



DOMESTIC VIOLENCE ORDER OF PROTECTION: PRO SE HANDBOOK

(OBTAINING AN ORDER WITHOUT AN ATTORNEY)

154615



ILLINOIS COALITION AGAINST DOMESTIC VIOLENCE

JUN 7 1995

ACQUISITIONS

Domestic Violence Order of Protection: Pro Se Handbook

(Obtaining an Order without an Attorney)

154615

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

Illinois Coalition Against
Domestic Violence

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

BY:

KATHLEEN M. QUINN
Program Developer

REVIEWED BY:

LESLIE LANDIS
Attorney at Law

ILLINOIS COALITION AGAINST DOMESTIC VIOLENCE
931 South Fourth Street
Springfield, Illinois 62703
217/789-2830

The information contained herein was developed from program funds provided through the Illinois Department of Public Aid, the state agency responsible for administration of the Illinois Domestic Violence Program.

Gregory L. Coler, Director

This manual was developed with support from the Chicago Resource Center.

This material was printed with funds provided by the Illinois Attorney General's Violent Crime Victims' Assistance Program. The views and statements expressed herein do not necessarily reflect the views and opinions of the Attorney General of the State of Illinois or of the Illinois Violent Crime Victims' Assistance Program. Grant No. 85-600.

Neil F. Hartigan, Attorney General

TABLE OF CONTENTS

	<u>Page</u>
Introduction.....	1
Order of Protection: Who, What, When, Where and How.....	2
A. Who is Protected by IDVA?.....	2
B. What is Abuse?.....	2
C. What is an Order of Protection?.....	2
D. When Can You Get an Order of Protection?.....	3
E. How Long Does an Order of Protection Last?.....	3
F. Where to Get an Order of Protection?.....	4
G. How to Get an Order of Protection?.....	4
H. Things to Remember.....	6
I. Important Hints.....	7
Domestic Violence Order of Protection Chart.....	8

Appendices

- A. Definitions
- B. Petition for Order of Protection
- C. Order of Protection Forms
- D. Amending an Order of Protection
- E. In Forma Pauperis
- F. Unauthorized Practice of Law
- G. Law Enforcement Officer Responsibilities Under the Illinois Domestic Violence Act
- H. Materials Available on the Illinois Domestic Violence Act
- I. Illinois Coalition Against Domestic Violence - Program List

INTRODUCTION

The Illinois Domestic Violence Act (IDVA), which became law on March 1, 1982, is designed to provide victims of domestic violence with more effective legal assistance and protection. The IDVA recognizes that domestic violence is a serious crime against both the individual and society. In fact, domestic violence is the most underreported crime in the country. It affects approximately one in four families, and very often leads to serious injuries and death. Legal intervention can be a very effective way to stop the violence found in many homes.

In most cases (at least 90%) of spouse or partner abuse, the perpetrator is a man and the victim is a woman. Therefore, this booklet will refer to the victim as female and the abuser as male.

The Illinois Domestic Violence Act has two principal parts:

- 1) It creates a new legal remedy called a domestic violence Order of Protection. This is a comprehensive court order designed to address the particular needs of domestic violence victims, especially women who are physically abused by their husbands or partners.
- 2) It requires law enforcement officers to provide immediate assistance and protection to victims when responding to domestic violence calls. The new responsibilities of law enforcement officers are described in Appendix G.

The purpose of this booklet is to explain what an Order of Protection is and how to obtain one without an attorney. It is written primarily for battered women who find themselves in the following circumstances:

- 1) They want and need an Order of Protection to protect themselves from violent partners.
- 2) They do not want to press criminal charges against their abusers, and they are not filing for legal separation or divorce.
- 3) They do not have enough money to hire a private attorney, and yet do not qualify for help from Legal Services.

Battered women should realize that questions regarding child custody, division of marital property and support payments are complex. How they are settled can affect the woman and her children for years to come. Whenever the abuser threatens or actually takes the children, or where he has lawyer and plans to fight the woman's efforts to obtain an Order of Protection or other legal remedies, the woman should make every effort to obtain a lawyer for herself. Capable and sensitive attorneys can provide extremely valuable services to domestic violence victims.

For victims who are unfamiliar with the legal system, the process can be confusing and frustrating. Advocacy and other support services are available from local domestic violence services throughout Illinois (please see Appendix I for a list of programs). You can and have a right to be safe!

Domestic violence advocates and other service providers who work with victims may also want to utilize this handbook. Please refer to The Illinois Domestic Violence Act: A Victim Advocate's Manual, available from ICADV*, and to Appendix E of this booklet regarding unauthorized practice of law.

*Please see page 7 for the address and telephone number. To order, send a check for \$4.00 payable to ICADV.

I. Order of Protection: Who, What, When, Where and How

A. Who is Protected by IDVA?

Any household or family member who is abused by another household or family member. Spouses, ex-spouses, any persons sharing a common household (living together), parents and children, or persons related by blood or marriage are all protected.

Who is Not Covered?

Persons in close relationships who are not married and do not currently live in the same household are not covered by this law.

B. What is Abuse?

Abuse usually means physical violence (slapping, punching, choking, etc.), but it can also mean threatening, harassing or interfering with the personal liberty of the victim.

C. What is an Order of Protection?

An Order of Protection is a written court order, signed by a judge, which requires an abusive household or family member to do or not to do certain things. The judge can order any or all of the following ten different remedies:

- *1) Forbid any further abuse
- *2) Order the abuser not to enter the shared home for a period of time (often called a vacate order or an exclusive possession order). This is available only where the victim and abuser are (a) married, or (b) both listed on the property title or lease; or (c) where the abuser is legally responsible for supporting the victim or child(ren). Instead of barring the abuser from the home, the court can order him to pay for other housing for the victim and child(ren).
- 3) Award temporary child custody and establish visitation rights for minor child(ren).
- 4) Prohibit child snatching and require the abuser to appear in court with child(ren).
- 5) Require or recommend counseling for the abuser.
- 6) Prohibit the abuser from taking, transferring or destroying the victim's property or jointly owned property, including improperly using an aged family member's resources.
- 7) Require the abuser to pay temporary support to the victim, where he has a legal duty to do so.
- 8) Require the abuser to pay the victim any money she lost due to the abuse (medical expenses, lost wages, etc.).
- 9) Order the abuser to pay the victim's court costs and attorney's fees.
- 10) Order other relief as needed, including referring older victims to the aging network for services.

If the abuser violates remedy 1 or 2 listed above (marked with *), he has committed a crime, a Class A misdemeanor which is punishable by up to either one year in jail or \$1000 fine. Such severe punishments are highly unlikely. However, it does mean that he can be immediately arrested if he repeats the abuse or enters the home after he has been ordered not to do so.

If the abuser violates any of the other remedies, he can be found in contempt of court, which can also result in fine or imprisonment. He will not be arrested (except in unusual circumstances) but can be ordered before the judge to explain his actions.

D. When Can You Get an Order of Protection?

Any person who is abused by a household or family member can ask the court for an Order of Protection. Anybody can request an Order of Protection on behalf of a minor child, or an adult who is incapacitated physically, mentally or because of advanced age. It helps if the victim or person requesting the Order has enough evidence to convince the judge it has taken place. Evidence includes such things as:

- 1) Hospital or doctor's reports of injuries
- 2) Dated photographs of injuries
- 3) Police reports
- 4) Statements from other family members, neighbors or others who saw or heard the abuse
- 5) Weapons used
- 6) Torn or bloody clothing or broken household items
- 7) Pictures of the house or room in disarray

The more evidence you have the more likely it is the judge will believe you and grant you the legal remedies you need.

E. How Long Does An Order of Protection Last?

In most cases, an Order of Protection will last for one year from the time the judge signs it. However, it is possible for Orders to be in effect for different periods of time. For example, if you obtain an Order of Protection pending a criminal trial or a divorce, the Order could be effective just until the date of the court hearing. If your abuser is convicted of a crime, such as battering, an Order might last as long as his sentence of probation or supervision (for example, six months). Any Order for less than one year can be extended by the judge for up to one year longer.

There is a special kind of Order of Protection called an ex parte, or emergency, order. These are good only for 10 days and can be extended once for another 10 days. They are short because the judge grants the Order based on your testimony alone. The abuser is not present. Once the ex parte order has expired, a full hearing with the abuser or his attorney present must be held before a regular Order can be given. Ex parte orders are available where either your abuser cannot be located to be notified about a court hearing, or where notifying him would probably cause him to be violent. Ex parte orders can contain all the remedies listed above except the ones ordering the abuser to attend counseling or to pay any money.

F. Where to Get An Order of Protection?

An Order of Protection can be obtained in three ways:

- 1) In criminal court, if you press criminal charges against your abuser. This means that you want the state to prosecute your abuser for the commission of a crime, such as assault or battery. If your abuser has not been arrested, go to your county's State's Attorney's Office (or the police department or warrant officer) to file charges. In most counties the State's Attorney is located in or near the county court building. While there tell the State's Attorney that you also want an Order of Protection. It may be difficult to get any of the child custody or economic support remedies in criminal court.
- 2) In civil court in connection with divorce or separation actions. If you are filing for divorce, ask your attorney to file for an Order of Protection as well. While it is possible to obtain your own divorce without an attorney, if you have child custody or even moderate financial arrangements to make it is probably in your own best interests to have legal representation. Decisions on these matters have important, long-term consequences for you and your children.
- 3) In civil court as an action by itself. This is where you want the Order of Protection in order to have the legal system help stop the violence against you. However, you do not want to press criminal charges or file for divorce or separation. This booklet is designed to help you get an independent Order of Protection.

G. How to Get an Order of Protection?

To obtain an independent Order of Protection, you must file a sworn statement (called an affidavit)* with the civil circuit court in your county which describes the abuse you have suffered. This statement is attached to a request (called a petition)* to the court for a Domestic Violence Order of Protection. In the petition you ask for whatever remedies you need, including whether you want an ex parte (emergency) or regular Order. A judge will hear your case and decide whether to grant you the Order of Protection.

The steps to do this are as follows:

- 1) Familiarize yourself with the terms, information and forms in this booklet.
- 2) Collect as much evidence of the abuse as you can (see page 3 for evidence list). Be certain of the location, time, date and circumstances of the violent incident. You should describe more than one incident of abuse.
- 3) Go to the Clerk of the Circuit Court's office, usually in your county court building. Ask for the form, Petition for Order of Protection (a sample form with instructions for completing it can be found in Appendix B).

If they do not have the form, ask if you can use a copy of the sample.

- 4) You can either fill out the form there or take it home with you and bring it back completed. If you need more space, attach extra pages. If you want an ex parte order, fill out the additional questions on the forms, and you should get a hearing the same day or shortly thereafter. For a regular Order the Clerk will give you a later hearing date. For any Order you must have the forms notarized by a Notary Public. One can usually be found in the court building or Clerk's office. You can fill out several forms for the judge to sign.

*Definitions of legal terms can be found in Appendix A.

- 5) There are court filing fees(\$79.00), fees to have the court papers served on the abuser to inform him of the hearing (called sheriff's service or process fees, usually about (\$11.00), and a fee to get a certified copy of the Order after the judge has signed it.

If you cannot afford to pay these fees, you may file another set of forms, called In Forma Pauperis, asking the court to waive the costs. (Samples of these forms, along with instructions for completing them, can be found in Appendix E). If you are asking for an ex parte order, you will be permitted to file for the Order. The judge will rule on both it and your request for waiver of fees at the same time. Otherwise, the judge will decide first on your fee waiver request. In either case, the income of your abuser is not considered in determining whether you can afford to pay the fees.

- 6) On the day of your hearing, arrive in court in plenty of time. Dress neatly, and bring with you as much evidence as you can (photographs, weapons, medical records, witnesses if possible- see page 3 for evidence list). You may want to bring along a friend or an advocate for support. Listen carefully for your name or your abuser's name to be called. Approach the judge's bench. You will be asked to tell your side of the story. The judge or your abuser's attorney may ask you questions, not only about the abuse but about the nature and length of your relationship with the abuser, whether any children are involved, whether you plan to continue to live with the abusive person, etc. Try to remain calm and respectful, but be sure to say everything you want the court to know about the assaults and why you need the remedies you have requested.
- 7) If the judge denies you any remedy you have requested, she/he is supposed to put the reasons for the denial in writing.
- 8) Once the Order is signed by the judge, it will be filed by the Clerk of the Court. Be sure to get a certified copy and keep it with you. In fact, you should probably make several copies and keep them in different places. That way, if either of the first two remedies are violated, you can prove to the police that the Order is in effect and that your abuser can be arrested.

The Clerk must give a copy of the Order to your county sheriff, who will then put it into the statewide law enforcement computer system. Police officers can then check through their car radios to determine if the Order exists, as well as look at your copy. You can also get an extra copy of the Order and take it to your local police department to be sure they know about it.

- 9) Once the Order is in effect, your abuser will be notified if he was not in court. Very often getting a signed court order restricting his behavior, with the notice that he can be arrested or held in contempt of court for violating it, is enough to stop him from continuing his abuse of you. If it is not, it is important that you report all violations to the police or to the court. If the Order is not enforced it will not be effective. Law enforcement officers are now required to protect and assist domestic violence victims (please see Appendix G for a list of their responsibilities).

- 10) If circumstances change which affect any of the remedies, you may go back to court to request that the Order be modified (see sample form in App. D) This is especially important if you have an Order which forbids your abuser from entering your home, and you reconcile and decide to live together again. In this case, you could request that remedy two, the vacate order, be stricken, but that the remedies forbidding further abuse, ordering your abuser to counseling, etc., remain in effect. If you do not have the vacate order stricken after you begin living together again, the court may be reluctant to enforce the order against abuse and the other remedies as well.

H. Things to Remember

The main features of the Order of Protection to be kept in mind are:

- 1) The victim must prove two facts before an Order of Protection can be issued:
 - a) that she has been abused; and (b) this abuse was inflicted by a family or household member. To do this she will need to present sufficient evidence to convince the court.
- 2) The Order of Protection does not require the victim to be married to the abuser, or, if married, to file for a dissolution of marriage (divorce).
- 3) The Order can be independent of any other actions pending in court, e.g., divorce, assault charges, child custody, etc.
- 4) The court can take immediate action when the victim alleges immediate danger or where the abuser cannot be found to be served court papers. In these cases the court can grant relief to the victim on a temporary basis (up to 10 days) without the abuser being present at a full hearing. These temporary Orders are called Ex Parte Orders of Protection.
- 5) A victim can request a waiver of filing fees if she has little or no money. These forms (called In Forma Pauperis) must be filled out before the other forms except in ex parte cases.
- 6) The Sheriff's office must give summonses in these cases priority over other non-emergency summonses.
- 7) You may be asked to complete a form called the Master Record Sheet Summons. The Clerk will give the form to you. Not every county requires this.
- 8) The victim may go back to court to have the Order changed or modified if circumstances change (e.g., if you move, if you decide to let your abuser live with you, or if the abuser becomes violent toward the children during visitation, etc.)
- 9) The victim must fill out these forms herself but can be accompanied by a court advocate for support.
- 10) No remedy may be denied because a victim defended against the abuse or fled the residence to avoid it, or because she failed to defend or flee.
- 11) Whenever a requested remedy is denied, the order must contain a written explanation of the reason for denial.

I. Important Hints

- . Do not assume that the judge or the Clerk of the Court will know the new law well and how it works. The victim, together with an advocate where available, must be prepared and understand what the Illinois Domestic Violence Act is designed to do.
- . Judges may be reluctant to order relief for the woman in an ex parte hearing, because it would be based on her testimony alone, so include as many examples of abuse as possible (within reason) on the affidavit.
- . Judges may also be reluctant to bar the violent party from the shared home. However, where they deny this remedy they must find that the hardship to the abuser in being barred outweighs the victim's right to safe and peaceful occupancy.
- . Local domestic violence programs (see last page for list) can provide you with a lot of help, information and support. Each should have all the proper forms available, and often can provide someone to serve as an advocate. In addition, just talking with other women who have experienced the same problems can help tremendously.
- . The Illinois Domestic Violence Act was designed to help domestic violence victims get the legal remedies they need. These legal remedies can be effective in stopping the violence in many relationships. While it is not easy or always even possible to get the legal system to help you, it is often worthwhile to take the time and energy to get as much legal protection as you can. Your persistence and determination can convince your abuser that you will no longer tolerate his violence, and that if he continues it he will suffer serious consequences, including the possibility of arrest.
- . If further clarification of the Illinois Domestic Violence Act is needed, please call or write.

Illinois Coalition Against Domestic Violence
931 South Fourth Street
Springfield, Illinois 62703
217/ 789-2830

DOMESTIC VIOLENCE ORDERS OF PROTECTION

AVAILABLE FROM:

CRIMINAL COURT

- . IF YOU WANT THE STATE TO PROSECUTE YOUR ABUSER FOR A CRIME (BATTERY, ETC.)
- . GO TO YOUR COUNTY'S STATE'S ATTORNEY'S OFFICE TO REQUEST THAT CHARGES BE FILED, AND ASK THAT A PETITION FOR AN ORDER OF PROTECTION BE FILED AS WELL. IN CHICAGO GO TO A WARRANT OFFICER.

CIVIL COURT

- . IF YOU ARE MARRIED AND ARE FILING FOR A DIVORCE OR SEPARATION, ASK YOUR ATTORNEY TO PETITION FOR AN ORDER OF PROTECTION AS WELL.
- . IF AN ORDER OF PROTECTION IS THE ONLY LEGAL ACTION YOU NEED OR WANT, YOU MAY PETITION THE CIRCUIT COURT OF YOUR COUNTY FOR AN INDEPENDENT ACTION.
- . ALL THE REMEDIES ARE AVAILABLE WITH THESE ORDERS, AND VIOLATION OF THE ORDER AGAINST FURTHER ABUSE OR THE ONE BARRING YOUR ABUSER FROM YOUR HOME IS A CRIME.

I. Definitions

1. Abuse: the act of striking, threatening, harassing or interfering with the personal liberty of any family or household member by any other family or household member, but excluding reasonable discipline of a minor child by a parent or person acting as a parent.
2. Affiant: the person who has made an affidavit.
3. Affidavit: sworn statement in writing.
4. Allege: state what happened without proof.
5. Class A Misdemeanor: criminal offense which is punishable by imprisonment for up to one year, or a fine up to \$1000, or both. Generally not jailed, but it depends on the past record of the abuser (respondent) and on the judge at the hearing.
6. Contempt of Court: violation of a court order usually punishable by jail or fine.
7. Court having jurisdiction over dissolution actions: the court which handles termination of marriage, custody disputes, and other family matters.
8. Dissolution: legal termination of marriage; divorce.
9. Docket Priority: the action should have priority over others when scheduling court time.
10. Enjoin: forbid or restrain.
11. Ex Parte: one side only heard at the hearing and the decision by the court is made on this alone. The alleged abuser is not present. Only a temporary, or ex parte Order for Protection, good for 10 days, is given in an Ex Parte hearing.
12. I.M.D.M.A. Illinois Marriage and Dissolution of Marriage Act.
13. I.R.S. Illinois Revised Statutes (the laws of Illinois).
14. In Forma Pauperis: the manner one would file a petition when unable to pay petition fees and sheriff's fees.
15. In loco parentis: person or persons acting in place of a child's parents.
16. Jurisdiction: the right of the court to decide about a particular matter.
17. Personal service: the abusing party (respondent) served with papers by authorized person (such as the sheriff). The papers must be handed to him; they cannot be mailed to him.
18. Petition: the paper which is filed to begin a court action. It states what the problem is and how the person wants relief.
19. Petitioner: You. The victim seeking protection or relief by the court.
20. Pro se: this means you are acting as your own attorney, rather than having an attorney represent you.
21. Relief: court action taken to eliminate abuse or fear of abuse.

I. Definitions (continued)

22. Respondent: the one against whom a complaint is made; the one who is to be restrained; the abusing party.
23. Restraining Order: (or Temporary Restraining Order, TRO) a written civil court order that tells a person that he is prohibited from doing certain things, e.g. from committing acts of domestic abuse. Violation of this Order involves a contempt of court charge. Note: Domestic violence victims should request domestic violence Orders of Protection, not restraining orders.
24. Service of Process: any order issued by the court will be served personally on the abusing party (respondent) by the sheriff or other authorized server.
25. Venue: the county or district where a case is to be tried. Under the IDVA, it is possible to file for an Order of Protection where either the victim or abuser live, or where the abuse took place.
26. Who is Covered by the law--Family or Household Member: spouses, ex-spouses, individuals sharing a common household, parents and children, or persons related by blood or marriage.

PETITION FOR ORDER OF PROTECTION

INSTRUCTIONSGeneral

1. The forms should be neatly typed or printed.
2. Fill in the heading, where it says Plaintiff/Petitioners(your name) vs Defendant/Respondent (your abuser's name). The Clerk will fill in the number. Check that it is an Independent Petition.

PAGE 1

3. If you are using the sample forms and not ones supplied by the Clerk of the Court, fill in the name of your county in the upper right hand corner.
4. After "Now comes the Petitioner," fill in your name. Fill in the name(s) of your child or children on the next blank line in the same section. If you are filing on behalf of an incapacitated adult, fill in her/his name on the third blank line.
5. Note that you are called the "Petitioner" and your abuser is called the "Respondent."

COUNT I

Check the boxes which apply to you:

1. If you are filing on your own behalf, check box 1 and fill in your address.

or

2. If you are filing only on behalf of someone else, check box 2, fill in your address and that of the other person.
3. Fill in your abuser's name and address.
4. Check how you are related to the abuser.

or

that you are not related but live with the person, and fill in the address.

5. This is where you describe the abuse which has occurred. Fill in the date, and describe the violence as specifically as possible (where did it happen, what time, what specifically took place, were any weapons used, were any children or other witnesses present, were the police called, what injuries did you suffer, did you seek medical treatment). Attach extra pages to the back of the form if you need more space. You may describe previous acts of violence as well.
6. All the remedies available in an Order of Protection are listed here. Check which remedies you want the court to grant you. Each separate paragraph on the form is preceeded by an asterisk(*) on the instructions below. If you are requesting an ex parte Order of Protection, skip this section and go to page 3, Count II.

*You will almost certainly want the court to order your abuser to refrain from further abuse. Check the first box and after "striking, threatening, harassing or interfering with the person liberty of", fill in your name and the name(s) of your child(ren), if applicable. If you are filing on someone else's behalf, fill in her/his name here.

- * If you want the abuser barred from your home, fill in the address and check either:
 - A. that you are married, or
 - B. that you own singly or jointly the property, or
 - C. that he has a legal duty to support you or the children (for example, you are not married but he is the father of your children.)

CHILD CUSTODY

- * If you want to be awarded legal custody of your children, fill in your name after "award temporary custody to" and your children's name(s) after "minor child/children."
- * Next check either box I, II or III and the appropriate letter to tell the court why it has the authority to make custody decisions about your child. For example,
/X/ I. That this state
/X/ A. is the home state of the child at the time of the commencement of this proceeding. (This means the child(ren) is (are) currently living in the state.)

Read each of these sections carefully to determine which applies to your child(ren).

- * Check the next box if you want the court to forbid your abuser from taking the child(ren) out of the area or hiding them.
- * If the abuser has the child(ren), by checking the next box you are asking the court to order him to bring them to court. List their names on the blank lines.
- * Check the following box if you want the court to order your abuser to undergo counseling.
- * If you are concerned that your abuser may take, transfer or destroy any property, check this box asking the court to prohibit him from doing so.
- * If you need support payments from the abuser for yourself or your child(ren) (and if you are married to the abuser or he is the father of your child(ren)), check the next box and fill in a fair amount of money to be paid to you regularly. For example, \$500 frequency monthly. You should have documentation to back up this request, for example: your income, your abuser's income, the number and ages of the children he has a duty to support, descriptions of any property or other assets you own. Be aware that if you ask for too little money it may be difficult to have it increased later.
- * If you want payment for medical costs, time you have lost from work, etc., check the following box and fill in how much money you want. You should have some evidence of how you arrived at this amount (for example, your medical bills, how much pay you were docked, etc.).
- * If you want the abuser to pay your court costs (filing fees, etc.), check the next box.
- * If you are not being represented by an attorney, you would not check the last box on page 2, unless you planned to retain one in the future.

PAGE 3

- * If you need some other legal remedy not already listed, check the first box on page 3 and fill in what you want the court to order your abuser to do or not to do.*

After completing this part, go to a Notary Public to sign the form on page 4.
You may then take the forms to the judge or to the Clerk and ask for a hearing date.

If you are asking for an ex parte Order of Protection, complete COUNT II.

7. Check either that you would be likely to suffer irreparable injury if your abuser is given prior notice of a hearing on an Order of Protection,

OR

that you have "diligently" tried to serve him with written notice. This must be a legal service of notice, not just you telling him or writing him.

8. This is where you check which remedies you want the court to grant you. Each paragraph on the form is preceeded by an asterisk(*) on the instructions below.

*To have the court order the abuser to stop his violent behavior toward you, check the first box and fill in your name on the blank line.

*If you want the abuser barred from your home, fill in the address and check either:

- A. that you are married, or
- B. that you own singly or jointly the property, or
- C. that he has a legal duty to support you or the children (for example, you are not married but he is the father of your children).

*If you want to be awarded legal custody of your children, fill in your name after "award temporary custody to" and your children's name(s) after "minor child/children."

*Next check either box I, II or III and the appropriate letter to tell the court why it has the authority to make custody decisions about your child. For example,

/ X/ I. That this state

/ X/ A. is the home state of the child at the time of the commencement of the proceeding. (This means the child(ren) is currently living in the state).

Read each of these sections carefully to determine which applies to your child(ren).

*Check the next box if you want the court to forbid your abuser from taking the child(ren) out of the area or hiding them.

*If the abuser has the child(ren), by checking the next box you are asking the court to order him to bring them to court. List their names on the blank lines.

*If you are concerned that your abuser may take, transfer or destroy any property, check this box asking the court to prohibit him from doing so.

If you need some other legal remedy not already listed, check the first box on page 3 and fill in what you want the court to order your abuser to do or not to do.

After completing this part, go to a Notary Public to sign the form on page 4.

You may then take the forms to the judge or to the Clerk and ask for a hearing date.

*For example, the court can order the Sheriff to pick your children up at your home and bring them to you, or to evict your abuser from the home if you are being granted exclusive possession.

UNITED STATES OF AMERICA

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF

COUNTY OF

Plaintiff/Petitioner

-VS-

Defendant/Respondent

No. _____

- ☐ Independent Petition
☐ Criminal Proceeding
☐ Matrimonial

File Stamp Here

PETITION FOR ORDER OF PROTECTION

Now comes the Petitioner _____ on his/her own behalf or on behalf of _____, a minor child, or on behalf of _____, a person prevented by physical or mental incapacity from seeking relief on his/her own behalf, pursuant to Illinois Revised Statutes, Chapter 40, Section 2302-2 Et Seq. and moves this honorable Court to issue an Order of Protection in this cause and in support thereof, states as follows:

COUNT I

(Check only the boxes that apply)

☐ 1. That the Petitioner hereinafter referred to as the "Alleged Abused" resides at _____ in the County of _____ State of _____.

OR

☐ 2. That the Petitioner resides at _____ in the County of _____ State of _____. And that _____, the person on whose behalf this petition is brought, hereinafter referred to as the "Alleged Abused", resides at _____ in the County of _____ State of _____.

3. That the Respondent _____, hereinafter referred to as "Respondent" resides at _____ in the County of _____ State of _____.

☐ 4. That the Respondent stands in the following relationship to the Alleged Abused as
☐ Spouse ☐ Former Spouse ☐ Mother ☐ Father ☐ Child

OR

☐ 4. That the Respondent shares a common household with the Alleged Abused at _____ in the County of _____, State of _____.

5. That on personal knowledge of affiant, the Respondent has acted in the following manner toward the Alleged Abused in that on or about the _____, 19_____, said Respondent did (describe in detail the facts involved in this specific incident or incidents).

6. That pursuant to I. R. S. Chapter 40, Paragraph 2302-8, Section 208C, the Petitioner seeks the following remedy or remedies

☐ That the Respondent refrain from striking, threatening, harassing or interfering with the personal liberty of _____

Petition for Order of Protection

- ☐ That possession of the residence or household located at _____, be granted to _____ to the exclusion of the Respondent (this will not affect title to property) because
- ☐ A. the parties hereto are spouses.
 - ☐ B. the residence is solely or jointly owned or leased by Petitioner.
 - ☐ C. the Respondent has the legal duty to support the Petitioner or minor children.

(Check this box if you wish the Court to make a child custody determination)

- ☐ That the Petitioner further moves the Court to determine that it has jurisdiction pursuant to Section 4, of the Illinois Uniform Child Custody Jurisdiction Act and to award temporary custody to _____ or establish visitation rights with regard to the minor child/children _____, in accordance with the standards set forth in Part IV of the I.M.D.M.A. and in support thereof states:

(Complete sections I to III that are necessary to establish jurisdiction for child custody)

- ☐ **I. That this state**
- ☐ A. is the home state of the child at the time of the commencement of this proceeding, and/or
 - ☐ B. had been the child's home state within 6 months before commencement of this proceeding and the child is absent from this state because of his/her removal or retention by a person claiming his/her custody or for other reasons, and a parent or person acting as parent continues to live in this state;
- ☐ **II. That it is in the best interest of the child/children that a court of this state assume jurisdiction because** the child and his parents, or the child and at least one contestant, have a significant connection with this state, and there is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships;
- ☐ **III. That the child/children is/are physically present in this state and**
- ☐ A. the child has been abandoned
 - ☐ B. it is necessary in an emergency to protect the child/children because he/she/they has/have been subjected to or threatened with mistreatment or abuse or is/are otherwise neglected or dependent;
 - ☐ C. that it appears that no other state would have jurisdiction under prerequisites substantially in accordance with Sub Paragraph I-II or III or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child/children and it is in the best interest of the child/children that this Court assume jurisdiction.
- ☐ That the Respondent be prohibited from removing the minor child/children from the jurisdiction of the Court or concealing the child/children from his/her parent or person in loco parentis.
- ☐ That the Respondent be ordered to appear in Court with the minor child/children _____
- ☐ That the Respondent be ordered to undergo counseling for a specified duration with a social worker, psychologist, clinical psychologist, psychiatrist, family service agency, mental health center guidance counselor or any other guidance service the Court deems appropriate.
- ☐ That the Respondent be restrained from transferring, encumbering, concealing, damaging or otherwise disposing of any of the Petitioner's property or joint property of the Petitioner and the Respondent.
- ☐ That the Respondent be required to pay temporary support for the Petitioner and the minor child/children in the amount of \$_____ frequency_____.
- ☐ That the Respondent be required to pay to the Petitioner \$ _____ as actual monetary compensation for loss suffered as a direct result of this abuse.
- ☐ That the Respondent be required to pay Court costs in this matter.
- ☐ That the Respondent be required to pay attorney fees in the amount of \$ _____ in connection with any action to obtain, modify, appeal or reopen any order of protection.

Petition for Order of Protection

- ☐ That the Respondent be further enjoined or ordered as follows _____

WHEREFORE, Petitioner moves this honorable Court to grant the relief as requested in Paragraph 6 (six) of COUNT I.

COUNT II

COMPLETE THIS SECTION ONLY IF YOU ARE SEEKING EX PARTE RELIEF IN ADDITION TO THE ORDER OF PROTECTION REQUESTED IN COUNT I

6. The Petitioner realleges and incorporates by reference Paragraphs one through five inclusive of Count I of this petition and further alleges as follows:

Check one

- ☐ 7. that should Petitioner be required to give prior notice to the named respondent of his/her attempt to obtain judicial relief as to any remedy requested in Paragraph 8 of this Count II, the irreparable injury which that remedy seeks to prevent would be likely to occur

OR

- ☐ 7. that Petitioner has diligently attempted to obtain Service of Process upon the Respondent and has diligently attempted to serve written notice of the date, time and location of the hearing, together with a copy of the petition and all supporting affidavits upon the Respondent in accordance with the Illinois Supreme Court Rules 11 & 12, through the actions specified below

- ☐ 8. that pursuant to I. R. S. Chapter 40, Paragraph 2302-8, Section 208C, the Petitioner seeks the following remedy or remedies
- ☐ That Respondent be ordered to refrain from striking threatening, harassing or interfering with the personal liberty of _____ or any other family or household member.

- ☐ That possession of the residence or household located at _____ be granted to _____ to the exclusion of the Respondent (this will not affect title to property) because
- ☐ A. the parties hereto are spouses
- ☐ B. the residence is solely or jointly owned or leased by Petitioner
- ☐ C. the Respondent has the legal duty to support the Petitioner or minor children

(Check this box if you wish the Court to make a child custody determination)

- ☐ That the Petitioner further moves the Court to determine that it has jurisdiction pursuant to Section 4 of the Illinois Uniform Child Custody Jurisdiction Act and to award temporary custody to _____ or establish visitation rights with regard to the minor child/children _____ in accordance with the standards set forth in Part IV of the I.M.D.M.A and in support thereof states:

(Complete sections I to III that are necessary to establish jurisdiction)

☐ **I. That this state**

- A. is the home state of the child at the time of the commencement of this proceeding, and/or
- B. had been the child's home state within 6 months before the commencement of this proceeding and the child is absent from this state because of his/her removal or retention by a person claiming his/her custody or for other reasons, and a parent or person acting as a parent continues to live in this state;

☐ **II. That it is the best interest of the child/children that a Court of this state assume jurisdiction because**

the child and his parents, or the child and at least one contestant have significant connection with this state, and there is available in this state substantial evidence concerning the child's present or future care, protection, training and personal relationships;

OR

☐ **III. That the child/children is/are physically present in this state and**

- ☐ A. the child/children has/have been abandoned, or
- ☐ B. it is necessary in an emergency to protect the child/children because he/she/they have been subjected to or threatened with mistreatment or abuse or is/are otherwise neglected or dependent, or
- ☐ C. that it appears that no other state would have jurisdiction under the prerequisites substantially in accordance with Subparagraphs I - II or III or another state has declined to exercise jurisdiction on the grounds that this state is the more appropriate forum to determine the custody of the child/children and it is in the best interest of the child/children that this Court assume jurisdiction.

Petition for Order of Protection

Continuation of Paragraph 8

- ☐ That the Respondent be prohibited from removing the minor child/children from the jurisdiction of this Court or concealing the said minor child/children from his/her parent or person in loco parentis.
- ☐ That the Court order the Respondent to appear in Court with the minor child/children. _____
- ☐ That the Respondent be restrained from transferring, encumbering, concealing, damaging or otherwise disposing of any of the Petitioners property or joint property of the Petitioner and Respondent.
- ☐ That the Respondent be further enjoined or ordered as follows _____

WHEREFORE, Petitioner moves this honorable Court to grant the relief as requested in Paragraph 8 (eight) of Count II

PETITIONER

AFFIDAVIT

The undersigned being first duly sworn upon oath, deposes and states that the contents of the foregoing petition for the Order of Protection are true and correct.

Affiant

Name _____

Address _____

City _____

Phone _____

SUBSCRIBED AND SWORN to before me

Date _____

Judge - Circuit Clerk - Notary Public

DOMESTIC VIOLENCE - ORDER OF PROTECTION FORMS

The attached forms are sample Domestic Violence Order of Protection and Ex Parte Domestic Violence Order of Protection forms which the judge will sign if she/he grants you an Order. The remedies she/he approves will be checked off. You should provide as much descriptive information about your abuser, on page 2, as possible (height, weight, etc.). You must provide his date of birth before the Order can be put into the statewide law enforcement computer system. The other information is important but not absolutely necessary.

Please note that the forms used in your county may not look just like these.

You should get at least one certified copy of this form from the Clerk of the Court. Keep it in a safe place. If you need to call the police because your abuser has violated the prohibition against abuse or the vacate order, you can show them your copy of the order to verify that it is in effect. Always look on page 2 to see when the Order expires.

If your abuser violates any of the other remedies, you may go back to the court and ask that he be held in contempt. Again, tell the Clerk what you want to do, and bring evidence of the violation with you.

STATE OF ILLINOIS

COUNTY OF _____

IN THE CIRCUIT COURT OF

— Vs. —

No. _____

☐ Independent Petition☐ Criminal Proceeding☐ IMDMA Proceeding

File Stamp Here

PETITIONER/PLAINTIFF

ADDRESS

CITY

On behalf of:

RESPONDENT/DEFENDANT

ADDRESS

CITY

SERVICE MADE ON RESPONDENT BY:

☐ Presence in Court☐ Personal Service

Date: _____

DOMESTIC VIOLENCE ORDER OF PROTECTION

The Court, having jurisdiction over the subject matter and the parties, finds that the respondent has committed abuse as defined by the Illinois Domestic Violence Act.

IT IS HEREBY ORDERED THAT:

- ☐ 1. The respondent shall refrain from striking, threatening, harassing or interfering with the personal liberty of _____
or any other family or household member, namely, _____
Particularly s/he shall not: _____
- ☐ 2. Possession of the residence located at _____
is granted to _____
to the exclusion of the respondent, who shall not enter it even with the consent of any of its inhabitants.
This order does not affect title to property.

Any violation of paragraphs 1 or 2 of this Order of Protection constitutes a **CLASS A MISDEMEANOR** and subjects the respondent to immediate arrest, provided s/he has been served notice or has actual knowledge of this order.

WILLFUL VIOLATION OF ANY PROVISION OF THIS ORDER CONSTITUTES CONTEMPT OF COURT AND MAY RESULT IN FINE OR IMPRISONMENT.

- ☐ 3. Temporary custody of the minor child/ren _____
_____ is awarded to the petitioner, subject to visitation on the following days and times: _____
Respondent shall pick up and drop the child/ren at: _____
- ☐ 4a. The respondent is prohibited from removing the minor child/ren from the jurisdiction of the Court and from concealing them from the parent or person in loco parentis.
- ☐ 4b. The respondent shall appear in Courtroom _____ at _____ m. on _____
_____ with the minor child/ren.
- ☐ 5. The respondent shall undergo counseling at _____
at least _____ per _____, beginning no later than _____
and continuing at least until _____.

DOMESTIC VIOLENCE ORDER OF PROTECTION

Case No. _____

- ☐ 6. The respondent shall not transfer, encumber, conceal, damage, or otherwise dispose of any property solely or jointly owned by the petitioner, or any other family or household member, except as follows: _____

- ☐ 7. The respondent shall pay temporary monthly maintenance of \$ _____ and monthly child support of \$ _____. Payments must reach _____ by no later than the _____ of each month.

- ☐ 8. The respondent shall pay petitioner \$ _____ by no later than ____/____/____, as compensation for the following losses resulting directly from abuse by the respondent: _____

This amount does not include any other such losses, nor preclude future recovery thereof.

- ☐ 9. The respondent shall reimburse petitioner \$ _____ for court costs and shall pay for any future costs in connection with any action to obtain, modify, enforce, appeal or re-open any Order of Protection. Respondent shall pay \$ _____ for/toward petitioner's attorney fees. Payment shall be made to _____ no later than ____/____/____.

This order is enforceable by petitioner or the attorney.

- ☐ 10. The respondent is further enjoined as follows: _____

The following remedies, requested by the petitioner pursuant to the Illinois Domestic Violence Act, Subsection (c) of Section 2302-8, were denied for the stated reasons: _____

This order was issued on: _____ Date _____ Time.

This order will remain in full force and effect until: ☐ Date: _____; or

☐ The occurrence of the following event: _____

Name _____

Attorney for _____

Address _____

City _____

Telephone _____

ENTER: _____

JUDGE

The petitioner, the petitioner's attorney or Clerk of the Court should complete the following information about the respondent so that this order can be entered into the Illinois Department of Law Enforcement's LEADS computer system by the sheriff.

BIRTHDATE	SEX	RACE	HEIGHT	WEIGHT	HAIR	EYES	SOCIAL SECURITY NUMBER
DISTINGUISHING FEATURES AND ALIAS INFORMATION							DRIVER'S LICENSE

STATE OF ILLINOIS

COUNTY OF _____

IN THE CIRCUIT COURT OF

— Vs. —

No. _____

- ☐ Independent Petition
☐ Criminal Proceeding
☐ IMDMA Proceeding

File Stamp Here

PETITIONER/PLAINTIFF

ADDRESS

CITY

On behalf of:

RESPONDENT/DEFENDANT

ADDRESS

CITY

EX PARTE DOMESTIC VIOLENCE ORDER OF PROTECTION

The Court, having jurisdiction over the subject matter, finds that the respondent has committed abuse as defined by the Illinois Domestic Violence Act.

AND BASED ON THE FOLLOWING FURTHER FINDINGS:

- ☐ The petitioner has diligently attempted to obtain service of process upon the respondent and has diligently attempted to serve written notice of the date, time and location of the hearing together with a copy of the petition and all supporting affidavits upon the respondent in accordance with Supreme Court Rules 11 and 12; and/or
- ☐ The irreparable injury which the following remedies are intended to prevent would have been likely to occur if respondent had been given prior or earlier notice of this hearing;

IT IS HEREBY ORDERED THAT:

- ☐ 1. The respondent shall refrain from striking, threatening, harassing or interfering with the personal liberty of _____
or any other family or household member, namely, _____

Particularly s/he shall not; _____
- ☐ 2. Possession of the residence located at _____
is granted to _____
to the exclusion of the respondent, who shall not enter it even with the consent of any of its inhabitants.
This order does not affect title to property.

Any violation of paragraphs 1 or 2 of this Order of Protection constitutes a **CLASS A MISDEMEANOR** and subjects the respondent to immediate arrest, provided s/he has been served notice or has actual knowledge of this order.

WILLFUL VIOLATION OF ANY PROVISION OF THIS ORDER CONSTITUTES CONTEMPT OF COURT AND MAY RESULT IN FINE OR IMPRISONMENT.

EX PARTE DOMESTIC VIOLENCE ORDER OF PROTECTION

Case No. _____

- ☐ 3. Temporary custody of the minor child/ren _____
_____ is awarded to the petitioner, subject to visitation on the following days and times:

Respondent shall pick up and drop the child/ren at: _____

- ☐ 4a. The respondent is prohibited from removing the minor child/ren from the jurisdiction of the Court and from concealing them from the parent or person in loco parentis.

- ☐ 4b. The respondent shall appear in Courtroom _____ at _____ m. on _____
_____ with the minor child/ren.

- ☐ 5. The respondent shall not transfer, encumber, conceal, damage, or otherwise dispose of any property
(LEADS #8) solely or jointly owned by the petitioner, or any other family or household member, except as follows:

- ☐ 6. The respondent is further enjoined as follows: _____

(LEADS #10)

- ☐ Petitioner, having filed a proper affidavit, shall be permitted to proceed with this claim as a pauper and shall not be required to pay fees for filing, service, transcripts or copies of orders.

The following remedies, requested by the petitioner pursuant to the Illinois Domestic Violence Act, Subsection (c) of Section 2302-8, were denied for the stated reasons:

The hearing for an extension of this Order of Protection will be held on:

Date _____ Time _____ Courtroom _____

This Order was issued on:

Date _____ Time _____

This Order will expire on:

Date _____ Time _____

Name _____

Attorney for _____

Address _____

City _____

Telephone _____

ENTER: _____

JUDGE

The petitioner, the petitioner's attorney or Clerk of the Court should complete the following information about the respondent so that this order can be entered into the Illinois Department of Law Enforcement's LEADS computer system by the sheriff.

BIRTHDATE	SEX	RACE	HEIGHT	WEIGHT	HAIR	EYES	SOCIAL SECURITY NUMBER
DISTINGUISHING FEATURES AND ALIAS INFORMATION							DRIVER'S LICENSE

NOTICE TO RESPONDENT:

Upon 2 days notice to the petitioner who has obtained an ex parte order, or upon such shorter notice as the Court may prescribe, a respondent who is subject to an ex parte order may appear and move for its dissolution or modification. Any motion for dissolution or modification by the respondent must be supported by affidavit.

AMENDING AN ORDER OF PROTECTION

The attached form is an example of one a judge might use to change an Order of Protection which has already been granted. Changes can include extending the Order, vacating (cancelling) the entire Order, or vacating one remedy such as the one barring the abuser from the home.

To file an amendemnt to your Order of Protection, take your certified copy with you to the Clerk of the Court, tell him/her what you want to do, and ask for the proper forms.

STATE OF ILLINOIS

COUNTY OF _____

IN THE CIRCUIT COURT OF

— Vs. —

No. _____

- ☐ Independent Petition
☐ Criminal Proceeding
☐ IMDMA Proceeding

File Stamp Here

LEADS #

Respondent's Date of Birth:

ORDER

The Court Finds that

- ☐ An Ex Parte Domestic Violence Order of Protection was issued
on _____
- ☐ A Domestic Violence Order of Protection was issued
on _____

THE COURT HAVING JURISDICTION OF THE SUBJECT MATTER, IT IS HEREBY ORDERED THAT:

- ☐ 1. An extension of the ex parte Order of Protection is granted and is hereby extended to _____ 19 _____
at _____ m.
- ☐ 2. A hearing on the ex parte Order of Protection is set for _____ m., on _____ 19 _____
in Courtroom No. _____.
- ☐ 3. The ex parte Order of Protection is vacated.
- ☐ 4. The Order of Protection previously issued is extended to _____ 19 _____.
- ☐ 5. A hearing on the Order of Protection is set for _____ m., on _____ 19 _____,
in Courtroom No. _____.
- ☐ 6. The Order of Protection is vacated.
- ☐ 7. ☐ The ex parte Order of Protection is modified as follows:
☐ The Order of Protection is modified as follows:

Name _____

Attorney for _____

Address _____

City _____

Telephone Number _____

Enter: _____

JUDGE

Date: _____

IN FORMA PAUPERIS

If you do not have the money to pay the costs of filing (\$79.00) and service (\$11.00), you may proceed "in forma pauperis." By doing this, you may not have to pay for filing charges, service of process, or the fee for copies of the Order of Protection. The court may not consider the income of your abuser when determining your ability to pay.

If you are filing for an ex parte (emergency) Order of Protection, you may file the pauper's form at the same time you file your petition. Otherwise you must file these forms first.

The attached form is a sample of one used to file a case "as a poor person." The form used in your county may not look exactly like this one.

Fill in your name on the first blank and check that you are filing on your own behalf. (If you are filing on behalf of another person, check the second box, write in how you are connected to that person (parent, guardian, friend, etc.) fill in their name, and whether they are a minor or incompetent to file on the next blank line).

If you are filing on your own behalf, you are the "applicant."

1. a. If you are employed, fill in what your job is on the first line, and the name of your employer on the second line.
1. b. Fill in any other sources of income you have here (child support payments, welfare payments, etc.).
2. Fill in how much money you made last year.
3. Write down where you expect to be getting money from in the future, and how much you expect from each source.

Under "the person's dependent on applicant for support are," write down the names and ages of your children and anyone else that you support (a parent, etc.).

4. a. If you own a house, condominium or mobile home, write in the address or how much it is worth. If it is jointly owned by you and your husband, write that down also. If you have left for your safety note that as well.
- b. Under personal property, list any furniture, clothing, etc. you own and approximately how much they are worth. Again if you have left home because of the violence and do not have access to these things, either do not list them or note that they are in your partner's possession.

List the type and year of your car, if you have one, and about how much it is worth.

5. If you have filed a court petition as a poor person during the past year, write down when and what type of case it was.
7. File in "Applicant has a meritorious claim" (not defense).

Take the form to a Notary Public and sign it in front of them. Then take it back to the Clerk of Court's Office.

CIRCUIT COURT OF.....JUDICIAL CIRCUIT, ILLINOIS

.....COUNTY

v.

No.

ORDER

☐ Application granted

☐ Application denied

....., 19.....

Judge.

APPLICATION TO SUE OR DEFEND AS A POOR PERSON

(Check
applicable
statement)

I,.....,

☐ on my own behalf,

☐ as.....on behalf of
(parent) (guardian) (other)

....., a.....
(name) (minor) (incompetent)

called "applicant", on oath state:

1. Applicant's occupation or means of subsistence:

a. Applicant is employed as.....
(job)

by.....
(employers)

b. Applicant's other sources of income or support are:

2. Applicant's income for the preceding year was \$.....

3. The sources and amount of income expected by applicant hereafter are:

The persons dependent on applicant for support are:

4. Applicant owns (a) no real estate except: (State address or location, nature of improvements and value.)

and (b) personal property which in the aggregate does not exceed \$..... in value and consists of:

including a.....motor vehicle, 19....., valued at \$.....
(make) (year)

5. No applications were filed by or on behalf of applicant for leave to sue or defend as a poor person during the preceding year except:

6. Applicant is unable to pay the costs of this case.

7. Applicant has a meritorious.....
(claim) (defense)

.....
(Signature)

Signed and sworn to before me

....., 19.....

.....
Notary Public.

Name.....

Attorney for Plaintiff.....

.....

Address.....

City.....

Telephone.....

UNAUTHORIZED PRACTICE OF LAW

Illinois law states that "any person practicing, charging or receiving fees for legal services within this state, either directly or indirectly, without being licensed as herein required, is guilty of contempt of court and shall be punished accordingly..."*

What constitutes unauthorized practice of law is unclear, although some attorneys argue that a lay person who offers any legal advice to another person is guilty of it. While it may be unlikely that any legal action would be taken against a lay advocate for a battered woman, it is best to be careful when assisting a victim through the court process. Remember that your goal is to help the woman accomplish her tasks for herself.

Advocates and service providers should follow these guidelines:

- 1) You must state clearly to the woman that you are not an attorney and that you are not giving legal advice.
- 2) Ideally, you should get a signed statement from the woman stating that she knows you are not an attorney, and giving you permission to speak on her behalf if she wants you to do so.
- 3) You may not charge fees for your assistance.
- 4) The woman must complete all legal forms herself.
- 5) If you accompany the victim to court, again clearly state that you are an advocate, not an attorney, and that you are not representing her as counsel.
- 6) If you wish to speak for the woman in court, ask the judge, on the record, for permission to do so. Do not directly address the judge otherwise unless she/he asks you a question.
- 7) If anyone questions your activities, it will help if you are able to demonstrate that for all practical purposes no attorneys are available to provide legal assistance to this victim.
- 8) Questions regarding property awards, support payments and child custody are complex and can have long-ranging consequences for the woman. If the woman's husband has threatened to take the children if she leaves, or if he has retained an attorney and plans to contest her being awarded custody, every effort should be made to obtain a lawyer for her.

One way to avoid some of these problems is to have any attorney on your agency's board, or acting as a volunteer, who is willing to train and provide some supervision to advocates.

*I.R.S., Chap. 13, Sec. 1.

LAW ENFORCEMENT OFFICER RESPONSIBILITIES

UNDER THE ILLINOIS DOMESTIC VIOLENCE ACT

When police officers or sheriff's deputies respond to a domestic violence call, the Illinois Domestic Violence Act requires that they take all reasonable steps to prevent any further abuse of the victim, including:

- 1) Arresting the abuser where the officer has probable cause to believe that he has committed any crime (battery, etc.). It is not required that the victim sign a complaint; however, many officers will be unwilling to make an arrest if the victim is unlikely to testify in court. It is also not necessary for the officer to have seen the actual offense so long as there is sufficient "probable cause" (visible injuries or other evidence of violence).
- 2) Assisting the victim by either providing or arranging transportation for her to a hospital, if necessary, or to a safe place or shelter.

The police are also required to accompany you back to your home after you've left to protect you while you collect some necessary personal belongings (clothing for you and the children, medicines, legal papers, etc.).

- 3) Advising the victim of her rights under the law, including how to press charges if they have not arrested the abuser. The police are required to give you a written summary of your legal rights, which is to be printed in both English and Spanish. The officer is to sign the sheet and write down his or her badge number.
- 4) Reporting on every bona fide (legitimate) allegation of domestic violence. This means that the officers must fill out a police report every time they respond to a domestic violence call. The report must contain the victim's statement about whether and how often she was abused by the same person in the past. If possible, it is a good idea to get a copy of the report or the report number (called an "RD" number in Chicago), so that you can use it as evidence if you decide to press criminal charges or file for an Order of Protection.



ILLINOIS COALITION AGAINST DOMESTIC VIOLENCE

931 South Fourth Street — Springfield, Illinois 62703 — (217) 789-2830

Materials Available

on the

Illinois Domestic Violence Act

- . Illinois Domestic Violence Act booklets with section by section summary (\$.50)
- . Professional Manuals:
 - Law Enforcement (\$2.00)
 - State's Attorneys (\$2.00)
 - Civil Court Practice (\$3.00 + \$1.00 shipping)
 - Advocates and Service Providers (\$3.00 + 1.00 shipping)
- . Victim Rights Sheets (master copy)
- . Videotape for Law Enforcement Role Call Training
- . Slide/tape presentation for victims
- . General information brochures and posters (free)
- . A Family Affair, an excellent 30 minute film which effectively demonstrates the use of an Order of Protection to stop violence within a family, can be borrowed at no charge (except shipping costs) from the ICADV.

To request any of the materials please contact Kathleen Quinn at (217) 789-2830 or at the address above.

To reserve the film please contact Suzanne Croteau at (217) 789-2830 or at the address above.

Illinois Coalition Against Domestic Violence

931 South Fourth Street
Springfield, Illinois 62703
217/789-2830

**ALEDO**

Mercer County CADV
309/582-7233 (day/evening)

ALTON

Oasis Women's Center
618/465-1978

AURORA

Mutual Ground
312/897-0080

BELLEVILLE

Women's Crisis Center
618/235-0892

BLOOMINGTON

YWCA of McLean County —
Countering Domestic and
Sexual Violence
800/322-5015
309/827-4005

CAIRO

Community Health Services —
Cairo Women's Shelter
618/734-HELP

CANTON

Fulton County Women's
Crisis Service
309/647-8311

CARBONDALE

Women's Center
618/529-2324

CENTRALIA

Call For Help/Women In Need
618/533-SAFE

CHARLESTON

Coalition Against Domestic
Violence
217/345-4300
217/235-4300

CHICAGO

Chicago Abused Women
Coalition
312/278-4566

Chicago Department of
Human Services
312/744-5829

Family Rescue
312/375-8400

Loop YWCA — Women's
Services
312/372-6600 (office)

Neopolitan Lighthouse
312/248-9261

Rainbow House/Arco Iris
312/521-4865

Southwest Women Working
Together
312/436-0550 (office)

Travelers & Immigrants Aid
312/889-6611 (day/evening)
312/686-7562 (night/weekend)

Uptown Center Hull House —
Family Violence Task Force
312/561-3500 (day)
312/769-0205 (night/weekend)

CLAY CITY

Stopping Woman Abuse Now
618/676-1911

DANVILLE

Danville YWCA/Woman's
Alternative Shelter
217/443-5566

DECATUR

DOVE Domestic Violence
Project
217/423-2238

DE KALB

Safe Passage
815/756-2228

DES PLAINES

Life Span
312/824-4454

DIXON

Sterling-Rock Falls YWCA —
COVE
815/288-1011

EAST ST. LOUIS

Women's Crisis Center
618/398-8540

ELGIN

Community Crisis Center
312/697-2380

EVANSTON

Evanston YWCA
312/864-8780

FREEPORT

YWCA of Freeport
815/235-9421 (day)
815/233-HELP (night/weekend)

GLEN ELLYN

Family Shelter Service
312/469-5650

HAZEL CREST

South Suburban Family
Shelter
312/335-3028

JACKSONVILLE

Women's Crisis Center
217/243-4357

JOLIET

Guardian Angel Home
815/722-3344

KANKAKEE

Kankakee County Coalition
Against Domestic Violence
815/932-5800

OAK PARK

Sarah's Inn
312/386-4225

PEORIA

Tri-County WomenStrength
309/674-4443

PRINCETON

Freedom House
815/875-8233

QUINCY

Quincy Area Network Against
Domestic Abuse
217/222-2873

ROCHELLE

HOPE of Rochelle
815/562-8890

ROCKFORD

WAVE/PHASE
815/962-6102

ROSICLARE

Anna Bixby Women's Center
618/252-8389

SPRINGFIELD

Sojourn Women's Center
217/544-2484

STERLING

Sterling-Rock Falls YWCA —
COVE
815/626-7277

STREATOR

Against Domestic Violence
800/892-3375

SUMMIT

Des Plaines Valley
Community Center
312/485-5254

URBANA

A Woman's Place
217/384-4390

WAUKEGAN

A Safe Place
312/249-4450

WOODSTOCK

Turning Point
815/338-8080

WORTH

Crisis Center for South
Suburbia
312/974-1791

Unless otherwise indicated, all
numbers listed are 24-hour crisis
lines.