

DOMESTIC ABUSE AND THE LAW

*QUESTIONS AND ANSWERS
ABOUT IOWA LAW
ON DOMESTIC
VIOLENCE*

IOWA LEGAL AID
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IMPORTANT NOTICE: READ THIS INFORMATION BEFORE USING ANY PART OF THIS PUBLICATION

This booklet is a general summary of the law. It is not meant to completely explain the subjects in this booklet. IT IS NOT A SUBSTITUTE FOR LEGAL ADVICE.

The information in this booklet was correct as of the date it was printed (see the back cover). The laws may have changed. DO NOT ASSUME THAT THE INFORMATION IN THIS BOOKLET IS NOW CORRECT.

You should see a lawyer to get complete, correct, and up-to-date legal advice. Do not rely on the general information in this booklet for your specific case.

If you need a lawyer but can't afford one, contact Iowa Legal Aid. You may be able to get free legal help. Call or write Iowa Legal Aid. The address and phone numbers are on the back cover.

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INTRODUCTION

Some Facts About Domestic Violence

Domestic abuse is a serious problem in the United States. According to government studies, nearly one in four women in the United States experiences violence by a current or former spouse or boyfriend at some point in her life. Domestic abuse can result in severe injury or death. On average more than three women a day are murdered by their husbands or boyfriends in the United States.

Domestic abuse is also a serious problem in Iowa. In 2009, according to Iowa government reports, there were 6,341 reported incidents of domestic violence. Around a third of the homicides in Iowa each year are committed by a family member or intimate partner. Between 1995 and February 2010, 205 Iowans were killed in domestic abuse-related murders.

Most, but not all, victims of abuse are women. In Iowa, statistics show that victims of abuse are approximately 80-85% female and 15-20% male. Male victims of domestic abuse have the same right to protection under the laws as women. However, because most domestic abuse victims are women, female pronouns are used in this booklet to describe victims.

Laws Protect Domestic Abuse Victims

Several Iowa laws address the problem of domestic abuse. Iowa's Domestic Abuse Act, located at Chapter 236 of the Code of Iowa, helps victims of domestic abuse in several ways. It requires the police to do certain things to protect victims. It requires that abusers who are convicted of domestic abuse assault serve time in jail. It gives victims the right to get court orders protecting them from further abuse.

The Domestic Abuse Act is not the only protection available to victims. Other state and federal laws can be used to hold abusers accountable, including criminal laws. Also, there are state programs which can help victims with financial help and other legal problems. This booklet will focus primarily on the Domestic Abuse Act and other civil protections available to victims. Also, at the end of the booklet, there is a list of other programs that help victims, including a listing of shelters across the state that can be contacted for assistance and information.

The Difference Between Civil And Criminal Law

Domestic abuse is often dealt with in both the civil and criminal justice systems. The criminal justice system is used when someone commits a crime—like domestic abuse. Then, the police and county attorney get involved in prosecuting the crime. The results can be jail and/or fines.

There is another part of the court process called the civil justice system. Civil law deals with disputes between people. In many cases, civil issues may be criminal too, but in civil court, the results are different. Instead of jail or fines paid to the state, people who commit wrongs can be ordered to do certain things like stay away from another person or pay a person money for the wrongdoing. Since Iowa Legal Aid only provides civil legal assistance, this booklet will mostly explain the civil process.

STATEWIDE DOMESTIC ABUSE HOTLINE

Victims of domestic abuse can find out about local programs to contact for help and get information on shelters, counseling, legal aid, and assistance from mental health centers by calling this 24-hour toll-free number:

1-800-942-0333

STATEWIDE SEXUAL ABUSE HOTLINE

Victims of sexual abuse can find out about local programs to contact for help and get information on shelters, counseling, legal aid, and assistance from mental health centers by calling this 24-hour toll-free number:

1-800-284-7821

What Is Domestic Abuse?

Iowa's Domestic Abuse Act defines domestic abuse in a specific way. This definition of domestic abuse must be met in order for the protections of the Domestic Abuse Act to apply. There has to be

1. A certain kind of relationship *AND*
2. Certain kinds of assaultive actions.

Relationship: Domestic abuse is committed between:

- spouses or former spouses living together or apart; or
- family or household members living together at the time of the assault or who lived together at the time of the assault or within one year before the assault occurred; or
- people who are parents of the same minor child, even if they have never lived together; or
- people who are in an intimate relationship, or have been in such a relationship and had contact within the year preceding the assault.*

** This section of the law is intended to protect people in dating relationships that are not covered by other sections of the law. The law defines an intimate relationship as "a significant romantic involvement that does not have to include sexual involvement." An intimate relationship is not a casual social relationship, or a business or professional association. The law lists factors a judge is supposed to consider to decide if people are involved in an intimate relationship, such as how long the relationship lasted, how often the parties saw each other, and the nature of the relationship. A judge can consider any other factors that would help determine whether the relationship is an intimate relationship. Remember that if people are already protected by other sections of the Domestic Abuse Act they do not have to prove they are in an intimate relationship.*

Minors (those under age 18) can seek protection under the Domestic Abuse Act if they have one of these relationships to their abusers; but this law does not apply to minors against their own parents. A minor who is abused by a parent can get protection under Iowa's child abuse laws.

Assault: An assault under the Domestic Abuse Act is:

- any act which was intended to cause pain or injury to another, or an act intended to result in physical contact which is insulting or offensive to another; or
- any act intended to place another person in fear of painful injuries or offensive physical contact, when the person has the apparent ability to commit the act; or
- anytime someone points a firearm on purpose toward another person, or displays any dangerous weapon in a threatening manner.

Physical abuse, such as hitting or shoving, can be an assault even if a victim does not suffer any injury such as a bruise or broken nose. A threat of physical harm can be an assault.

Sexual assault can also be domestic abuse under the Domestic Abuse Act. Sexual assault can occur when an abuser insists on sexual relations after a victim refuses to have sex. It can also occur when a victim submits to sexual relations under threat of harm from her abuser.

Sometimes, victims in abusive relationships suffer verbal abuse such as name-calling, or are subjected to controlling tactics such as not being allowed to use a car or phone. While these behaviors can be very harmful emotionally, they would not by themselves be considered an assault under the Domestic Abuse Act.

Civil Domestic Abuse Actions

There are criminal actions that police and county attorneys can take against someone who has committed the crime of domestic abuse. Sometimes a victim of domestic abuse does not want her abuser arrested, or does not want criminal charges filed against him. She just wants her abuser to stay away from her. Sometimes criminal charges are filed against an abuser, but a victim needs additional help from the court. In these situations, a victim of domestic abuse assault can file her own civil domestic abuse action to get protection and other help from the court. A civil action is a lawsuit a person files in court. It is not a criminal case.

In a civil domestic abuse action, a victim can obtain an order called a “protection order.” These orders may include any of the following terms:

- That the abuser stops the domestic abuse.
- That temporary custody of the children is awarded.
- That provisions for supervised, restricted, unrestricted, or no visitation privileges with the children be established.
- That the abuser pays support for the victim and any children under 18.
- That the abuser moves out of the family home so the victim can live there, or that the abuser provides suitable alternate housing to the victim.
- That the victim gets possession of a vehicle.
- That the abuser stays away from the victim’s residence, school, and place of work.
- That the children in a household where domestic abuse has occurred receive professional counseling.
- That the victim and the abuser receive professional counseling.
- That the abuser gets professional counseling without requiring the presence of the victim.

How Is a Civil Domestic Abuse Action Started?

A civil domestic abuse action is started by filing a petition with the Clerk of Court, asking for protection from domestic abuse. A victim can have an attorney file the petition for her. A domestic abuse victim can also file a petition herself, by using forms available from the Clerk of Court. When a victim files her own petition, it is called a pro se petition. “Pro Se” means a person is representing herself. The petition is a statement which describes the type of abuse that took place. It states other facts such as the type of relationship between the victim and the abuser, and whether the parties have children. Victims of domestic abuse are called “plaintiffs” in these domestic abuse proceedings, and abusers are called “defendants.”

After the petition is filed with the Clerk of Court, it is reviewed by a judge. A judge decides whether to issue a temporary protective order right away, which will protect the victim from further abuse, and will keep the abuser away from her. The temporary order can also include a temporary custody and visitation order. A copy of the temporary order is given to the victim and to the sheriff’s department. The abuser is served a copy of the petition and the order by the sheriff’s department. Information about the temporary protection order is also placed on a central domestic abuse registry accessible to law enforcement agencies.

The temporary order will be effective until a hearing can be held in court. The judge will schedule the hearing, and include the date and time of the hearing in the temporary order. The hearing must be scheduled between five (5) and fifteen (15) days of filing the petition. If there is a problem with service or some other unforeseen event, it is possible that the hearing will be delayed and will not take place within fifteen days. The law says that these hearings are to take place as quickly as possible.

A domestic abuse victim, who has filed her own petition, can go to the Court hearing without a lawyer to represent her. The Clerk of Court has a booklet which explains how to file and follow through with the case. The booklet is called *How to Protect Yourself from Domestic Abuse Without a Lawyer*.

A domestic abuse victim who has filed her own petition can also get help from an attorney to represent her at the hearing. Iowa Legal Aid often provides free legal representation to low-income victims of domestic abuse. Neither the income nor resources of an abuser are considered to determine if a victim can get free legal help from Iowa Legal Aid. Iowa Legal Aid can provide legal representation at domestic abuse hearings as well as assist victims who are not able to file their own petitions. Contact the Iowa Legal Aid office in your area if you need help with a domestic abuse action. The offices are listed at the end of this booklet.

In addition to the free legal services available from Iowa Legal Aid, there are other people who may be able to help a victim with a domestic abuse action. Advocates at domestic violence shelters listed in the back of this booklet can assist with filing “pro se” petitions. While these advocates are not lawyers and cannot represent victims as lawyers, they can help with forms, explain the process, and also accompany people through court proceedings.

Also, county attorneys have the authority to assist domestic abuse victims in filing pro se petitions and representing the victim throughout the civil court proceeding. Be aware that not many county attorneys become involved in these civil cases.

How Much Does it Cost?

There are two types of costs involved in a domestic abuse action: court costs and attorney fees.

Court Costs

Iowa law says that the plaintiff must not be required to pay any court costs in a domestic abuse action, including filing fees, service costs, court interpreter fees, or any other fees associated with the action. When a Judge issues a final order in a domestic abuse action, he or she can order the defendant to pay costs, if the defendant has the ability to pay. The Judge cannot make the plaintiff pay any of the court costs.

Attorney Fees

Attorney fees are determined by agreement between the plaintiff and her attorney. In a civil domestic abuse action the plaintiff is not entitled to an attorney paid by the court. If a domestic abuse victim does not have funds available to hire and pay an attorney, there are several options available. These include free representation from Iowa Legal Aid. The court also has the authority to order the defendant to pay all or part of the victim’s attorney fees. The judge decides whether or not to do this. Thus, a victim may be able to get representation from a private attorney in a domestic abuse action, who can try to recover attorney fees from the defendant.

What Happens at the Hearing?

Several things can happen at the hearing which is scheduled in a domestic abuse case.

1. The abuser may “default.” This means the abuser does not show up at the scheduled hearing. If the abuser defaults, then the judge can grant a “default judgment” in the victim’s favor. This means the judge takes what the victim said in the petition as true and grants an order which will include any or all of the terms listed in Section II of this booklet.
2. The abuser may come to the hearing and agree to entry of an order against him. That is called a “Protective Order by Consent Agreement.” A Protective Order by Consent Agreement can include any or all of the terms listed in Section II of this booklet. Both the victim and the abuser must agree to the terms. If both parties agree to a Protective Order by Consent Agreement, neither the victim nor the abuser will need to testify in court.

Since a consent agreement is usually the result of negotiations with the victim and the abuser, if the parties are not represented in the domestic abuse action, it may be difficult to enter into a Protective Order by Consent Agreement.

The advantage to the victim of agreeing to a Protective Order by Consent Agreement is that she knows she will have an order. She does not have to have a judge decide if there are grounds to issue an order. The advantage to an abuser is that the judge does not make a specific finding that he committed domestic abuse.

3. The abuser can dispute the abuse. Then a hearing will be held. At the hearing, the victim must present evidence to prove she has the right to a protection order. She will have to testify and describe the abuse. She can also present other types of evidence to prove the abuse. The abuser also has the right to present evidence. If she wants to challenge what the abuser has said, she will have to cross-examine him. The abuser also has the right to cross-examine her. If the victim succeeds in proving her case, the Judge will enter a Final Domestic Abuse Protection Order. It can include any or all of the terms listed in Section II of this booklet.

Important Information About Protection Orders:

- Protective orders have the same effect and enforceability. This is true whether the Order was entered because the Defendant defaulted, whether it is a Protective Order by Consent Agreement, or whether it was issued after a hearing.
- Protective Orders do not last forever. They can be effective for up to one year. When a protective order is getting close to its expiration date, a victim can apply to extend it. A separate hearing would be held for the court to decide if the order should be extended.
- Copies of the protective order are served on the victim and the defendant and are given to law enforcement agencies. Also, information about the protective order is placed on the central domestic abuse registry, accessible to law enforcement agencies.
- If an abuser violates the terms of a protective order, the victim has rights and remedies that are explained more in the section “Enforcement of Protection Orders.”

Important Information About Mutual Protective Orders

The court cannot issue an order against the victim unless the abuser has also filed a petition with the court. The law specifically prohibits mutual restraining orders unless both parties have requested them by filing a petition. If both parties filed for a protective order, mutual orders can be ordered if both people consent or prove to the court that both meet the legal definition of abuse.

Tips For Getting Ready For Your Protective Order Hearing

Pro Se Proceedings

If you file a pro se petition, you must be prepared to represent yourself in court. Although advocates from a domestic violence shelter can accompany you in court, you will still be required to present evidence and cross-examine opposing witnesses, including your abuser. You may be at a disadvantage when faced by someone who is represented by an attorney. Therefore, if you are not prepared to act as your own lawyer, you should try to get legal help. If you have children and child custody may become an issue, you should seek help from a lawyer. If you think there will be a dispute about who should get to live in your house or possess a vehicle, you may need a lawyer. In any event, it is a good idea for you to talk to a lawyer before the final hearing.

BEFORE COURT

- ✓ **Plan What To Wear.** The court is a somewhat formal setting. It is important to dress in a way that is appropriate for that setting and to appear in front of a judge. It can make a difference in how you are perceived by the court. Clothes to avoid if possible:
 - Shorts
 - Tank tops or t-shirts with words on them
 - Revealing clothing (very short skirts, low-cut shirts, crop tops)
- ✓ **Talk To Witnesses And Confirm They Can Attend Your Court Date.** Remember, protection order cases have to be proven just like other court cases. It helps to have witnesses who have seen the abuse or who have other relevant information.
 - Tell them the time and place.
 - Go over what they will say in court.
 - Remind them about appropriate clothing for court.
 - If witnesses won't come voluntarily, they can be subpoenaed (forced to come to court).
- ✓ **Get Your Proof Ready.**
 - Make copies of papers and picture that show that you were abused.
 - Using text messages, email and/or voicemail as evidence can be very complicated. If you want to bring them, print copies so the judge can review them and decide if they are admissible.
 - Read over your petition so you are prepared to talk about it to the judge.
 - You are not limited to the information in your petition. You can talk about other times there was abuse. It is important to be prepared but that doesn't mean you should memorize your testimony. Just be prepared to talk with the judge about any information that is relevant to the case.

- ✓ **Get Child Care Arranged.**
 - It is very important that children are not present during protective order hearings. It can be bad for your case to bring a child along so it is smart to arrange for child care away from the courthouse.

THE DAY OF COURT

- ✓ **Be at least 15 minutes early.**
- ✓ **Check in with the court attendant to let them know you are present.**
- ✓ **You can ask the court attendant if your abuser be separated from you while waiting for court to begin.**
- ✓ **You can have a domestic abuse victim advocate attend the hearing with you. Call your local domestic abuse program (listed in the back of this booklet) to arrange for an advocate to attend court with you.**

DURING YOUR TESTIMONY

- ✓ **Since you filed the case, your testimony will be first. Below are some guidelines to help you give clear and convincing testimony.**
 - You are asking for protection from abuse. It is very important to stick to the facts about physical abuse and threats of harm. It is understandable that many victims are concerned about custody of their children, but the hearing should not focus on that. It must be about abuse to you.
 - You may be asked questions by the judge directly. If your abuser has an attorney, he or she will be able to ask you questions. If your abuser does not have an attorney, he will be able to ask you questions.
 - Look at the judge when answering questions. You don't have to look at your abuser. This may help you be less nervous.
 - It is ok to show emotion. Domestic abuse is very serious. The court should not hold it against you for being emotional about the harm and fear you have experienced.
 - Speak slowly and clearly. Do not interrupt when questions are being asked or when others are speaking. A court reporter will probably be recording your testimony. This is made very difficult when multiple people are speaking at once. Also, it may make the judge angry if people are interrupting.
 - Keep your answers short and to the point. The judge doesn't need to know everything about your life and history. Only the important parts relevant to abuse.
 - Avoid non-verbal answers like nodding your head. You have to give verbal responses. Also, avoid responses like "uh-huh." Say yes or no.
 - It is ok to say you don't know the answer to a question or that you don't understand what is being asked.
 - Think about your answer before speaking. Sometimes just taking a few moments to collect your thoughts will help you give a clearer answer.
 - Tell the truth. You will have to swear that you are being truthful. It is a crime to lie under oath. Also, lying will probably hurt your case. If you give conflicting information, the court may think that everything you said is untrue.
 - Give the judge any proof you have, like papers or pictures.
 - Tell the judge if you have other witnesses.

DURING YOUR ABUSER'S TESTIMONY

- ✓ **It can be very hard to stay calm while your abuser is testifying. Even so, it is very important to remain respectful to the court at all times during the hearing.**
 - Sit quietly. Do not interrupt or make noises.
 - Don't make faces or body gestures.
 - Don't shake or nod your head.
 - When it comes time for you to ask him questions, be direct and make sure you are actually asking questions. Sometimes, people want to start testifying again because of the things the abuser has said on the stand. You will have a chance to speak on your own behalf again. Use your time for questions to ask him about inconsistent things he said or to get more information that he left out.
- ✓ **If you are afraid after the hearing, you can ask for an escort to your car.**

What Happens If The Judge Denies My Protection Order?

Reconsider Decision: Either the victim or the abuser can ask the court to reconsider the decision. This has to be done in writing within 15 days of the decision.

Appeals: Like all court decisions, protection order rulings can be appealed. A person can appeal to the Iowa Supreme Court. This has to happen within 30 days of the decision. If you lose a protection order case, you should contact an attorney immediately to discuss your options.

Safety Planning: It can be a very dangerous time after losing a protection order. You are vulnerable and your abuser may think that he can get away with further abuse. There is a safety planning tool in the back of this booklet for your use.

Enforcement of Protection Orders

A civil protection order is an order issued by a judge that prohibits the abuser from doing certain things. The previous sections explain the kinds of things that can be included in a protection order. Copies of protection orders are sent to law enforcement agencies and police dispatchers. Law enforcement officers are supposed to check to see if protection orders are in effect when they are sent on a domestic abuse call. Information about protection orders are also placed on a central domestic abuse registry so law enforcement officers throughout Iowa and the United States can find out if there is an order in effect.

These protection orders must be enforced by law enforcement officers. If there is evidence of a violation, an officer must arrest violators of protection orders. A defendant who violates a protection order can be charged with the crime of violating a protection order (a simple misdemeanor) or can be civilly charged with contempt of court. The victim should consult with an attorney to decide which course of action should be taken. If the police and County Attorney choose not to bring charges, then the victim can still bring her own contempt action in civil court. If the defendant is found to have willfully violated a protection order, the defendant will be required to serve a jail sentence. The sentence cannot be deferred or suspended. The court cannot give the defendant a fine instead of a jail sentence. Iowa law requires a minimum jail sentence but the court can make the defendant serve more jail time, or order the defendant to both pay a fine and serve jail time, if circumstances justify a more severe sentence. The defendant may also be ordered to pay the victim's attorney fees and court costs.

Proving contempt in civil court requires a higher level of proof. That is because a person can be jailed for violating an order, much like jail can be ordered in a criminal case. The abuser will likely have an attorney appointed to represent him. If a victim wants to try to bring a contempt action against an abuser, she should seriously consider consulting with an attorney.

*****WARNING*****

Civil protection orders are meant to protect the victim and to restrain abusers from contacting and harming the victim. However, a victim needs to be sure to obey a protection order as well. The Iowa Supreme Court has ruled that a victim can be charged with the crime of "aiding and abetting a contempt of court" if the victim participates in a violation of a protection order. If a police officer believes a victim is willingly helping the abuser disobey a protection order, the victim can be arrested. Therefore, if a victim decides she no longer needs a protection order or wants to have contact with the abuser, it is important to have the order officially dropped. A victim can request that the court dismiss it. A victim can also ask an attorney to help have a protection order dismissed.

Can Custody Really Be Ordered In A Protection Order?

Iowa law allows the Court to include terms concerning temporary custody and visitation of the children of the abuser and victim in a protection order. This is important because abusers often threaten to take children if a victim tries to leave the relationship or take legal action.

An unwed mother has sole custody of a child under Iowa law, unless the father has adopted the child or has “acknowledged” paternity. A father “acknowledges” paternity in several ways. Paternity is acknowledged if he is named as the father on the child’s birth certificate or if a judgment of paternity has been entered in court, or if some other evidence shows that paternity is admitted.

If the abuser and victim are married, or paternity of the child has been “acknowledged” by the father, the court can determine temporary custody and visitation for the child in a domestic abuse action. Temporary custody can be awarded by the court to protect the children from becoming involved in a tug of war between the victim and the abuser. It can allow the children to grow up without exposure to domestic violence. The Court can restrict or deny visitation to the abuser if the safety of the victim or the children is at risk.

Remember, a protection order issued in a domestic abuse action is only good for up to one year unless the victim goes back to court and requests an extension. So, if custody and visitation are problems, the victim may need to take other action to get a permanent order awarding custody and visitation. This can be done through a divorce if the parents are married. It can be done through a custody action if the parents are unmarried and the child has been acknowledged by the father. The court will consider a history of domestic abuse in making custody determinations.

If either parent willfully violates a court order awarding custody and visitation, that person can be found in “contempt.” That parent can lose their custody or visitation rights, or be sentenced to jail. In extreme circumstances, parents who violate a custody order may be subject to the Parental Kidnapping Prevention Act.

Extension, Modification, and Cancellation of Protection Orders

Extension: A civil protection order is usually in effect for one year. At the end of the year, it automatically expires. However, the order can be extended for additional time, if the court believes that the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim’s family. An application to extend a protection order must be filed with the court before the existing order’s time has ended. There is no limit on how many times the order can be extended, so long as the court finds there are grounds necessary to extend it. The Clerk of Court has forms that can be used to request an extension of a protection order. There will be a hearing scheduled, at which time both parties can state to the court the reasons either in favor of or against extending the order.

Modification: During the time that a protection order is in effect, its terms can also be changed if necessary. Either party can request a change. The Clerk of Court has forms to use to request that a protection order be changed. It is likely a hearing will be scheduled, and at the hearing both parties can testify about requested changes of the order. The Court can change an order to allow some types of contact between the parties, such as counseling, exchanging children for visitation, or to have phone contact. It is not necessary to cancel the entire order to provide for limited contact.

Cancellation: An order can also be cancelled if the victim decides she no longer needs the order. Only a judge can change or cancel a protection order. The Clerk of Court has forms to use to request that a protection order be cancelled. It is possible for the judge to schedule a hearing in order to make a ruling regarding cancellation. Also, before a judge will cancel an order, the judge will try to ensure that the victim will be safe without the order. Before asking for a protection order to be dismissed, it is important for a victim to talk to an attorney or a domestic abuse victim advocate in order to understand the possible effects of cancellation and to make a safety plan.

A judge is not required to extend, change or cancel an order just because the victim has requested it. For more information on how to extend, change, or cancel an order, contact an Iowa Legal Aid office.

Out-of-State Orders

Some victims have a protection order issued in another state. By law, an order issued in another state in a domestic abuse proceeding similar to Iowa’s is entitled to be enforced in Iowa just as if the order came from Iowa. This means an abuser who violates the order in Iowa can be arrested and could have to serve time in jail in Iowa.

Domestic abuse victims who have an order issued in another state can register their orders in Iowa by filing a true copy of the order at the Clerk of Court’s office. It does not cost anything to register an order from another state. Likewise, if a victim has a protection order from Iowa and she goes to another state, she can register the protection order in that other state. Even if a victim has not registered an order in Iowa, the police are still required to enforce it, so long as it is a valid order. A victim should keep a copy of her order with her to show the police if the need arises.

Gun Control Laws

In some circumstances, an abuser will lose his right to possess guns. Federal laws make it illegal to own a gun when a person has a protection order against him if the court finds a qualifying relationship and if there has been abuse that results in the abuser being restricted from contacting or harming the victim. A person who violates these gun control provisions can have their guns confiscated and could be prosecuted under federal laws.

There is also a state law that prohibits possession of firearms when a person is subject to a protection order. Whenever a protection order is put in place, either through hearing or consent, the court is required to make a finding of whether or not the abuser possesses certain weapons. If so, the court must name a qualified person that can hold the firearms. If a qualifying person can't be named, then the court can order the weapons to be turned over to law enforcement for holding. This ban is only in place while the protection order is in place. If an abuser is found to be in possession of firearms while a protection order is in place, he is committing a felony under Iowa law.

These laws can be complicated and firearms are a very serious matter. The majority of deaths due to domestic abuse occur by firearm. A domestic abuse victim who is concerned about her abuser having weapons should talk to her attorney.

DIVORCE

A divorce is the way to legally dissolve a marriage. Many victims want to proceed with a divorce because they may need a permanent custody and visitation order, or may need to resolve property issues that are not looked at in a domestic abuse action. Custody actions for unmarried people can also result in a permanent order regarding custody, visitation, and child support. However, custody actions don't generally involve issues like division of property. Divorces deal with issues involving children and also assets and debts of the parties.

A victim of domestic abuse can also obtain a protection order in a divorce action. Protection orders issued in divorce actions are supposed to be enforced by the police in the same way as protection orders issued in civil domestic abuse cases. Protection orders issued in divorces may last indefinitely. Even if a domestic abuse victim has obtained a protection order in a criminal proceeding or a civil domestic abuse case, she can proceed with a divorce.

The Iowa Legal Aid booklets *Divorce Law in Iowa With No Children* and *Divorce Law in Iowa With Children* explain what happens in a divorce, and includes resources to help a victim get a divorce if she is low-income. These booklets are available from Iowa Legal Aid offices.

Can Other Action Be Taken Against the Abuser?

There are additional legal remedies available to victims.

Tort: Torts are civil law suits that are brought by a victim who suffers an injury and is entitled to receive "damages," usually monetary compensation, from the person responsible for those injuries. Legal injuries are not limited to physical injuries. They may also include emotional, economic, or reputational injuries as well as violations of privacy, property, or constitutional rights.

An abuse victim may sue her abuser for injuries suffered as a result of the abuser's negligent or intentional actions. A victim may obtain money damages to cover medical expenses, lost wages, emotional distress, and punitive damages. Punitive damages are designed to punish the abuser and to deter future abuse.

Involuntary Hospitalization: It is not unusual for a batterer to be suicidal or to have substance abuse or serious mental health issues. An abuser who is seriously mentally impaired may be involuntarily hospitalized for treatment. Under Iowa law, a person with serious impairments who cannot make appropriate decisions may be involuntarily committed if one of the following is true:

1. He or she is likely to injure himself or others if allowed to remain at liberty without treatment;
2. The person is likely to inflict serious emotional injury on members of the person's family or others;
3. The person is likely to be unable to satisfy his needs for food, shelter, or medical care so it is likely the person will be harmed in the reasonably foreseeable future.

The county clerk of court has the necessary application and further information.

A person can be committed for alcohol or substance abuse treatment if the following are true:

1. The person is a substance abuser; **AND**
2. The person is likely to injure himself or others unless committed.

Commitments may only last for a short time, depending on the circumstances. A victim should be aware that her abuser may get out of commitment very soon after being committed. He may be more angry or violent upon release, so it is a serious decision to be made.

Applications for commitment are available at the local clerk of court office. The county attorney or Area Substance Abuse Council can provide more information on these proceedings. Iowa Legal Aid has more information about mental health treatment and commitment in Iowa on its website at iowalegalaid.org.

Criminal: As stated above, domestic abuse is against the law. A person can be criminally charged for committing abuse. Calling the police is always an option if a person has been physically harmed or threatened with physical harm. Criminal actions can also result in a no-contact order being entered. A person can have both a criminal no-contact order and a civil protection order at the same time. So, even if a victim is participating as a witness in a criminal action, she can also ask for help through the civil justice system.

Safety Plan (Taken from the National Coalition Against Domestic Violence)

If you are still in the relationship:

- Think of a safe place to go if an argument occurs - avoid rooms with no exits (bathroom), or rooms with weapons (kitchen).
- Think about and make a list of safe people to contact.
- Keep change with you at all times.
- Memorize all important numbers.
- Establish a “code word” or “sign” so that family, friends, teachers or co-workers know when to call for help.
- Think about what you will say to your partner if he\she becomes violent.

Remember, you have the right to live without fear and violence.

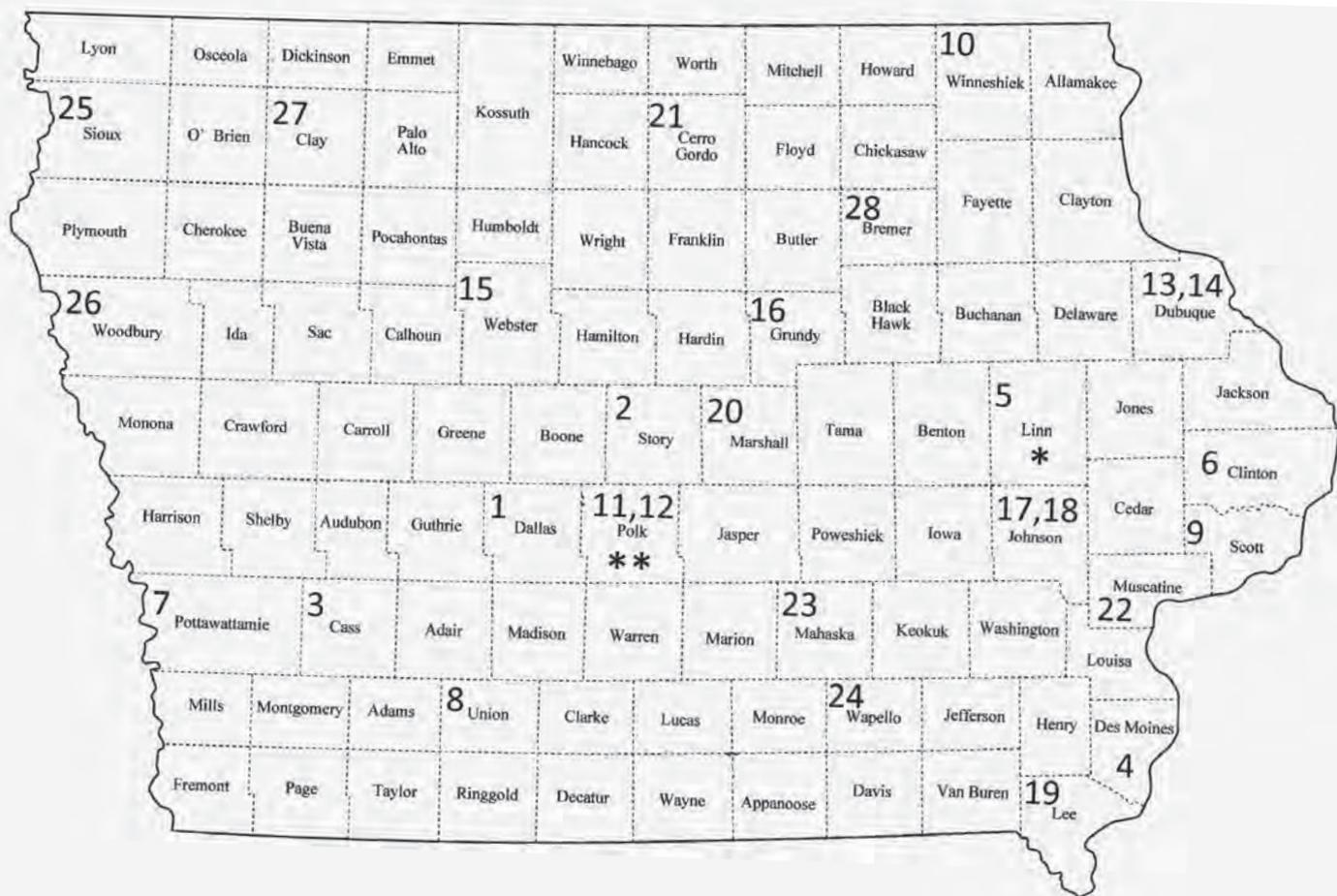
If you have left the relationship:

- Change your phone number.
- Screen calls.
- Save and document all contacts, messages, injuries or other incidents involving the batterer.
- Change locks, if the batterer has a key.
- Avoid staying alone.
- Plan how to get away if confronted by an abusive partner.
- If you have to meet your partner, do it in a public place.
- Vary your routine.
- Notify school and work contacts.
- Call a shelter for battered women.

If you leave the relationship or are thinking of leaving, you should take important papers and documents with you to enable you to apply for benefits or take legal action.

Important papers you should take include social security cards and birth certificates for you and your children, your marriage license, leases or deeds in your name or both yours and your partner’s names, your checkbook, your charge cards, bank statements and charge account statements, insurance policies, proof of income for you and your spouse (pay stubs or W-2’s), and any documentation of past incidents of abuse (photos, police reports, medical records, etc.)

Iowa Shelter and Advocacy Programs



DIAA –Deaf Iowans Against Abuse*

A program of Communication Service for the Deaf (CSD)
 4403 1st Ave SE STE 302
 Cedar Rapids, IA 52402
 Fax: 319-832-1491
 TTY Crisis Line: 319-294-4181
 Cell to Cell Crisis Line: 515-867-8177

Iowa Coalition Against Domestic Violence**

515 28th St
 Des Moines, IA 50312
 Office: 515-244-8028
 Fax: 515-244-7417
<http://www.icadv.org/>

Iowa MAN –Iowa Men’s Action Network**

515 28th St
 Des Moines, IA 50312
 Office: 515-244-8028
 Fax: 515-244-7417

LUNA **Latinas Unidas por un Nuevo Amanecer

4313 Fleur Dr
 Des Moines, IA 50312
 Office: 515-271-5060
 Fax: 515-271-5062
www.lunaiowa.org

Monsoon**

United Asian Women of Iowa

515 28th St
 Des Moines, IA 50312
 Office: 515-288-0881
 Fax: 515-244-7424
www.muawi.org

Deaf Women of Iowa Against Abuse**

PO Box 36094
 Des Moines, IA 50315
 Office: 515-244-0875
 Fax: 515-221-7997

Iowa Coalition Against Sexual Assault**

515 28th St
 Des Moines, IA 50312
 Office: 515-244-7424
 Fax: 515-244-7417
 Hotline: 1-800-284-7821
<http://www.iowacasa.org/>

Iowa Sexual Abuse Hotline:

1-800-284-7821

Domestic Violence Hotline

1-800-942-0333

Adel-1

Crisis Intervention and
Advocacy Center
PO Box 40
Adel, IA 50003
Office: 515-993-4095
Fax: 515-993-2131
Crisis Line: 800-400-4884
Counties: Clark, Decatur,
Dallas, Guthrie, Madison

Ames-2

ACCESS
PO Box 1429
Ames, IA 50014
Office: 515-292-0500
Fax: 515-292-0505
Crisis Line: 800-203-3488
www.assaultcarecenter.org
Counties: Story, Boone, Green

Atlantic-3

Family Crisis Support Network
PO Box 11
Atlantic, IA 50022
Office: 712-243-6615
Fax: 712-243-3098
Crisis Line: 800-696-5123
Counties: Adair, Audubon, Cass,
Shelby, Montgomery, Page

Burlington-4

YWCA Domestic Violence
Shelter and Sexual Assault
Program
616 North 8thSt
Burlington, IA 52601
Office: 319-752-0606
Crisis: 800-693-1399
Counties: Des Moines, Henry ,
Louisa

Cedar Rapids-5

Waypoint
318 5thSt SE
Cedar Rapids, IA 52401
Office: 319-365-1458
Fax: 319-365-2263
Crisis Line: 800-208-0388
www.waypointservices.org
Counties: Benton, Cedar, Iowa,
Jones, Linn

Clinton-6

YWCA DV/SA Resource Center
PO Box 2051
Clinton, IA 52732
Office: 563-242-2118
Fax: 563-244-8341
Crisis Line: 800-381-9319
Counties: Clinton, Jackson

Council Bluffs-7

Phoenix House
300 West Broadway St 223
Council Bluffs, IA 51503
Office: 712-256-2059
Fax: 712-256-1186
Crisis Line: 888-612-0266
www.catholiccharitiesdm.org
Counties: Freemont, Harrison,
Mills, Pottawattamie

Creston-8

Rural Iowa Crisis Center
PO Box 384
Creston, IA 50801
Office: 641-782-2706
Fax: 641-782-2640
Crisis Line: 888-782-6632
Counties: Adams, Ringgold,
Taylor, Union

Davenport-9

Domestic Violence Advocacy
Program
805 West 35thSt Ste 200
Davenport, IA 52806
Office: 563-322-1200
Fax: 563-322-6104
Crisis Line (IA): 563-326-9191
Crisis Line: (IL) 309-797-1777
County: Scott

Decorah-10

Domestic / Sexual Assault
Resource Center
PO Box 524
Postville, IA 52162
Office: 563-387-1720/563-864-
7163
Fax: 563-382-5730 /563-384-
7173
Crisis Line: 800-383-2988
www.helpingservices.org
Counties: Allamakee, Clayton,
Fayette, Howard, Winneshiek

Des Moines-11

Children and Families of Iowa
Domestic Violence Services
1111 University Ave
Des Moines, IA 50314
Office: 515-471-8699
Fax: 515-243-3404
Crisis Line: 515-243-6147
www.cfiowa.org
*Domestic Violence focus
Counties: Polk, Warren
Iowa Shelter and Advocacy
Programs

Des Moines-12

Polk County Crisis & Advocacy
Services
2309 Euclid Ave
Des Moines, IA 50310
Crisis Line: 515-286-3535
Office: 515-286-3600
Fax: 515-286-2032
*Sexual Assault focus
Counties: Dallas, Polk, Warren

Dubuque-13

Dubuque Community YWCA
Domestic Violence Program
PO Box 1301
Dubuque, IA 52004-1301
Office: 563-588-0048
Fax: 563-583-5951
Crisis Line: 563-556-1100
*Domestic Violence focus
Counties: Buchanan, Delaware,
Dubuque

Dubuque-14

Riverview Center, Inc.
2600 Dodge St, Plaza 20
Dubuque, IA 52003
Crisis Line: 888-557-0310
Office: 563-557-0310
Fax: 568-557-8124
*Sexual Assault focus
Counties: Buchanan, Delaware,
Dubuque

Fort Dodge-15

Domestic Sexual Assault
Outreach Center
PO Box 773
Fort Dodge, IA 50501
Office: 515-955-2273
Fax: 515-955-1958
Crisis Line: 888-356-5006
www.dsao.com
Counties: Calhoun, Carroll,
Crawford, Hamilton,
Humboldt, Pocahontas, Webster,
Wright

Grundy Center-16

Seeds of Hope
604 8thSt
Grundy Center, IA 50638
Office: 319-824-5522
Fax: 319-824-5001
Crisis Line: 888-746-4673
Counties: Black Hawk, Grundy,
Hardin

Iowa City-17

Domestic Violence Intervention Program
 PO Box 3170
 Iowa City, IA 52244
 Office: 319-351-1042
 Fax: 319-466-4624
 Crisis Line: 800-373-1043
 www.dvpiowa.org
 *Domestic Violence focus
 Counties: Cedar, Iowa, Johnson, Washington

Iowa City-18

Rape Victim Advocacy Program (RVAP)
 332 S Linn St Ste 100
 Iowa City, IA 52240
 Crisis Line: 800-284-7821
 Crisis Line: 319-335-6000
 Office: 319-335-6001
 Fax: 319-335-6057
 Counties: Cedar, Iowa, Johnson, Washington

Keokuk-19

Tri-State Coalition Against Domestic and Sexual Abuse
 PO Box 494
 Keokuk, IA 52632-0494
 Office: 319-524-8520
 Fax: 319-524-0601
 Crisis Line: 800-498-5095
 County: Lee

Marshalltown-20

Domestic Violence Alternatives Sexual Assault Center
 PO Box 1507
 Marshalltown, IA 50158
 Office: 641-752-3245
 Fax: 641-752-5116
 Crisis Line: 800-779-3512
 Counties: Marshall, Jasper, Poweshiek, Tama

Mason City-21

Crisis Intervention
 PO Box 656
 Mason City, IA 50402-0656
 Office: 641-424-9071
 Fax: 641-424-8915
 Crisis Line: 800-479-9071
 www.CIShelps.org
 Counties: Cerro Gordo, Floyd, Franklin, Hancock, Kossuth, Mitchell, Winnebago, Worth

Muscatine-22

Sexual Assault/DV Advocacy Program
 119 Sycamore St. Ste 200
 Muscatine, IA 52761
 Office: 563-263-0067
 Fax: 563-263-0069
 Crisis Line: 563-263-8080
 County: Muscatine
 Iowa Shelter and Advocacy Programs +Some counties and program coverage may change.
 Call statewide hotline to get the most up-to-date information

Oskaloosa-23

Crisis Intervention Services
 500 High Ave West
 Oskaloosa, IA 52577
 Office: 641-673-0336
 Fax: 641-676-1997
 Crisis Line: 800-270-1620
 Counties: Keokuk, Lucas, Mahaska, Marion

Ottumwa-24

Crisis Center and Women's Shelter
 PO Box 446
 Ottumwa, IA 52501-0446
 Office: 641-683-1750
 Fax: 641-683-4112
 Crisis Line: 800-464-8340
 Counties: Appanoose, Davis, Jefferson, Monroe, Wapello, Wayne

Sioux Center-25

Family Crisis Center of NW Iowa
 PO Box 295
 Sioux Center, IA 51250
 Office: 712-722-4483
 Fax: 712-722-4407
 Crisis Line: 800-382-5603
 www.familycrisiscenters.org
 Counties: Lyon, O'Brien, Osceola, Sioux

Sioux City-26

Council on Sexual Assault & Domestic Violence
 PO Box 1665
 Sioux City, IA 51102-1565
 Office: 712-277-0131
 Fax: 712-258-8790
 Crisis Line: 800-982-7233
 www.safefromabuse.com
 Counties: Monona, Plymouth, Woodbury

Spencer-27

Centers Against Abuse & Sexual Assault
 PO Box 996
 Spencer, IA 51301
 Office: 712-262-4612
 Fax: 712-262-7616
 Crisis Line: 877-362-4612
 Counties: Clay, Dickenson, Emmett, Palo Alto, Buena Vista, Cherokee, Ida, Sac

Waverly-28

Cedar Valley Friends of the Family
 PO Box 784
 Waverly, IA 50677
 Office: 319-352-1108
 Fax: 319-483-1730
 Crisis Line: 800-410-7233
 www.cvfriendsofthefamily.org
 Counties: Bremer, Butler, Chickasaw

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REVISED AND REPRINTED OCTOBER 2011

by

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1-800-532-1275

Visit Iowa Legal Aid on the Web at iowalegalaid.org

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