

QUICKLAW

ANSWERS YOUR QUESTIONS

DOMESTIC VIOLENCE

If you answer YES to any of these questions and the abuse falls within a domestic relationship the law considers you a victim of domestic violence and you may apply for a Protection Order:

1. Are you being physically abused?

Eg. Are you being hit, punched, slapped or does your abuser throw things at you?

2. Are you being sexually abused?

Eg. Are you being forced to perform sexual acts that you do not want to perform or being forced to have sex with other people?

3. Are you being emotionally abused?

Eg. Are you being insulted or being made to feel stupid or worthless, are you being ignored or is your abuser isolating you from your family and friends and/or threatening to kill you?

4. Are you being economically abused?

Eg. Does your abuser take or spend your money or prevent you from having a job or refuse to give you information about your joint financial situation?

5. Is your abuser intimidating, harassing or stalking you?

6. Is your abuser damaging your property or entering your house without your consent?

7. Is your abuser's behaviour controlling or abusive and could it cause you harm?

8. Are you being refused entry to the property to remove your belongings?

What is a "Domestic Relationship"?

The following relationships constitute domestic relationships:

1. Married couples.
2. Couples living together including same-sex couples.
3. Parents of a child.
4. Family members.
5. Engaged, dating, customary marriages.

How do I apply for a Protection Order?

1. Go to the nearest Magistrate's Court to where you live or work or where the abuser lives or works or where the abuse occurred.
2. Ask to speak to the Clerk of the Court.
3. The Clerk will assist you to fill out an application form for a Protection Order and he will take it to the Magistrate.
4. If it is established that you have suffered abuse and will suffer more abuse the court may grant an **Interim Protection Order**.
5. The Magistrate will prepare a notice instructing the abuser to come to court for a hearing on a particular day.
6. The notice will be served on the abuser by the Sheriff of the Court.
7. After the Interim Protection Order has been served on the abuser, the Magistrate will authorise a Warrant of Arrest which you must keep with you at all times.

What will happen at the hearing?

1. If the abuser does not appear in court a **Final Protection Order** will be granted.
2. If the abuser does appear in court, the Magistrate will hear evidence from both you and the abuser and any witnesses to the incident or incidents.
3. Once the Magistrate has heard all the evidence, s/he

will decide whether or not to grant a Final Protection Order.

4. A copy of this order will be served on the abuser.
5. You will also receive a copy of the Final Protection Order and a suspended warrant for the abuser's arrest.
6. A copy of the order is also sent to the police station of your choice.

What happens if the abuser does not obey the Protection Order?

1. Call the police and hand them the Warrant of Arrest. You will be requested to make a statement describing the conduct of the abuse.
2. The abuser will then be arrested or given notice to appear in court.
3. Go back to court and obtain a new Warrant of Arrest.
4. Follow the same procedure if your abuser does not obey the Protection Order. Call the police and give them the Warrant of Arrest.

What will happen to the abuser?

If the abuser does not obey the Protection Order:-

- He or she will be fined or
- He or she will be fined and go to jail or
- He or she will be sent to jail for up to 5 years.

Will I have to renew this Protection Order?

You will only have to renew the Protection Order if the order is set aside or cancelled by the court.

What if I move, will the Protection Order be valid in a different province?

Yes, the Protection Order is valid throughout South Africa.

KEY:

1. INTERIM PROTECTION ORDER - a temporary court order prohibiting another person from doing certain things
2. FINAL PROTECTION ORDER - a final court order prohibiting another person from doing certain things