

Domestic Abuse and the Law

**Questions and Answers About
Iowa Law on Domestic Violence**

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Table Of Contents

Introduction	3
What is Domestic Abuse?	4
Civil Domestic Abuse Actions	4
How Is a Civil Domestic Abuse Action Started?	5
How Much Does It Cost?	6
What Happens At The Hearing?	6
Important Information About Protective Orders	6
Important Information About Mutual Protective Orders	7
Tips For Getting Ready For Your Protective Order Hearing	7
Before Court	7
The Day Of Court	8
During Your Testimony	8
During Your Abuser's Testimony	8
What Happens If The Judge Denies My Protective Order?	9
Enforcement Of Protective Orders	9
Can Custody Really Be Ordered In A Protective Order?	9
Extension, Modifications, And Cancellation Of Protective Orders	10
Out-Of-State Orders	10
Gun Control Laws	11
Divorce	11
Can Other Action Be Taken Against the Abuser?	11
Safety Plan	12
Cell Phone Safety Planning	13
Location Information	14-15

INTRODUCTION

Some Facts About Domestic Violence

Domestic abuse is a serious problem in the United States. According to a government report, more than 1 in 3 women (35.6%) in the United States have experienced rape, physical violence, and/or stalking by an intimate partner in their lifetime. In the United States, on average, more than three women are murdered by their husbands or boyfriends every day.

Domestic abuse can occur anywhere in the United States and is a serious problem in Iowa. In 2011 the Iowa Department of Public Safety reported that there were 6,628 domestic violence incidents reported to Iowa law enforcement. This number is up from 2009's 6,341 reported incidents. More than 75% of the women killed in Iowa were murdered by their intimate partner. In 2014, 13 Iowans were killed in domestic violence homicides.

Most, but not all, victims of abuse are women. A government report noted that about 4 in 5 victims of intimate partner violence were female. Male victims of domestic abuse have the same rights to protection under the law 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, which is 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.

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. Because 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:

1-800-770-1650

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
- family or household members who lived together during the past year but were not living together at the time of the assault; 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 who 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 under certain circumstances.

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 "protective 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.
- That the victim gets possession of any pets or companion animals.

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. The petition can be filed where the victim or the abuser resides, which usually means where a person lives. 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 protective 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. A victim can also get help from an attorney. Iowa Legal Aid 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 is financially eligible for help. Contact information and location of Iowa Legal Aid offices are listed at the end of this booklet. In addition to the free legal services available from Iowa Legal Aid, other people may be able to help a victim with a domestic abuse action. Advocates at domestic violence shelters 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 accompany people through court proceedings.

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: These 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 to do this. Thus, a victim may be able to get representation from a private attorney, who can try to recover attorney fees from the defendant.

What Happens At The Hearing?

Several things can happen at a domestic abuse hearing.

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 on pages 4-5.
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 on pages 4-5. 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 protective order. The victim will have to testify and describe the abuse. The victim 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 Protective Order. It can include any or all of the terms listed on pages 4-5.

Important Information About Protective 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 Protective Orders" on page 9.

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. If possible, avoid wearing:

- 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, protective 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 photos 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 abuse occurred. 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.

✓ **Make Child Care Arrangements.**

- It is very important that children are not present during protective order hearings. Try 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 can be separated from you while waiting for court to begin.
- ✓ You can have a domestic abuse victim advocate attend the hearing with you. Call 1-800-770-1650 to find a local domestic abuse program 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 probably will record testimony. That can be challenging when multiple people speak at once. It also may anger the judge 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 Protective 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, protective 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 protective order case, you should contact an attorney immediately to discuss your options.

Safety Planning: It can be a very dangerous time after losing a protective 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 Protective Orders

A civil protective order is an order issued by a judge that prohibits the abuser from doing certain things. The previous sections explain what can be included in a protective order. Copies of protective orders are sent to law enforcement agencies and police dispatchers. Law enforcement officers are supposed to check to see if protective orders are in effect when they are sent on a domestic abuse call. Information about protective orders also is 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 protective orders must be enforced by law enforcement officers. If there is evidence of a violation, an officer must arrest violators of protective orders. A defendant who violates a protective order can be charged with the crime of violating a protective 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 protective 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 protective 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 protective 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 protective order. If a police officer believes a victim is willingly helping the abuser disobey a protective order, the victim can be arrested. Therefore, if a victim decides she no longer needs a protective 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 protective order dismissed.

Can Custody Really Be Ordered In A Protective Order?

Iowa law allows the Court to include terms concerning temporary custody of and visitation with the children of the abuser and victim in a protective 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 protective 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 Protective Orders

Extension: A civil protective 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, people residing with the victim, or members of the victim’s family. An application to extend a protective 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 protective 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 protective 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 protective 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 protective order. The Clerk of Court has forms to use to request that a protective order be cancelled. It is possible for the judge to schedule a hearing in order to make a ruling regarding cancellation. Before asking for a protective 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 protective 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 protective order from Iowa and she goes to another state, she can register the protective 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 protective 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 protective order. Whenever a protective 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 protective order is in place. If an abuser is found to be in possession of firearms while a protective 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 protective order in a divorce action. Protective orders issued in divorce actions are supposed to be enforced by the police in the same way as protective orders issued in civil domestic abuse cases. Protective orders issued in divorces may last indefinitely. Even if a domestic abuse victim has obtained a protective 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 With Children* explain what happens in a divorce, and include 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 herself 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 protective 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:

1. Put you and your children's important documents in a place that only you know about that you can grab quickly if you must leave or leave them with a trusted friend or family member.
2. Think of a place to go if your abuser gets aggressive or breaks into your home. Avoid rooms with no exits (bathrooms) or with weapons (kitchen).
3. Try to always keep your phone on you and well charged. If you are in danger call 911. If you can't call 911, develop a safe word or signal you can text family or friends so they can call 911.
4. Teach your children how to get help. Instruct them not to get involved in the violence between you and your abuser. Plan a code word to signal to them that they should get help or leave the house.
5. Practice how to get out safely with windows, doors, and fire escapes. Practice with your children. If you are worried your children will tell your abuser, you can tell them it is practice in case of a fire.
6. Document all threats and injuries from your abuser. Take pictures and screenshots! Use a trusted friend or family member's phone to take the picture. Have the friend email it to themselves so you have access to a copy if the phone is lost.
7. Change your locks if your abuser has a key or ever had a key in case he or she made copies.
8. Only meet your abuser in a public place, preferably with lots of people and security cameras.
9. Let people in your life that you trust know what is going on. Show them your abuser's photo and tell them what kind of car he drives. Neighbors and coworkers can be an extra set of eyes to help you stay safe.
10. Memorize the domestic violence hotline number and call local shelters if you need assistance.
Iowa Domestic Violence Hotline 1-800-770-1650.

Cell Phone Safety Planning

1. Beware of monitoring. Your abuser may be monitoring your phone and online activity. If you have not left the relationship, be careful before changing your phone habits so you do not tip off your abuser.
2. Put a passcode on your phone. Having a passcode will make it harder for someone to access your phone and install spyware.
3. Turn off location sharing. Most phones have a GPS that can pinpoint your general or exact location. You may need to turn it off individually for each application on your phone.
4. Turn off Bluetooth when not using. Bluetooth allows your phone to communicate with other devices, such as your car. You can set up a password before your device will connect to a new Bluetooth device.
5. Use virtual phone numbers (such as Google Voice) to keep your number private.
6. Check your privacy and security settings. Most smartphones have settings that will help you manage your privacy and safety. You can find these controls through the settings on your phone or through the settings of a specific app.
7. Review the apps you download. Know the apps that are on your phone, and if you have an unfamiliar app, delete it. If you do not recognize the app, your abuser may have installed it so you should remove it.
8. Lock down your online phone account. Even if someone doesn't have access to your phone, it might be possible for them to access your online account. Online accounts can include your wireless carrier account, call logs, your email or social media accounts. Update the passwords and security questions for those accounts to ensure someone else can't get access.
9. Try not to store sensitive information on your phone such as passwords.
10. Take care when using safety apps. Before relying on any safety app in an emergency, test it out with friends and family to be sure that it works correctly for you. Always know the quickest way to access 911 on your phone in case of an emergency. Many phones have a quick emergency call button that you can even dial without entering the phone's passcode.

You can find out more about the topics discussed in this booklet from Iowa Legal Aid or on the website www.iowalegalaid.org.

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Des Moines, Iowa 50314-2527

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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.

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