

## LEGAL ISSUES

State of Illinois law provided protection for domestic violence in the *Illinois Domestic Violence Act*, which defines domestic violence as a crime and provides ways for victims to get assistance.

Victims who have experienced the following types of abuse may seek criminal charges through their local police department or area State's Attorney Office and/or may seek and Order of Protection (Criminal or Civil):

- Physical abuse
- Harassment
- Stalking
- Intimidation
- Interference with personal liberty

### Orders of Protection:

- Any person abused by a family or household member may be qualified for protection under the order.
- The abused person must have a specific relationship with the abuser, including:
  - are or were married
  - live together or used to live together
  - have children or stepchildren in common
  - have disabilities
  - other persons related by blood
  - date or have dated
  - live in or work at private home or shelter which houses domestic violence victims, minor children
- An Order of Protection may be filed by:
  - The abused person
  - Any person on behalf of a minor child or an adult who has been abused by a family or household member and who, because of age, health, disability, or inaccessibility, cannot file the petition,
  - Any person on behalf of a high-risk adult with disabilities who has been abused, neglected, or exploited by a family or household member.
- An Order of Protection is a legal document (piece of paper) signed by a judge that orders the abuser to stop the abuse and may order the abuser to:
  - stay away from the victim
  - move out of the home
  - get counseling for the abusive behavior

- An order may also grant to the victim:
  - Physical care of the children
  - Temporary custody of the children (not the same as above)
  - Reimbursement for household, medical expenses (Plenary only)
  - Child Support or maintenance (Plenary only)
  - Legal possession of personal property
  - Exclusive possession of the home (right to live in the shared home without the abuser)
  - Additional remedies are available. . .please consult a legal advocate

### **Types of Orders of Protection:**

- Emergency Order of Protection
  - Effective for 14-21 days; can be extended
  - Hearing for a Plenary Order of Protection will be set if Emergency Order is granted
  - Abuser need not be present at the hearing
  - Can be obtained on next working day of court after abuse occurs
  - Victims should apply for Emergency Order as soon as possible after the abuse
- Interim Order of Protection
  - Effective for 30 days (following expiration of the Emergency Order)
  - Abuser must be notified of the hearing
  - Usage will vary by jurisdiction
- Plenary Order of Protection
  - Effective for up to two years
  - Abuser must be notified of the hearing

### **Additional Notes on Orders of Protection:**

- There is no fee for any Order of Protection
- Interpreter services must be provided in Criminal Court
- Children can be protected under the same order as the victim
- An Order of Protection can be obtained in Civil, Criminal and Juvenile Courts
- The victim cannot violate the Order; only the abuser can violate it.
- Violation of an Order of Protection is a Criminal Offense
- Victims should carry the Order of Protection with her at all times and provide copies to persons responsible for children covered under the Order
- Victims must attend required court dates in order to maintain their Orders of Protection. Changes in the Order are possible at court dates.
- The Order of Protection is not a guarantee of safety. Victims should take precautions to protect themselves as well, and must call police to enforce and order if the abuser attempts to violate it.

