



ATSILS
Aboriginal and
Torres Strait Islander
Legal Service (Qld) Ltd

ATSILS Quick Guide Breach of a DVO



What is a DVO?

A Domestic Violence Order (DVO) is a court order to protect someone (aggrieved/protected person) from domestic violence. Having a DVO does NOT give a person a criminal record. But, breaching it is a **criminal offence**.

What happens if you breach?

If a respondent breaches a DVO, they can be charged, go to court, and may get a criminal conviction. Penalties include fines, community service, or prison.

Penalties

- First breach: Up to 3 years prison or fine up to **\$18,500 (120 penalty units)**.
- Repeat breach: Up to 5 years prison or fine up to **\$37,000 (240 penalty units)**.

What police must prove

- The respondent is the person named in the order, and
- They knew about the order (served papers by police, told in court, contacted by police) &
- They did something the order says they can't do.

Defences

- The respondent didn't know about the DVO, or duress, or necessity, or mistake of fact, or identification.
- It is **not a defence** for the respondent to say the aggrieved gave them permission unless the order specifically has special conditions which allow them to give that permission.

If you are charged by police for breaching a DVO

Call ATSILS to get legal advice before pleading guilty or not guilty.

Can you change a DVO?

Yes. The respondent, the protected person, or police can apply to change or end an order. Courts consider if the protected person's safety would be negatively impacted and make sure no one is pressured into making changes to the order.

Practical tips

- Understand your order – ask questions and get legal advice.
- **Apply early for variations to the DVO** if needed (e.g., upcoming family/community events).
- Behaviour change programs and counselling programs are viewed positively by courts.

Reminder- examples of what counts as domestic violence?

Violent behaviour from the respondent at/towards a person they have a relationship with, can include:

- Threatening to harm themselves/commit suicide to torment/frighten the aggrieved;
- Stopping the aggrieved from leaving the house;
- Standing over the aggrieved for their money/payday/Centrelink or humbugging them;
- Threatening the aggrieved that they, or their loved ones or pets will be hurt;
- Following/stalking/tracking the aggrieved directly or through devices;
- Making or pressuring the aggrieved to do sexual acts;
- Getting someone else to be violent/abusive to the aggrieved, for them; or
- 'Blowing up' the aggrieved's phone with constant calls messages to harass/intimidate them.

Examples of what actions by a respondent can count as a breach DVO?

- If there is a 'no contact' condition and they contact the aggrieved person directly or through other people (like family/friends).
- If there is a 'no residence' condition and they goes near the aggrieved's home, work, or places they usually visit.
- If they are not of 'good behaviour' to the aggrieved or they are violent in any way to them.
- If there is a condition to 'not be domestically violent towards or expose children to this' and then a big growling happens in the house where the children are (even if they are asleep).
- If there is a 'no contact except for the purpose of discussing the children' condition and they visit the aggrieved to talk about other things not related to the children.
- If there is a 'no contact' condition and they send the aggrieved text/online messages.
- If there is a 'no social media' condition and they put up posts about or threatening the aggrieved.
- If there is a 'no approach' condition and they go near the aggrieved when they are anywhere.
- They yell at/ swear at/run down/argue with the aggrieved when they are supposed to 'be of good behaviour' to them.
- If there is a 'no locate' condition and they secretly turn on location settings on the aggrieved's devices so they know where to find the aggrieved.

ATSILS is a non-profit, Aboriginal and Torres Strait Islander community-based organisation with 25 locations across Queensland. We provide innovative and professional legal services covering criminal, civil and family law areas.