

What happens if the abuser ignores the protection order?

It is a crime to ignore a protection order. The police can arrest the abuser.

What happens if the victim ignores the protection order?

If you make contact with the abuser, the abuser has not committed a crime even if the protection order has a no-contact rule. But you should remember that the court made a protection order for you because you were suffering from domestic violence. By going back to the abuser, you may be at risk of more violence.

I am afraid to apply for a protection order because my partner will beat me.

If you can find a safe place to stay, you could leave your house and then apply for a protection order.

You can go to the police at the same time as applying for a protection order. You could lay a charge with the police and ask them to arrest the abuser straight away. If you are threatened by the abuser while he/she is on bail, you should contact the police. The bail will be cancelled.

I am afraid that my partner will beat me if he/she is given bail.

You should tell the police that you are afraid. The abuser may be given bail on the condition that he/she does not make contact with you. If he/she does then make contact with you, you can tell the police and he/she will be arrested again.

What is the penalty for ignoring a protection order?

The abuser could be given a fine of up to N\$8 000 or go to prison for up to two years, or both. The abuser might be put in prison for the weekend or be given work in the community to do instead of time in prison. This would allow the abuser to be punished while still remaining employed.

What if the victim lies and says that a protection order has been ignored?

It is a crime to lie to the police. The victim could be given a fine of up to N\$4 000 or go to prison for up to one year, or both.

I am too embarrassed to apply for a protection order. Everyone will laugh at me.

Applying for a protection order is private. If the case has to go to the Magistrate it is still private. People who publish information about the case without the court's permission can be punished. The person who does this could be given a fine of up to N\$10 000 or go to prison for up to one year, or both.



For more information see the Legal Assistance Centre's *Guide to the Combating of Domestic Violence Act*.



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Pocket GUIDE THE COMBATING OF DOMESTIC VIOLENCE ACT



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What is domestic violence?

Domestic violence is violence towards a family member or someone who is in a relationship with the abuser. When children are the victims, the violence is often referred to as "child abuse".

What is a domestic relationship?

- Marriage
- Living together
- Girlfriend and boyfriend
- Two people who are the parents of a child
- Parents and their children
- Family members with a domestic connection, such as where an uncle pays for the school fees of his niece and nephew

Examples of domestic violence

1. **Physical abuse**, such as beating, kicking or burning.
2. **Sexual abuse**, such as rape or forcing someone to have sexual contact.
3. **Economic abuse**, such as not allowing a person to have items or money they need or should expect to have (such as food or their own wages).
4. **Intimidation**, which is making someone afraid by using threats or similar behaviour.
5. **Harassment**, which is repeatedly following or communicating with someone in a way they do not want.
6. **Trespassing**, which is entering the home or property of someone without their agreement when they do not share the same home.
7. **Emotional or verbal abuse**, which is a pattern of behaviour that makes a person feel seriously upset or embarrassed. This could include repeated insults or jealous behaviour.
8. **Threatening** to do any of these things is domestic violence.

It is also domestic violence if a child is allowed to see physical, sexual or verbal abuse against a family member.



What can you do if you are experiencing domestic violence?

- (1) You can make an application for a protection order.
- (2) You can lay a charge with the police.
- (3) You can ask the police to give the abuser a formal warning.

You can go to the police and apply for a protection order at the same time.

What is a protection order?

A protection order is a court order saying that the abuser must stop the violent behaviour, stay away from the people who are being abused, or even leave the family home altogether.

How do you apply for a protection order?

1. Go to the Magistrate's Court. You do not need a lawyer and the Clerk of the Court will help you to fill in the forms.
2. You should take any witnesses who have seen the violence and any evidence you may have, such as medical records.
3. The Magistrate will look at your application. If there is enough evidence a temporary protection order will be made. The Magistrate may want more information before making a decision.
4. When the abuser is given the protection order, he/she must decide to accept it or to disagree with it.
5. If the abuser disagrees, an informal hearing will be held with the Magistrate. This hearing is private. At the hearing both people can tell their side of the story. The Magistrate will then decide whether or not to make a final protection order.
6. If the abuser accepts the protection order, the protection order becomes final without a hearing.
7. The court will send a copy of the protection order to the local police station.

When can you make an application for a protection order?

At any time. The Magistrate can make decisions on applications for protection orders after ordinary court hours or on weekends. But a protection order is only active once it has been given to the abuser. There is no fee for a protection order.

Who can get a protection order?

- Anyone who is experiencing domestic violence can apply for a protection order.
- If you are under 21, someone can ask for a protection order for you if you want.
- If a person is over the age of 21 but is afraid to apply for a protection order by themselves, someone else can apply on their behalf. The person suffering from the violence must agree to the application in writing, unless they are unable to do so (for example if they are unconscious).

Only a person who is covered by a protection order can make a report to the police that the protection order has been violated.

What does a protection order say?

All protection orders will order the abuser to stop the violence.

Each protection order is different, depending on the situation. The protection order might say:

- The abuser must hand in all weapons to the police.
- The abuser may not contact or come near the abused person.
- The abuser has to move out of the joint household. This will be ordered only if there has been physical violence. The court can make this order no matter who owns the house.
- The abuser must pay rent for the abused person to live elsewhere.
- The abuser may not destroy any joint property.
- The abuser must pay child maintenance for up to 6 months, to give the person who is suffering the abuse time to make an ordinary application for a maintenance order.



You can also ask that a protection order stops the abuser from making contact with other people. For example, if you were worried that the abuser might hurt your sister, she could also be included in the protection order – but she must give her written consent for this.

How long does a protection order last?

Each protection order is different. But the following points apply:

- A no-contact order can last for 3 years.
- If the abuser owns the house, he/she can be asked to move out for 6 months.
- If you own the house, the abuser can be asked to move out for any time period the court decides.