

South Africa
Bill
1998
The Republic of South Africa

DOMESTIC VIOLENCE BILL

(As introduced in the National Assembly)

(MINISTER OF JUSTICE)

[B 75-98]

WETSONTWERP OP GESINSGEWELD

(Soos ingedien in die Nasionale Vergadering)

(MINISTER VAN JUSTISIE)

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[W 75-98]

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BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:-----

Definitions

- 1.** In this Act, unless the context indicates otherwise----
- i) “applicant” means any person, including any child, who is or has been in a domestic relationship with the respondent and who makes an application in terms of section 4; (ii)
 - ii) “arm” means any arm as defined in section 1 (1) or any armament as defined in section 32(1) of the Arms and Ammunition Act, 1969 (Act No.75 of 1969); (xxiv)
 - (iii) “clerk of the court” means a clerk of the court appointed in terms of section 13 of the Magistrate’s Court act, 1944 (Act No.32 of 1944), and includes an assistant clerk of the court so appointed; (xv)

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DOMESTIC VIOLENCE ACT, 1998

(ACT ____ OF 1998)

1. (a) I _____ (Full Names)
with Id.No./Date of Birth: _____ with the following particulars
Residential Address: _____

(Tel. No. _____)
- Business Address: _____

(Tel. No. _____)
- Occupation: _____
Nature of the Domestic Relationship with the Respondent _____
(Hereinafter referred to as the APPLICANT) ; or
- (b) I _____ (Full Names)
with Id.No./Date of Birth: _____ with the following particulars
Residential Address: _____

(Tel. No. _____)
- Business Address: _____

(Tel. No. _____)
- On behalf of: _____
(Hereinafter referred to as the APPLICANT)
with Id.No./Date of Birth: _____ with the following particulars
Residential Address: _____

(Tel. No. _____)
- Business Address: _____

(Tel. No. _____)
- Occupation: _____
Nature of the Domestic Relationship with the Respondent _____
On whose behalf the application is brought due to _____
_____ (state the relationship
or concern) **and whose consent has been obtained** (except if the applicant is a minor):

2. **HEREBY APPLY FOR A PROTECTION ORDER AGAINST:-----**
with Id.No./Date of Birth: _____ with the following particulars
Residential Address: _____

(Tel. No. _____)
- Business Address: _____

(Tel. No. _____)
- Occupation: _____
(Hereinafter referred to as the RESPONDENT)

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-
- (a) *Not to commit any act of domestic violence;
 - (b) *Not to enlist the help of another person to commit any act of domestic violence;
 - (c) *Not to enter the shared household;
 - (d) *Not to enter a specified part of the shared household;
 - (e) *Not to enter the Applicant's residence;
 - (f) *Not to enter the Applicant's place of employment;
 - (g) *Not to prevent the Applicant or any child who ordinarily lives or lived in the shared household or any part thereof; or
 - (h) *Not to commit any other act;
- As requested and/or specified in the affidavit(s).**

6. **I further request the Court to order that:**

- (a) * A member of the South African Police Service is to accompany the Applicant to the residence specified in the application to supervise the collection of the Applicant's personal property;
- (b) * A member of the South African Police Service is to seize the arm or dangerous weapon as specified in the affidavit;
- (c) *The Respondent is to pay the rent or mortgage payments specified in the affidavit;
- (d) *The Respondent is to pay emergency monetary relief as specified in the affidavit;
- (e) *The Respondent is to pay educational expenses as specified in the affidavit;
- (f) *The Respondent is refused any contact with the child or children as specified in the affidavit;
- (g) *The Respondent is granted structured contact with the child or children as specified in the affidavit; or
- (h) *The address of the Applicant's residence not be disclosed to the Respondent.

7. I am likely to report a breach of the Protection Order at the _____
Station of the South African Police Service.

8. Additional conditions requested as per the affidavit: _____

DEPONENT

DATE

9. I certify that before administering the *oath/taking the affirmation I asked the Deponent the following _____ questions and noted *oath/taking the affirmation I asked the Deponent the following questions and noted _____ *his/her answers in *his/her presence as indicated below:---

- (a) Do you know and understand the contents of the above declaration?
Answer _____

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DOMESTIC VIOLENCE ACT, 1998

(ACT ___ OF 1998)

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF _____

HELD AT _____ APPLICATION NO. _____ / _____

In the matter between:

APPLICANT: _____

(*Id. No./Date of Birth: _____)

AND RESPONDENT: _____

(*Id. No./Date of Birth: _____)

1. Respondent's Particulars:---

Residential Address: _____

(Tel. No. _____)

Business Address: _____

(Tel. No. _____)

Occupation: _____

2. Whereas the Applicant (or _____ on behalf of the Applicant), has applied for an Interim Protection Order against the Respondent, as per the affidavit(s) and record of oral evidence (if any) attached, and after consideration of the application;

3. The Court orders that the application for an interim order be--

3.1 *Dismissed; or

3.2 *Granted; and the Respondent is ordered:

3.2.1 *Not to commit the following act(s) of domestic violence _____

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3.2.2 *Not to enlist the help of another person to commit the acts of domestic violence specified in paragraph 3.2.1;

3.2.3 *Not to enter the shared household at _____

3.2.4 *Not to enter the following parts of the shared household _____

at _____

3.2.5 *Not to enter the Applicant's residence at _____

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DOMESTIC VIOLENCE ACT, 1998

(ACT ___ OF 1998)

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF _____

HELD AT _____ APPLICATION NO. _____ / _____

In the matter between:

APPLICANT: _____

(*Id. No./Date of Birth: _____)

AND

RESPONDENT: _____

(*Id. No./Date of Birth: _____)

TO ALL PEACE OFFICERS:

Whereas *the attached Protection Order/a Protection Order as attested to by the Applicant in the attached affidavit, was granted against the Respondent by the Magistrate's Court for the district of _____ on the day of _____ 19____; and

Whereas the Applicant has stated in the affidavit attached that the Respondent has breached (a) condition(s) of the Protection Order;

Therefore you are hereby authorised and ordered to forthwith arrest the Respondent in terms of the Domestic Violence Act, 1998.

GIVEN UNDER MY HAND AT _____ THIS _____ DAY OF 19_____.

MAGISTRATE

DATE

***Delete whichever is Dot applicable**

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DOMESTIC VIOLENCE ACT, 1998

(ACT __ OF 1998)

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF _____

HELD AT _____

APPLICATION NO. _____/_____

In the matter between:

APPLICANT: _____
(*Id. No./Date of Birth: _____)

AND

RESPONDENT: _____
(*Id. No./Date of Birth: _____)

Whereas the Applicant has applied for a protection order, and

After considering the facts of the matter;

The Court orders that the interim protection order be:

I. * Confirmed;

2. Amended as follows:

_____ ; or

3. *Set aside.

Dated at _____ this ____ day of _____ 19 ____.

MAGISTRATE

DATE

***Delete whichever is not applicable**

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DOMESTIC VIOLENCE ACT, 1998
(ACT - OF 1998)

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF _____

HELD AT _____ APPLICATION NO. _____/_____

In the matter between:

APPLICANT: _____
(*Id. No./Date of Birth: _____)

AND

RESPONDENT: _____
(*Id. No./Date of Birth: _____)

1. I _____ (Full Names)
(*Id. No./Date of Birth: _____)

Residential Address: _____
(Tel. No. _____)

Business Address: _____
(Tel. No. _____)

Occupation: _____
(Hereinafter referred to as the APPLICANT)

Hereby declare under oath/solemnly affirm that-----

A Protection Order was granted on the _____ day of _____ 19____ in the Magistrate's Court at _____ against _____ (Full Names)

Residential Address: _____
(Tel. No. _____)

Business Address: _____
(Tel. No. _____)

Occupation: _____
(Hereinafter referred to as the RESPONDENT)

2. * A copy of the Protection Order (indicating what orders were made), and the original Warrant of Arrest are attached.

3. * A copy of the Protection Order and/or the original Warrant of Arrest cannot be attached for the following reasons:

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ORDER

DOMESTIC VIOLENCE ACT, 1998

(ACT - OF 1998)

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF _____

HELD AT _____ APPLICATION NO. _____ / _____

In the matter between:

APPLICANT: _____
(*Id. No./Date of Birth: _____)

AND

RESPONDENT: _____
(*Id. No./Date of Birth: _____)

I, I _____ (Full Names)
(*Id. No./Date of Birth: _____)

Residential Address:

(Te. No. _____)

Business Address:

(Tel. No.) _____

Occupation: _____

(Hereinafter referred to as the APPLICANT)

Hereby declare under oath/solemnly affirm that

A Protection Order was granted on the _____ day of _____ 19____ Magistrate's Court at _____ (against) _____ (Full Names)

Residential Address: _____
(Tel. No.) _____

Business Address: _____
(Tel. No.) _____

Occupation: _____

(Hereinafter referred to as the RESPONDENT)

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2. I hereby wish to apply for: -----

- (a) The setting aside of the above Protection Order; or
- (b) The amendment of the Protection Order as follows: ----

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PROTECTION ORDER

DOMESTIC VIOLENCE ACT, 1998

(ACT - OF 1998)

IN MAGISTRATE'S COURT FOR THE DISTRICT OF THE _____

HELD AT _____ Application No. _____ / _____

In the matter between:

APPLICANT: _____

(*Id. No./Date of Birth: _____)

AND

RESPONDENT: _____

(*Id. No./Date of Birth: _____)

1. **Whereas** a Protection order was granted against the Respondent on the _____ day of _____ 19_____
in the Magistrate's Court for the district of _____
and

2. **Whereas** the Applicant has applied for the *amendment/setting aside of the said
Protection Order;

3. **Therefore** the Court orders that ----

3.1 *The Protection Order is set aside; or

3.2 *The Protection Order is amended as follows:

Dated at _____ this ____ day of _____ 19 ____.

MAGISTRATE

DATE

***Delete whichever is not applicable**

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potentially serious repercussions against a respondent without having heard him or her. Provision is made in the Bill for the granting of an interim protection order upon application. Since the most dangerous time for any domestic violence victim is separation from the abuser, the Bill provides that the interim protection order must be issued *ex parte*. The respondent has the opportunity to appear on a return date. (Clause 5.) If the respondent does not appear on the return date, the interim order is confirmed. (Clause 10.)

2.7 The relief provided for in the Act is limited. The Bill clearly spells out the terms which may be contained in a protection order. In times of crisis, financial matters are often a cause of great concern to victims of domestic violence. The Bill provides that the