

Domestic Violence

Domestic violence is more common than we know. It affects rich and poor, white and black, young and old. It is a deep dark secret for a lot of people. The good news is that there is help for victims of domestic violence. The stigma that was formerly attached to it is diminishing so more people are coming forward to report it and to stop it. In addition, there are more resources available to assist victims and more programs available to treat abusers than before. The purpose of this pamphlet is to explain the law on domestic violence by answering frequently asked questions on the subject.



This pamphlet was prepared as a public service by the Communications Committee and is not intended to be a comprehensive statement of the law. North Carolina laws change frequently and could affect the information in this pamphlet. If you have specific questions with regard to any matters contained in this pamphlet, you are encouraged to consult an attorney. If you need an attorney, please contact the North Carolina Lawyer Referral Service, a nonprofit public service project of the North Carolina Bar Association, via phone (1-800-662-7660; local 677-8574) or online (www.ncfindalawyer.org).

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What is Domestic Violence?

Domestic violence is attempting to cause or intentionally causing bodily injury or placing the victim in fear of imminent serious bodily injury. Continued harassment can constitute domestic violence if it causes substantial emotional distress. There needs to be a current or former relationship between the victim and abuser such as spouses, roommates, parent/child, or boyfriend/girlfriend.

What Do I Do if I am the Victim of Domestic Violence?

Get safe immediately and call 911. If you do not have a safe place to go, go to a shelter or to a public place. Through the civil system you can seek a restraining order. The police can assist you in filing criminal charges.

Do I Have to File Criminal Charges?

No, but you should. The criminal court system has some procedures that the civil system does not have like probation and violent offender programs. These procedures can be very effective in dealing with abusers.

What is the Criminal Process?

The abuser will be arrested. He or she will have a bond hearing. If the circumstances war-

rant, the judge can deny bond. Most often, the judge will set a bond. If the abuser pays the bond, he or she will be released pending trial. One of the conditions of his release should be that he not have any contact with you pending trial. At the trial, you will be represented by the District Attorney. If the abuser is found guilty, the judge will sentence him or her. The terms and conditions of his or her sentence depend on various factors including what crimes the abuser committed against you and prior offenses.

How Do I Get a Civil Restraining Order?

You have to file a Complaint (lawsuit) seeking a Domestic Violence Protective Order (otherwise known as a restraining order). If it is at night or on the weekend, you do this through the magistrate's office. If it is during the week, you do it through the civil clerk of court. In the Complaint, you set out the details of the act of violence or threat of violence that caused you to seek the Domestic Violence Protective Order. You will then appear before the judge or magistrate to describe what happened. If the judge or magistrate determines you are entitled to an emergency Ex Parte Protective Order, it will be issued at that time. Your abuser is not notified or present for the emergency hearing. The emergency order is valid until there can be a hearing on the issue, at which hearing the abuser will be present. This hearing is held

within 10 days. If the judge determines at the full hearing that you are entitled to a Domestic Violence Protective Order, one will be issued. This order will be valid for one year, but may be renewed at the end of one year for an additional time of up to two years.

What About Custody and Child Support?

The judge may deal with these issues in the domestic violence process. However, many judges prefer that those issues be handled in a separate court action.

What About Alimony and Property Division?

The court will not deal with these issues in the domestic violence process. You will need to file a separate Complaint seeking alimony and equitable distribution.

How Do I Find an Attorney?

You may contact the N.C. Lawyer Referral Service; contact information is provided on the back panel of this pamphlet and on the Web site of the North Carolina Bar Association (www.ncbar.org). If you cannot afford an attorney, you should contact the Legal Aid of North Carolina office serving your county.