

# DOMESTIC VIOLENCE

Leaflet No. 7



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This leaflet is not an interpretation of the law.

## What is Domestic Violence?

Domestic violence is physical, sexual, emotional or psychological violence which threatens the safety or welfare of family members, and certain people in other domestic relationships.

## Can I and/or my children be protected from a violent person in our home?

Yes, you can:

1. Report the matter to the Gardaí. Physical and/or sexual violence is a crime. The Gardaí have the **power to arrest and charge** a person who is violent.
2. Apply to court for orders under the domestic violence legislation. A court may grant protection, barring and/or safety orders against a spouse or partner. These orders are made where it is necessary to protect the welfare or safety of the other spouse/partner and/or dependent children.

## What type of protection is available under domestic violence legislation?

There are four main kinds of protection available from the courts:

- **Safety Order** - a **safety order** prohibits a person from using or threatening violence towards the person who has been granted the order and/or any dependent children.
- **Protection Order** - a **protection order** is a temporary safety order which can be granted by a court when a person applies for a safety order and/or barring order. A protection order only lasts until the full court hearing of the application for a safety order and/or barring order.
- **Barring Order** - a **barring order** requires a person, against whom the order is made, to leave and stay away from the home (place of residence) of the person applying for the order and/or dependent children.
- **An Interim Barring order** - an **interim barring order** is a temporary barring order. It is only made in exceptional circumstances as it is granted without notice to the person against whom it is made. Where the court is of the opinion that there are reasonable grounds for believing that there is an immediate risk of significant harm to the applicant or any dependent person it may grant an interim order. An interim order made without notice to the person against whom it is made can last for no more than eight days. Further orders may be made until the full hearing of the case.

### **How long can an order last for?**

The District Court can make:

- a safety order for any period up to a maximum of five years; and
- a barring order for any period up to three years.

These orders may be renewed.

The Circuit and High Court can make orders for unlimited periods.

### **Who can apply for domestic violence remedies?**

The following people may apply for orders under the domestic violence legislation:

- **spouses**;
- **civil partners**;
- **cohabitees** who satisfy certain cohabitation/property requirements;
- **parents** of adult children who wish to seek orders against those children;
- **persons** living together in a relationship the basis of which is not primarily contractual; and
- a **parent** of a child against the other parent.

### **When may a court grant a safety order to cohabitees?**

A court may grant a safety order (including a protection order) if the parties have been living together in an intimate and committed relationship.

### **When may a court grant a barring order to cohabitees?**

A court may grant a barring order to cohabitees who have lived together in an intimate and committed relationship for six months during the nine month period before making the application.

### **When may a barring order NOT be granted to cohabitees?**

A barring order will not be made against a cohabitee who owns the place of residence or who has greater ownership rights than the cohabitee seeking protection.

### **Can I get a protection from an adult child?**

Yes, you can apply for either a safety or a barring order against an abusive adult child.

### **When will the court NOT grant a barring order against a child?**

A court will not grant a barring order against a child who:

- is dependent;
- owns the place of residence; or
- who has greater ownership rights than the parent seeking protection.

## **When can persons living together apply for protection against each other?**

Persons living together in the same house may apply for protection against each other. The person against whom protection is sought must be over the age of 18 years. However, the court will not grant protection if it considers that there is a contractual relationship between the persons.

## **Can a dependant child apply for protection?**

No. A **parent** may apply for protection on behalf of his/her own child. **The Health Service Executive** may apply for protection on behalf of a person and/or that person's dependent children in circumstances where the person cannot apply himself/herself.

## **What happens if a person does not obey a court order?**

A breach of any order made under the domestic violence legislation is a **criminal offence**. The Gardaí can arrest and charge a person who breaches such an order.

## **Other criminal offences**

Regardless of whether or not court orders are made under the domestic violence legislation, physical and/or sexual violence is a crime. The Gardaí have the power to arrest and charge a person who is violent. In the case of married persons it is also an offence to remove household items from a family home while there are proceedings pending under the domestic violence legislation.

## **The Court can make other orders at the same time as Domestic Violence Orders**

At the same time as the Court is hearing the application for an order(s) under the domestic violence legislation it can also make maintenance, custody and access, child care and orders under the Family Home Protection Act. Generally, courts prefer separate applications for these orders to be made.

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