



HEAL OUR FAMILIES

Government places a strong emphasis on the eradication of violence. In an effort to combat domestic violence, the Domestic Violence Act, 1998, was recently enacted.

What is Domestic Violence?

According to this Act it is:

- physical abuse
- sexual abuse
- emotional abuse
- psychological abuse
- intimidation
- economic abuse
- harassment
- damage to property
- stalking
- entry into a person's property without their consent:
- any other abusive or controlling behaviour

If these forms of abuse are happening to you or to anyone you know, you can apply for a protection order.

Who may obtain a protection order?

- Anyone who has been abused
- A minor may bring an application unassisted
- A person who has an interest in your life
- Counsellor
- Health worker
- Policeman
- Social worker
- Teacher

Unless a person is a minor, a mentally retarded person, unconscious or if the court is satisfied that he or she is unable to give the required consent, he or she must give her written consent.

Where can an application for a protection order be made?

Any Magistrate's Court or High Court nearest to where:

- you live, own a business or are employed
- the abuser lives, owns a business or are employed
- the abuse took place

When can an application be made?

- During ordinary court hours
- Outside ordinary court hours
- During weekends or public holidays

The abused person does not have to live, work or own business in the area of the court for a specific period. Once granted the protection order is enforceable throughout the country.

To whom should an application for a protection order be made?

- To the clerk of the Magistrate's Court or the Registrar of the High Court
- The clerk will take your application to the magistrate, who will prepare a notice to the abuser informing him/her of the protection order
- The abuser will be told to come to court on a particular day for a hearing
- This notice is given to the abuser by the sheriff, the police or the clerk of the court

What powers do the police have in domestic violence cases?

- To arrest the abuser at the scene of abuse
- To arrest the abuser on presentation by a person of a warrant of arrest and an affidavit containing an allegation that the abuser has violated the protection order

If you need immediate protection, ask the court for an interim protection order. This order will give you emergency protection until the hearing.

...AND HEAL OUR NATION

Everyone deserves the opportunity to grow as a human being and
be treated with dignity and respect.

The hearing

- If the abuser does not appear in court on the day of the hearing, the protection order is granted
- If he or she does appear, the court hears evidence from both of you. Witnesses can also be called
- When the magistrate has heard all the evidence, he or she will then decide whether or not to issue the protection order and a suspended warrant of arrest
- You and the police station of your choice will also be provided with copies

What does an abused person do if the abuser violates the protection order?

- Approach any member of the police service with the suspended warrant of arrest
- You may lay a criminal charge against the abuser
- The abuser will be arrested or given notice to appear in court
- Once this arrest warrant has been used, go back to court to get another one in case the abuser harms you again

The protection order

The court may use the protection order to prevent the abuser from:

- committing any specified act of domestic violence
- asking another person not to abuse you
- entering the family home
- entering the house at all
- entering a specified part of the house
- entering your house or workplace

The protection order can:

- tell police to take away the abuser's firearms or any dangerous weapons
- tell police to provide an escort to fetch your personal belongings
- tell the abuser to provide money for food and other household expenses

- refuse the abuser contact with the child
- impose additional conditions necessary to protect and provide for the safety, health or well-being of the abused person.

How long is the protection order valid?

- Until the abused person changes or cancels it
- If the abuser files an appeal, the order continues to operate until cancelled by the appeal court

What if the abused person cannot afford to pay for the protection order to be delivered?

He or she may apply to the clerk of the court for financial assistance.

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