

QuickLaw answers your questions

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QUICKLAW GUIDE





Domestic Violence

What is domestic violence?

Domestic violence means any controlling or abusive behavior that harms the health or safety of the applicant and includes—

- a) physical abuse or threat thereof;
- b) sexual abuse or threat thereof;
- c) emotional, verbal or psychological abuse;
- d) economic abuse;
- e) intimidation;
- f) harassment;
- g) damage to property;
- h) where the applicant and the respondent do not stay in the same home, entry into the applicant's home without his or her consent.

What is a domestic relationship?

The complainant and respondent will be considered to be in a domestic relationship if they are:

- > married to each other according to any law, custom or religion;
- > living together in a long-term relationship without being married (cohabitation);
- > parents of a child;
- > family members related by blood, marriage or adoption;
- > dating each other or engaged to each other; or
- > staying together in the same home.

Who can apply for a protective/ restraining order?

- > All members of the public are eligible to apply for a restraining order.
- > Any aggrieved party who feels there is a justifiable reason to issue restrain or block another party from being permitted to take a specific course of action may apply to the Magistrates Court for a restraining order.

What remedies are available to a complainant?

A complainant can approach a court to apply for a protection order and s/he can lay a criminal charge/complaint against the respondent at a police station.

How to get a protection/restraining order?

- > Applicants must file an application to the clerk of their local Magistrate's Court.
- > After the application has been filed, it is allocated a case number. The matter is then assigned to a magistrate who will then allocate a date of the hearing.
- > Applicants are notified at the contact information provided on their application of the success or rejection of their restraining order application. It is the responsibility of the applicant to serve or pay for the serving of the restraining order to the other party.

- > In cases of domestic violence, police officers may be asked to serve the restraining order to the other party.
- > Approved restraining orders are available for pickup at the civil registry at the Magistrates Court where the application was filed.

What supporting documents are required?

- > A written affidavit (The Founding Affidavit) requesting a restraining order and a description of the circumstances and reasons for the order. This affidavit must be commissioned at the nearest police station.
- > Notice of Motion (Form 4) completed, describing the request for a restraining order.
- > A Certificate of Urgency can be attached if the matter is particularly time-sensitive (e.g. cases of spousal abuse) to be processed faster. (NOTE: A certificate of urgency is any written document outlining the reason for treating the matter as urgent).

How long will this service take?

- > The processing of a restraining order application without a Certificate of Urgency typically takes about a week.
- > A restraining order application accompanied by a Certificate of Urgency typically takes one to two days.

Consequences for violating a restraining order

- > If your abuser breaches, or breaks the conditions of the protection order, the complainant/victim is obliged to go to the police station and open a criminal case. The complainant must file an affidavit and in an explicit manner and include all forms and dates of abuse in the affidavit.

Where do I report GBV in Botswana?

- > National Sexual Assault Helplines
- > Botswana GBV Prevention and Support Centre.

For emergencies, call:

- > Gaborone: 749 568 87; 749 568 91; 742 650 81;
- > Francistown: 749 568 56; 747 140 70;
- > Gantsi: 749 568 53;
- > Molepolole: 749 568 99.
- > Women Against Rape: 0800 600 387 or +267 71 311 244.

How can LegalWise assist you?

Should you require an explanation of your rights on this topic, please contact your nearest Branch.