Fighting Domestic Violence - Jamaica

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[25] — please see Section 2 above.

Under the Domestic Violence (Amendment) Act 2004, occupational orders and protection orders are available to victims of domestic abuse.

# 4.1.2 Who can petition for civil protection orders?

Under the Domestic Violence (Amendment) Act 2004, a spouse or parent of the victim can make an application for an occupational or protection order.[26] If the conduct is used or threatened toward a child or dependent,[27] then the following may make an application:

a person with whom the child/dependent normally resides or resides on a regular basis

a parent/guardian

a dependent who is not mentally disabled

a person approved by the minister of labor and social security

a constable

It can also be petitioned by a person who is a member of the respondent's household (the individual named in the application) or by a person who is in a visiting relationship with the respondent in respect of the alleged conduct by the respondent toward that person.[28]

A "visiting relationship" is defined in the Domestic Violence (Amendment) Act 2004. It refers to a man and woman who do not live together but have a close relationship, the nature and intensity of which is defined in the act.

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

Yes. Child support orders exist under [the Maintenance Act.](https://moj.gov.jm/sites/default/files/laws/Maintenance%20Act.pdf)

Temporary custody can be found under [the Children (Guardianship and Custody) Act.](https://moj.gov.jm/sites/default/files/laws/Children%20%28Guardian%20and%20Custody%29%20Act.pdf)

Additional protections can be found under [the Child Care and Protection Act](https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act_0.pdf), including contribution orders (Section 3).

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

Protection orders allow a court to prohibit the respondent from doing the following:

entering or remaining in the household residence of the prescribed person

from entering/remaining in a particular area specified in the order within which the household is located

from entering their place of work or education

from entering or remaining in a particular place

from molesting a prescribed person (includes watching the household residence/place of work, making persistent telephone calls to them, damaging their property and using abusive language toward them)[29]

Occupation orders, if granted, would also result in the husband being removed from the matrimonial home or restricted to certain parts of it.

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

Occupation orders give the person who was affected by the domestic violence the right to live in the household residence and to occupy it for a period.[30]

Ancillary orders to occupation orders provide for the use of furniture, household appliances and household effects.[31]

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

Yes, as above. If the conduct is used or threatened toward a child, then the following may make an application:

a person with whom the child/dependent normally resides or resides on a regular basis

a parent/guardian

a dependent who is not mentally disabled

a person approved by the minister of labor and social security

a constable

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

Yes. In addition to occupational orders, interim orders made on an *ex parte* application are available in emergencies.

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

Protection orders can be made on an *ex parte* basis.[32] Where granted, the orders will be served personally on the respondent who can apply for it to be discharged. Occupation orders can also be served *ex parte* and served personally on the respondent.[33]

Both will be granted as interim orders and the respondent will have the opportunity to appear in court to have the order discharged.

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

No, not under the Domestic Violence Act.

# 4.1.10 How long do the orders last?

A protection order will last for the period the court thinks fit. A party may apply to the court to discharge a protection order.[34]

An occupation order will last for the period the court thinks fit.[35]

An ancillary order to an occupation order will last for three months unless the court directs otherwise.[36]

# 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.

As mentioned above, there appears to be a lack of data on the actual use of civil protection orders or the associated demographics.

# 4.2 Steps for receiving a protective order

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

The form to make an application does not appear online so it is unclear what documentation is needed. It is likely that an individual being abused would need to go to a family court or a resident magistrates' court in their parish if there is no family court to obtain the necessary forms.

# 4.2.2 Does the victim need to attend a hearing?

The law does not specifically state that the victim must attend.

# 4.2.3 Can you request remedies?

The applicant has the choice to apply for a protection order or an occupation order. No additional remedies are mentioned.

# 4.2.4 Are there time limits?

Time limits are not specified.

# 4.2.5 Are there different rules in emergencies?

An *ex parte* application can be made if the court is satisfied that a delay would put the victim at risk of their personal safety being affected or it would cause them serious or undue hardship.

# 4.3 Judicial discretion

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

A judge will consider and they have discretion in terms of whether the application is made in accordance with the wishes or best interests of the person entitled to apply. The judge has discretion in terms of the length of time to grant a protection order. Please see above for the restrictions a judge can place on an abuser.

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

Yes — 18 years old or over, as per the Domestic Violence (Amendment) Act 2004.

# 4.4 Restitution and remedies available to victims

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

N/A

# 4.4.2 Can they recover wages and profits lost?

N/A

# 4.4.3 Is a separate civil process required?

N/A

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