Fighting Domestic Violence - Ghana

4. Protection for domestic violence victims and relief granted

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# 4.1 Civil protection orders

# 4.1.1 Are there civil protection orders available to victims of domestic abuse?

Yes. An applicant can apply for a civil protection order to prevent either another person, a person associated with the abuser (referred to as respondent), or both the respondent and the associate from carrying out a threat of domestic violence against them, or from them further committing acts of domestic violence.

Section 15 (2) of the Act covers what the protection order prohibits the respondent from doing.

Section 17 (1) details the conditions of the protection order for the respondent and the behavior/actions they must take.

In accordance with Section 22, anyone who breaks a protection order commits an offense and is liable to a fine of not less than five penalty units and no more than 500 penalty units, or to a term of imprisonment between one month and two years, or both.

# 4.1.2 Who can petition for civil protection orders?

An "applicant" as denoted in the Act can apply to a court for a protection order. The applicant can file this in a court in the jurisdiction where he/she resides, is employed or has a business, or where the respondent resides, or is employed or is business, or wherever the domestic violence occurred/is occurring.

A court can issue a civil protection order on its own volition for an applicant if a criminal proceeding in relation to the domestic violence is already pending.

# 4.1.3 Are there temporary custody of a child or child support orders?

Whenever special protection for a child is needed, the court can refer matters concerned with the temporary custody of a child in a situation of domestic violence to a Family Tribunal.

# 4.1.4 Is there a provision to order the abuser to move out or stay away from places that the victims frequent?

Yes, this is covered under an occupation order. The court may order the respondent to vacate the matrimonial home or other specified home, after considering a social and psychological inquiry report prepared by a social welfare officer and clinical psychologist. Additionally, a landlord cannot evict an applicant solely on the basis that the applicant is not a party to a lease.

# 4.1.5 Are there any other types of emergency, preventive and civil protection orders?

Interim protection orders serve as emergency short-term orders.

# 4.1.6 Can these orders be requested by direct or indirect victims or legal representatives in children's cases?

The Act does not directly touch upon children's cases or civil protection orders for children. However, the Children's Act 560 (1998) and the National Domestic Violence Policy (2009) state that the courts must refer children's cases to Family Tribunals and refer child perpetrators to juvenile court.

# 4.1.7 Are there different types of civil protection orders, e.g., for a short- term period?

Yes. If the application for a civil protection order is made *ex parte*, the court can issue an interim protection order if it is in the best interest of the applicant. The court must consider whether the following apply:

There is a risk of harm to the applicant or someone in relation to the applicant if the protection order is not issued immediately.

It is likely that the applicant will be deterred or fully prevented from pursuing a protection order if an order is not made immediately.

There is reason to believe that the respondent is deliberately evading service of notice of the proceedings or that a person in a domestic relationship with the respondent will be prejudiced by the delay involved.

The interim civil protection order lasts for no more than three months. The court will summon the respondent to appear within the three-month period to show cause why the interim order should not be made final. If they fail to show without reasonable cause, the order will be made final.

# 4.1.8 Are ex parte orders permitted without the aggressor being present?

Applications for civil protection orders are made *ex parte*, unless the court otherwise orders it to be on notice.

# 4.1.9 Do emergency orders also extend protection for abuse and intimidation to family members of the victim?

The court may issue a civil protection order to prohibit a respondent from committing or threatening to commit an act of domestic violence personally against the applicant, or against a relation or friend of the applicant. A court can extend a protection order to someone specified in the order but who is not the applicant in the following circumstances:

The respondent is engaging in or has engaged in behavior that would amount to domestic violence against this specified person or if this specified person has been or is in a domestic relationship with the respondent.

The respondent's behavior toward the specified person is due in part or in whole to the applicant's relationship with the specified person.

The extension of the protection order to this specified person is necessary for his/her protection.

# 4.1.10 How long do the orders last?

A civil protection order will not exceed 12 months in the first instance. However, if good cause is shown, it can be extended, modified, or rescinded by the court.

# 4.1.11 Please provide any data or hyperlinks to government or NGO websites that include information on how often civil protection orders are issued, and any relevant demographics information, e.g., police reports, convictions, etc.

According to the [Ghana 2016 Human Rights Report](https://www.state.gov/wp-content/uploads/2019/01/Ghana-1.pdf) and the [Ghana 2019 Human Rights Report](https://www.state.gov/wp-content/uploads/2020/02/GHANA-2019-HUMAN-RIGHTS-REPORT.pdf), although the law prohibits domestic violence, it continues to be a problem.

The police seldom intervene in cases of domestic violence unless specifically called upon by The Domestic Violence and Victim Support Unit (DOVVSU).

In many instances, victims are discouraged from reporting abuse and cooperating due to long delays in bringing their cases to trial.

Forms are seldom completed due to fees associated with physicians' documentation needed for police medical forms.

According to the DOVVSU, of the 264 rape and assault cases sent to court in 2015, only 17 resulted in convictions.

Inadequate logistical capacity in the DOVVSU and other agencies (for instance, the lack of private rooms to speak with victims) hinders the full application of the Act. Lack of shelters makes occupation orders difficult to carry out. DOVVSU will contact NGOs to identify temporary stays, but authorities reported that officers occasionally had no alternative but to shelter victims in their own residences until other arrangements could be made.

According to Defense for Children International's [study on violence in Ghana](https://issuu.com/defenceforchildren/docs/violence_against_children_report_-_), domestic violence rates are still on the rise despite legal remedies like civil protection orders being available to victims. Institutions like the Domestic Violence Unit of the Ghana Police Service and the Social Services Department of the Local Assembly are not well resourced, and they lack the data and information necessary to perform their functions.

# 4.2 Steps for receiving a protective order

# 4.2.1 What documentation is needed to obtain a civil protection order?

Complaints must be filed with the police or applications filed with the court. To prosecute a case, victims must produce medical evidence documenting their injuries, but this is expensive and most victims do not have the means to pay for this.

# 4.2.2 Does the victim need to attend a hearing?

Yes. According to the [Act](http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88525/101248/F503368907/GHA88525.pdf), proceedings for a protection order will be held in private in the presence of the parties, their lawyers and any other person permitted by the court to be present.

# 4.2.3 Can you request remedies?

Victims of domestic violence in Ghana cannot request remedies under a protection order. However, the terms of the Act provide for the establishment of a fund that may be used for "basic material support of victims of domestic violence". There is no clarity in the Act as to how this fund is accessed or who is responsible for deciding or making provision for the fund to be used in this way.

# 4.2.4 Are there time limits?

The court will hear an application for a protection order within a period of 14 days after the filing of the application. Nothing in the Act indicates the period within which the court has to arrive at a decision.

If an interim protection order is issued, then this may not endure longer than three months. The respondent must appear physically in court before the three-month period expires to show why the interim order should be made final.

A final protection order issued by a court will not exceed 12 months in the first instance but may, for good cause shown, be extended, modified or rescinded by the Court on a motion by a party to the original proceeding.

# 4.2.5 Are there different rules in emergencies?

In case of emergency, the court will only issue an interim protection order, and this will be done immediately if it can be shown that there is risk of harm to the applicant or if the applicant may be deterred from making an application for a protection order if an order is not made immediately.

In case of emergency or a life-threatening situation, a victim of domestic violence may receive free medical treatment pending a complaint to the police and the issuance of a report. In nonemergency cases, this is typically not done because it is expensive and victims lack funds/resources, so the case is often dropped.

# 4.3 Judicial discretion

# 4.3.1 What discretion does a judge have in granting a civil protection order or other protective orders?

The court may issue a protection order to prohibit a respondent from committing or threatening to commit an act of domestic violence personally or otherwise against an applicant or a relation or a friend of the applicant.

# 4.3.2 Are there age limits on who can obtain orders?

No.

# 4.4 Restitution and remedies available to victims

# 4.4.1 Can victims obtain reimbursement for costs and restitution paid?

Yes, according to conditions of protection order 17. Subject to Section 14 of the Act, a protection order may:

bind the respondent to be of good behavior

direct the respondent to seek counselling or other rehabilitative service

direct the respondent to relocate and continue to pay any rent, mortgage payment and maintenance to the applicant

require the respondent to relinquish property to the applicant and pay the applicant for damage caused to the property of the applicant

require the respondent to pay for medical expenses incurred by the victim as a result of the domestic violence

# 4.4.2 Can they recover wages and profits lost?

No.

# 4.4.3 Is a separate civil process required?

No.

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