

YOUR RIGHT NOT TO BE A VICTIM OF DOMESTIC VIOLENCE

What is an Act of Domestic Violence?

Physical abuse

This means any act of physical violence to a complainant; any threatened act of physical violence towards a complainant.



Sexual abuse

This means any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant.

Emotional, verbal and psychological abuse

This means, a pattern of humiliating and degrading conduct towards a complainant, and it includes:

- Repeated insults, ridicule or name calling;
- Repeated threats to cause emotional pain;
- Repeated obsessive, possessive or jealous behaviour that is a serious invasion of the complainant's privacy, freedom or security.



Economic abuse

And this includes:

- Unreasonably depriving a complainant of economic or financial resources that a complainant has a right to, in law;



- Unreasonably depriving a complainant of economic or financial resources that a complainant needs and must have;
- Unreasonably depriving a complainant of household necessities, mortgage bond repayments or payment of rent if the parties are living together;
- Unreasonable disposal (sale/giving away) of household goods or other property in which the complainant has an interest.

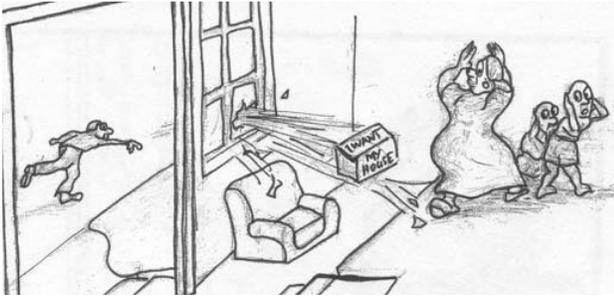
(Has an interest: The complainant owns it, paid for all or part of it, or, has a right to it in terms of the property system of the marriage of the parties.)

(Economic and financial resources: Money, income, investments, savings.)

(Mortgage bond: Money borrowed from a bank to buy a house; and the debt, plus interest charged by the bank, is repaid in installments over a number of years. If the installments are not paid regularly, the bank takes the house, sells it and keeps the money as repayment of the debt.)

Intimidation

This means threatening a complainant and causing the complainant to be afraid; this includes speaking the threat, conveying (as a message) or causing a complainant to receive the threat.



Harassment

Behaving in a way that makes a complainant feel afraid of being harmed and this includes;

- Repeatedly watching or loitering outside or near the building or place where the complainant lives or works, carries on business, studies or happens to be;
- Repeatedly making telephone calls to the complainant, or getting someone else to make

such telephone calls to the complainant; this is an act of domestic violence even if there is no conversation;

- Repeatedly sending packages, faxes, electronic post (E-mail), or any other objects to the complainant.

Stalking

This means repeatedly following, pursuing, or accosting the complainant.



Damage to property

Willful/intentional damage to, or destruction of, the property belonging to the complainant by the respondent; this includes property in which the complainant has a vested interest.

Entry into the complainant's residence without consent

Where the complainant and the respondent do not share the same residence.

Any other controlling or abusive behaviour towards a complainant

This means conduct that harms, or that may cause imminent harm, to the safety, health or well being of the complainant.

(Imminent: ready to happen.)

Who is the Victim of Domestic Violence?

The complainant - The victim/person who is abused in a domestic relationship.

A complainant is any person, and any child in that person's care:

- Who is in a domestic relationship with a respondent;
- Or who has been in a domestic relationship with a respondent;
- And who is or has been the victim of an act of domestic violence by the respondent;
- Or who allegedly is or has been the victim of an act of domestic violence by the respondent.

(Allegedly a victim: has not been proved to be a victim, but could be proved to be a victim of domestic violence.)





Who commits the Act of Domestic Violence?

The Respondent - The person who abuses another person in a domestic relationship

A respondent is any person:

- Who is in a domestic relationship with a complainant;
- Or who has been in a domestic relationship with a complainant;
- And who has committed an act of domestic violence against the complainant;
- Or who has allegedly committed an act of domestic violence against the complainant.

(Allegedly committed: has not been proved to have committed, but could be proved to have committed, an act of domestic violence.)

A Domestic Relationship between a Complainant and a Respondent

A domestic relationship means:

They are, or were, married to each other according to any custom, religion or law.

They live or have lived together, in a relationship that is like a marriage:

They may be of the same sex (two men or two women) or of the opposite sex (a man and a woman).



They are the parents of a child:

Or, they are persons who have had parental responsibility for that child. They need not have had the parental responsibility at the same time.

They are family members:

Related by blood, affinity or adoption.

They are or were engaged (to be married), dating or in a customary relationship:

This includes an actual or perceived romantic, intimate or sexual relationship of any duration.

They share or recently shared:

The same residence (lived in the same household.)

(Interpretation: of any duration for any length of time, whether long or very short.

Actual real, existing.

Perceived to be aware of; to think/believe that it is a relationship.

Dating - going out together.)

How Can you Protect Yourself Against Domestic Violence?

A Protection Order:

The victim/complainant may apply to the court for a protection order, and the application may be made outside of ordinary court hours and on days that are not ordinary court days.

When the court issues a protection order, the court authorizes the issue of a warrant of arrest, for the arrest of the abuser/respondent. The abuser will be arrested if he/she abuses the victim/complainant again.



A Criminal Charge:

The victim/complainant has a right to bring a criminal charge against the abuser/respondent if the act of domestic violence contained an element of violence because this is a criminal offence.

Who has a Duty to Help the Victim/Complainant?

Any member of the South African Police Service must assist (help) a complainant/victim of domestic violence, in any way that the complainant needs to be helped. This includes:

- helping the complainant to make arrangements to find a safe place to stay;
- finding a safe place for the complainant to stay; and
- obtaining/getting, medical treatment for the complainant.



Any member of the South African Police service:

- Must give a complainant information about rights at the time and place where the domestic violence is happening/happened, or as soon as possible after the domestic violence happened, or when the domestic violence is reported.
- Must explain to the complainant the contents of the notice that sets out the rights of a victim of domestic violence. This explanation must include the remedies that the complainant has in terms of the Domestic Violence Act No 116 of 1998 and the right that the complainant has to lay a

criminal charge, if the act committed has an element of violence.

When and where any member of the South African Police Service must explain the notice about rights, to the complainant:

At the time and place where the domestic violence is happening/happened, or as soon as possible after the domestic violence happened, or when the domestic violence is reported.

The clerk of the court must:

If the victim/complainant does not have a legal representative, inform the victim/complainant of the relief/remedies available to the victim/complainant in terms of the Domestic Violence Act, and, the complainant's right to bring a criminal charge against the abuser/respondent, if the abuser/respondent has committed a criminal offence.

(Interpretation: Criminal offence - An act of domestic violence containing an element of violence.)

Do you want to know more about your rights not to be the victim of domestic violence?

For example:

- How to use the warrant of arrest that is issued by the court, for the arrest of the abuser/respondent, at the same time that the protection order is granted;
- Arrest without a warrant of a person who has committed an act of domestic violence;
- Persons who may apply for a protection order on behalf of the victim of domestic violence;
- The issuing of an interim protection order;
- The seizure of firearms and dangerous weapons from the respondent;

- Orders that a court may make about monetary relief for the victim/complainant when the court grants a protection order.

The Domestic Violence Act No 116 of 1998 has been rewritten in simple language so that you can understand and know your rights and obligations.