# How to apply for special circumstances if you are a victim of family violence

If you were affected by family violence when you were fined for breaking the law, you may have ‘special circumstances’. Alternatively, you may be eligible for the Family Violence Scheme, to deal with your fines. There is more information about this below.

‘Family violence’ includes any harmful behaviour that is used to control, threaten, force or dominate a family member through fear. It includes sexual, psychological, emotional and financial abuse.

If you have special circumstances, you may apply for a review of your fines. This is called ‘enforcement review’. If you are successful on review, Fines Victoria will cancel enforcement and send your fines back to the agency that fined you. The agency may then withdraw your fines, issue a warning or commence proceedings to enforce your unpaid fines in the Magistrates’ Court. If the court finds that you have special circumstances, they may waive or significantly reduce the penalties.

**Family Violence Scheme**

If you are (or have been) a victim of family violence and this resulted in you getting the fine, or if you were not the driver and the family violence meant that you couldn’t nominate the driver, you may be able to apply to get the fine withdrawn under the [Family Violence Scheme](https://www.legalaid.vic.gov.au/family-violence-scheme) (https://www.legalaid.vic.gov.au/family-violence-scheme). This is different to a special circumstances application.

You should speak to a lawyer to see if this option is open to you.

Contact **Legal Help** on **1300 792 387** for free legal advice.

## What are ‘special circumstances’?

The law says you have special circumstances if you were a victim of family violence at the time you were fined. This includes situations where, because of the family violence, you do not have access to safe and secure housing and are therefore homeless. There also needs to be a link between your special circumstance and your behaviour when you were fined.

You may not have to pay your fines if:

* you had special circumstances when you were fined, **and**
* you found it difficult to avoid breaking the law.

This means that your circumstances, as a victim of family violence, reduced your capacity to control your behaviour (even if you knew it was against the law).

## What to consider before you apply

If you decide to apply:

* you must accept that you broke the law. This means that, unless the fines are withdrawn, you will have to plead guilty at court and there will be a record of this
* you may need to attend court at least once for a hearing about the penalties for the fines
* your demerit points may be affected if your fines were for driving offences that carry demerit points
* if you also had a mental illness or drug addiction at the time you received the fines, VicRoads may be notified of your circumstances. They may ask that you undergo a medical review of your fitness to drive
* if the fines go to court, you will have a debt of $40 for each Citylink or Eastlink toll fine. This is not a court fine. It is the toll company’s administrative costs for prosecuting the matter in court.

Read more about[possible outcomes and penalties from a special circumstances application for a fine](https://www.legalaid.vic.gov.au/node/5442) (<https://www.legalaid.vic.gov.au/node/5442>).

Contact **Legal Help** on **1300 792 387** for more information about how this process may affect you.

## How to apply

When a fine is not paid, Fines Victoria can take action against you. This is called ‘enforcement’.

To have enforcement of your fines cancelled you must prove to Fines Victoria that you had special circumstances at the time of the fines.

Make sure you keep copies of all your letters.

### Step 1: Request a list of fines

Write to Fines Victoria to ask for a list of all your unpaid fines.

You can use the [sample letter](#Letter_FV_request_list_of_fines) attached to this fact sheet. Add your personal details and send it to the address on the letter.

Fines Victoria may take a few weeks to get back to you.

Alternatively, if you have details of at least one unpaid fine, you can get a list of your fines online at [Fines Victoria](https://online.fines.vic.gov.au/) (<https://online.fines.vic.gov.au/>).

### Step 2: Get a report

Get a report from a family violence case worker or social worker that confirms you were experiencing family violence when you broke the law. Use the [sample letter](#Letter_to_case_social_worker) attached to this fact sheet. Add your personal details and give the completed letter to your case worker.

This letter asks your support worker or organisation to write the report for free. If they will not do this, talk to them about how much they will charge and what you can afford to pay.

If you do not have a case worker, then try to gather other evidence to support your special circumstances. This may include police reports, medical reports, family violence safety notices or family violence intervention orders.

### Step 3: Apply for enforcement review

Once you have got a list of your fines, and the report from your case worker, you can ask Fines Victoria to review the decision by the agency to issue the fine. This process is called ‘enforcement review’.

Fines Victoria will determine whether, given your circumstances, it is appropriate to take action to enforce the fine.

Use the [sample letter](#Letter_to_FV_enf_review) attached to this fact sheet. Add your personal details. Send it with the report from your case worker to the address on the sample letter.

Alternatively, you can apply online, via the Fines Victoria website at [Request a review](https://online.fines.vic.gov.au/Request-a-review) (<https://online.fines.vic.gov.au/Request-a-review>).

## Decision by Fines Victoria

Fines Victoria will notify you in writing of its decision. If Fines Victoria decides you have special circumstances, they will cancel enforcement of the fines and refer the matter back to the agency that issued the fines. The agency may decide to withdraw the fine and/or issue an official warning instead. However, the agency may also withdraw the fine and decide to proceed against you by way of charge and summons.

If this happens, the offences will be referred to the Magistrates’ Court to be dealt with as a criminal offence.

If Fines Victoria finds that you do not have special circumstances, you will have **21 days** to either pay the fine, apply for a payment arrangement, apply for the Family Violence Scheme or apply for a work and development permit (WDP).

If Fines Victoria decides you do not have special circumstances, or the agency that fined you

decides to proceed with a charge and summons, contact Legal Help on 1300 792 387 for free legal

advice.

## If you are referred to the Magistrates’ Court

You will get a letter informing you of your court date and which court to go to. When you arrive, tell the clerk at the front of the courtroom that you are there.

You should take all the letters you provided to Fines Victoria to court. You should give these letters to the magistrate and explain that you applied for special circumstances enforcement review.

They will consider this information when making a decision about your sentence and what happens to your unpaid fines.

## Get help

Contact **Legal Help** on **1300 792 387** for free legal advice about your unpaid fines and how we can help you.

You may also find our booklet, ‘Your day in court’ helpful. You can download or order this free booklet from the Victoria Legal Aid [website](https://www.legalaid.vic.gov.au/your-day-court) (<https://www.legalaid.vic.gov.au/your-day-court>).

**© 2022** Victoria Legal Aid.

**Disclaimer:** The material in this publication is intended as a general guide only.

### Letter to Fines Victoria requesting list of fines

Date: \_ \_ / \_ \_ / \_ \_ \_ \_

Fines Victoria

PO Box 14487

Melbourne VICTORIA 8001

Dear Fines Victoria

I request information about my unpaid fines.

My details are:

Full name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of birth: \_ \_ / \_ \_ / \_ \_ \_ \_

Current address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Postcode: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Previous address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Postcode: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Licence number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Registration number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Could you please forward the following to my current address:

* a list of all my outstanding fines
* any orders or warrants that have been made or issued in relation to any fines
* any current instalment plans or payment arrangements.

If you have any questions, please call me on:

Home phone: \_ \_ \_ \_ \_ \_ \_ \_ or mobile: \_ \_ \_ \_ \_ \_ \_ \_ \_ \_

Kind regards

(Signature)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Print name)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

### Letter to case worker or social worker

Date: \_ \_ / \_ \_ / \_ \_ \_ \_

Dear: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Request for a report for my Magistrates’ Court matter regarding outstanding fines**

I am a client of yours and I am writing to you using a template letter that Victoria Legal Aid has given me. I am requesting that you write me a report about my experience of family violence.

**My details are:**

Full name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of birth: \_ \_ / \_ \_ / \_ \_ \_ \_

This report will greatly assist me. I have a number of outstanding fines which are now at enforcement stage. If I can establish that I had ‘special circumstances’ (see [‘d’](#family_violence) below) at or around the time that I incurred these fines, then the fines may be withdrawn or the penalties waived or reduced by the Magistrates’ Court.

A **‘special circumstances’** application must meet two tests:

1. At the time the fines were incurred, the applicant either:
2. had a mental or intellectual disability, disorder, disease or illness
3. had a serious addiction to drugs, alcohol or volatile substance
4. was homeless or
5. **was affected by family violence**.
6. The mental illness, intellectual disability, or serious substance addiction, contributed to the applicant having a significantly reduced capacity to:
* understand their behaviour was against the law or
* control their behaviour.

If the applicant was homeless or a victim of family violence, they need to show how this contributed to them having a significantly reduced capacity to control their behaviour that resulted in the fines.

If Fines Victoria and/or the Magistrates’ Court decide that I had special circumstances, then I may not have to pay back the full amount of the unpaid fines.

To help convince the Magistrates’ Court that I had special circumstances, I need supporting evidence. Rather than calling medical practitioners or case workers to come to court as witnesses, the Magistrates’ Court will be satisfied with a report from you.

**If you can write a report for me, please address each of these points:**

* your qualifications and relationship to me, and the period you have known me
* a summary of my circumstances
* whether, in your opinion, I was experiencing family violence during the period
\_ \_ / \_ \_ / \_ \_ \_ \_ to \_ \_ / \_ \_ / \_ \_ \_ \_
* whether I had access to safe and secure housing during the period
\_ \_ / \_ \_ / \_ \_ \_ \_ to \_ \_ / \_ \_ / \_ \_ \_ \_
* whether, in your opinion, it is more likely than not that my circumstances, involving family violence, contributed to me having a substantially reduced capacity to control the conduct that led to me getting fines. For example:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* any other information you consider relevant.

**When you have completed the report, can you please ensure:**

* **you print it out on your letterhead**
* **you sign and date the report**
* **you have it ready by** \_ \_ / \_ \_ / \_ \_ \_ \_ .

Please contact me when the report is ready to be collected.

Due to my current financial situation, I request that you please provide this report free of charge.

If you have any questions, please call me on:

Home phone: \_ \_ \_ \_ \_ \_ \_ \_ or mobile: \_ \_ \_ \_ \_ \_ \_ \_ \_

Kind regards

(Signature)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Print name)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

### Letter to Fines Victoria

Date: \_ \_ / \_ \_ / \_ \_ \_ \_

Fines Victoria
PO Box 14487
Melbourne VICTORIA 8001

**Attention: The Director**

I request an enforcement review based on special circumstances.

My details are:

Full name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of birth: \_ \_ / \_ \_ / \_ \_ \_ \_

Current address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Postcode: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  I apply to have enforcement on **all** outstanding registered infringement notices cancelled on the basis that special circumstances exist.

or

[ ]  I am the person named in the infringement notice number(s):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I apply to have enforcement on the above infringement notice(s) cancelled on the basis that special circumstances exist.

Please find enclosed:

* a list of my outstanding fines
* a report prepared by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If you have any questions, please call me on:

Home phone: \_ \_ \_ \_ \_ \_ \_ \_ or mobile: \_ \_ \_ \_ \_ \_ \_ \_ \_ \_

Kind regards

(Signature)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Print name)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_