

PROTECTING YOURSELF AGAINST DOMESTIC VIOLENCE AND ABUSE



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In 2012, there were 14,792 incidents of domestic violence disclosed to the Women's Aid National Freephone Helpline. Of these, 67% were incidents of emotional abuse, 19% physical abuse and 10% financial abuse. Since 1996, there have been 194 women murdered in the Republic of Ireland. 117 of those women were killed in their own homes. In the resolved cases, 75 women (53%) were murdered by a partner or ex-partner. (Women's Aid Female Homicide Media Watch, Sept 2013).

These are frightening statistics. If you are experiencing any form of abuse in your home, then you should be aware that you may have the right to apply to court for a safety order or a barring order.

A safety order prohibits the person against whom the order is made (the respondent) from engaging in violence or threats of violence against you and your dependent children. It does not oblige that person to leave the family home. If the person does not normally live in the family home, it prohibits them from watching or being in the vicinity of where you and your dependent children live. A safety order can be granted for up to five years.

A barring order requires the respondent to leave the family home and stay away from your home. It may also include terms prohibiting the respondent from using or threatening to use violence. A barring order can be granted for up to three years.

If you have made the brave decision to apply for one of these orders, then the first thing you should do is contact your local district court office. They will arrange for a protection order application at the next available district court date. A Protection Order is a temporary safety or barring order. It gives protection to you, the applicant until the court decides on a safety or barring order application which will be heard at a future date. The protection order does not oblige the respondent to leave the family home. You will need to be in court on that date given to you by the district court. You should also contact the legal aid board if you think that you may qualify for legal aid and the board will arrange for you to have a solicitor present. The respondent will not be notified of this initial court date and shouldn't even be aware at this stage that you intend applying for a barring or safety order.

On that date given to you by the district court, the Judge will listen to your reasons for applying for a safety order or barring order. You do not need to tell the Judge at this stage



which order you are applying for. Your application will be heard in a private court where there will be just you, your solicitor, (if you have one), the Judge and the district court clerk and these are the only people who will hear the reasons why you feel you need a barring order or a safety order. This will be a very short application as the Judge will only need to hear brief details, just one example of the alleged abuse. If the Judge feels that you may need a safety or barring order, he will grant you a protection order there and then.

The district court will then serve a summons for a barring order/safety order on the respondent and he/she will be required by the summons to turn up in court at a given date to hear your case and defend the application if he/she so wishes.

If the respondent indicates to you that he will be present in court to object to the safety order or barring order application, it can be very daunting and I've often had to coax a client to go ahead with their application. Again, your application shall be heard in private but this time, the respondent and his/her solicitor may be present. You will be asked to explain to the Judge the reasons in more detail of why you feel you need the order. The Respondent will be entitled to tell the Judge why he/she thinks you should not get the order. This can be very intimidating considering that you have to give evidence to the Judge relating to the abuse which you have experienced at the hands of the person who is in the courtroom with you. (In some cases I have dealt with, the respondent has not shown up in court and your application can still go ahead in his/her absence.) All clients who I successfully coaxed into going ahead with the application were so proud of themselves after giving their evidence to the Judge and in fact felt that it was an empowering experience having felt powerless for so long. If you feel that you need to have that extra bit of support in court, you should contact YANA – You Are Not Alone. YANA is based at 27-28 Bank place, Mallow, Co Cork. They provide a telephone support service, open Monday to Thursday, 10.30am-12.20am and Friday 8pm-10pm and also provide court accompaniment. Their number is (022)53915.

The Orders will not only protect you but will also protect any of your children living with you. And most importantly, it gives An Garda Síochána powers to arrest without warrant where there is a breach of the court order.

If you have any queries regarding this article, please feel free to call me in confidence on (086) 1617418 or email me at jacquelyn@dunnesolicitors.ie.

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