

RISK INDICATORS OF FAMILY VIOLENCE FOR BAIL DECISION MAKERS

Recent amendments to the *Bail Act 1977* (Vic) impose an obligation on bail decision makers to make inquiries of the informant or prosecutor as to whether there is a family violence intervention order, family violence safety notice, or recognised DVO in force against the accused. Bail decision makers must also consider whether releasing the accused would enliven a risk that the accused would commit family violence.

The following questions are intended to highlight an increased risk of family violence in a bail matter. These questions have been derived from statements made in the Victorian higher courts and from academic studies. These indicators are not directly relevant to all matters but they are explicitly so to offending involving family violence. A bail decision maker has the ultimate discretion to determine the significance placed on the various risk indicators.

Where one or more of the following questions are answered in the affirmative, there may be a risk of family violence in a bail matter:

- Is there a current family violence intervention order, family violence safety notice, or DVO made against the accused?
- Has a family violence intervention order, family violence safety notice, or DVO previously been made against the accused?
- Has the accused previously been charged with and/or convicted of a family violence offence, including the following:
 - Contravention of a family violence safety notice;
 - Contravention of a notice intending to cause harm or fear for safety;
 - Contravention of a family violence intervention order;
 - Contravention of order intending to cause harm or fear for safety;
 - Persistent contravention of notices or orders?
- Is there evidence which indicates that the accused has previously been arrested in relation to a family violence incident without being charged?
- Does the accused have a history of violent offending?
- Has the accused previously been charged with a stalking offence, or an offence of making threats to injure or kill?
- Has the accused previously been charged with contravening a bail conduct condition or committing an indictable offence whilst on bail?
- Is there evidence which indicates that the accused has attempted to persuade a protected person, affected family member or complainant to recant allegations of family violence or violent offending (in relation to either a previous matter or the current matter)?

- Is there evidence which indicates that the accused has attempted to interfere with witnesses in a case (in relation to either a previous matter or the current matter)?
- Has the accused recently undergone a break-up or separation from a domestic partner?
- Is the accused currently residing with a former domestic partner?
- Is the accused currently involved in divorce or family law proceedings?
- Is the accused currently residing with in a new familial relationship (including a relationship in which the new partner has children from a previous relationship)?
- Is the accused's current or former domestic partner pregnant?
- Is the accused in possession of a firearms authority or weapons approval?
- Does the accused have a history of alcohol or substance abuse?
- Has the accused exhibited a disparaging, negative or sexist attitude towards a domestic partner or female relative, or towards women generally?
- Has the accused engaged in behaviour which can be characterised as coercive, jealous or controlling?
- Is there evidence which indicates that the accused has previously made threats to injure themselves or commit suicide?
- Has the accused employed a neutralisation technique in relation to their offending or the victim of their offending, such as:
 - Denial of responsibility ("it's not my fault");
 - Denial of injury ("she's/they're faking it");
 - Denial of victim ("she/they deserved it");
 - Condemnation of the condemners ("it's normal behaviour, everyone does it")?
- Is there evidence which indicates that the accused grew up in a violent household characterised by child abuse and family violence?
- Has the accused recently been dismissed from their employment?