



Questions and Answers About Domestic Abuse

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Information

What is Domestic Abuse?

- Domestic abuse is an assault between people in certain types of relationships.

What is considered to be "an assault?"

- It can be:
 - pushing, hitting, kicking, holding, or shaking.
 - Unwanted sexual activity.
 - Other physical contact that could hurt you or is meant to hurt you.
 - Threatening you with a weapon.
 - Threats to hurt you, if there is the ability to carry out the threat.
- Most of the time, verbal abuse alone is not considered an assault under the domestic abuse laws.

What does "certain types of relationships" mean?

Domestic abuse is an assault which occurs between people who are:

- married;
- divorced;
- Living together or have lived together within 1 year before the assault took place;
- have children together; or
- are in an intimate relationship (a significant romantic involvement that does not have to include sex).

How can Iowa law help protect me from domestic abuse?

- Iowa law makes domestic abuse a crime.
- The police must help victims of domestic abuse and arrest people who have committed domestic abuse.
- Abusers must serve time in jail if they are convicted of domestic abuse.
- The law provides ways for victims of domestic abuse to get protective orders against their abusers.

What is a Protective Order?

A Protective Order is an Order which:

- Is from a Judge
- Prohibits an abuser from having contact with the victim
- Prohibits the abuser from continuing acts of domestic abuse.

An abuser can be arrested for violating a protective order.

What kinds of Protective Orders are there?

- One kind is usually called a "criminal no contact order."
 - It is issued when an abuser has been arrested and charged with the crime of domestic abuse.
 - It is issued as part of the criminal case.
- The second kind of protective order is often called a "civil protective order."
 - A victim of domestic abuse gets a civil protective order by starting a court action, where a victim asks the court for protection.
 - A judge can issue a protective order as part of this court case.
 - A victim of domestic abuse can file a court case to get this kind of protective order even though the police were not called and even if the abuser has not been charged with a crime.

The rest of these questions and answers are mostly about civil protective orders.

What good does a Protective Order do?

A protective order:

- Prohibits an abuser from contacting the victim.
- Orders the abuser to stay away.

- Is supposed to be enforced by the police.
- The police can arrest an abuser who violates a protective order.
- An abuser may have to serve time in jail for violating a protective order.

How do I get a Protective Order?

- Go to the Clerk of Court's office at your county courthouse.
- Ask for the form to get a Protective Order.
- Fill out the form and return it to the Clerk of Court.
- The Clerk of Court will either have you see a judge, or the Clerk of Court will show the form to the judge.

What happens next?

- The judge will review the information you wrote on the form.
- If the judge thinks you need protection from domestic abuse, the judge will issue a temporary protective order which will take effect right away and is good until there is a court hearing in your case.
- The Judge will also schedule a court hearing. The court hearing is usually 10-15 days after you completed the forms at the Clerk's office.
- After you have your hearing in court, the judge will issue a protective order that can last up to 12 months if the judge finds that you need protection from domestic abuse.

Can I get a protective order even if the police would not file criminal charges against the abuser?

- Even if the police won't file criminal charges, you can still file your action to get a protective order.
- If you prove to the court that the abuser committed domestic abuse, the judge can issue a protective order.

Do I need a lawyer to get a protective order?

- You do not need to have a lawyer to file the paperwork to get a protective order but if you want you can have a lawyer help you.
- The forms are written so you can fill them out without a lawyer.
- You can also get help in filling out the forms from advocates at domestic abuse shelters. Also, you do not need to have a lawyer to go with you to the court hearing that is scheduled in your case, but sometimes it is better to have an attorney with you at the court hearing. Attorneys from Iowa Legal Aid often represent victims at these types of hearings.

What happens at the hearing that is scheduled in my case?

- You will testify under oath about what happened and why you think you need a protective order.
- Anyone else who saw what happened may also testify.
- The abuser may testify.
- After hearing the testimony, the judge will decide whether domestic abuse occurred and whether you need a protective order that can last for up to a year.
- If the judge does decide a protective order should be issued, the judge will issue that order and give copies of it to you and the abuser, and also to the police.

How do I prove there has been domestic abuse?

- The types of evidence you need to show domestic abuse can be your testimony, and testimony of any witnesses who saw what happened.
- Many times there are no witnesses.
- You can also present evidence like medical records or photographs if they show that domestic abuse has occurred.
- If you called the police, police records could be presented as evidence.

How soon does a protective order take effect?

- A temporary protective order is usually issued when the judge reviews the form you filled out at the Clerk of Court's office.
- It takes effect when it is given to the abuser. It must be delivered to the abuser by the Sheriff, who usually tries to do that as soon as possible.
- If the Judge issues a protective order after a hearing, that order takes effect when it is delivered to the abuser. Sometimes it is given to the abuser immediately after the hearing. Sometimes it is delivered to the abuser by the Sheriff.

How long does a protective order last?

- A temporary protective order lasts until:
 - the court hearing in your case, or
 - until a judge cancels the order.
- The protective order issued after a hearing usually lasts for 1 year. The order will state the date that the order expires.
- An order can be cancelled by a judge before the date it is supposed to expire, upon the request of a party.
- Only a judge can cancel an order before its expiration date.

What about the kids?

- You can ask the court to give you custody of the kids.
- You can also ask the court to let you stay in the family home and keep the abuser away from the home.
- At the hearing in your case, the judge may set up visitation between the kids and the abuser.
- The Judge is supposed to set up visitation that would keep you and the children safe.

My partner is abusive to me and the kids. Can I get a protective order for my kids, too?

- The law does not allow the Judge to issue a protective order to keep a parent away from his or her children.
- A protective order issued to protect you could include terms for custody and visitation designed to keep you and the children safe.

- Under Iowa law, the Department of Human Services is the agency which investigates abuse of children and takes action to prevent child abuse.

What if I want a protective order but still need to talk to my abuser about the kids?

- Sometimes a protective order will allow for telephone contact about visitation or the children.
- It may allow both of you to be at children's activities at the same time.
- Make sure your lawyer (or the Court, if you don't have a lawyer) knows what your wishes are about this type of contact.

What about clothes and things? If there is a protective order how can the abuser get work clothes he or she needs?

- The protective order may let the abuser come to the house to pick up personal items.
- A peace officer would have to be present.
- If you prefer, you can ask to drop personal items off with a family member or friend.

Do I need to move if I get a protective order?

- The protective order may let you stay in the home during the time that the order is in effect and order the abuser to stay away from the home.
- If you decide you want to move, the protective order would make the abuser stay away from your new home.

Is it true that I would go to jail if  or meet with the abuser when there is a protective order?

View it on the original
website

- Read any protective order closely and do what it says.
- If it says no communication, you should not call or talk to the abuser.
- You should not have family members or friends give messages to the abuser.
- Communication should be through your lawyer.
- You could be charged with the crime of aiding and abetting a contempt of court if you contact the abuser in violation of a protective order.
- You could have to serve time in jail if you were convicted of aiding and abetting a contempt of court.

My abuser said he would really hurt me if I got a protective order. What can I do?

- Make a plan for your safety before you file a protective order.
- You can talk to someone at your local domestic abuse shelter to help you make a safety plan.
- Call the Domestic Violence Hotline (1-800-942-0333) or talk to your lawyer.
- You may want to stay at a shelter for a time.
- Even though the police have a duty to enforce protective orders, an abuser could break the law and hurt you.
- If you get a protective order and see the abuser near your home, call 911 immediately.