

# Protecting Spouses Against Domestic Violence

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## Part 1

If possible, marital difficulties should be resolved through counselling or other outside assistance. However, circumstances arise where spouses and children require basic legal protection.

Under the Domestic Violence Act 1996 if a court “is of the opinion that there are reasonable grounds for believing that the safety or welfare” of an applicant or a dependent child requires it, the court may make either a Barring Order or a Safety Order.

The Barred Spouse is excluded from the family home and is usually prohibited from “using or threatening to use violence” against his/her spouse or children, from molesting or putting them in fear and from entering or approaching the family home.

Where a court does not consider the perpetrator’s conduct serious enough to require a Barring Order, it can make a Safety Order. The spouse against whom the Safety Order is made can continue to live in the home. He/she is prohibited from using or threatening violence against, molesting or putting in fear the other spouse or their children.

District Court Barring Orders can remain in force up to 3 years. District Court Safety Orders can be for up to 5 years. An order made in family proceedings commenced in the Circuit Court may last until either spouse dies.

Where court proceedings are commenced to obtain a protective order, some weeks usually pass before the court hearing where the spouses, on oath, give their version of alleged incidents. In the meantime, the courts may grant an emergency or interim Barring Order on the application of a spouse where there is an immediate risk of significant harm. This can remain in force for 8 working days by which time the Barred Spouse gets an opportunity to present their version of events in a court hearing. The court decides whether to continue or discontinue the Barring Order. The courts may, as an alternative interim measure, grant a Protection Order where there are reasonable grounds for concern about safety or welfare but insufficient grounds for an interim Barring Order. A Protection Order has the same effect as a Safety Order.

If a spouse violates a Barring, Safety or Protection Order, the gardai have an immediate power of arrest. Violation of any such order is a criminal offence which can result in a fine and/or a prison sentence of up to 12 months.

Court hearings under the Domestic Violence Act 1996 take place in private. Witnesses are allowed into court only while they are giving evidence. However, a prosecution taken against a spouse for violating a protective order takes place in public in the criminal courts and occasionally, such cases are reported. The Domestic Violence Act also applies to cohabittees but its application is limited.

**The above article is by way of introductory information only.  
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differs and individual legal advice should be sought for guidance  
on individual family circumstances**