

DOMESTIC VIOLENCE ACT, 2007

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FIRST SCHEDULE
SECOND SCHEDULE



No. 19 of 2007

I assent,

(COLVILL N. YOUNG)

Governor-General

17th January, 2008.

AN ACT to provide greater protection for victims of domestic violence; to repeal the Domestic Violence Act, Chapter 178 of the Substantive Laws of Belize, Revised Edition 2000 -2003; and to provide for matters connected therewith or incidental thereto.

(Gazetted 19th January, 2008.)

WHEREAS, incidents of domestic violence continue to occur with alarming frequency and deadly consequences;

AND WHEREAS, it has become necessary to reflect the community's repugnance to domestic violence in whatever form it may take and further influence the community's attitude and support social change in respect of this social ill;

AND WHEREAS, the Government is of the view that one way to achieve these goals is to strengthen legislation to ensure prompt and equitable legal remedies for victims of domestic violence;

NOW THEREFORE, BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

PART I***Preliminary*****Short title.**

1. This Act may be cited as the

DOMESTIC VIOLENCE ACT, 2007.**Interpretation.**

2. In this Act, unless the context otherwise requires

“applicant” means a person described in section 3 who applies, or on whose behalf an application is made for a Protection Order, an Occupation Order, a Tenancy Order, a Counseling Order, an Order for payment of financial compensation, an Interim Order, or any other order specified in Part II of this Act;

“child” means a person under the age of eighteen years who ordinarily or periodically resides with the applicant, whether or not the child is the child of the applicant and the respondent or either of them, and includes

(a) an adopted child;

(b) a stepchild;

(c) a child who is treated as a member of the family or who resides in the household residence on a regular basis but who is or has not been married;

(d) a child, whether or not a child of either the applicant or the respondent, who is or has been living in the household residence as a member of the family;

(e) a child of a man and woman who are legally considered common law spouses, whether or not the man and woman still cohabit as common law spouses;

(f) a child of a man and woman who are or have

engaged in a visiting relationship as cohabitants;

- (g) a child of whom either the man or the woman is a guardian;

“Clerk” means the Clerk or Deputy Clerk of the Court;

“cohabitant” means a person who has lived with, is living with, or is in a visiting relationship with, a person of the opposite sex as a husband and wife although not legally recognized as a common law or legal spouse of that person;

“Court” means the Family Court established under the Family Court Act or a court of summary jurisdiction;

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“*de facto* spouse” in relation to a person, means a person of the opposite sex to the first-mentioned person who is living with the first-mentioned person as that person’s husband or wife though not legally married to each other, or if not living together, is a parent, but not a grandparent, of a child of the first-mentioned person, or is pregnant by the first-mentioned person, and includes a cohabitant, a person in a visiting relationship;

“dependant” includes a person over the age of eighteen years who by reason of mental or physical disability, age or infirmity is reliant on either the applicant or respondent for his welfare;

“domestic violence” includes physical, sexual, emotional, psychological or financial abuse committed by a person against a spouse, child, *de facto* spouse, or any other person who is a member of the household of the applicant or the respondent;

“emotional or psychological abuse” means a pattern of behaviour of any kind, the purpose of which is to undermine the emotional or mental well-being of a person, including

- (a) persistent intimidation by the use of abusive or threatening language;

- (b) persistent following of the person from place to place;
- (c) depriving that person of the use of his property;
- (d) interfering with or damaging the property of the person;
- (e) the watching or besetting of the place where the person resides, works, carries on business, attends for education, or happens to be;
- (f) making persistent or unwelcome telephone calls to the person;
- (g) the willful or reckless neglect of a child, spouse, or dependant;
- (h) the forced confinement of the person, child, spouse;
- (i) verbal or non-verbal threats of physical violence;
- (j) inducing, coercing or forcing a person, without the person's consent, to take a drug that alters the will of that person, or that reduces the capacity of that person, to resist;

CAP. 103. “drug” means a substance or product prescribed under Part I, II or III of the Second Schedule of the Misuse of Drugs Act;

“financial abuse” means a pattern of behaviour of any kind, the purpose of which is to exercise coercive control over, or exploit or limit a person's access to, financial resources so as to ensure financial dependence;

“guardian” in relation to a child, includes a person who has custody of that child;

“household residence” means

- (a) in relation to both spouses, the dwelling house that is used habitually by both or either of them

as the only or principal family residence together with any buildings or improvements appurtenant thereto and wholly or mainly used for the purposes of the household;

(b) in relation to a man or a woman who are no longer spouses or in relation to *de facto* spouses, the dwelling house that was last used habitually by either of them, before or after they ceased to be spouses or *de facto* spouses, as the only or principal family residence, together with any land, buildings, or improvements appurtenant thereto and used wholly or mainly for the purposes of the household;

“Interim Order” means an Order made under section 11;

“Minister” means the Minister responsible for Social Development or Social Services;

“Occupation Order” means an Order referred to in section 8;

“Order” includes a Protection Order, an Occupation Order, a Tenancy Order, a Counseling Order, an Order for the payment of financial compensation, or any other order prescribed in Part II of this Act;

“parent” means a person who is a parent or grandparent in relation to a child, dependant, spouse or respondent, as the case may be

(a) by blood;

(b) by marriage;

(c) by adoption;

and includes a guardian or any person who has actual custody of a child;

**First
Schedule.**

“personal effects” includes privately owned items, such as clothes, keys, or identification documents, that are regularly worn or carried on one’s person;

“physical abuse” includes any act or omission which causes physical injury and includes the commission of or an attempt to commit any of the offences listed in the First Schedule.

“police officer” means a member of the Belize Police Department;

“Protection Order” means an Order made pursuant to subsection (1) of section 4;

“respondent” means a person against whom an application for an Order is made;

**First
Schedule.**

“sexual abuse” includes sexual contact of any kind that is coerced by force or threat of force and the commission of or an attempt to commit any of the offences listed in the First Schedule;

“spouse” includes

(a) a woman who cohabits with a man as if she were in law his wife;

(b) a man who cohabits with a woman as if he were in law her husband;

(c) a former spouse;

(d) a *de facto* spouse;

(e) a former *de facto* spouse.

“Tenancy Order” means an Order made pursuant to section 8;

“tenant” in relation to any dwelling house, includes any person

- (a) whose tenancy has expired or has been determined;
- (b) who is for the time being deemed under or by virtue of any enactment or rule of law to continue to be the tenant of the dwelling house, and the term “tenancy” has a corresponding meaning;

“visiting relationship” means a non-cohabitational relationship between a man and a woman who, although not legally recognized as common law spouses, have or had a relationship which may or may not have produced a child.

PART II ***Orders***

3. (1) A person referred to in subsection (2) may apply to the Court for any of the Orders provided under this Act on the ground that the respondent is engaging, has engaged, or threatens to engage, in domestic violence.

**Persons who
may apply.**

- (2) An application under subsection (1) may be made by
 - (a) the spouse of the respondent;
 - (b) a member of the respondent’s household residence, either on his own behalf or on behalf of any other member of the household;
 - (c) a child;

- (d) a dependant;
 - (e) a parent or guardian;
 - (f) a person who has a child in common with the respondent;
 - (g) a police officer;
 - (h) an experienced or qualified person in social welfare, being a public officer duly appointed by the Public Services Commission;
 - (i) any child by consanguinity or affinity of either the spouse or the respondent who is not a member of the household of either the spouse or the respondent;
 - (j) an officer of the Women's Department, being a public officer duly appointed by the Public Services Commission.
- (3) A child or a dependant may apply for an Order provided under this Part through
- (a) a person with whom the child or dependant normally resides or resides with on a regular basis, or by any adult member of his household; or
 - (b) a parent or guardian of, or a person who is in *loco parentis* to, the child or dependant; or
 - (c) a social service officer, or an officer of the Women's Department referred to in subsection (2)(h) and (j) respectively.

- (4) Notwithstanding subsection (3), a police officer, a social service officer or an officer of the Women’s Department may apply for an Order provided under this Part on behalf of an applicant referred to in subsection (2).
- (5) Where an application referred to in subsection (3) or (4) is on behalf of a child or dependant, the parent or guardian of the child or dependant shall have a right to be a party to the proceedings.
- (6) Where an application referred to subsection (4) relates to an applicant who is an adult, the applicant shall be a party to the proceedings.
- (7) Nothing in this Act shall preclude a person from applying for
 - (a) a Protection Order and an Occupation Order; or
 - (b) a Protection Order and a Tenancy Order; or
 - (c) notwithstanding section 3 of the Summary Jurisdiction (Procedure) Act, a Protection Order, an Order for medical costs, relocation costs, legal costs, or compensation for monetary loss; or
 - (d) a Protection Order and a Counseling Order; or
 - (e) a Protection Order and a combination of any of the Orders specified in paragraphs (a) to (d).

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4. (1) Where, on an application made by a person described in section 3, the Court determines, on a balance of probabilities, that domestic violence has occurred, it may issue a Protection Order and any other Order described in subsection (7) of section 3, containing any or all of the prohibitions and directions set out in section 5.

Power to make Protection Order and other Orders.

(2) The Court shall grant a Protection Order and any other Order described in subsection (7) of section 3 where it is satisfied that the respondent

- (a) is engaging in, or has engaged in, domestic violence against a person specified in the application;
- (b) has engaged in domestic violence against a person and, unless restrained, is likely to engage in further conduct that would constitute domestic violence; or
- (c) has threatened to engage in conduct that would constitute domestic violence and, unless the respondent is restrained, the respondent is likely to engage in conduct that would constitute that, or another domestic violence offence,

and in either case, having regard to all the circumstances of the case, the Order is necessary for the protection of the applicant or any other person specified in the application, or is in the best interests of a child.

**Terms of
Protection
Order.**

- 5. (1) A Protection Order may
 - (a) prohibit the respondent from
 - (i) engaging or threatening to engage in conduct which would constitute domestic violence towards the applicant;
 - (ii) being on premises specified in the Order, that are premises frequented by the applicant including any residence, property, business, university, school or place of employment;
 - (iii) being in a locality specified in the Order;

- (iv) engaging in direct or indirect communication with the applicant;
 - (v) taking possession of, damaging, converting or otherwise dealing with property that the applicant may have an interest in, or is reasonably used by the applicant, as the case may be;
 - (vi) approaching the applicant within a specified distance;
 - (vii) causing or encouraging another person to engage in conduct specified in paragraphs (i) to (vi); and
- (b) direct that the Order be applied for the benefit of and extended to a parent, child, dependant, other member of the household residence, or *de facto* spouse; and
- (c) direct that the respondent
- (i) return to the applicant specified personal property belonging to the applicant that is in his possession or under his control;
 - (ii) pay compensation for monetary loss incurred by the applicant as a direct result of conduct that amounted to domestic violence;
 - (iii) pay interim monetary relief to the applicant, or to any person specified in the Order, for the benefit of any child, where there is for the time being no existing order relating to maintenance, until such time as an obligation for the financial maintenance of the child is determined pursuant to any other written law;

- (iv) immediately vacate any place or residence for a period of not less than three months and not more than three years, whether or not the place or residence is jointly owned or leased by the respondent and the applicant, or solely owned and leased by the respondent or the applicant;
 - (v) pay the rent, or a portion of the rent specified in the Order in respect of any place or residence referred to in paragraph (iv);
 - (vi) make or continue to make payments in respect of rent or mortgage payments for premises occupied by the applicant;
 - (vii) ensure that reasonable financial and material care and support is provided in respect of a child or dependant;
 - (viii) relinquish to the police any firearm or other weapon which he may have in his possession or control and which has been used in domestic violence; and
- (d) direct the respondent, applicant, child or any other person specified in the Order to receive professional counseling or therapy
- (i) from any person or agency or from a programme approved by the Minister in writing;
 - (ii) from the Family Services Division in the Ministry responsible for Social Services.
- (2) An Order made under subsection (1) may contain such other prohibitions and directions as consented to by the applicant or respondent or both.
- (3) The Court may make an Order that includes a prohibition of the kind referred to subsection (1)(a)(ii) and (v) notwithstanding any legal or equitable interests the respondent might have in the property com-

prising the premises or in the property to which the prohibition of the kind referred to in subsection(1)(a)(v) relates.

6. Where the Court makes a Counseling Order under subsection (1)(d) of section 5, the Order shall specify

Counseling Orders.

- (a) that the Court shall receive written notification from the counselor or therapist of sessions missed without reasonable excuse; and
- (b) the date by which the counselor or therapist shall submit a report to the Court in respect of the counseling or therapy, such report to include where applicable any prognosis for recovery.

7. (1) Where the Court makes an Order under subsection (1)(c)(ii) of section 5 which directs the payment of compensation, such financial compensation shall include, but shall not be limited to

Orders for payment of financial compensation.

- (a) loss of earnings;
- (b) medical and dental expenses;
- (c) relocation and moving expenses;
- (d) accommodation expenses; and
- (e) reasonable legal costs, including the cost of an application under this Act.

(2) The payment of financial compensation by a respondent shall be received by the Clerk on behalf of the applicant.

8. (1) Where the Court makes an Order under subsection (1) of section 5 which

Occupation and Tenancy Orders.

- (a) directs that the respondent vacate any place or residence; or
- (b) directs that the respondent return to the

applicant specified personal property in the respondent's possession or control; or

- (c) directs that the respondent pay the rent or mortgage, or a portion of the rent or mortgage of any place or residence referred to in paragraph (c)(iv) of subsection (1) of section 5,

the Court may, in the same Order, if it thinks it necessary and notwithstanding any other law, direct a police officer to remove the respondent either immediately or within a specified time from the said place or residence, or to accompany the applicant, as the case may be, either immediately or within a specified time, to the said place or residence in order to supervise the removal of property belonging to the applicant and to ensure the protection of the applicant and any other person on the place or residence.

(2) Where an agreement, including a mortgage or a lease of premises provides that, if the respondent ceases to reside in his place of residence, a person may take action that would be prejudicial to the interests of the respondent or a member of the respondent's family, the person is not entitled to take that action if the respondent ceases to reside in the place of residence in compliance with an Order made under this Part.

(3) Where the Court is satisfied on evidence before it that an agreement referred to in subsection (2) exists in relation to the respondent, the Court shall, at the time of making an Order, direct that a copy of the Order be sent to the person referred to in subsection (2) by the Clerk of the Court.

(4) An Occupation Order shall grant the applicant the right to live in the household residence or any other premises forming part of the household residence for such period and on such terms and subject to such conditions as the Court thinks fit.

(5) A copy of an Occupation Order shall be served on the respondent by a police officer or a bailiff and the court may, at its discretion, receive proof of such evidence by affidavit in Form 6 prescribed in the Second Schedule.

(6) Where the household residence in respect of which an application is made is being rented, the Court may make a Tenancy Order, ordering the respondent to continue paying the rent so long as the Tenancy Order remains in force, and directing the applicant to continue residing in the household residence for such period and on such terms and subject to such conditions as the Court thinks fit.

(7) Where an Occupation Order or a Tenancy Order is made, the person for whose benefit the Order is made shall be entitled, to the exclusion of the respondent, personally to occupy the household residence or any premises on the household residence to which the Order relates, for the period specified in the Order.

(8) On or after making an Occupation Order or a Tenancy Order the Court may, subject to subsection (9), make an Order granting to the applicant the use, for such period and on such terms and subject to such conditions as the Court thinks fit, of all or any of the following, namely

(a) furniture

(b) household appliances; and

(c) household effects;

in the household residence or other premises to which the Order relates.

(9) Notwithstanding subsection (8), an Order under that subsection shall continue in force for a period of six months unless the Court otherwise directs, but, in any event, shall

expire if the Order made in relation to the household residence expires or is otherwise discharged by the Court.

Matters to be considered by Court.

9. In determining whether or not to impose one or more prohibitions or directions in any Order made under this Part, the Court shall, without limitation, have regard to the following

- (a) the nature, history or pattern of the domestic violence that has occurred and whether any previous Order or Interim Order has been issued;
- (b) the need to protect the applicant and any other person for whose benefit an Order has been issued from further domestic violence;
- (c) the best interests and welfare of any child;
- (d) the accommodation needs of the applicant and any other person;
- (e) the hardship that may be caused to the applicant or the respondent as a result of issuing the Order;
- (f) the income, assets and financial obligations of the respondent, the applicant, and any other person affected by the Order;
- (g) the need to preserve and protect the institution of marriage and other matrimonial relationships whilst affording protection and assistance to the family as a unit;
- (h) any other matter that in the circumstances of the case the Court considers relevant.

10. (1) An Order made under this Part may be for such period as the Court considers necessary, but shall not exceed three years.

Duration of Orders.

(2) Where an Order contains any prohibitions or directions, the Court may specify different periods, none of which shall exceed three years, as the period for which each prohibition or direction shall remain in force.

11. (1) On an application for a Protection Order, the Court may make an Interim Order, pending the hearing and determination of the proceedings, if it appears necessary or appropriate to do so in order to ensure the safety and protection of the applicant or the best interests and welfare of any child or dependant.

Interim Orders.

(2) An Interim Order may be made by the Court at any time either before or during the hearing of the application whether or not-

(a) the respondent is present at the proceedings;
or

(b) the respondent has been given notice of the proceedings.

(3) An Interim Order may be made for such period of time as the Court considers necessary but shall not exceed a period of twenty-one days.

(4) Subject to subsection (3), an Interim Order may contain any or all of the prohibitions or directions specified in section 5(1)(a).

(5) Where an Interim Order is made, the Court shall summon the respondent to appear at a further hearing of the matter as soon as possible after the making of the Interim

Order, and at such further hearing the Court may

- (a) extend the period of the Interim Order for such further period or until the date fixed for the hearing of the application, such period not to exceed forty-two days from the date of the application;
- (b) revoke the Interim Order; or
- (c) hear the application and make any Order provided in this Part in substitution for the Interim Order,

whether or not the respondent appears at the proceedings.

(6) Where an Interim order is granted *ex-parte*, the respondent shall be served, personally or otherwise, with a copy of the Order, and the Court may receive proof of such service by affidavit in Form 6 prescribed in the Second Schedule.

Second
Schedule.
Form 6.

Undertakings.

12. (1) In proceedings under this Act the Court may at any time before the taking of evidence, accept an undertaking from the respondent given under oath, that the respondent shall not engage in conduct specified in the application or any other action that constitutes domestic violence.

(2) Where an undertaking is given by a respondent under subsection (1), the Court shall make such Orders or Interim Orders as it deems fit in respect of the undertaking.

PART III

Proceedings in respect of applications for Orders

Applications.

13. (1) An application for an Interim Protection Order and any other Interim Order provided in subsection (4) of section 11, or for a Protection Order or any other Order

provided in subsection (7) of section 3, shall be made in the prescribed form, being Form 1 in the Second Schedule and shall be filed with the Clerk upon payment of the requisite filing fees.

Second
Schedule.
Form 1.

(2) Except as otherwise provided for by this Act, the Summary Jurisdiction (Procedure) Act shall apply *mutatis mutandis* in respect of an application made under subsection (1).

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(3) Proceedings in respect of an application under subsection (1) shall be held *in camera* unless the Court, in its discretion, directs otherwise.

(4) Where an application under subsection (1) is made on behalf of a child or dependant, the parent or guardian of that child or dependant, or the person with whom the child or dependant normally resides or resides with on a regular basis is entitled to be a party to the proceedings.

(5) Nothing in subsection (4) shall prevent a child or dependant, on whose behalf an application is made under subsection (1), from being heard in the proceedings, and where the child or dependant expresses views, the Court shall take account of those views having regard to the age, maturity and mental capacity of the child or dependant, and the ability of the child or dependant to express such views coherently and with sufficient clarity.

14. The Clerk shall fix a date for the hearing of an application made under subsection (1) of section 13 which shall be no more than five days after the date on which the application is filed.

Date of
hearing.

15. (1) Subject to subsection (2)(b) and subsection (5) of section 11, a copy of an application made under subsection (1) of section 13 together with the notice of the date on which, and the time and place at which, the application is to be heard,

Notice of
proceedings.

shall be served so far as is practicable, personally on the respondent by a bailiff or police officer.

Second
Schedule
Form 2.

(2) A notice of proceedings shall be issued by the Clerk in the prescribed form, being Form 2 in the Second Schedule.

(3) Where an application is made under subsection (1) of section 13 in respect of a child or dependent, a copy of the application, together with the notice of the date on which, and the time and place at which, the application is to be heard, shall, as soon as practicable, be served personally by a bailiff or police officer on the parent or guardian or other person with whom the child or dependant normally resides or resides with on a regular basis.

CAP.99.

(4) A notice of proceedings which is issued and served under this section shall, for all legal purposes, be deemed to be a summons that is duly issued and served under the Summary Jurisdiction (Procedure) Act and compels the respondent to appear in court to answer the application as if it were a complaint to which that Act applies.

(5) The Court shall receive oral evidence from the police officer as to the proof of service of each application and notice of proceedings.

(6) Where the hearing of an application is adjourned because the application and the notice of proceedings have not been served on the respondent, the time and place fixed by the Court for the adjourned hearing shall be the date, time and place stated in the new notice of proceedings.

Absence of
respondent.

16. Where notice of the proceedings has been served on the respondent in accordance with section 15 and the respondent fails to appear in person at the time fixed for the hearing, the Court may

- (a) proceed to hear and determine the matter in the respondent’s absence; or
- (b) where the Court is satisfied, having regard to the material before it, that it is appropriate to do so, adjourn the matter and issue a warrant for the respondent to be apprehended and brought before the Court.

17. (1) If, on the date of the hearing of the application the respondent appears in court, but neither the applicant nor the person on whose behalf the application is made appears either in person or represented by his attorney-at-law, the Court may

Absence of applicant.

- (a) dismiss the application; or
- (b) having received a reasonable excuse for the non-appearance of the applicant or other person, adjourn the hearing upon such terms as it deems just; or
- (c) where it is satisfied, having regard to the submissions before it, that it is appropriate for evidence to be given by affidavit, the Court may so direct, but the Court shall, on the application of any other party, order the attendance for cross examination of the person making any such affidavit.

(2) The respondent may at any time apply to the Court on the prescribed form. Being Form 3 in the Second Schedule for any Order or Interim Order to be varied or revoked by the Court.

Second Schedule. Form 3.

18. Where the Court proposes to make an Order or an Interim Order and the respondent is before the Court, the Court shall, before making the Order or the Interim Order, explain to the respondent

Explanation of Orders and Interim Orders.

- (a) the purpose, terms and effect of the proposed Order or the Interim Order;
- (b) the consequences that may follow if the respondent fails to comply with the terms of the proposed Order or the Interim Order; and
- (c) the procedure by which the proposed Order or Interim Order may be varied or revoked.

Service of
Orders.

19. Where an Order, or an Interim Order, is made or varied by the Court

Second
Schedule.
Form 4

- (a) the Clerk shall arrange for the Order or the Interim Order to be drawn up on the prescribed form, being “Form 4” in the Second Schedule, and filed in the Court; and
- (b) the Court shall cause the bailiff or police officer to serve a copy of the Order or the Interim Order, as the case may be
 - (i) on the respondent;
 - (ii) on the applicant;
 - (iii) on any other person to whom the Order or the Interim Order is to apply, whether or not such a person is a party to the proceedings; and
 - (iv) the police station located nearest to the area where the respondent and the applicant reside.

Service other
than personal
service.

20. (1) Where the Court has not been able to serve notice of proceedings or the Order, as the case may be, upon

the respondent personally, it may, on application being made by the applicant supported by affidavit or affidavits, to include an affidavit of the person having conduct of the proceedings, make an Order for substituted service of the notice of proceedings or Order, as the case may be.

(2) For the purpose of subsection (1)(b) “substituted service” means

- (a) service by registered post to the last known address of the respondent;
- (b) leaving the documents at the last known address of the respondent;
- (c) service by advertisement in two weekly newspapers, which service is deemed to have been effected at midnight on the date of the later advertisement; or
- (d) service in such other manner as the Court may direct.

21. Unless provided otherwise in this Act, a respondent shall not be bound by an Order or an Interim Order

Respondent to have notice.

- (a) where he was not present at the time of the making of the Order or the Interim Order; or
- (b) where the Order has not been served on him personally or in accordance with section 20.

PART IV
Variation, and Revocation of Orders

22. (1) Where an Order is in force, a party to the proceedings in respect of whom the Order was made may apply to the Court on the prescribed Form, being Form 3 in the Second Schedule, for an Order varying or revoking the original Order.

Variation and revocation of Orders.
Second Schedule Form 3.

(2) On an application under subsection (1), the Court may, by Order, vary or revoke the Order or the Interim Order.

(3) A copy of an application under this section shall be served by a police officer, so far as practicable, personally on each person who was a party to the proceedings in respect of which the original Order or Interim Order was made.

(4) In determining whether to vary or revoke an Order or an Interim Order, the Court shall have regard to whether there has been any significant change to the matters specified in section 9.

PART V ***Enforcement Orders***

**Breach of
Orders.**

23. (1) Subject to subsection (2), a person against whom an Order or an Interim Order has been made who

(a) has had notice of the Order or the Interim Order; and

(b) contravenes any provision of the Order or the Interim Order, or fails to comply with any direction or prohibition of the Court stated in the Order or Interim Order, commits an offence and is liable-

(i) on a first conviction, to a fine not exceeding nine thousand dollars, or to imprisonment for a period of twelve months, or to both such fine and period of imprisonment;

(ii) on a second conviction, to a fine not exceeding fifteen thousand dollars and not less than twelve thousand dollars, or to imprisonment for a period of twenty-

four months, or to both such fine and period of imprisonment;

(iii) on any subsequent conviction to a period of imprisonment of five years.

(2) Where a person is convicted of an offence under this Act, the Court may, *in lieu* of imposing a sentence of imprisonment (but not the fine) as provided in subsection (1), make an order (herein called “a Rehabilitation Order”) requiring the convicted person to undergo probation in a re-education or rehabilitation program for persons in a similar situation, and to engage in community service work each week-end for one year.

(3) A Rehabilitation Order shall only be made in the following circumstances-

- (a) where the person is a first time offender under this Act and has no previous convictions for such offences;
- (b) where the convicted person has not previously breached an Order or an Interim Order made pursuant to this Act;
- (c) where a suitable program of education and training is available for such persons.

(4) Before making a Rehabilitation Order under this section, the Court shall have regard to any submissions and representations by the prosecution and the defence.

(5) A Rehabilitation Order may be made subject to such conditions as the Court may think fit to impose.

(6) Where the person in respect of whom a Rehabilitation Order is made fails to comply with the conditions thereof

the Court may, after holding an inquiry, revoke the Rehabilitation Order and proceed to pass sentence in accordance with subsection (1).

PART VI

Police Powers of Entry and Arrest

**Duties of
police
officers.**

24. (1) A police officer shall respond to every complaint or report alleging domestic violence whether or not the person making the complaint or the report is the victim.

(2) It shall be the duty of a police officer responding to a domestic violence complaint

(a) to complete a domestic violence report which shall form part of a National Domestic Violence Register to be maintained by the Commissioner of Police; and

(b) to forward a copy of that domestic violence report to each of the Magistrate's Court and Family Court having jurisdiction over the district in which the complaint of domestic violence occurred.

**Second
Schedule
Form 5.**

(3) A domestic violence report shall be in the form prescribed as "Form 5" of the Second Schedule and shall include but not be limited to

(a) the name of the parties;

(b) the relationship and sex of the parties;

(c) information relating to the history of domestic violence between the parties;

(d) the date and time the complaint was received;

- (e) the type of the abuse and the weapon used, if any.

25. Where a Magistrate is satisfied, by information on oath, that-

Issuing of Warrant.

- (a) there are reasonable grounds to suspect that a person on premises has suffered or is in imminent danger of physical injury at the hands of another person in a situation amounting to domestic violence and needs assistance to deal with or prevent the injury; and
- (b) a police officer has been refused permission to enter the premises for the purpose of giving assistance to the first mentioned person in paragraph (a),

the Magistrate may issue a warrant in writing authorizing a police officer to enter the premises specified in the warrant at any time within twenty-four hours after the issue of the warrant and subject to any conditions specified in the warrant, to take such action as is necessary to prevent the commission or repetition of the offence or a breach of the peace or to protect life or property, including seizing a weapon alleged to have been used in the commission of a domestic violence offence and thus needed for the purpose of an investigation or trial.

26. (1) Where a police officer has been invited onto premises by a person apparently resident in those premises, for the purpose of giving assistance to that person or another who has suffered or is in imminent danger of suffering physical injury at the hands of another person in a situation amounting to domestic violence, the police officer may, without a warrant, enter the premises for the purpose of giving assistance and shall take such action as is reasonable to prevent the commission or repetition of the violence complained of.

Police powers of entry and arrest without warrant.

(2) Where a police officer has been refused entry onto premises and has reasonable cause to believe that a person is engaging in or threatening to engage in conduct which amounts to domestic violence, and failure to act immediately may result in physical injury or death, the police officer may enter those premises without a warrant, for the purpose of

- (a) arresting the person whom he suspects of engaging in conduct amounting to domestic violence;
- (b) giving assistance to a person who has suffered injury;
- (c) ensuring the welfare and safety of a child who may be on the premises; and
- (d) preventing any further breach of the law.

(3) Nothing in this section authorizes the entry onto premises by a police officer, for the purpose of any search or the arrest of any person, otherwise than in connection with the conduct referred to in subsection (2).

(4) Where a police officer exercises a power of entry under subsection (2), he shall immediately submit a written report to the police officer in charge of the police station where the incident occurred, and such report must contain the following information

- (a) the reasons for entering the premises without a warrant;
- (b) the offence being committed or about to be committed; and
- (c) the manner in which the investigation was conducted and the measures taken to ensure the protection and safety of the person at risk.

Powers of
arrest where
an Order or
an Interim
Order is in
force.

27. Where an Order or an Interim Order is in force and a police officer

- (a) is satisfied, by way of complaint, that a breach of the Order or Interim Order has occurred; or
- (b) believes on reasonable grounds that a person has committed or is committing a breach of the Order or Interim Order,

he may detain and arrest that person with or without a warrant.

28. (1) Subject to subsection (2), where a person is arrested under section 26 or 27, the person shall be charged in accordance with the relevant provisions of the criminal law for committing or threatening to commit any of the offences listed in the First Schedule and shall be dealt with accordingly.

Existing
criminal law
to apply.

First
Schedule.

(2) Where an application for an Order has been made or where a person has been arrested and charged under section 26 or 27 and after hearing all the evidence the Court is satisfied that

- (a) the incident was an isolated one;
- (b) there are circumstances which make it desirable to preserve the family unit; and
- (c) the conduct complained of is not sufficiently grave to warrant the imposition of either the Order or the penalty, as the case may be,

it may, with the consent of the applicant or complainant, as the case may be, withhold the granting of an Order or the imposition of any penalty as prescribed by law and require the respondent or defendant to enter into a bond of good behaviour for a period not exceeding six months.

(3) Where a bond of good behaviour has been entered into under subsection (2) the Court may prescribe such additional conditions as follows:

- (a) that the parties receive professional counseling, including family counseling;
- (b) that the parties report to a social service officer at certain fixed intervals;
- (c) that the matter be reviewed by the Court within three months.

(4) A bond of good behaviour entered into under subsection (2) shall be forfeited where the Court is satisfied that

- (a) the respondent or defendant has continued to engage in conduct amounting to domestic violence against the complainant;
- (b) based on a report from a social service officer, social worker, police officer or such other person, domestic violence is likely to be perpetrated against the applicant or complainant; or
- (c) the applicant or complainant has become fearful of the respondent or defendant to the extent that he is no longer willing to continue the relationship.

**Admissibility
of evidence of
Refractory
witnesses.**

29. Where direct oral evidence of a fact would be admissible in any proceedings under this Act, a document containing a statement made by the complainant which forms part of the record compiled by the police and tending to establish that fact, shall be admissible in evidence in circumstances where

- (a) the complainant refuses to be sworn as a witness; or
- (b) having been sworn as a witness, gives oral evidence which is inconsistent or contradictory

to the statement forming part of the police record

Provided that the statement contains a declaration by the maker and signed before a magistrate or a justice of the peace to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that if it were tendered in evidence he would be liable to prosecution if he willfully stated in it anything which he knew to be false or did not believe to be true.

PART VII
Miscellaneous

30. (1) Where the Court is required to determine whether to grant bail in respect of an offence under this Act, the Court shall consider

Bail.

- (a) the need to protect the applicant from domestic violence;
- (b) the welfare of a child where the defendant or victim of the alleged offence has custody of that child;
- (c) the welfare of any child being a member of the household;
- (d) any hardship that may be caused to the defendant or other members of the family if bail is not granted;
- (e) the defendant's record with regard to the commission of violent acts and whether there is evidence in the record of physical or emotional abuse to children; and
- (f) any other matters which may be relevant to the case in question.

(2) The Court may, in granting bail under this section, order that the recognizance be subject to such of the following conditions as the Court considers appropriate and which can, as far as practicable, be imposed taking into account the circumstances of each case

- (a) that the defendant not harass or molest or cause another person to harass or molest the victim of the alleged offence;
- (b) that the defendant not be on the premises in which the victim resides or works;
- (c) that the defendant not be in a locality in which are situated the premises in which the victim resides or works; and
- (d) where the defendant continues to reside with the victim, that the defendant not enter or remain in the place or residence while under the influence of alcohol or a drug.

(3) Where a police officer believes on reasonable grounds that a person who has been admitted to bail subject to one or more conditions, has failed to comply with a condition of the recognizance, the police officer may arrest the person without a warrant.

Appeals.

CAP. 91.

31. An appeal shall lie to the Supreme Court from any judgment or Order of the Court made or given under this Act and the procedure in respect of such an appeal shall be as laid down in the Supreme Court of Judicature Act and any Rules made thereunder.

Rules of Court.

32. Rules of Court may be made for the purpose of regulating the practice and procedure of the Court in proceedings under this Act providing for such matters as are necessary for giving full effect to the provisions of this Act and for the due administration thereof.

33. Whenever a police officer intervenes in a case of domestic violence or abuse, the police officer shall, as soon as possible, take all reasonable measures within his power to prevent the victim of domestic violence from being abused again and shall also take the following steps

Assistance to victims of domestic violence.

- (a) where a victim indicates that he has suffered injuries, though not visible, which require medical treatment, the police officer shall assist the victim to obtain medical treatment as soon as possible;
- (b) where a victim of domestic violence expresses concern for his safety, the police officer shall assist the victim in getting to a place of safety;
- (c) where a victim of domestic violence requests it, a police officer shall protect a victim by accompanying the victim when he takes his personal effects from a place where the respondent may reside;
- (d) advise the victim as to his rights and services which may be available to assist him, be they government or private services.

34. The Ministry responsible for Social Development shall be responsible for

Role of Ministry in alleviating domestic violence and abuse.

- (a) promoting and developing educational programs for the prevention of domestic violence;
- (b) studying, investigating and publishing reports on the domestic violence problem in Belize, its manifestations and scope; the consequences and the options for confronting and eradicating it, in conjunction with the Belize Police Department;

- (c) identifying groups and sectors in society in which domestic abuse is manifested and educating these groups and sectors by making them aware of the skills required to combat domestic violence;
- (d) creating an awareness among society with regard to the needs of victims of domestic violence and their families;
- (e) developing strategies to encourage changes in the policies and procedures in government agencies in order to improve their response to the needs of the victims of domestic violence;
- (f) the establishing of programmes on information support and counseling services for victims of domestic violence;
- (g) encouraging the establishment of shelters for victims of domestic violence;
- (h) encouraging programmes of services for persons, including children and dependants who come from homes where there is abuse and violence;
- (i) providing training and orientation services for persons who assist in the treatment and counseling of victims of domestic violence and abuse;
- (j) analyzing and carrying out studies on the need for education and retraining for persons who engage in conduct that constitutes domestic violence and abuse and for their rehabilitation.

35. (1) Subject to subsection (4) of this section, no person shall publish any report of proceedings under this Act (other than criminal proceedings), except with the leave of the Court which heard the proceedings.

**Restriction
on
publication of
reports of
proceedings.**

(2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

(3) Nothing in this section limits

(a) the provisions of any other enactment relating to the prohibition or regulation of the publication of reports or particulars relating to judicial proceedings; or

(b) the power of the Court to punish any contempt of Court.

(4) This section shall not apply to the publication of any report in any publication that

(a) is of a *bona fide* professional or technical nature; or

(b) is intended for circulation among members of the legal or medical professions, officers of the public service, psychologists, marriage counselors or social welfare workers.

36. Nothing in this Act shall be deemed to have altered any right which a spouse may have to ownership of property.

**Ownership of
property.**

37. Nothing in this Act shall be regarded as removing any jurisdiction which the Supreme Court may have in respect of the matters referred to under this Act.

**Jurisdiction
of the
Supreme
Court.**

Standard of proof, evidence, etc.

38. (1) Every question of fact arising in any proceedings under this Act (other than criminal proceedings) shall be decided on a balance of probabilities.

(2) In any proceedings under this Act (other than criminal proceedings) including proceedings by way of appeal, the court may receive such evidence as it thinks fit whether it is otherwise admissible in a court of law or not.

Orders by consent.

39. In any proceedings under this Act a Court may make any order by the consent of all parties to such proceedings.

Regulations.

40. The Minister may make Regulations for the better carrying out of the provisions of this Act and for prescribing anything that needs to be prescribed.

Amendment of Schedules.

41. The Minister may from time to time, by Order published in the *Gazette*, amend any of the Schedules to this Act.

Repeal. CAP. 178.

42. On the commencement of this Act, the Domestic Violence Act stands repealed.

Commencement.

43. This Act shall come into force on a day to be appointed by the Minister by Order published in the *Gazette*.

Savings in respect of other offences.

44. Where an act or omission which constitutes a domestic violence offence under this Act is also an offence under any other law, nothing in this Act shall affect the operation of such other law and the accused person may be charged and tried under such other law notwithstanding the provisions of this Act, so, however, that the victim of such offence shall be entitled to all the protections and remedies granted by this Act.

FIRST SCHEDULE
[Sections 2 and 28]

- Assault and Battery
- Assault upon children, women, and old, infirm or sickly persons
- Aggravated assaults causing wound, harm or maim
- Violent or obscene language or disturbance of the peace
- Possession of weapons intended for a crime
- Throwing stones or other missiles
- Inciting animals to attack
- Misuse of telephone and internet facilities and other telecommunications facilities
- Setting fire to a dwelling house (arson)
- Conspiracy to commit arson
- Destroying or damaging a building with gunpowder or other explosives
- Conspiring to commit murder
- Murder or Attempted murder
- Sending letters through the post or internet threatening to murder
- Shooting or wounding with intent to do grievous bodily harm
- Inflicting injury with or without a weapon
- Using, selling offering for sale or otherwise dealing with any drugs
- Administering poison so as to endanger life or inflict grievous bodily harm
- Exposing children so that life is endangered
- Cruelty to children

- Rape or Attempted Rape
- Indecent Assault
- Procuring abortion
- Manslaughter
- Marital rape
- Incest
- Sexual intercourse by persons of the same sex
- Unlawful carnal knowledge
- Serious indecency
- Abduction or kidnapping
- Procuration

SECOND SCHEDULE

FORM 1
[Section 13]

APPLICATION FOR ORDER/INTERIM ORDER¹

In the district of.....

I,
(Name of Applicant)

of
(Address)

hereby apply under Section 13 of the Domestic Violence Act, for

.....
(Specify Orders/Interim Orders for which application is made)

against
(Name of Respondent)

Who is
(Specify relationship to named Respondent)

And who resides at
(Specify address of Respondent)

In respect of the following conduct:

SPECIFY DATES, TIMES, PLACE AND DETAILS OF CONDUCT
COMPLAINED OF.

.....
Applicant

Dated thisday of,

¹Delete the inapplicable

FORM 2
[Section 15 (2)]

NOTICE OF PROCEEDINGS

In the district of

BETWEEN

.....Applicant

v

.....Respondent.

TO THE RESPONDENT

An application under Section 13 of the Domestic Violence Act,
for has been made by
(Specify Orders sought) (Name of Applicant)

A copy of the application is attached. The application has been set
down for hearing on theday of, atA.M./P.M. at
(time) (place)

IF YOU DO NOT APPEAR IN PERSON AT THE HEARING OF THE APPLICATION, THE COURT MAY

- (a) deal with the application in your absence; or
- (b) issue a warrant for your arrest to be brought before the court.

.....
Clerk of the Court

Dated thisday of, 20.....

FORM 3

[Section 17 (2) and Section 22(1)]

**APPLICATION FOR VARIATION OR REVOCATION
OF ORDER OR INTERIM ORDER**

In the district of

BETWEEN

.....Applicant

V

.....Respondent.

I, hereby apply for a variation Revocation of the Order
(Name of Applicant)

made against on the day of,
(Name or person against whom the order was made)

by theCourt (a copy of which is attached to the said application)
in respect of

certain conduct or threatened conduct towards
(Name of person who is protected by an Order)

I ask for a revocation/variation of the Order in the following terms:
SPECIFY DETAILS OF VARIATION

.....
Applicant

Dated thisday of, 20.....

FORM 3A

[Section 5]

ORDER OR INTERIM ORDER

In the district of

The Court having heard an application made by.....
(Name of Applicant)

in respect of the conduct or threatened conduct of
(Name of Respondent)

towards
(Name of Person to be protected)

NOW THIS COURT ORDERS, that for the period from the day of
....., 20..... to the day of, 20...

YOU
(Name of Respondent)

THE WRITTEN NAMED RESPONDENT SHALL NOT ENGAGE IN THE FOLLOWING CONDUCT, AND YOU THE WITHIN NAMED RESPONDENT SHALL COMPLY WITH THE FOLLOWING PROHIBITIONS AND CONDITIONS:

SPECIFY PROHIBITIONS AND CONDITIONS IMPOSED AND ANY PERIOD OR PERIODS FOR WHICH THEY MAY BE IMPOSED (IF DIFFERENT FROM THE PERIOD OF THE ORDER/INTERIM ORDER).

AND THIS COURT FURTHER ORDERS that you shall not
(Name of Respondent)
engage in any conduct that constitutes an offence under this Act.

If you the said..... fail to comply with any of the terms of this Order you shall be liable to imprisonment and/or a fine pursuant to Section 23 of the Act.

.....
Clerk of Court

Dated thisday of, 20.....

FORM 4
[Section 19]

ORDER VARYING ORDER OR INTERIM ORDER

In the district of

The Court, having heard an application made under section 13 of the Act by

.....

(Name of Applicant)

in respect of the conduct or threatened of towards

(Name of Respondent)

.....

(Name of person protected by the Order)

and the Court having on the day of, 20.....
made an Order, a copy of which is attached, prohibiting the Respondent from
engaging in the conduct specified therein.

NOW the Court on the application of does
this day **Order** that the Order or Interim Protection Order be either:

1. REVOKED

.....

(Specify effective date of revocation)

2. VARIED AS FOLLOWS

Specify details of variation

.....

.....

.....

Clerk of Court

Dated this day of, 20.....

FORM 5
[Section 24(3)]

DOMESTIC VIOLENCE POLICE REPORT

STATION DIVISION Reference No.

Complaint made by
Surname First Name

Address

Relationship to Victim/Offender Telephone No.

Mode of Report

Telephone	Personal	Referred (by whom)	Etc.
-----------	----------	--------------------	------

Date Time Dairy Reference

Recorded by: (Number/Rank/Name)

Recorded by: (Number/Rank/Name)

Name of Victim
Surname First Name

Ethnic Origin Religion

East Indian	African	Caucasian	Mixed	Etc.
-------------	---------	-----------	-------	------

Address

Telephone No. Marital Status Relationship to Offender.....

Sex Age Occupation

Address of Employment

Name of Offender
Surname First Name

Ethnic Origin Religion

East Indian	African	Caucasian	Mixed	Etc.
-------------	---------	-----------	-------	------

Address

Sex Age Marital Status Telephone No.

Occupation Address of Employment

Relationship to Victim/Offender

Relationship to Victim/Offender

BRIEF FACTS AS REPORTED

.....
.....
.....
.....
.....

Extent of Injury

Medial Report Form Attached (tick) Yes No

Instrument used to inflict Injury

Whereabouts of Children at the time of incident

State whether previous complaints were made (tick) Yes No

Date Time Diary Reference

Investigator: (Number/Rank/Name).....

Action taken

.....

Other previous complaints made

Date Time Dairy Reference

Investigator: (Number/Rank/Name).....

Action taken

.....

Is Protection Order (P.O.) in existence? (tick) Yes No

Date of Issue

Comments

.....

.....

Duration (P.O.) Court of Issue

ACTION TAKEN WITH RESPECT TO PRESENT REPORT:

Date/Time	Action taken, by whom
.....
.....
.....
.....

.....

.....

.....

ARREST MADE:

Date of Arrest Mode of Arrest

Present status of report

CHARGES PREFERRED:

(1)

(2)

(3)

(4)

STATE REASON(S) IF NO CHARGES PREFERRED:

.....
.....
.....

AGENCY TO WHICH REPORT REFERRED/FOLLOW UP ACTION:

.....
.....

.....
Investigator

.....
Supervising Officer
(Rank of Inspector and above)

.....
Date

.....
Date

FORM 6

[Sections 8 and 11]

AFFIDAVIT FOR USE IN PROVING SERVICE OF PROCESS

No.

Return of Service of process in respect of domestic violence offence for the Court.

Name of Applicant	Name of Respondent	Document served	Date of service	Plan of service	Mode of service

I do Swear that the above Return of Service is true and in accordance with the facts of such Service.

(Signed)
(Deponent)

Sworn before me by the above-named Deponent this..... day of....., 20

.....
Magistrate, Judge or Clerk of Court
(as the case may be)