

NEED A LAWYER?

Contact the North Carolina Lawyer Referral Service



ncfindalawyer.com
1.800.662.7660 (toll free)
Monday–Friday, 8 a.m. – 5 p.m.

The North Carolina Lawyer Referral Service (LRS) can refer you to a lawyer near you. LRS lawyers charge no more than \$50 for up to a 30-minute initial consultation. **This is not a pro bono referral service.** We do not make referrals to lawyers who work for free.

NORTH CAROLINA
BAR ASSOCIATION
seeking liberty + justice

THIS IS THE LAW

DOMESTIC VIOLENCE

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) or online (www.ncfindalawyer.com).

The North Carolina Bar Association does not intend to signify approval or endorsement of their work or views of agencies and firms distributing this pamphlet. For other pamphlets check your local public library or, for additional free pamphlets, please send a self-addressed stamped envelope to:

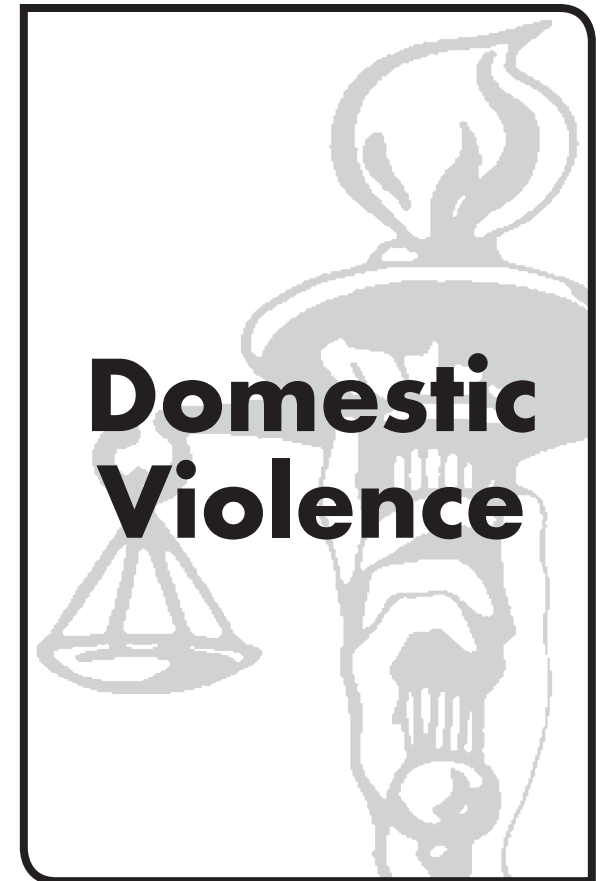
North Carolina Bar Association
Attention: Pamphlet Program
P.O. Box 3688 • Cary, NC 27519
Visit our website at nccbar.org

©2005 North Carolina Bar Association
Revised 2017

NORTH CAROLINA
BAR ASSOCIATION
seeking liberty + justice

THIS IS THE LAW

DOMESTIC VIOLENCE



Published as a Public Service
by the Communications Committee of the
North Carolina Bar Association

NORTH CAROLINA
BAR ASSOCIATION
seeking liberty + justice

DOMESTIC VIOLENCE

Domestic violence affects people of every race, age and economic level. If you are a victim of domestic violence, or know someone who is, you are not alone. The good news is that there is help for victims of domestic violence. The stigma of being a domestic violence victim is diminishing, so more people are coming forward to report it. Laws in North Carolina are improving to help reduce domestic violence. There are more resources to assist victims and there are more programs to treat abusers. The purpose of this pamphlet is to explain the law on domestic violence by answering commonly asked questions.

What is domestic violence?

Domestic violence has a legal definition. To be a victim of domestic violence by law in North Carolina, the abuser must be one of the following:

- your former or current spouse, household member, or boyfriend/girlfriend
- your parent, or your child.

Acts of domestic violence include:

- attempting to cause bodily injury,
- intentionally causing bodily injury
- placing the victim in fear of imminent serious bodily injury.
- sexual violence such as rape, or sexual battery and/or
- continued harassment and stalking if it causes substantial emotional distress.

What do I do if I am the victim of domestic violence? Immediately get to a safe place 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 consider it. The criminal court system has options that the civil system does not have, such as probation or penalties for repeat offenders. These options can be effective in preventing future abuse.

What is the criminal process? • The abuser will be arrested. He or she will have a bond hearing. If the circumstances warrant, 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 release should be that he or she 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 of their sentence depend on various factors including what crimes the abuser committed against you and their criminal history.

How do I get a civil restraining order? • You have to file a complaint (lawsuit) seeking a Domestic Violence Protective Order. In North Carolina, these orders are also

called a restraining order, a DVPO, or a "50B". If it is at night or on the weekend, you do this through your local 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 reasons you are seeking the order. You need to list the acts of violence, threats of violence, and/or harassment and stalking and when they occurred. You should include the effect it has had on you. 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 order, it will be issued immediately. The order is called an ex parte order because your abuser is not notified or present for the hearing. The ex parte order is valid until there can be a hearing. The order can only be enforced after the abuser is served with a copy of your complaint and the ex parte order.

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. If you and the other party agree to do so, you may also enter a domestic violence order by consent, without your abuser admitting guilt. This order will be valid for up to one year, but may be renewed at the end of one year for up to an additional two years.

How long will the domestic violence protective order be in place? • The judge may enter an order to be in place for up to one year. An order may be renewed at the end of one year for up to an additional two years. To renew the order, you need to file a motion with the court before the current order expires. You do not need to show that any new acts of domestic violence have occurred to have the restraining order renewed. You can ask that the order be renewed multiple times.

What about custody of our children? • The judge is required to address custody of the children by law if you request it. But many judges prefer that those issues be handled in a separate court action. Even if the judge enters an order regarding custody as part of the domestic violence protective order, that part of the order cannot last more than one year. So you will probably need to file a separate complaint seeking custody as soon as possible.

What about child support, alimony and property division? • The judge can deal with financial issues on a limited basis in the protective order. Judges usually address temporary possession of the home and possession of vehicles. But many judges prefer to handle financial issues in a separate court action. You will probably need to file a separate complaint to ask for child support, alimony and property division.

How do I find an attorney? • You may contact the North Carolina Lawyer Referral Service (see back panel). If you cannot afford an attorney, contact the Legal Aid of North Carolina office serving your county.

THIS IS THE LAW

DOMESTIC VIOLENCE

For more information, please contact the North Carolina Coalition Against Domestic Violence at **1.888.232.9124** or visit **www.nccadv.org/**.

For Domestic Violence Programs across the state of North Carolina, please visit the North Carolina Council for Women's Domestic Violence Programs Directory at **http://www.doa.state.nc.us/cfw/displayprograms-dv.aspx** or call **1.877.502.9298**.

For an attorney referral, please contact the NCBA's Lawyer Referral Service (see ad, reverse), or visit **ncfindalawyer.com**.

Published as a Public Service
by the Communications Committee of the
North Carolina Bar Association

NORTH CAROLINA
BAR ASSOCIATION
seeking liberty + justice