

THE DOMESTIC VIOLENCE PROCESS MAP

What is

Domestic Violence?

Domestic Violence (DV) relates to any conduct which is harmful, or may cause imminent harm to the safety, health or well being of the complainant as a result of any of the following:

- a) physical abuse;
- b) sexual abuse;
- c) emotional, verbal and psychological abuse;
- d) economic abuse;
- e) intimidation;
- f) harassment;
- g) stalking;
- h) damage to property;
- i) trespassing or the entry into complainant's residence without consent, in cases where the parties do not share living quarters; or
- j) any other controlling or abusive behaviour towards a complainant, where such conduct constitutes harm, or may cause imminent harm to, the safety, health or well being of the complainant.

A DOMESTIC VIOLENCE CASE CAN BE OPENED AGAINST CERTAIN FOLLOWING PERSONS:

1. The person to whom you are married, whether by civil or customary rites;
2. Your partner (whether of the same or opposite sex) who lives or has lived together with you, even though you were not married or are not able to be married to each other (if, for example, one of you was already married to someone else);
3. The other parent of your child or persons who share parental responsibility with you;
4. Persons related to you by blood ties, marriage or adoption;
5. The person with whom you are engaged, you are in a customary or dating relationship, including an actual or perceived romantic, intimate or sexual relationship of any duration;
6. A person with whom you share or have recently shared the same residence.

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16 DAYS OF ACTIVISM
FROM PEACE IN THE HOME TO PEACE IN THE WORLD
THE PROLIFERATION OF SMALL ARMS AND THEIR
ROLE IN DOMESTIC VIOLENCE

The Domestic Violence Act 116 of 1998 was developed with the main objective of affording the victims of domestic violence the maximum protection from domestic abuse in terms of the law. The Act further introduced measures which seek to ensure that the relevant organs of state give full effect to the provisions of this Act, and thereby to convey the State's devotion to the elimination of domestic violence.



STEP BY STEP GUIDE FOR VICTIMS OF DOMESTIC VIOLENCE



A scene where abuse takes place

This could be a place of residence of the complainant or public or private space where an incident of abuse against the complainant takes place.



A complainant reports to the local police station

- A complainant reports a domestic violence matter at the local police station. Victims may also approach the court, traditional leaders, prosecutors, religious leaders, social workers and non-governmental organisations working in their area.
- The police officer explains the procedure. The complainant has a choice to lodge either a criminal case, application for a Protection Order or both.
- If necessary, the police will take the complainant to the doctor to assess injuries emanating from the abuse. The assessment will be detailed in a form and could be used as evidence.
- After assessment, the police officer refers the complainant to the local Magistrate's Court to apply for a Protection Order.



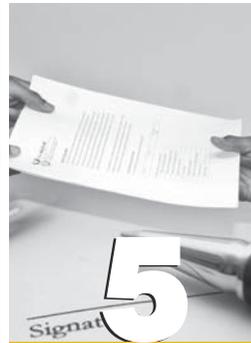
A complainant is referred to the local magistrate court

- The Clerk of the Court assists the complainant to complete an affidavit detailing the nature of the abuse.
- The Clerk of the Court will open a file and record it.
- A complainant must always keep the file number issued by the Clerk of the Court safe.



A magistrate considers the application

- The Magistrate looks at the contents of the application and ascertains the correctness of the information in the presence of the complainant.
- After careful consideration, the Magistrate decides to issue an Interim Protection Order and a date for a hearing.
- A warrant of arrest, which can only be effected if the respondent violates the conditions of the Interim Protection Order, is authorised by the Magistrate and handed to the Applicant by the Clerk of the Court.



Interim protection order is served on the respondent

- The Interim Protection Order is served immediately by the police officer, sheriff or clerk of the court to the respondent which will also indicate the date of the hearing.



Court proceedings/hearing

- The Magistrate will check whether both the complainant and respondent are present and start the proceedings.
- During the hearing both the complainant and respondent will have an opportunity to present their side of the story.
- The Magistrate will then make a decision whether to issue a Final Protection Order or not.
- Complainant must be aware that the conditions of the final order may not be the same as those of the Interim Protection Order.
- The conditions contained in the Final Protection Order are permanent and can only be changed by a court of law.



What are the consequences of a respondent violating conditions of the final protection order?

- The Applicant must take the warrant of arrest and report the contravention at the police station. Thereafter the respondent will be arrested and be charged for violation of a Protection Order and prosecuted in the Criminal Court.

IF THE RESPONDENT IS FOUND GUILTY HE/SHE CAN BE SENTENCED TO A FINE/ IMPRISONMENT OR BOTH.

**For more information contact:
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