call for submissions</b>	<b>19</b>
How do I make a submission?	19
Public submissions	19
Name withheld	19
Confidential submissions	20
Anonymous submissions	20
Submissions that are late or beyond the scope of the terms of reference	20
<b>Next steps</b>	<b>21</b>

# Acknowledgement of victim-survivors of family violence

The Commission acknowledges the resilience and courage of victim-survivors of family violence and in particular children and young adults who have experienced family violence. We express our sincere gratitude to victim-survivors who share their experiences with us and acknowledge their bravery in speaking to us to help others.

## Note on content

This Issues Paper relates to family violence, which is a difficult and distressing issue. If you need help, here are some options for advice and support:

- **The Orange Door** – provides help and support for adults and children who have experienced family violence, as well as to families in need of support with the wellbeing and development of children. You can contact or visit any Orange Door location. Contact can be made by phone, email or in person, and each location offers the same help and support. For a list of locations and contact details visit: [Support near you | orangedoor.vic.gov.au](https://support.nearyou.org.au)
- **Berry Street** – offers free specialist family violence services to victim-survivors, including LGBTIQA+ people and children who have experienced any form of family violence.
  - Phone 03 9429 9266
  - Send an online [enquiry](#)
- **Victoria Legal Aid** – provides free legal advice and representation for victim-survivors as well as perpetrators of family violence.
  - Phone: 1300 792 387 (8am – 5pm weekdays)
  - Website: [Helping Victorians with their legal issues | Victoria Legal Aid](#) (including legal help chat available on the website)
- **Youthlaw** – a free statewide legal service for anyone aged 25 and under. Youthlaw also provides legal information to adults working with or assisting young people, including parents and guardians, siblings, youth workers, etc.
  - Phone **(03) 9113 9500** (9am – 5pm weekdays)
  - Email: [legal@youthlaw.asn.au](mailto:legal@youthlaw.asn.au)
  - Website: [Youthlaw – Fearless Advocate for Young People](#) (including contact form).
- **1800RESPECT** the national domestic, family and sexual violence counselling, information and support service. You can contact 1800Respect by:
  - Phone: **1800 737 732** (24 hours a day, 7 days a week).
  - Text: **0458 737 732** (9am-12am weekdays)
  - Online chat or video call: at the [1800RESPECT website](#) (9am-12am weekdays)
- **Kids Helpline** – provides private and confidential 24/7 phone and online counselling service for young people aged 5 to 25.
  - Phone: 1800 551 800 (24 hours a day, 7 days a week)
  - Online chat at <https://kidshelpline.com.au/get-help/webchat-counselling> (24 hours a day, 7 days a week)

A full list of supports is available on the Commission website, visit: <https://www.lawreform.vic.gov.au/family-violence-get-support-or-legal-advice/>

# Our Terms of Reference

This matter was initiated as a community law reform project by the Commission pursuant to section 5(1)(b) of the *Victorian Law Reform Commission Act 2000* (Vic) on 25 September 2024.

The Victorian Law Reform Commission will examine whether family violence laws should be reformed in respect of a child who is listed as an applicant, protected person or an affected family member on a family violence intervention order (FVIO) to:

- Ensure the child continues to have the protection of the order when they turn 18 unless the order is varied, revoked or discharged.
- Give a child the right to participate as a protected person or affected family member in FVIO proceedings, without having to seek leave from the court.

Where the child is listed as applicant, protected person or affected family member on a FVIO, the Commission will also consider:

- Whether leave of the court should continue to be required to vary, revoke or extend a FVIO for children between 14 and 18 years.
- Whether it should be possible in any circumstances for a child under the age of 14 to be able to seek leave to apply to vary, revoke or extend a FVIO.
- Options for children and young adults to be heard and supported in family violence intervention order proceedings.

In determining whether change to legislation and procedure is needed, the Commission will have regard to:

- a variety of data on FVIOs and children who are protected persons, including data on: the number of children listed as a protected person on FVIOs in Victoria, the number of young adults who re-apply for a new FVIO upon turning 18, and the number who request to be removed as a protected person when they reach 18
- an intersectional analysis\* of the impact of the FVIO system and legal framework on marginalised children and young adults, including children and young adults with a disability and those who identify as First Peoples, multicultural and multifaith, or LGBTIQ+
- balancing the considerations listed in section 67 of the *Family Violence Protection Act 2008* (Vic):
  - protecting children from unnecessary exposure to the court system; and
  - the harm that could occur to the child and family relationships from participating in family violence court proceedings

with the importance of allowing them to be involved in decision-making that affects their lives and the lives of their families

- the principles outlined in Article 12 of the United Nations Convention of the Rights of the Child regarding the right of children to be heard and considered in matters affecting them including in judicial proceedings
- whether the law should apply flexibly depending on the age of the child or other factors

\* An intersectional analysis recognises that people experience family violence in different ways because of the unique factors which combine to form their identity and experience. Overlapping forms of disadvantage or marginalisation (such as discrimination based upon gender, class, ethnicity or sexual orientation) can exacerbate the risks of family violence for some people and groups, or impact their access to services or supports. See: Family Safety Victoria, 'Intersectionality and Family Violence', *Victorian Family Violence Data Collection Framework* (Web Page, 5 March 2021) <<https://www.vic.gov.au/victorian-family-violence-data-collection-framework/intersectionality-and-family-violence>>.

- the experiences of children and young adults who have been protected persons under a FVIO
- approaches in other jurisdictions
- any other relevant matter.

To keep the project within the parameters of a community law reform project the Commission is only examining issues that arise for children who are listed as an applicant, protected person or an affected family member. While there are important and worthwhile reform issues to explore regarding children and young adults who are respondents to FVIOs, they will not be examined in this community law reform project.

# Introduction

- 1 The Victorian Law Reform Commission has initiated a community law reform project examining aspects of family violence intervention orders for children and young adults affected by family violence (other than as a respondent).

## A community law reform project

- 2 This is a community law reform project. As well as inquiring into matters referred to it by the Attorney-General, the Commission may initiate its own inquiries into legal issues of general community concern, which are limited in size and scope.<sup>1</sup>
- 3 Community law reform projects are often suggested to the Commission by community members or groups.
- 4 This project idea was raised by community members in recent discussions about family violence reform. We started this project in response to these discussions.
- 5 We heard that the courts are taking varying approaches to what happens to a child who is protected under a family violence intervention order when they turn 18, including whether they will continue to be protected by an order, or whether the order is made to expire on their 18<sup>th</sup> birthday. People have expressed concerns that this inconsistency creates uncertainty about protection for victim-survivors of family violence and their families, compounding trauma. In this paper we ask whether change is needed to ensure a child continues to have protection of the order when they turn 18 and how to do this.

## Our approach

- 6 The full terms of reference are set out on page v and vi. This project is being conducted in two parts.
- In **Stage 1**, we will consider whether reforms are needed to ensure that children continue to have the protection of a FVIO when they turn 18 unless orders are varied, revoked or discharged.
  - In **Stage 2**, we will look at how children are given a voice and the ability to participate in the family violence intervention order court process more generally.
- 7 **This Issues Paper considers Stage 1 of the project only.**
- 8 Stage 2 will address the remaining topics raised in the terms of reference. We will consider how children are given a voice and the ability to participate in family violence intervention court processes. Stage 2 will also consider:
- Whether leave of the court should continue to be required to vary, revoke or extend a FVIO for children between 14 and 18 years.
  - Whether it should be possible in any circumstances for a child under the age of 14 to be able to seek leave to apply to vary, revoke or extend a FVIO.
  - Options for children and young adults to be heard and supported in family violence intervention order proceedings.
- 9 We will report to the Attorney General on Stage 1 in **July 2025**.
- 10 A second Issues Paper will be released when Stage 2 begins. This will include a call for community input on Stage 2 issues.

## A guide to this Stage 1 Issues Paper

- 11 This Issues Paper is structured in two parts:
- The first part of this paper:
    - examines what family violence is
    - explains key terms that the justice system uses to describe family violence
    - examines FVIOs, which are one of the ways that the justice system responds to incidences of family violence
    - considers the impact that family violence has on children and young adults
    - outlines what the law currently says happens to a FVIO when a child turns 18 and raises some concerns about current practice
  - The second part of this paper:
    - calls for community responses. The aim is to enable young people, the community, and family violence practitioners to contribute their thoughts and ideas to this law reform project.
    - ask questions about peoples' experiences of the current law, its impacts and ideas for reform.
- 12 This Issues Paper only provides background. It does not represent our final views on the matters raised.

## Language we use

- 13 The language we use to describe people who have experienced family violence is important and has changed over time.
- 14 In this Issues Paper, we use the term '**victim-survivor**' to refer to an adult or child who is experiencing or has experienced family violence. We use this term to recognise the agency, strength and resilience of those who have experienced family violence. We recognise that some people who have experienced or are experiencing family violence do not identify with this term and that family violence does not define who a person is.
- 15 We use the term '**perpetrator**' to refer to a person who has used or is using family violence, recognising that it is a widely used and understood term in the community.<sup>2</sup>
- 16 In this Issues Paper, we use the term '**young adult**' to describe an adult between the ages of 18 and 25 who, because of their age, is most likely to have particular experience of, or views about the issues that we are considering in Stage 1.<sup>3</sup>
- 17 We refer to the language used in the *Family Violence Protection Act 2008* (Vic) (the **Family Violence Protection Act**) when describing its provisions and operation.
- 18 The table below contains a glossary of terms used in this report.

2 Family Safety Victoria, 'Terminology and Definitions', *MARAM Practice Guide: Foundation Knowledge Guide* (Web Page, 21 July 2021) <<https://www.vic.gov.au/maram-practice-guides-foundation-knowledge-guide>>. Perpetrator is the term used at a legal and policy level in Victoria.

3 In state and national policy, 'young person' is commonly defined to include people aged 12-25. See State of Victoria, *Royal Commission into Family Violence: Report and Recommendations, Vol II* (Parl Paper No 132 (2014-16), March 2016) - 'My Rights as a Young Person', *Youth Affairs Council Victoria* (Web Page) ; 'About', *Youth Central* (Web Page) <<https://www.youthcentral.vic.gov.au/about>>. This paper uses 'young adult' to refer to people aged 18-25, to differentiate between young people who are still considered children under the law (i.e. young people aged under 18) and those who have recently become legal adults.

# Glossary

<b>Affected Family Member or AFM</b>	The person who is (or has been) affected by family violence and is the subject of an application for a Family Violence Intervention Order. <sup>4</sup> After an order is in place, the affected family member may be referred to as the 'protected person'.
<b>Applicant</b>	The person who applies for a Family Violence Intervention Order to protect a victim-survivor. The applicant could be the affected family member themselves, the police, or an adult with a legal authority, guardianship or consent of the affected family member.
<b>Child</b>	A person who is 17 years old or under. <sup>5</sup>
<b>Family member</b>	A family member of a victim-survivor includes anyone they have (or have had) a family or intimate personal relationship with, including their partner, ex-partner, children, relatives or anyone they treat (or have treated) as family. <sup>6</sup>
<b>Family Violence Intervention Order (FVIO)</b>	An order made by a court <sup>7</sup> under the Family Violence Protection Act to protect a person from a family member, partner or ex-partner who is using (or has used) violence against them. An order can be made on an interim or final basis. <sup>8</sup>
<b>Magistrate</b>	A magistrate is a person who has been appointed under the <i>Magistrates' Court Act 1989</i> (Vic). <sup>9</sup> A magistrate is responsible for making directions, decisions and orders.
<b>Party</b>	Parties to a proceeding include the applicant for a Family Violence Intervention Order, any affected family members and the respondent. <sup>10</sup>
<b>Perpetrator</b>	A person who is using (or has used) family violence against a family member. In relation to an application for a Family Violence Intervention Order, they may also be referred to as the respondent.
<b>Protected person</b>	A person who is protected by a Family Violence Intervention Order. <sup>11</sup> Also referred to in this Issues Paper as a protected adult or protected child.
<b>Respondent</b>	The person who is the subject of an application for a Family Violence Intervention Order or has had a Family Violence Intervention Order made against them. <sup>12</sup> A respondent who has committed family violence is sometimes referred to as a perpetrator.

4 *Family Violence Protection Act 2008* (Vic) s 4.

5 Ibid.

6 *Family Violence Protection Act 2008* (Vic) s 8.

7 Ibid s 4. Under the Act 'court' means the Magistrates' Court, or the Children's Court or the court hearing a criminal proceeding in which interim orders are made under Division 2A, Part 4 of the Family Violence Protection Act.

8 Ibid s 11.

9 *Magistrates' Court Act 1989* (Vic) s 7. A magistrate includes the chief magistrate and a reserve magistrate engaged under section 9C to undertake the duties of a magistrate during any period of engagement or acting under section 9EA.

10 *Family Violence Protection Act 2008* (Vic) s 4.

11 Ibid.

12 Ibid.

<b>Adult</b>	By law means a person who is 18 years of age or over. <sup>13</sup> In this paper we use the term 'young adult' to describe a person who is over 18 and under 25 years old.
<b>Victim-survivor</b>	An adult or child who is experiencing (or has experienced) family violence. Also referred to as an affected family member or protected person in relation to a Family Violence Intervention Order.

# How to tell us your views

- 19 We are interested in hearing from anyone who has lived experience or professional experience of the issues we are considering in Stage 1.
- 20 We will hear from people in two ways:
- submissions (written responses to our issues paper or terms of reference)
  - formal consultations.
- 21 Please note that the VLRC does not provide legal advice. If you need help with a legal issue including a family violence matter, you can contact [Victoria Legal Aid](#), a [community legal centre](#) or a solicitor. A full list of supports is available on our website: <https://www.lawreform.vic.gov.au/family-violence-get-support-or-legal-advice/>.
- 22 You may find it difficult or upsetting to discuss experiences of family violence and seeking protection. We encourage you to seek support from the services listed on our website.
- 23 If you are a child or young person it might help to talk to a trusted adult about this project and about engaging with the Commission.

## Making a submission

- 24 A submission is a response from a person or organisation, stating their views about the law under review. A submission may include personal experiences and ideas about how the law should change. More information about how to make a submission is available in the second part of this paper (see pages 19 and 20) where we pose questions to guide submissions.
- 25 The Commission is interested in hearing from children and young adults with lived experience of family violence and the FVIO system, or people who have supported someone with lived experience. Professionals and other organisations who assist victim survivors of family violence or who work in the court system are also invited to make a submission, as are other members of the community with an interest in this topic.
- 26 Submissions will be reviewed and analysed by the Commission when considering the issues raised in the first part of this project. We may use extracts from submissions in our final report and related publications.
- 27 A trauma-informed approach will inform the collection, analysis and publication of resulting data.

## Formal consultations

- 28 The Commission will also meet with a small number of individuals and groups with experience or knowledge of Stage 1 issues. These will include:
- adults and children with lived experience of family violence. These conversations will occur in partnership with advocacy or justice organisations who regularly work with victim-survivors of family violence and/or young people to ensure that appropriate support is provided to participants.
  - people who support or advocate for people who have experienced family violence.
  - people and organisations who respond to family violence, such as police, magistrates, Judges, court registrars, lawyers and the diverse support service sector.
- 29 The Commission will adopt a trauma-informed approach to plan and run the consultations and to collect, analyse and publish any data or information that we hear during the sessions.

# Part 1: Background

## What is family violence?

- 30 Family violence occurs when a person carries out harmful behaviour that makes their family member unsafe or makes them feel unsafe.
- 31 Family violence includes a wide range of behaviours. The Family Violence Protection Act defines family violence as:<sup>14</sup>
- a) behaviour by a person towards a family member of that person if that behaviour—
    - i. is physically or sexually abusive; or
    - ii. is emotionally or psychologically abusive; or
    - iii. is economically abusive; or
    - iv. is threatening; or
    - v. is coercive; or
    - vi. in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person; or
  - b) behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in paragraph (a).
- 32 A 'family member' is defined broadly in the law. It includes a current or past spouse or domestic partner; a person who is or has been in an intimate relationship with another person; relatives or children of a perpetrator or victim-survivor; children who lived with or currently live with a relevant person, and other people who have a relationship 'like a family member'.<sup>15</sup> In 2023-24, in the majority of family violence incidents recorded by police, the perpetrator was the current or former partner of the victim-survivor.<sup>16</sup>
- 33 Family violence can happen in any type of intimate relationship, in any community, to people of any age, ability, sexuality, status, gender, race, culture or ethnicity. Family violence can occur after a relationship has already ended. Experiences of family violence differ from person to person. Family violence can start from something small and escalate over time. Family violence is sometimes called domestic violence or intimate partner violence.<sup>17</sup> Examples of family violence behaviours can be found at the Magistrates' Court of Victoria's website.<sup>18</sup>
- 34 Children can experience family violence directly, by experiencing, witnessing or hearing violence first-hand, and indirectly, by witnessing its after-effects.<sup>19</sup> After-effects could include:
- seeing police in their house
  - helping an abused family member

14 Ibid s 5.

15 Ibid s 8. Section 8(3) defines the factors which may indicate a person is 'like a family member' and includes looking at a relationship as a whole. A person who requires protection from someone who is not a family member can apply for a personal safety intervention order under the *Personal Safety Intervention Orders Act 2010* (Vic). See also: Magistrates Court of Victoria, *Personal Safety Intervention Orders* (Web Page, 6 November 2024) <<https://www.mcv.vic.gov.au/intervention-orders/personal-safety-intervention-orders>>.

16 Crime Statistics Agency, *Family Violence Data Tables* (Web Page, 4 December 2024) Justice System Data Tables: Table 6 - Number of unique victim-perpetrator pairs by sex of victim and relationship to perpetrator, 1 July 2019 to 30 June 2024 <<https://www.crimestatistics.vic.gov.au/family-violence-data/family-violence-data-tables>>.

17 Victoria Legal Aid, *Family Violence and Family Violence Intervention Orders* (Web Page, 21 November 2024) <<https://www.legalaid.vic.gov.au/family-violence-and-family-violence-intervention-orders>>.

18 Magistrates Court of Victoria, *Family Violence Intervention Orders (FVIO)* (Web Page, 13 January 2025) <<https://www.mcv.vic.gov.au/family-matters/family-violence-intervention-orders-fvio>>.

19 See *Family Violence Protection Act 2008* (Vic) s 5; Magistrates Court of Victoria, *Family Violence Intervention Orders (FVIO)* (Web Page, 13 January 2025) <<https://www.mcv.vic.gov.au/family-matters/family-violence-intervention-orders-fvio>>; Victoria Legal Aid, *Children and Family Violence Intervention Orders* (Web Page, 18 July 2024) <<https://www.legalaid.vic.gov.au/children-and-family-violence-intervention-orders>>.

- seeing damaged family property
  - seeing a family member with injuries from family violence.<sup>20</sup>
- 35 In 2023, Victoria Police responded to 94,170 family violence incidents and children were recorded as present at 36 per cent of these incidents.<sup>21</sup>
- 36 According to the Crimes Statistics Agency, in 2023-24, children 17 years and younger made up around 11 per cent of victim-survivors of family violence in Victoria. In almost two-thirds of cases (62.4 per cent), the perpetrator was the parent of the child victim-survivor.<sup>22</sup> The real numbers are likely to be much higher as many incidents go unreported.

## Family violence and children

- 37 Research indicates that:
- Family violence against children is widespread and generally accepted as under-reported.<sup>23</sup>
  - Children who have experienced family violence, whether directly or indirectly, should be recognised as victim-survivors in their own right.<sup>24</sup>
  - Children are uniquely impacted by family violence because of their age, stage of development and an imbalance of power where the perpetrator is an adult. Their needs may be different to those of adults.<sup>25</sup>
  - Family violence is gendered, which means women and girls are much more likely to experience family violence.<sup>26</sup> In family violence incidents responded to by Victoria Police in 2023, 74 per cent of victim-survivors were female, and 26 per cent were male.<sup>27</sup>
  - Family violence has serious impacts on the health and wellbeing of children in the short and long-term.<sup>28</sup> Impacts on children, 'may be acute and chronic, immediate and accumulative, direct and indirect, seen and unseen'.<sup>29</sup>

---

20 Magistrates' Court of Victoria, *Family Violence Intervention Orders (FVIO)* (Web Page, 13 January 2025) <<https://www.mcv.vic.gov.au/family-matters/family-violence-intervention-orders-fvio>>; Magistrates Court of Victoria, *Applying for an Intervention Order (FVIO)* (Web Page, 19 September 2024) <<https://www.mcv.vic.gov.au/intervention-orders/family-violence-intervention-orders/applying-intervention-order-fvio>>; Family Safety Victoria, 'Presentations of Family Violence in Different Relationships and Communities', *MARAM Practice Guide: Foundation Knowledge Guide* (Web Page, 21 July 2021) <<https://www.vic.gov.au/maram-practice-guides-foundation-knowledge-guide/presentations-family-violence-different>>.

21 Victoria Police, *Safe From Harm: Victoria Police Strategy for Family Violence, Sexual Offences and Child Abuse 2024-2029* (Report, November 2024) 7.

22 Crimes Statistics Agency, *Family Violence Dashboard* (Web Page, 4 December 2024). Linked Justice System Data: Victim Survivors of Family Violence <<https://www.crimestatistics.vic.gov.au/family-violence-data/family-violence-dashboard>>.

23 Family Safety Victoria, 'Presentations of Family Violence in Different Relationships and Communities', *MARAM Practice Guide: Foundation Knowledge Guide* (Web Page, 21 July 2021) <<https://www.vic.gov.au/maram-practice-guides-foundation-knowledge-guide/presentations-family-violence-different>>.

24 See: Victorian Government, *Victorian Family Violence Research Agenda 2021-2024* (Report, 21 February 2022) 'Research Priority: Children and young people as victim survivors in their own right' <<https://www.vic.gov.au/victorian-family-violence-research-agenda-2021-2024/research-priorities/children-and-young-people>>; Victorian Government, *Report of the Family Violence Reform Implementation Monitor - As at 1 November 2020* (Report, 6 May 2021) Chapter 4: Children as primary victims of family violence, 51-64; State of Victoria, *Royal Commission into Family Violence: Summary and Recommendations* (Parl Paper No 132 (2014-16), March 2016) 22, 129, 101-2, 142. The Royal Commission into Family Violence said that 'children and young people experiencing family violence should be recognised as victims in their own right and have their needs acknowledged': at 142. The Royal Commission indicated this was a core principle that should underpin the implementation of all its recommendations.

25 Debbie Noble-Carr, Tim Moore and Morag McArthur, 'Children's Experiences and Needs in Relation to Domestic and Family Violence: Findings from a Metasynthesis' (2020) 25(1) *Child & Family Social Work* 182; State of Victoria, *Royal Commission into Family Violence: Summary and Recommendations* (Parl Paper No 132 (2014-16), March 2016) 101-2 <[http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/RCFV\\_Full\\_Report\\_Interactive.pdf](http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf)>.

26 According to the Crimes Statistics Agency, in 2023-24, there were 5,529 family violence incidents involving 4,293 victim-survivors who were girls aged 17 and under, compared with 3,422 family violence incidents involving 2,952 victim-survivors who were boys aged 17 and under. See: Crime Statistics Agency (Vic), *Family Violence Dashboard* (Web Page, 4 December 2024) Linked Justice System Data: Progress of Family Violence Incidents Through the Justice System <<https://www.crimestatistics.vic.gov.au/family-violence-data/family-violence-dashboard>>. The latest release of the Australian Bureau of Statistics' Personal Safety Survey showed that one in four Australian women aged 15 and over have experienced violence by an intimate partner or family member (27%) compared with one in eight men aged 15 or over (12%). Australian Bureau of Statistics, *Personal Safety, Australia, 2021-22 Financial Year* (Web Page, 15 March 2023) <<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release>>.

27 Victoria Police, *Safe From Harm: Victoria Police Strategy for Family Violence, Sexual Offences and Child Abuse 2024-2029* (Report, November 2024) 6.

28 State of Victoria, *Royal Commission into Family Violence: Summary and Recommendations* (Parl Paper No 132 (2014-16), March 2016) 105-112 <[http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/RCFV\\_Full\\_Report\\_Interactive.pdf](http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf)>.

29 North and West Regional Children's Resource Program, *Through a Child's Eyes: Children's Experience of Family Violence and Homelessness* (Merri Outreach Support Service, 2013) 4.

- Experiences of family violence are not homogenous. They are shaped by factors such as culture, sexuality, gender, age, class, ability, religion and employment, or a combination of these factors.<sup>30</sup>
- Some children and young adults may face a heightened risk of family violence and/or more barriers to safety. These include children and young adults who are First Peoples, those from rural, regional and remote communities, those who identify as LGBTIQ+, and those with disability.<sup>31</sup>
- First People's experience of family violence is shaped by the historical context of dispossession, removal of children from families and intergenerational trauma.<sup>32</sup>
- The voices of young victim-survivors of family violence are often overlooked in policy and service system design, as well as in the justice system.<sup>33</sup> To the extent possible and appropriate, their voices should inform decisions, research and policy-making that affect their lives. The need to protect children from unnecessary trauma from interacting with the justice system should be balanced with enabling them to have agency and voice in decisions that impact their lives.<sup>34</sup>
- Many children and young victim-survivors display incredible courage and resilience in the face of family violence.<sup>35</sup>

## Family Violence Intervention Orders

- 38 A family violence intervention order (FVIO or order) is an order made by the court to prevent the respondent from using family violence against another person.<sup>36</sup> The order prevents the respondent from behaving in certain ways or requires them to do certain things.
- 39 The power of a court to issue a FVIO is contained in the Family Violence Protection Act.<sup>37</sup>
- 40 A FVIO is a civil order. However, if a FVIO is breached it becomes a criminal matter with serious consequences including fines, community service or imprisonment.<sup>38</sup> Breaching a FVIO will result in a criminal record for the respondent.<sup>39</sup>

30 Family Safety Victoria, 'Presentations of Family Violence in Different Relationships and Communities', *MARAM Practice Guide: Foundation Knowledge Guide* (Web Page, 21 July 2021) <<https://www.vic.gov.au/maram-practice-guides-foundation-knowledge-guide/presentations-family-violence-different>>.

31 Ibid; See for example State of Victoria, *Royal Commission into Family Violence: Summary and Recommendations* (Parl Paper No 132 (2014–16), March 2016) 112–117 <[http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/RCFV\\_Full\\_Report\\_Interactive.pdf](http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf)>.

32 Senate Legal and Constitutional Affairs Committee, Parliament of Australia, *Missing and Murdered First Nations Women and Children* (Report, August 2024) <[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/FirstNationswomenchildren/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/FirstNationswomenchildren/Report)>; Professor Harry Blagg et al, *Innovative Models in Addressing Violence against Indigenous Women*: (Compass: Issue 01, Australia's National Research Organisation for Women's Safety (ANROWS), January 2018); Trishima Mitra-Kahn, Carolyn Newbigin and Sophie Hardefeldt, *Invisible Women, Invisible Violence: Understanding and Improving Data on the Experiences of Domestic and Family Violence and Sexual Assault for Diverse Groups of Women*: State of Knowledge Paper (Report, Australia's National Research Organisation for Women's Safety (ANROWS), December 2016); Jocelyn Jones et al, *Wangkiny Yirra "Speaking Up" Project: First Nations Women and Children with Disability and Their Experiences of Family and Domestic Violence* (Research Report, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, June 2023) <<https://disability.royalcommission.gov.au/publications/wangkiny-yirra-speaking-project-first-nations-women-and-children-disability-and-their-experiences-family-and-domestic-violence>>.

33 State of Victoria, *Royal Commission into Family Violence: Summary and Recommendations* (Parl Paper No 132 (2014–16), March 2016) 23 <[http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/RCFV\\_Full\\_Report\\_Interactive.pdf](http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf)>; Victorian Government, *Report of the Family Violence Reform Implementation Monitor - As at 1 November 2020* (Report, 6 May 2021) 51, 53–54, 63–64 <<https://www.fvrim.vic.gov.au/report-family-violence-reform-implementation-monitor-1-november-2020>>; Georgina Dimopoulos et al, *Children's Voices for Change: A Rights-Based Approach to Understanding and Implementing Effective Supports for Children and Pre-Adolescents as Victim Survivors of Family Violence* (Report, Family Safety Victoria, June 2024) 10–11; Sakshi, Youth Council Member, 'Family Violence and the Rights of Children and Young People', *Commission for Children and Young People* (Web Page) <<https://ccyp.vic.gov.au/children-and-young-people/youth-voices/family-violence-and-the-rights-of-young-people/>>; Commission for Children and Young People, *Neither Seen nor Heard – Inquiry into Issues of Family Violence in Child Deaths* (Report, 2016).

34 Sakshi, Youth Council Member, 'Family Violence and the Rights of Children and Young People', *Commission for Children and Young People* (Web Page) <<https://ccyp.vic.gov.au/children-and-young-people/youth-voices/family-violence-and-the-rights-of-young-people/>>; State of Victoria, *Royal Commission into Family Violence: Summary and Recommendations* (Parl Paper No 132 (2014–16), March 2016) 129 <[http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/RCFV\\_Full\\_Report\\_Interactive.pdf](http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf)>; *Family Violence Protection Act 2008* (Vic) s 67.

35 State of Victoria, *Royal Commission into Family Violence: Volume II Report and Recommendations* (Report, March 2016) 117 <<http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/Final/RCFV-Vol-II.pdf>>.

36 *Family Violence Protection Act 2008* (Vic) s 4.

37 Ibid pt 4.

38 *Family Violence Protection Act 2008* (Vic) s 123(2).

39 Victoria Legal Aid, *Breaching a Family Violence Intervention Order or Safety Notice* (Web Page, 27 June 2024) <<https://www.legalaid.vic.gov.au/breaching-family-violence-intervention-order-safety-notice>>. If someone reports a breach of a FVIO police must investigate. Police should take a signed statement from the person reporting the breach. They will then interview the respondent and any witnesses before deciding whether to charge the respondent. Breaches are dealt with in *Family Violence Protection Act 2008* ss 123, 123A, 124.

- 41 There are two types of FVIO that a magistrate can make at court. They are:
- **an interim order** – a short-term order made until a magistrate can hear all the evidence and make a final order.<sup>40</sup> Interim orders are made if the magistrate believes that protection is needed immediately.<sup>41</sup>
  - **a final order** – a longer-term order made if a magistrate believes that the respondent has used family violence and is likely to use family violence again.<sup>42</sup> The order will last until the end date set by the magistrate.<sup>43</sup>
- 42 A FVIO contains conditions (rules) a respondent must follow. Not every order has the same conditions.<sup>44</sup> Applicants or protected people can ask for certain conditions to help the protected people feel safer, based on their situation.<sup>45</sup> For example, a FVIO might say a respondent cannot contact the protected person at all, that they cannot contact them when they are under the influence of drugs or alcohol, or that they cannot come within 100 metres of the protected person's home, school or place of work.<sup>46</sup> An order might stop a respondent from publishing on the internet or contacting the protected person by email or other social media (called technology-facilitated abuse).<sup>47</sup> Examples of conditions can be found on the Magistrates' Court website.<sup>48</sup>

## Protecting an adult from family violence

- 43 A number of parties can apply for a FVIO:
- An adult victim-survivor can apply for a FVIO themselves.
  - An adult victim-survivor can consent to another person applying on their behalf.
  - A court can make an FVIO of its own initiative during a bail application or an appeal relating to bail or a criminal proceeding to protect a person from family violence.<sup>49</sup>
  - Police can apply on behalf of a victim-survivor.<sup>50</sup>
- 44 Almost three-quarters of FVIO applications in Victoria are initiated by the police (73.3 per cent in 2023-24).<sup>51</sup>
- 45 When police respond to a family violence incident, they will conduct a risk assessment.<sup>52</sup> If a person needs immediate protection from family violence, police may issue a Family Violence Safety Notice (Safety Notice).<sup>53</sup> This can be issued on the spot while a police officer is at a family violence incident. A police officer can issue a Safety Notice even if the victim-survivor does not want one.<sup>54</sup> Failure to comply with a Safety Notice is a criminal matter.<sup>55</sup>

40 *Family Violence Protection Act 2008* (Vic) s 60.

41 *Ibid* s 53.

42 *Ibid* s 74.

43 *Family Violence Protection Act 2008* (Vic) s 99. Unless it is sooner revoked or set aside on appeal. Where no expiry date is specified the order continues indefinitely unless revoked or set aside.

44 *Ibid* 80, 81(1); Magistrates' Court of Victoria, *Information for Application for a Family Violence Intervention Order FVIO1* (Report, July 2019) <<https://www.mcv.vic.gov.au/sites/default/files/2019-11/FVIO1-Application-for-Family-Violence-Intervention-Order.pdf>>.

45 Magistrates Court of Victoria, *Applying for an Intervention Order (FVIO)* (Web Page, 19 September 2024) <<https://www.mcv.vic.gov.au/intervention-orders/family-violence-intervention-orders/applying-intervention-order-fvio>>; Victoria Legal Aid, *Family Violence and Family Violence Intervention Orders* (Web Page, 21 November 2024) <<https://www.legalaid.vic.gov.au/family-violence-and-family-violence-intervention-orders>>.

46 Magistrates' Court of Victoria, *Information for Application for a Family Violence Intervention Order FVIO1* (Report, July 2019) 1 <<https://www.mcv.vic.gov.au/sites/default/files/2019-11/FVIO1-Application-for-Family-Violence-Intervention-Order.pdf>>.

47 See Victoria Police, *Technology Facilitated Abuse* (Web Page, 28 January 2025) <<https://www.police.vic.gov.au/technology-facilitated-abuse>>.

48 Magistrates Court of Victoria, *Applying for an Intervention Order (FVIO)* (Web Page, 19 September 2024) <<https://www.mcv.vic.gov.au/intervention-orders/family-violence-intervention-orders/applying-intervention-order-fvio>>.

49 *Family Violence Protection Act 2008* (Vic) ss 45, 60A-60L.

50 When police attend a family violence incident, police can also apply for a warrant to arrest the perpetrator of family violence. The Magistrates' Court notes that police will usually release the person on bail if they agree to bail conditions (usually the same as the conditions on an intervention order) and agree to go to court on the date of the intervention order hearing.

51 Crime Statistics Agency (Vic), *Family Violence Dashboard* (Web Page, 4 December 2024) <<https://www.crimestatistics.vic.gov.au/family-violence-data/family-violence-dashboard>>. Figures calculated from Linked Justice System Data - Family Violence Intervention Orders (FVIOs) table, 2023-24 data.

52 Victoria Police, *Code of Practice for the Investigation of Family Violence* (Report, 2022). <<https://www.police.vic.gov.au/sites/default/files/2022-11/Code-of-practice-for-the-investigation-of-family-violence-Edition-4-Version-2.pdf>>.

53 *Family Violence Protection Act 2008* (Vic) s 24.

54 *Ibid*.

55 *Ibid* s 37.

- 46 A Safety Notice provides short-term protection and works like an intervention order. It:
- includes conditions to stop a person from using family violence
  - serves as an application to the court for a FVIO
  - includes a summary of the incident and court date, which must be within 14 days of the Safety Notice being issued.<sup>56</sup>
- 47 When police apply for a FVIO on behalf of a victim-survivor, they are called the applicant.
- 48 Police represent the victim-survivor at the hearing. The victim-survivor can talk to police about the conditions they would like in the order. In some cases, a victim-survivor might not want an order to be made, or might want it to include conditions which are different to the ones police are seeking. In these cases, a victim-survivor can have their own lawyer negotiate with police and represent them in court. Police will still apply for the order.<sup>57</sup>

## Protecting a child from family violence

- 49 There are a number of ways a FVIO may be made for a child's protection:
- An adult can apply for a FVIO on behalf of a child.<sup>58</sup>
  - The child can apply themselves, with the leave of the court, if they are over the age of 14.<sup>59</sup>
  - Police may apply on behalf of a child, or a child may be included as an additional affected family member on a Safety Notice issued for an adult.<sup>60</sup>
  - If an adult is applying for a FVIO they can include a child on their application if the applications *arise out of the same or similar circumstances*.<sup>61</sup>
  - When the court makes an interim or final order for an adult affected family member, it must also make an order for a child who has been subjected to family violence by the respondent.
  - The court may also make an interim or final order for the child even if it does not grant an order for an adult affected family member.<sup>62</sup>
  - If the child's protection needs are not substantially the same as the primary affected family member, then the court is required to make a separate order for the child as a protected person.<sup>63</sup> This can be done even if the applicant did not ask for this to occur.<sup>64</sup>
  - A court can also make an interim order which protects a child of its own initiative, during a bail application, an appeal relating to bail, or a criminal proceeding.<sup>65</sup>

In addition to the courts' powers to make orders of their own initiative, the Children's Court may consider whether it is in a child's best interests for a FVIO to be made when it is hearing a child protection matter, and grant an order during those proceedings if a party applies for it.<sup>66</sup>

<sup>56</sup> Ibid ss 31(3), 32.

<sup>57</sup> Magistrates Court of Victoria, *Understanding Police Applications (FVIO)* (Web Page) <<https://www.mcv.vic.gov.au/intervention-orders/family-violence-intervention-orders/understanding-police-applications-fvio>>.

<sup>58</sup> *Family Violence Protection Act 2008* (Vic) s 45. The written consent of the child's parent or leave of the court is required. Section 45(e) also enables a guardian or person with power of attorney in personal matters to apply on a victim-survivor's behalf.

<sup>59</sup> Ibid s 45(d)(iii), 46.

<sup>60</sup> Ibid s 24(e).

<sup>61</sup> Ibid s 47.

<sup>62</sup> *Family Violence Protection Act 2008* (Vic) ss 53AB, 77B.

<sup>63</sup> Ibid s 77(2)(b).

<sup>64</sup> Unless the court is satisfied that it is not necessary to protect the child to do so. *Family Violence Protection Act 2008* (Vic) s 77(4).

<sup>65</sup> Ibid s 60F.

<sup>66</sup> *Children, Youth and Families Act 2005* (Vic) ss 8, 515(2).

## FVIO conditions relating to adults and children

- 50 A magistrate can set different conditions for a child or children on a FVIO to those listed for the protected adult on the order.
- 51 When a magistrate makes a FVIO to protect a child, they must check if there are parenting orders in place.<sup>67</sup> Parenting orders are orders made under the *Family Law Act 1975* (Cth) (Family Law Act), which outline how children spend time with their parents and other family members. They may also cover other issues relevant to the care of the children, such as schooling or medical treatment.<sup>68</sup> Parenting orders under the Family Law Act cease to apply when a child turns 18.<sup>69</sup>
- 52 If an existing parenting order allows a respondent to have contact with a child, a FVIO can change the order to ensure that the child is safe from family violence.<sup>70</sup> For example, the court may suspend (pause) the conditions in a parenting order which allow a respondent to have contact with a child, or vary (change) how one parent is allowed to have contact with another.<sup>71</sup>
- 53 When the Family Court is making a parenting order, it must consider whether there is a FVIO in place and ensure that the parenting order is consistent with the FVIO.<sup>72</sup>

## After a FVIO is made

- 54 The court can vary or revoke an order if a party makes an application to do so, or it can vary or revoke an order of its own initiative where the original order was made of the court's own motion.<sup>73</sup> The Children's Court can also vary or revoke a FVIO during child protection proceedings.<sup>74</sup> When varying or revoking an order, the court must have regard to a range of factors, including the protected person's views and their safety.<sup>75</sup> Even if the court varies or revokes the order for an adult protected person, it can make a new FVIO for a child who needs continuing protection from family violence.<sup>76</sup>

## Court processes

- 55 Applications for a FVIO can be heard in the Magistrates' Court of Victoria or the Children's Court of Victoria.<sup>77</sup>
- 56 The majority of FVIO matters are dealt with in the Magistrates' Court (96.0 per cent in 2023-24).<sup>78</sup> However, the Children's Court may deal with FVIO matters involving a child where:<sup>79</sup>
- the applicant for a FVIO is 17 years old or younger
  - the respondent is 17 years old or younger

---

67 *Family Violence Protection Act 2008* (Vic) s 89(a).

68 Magistrates Court of Victoria, *Applying for an Intervention Order (FVIO)* (Web Page, 19 September 2024) <<https://www.mcv.vic.gov.au/intervention-orders/family-violence-intervention-orders/applying-intervention-order-fvio>>.

69 *Family Law Act 1975* (Cth) s 65H.

70 Judicial College of Victoria, *Family Violence Bench Book* (Online Manual) [2.6] Interaction with family law <<https://resources.judicialcollege.vic.edu.au/article/1053062>>. A FVIO also prevails over an existing child protection order.

71 Victoria Legal Aid, *Children and Family Violence Intervention Orders* (Web Page, 18 July 2024) <<https://www.legalaid.vic.gov.au/children-and-family-violence-intervention-orders>>.

72 *Family Violence Protection Act 2008* (Vic) s 90; *Family Law Act 1975* (Cth) s 68R; see also ss 60CG and 60CF; Victoria Legal Aid, *Children and Family Violence Intervention Orders* (Web Page, 18 July 2024) <<https://www.legalaid.vic.gov.au/children-and-family-violence-intervention-orders>>.

73 *Family Violence Protection Act 2008* (Vic) s 100(1)(a) and (b).

74 *Ibid* s 173.

75 *Ibid* s 100(2). The court must also consider the reasons for the application, whether the protected person is legally represented and all circumstances of the case.

76 *Ibid* s 103.

77 *Ibid* ss 145–149. The Children's Court is a specialist court for children and young people. It has a Family and a Criminal Division. The Court has jurisdiction to hear and determine cases involving children including criminal, child protection and intervention order matters. Intervention order matters are heard in the Family Division. See State of Victoria, 'About the Children's Court', *Children's Court of Victoria* (Web Page, 2021) <<https://www.childrenscourt.vic.gov.au/about>>; See also: 'About Us', *Magistrates Court of Victoria* (Web Page) <<https://www.mcv.vic.gov.au/about-us>>; The Supreme Court and County Court also have the ability to make orders on appeal, or of their own motion during a bail or criminal proceeding. *Family Violence Protection Act 2008* (Vic) ss 60B, 60C.

78 Crime Statistics Agency (Vic), *Family Violence Dashboard* (Web Page, 4 December 2024) <<https://www.crimestatistics.vic.gov.au/family-violence-data/family-violence-dashboard>>. Figures calculated from Justice System Data Tables: Table 14. Number of FVIO applications by outcome and court, 1 July 2019 to 30 June 2024.

79 *Family Violence Protection Act 2008* (Vic) s 146(1).

- both the affected family member and the respondent are adults, but the Children's Court is hearing related child protection proceedings under the *Children, Youth and Families Act 2005* (Vic).<sup>80</sup>
- 57 Where the person who has used family violence is a child, the Children's Court will usually hear the matter (97.9 per cent in 2023-24).<sup>81</sup>
- 58 According to the Crimes Statistics Agency, in 2023-24 there were 26,188 victim-survivors aged 17 and under who were included on FVIO applications in the Victorian Magistrates' and Children's Courts. There were 4,956 applications for young people aged 18-24 the same year across both courts.<sup>82</sup>
- 59 In the Magistrates' Court, a victim-survivor may apply for a FVIO online, or by submitting an application in person.<sup>83</sup> In the Children's Court, an applicant is required to meet with a registrar about their FVIO application.<sup>84</sup>
- 60 Once an application is made, the court will serve the application on the respondent and other parties, such as additional affected family members, and schedule a court date.<sup>85</sup>
- 61 The respondent can also contest the making of a FVIO. If this happens the parties to the FVIO must attend court for a contested hearing.<sup>86</sup> At the hearing the magistrate will hear evidence from the witnesses and decide whether to make a FVIO.<sup>87</sup> At court, a respondent can agree to a FVIO but disagree about what was said in the application.<sup>88</sup> This is called consent without admission.<sup>89</sup> The court may also make the order if the respondent fails to show up to the hearing.<sup>90</sup>

## Support for victim-survivors at court

- 62 The Magistrates' Court has a Specialist Family Violence Division, made up of 13 Specialist Family Violence Courts (SFVCs) located across Victoria. SFVCs are staffed by magistrates, registrars and family violence practitioners who are trained in family violence.<sup>91</sup>
- 63 Across both Magistrates' and Children's Courts, applicant practitioners (also called applicant support workers or family violence practitioners) may assist applicants or protected people at court. This can include providing referrals to support services, offering non-legal support and assisting victim-survivors to understand the court process. Duty lawyers at court may provide free assistance to a victim-survivor seeking a FVIO on the day of court.<sup>92</sup>
- 64 Where an application for a FVIO is made in the Children's Court, a registrar at court will meet with an applicant and can assist them to complete an application, speak to a lawyer, or meet with a family violence practitioner.<sup>93</sup>

80 Ibid ss 146, 147A.

81 Crime Statistics Agency, *Family Violence Data Tables* (Web Page, 4 December 2024) <<https://www.crimestatistics.vic.gov.au/family-violence-data/family-violence-data-tables>>. Figures calculated from Justice System Data Tables: Table 17. Number of respondents on FVIO applications by age group, gender, and court, 1 July 2019 to 30 June 2024.

82 Ibid Table 18. Number of victims on FVIO applications by age group, gender, and court, 1 July 2019 to 30 June 2024.

83 Magistrates Court of Victoria, *Applying for an Intervention Order (FVIO)* (Web Page, 19 September 2024) <<https://www.mcv.vic.gov.au/intervention-orders/family-violence-intervention-orders/applying-intervention-order-fvio>>.

84 Children's Court of Victoria, *How Do I Get a Family Violence Intervention Order?* (Web Page) <<https://www.childrencourt.vic.gov.au/family-division/intervention-orders/how-do-i-get-family-violence-intervention-order>>.

85 *Family Violence Protection Act 2008* (Vic) s 48.

86 Ibid s 54.

87 Ibid s 55.

88 *Family Violence Protection Act 2008* (Vic) s 77(4). If the court makes an order by consent, it is not required to include the child in the final order or make a separate final order unless satisfied that it is necessary to protect the child from the respondent.

89 Ibid s 53(1C), s78(1).

90 Ibid s 54(b).

91 Magistrates Court of Victoria, *Specialist Family Violence Courts* (Web Page, 23 May 2024) <<https://www.mcv.vic.gov.au/about/specialist-family-violence-courts>>.

92 See also: Magistrates' Court of Victoria, *Applicant/Affected Family Member Support* (Web Page) <<https://www.mcv.vic.gov.au/find-support/family-violence/applicant-affected-family-member-support>>; Victoria Legal Aid, *Going to Court for a Family Violence Intervention Order – Affected Family Members* (Web Page, 25 November 2024) <<https://www.legalaid.vic.gov.au/going-court-family-violence-intervention-order-affected>>.

93 Children's Court of Victoria, *How Do I Get a Family Violence Intervention Order?* (Web Page) <<https://www.childrencourt.vic.gov.au/family-division/intervention-orders/how-do-i-get-family-violence-intervention-order>>.

## What happens when a child protected by a FVIO turns 18?

- 65 The Family Violence Protection Act is “silent” about what happens when a child protected by a FVIO turns 18. That is, there is no specific provision that is directed to this question. The law does not state that a FVIO protecting a child automatically expires when they turn 18. But it also does not explicitly state that a FVIO that goes beyond a child's 18<sup>th</sup> birthday continues to protect them beyond their 18<sup>th</sup> birthday, for the duration of the order.<sup>94</sup>
- 66 *A final FVIO remains in force for the period specified in the order unless it is sooner revoked or set aside on appeal. Importantly, if no period is specified in the order, it remains in force until it is revoked by the court or set aside on appeal.*<sup>95</sup>
- 67 Section 97 of the Family Violence Protection Act provides that the court *may specify the period for which a final FVIO is in force*.<sup>96</sup> In making this determination, the court must consider:<sup>97</sup>
- that the safety of the protected person is paramount; and
  - any assessment by the applicant of the level and duration of the risk from the respondent; and
  - if the applicant is not the protected person, the protected person's views, including the protected person's own assessment of the risk level and duration of the risk from the respondent.
- 68 The court may also take into account any matters raised by the respondent that are relevant to the duration of the order.<sup>98</sup>
- 69 Case law about how the court makes orders for children when they turn 18 is limited. In several cases the court has made orders that expire on a child's 18<sup>th</sup> birthday, even when protection continues beyond that time for other protected people.<sup>99</sup> Other cases demonstrate that the courts may grant a FVIO for a child with an expiry date that falls after the child turns 18.<sup>100</sup>
- 70 We have received some accounts which appear to reveal that there are some varied approaches being taken inside the Magistrate's Court on the issue of the impact of a child's 18<sup>th</sup> birthday on an existing FVIO made for that child prior to their 18<sup>th</sup> birthday. Such a situation creates uncertainty for victim-survivors and their families. We have also had reports of a divergence of views among Victoria Police members about the impact of an 18th birthday on a FVIO. This has implications for enforcement for breach of an order.

94 There is also no explicit guidance about this question in the Judicial College of Victoria *Family Violence Bench Book* or the *Children's Court Bench Book*. See Judicial College of Victoria, *Family Violence Bench Book* (Online Manual) <<https://resources.judicialcollege.vic.edu.au/article/1053062>>; Judicial College of Victoria, *Children's Court Bench Book* (Online Manual) <<https://resources.judicialcollege.vic.edu.au/article/1049905>>.

95 *Family Violence Protection Act 2008* (Vic) s 99(b).

96 *Ibid* s 97(1).

97 *Ibid* s 97(2).

98 *Ibid* s 97(3).

99 *Pedroni & Schanz* [2020] FamCA 360 in which the Family Court of Australia considered the existence of an FVIO when making parenting orders for the care and contact of two children, aged 12 and 10. The FVIO had been made in the Magistrate's Court prior to the parenting order hearing. The FVIO duration was 20 years for the children's mother, but expired in relation to two children upon each of them turning 18. See also *Vine & Buchanan* [2015] FCCA 1333 in which the Federal Circuit Court considered the existence of an FVIO which had been made to protect a child until their 18th birthday, when assessing the children's best interests and welfare for the purposes of parenting arrangements under the *Family Law Act 1975* (Cth).

100 *OP v XY* [2020] VSC 754 in which the Magistrate's Court granted a FVIO with an expiry date which fell 5 months after a child's 18th birthday. On appeal, the Supreme Court considered that it was within the Magistrate's power to make an order in respect of a child which expired after the child turned 18, on the basis the Magistrate may have wished to provide the child with a grace period during which they could apply to extend the FVIO's protection.

## Seeking to extend an order before turning 18

- 71 When a FVIO expires or is about to expire, a party can seek continuing protection for the protected person via an application for an extension, or by seeking a new order.
- 72 Under the Family Violence Protection Act, a court may extend a final order if the court is satisfied, on the balance of probabilities, that if the order is not extended the respondent is likely to commit family violence against the protected person.<sup>101</sup> An extension can only be granted before the FVIO expires.
- 73 A parent, guardian, police officer, or another adult with the parent's consent can apply for an extension of a FVIO on the child's behalf.<sup>102</sup> A child over 14 years may also apply themselves, but they must ask the court for permission first (called 'leave of the court').<sup>103</sup> The court may also decide to extend a FVIO of its own initiative.<sup>104</sup> Nearly 30 per cent of applications to extend a FVIO are made by a victim-survivor or person other than police.<sup>105</sup>
- 74 The Family Violence Protection Act requires that all people who are protected under a FVIO are notified of an application and given the opportunity to be present at proceedings. However, where a protected person is a child, only their parent must be notified.<sup>106</sup> A child must not give evidence in a FVIO matter, unless they are the applicant or the respondent, or the court grants leave.<sup>107</sup> Although the court can give a child leave to give evidence, the court must consider the desirability of protecting children from unnecessary exposure to the court system, and the harm which this could cause to the child and to family relationships.<sup>108</sup> The usual practice is that children do not give evidence.<sup>109</sup>
- 75 The issue of a child's right to participate as a protected person or affected family member in FVIO proceedings will be considered in depth in the next Issues Paper for Stage 2.
- 76 Research suggests that the majority of FVIOs in Victoria are made for 12 months.<sup>110</sup> Government is currently examining whether there should be a mandatory or legislatively specified default duration for FVIOs to provide enduring protection for victim-survivors. In this context, it is timely that the VLRC is examining the issue of enduring protection for children beyond their 18<sup>th</sup> birthdays.

---

<sup>101</sup> *Family Violence Protection Act 2008* (Vic) s 106(2).

<sup>102</sup> *Ibid* s 108.

<sup>103</sup> *Ibid* s 108(1)(c). This issue will be dealt with in Stage 2 of this project.

<sup>104</sup> *Ibid* s 106(1)(b) where the original order was also made by the court of its own initiative.

<sup>105</sup> Crime Statistics Agency, *Family Violence Data Tables* (Web Page, 4 December 2024) <<https://www.crimestatistics.vic.gov.au/family-violence-data/family-violence-data-tables>>. Figures calculated from Justice System Data Tables: Table 15. Number of finalised FVIO applications by application type, complainant type, and court, 1 July 2019 to 30 June 2024.

<sup>106</sup> *Family Violence Protection Act 2008* (Vic) ss 48(b)(iii) and (iii), 113(b).

<sup>107</sup> *Ibid* s 67(1).

<sup>108</sup> *Ibid* s 67(2).

<sup>109</sup> Judicial College of Victoria, *Children's Court Bench Book* (Online Manual) [22.1.4, 3.3] Alternative arrangements for proceeding / evidence <<https://resources.judicialcollege.vic.edu.au/article/1049905/section/1382888>>. However, where a child is granted leave to give evidence, section 69 of the *Family Violence Protection Act 2008* (Vic) provides that the Court may direct alternative arrangements are made to protect children in court.

<sup>110</sup> Sentencing Advisory Council, *Sentencing Breaches of Family Violence Intervention Orders and Safety Notices: Third Monitoring Report* (Report, May 2022) 24, 32.

## Part 2: Your views

- 77 The second part of this Issues Paper asks for community views about:
- how the Victorian law is applied
  - the impact of the law
  - reform possibilities for Victoria.
- 78 At paragraph 89 we explain how you can provide a submission in response to this paper.
- 79 The questions that are set out below are intended for two audiences. One set of questions is for victim-survivors of family violence who have lived experience of the FVIO system, and people who have supported victim-survivors. The other set of questions is intended for organisations and professionals who work with victim-survivors of family violence or who work in the court system.
- 80 Some questions include '*things to think about*' to assist you to answer the questions. However, you do not have to answer every question or address all the listed considerations.
- 81 Sharing your experience may be confronting or distressing. If you need help, please see the list of services which can provide advice and support at page iv and on the Commission's website at <https://www.lawreform.vic.gov.au/family-violence-get-support-or-legal-advice/>.
- 82 If you need assistance providing a submission or would like to meet with us in person, please contact the Commission.

### Question 1 - Your experience of how the law is applied

- 83 We want to hear your experiences about being on a FVIO and turning 18.
- 84 We are also interested in hearing from parents/guardians, family members or anybody who has supported a child or young adult in this situation.

#### People with lived experience

##### For people aged 14-18

- Are you currently protected by a FVIO?
- Do you know when your order ends?
- Is this when you think it should end?
- Is there anything else you would like to tell us?

##### For people aged 18 and over

- Have you been protected by a FVIO which was made when you were a child (when you were under 18)?
- When you were a child, did you know when the order was going to end?
- Was this when you wanted it to end?
- What happened when you turned 18?
- Is there anything else you would like to tell us?

### For people who have supported a child or young adult in this situation

*You might be a parent or guardian, a family member, a carer or someone else with a relationship with a child*

- Do you know a child or young adult who was, or is currently, protected by a FVIO?
- As a child, did they know when the order would end or do they know when it will end?
- Do you know if this is when they want or wanted it to end?
- What happened when they turned 18?
- Is there anything else you would like to tell us?

### Organisations and professionals

*Such as community legal centres, justice agencies, family violence practitioners and legal representatives*

Are you aware of situations where children/young adults have been advised/found out that the FVIO made for their protection ended or would end on their 18th birthday?

#### **You may want to think about these things when you answer the question:**

- Has this happened often and in what circumstances generally?
- Are you aware of situations where orders are made that explicitly state that the protections of the order extend beyond a child's 18th birthday?
- Are you aware of circumstances where a request has been made to the court for confirmation that a FVIO will not be extinguished by the child's 18th birthday? Please explain what happened.
- Has it been your experience that respondents sometimes do not consent to a FVIO protecting a child beyond their 18th birthday?
- Has your organisation engaged with children (or adults in their family) who wish to apply for an extension of a FVIO which expires when the child turns 18? If so, can you provide some de-identified examples?
- Has your organisation engaged with young adults who previously had protection under a FVIO who applied for or who want to apply for a new order as an adult? If so, can you provide some de-identified examples?
- Are you aware of cases where a young adult has decided not to apply for a new FVIO after an order expired on their 18th birthday? Please provide a short, de-identified summary of the circumstances, including why the young adult decided not to apply for a new FVIO.
- Any other information you wish to share about this issue, including whether you have observed any differences for marginalised groups (such as children and young adults who identify as First Peoples, LGBTIQ+, a person with disability, multicultural or multifaith, or people who are from regional, rural or remote areas).

## Question 2 - Your experience of the impact of the law

- 85 We are interested in hearing about relevant experiences and challenges for children and young adults navigating your way through the FVIO system (including getting help from courts, police and support services).
- 86 We are also interested in hearing from parents/guardians, family members, organisations and professionals, or anybody else who has supported a child or young adult in this situation.

### People with lived experience

#### For people aged 14-18

- If your order is going to expire when you turn 18, do you have any insights you would like to share, positive or negative, about this experience?

#### For people 18 and over

- If your order expired when you turned 18, do you have any insights you would like to share, positive or negative, about this experience?

#### For people who have supported a child or young adult in this situation

*You might be a parent or guardian, a family member, a carer or someone else with a relationship with a child*

- If the order expired for the child at 18 do you have any insights you would like to share, positive or negative, about this experience?

### Organisations and professionals

*Such as community legal centres, justice agencies, family violence practitioners and legal representatives*

If an order expires or is set to expire because of a child's 18th birthday, what impacts does this have on the child and their family?

#### You may want to think about these things when you answer the question:

- How do legal processes impact children and young adults in this situation?
- What are some of the common questions, issues and concerns which arise when a FVIO expires when a child turns 18?
- When young adults in this situation apply for a new FVIO, what barriers do they face getting support or help to apply and how does this impact them? How hard is the process for them to navigate and understand?
- Have you seen young adults experience unwanted contact from or family violence by the perpetrator/respondent after their FVIO expired?
- Do children and young adults you see in this situation face any other impacts because of their age and stage of life, including impacts on their schooling, university studies, homelife, work, and mental health and wellbeing, and friendships and relationships?
- Do children and young adults in this situation face any additional barriers, challenges or impacts because they identify as First Peoples, LGBTIQ+, a person with disability, multicultural or multifaith, or because they are from a regional, remote or rural area?

### Question 3 - Your views on options for reform

- 87 We want to hear whether reforms are needed to Victorian family violence laws to ensure that children who become adults during the course of an order made for their protection continue to receive that protection, unless the order is revoked or discharged.
- 88 This could include amendments to the current law, to make it clear that the default position is that the child continues to have the protection of the order for the duration specified, regardless of whether the child turns 18 during this time, unless the court determines otherwise.

#### People with lived experience, organisations and professionals

Do you think the law should say explicitly that children automatically continue to be protected by a FVIO for the length of the order even if they turn 18 unless the court finds that there is a good reason not to do this?

#### You may want to think about these things when you answer the question:

- How would this change impact you or the children and young adults you represent or support?
- Are there any other ways the law or practice could be reformed to help children and young adults in this situation?
- Are there any reasons why this change to the law might not work, such as any unforeseen consequences? For example, is there a risk this could result in more FVIOs being contested by respondents?
- Might this change impact marginalised groups differently (including children and young adults who identify as First Peoples, LGBTIQ+, a person with disability, multicultural or multifaith, or who are from regional, rural or remote areas)?

# Call for submissions

- 89 The Victorian Law Reform Commission invites your comments on the questions in this Issues Paper by Thursday **17 April 2025**.
- 90 Any contribution is welcome, large or small.

## How do I make a submission?

- 91 You can make a submission in writing in hardcopy or electronically. Submissions do not have to follow a particular format.
- 92 You can answer as many of the questions in this paper as you like, or you can respond to our terms of reference more generally without using the questions. **Please note that concerns or suggestions that are raised about Stage 2 matters may be held over to the second Stage of the project.** Submissions can be made by:
- Email: [FVIOs.children@lawreform.vic.gov.au](mailto:FVIOs.children@lawreform.vic.gov.au)
  - Mail: PO Box 4637, GPO Melbourne Vic 3001
- 93 Please contact the Commission at [FVIOs.children@lawreform.vic.gov.au](mailto:FVIOs.children@lawreform.vic.gov.au) if you would like to share your views but do not want to provide a formal submission or would like to provide your views in a different way.

## Public submissions

- 94 We generally refer to submissions in our reports, and we list the names of submitters in an appendix at the back of the report.
- 95 The Commission publishes submissions on our website to encourage discussion and to keep the community informed. We remove personal addresses, contact details and other personally identifying information from submissions before they are published.
- 96 If you do not want your name used, you can ask that your name be withheld.
- 97 We will not place on our website submissions that contain offensive or defamatory comments.
- 98 We will not place on our website any material that is likely to identify parties to a FVIO in breach of confidentiality provisions in the *Children Youth and Families Act 2005* (Vic) or the Family Violence Protection Act. If you make a submission based upon your lived experience or the experience of a person you have supported, we will remove any information which could lead to the identification of people involved in court proceedings, including names, the location where proceedings took place, or other details about the parties involved in the matter. The report and website will use a general description which does not identify you i.e.: *Submission number x (name withheld)*.
- 99 We treat all submissions as public unless the submitter asks us to treat it as confidential.

## Name withheld

- 100 If you wish to make a submission but do not want your name made public, when we publish your submission, we will note that your name has been withheld. The submission will appear on our website and in our report as: *Submission number x (name withheld)*.

## Confidential submissions

- 101 The Commission also accepts submissions in which the material is confidential. We will not publish confidential submissions on the website or elsewhere.
- 102 However, we may refer to a confidential submission in our report, without identifying you or publishing any information contained in the submission that could identify you.
- 103 Please note that because of the Commission's commitment to transparency and openness, we usually prefer to refer to public submissions, not confidential ones, in our reports. This does not mean that the content of a confidential submission will be treated as any less important. It will still be read carefully and used to decide on the recommendations and conclusions in the final report.
- 104 Any request by someone outside the Commission for access to a confidential submission will be refused unless a formal freedom of information request has been made. Such a request, very rarely made, will be determined in accordance with the *Freedom of Information Act 1982* (Vic), which is designed to protect personal information and information given in confidence. Further information can be found at: <https://ovic.vic.gov.au/freedom-of-information/>.

## Anonymous submissions

- 105 We accept anonymous submissions (where the submitter does not provide a name) but as with confidential submissions, they are less likely to be referred to in our reports for transparency and openness reasons.

## Submissions that are late or beyond the scope of the terms of reference

- 106 The submission closing date is provided so that the Commission has enough time to properly consider the issues and write the report for Stage 1. The short timeline for Stage 1 means we may not be able to consider a late submission.
- 107 For submissions to be considered they must relate to the issues raised in the terms of reference. We recommend using this Issues Paper to help guide your submission.

## Next steps

- 108      After considering community responses in consultations and submissions the Commission will conduct further research and then write a report detailing its recommendations for reform for Stage 1.
- 109      The report for Stage 1 will be delivered to the Attorney General in July 2025. It will become publicly available and be released on our website at a later date, usually after the report is tabled in Parliament. If the Attorney-General decides not to table the report, we will release it shortly after it is delivered.
- 110      The Victorian Government will then consider its response to the report.
- 111      The Commission cannot change the law. Only Government can change the law.

## **Examining Aspects of Family Violence Intervention Orders for Children and Young Adults:**

Stage 1 – Protection for children who turn 18  
while on a Family Violence Intervention Order

*Issues Paper*

---

GPO Box 4637  
Melbourne  
Victoria 3001  
Australia

Level 3  
333 Queen Street  
Melbourne  
Victoria 3000  
Australia

**Telephone**  
+61 3 8608 7800

**Freecall**  
1300 666 555  
(within Victoria)

**Email**  
[law.reform@lawreform.vic.gov.au](mailto:law.reform@lawreform.vic.gov.au)

[lawreform.vic.gov.au](http://lawreform.vic.gov.au)