



FACT SHEET

DOMESTIC VIOLENCE DESTROYS OUR SOCIETY - HEAL OUR FAMILIES, HEAL OUR NATION

Domestic Violence Act, 1998 (Act 116 of 1998)

Domestic violence is a social evil. It impacts negatively on the daily lives of the victims. Families plagued by Domestic Violence are dysfunctional and individual members are prevented from realizing their full potential.

Everyone deserves the opportunity to grow as a human being and be treated with dignity and respect. Government places strong emphasis on the eradication of violence!

The Domestic Violence Act is progressive and constitutes a significant broadening of the current position. The Act recognizes domestic violence as a social evil and the fact that its victims are mostly women and children. Some of the important provisions in the Act, which will alleviate the plight of victims of domestic violence, include the following:

- It applies to any victim who is in a "domestic relationship", and not only to "parties to a marriage".
- It places a duty on a member of the SAPS to inform a victim of his or her rights at the scene of an incident of domestic violence.
- The Act provides that a peace officer may, without warrant, arrest any person at the scene of an incident of domestic violence whom he or she reasonably suspects of having committed an offence containing an element of violence.
- An application for a protection order may be brought on behalf of the complainant by any other person, including a member of the SAPS, who has a material interest in the well-being of the complainant.
- The Act makes provision for the granting of a protection order, which will be confirmed if the respondent (the alleged perpetrator) does not appear in court on the return date.
- Many victims do not make use of a protection order due to, amongst other things, financial concerns. The Act clearly indicates the terms which may be contained in a protection order, such as an obligation on the respondent to make rent or mortgage payments and to pay emergency monetary relief. Children are often used to regain control over the complainant, therefore contact with any child by the respondent may be refused, or structured contact may be ordered.
- In terms of the Act, firearms and other dangerous weapons may be seized in domestic violence situations.

- In terms of the Act a court, in granting a protection order, also issues a suspended warrant for the arrest of the respondent. It remains in force unless the protection order is set aside. If the respondent breaches the protection order, he/she will be arrested by the police. The Act also provides that the respondent be criminally charged for breaching the protection order and also with any other offence resulting from a complaint lodged by the applicant against the respondent.
- The Act allows for the complainant or respondent to apply for the amendment or setting aside of the protection order.
- The Act provides that proceedings are held *in camera*.
- The Act makes it clear that any party to proceedings may be assisted by a legal representative.
- In terms of this Act perpetrators of domestic violence may be sentenced to five year's imprisonment, thereby emphasizing the view that domestic violence is a serious crime.
- The Act now provides for a simple, quick and cost effective procedure in order to obtain protection from domestic violence.