

Family Violence Courts for Victoria

The recent Victorian Budget announced increased funding for family violence courts in Victoria. This article looks at the operation of specialist family violence courts.

INTRODUCTION

In Australia, specialist Family Violence Courts (FVCs) are emerging in NSW, Victoria, Queensland, Western Australia, South Australia, and the ACT.ⁱ This article will only focus of the establishment of specialised FVCs in Victoria.

Family violence matters have dominated Victoria's Magistrates courts more than any other issue in the past decade, according to a joint submission to the Royal Commission into Family Violence.ⁱⁱ The Australian Parliament has paid significant attention to family violence in parenting proceedings under the Act, particularly through the enactment of the *Family Law Legislation Amendment (Family Violence and other Measures) Act 2011 (Cth)*.ⁱⁱⁱ

OBJECTIVE

The objectives of FVCs are to offer simplified access for those who have experienced family violence; increased safety for those affected by family violence; increased accountability and support for behaviour change for those who use violence; and, increased protection for children.^{iv}

BACKGROUND

Pursuant to Victoria's Family Violence Court Division (FVCD) report, magistrates are hearing 55 cases of family violence intervention orders a day. On occasion, there are in excess of 80 matters a day. Also, family violence intervention orders accounted for 80 per cent of all intervention orders heard in the Magistrates Court in 2013-14. The victims of family violence could not be accommodated. As a result there was strong support for the proposal that specialised courts determine matters relating to family violence protection orders and criminal proceedings related to family violence.



HISTORY

Since the 1990s, specialised courts have flourished in the form of drug courts, mental health courts, community courts and most importantly, for the purposes of this article- the Family Violence Division of the Magistrates' Court of Victoria (FVD).^v

In the period leading up to 2002, the Magistrates' Court of Victoria established internal specialist family violence listing protocols, led by a supervising magistrate appointed by the Chief Magistrate.^{vi} These protocols, along with a family law and family violence steering committee of magistrates and registrars, helped establish better, more consistent family violence listing practices. The Children's Court of Victoria was also represented on this Committee.

In 2005, the FVCD of the Magistrates Court of Victoria commenced sitting at Ballarat and Heidelberg. These two FVCDs are the closest example of a 'one stop shop' model for victims of family violence in Australia. The Victorian Government Committed \$5.2 million over four years to the resourcing of the FVCD, with a separate allocation for the associated offender programs.^{vii}

In late 2008 the Victorian Parliament enacted the *Family Violence Protection Act 2008*. This Act was the result of an extensive consultation process which is widely recognised as enshrining family violence best practice into law.^{viii}

JURISDICTION

In Australia, only the Family Violence Court Division (FVCD) of the Magistrates' Court of Victoria exercise jurisdiction over protection orders; summary criminal proceedings; committals for indictable offences; civil personal injury claims; compensation and restitution; and (to the extent conferred upon the Magistrates Court) jurisdiction over family law and child support.^{ix}

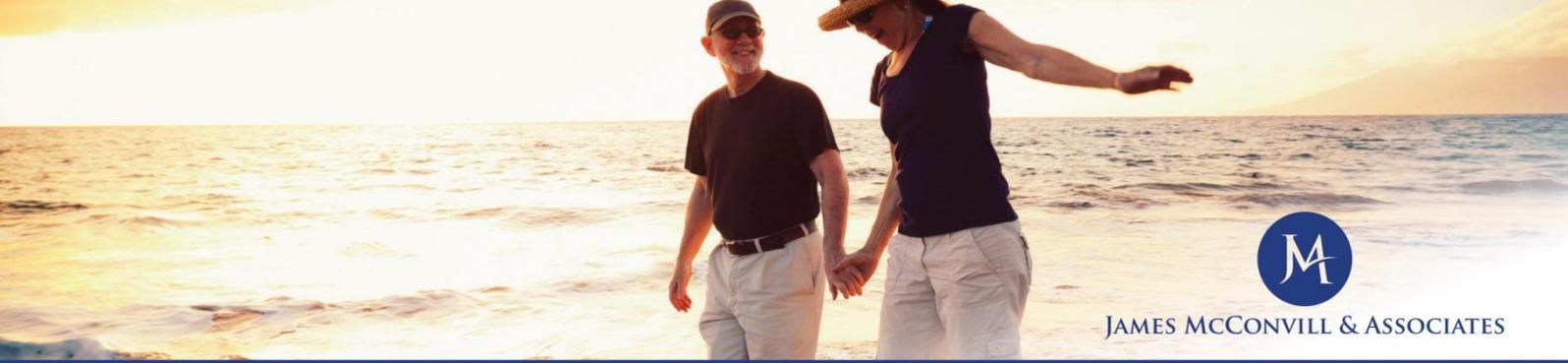
Additionally, the FVCD can also sit as the Victims of Crime Assistance Tribunal to hear applications to hear applications for statutory victims' compensation in family violence cases.

ELEMENTS OF A SPECIALISED FAMILY VIOLENCE COURT

The FVCD differs from other Australian FVCs in a number of ways. It is the only court that is expressly established by legislation.^x

Specialised personnel

The Judicial officers and staff have received specialised training. In some cases, these personnel are chosen because of their specialised skills, or are given specialised training in family violence.^{xi}



In addition to specialised magistrates and police prosecutors, the court also has support workers for victims and offenders, family violence outreach support workers, legal aid and community lawyers for victims and defendants, and a specialised registrar.^{xii} The FVCD is therefore the closest example of a ‘one stop shop’ model for victims of family violence in Australia.^{xiii}

Special Arrangements for Victim Safety

Some FVCD courts also include specially designed rooms and separate entrances to ensure the safety of victims, and may offer facilities which enable vulnerable witnesses to give evidence

ⁱ <https://www.alrc.gov.au/publications/32.%20Specialisation/existing-specialised-family-violence-courts-australia-0>

ⁱⁱ <https://www.parliament.nsw.gov.au/researchpapers/Documents/family-violence%20courts/Family%20Violence%20Courtsfinal%20and%20revised.pdf>

ⁱⁱⁱ *Ibis*.

^{iv} http://vcoss.org.au/documents/2013/06/Insight8.AlisonMacDonald.Final_.pdf

^v *ibid*.

^{vi} <https://www.alrc.gov.au/publications/32.%20Specialisation/existing-specialised-family-violence-courts-australia-0>

^{vii} *Ibid*.

^{viii} http://vcoss.org.au/documents/2013/06/Insight8.AlisonMacDonald.Final_.pdf

^{ix} <https://www.alrc.gov.au/publications/32.%20Specialisation/existing-specialised-family-violence-courts-australia-0>

^x <https://familyviolence.courts.vic.gov.au/resources/family-violence-court-division>

^{xi} *Ibid*.

^{xii} <https://www.alrc.gov.au/publications/32.%20Specialisation/existing-specialised-family-violence-courts-australia-0>

^{xiii} <https://familyviolence.courts.vic.gov.au/resources/family-violence-court-division>