

DOMESTIC VIOLENCE MANUAL

A GUIDELINE TO APPLYING FOR
PROTECTION ORDERS





Acknowledgements

This manual was produced by Fasken for ProBono.Org, with the support of the First Rand Empowerment Foundation

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1. INTRODUCTION

Domestic Violence in South Africa

Domestic violence in South Africa is a deeply entrenched social ill that affects individuals across all communities, regardless of age, gender, or socioeconomic status.

The prevalence of domestic violence continues to rise, demanding a coordinated, informed, and empathetic response from all sectors of the justice system. Social workers, paralegals and legal professionals occupy a critical frontline role in safeguarding the rights and well-being of survivors, and ensuring access to justice, by navigating the legal remedies available under domestic violence legislation.

Legal professionals, social workers, and paralegals are often the first point of contact for survivors seeking protection and justice. Their responsibilities include assisting with protection order applications and ensuring survivors are connected to support services.

Strengthening the capacity of frontline professionals and ensuring the enforceability of legal remedies are essential steps towards combatting the societal crises of Gender Based Violence (“**GBV**”).

Purpose of the manual

Fasken, in collaboration with ProBono.Org, has prepared this manual to provide practical guidance to individuals, social workers, paralegals and legal professionals dealing with GBV matters. The main purpose of the manual is to provide a detailed and practical understanding of domestic violence legislation and its application.

This manual applies across the Republic of South Africa and is aligned with the Domestic Violence Act 116 of 1998, Domestic Violence Amendment Act 14 of 2021 and Domestic Violence Regulations of March 2025.

In line with a survivor-centered approach, this manual uses the terms “survivor” or “complainant” instead of “victim”, as commonly referenced in legislation.



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3. RELEVANT LEGISLATION

Domestic Violence Act 116 of 1998 (the “Act”).

The Act enables complainants to seek protection from individuals who have perpetrated domestic violence, through the issuance of a protection order. This order prohibits the respondent from committing further acts of domestic violence and may include specific conditions to ensure the safety and well-being of the complainant.

The Act provides a comprehensive framework by defining domestic violence, outlining the various forms it may take, identifying domestic relationships, and detailing the legal remedies available to survivors. It also explains the process for applying for these remedies and the options available if the violence persists despite a protection order being in place.

Domestic Violence Amendment Act 14 of 2021 (“Amendment Act”).

The Amendment Act came into effect on 14 April 2023. Below we highlight the pertinent amendments introduced by the Amendment Act:

Expansion of the definition of domestic violence

The definition of ‘domestic violence’ was expanded to include coercive behaviour, controlling behaviour, exposing a child to domestic violence, elder abuse, related person abuse, sexual harassment and spiritual abuse. It further broadened some of the existing definitions such as economic abuse.

Expansion of the definition of a domestic relationship

The definition of a domestic relationship has been expanded to include a person in a close relationship, who shares or shared the same residence with the complainant.

A close relationship is determined by the degree of trust between the complainant and any other person; the level of each person's dependence on, and commitment to, the other person; the length of time of the relationship; frequency of contact between the persons and the degree of intimacy between the persons.

Expansion of jurisdiction (the court that may hear the matter)

The jurisdiction has been expanded for a complainant to obtain a protection order and for the protection order to be enforceable throughout the Republic.

Complainants may now apply for a protection order in any of the following jurisdictions:

- any court in the area in which the complainant temporarily resides, studies or carries on business or is employed;
- where the respondent permanently or temporarily resides, studies, carries on business or is employed; or
- where the cause of action arose (where the domestic violence happened).

Safety Monitoring Notice

This Notice is a court-issued directive that allows law enforcement or designated officials to monitor the safety and well-being of a complainant in a domestic violence matter. It is intended to ensure ongoing protection by enabling regular checks or contact with the complainant, especially in cases where a protection order has been issued or where there is concern about continued risk. Below we expand on the practical application of this notice.

Warrant of arrest upon issuing of a protection order

When a court issues a protection order under section 5(2) or 6 of the Amendment Act, it must also authorise a warrant of arrest for the respondent. This warrant is issued in a prescribed format but is suspended, meaning it will only be enforced if the respondent violates any of the conditions, prohibitions, or obligations set out in the protection order.

If the existing warrant is at any point executed or cancelled, the clerk must issue the complainant with a second or further warrant of arrest if the complainant files an affidavit in the prescribed form requesting a second warrant.

After hours application

Section 4(1)(b)(ii) of the Amendment Act allows a complainant to submit an urgent application for a protection order outside normal court hours or on non-court days, directly to the court, if the court permits.

Section 4(5) states that if the court is satisfied, based on the information provided, that there is a reasonable belief the complainant is experiencing or may experience harm if the matter is not addressed immediately, the court may proceed to hear the application outside ordinary hours.

Domestic Violence Regulations March 2025

In March 2025, the Minister of Justice and Constitutional Development amended the Domestic Violence Regulations, 2022, to improve privacy protections for survivors of domestic violence.

A key change is the introduction of Form 6A (the application form for a protection), which contains the complainant's personal information (such as address and contact details). This form is for official use only and must not be served on the respondent.

This amendment ensures that sensitive information is kept confidential, reducing the risk of intimidation, retaliation, or further harm to the complainant.

Protection from Harassment Act 17 of 2011

South African law provides two distinct legal frameworks for protection against abuse: the Domestic Violence Amendment Act and the Protection from Harassment Act 17 of 2011 (“Harassment Act”). While both Acts aim to safeguard individuals from harmful behaviour, they apply to different types of relationships and circumstances.

The **Domestic Violence Amendment Act** is specifically designed to protect individuals who are experiencing abuse within a domestic relationship, such as between spouses, partners, family members, or cohabitants. In contrast, the **Harassment Act** offers legal remedies to individuals who are being harassed by someone outside a domestic relationship, including strangers, neighbours, colleagues, or online perpetrators.

Understanding which Act applies is essential for ensuring the correct legal avenue is relied on to seek appropriate protection.



Comparison between the Domestic Violence Act and Harassment Act

Feature	Domestic Violence Amendment Act	Harassment Act
Legislation	<ul style="list-style-type: none"> · Domestic Violence Amendment Act · Domestic Violence Regulations 	<ul style="list-style-type: none"> · Protection from Harassment Act · Protection from Harassment Regulations
Type of Abuse	Physical, sexual, emotional, verbal, economic, spiritual, coercive, and controlling abuse etc	Stalking, intimidation, unwanted communication, online harassment etc.
Relationship	Requires a domestic relationship (e.g. family, romantic, cohabitation)	No relationship required between complainant and respondent (e.g. colleague, neighbour, unknown stalker)
Application Form	Form 6	Form 2
Type of Order	Protection Order	Harassment Protection Order
Urgency	Allows for Interim Protection Orders	Also allows for Interim Protection Order
Ex Parte Applications	An Interim Order can be granted without the respondent present but with a return date for the respondent to defend the matter	An Interim Order can be granted without the respondent present but with a return date for the respondent to defend the matter

4. WHAT CONSTITUTES DOMESTIC VIOLENCE

Domestic violence refers to any abusive behavior by one person towards another person, within a domestic relationship where the conduct harms, or inspires the reasonable belief that harm may be caused to the complainant. It includes the following forms of abuse:

- Physical, sexual;
- emotional, verbal or psychological abuse;
- economic abuse;
- intimidation;
- harassment;
- sexual harassment;
- related person abuse;
- spiritual abuse;
- damage to property;
- elder abuse;
- coercive behavior;
- controlling behavior;
- exposing a child to domestic violence;
- entry into the complaint's residence, workplace or place of study without consent; and
- any other behaviour of an intimidating, threatening, abusive, degrading, offensive or humiliating nature towards a complainant.

Below we elaborate on some of the different forms of domestic violence

Type of Abuse	Description
Physical Abuse	Causing bodily harm, threats of harm and includes the non-consensual administration or threat of administration of harmful substances.
Sexual Abuse	Any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant, irrespective of whether or not such conduct constitutes a sexual offence as contemplated in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007).
Emotional/ Psychological/ Verbal Abuse	Insults, threats, humiliation, controlling behaviour, or actions that harm mental well-being. Any behaviour that causes psychological harm through degrading, threatening, or humiliating actions. It includes verbal attacks like insults and name-calling, as well as threats intended to inflict emotional pain. Controlling behaviours such as obsessive jealousy or possessiveness that invade a person’s privacy and liberty are also considered emotionally abusive, especially when they compromise the complainant’s sense of safety and autonomy.
Economic Abuse	Denying access to financial resources, controlling assets, or coercing financial decisions. It involves controlling or denying a complainant access to financial resources that they are legally entitled to or need for basic living. It also covers the unauthorised disposal of property or household items in which the complainant has a financial interest, undermining their economic stability and autonomy.

<p>Intimidation</p>	<p>The essence of intimidation lies in the deliberate use of fear as a tool to control or influence another person’s behaviour, particularly when that fear is induced to obstruct lawful choices or freedoms. This includes conduct that instils fear through threats or actual acts of physical violence, damage to property, or deprivation of liberty. It further includes both direct actions and indirect threats, such as those conveyed electronically, that are intended to compel a person to act against their will or refrain from exercising their lawful rights.</p>
<p>Harassment</p>	<p>Repeated unwanted contact, stalking, surveillance, or interference with privacy. This includes physical actions such as following, stalking, loitering near places the person frequents, or confronting them in a way that inspires fear. It also covers repeated contact through electronic means, even if no conversation takes place, as well as the delivery or placement of unwanted packages or messages. Accessing someone’s private communications without permission or monitoring their movements and relationships using technology without consent, also constitutes harassment.</p>
<p>Sexual Harassment</p>	<p>Unwelcome sexual attention, remarks, or conduct that causes discomfort or humiliation. This includes situations where the respondent knows or should reasonably know that their sexual attention is unwanted. It also refers to explicit or implicit behaviour, gestures, remarks, or communications of a sexual nature, or those related to the complainant’s or a related person’s sexual orientation, gender, or gender expression. If such actions make the complainant feel uncomfortable, degraded, or threatened, they are considered sexual harassment.</p>

Related Person Abuse	Abuse directed at someone close to the complainant such as a family member, or partner that is intended to cause distress or harm to the complainant. This includes threatening the complainant with violence or property damage involving a related person or threatening the related person directly with harm or damage. It includes situations where the related person is threatened with violence or property damage to intimidate or emotionally harm the complainant.
Spiritual Abuse	Misusing religious beliefs to control or harm the complainant. This includes advocating hatred against someone because of their religious or spiritual beliefs, especially when such advocacy incites others to cause harm. It further includes preventing the person from freely exercising their constitutional rights to conscience, religion, thought, belief, and opinion—such as practicing or expressing their faith openly.
Damage to Property	<p>Intentional actions or threats that affect items owned, possessed, or controlled by the complainant, or in which the complainant has a vested interest. This includes the deliberate destruction or harm caused to such property, whether physical or otherwise, with the intent to damage.</p> <p>It also includes threats to damage or destroy property, even if no actual harm occurs, as long as the property is connected to the complainant.</p>
Elder Abuse	<p>Physical, emotional, or financial abuse of older individuals. This includes physical, emotional, financial, or sexual abuse, as well as neglect or exploitation, directed at an older individual by someone with whom they share a domestic connection, such as a family member, caregiver, or cohabitant.</p> <p>Such abuse may involve actions that harm the older person’s well-being, dignity, or safety, and often occur in environments where the older person is dependent on the abuser for care or support.</p>
Coercive Behaviour	Compelling or forcing a complainant to abstain from doing anything that they have a lawful right to do, or to do anything that they have a lawful right to abstain from doing.

<p>Controlling Behaviour</p>	<p>Restricting autonomy, movement, or decision-making to dominate the complainant. These actions are directed at a complainant that results in them becoming dependent on or subservient to the respondent. This type of behaviour is often subtle and controlling, aimed at undermining the complainant’s autonomy and ability to act freely. It includes isolating the complainant from sources of support such as friends, family, or community networks, which increases their vulnerability.</p> <p>It also involves exploiting the complainant’s resources or abilities for the respondent’s personal benefit, depriving them of tools or opportunities needed to maintain independence or escape the situation, and controlling their daily routines or decisions.</p>
<p>Exposing a Child to Abuse</p>	<p>Allowing or forcing a child to witness domestic violence. This includes situations where a child sees or hears incidents of violence between individuals in a domestic relationship, such as physical assaults, verbal threats, or emotional abuse.</p> <p>It also refers to a child experiencing the consequences of domestic violence, even if they are not directly involved. This could include living in a tense or fearful environment, seeing injuries or property damage, or being emotionally impacted by the distress of a caregiver.</p>
<p>Unlawful Entry</p>	<p>Entry into a permanent or temporary residence without the complainant’s consent, where the parties do not share the same residence; or workplace or place of study, or any other behaviour of an intimidating, threatening, abusive, degrading, offensive or humiliating nature towards a complainant, where such conduct harms, or inspires the reasonable belief that harm may be caused to the complainant.</p>
<p>Other Abusive Conduct</p>	<p>Any behaviour that is threatening, degrading, offensive, or humiliating.</p>

5. WHAT IS A DOMESTIC RELATIONSHIP

Domestic violence may arise within a diverse spectrum of domestic relationships, which include various forms of intimate and family relationships. Understanding the concept of a domestic relationship is imperative when applying for a protection order under the Act, because the Act specifically protects individuals who are harmed or threatened by someone with whom they share such a relationship.

Domestic relationships may take various forms, including:

- Individuals who are or were married, whether through any law, customary practices, or religion;
- Individuals who currently live or previously lived together in a relationship resembling marriage, regardless of their legal ability to marry;
- Parents of a child or children, or individuals who have parental responsibilities for a child or children;
- Family members related by blood, marriage, or adoption;
- Individuals who are or were in a romantic, engaged, customary or sexual relationship; and
- Individuals in a close relationship who share or previously shared the same residence.

6. WHAT CAN YOU DO WHEN AN ACT OF DOMESTIC VIOLENCE HAS BEEN COMMITTED

If you or someone you know has experienced domestic violence, you can apply to the court for an Interim Protection Order. This can be done without the person who committed the abuse being present (this is called an *ex-parte* application). The Interim Order must be served on the respondent. On the return date the Interim Protection Order can be finalised.

You can apply if you are:

- Someone in a domestic relationship who has been abused;
- A related person who has experienced abuse connected to someone close to them;
- A child who is affected by domestic violence, even without a parent or guardian's permission; and
- A concerned individual or official (like a social worker, teacher, or healthcare worker) who has a genuine interest in the safety and well-being of the person affected.



7. WHAT IS A PROTECTION ORDER

A protection order is a legally binding court document issued by a Magistrate's Court to protect a complainant (or a related person) from acts of domestic violence. A protection order outlines specific behaviours that the respondent is prohibited from doing, with the primary aim of protecting the complainant against further harm or abuse.

There are two types of protection orders:

- 1. Interim Protection Order** - this is a temporary order that gives the complainant immediate protection. It is granted before the court has had a full hearing and is meant to keep the complainant safe while the legal process continues and is finalised.
- 2. Final Protection Order** - this is issued after the court has heard the case in full. Once granted, it stays in effect indefinitely, unless the court decides to change or cancel it, the complainant withdraws it or the respondent successfully rescinds it. A final order can also be issued if the respondent was properly notified of the matter and the following court date (through the service of an Interim Order or a notice to show cause) and fails to show up in court.



8. APPLICABLE COURT PROCESS WHEN APPLYING FOR A PROTECTION ORDER

In South Africa, courts offer several legal remedies to protect survivors of domestic violence under the Domestic Violence Act 116 of 1998, as amended by the Domestic Violence Amendment Act 14 of 2021. These legal remedies are inclusive of Interim Protection Orders, Final Protection Orders, Domestic Violence Safety Monitoring Notices and Criminal Charges.

Step 1: Approaching the Magistrate's Court

The survivor of domestic violence can approach any court in the area which (a) the survivor temporarily resides, studies or carries on business or is employed, (b) where the respondent permanently or temporarily resides, studies, carries on business or is employed, or (c) where the cause of action arose (abuse happened). The court that falls within the category of the above-mentioned places has jurisdiction (a court that may hear the matter) to grant a protection order. Protection orders issued by any court are valid across South Africa.

Step 2: Form 6

Form 6 is the official application form used to apply for a protection order. You can get it:

- Online at www.justice.gov.za; or
- At any Magistrate's Court.

What would need to be included in the Form 6:

- Complainant and the respondent's contact details;
- A detailed account of the abuse (dates, types of abuse, medical treatment, police involvement, witness statements etc.);

- Reasons why the application must be considered as a matter of urgency and why harm may be suffered if the application is not dealt with immediately (e.g. fear for safety, the respondent has access to weapons, presence of children, substance abuse); and
- Supporting evidence (photos, medical records, affidavits) listed in section 11 of the form.

The onus of proof is on the complainant to make out a prima facie case by demonstrating why the Interim Protection Order should be issued. A prima facie case is one where the evidence presented is sufficient to prove the domestic violence unless rebutted.

The application form will then be commissioned by the clerk of the court, and a case number will be allocated to the matter.

Step 3: Notice to Show Cause or Interim Protection Order

A complainant who approaches the court to apply for a protection order may either be issued with a Notice to Show Cause or an Interim Protection Order. Below we set out the distinction between the two documents that the court can issue to the complainant.

Section 5(4) of the Amendment Act deals with the issuing of a Notice to Show Cause to the respondent. This means if the court doesn't issue an Interim Protection Order immediately, it may issue a notice to show cause.

This Notice:

- Includes the complainant's application and supporting documents;
- Informs the respondent to appear in court on the return date to come and explain why a protection order should not be granted against the respondent;
- Warns the respondent that if the respondent does not appear in court, the court may issue a final protection order without hearing their side.

Section 5 of the Amendment Act deals with the consideration of

application and issuing of Interim Protection Order.

Applying for an Interim Protection Order

In the event that the court is satisfied that there is prima facie evidence (sufficient evidence on face value) that domestic violence is and/or has been committed, the court may issue an Interim Protection Order against the respondent instead of a Notice to Show Cause. Therefore, when a complainant applies to the court for a protection order, the court will consider the application submitted on the same day and make a decision to either grant a Notice to Show Cause or an Interim Protection Order.

An Interim Protection Order is issued urgently to provide immediate safety for the complainant, even before the respondent is informed of the case. The Interim Protection Order remains in effect until the scheduled court hearing, known as the return date. The Interim Protection Order outlines the specific actions the respondent is prohibited from doing and includes a suspended warrant of arrest, which may be enforced if the respondent violates the order.

Step 4: Service of Notice to Show Cause or the Interim Protection Order

Once a Notice to Show Cause or an Interim Protection Order has been granted, the clerk of the court will furnish the complainant with two copies of either the Notice to Show Cause or the Interim Protection Order to be served on the respondent by either the police (free of charge) or by the sheriff (sheriff costs apply), along with a return of service form to be completed by either the sheriff or the police once service has been effected on the respondent.

Once the police or sheriff has delivered the Notice to Show Cause or Interim Protection Order to the respondent, a completed return of service form must be submitted to the court. This serves as official proof that the respondent has received the documents, is aware that an Interim Protection Order has been issued against them and knows the

date they are required to appear in court.

It is essential that the Interim Protection Order or Notice to Show Cause is delivered to the respondent no less than 10 days before the return court date. If this timeframe is not met, the service may be considered invalid, which could delay the court process.

The Interim Protection Order will only be in effect once proper service on the respondent has been effected.

Step 5: The return court date

On the return court date as stipulated in the Interim Protection Order or the Notice to Show Cause, both the respondent and the complainant ought to be present at court.

If the respondent fails to appear at court, the Magistrate may issue a Final Protection Order if proper service was effected on the respondent and if the court is satisfied, on a balance of probability, that the complainant has presented sufficient evidence.

If both the parties are present in court, the Magistrate will advise the respondent of their right to legal representation. This means the respondent may choose to be represented by a private lawyer, apply for legal aid through the state, or represent themselves during the proceedings.

At the return date, both the respondent and the complainant have an opportunity to present their case along with evidence, such as the calling of witnesses, presenting documents and/or photographs to show the court why the Final Protection Order must either be granted or not granted.

After both parties have presented their evidence, the Magistrate will assess whether there is enough proof, based on the balance of probabilities, that the respondent has committed or is committing acts of domestic violence. If the court is convinced that the evidence

supports the complainant's claim, it will grant a Final Protection Order, along with a suspended warrant of arrest.

Contrary to the above, if the court is not satisfied that the respondent has committed or is committing acts of domestic violence, the matter will be dismissed, and the Interim Protection Order will be cancelled.

If the respondent is present at court, the Final Protection Order will be served by a court official on the respondent. In the event that a Final Protection Order is granted in the absence of the respondent, the Order must be served by sheriff (sheriff fees apply) or police (free of charge) on the respondent.

The Final Protection Order will be in effect once the respondent receives it and it will stay in force until a court cancels it, the complainant withdraws it or the respondent successfully rescinds it.



9. FURTHER RELIEF IN TERMS OF THE DOMESTIC VIOLENCE ACT AMENDMENT – SAFETY MONITORING NOTICE

Section 4A of the Amendment Act introduces a Domestic Violence Safety Monitoring Notice (“A Safety Notice”)

If a complainant is being abused and lives in the same house as the person abusing them, the complainant can ask the court for a special order called the Safety Notice. This makes provision for the police to check in on the safety of the complainant. The complainant can apply for this Safety Notice in two ways:

1. Before the court grants a Final Protection Order

The complainant can apply for the Safety Notice at the same time they apply for a Protection Order from the court. If the court has not issued an Interim Protection Order, the complainant can still ask for the Safety Notice anytime before the court makes a final decision or closes the case.

2. After a protection order is already in place

Even if the court has already issued an Interim or Final Protection Order, the complainant can still apply for the Safety Notice using the official form (Form 9) and by following the correct steps, that are set out below.

How to Apply for a Safety Notice

The complainant must submit the completed application form (Form 9) either directly to the clerk of the court, or by email to the court that handles cases in their area. In the event that the complainant is applying online (email) the complainant must ensure that the court has the necessary online system in place.

The application can include written statements on oath (called affidavits) from other people who are aware of the domestic violence

that has been committed against the complainant and can support the complainant's application.

Once the application is received, the clerk of the court must send it to the Magistrate as soon as possible.

The Magistrate will consider the application and any additional evidence, such as written statements or spoken testimony. All of this becomes part of the official court record.

If the Magistrate is satisfied that the complainant and the respondent live in the same house, and that the respondent may be a danger to the complainant's safety, then the court can issue the Safety Notice. This allows the police to check in regularly to help keep the complainant safe.

What Happens After a Safety Monitoring Notice is issued

Once the court issues the Safety Notice, it can instruct the station commander of the local police station to assign a police officer to serve the Safety Notice on the respondent.

The officer's duties may include:

- Regular check-in with the complainant which may include contacting the complainant at set intervals using email, messaging apps, or other electronic means to ask how they're doing;
- Home visits which include visiting the shared residence regularly and speaking with the complainant in private to check on their safety; and
- Forced entry, if necessary, in cases where the officer is blocked from seeing the complainant, they can use reasonable force, even break a door or window, if necessary to ensure the complainant's safety.

10. VARIATION AND SETTING ASIDE OF THE PROTECTION ORDER

If either the complainant or the respondent wishes to vary (change) or set aside (cancel) a Protection Order, they must apply to the court in writing using the prescribed form (Form 38). This application must be served on the respondent, who then has 10 court days to respond in writing and explain why the request should not be granted.

The court will consider the application and may grant the change or cancellation if it is satisfied that:

- There has been a significant change in circumstances since the original order was issued,
- There is a valid reason for the request, and
- The application was properly served on the respondent.

If the complainant is the one requesting the change or cancellation, the court must confirm that the request is made freely and without pressure or intimidation. Once the order is varied or cancelled, it must be served on the opposing party. The above is applicable to both Interim and Final Protection Orders.



11. ENFORCEMENT AND CONTRAVENTION

Proper service of the Interim and the Final Protection Order is essential to ensure that it is effective and can be enforced in the instance of contravention of either order.

In the case of a contravention, the complainant can approach the nearest police station with a copy of the Protection Order (interim or final), the return of service (proof of service) and the suspended warrant of arrest.

The police must consider the abovementioned documents and the complainant may open a case against the respondent for contravening the protection order.

Once a case is opened at the police station for contravention of an Interim or Final Protection Order, the respondent (accused) may be arrested and the matter becomes a criminal matter, which follows the criminal court proceedings, which are briefly mentioned in chapter 13.



12. MANDATORY REPORTING OBLIGATIONS IN TERMS OF THE DOMESTIC VIOLENCE AMENDMENT ACT

Reporting Abuse at the South African Police Service (“SAPS”), and Peace Officers

When domestic violence is committed against a person and reported to the SAPS it has a legal and constitutional duty to respond swiftly, sensitively, and effectively.

Section 2B of the Amendment Act places an obligation to report domestic violence and to provide information.

An adult who is aware or reasonably suspects that domestic violence has been committed against a child, a person with a disability, or an older person, has a legal obligation to report the abuse.

Who you must report to:

- A social worker;
- SAPS; and
- The court.

What the report must include:

- It must be done using the prescribed application form (Form 3);
- It must explain the reasons for the knowledge, belief, or suspicion of the abuse; and
- It must be submitted in the correct way to either a social worker or SAPS or the court.

This legal duty helps, protects and ensures abuse is not ignored. Social workers are key in helping communities understand how and when to make these reports.

Section 3 of the Amendment Act contemplates an arrest by peace officer without a warrant and assistance to the complainant

A police officer can arrest someone without a warrant if they believe that an individual has committed domestic violence.

A peace officer must, without a warrant, arrest any person at the scene of an incident of domestic violence who the peace officer on reasonable grounds believe may have committed an act of domestic violence, even if no charge has been laid as yet.

A peace officer who is not a member of SAPS, who responds to an incident of domestic violence, must:

- Where necessary, make arrangements for the complainant to obtain medical attention;

If there's no Protection Order against the perpetrator:

- Give the complainant a list of nearby shelters and clinics;
- Hand over a “notice” that explains their rights, written in the language that the complainant prefers;
- If possible, explain what the notice says, including what options the complainant has under the law such as opening a criminal case against the abuser; and
- Provide further assistance as contemplated in section 18B, which could include the provision of a safety plan or helping with transport.

13. CONSEQUENCES OF BREACHING AN ORDER

Section 17 of the Domestic Violence Amendment Act stipulates the offences of breaching a protection order. If police suspect a breach, the respondent can be arrested without a warrant and, upon conviction, penalties can include up to five years' imprisonment or a fine.

Warrant of arrest: When the court issues a protection order, it also issues a warrant of arrest under Section 8 of the Domestic Violence Amendment Act. When a court gives someone a protection order under section 5(2) or 6, it must also approve a warrant for the arrest of the respondent. This warrant is prepared but not used immediately. It is put on hold as long as the respondent follows all the rules and conditions in the protection order. This warrant is given to the complainant and only activated if the respondent breaches the order.

The officer must decide whether the complainant is in danger or not. If they believe there's a real risk of harm to the complainant, they must arrest the respondent immediately. When deciding whether the complainant is in danger, the officer must consider:

- The risk to the complainant's safety, health, or property;
- How serious the breach was;
- How long ago the breach happened; and
- Any past harm the complainant or their family has suffered.

If the complainant hands over the warrant to the police, the officer must also explain that the complainant has the right to lay a criminal charge and how to do it. However, if the officer doesn't think arrest is necessary, they must give the respondent a written notice to appear in court. This notice includes the respondent's details, the court date, and a signed certificate confirming the notice was explained to them. A copy of this notice must be sent to the court clerk.

The warrant stays valid unless the protection order is cancelled by the court or the warrant is used and then officially cancelled.

The Police may arrest without a warrant if they reasonably suspect domestic violence. They can also enter private homes to prevent harm or collect evidence. Officers are expected to conduct a risk assessment before arresting any person suspected of domestic violence. More importantly, Police must assist complainants in applying for protection orders and help enforce them promptly.



14. GUIDELINES FOR THE IMPLEMENTATION OF THE DOMESTIC VIOLENCE ACT FOR MAGISTRATES (2008)

In 2008, the Lower Court Management presented the Domestic Violence Guidelines for Magistrates which, although not prescriptive, should be used as a manual for Magistrates in domestic violence matters.

These guidelines were introduced as a result of procedural challenges and non-uniformity in Magistrates' Courts, despite the available legislation and regulations on domestic violence.

The guidelines stipulate various considerations to grant an Interim Protection Order and outlines the procedural framework, divided into three distinct parts:

Part A - details the Magistrate's responsibilities, including the assessment of the application and the authority to issue an Interim Protection Order;

Part B - sets out the procedural steps to be followed, such as the submission of relevant forms and affidavits, and the scheduling of a hearing; and

Part C - emphasizes the Magistrate's duty to inform the complainant of their legal options, ensuring they understand the implications of the order and the remedies available to them.

The guiding principles for Magistrates are listed below, but this list is not exhaustive:

- Treat cases with the appropriate urgency that each case demands;
- Consider the potential lethality of domestic violence;
- Fully interrogate and consider each case;
- Seriously consider the "perceived risk" to the complainant; and
- Deal with applications for Protection Orders promptly.

It is important to note that, should a complainant withdraw either the Interim or Final Protection Order, the withdrawal may not be used against the complainant if she/he applies for a subsequent order.

PART A: The Magistrate's Responsibilities and what needs to be established

The Magistrate must assess whether there is prima facie evidence of domestic violence:

- Whether the complainant sought medical attention and if they are in possession of any medical certificates;
- Whether sexual assault was committed and injuries sustained;
- Whether any weapons or objects have been used previously;
- Whether other forms of domestic violence have been committed;
- Whether criminal charges have been laid or if there is an intention to do so;
- Whether either complainant or the respondent have any orders against them; and
- Whether counselling services are needed.

PART B: Procedure to be followed:

The complainant completes Form 6 (Interim Protection Order) and Form 2 (Application for Protection Order) at the Magistrate's Court:

The complainant should be informed of their rights to legal representation;

The affidavit should be verified and if the history of abuse is not adequately set out in the affidavit, the magistrate should enquire directly from the complainant;

The Magistrate should consider the social context of the complainant and the respondent. For instance, if they reside together, employment and cultural background;

When considering whether a case for urgency has been made or not, the Magistrate is required to determine whether the complainant will suffer any hardship in the absence of the Interim Protection Order. Where urgency is not shown, the Magistrate must issue a Notice to Show Cause; and

Further, when a complainant withdraws their application, they should do so in person and under oath in order for the Magistrate to establish the real reason for the withdrawal. Importantly, if the application is withdrawn successfully, the withdrawal may not be used against the complainant should they apply for a subsequent order at a later stage.

PART C: Magistrate's duty to inform the applicant of their legal options

The Magistrate has a duty to inform the applicant of the temporary nature of the Interim Protection Order as well as their legal options.

The complainant should also be informed that they can make supplementary statements to the police if they have additional information pertaining to the case, as well as what to do in the case that the Protection Order is violated by the respondent.

The Magistrate should also explain the importance of serving the Interim Protection Order for it to be in effect.

The return date should be explained as well as the right to withdraw or amend the application.

15. BEST PRACTICES

Keep out of dangerous situations

If the complainant feels threatened, they should leave the environment immediately and go to a safe location – this could be a friend’s house, shelter, or police station. They should avoid any confrontation and not engage with the perpetrator, especially when emotions are high.

Build a safety plan by identifying safe places, emergency contacts, and exit strategies.

Keep evidence

It is important that the complainant saves any threatening messages, emails, call logs, photos of injuries, property damages, record of incidents with dates, times, and descriptions. If injured, seek medical attention and keep any medical documentation provided. If other people witnessed the abuse in any way, their statements attesting to the acts of domestic violence can be valuable.

Proof of service is very important

Proof of service confirms that the respondent received the Protection Order. Without proof of service, the order will not be enforceable if the respondent is not officially and properly notified.

It is imperative that the return of service issued by the sheriff or police officer is filed at the court for record and safe keeping.

Any Social Worker, Paralegal and Legal Practitioners assisting a complainant with a domestic violence matter must ensure that they do not make contact with the respondent without being accompanied by a police officer(s) or the sheriff.

16. ADDITIONAL SUPPORT SERVICES

Support services play a critical role in addressing the complex and deeply personal challenges faced by complainants subjected to domestic violence. Complainants often endure physical, emotional, psychological, and financial harm, and may feel isolated, fearful, or powerless to seek help. Timely and appropriate support can be life-saving, offering protection, guidance, and a pathway to recovery. Such support may be provided by a range of professionals and institutions, including social workers, psychologists, legal aid practitioners, healthcare providers, law enforcement agencies, and non-governmental organisations specialising in gender-based violence. These services not only assist complainants in navigating the legal and emotional aftermath of abuse but also contribute to broader efforts aimed at prevention, empowerment, and systemic change.

Role of social workers

Counselling Support: They offer both pre-and post-court appearance counselling to assist a complainant with managing emotional stress and prepare for legal proceedings.

Evidence Gathering: Social workers may assist complainants in collecting relevant evidence and can compile professional reports detailing psychological and emotional abuse, which may be submitted to court in support of an application for a Protection Order.

Risk Assessment: They help assess the level of danger and imminent harm faced by complainants, contributing to decisions around protection orders and safety planning.

Shelter Provision: Social workers can arrange shelter for complainants, either before applying for a protection order or when an existing order has been breached.

Legal Collaboration: Working alongside lawyers, social workers help ensure that complainants are not re-traumatised by the legal process. They contribute to developing trauma-informed legal strategies that prioritise the emotional well-being of the complainant.



17. COURT FORMS

Template Forms

Form 06 [J480]: Application for protection order [Updated: 07 Mar 2025]

[dv-Form06-J480.pdf \(SECURED\)](#)

Form 07 [J965]: Consent for another person to apply for protection order on behalf of victim

[dv-Form07-J965.pdf \(SECURED\)](#)

Form 09 [J966]: Application for domestic violence safety monitoring notice

[dv-Form09-J966.pdf \(SECURED\)](#)

Form 34 [J591]: Affidavit for purposes of second or further warrant of arrest

[dv-Form34-J591.pdf \(SECURED\)](#)

Form 38 [J649]: Application for variation or setting aside of protection order

[dv-Form38-J649.pdf \(SECURED\)](#)

18. FORMS ISSUED BY COURT OFFICIALS ONLY

The Following Forms Are Issued By Court Officials Only

Form 10: Court order for domestic violence safety monitoring

Form 12 [J507]: Interim Protection Order

Form 13 [J523]: Notice to respondent to show cause (submit reasons) why protection order should not be issued

Form 27: Court order setting aside or amending court order

Form 29 [J551]: Final protection order where Interim Protection Order was issued

Form 30 [J566]: Final protection order where Interim Protection Order was not issued

Form 31: Court order for the extension or discharge of Interim Protection Order

Form 32: Notification of next date of hearing

Form 33 [J590]: Warrant of arrest

Form 36 [J645]: Notice to appear before Court

Form 39 [J653]: Notice of variation or setting aside of protection order

Form 40: Return of service

Legal professionals, social workers, and paralegals are often the first point of contact for survivors seeking protection and justice. Their responsibilities include assisting with protection order applications and ensuring survivors are connected to support services. This manual is a guide to that process.



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