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WHERE CAN I GO FOR HELP?



TSHWARANANG
LEGAL ADVOCACY CENTRE
TO END VIOLENCE AGAINST WOMEN

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English

PROTECTING WOMEN FROM VIOLENCE

(PROTECTION ORDER)

Domestic Violence Act 116 of 1998



TSHWARANANG
LEGAL ADVOCACY CENTRE
TO END VIOLENCE AGAINST WOMEN

THE DOMESTIC VIOLENCE ACT 116 OF 1998

The Act can be used for the protection of women, men and children who suffer from abuse in the context of a domestic relationship. Owing to high incidents of domestic violence perpetrated against women, and the need to inform women of their rights, this brochure is aimed specifically at women victims of domestic violence. Hence reference in the brochure to a woman as a victim of domestic violence and a man as the abuser.

HOW DOES THE DOMESTIC VIOLENCE ACT IMPROVE THE PROTECTION OF WOMEN?

- ✘ It defines domestic violence broadly to include: physical, sexual, verbal, emotional and psychological abuse, harassment, stalking, intimidation, damage to property, and entry into a woman's residence without her consent.
- ✘ It covers married women, women living-in with their partners, in-laws and everyone sharing residence with a person applying for a protection order.
- ✘ It imposes a legal duty on police officers and clerks to inform abused women of their rights.
- ✘ It gives the police the power to arrest an abuser without a warrant and to accompany a woman home to collect her belongings.
- ✘ A magistrate can:
 - Confiscate a firearm from the abuser.
 - Allow a woman to take her children and personal belongings with her should she want to leave.
 - Order the abuser to pay the costs incurred by the woman as a result of the abuse.
- ✘ If a woman cannot afford to pay for the service of the protection order on the abuser, the government will pay for her.

HOW DO I APPLY FOR A PROTECTION ORDER?

STEP 1

- ✘ Go to the magistrate's court nearest to where you live or work. The clerk of the court will give you forms to complete. You will also be asked to make a sworn statement explaining how the abuse took place.

STEP 2

- ✘ The clerk will take your application to a magistrate who will then consider it and immediately grant you a temporary protection order if:
 - The magistrate is satisfied that you are being abused, and
 - You will suffer more abuse if you do not get a protection order immediately.
- ✘ The temporary order will be served on the abuser by the police or the sheriff. You will be asked to come to court on another day for the court to consider granting you a final order. The abuser may also be in court on this day.
- ✘ If the magistrate does not give you a protection order immediately, he/she will issue a notice to the abuser to appear in court to give his version of the events.

STEP 3

- ✘ When you appear in court for the second time:
 - If the abuser is present, the court will ask him to give reasons why the final protection order should not be issued.
 - If the abuser is not present, the court will grant you a final protection order if the magistrate is satisfied that you are being abused.
 - The final protection order will be served on the abuser by the police or the sheriff.

WHAT IF HE ABUSES ME AFTER I HAVE OBTAINED A PROTECTION ORDER?

- 1 Go to the nearest police station. Take with you a copy of the protection order and the suspended warrant of arrest, and lodge a complaint.
- 2 You will be asked to make a sworn statement explaining how the abuse took place.
- 3 The police must arrest the abuser if he acted violently towards you.
- 4 He will be charged for violating the protection order and for committing any other criminal offence eg assault or rape.
- 5 He will appear in court and you will be called to give evidence.
- 6 If found guilty, he will be sentenced to a maximum imprisonment term of five years or ordered to pay a fine.

