Domestic Violence (DV) and Protective Orders

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What is Domestic Violence?

Domestic abuse is a pattern of coercive, controlling behavior within an intimate relationship that can include physical abuse, emotional and psychological abuse - including threats, intimidation and isolation - verbal abuse, damage or destruction of property, sexual abuse or financial abuse.

Domestic Abuse vs Domestic Violence

Domestic Abuse – encompasses all of the tactics employed by an individual to control another

Domestic Violence – the actual physical acts used to forcibly control another

Domestic Abuse	Domestic Violence
Physical Abuse	Physical Abuse
Sexual Abuse	Sexual Abuse
Psychological Abuse	Threats of Physical or Sexual Abuse
Isolation	False Imprisonment
Emotional Abuse	Other Statutorily Defined Acts
Verbal Abuse	

What Behaviors Might be Included?

PHYSICAL

- Slapping
- Hitting
- Kicking
- Burning
- Punching
- Strangling (Choking)
- Shoving
- Beating
- Throwing things
- Locking out of house
- Locking in a room/car (detaining against will)
- Physical harm to a child
- Physical harm to pet
- Threats to cause physical harm to person, pet or child
- Any act designed to injure, hurt, endanger or cause physical pain

What Behaviors Might be Included?

SEXUAL

- Forcing person to engage in unwanted sex act
- Any unwanted sexual touching
- Forcing person to watch sexual acts
- Allowing third persons to observe sex acts without consent
- Forcing someone to have a child
- Forcing someone to end a pregnancy
- Watching a person, without consent, attend to daily personal hygiene needs

What Behaviors Might be Included?

VERBAL, EMOTIONAL & PSYCHOLOGICAL, FINANCIAL

- Insults and name calling
- Constantly correcting survivor on what they are saying or doing
- Threats to harm person, pet, child
- Threats to take children, deport, cut-off financial assistance
- Limiting access to cash or bank accounts
- Requiring person to account for every purchase or not allowing to shop alone
- Acting to demean or belittle the survivor
- Manipulating children and other family members
- Making it hard for the survivor to see friends and relatives
- Reading the survivor's mail, email, text messages
- Punching walls
- Driving recklessly
- Refusing to work
- Not allowing survivor to go to school or work
- Using physical size to intimidate survivor
- Keeping weapons and threatening to use them
- Constantly checking up on the survivor
- Taking the survivor's passport, car keys and important papers
- Emotional withholding

How Common is Domestic Violence?

More than 1 in 4 women experiences rape, physical violence, and/or stalking by an intimate partner in their lifetime.

On average, 3 women are killed in the U.S. every day by a current or former intimate partner.

Women are at an increased risk of harm shortly after separation from an abusive partner.

83% of survivors report that their abusive partners disrupted their ability to work.

Children that are exposed to violence are more likely to attempt suicide, abuse drugs and alcohol, run away from home, become victims of trafficking, and commit sexual assault crimes.

In 2021, during a 24 hours survey of DV programs nationwide, 70,032 adults and children received services, with an additional 9,444 unmet requests

On September 6, 2023, 1,135 victims received services from DV agencies in Maryland, with an additional 299 unmet requests for service.

Stats from NNEDV June 2022 Fact Sheet and MNADV DV Statistics

Tips for how to work with victims

Should be non-judgmental – keep check on body language and facial expressions.

Introduce with non-threatening statement – "Because DV is common in intimate relationships, I ask these questions as matter of practice…"

Ask in every family law case!

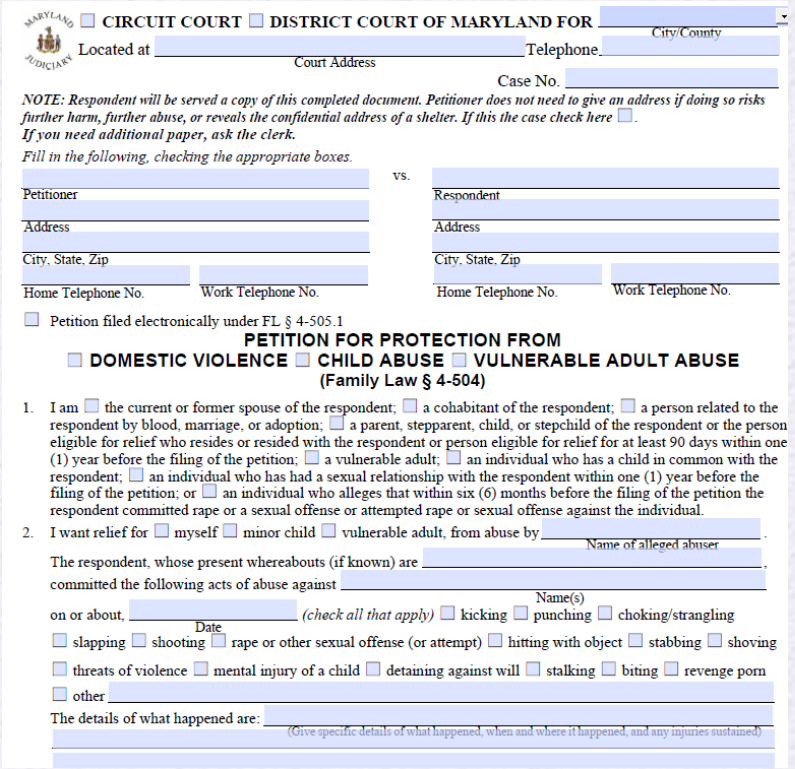
Take violence seriously – even if downplayed by survivor. Prioritize survivor's safety

Remember there are no typical profiles of abusers or survivors

- Some abusers appear very angry and defiant
- Some abusers are very charming and appear calm and reasonable
- Some survivors appear detached or may be unwilling to discuss the subject of family violence
- Some survivors may be highly excitable at the mention of DV and may appear either unreasonable and confrontational or extremely passive

Filing for Protection

- Where/when/how to file?
- IPO vs. TPO vs. FPO
- District or Circuit Ct.?
- Always read the Code and the *Rules*.
  - MD. ANN. CODE FAM. LAW §4-501 et seq.
  - *Maryland Rules 9-300 et seq.*



☐ CIRCUIT COURT ☐ DISTRICT COURT OF MARYLAND FOR _____ City/County

Located at _____ Court Address Telephone _____

Case No. _____

NOTE: Respondent will be served a copy of this completed document. Petitioner does not need to give an address if doing so risks further harm, further abuse, or reveals the confidential address of a shelter. If this the case check here ☐. If you need additional paper, ask the clerk.

Fill in the following, checking the appropriate boxes.

Petitioner _____ vs. Respondent _____

Address _____ Address _____

City, State, Zip _____ City, State, Zip _____

Home Telephone No. _____ Work Telephone No. _____ Home Telephone No. _____ Work Telephone No. _____

☐ Petition filed electronically under FL § 4-505.1

PETITION FOR PROTECTION FROM

☐ DOMESTIC VIOLENCE ☐ CHILD ABUSE ☐ VULNERABLE ADULT ABUSE

(Family Law § 4-504)

1. I am ☐ the current or former spouse of the respondent; ☐ a cohabitant of the respondent; ☐ a person related to the respondent by blood, marriage, or adoption; ☐ a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one (1) year before the filing of the petition; ☐ a vulnerable adult; ☐ an individual who has a child in common with the respondent; ☐ an individual who has had a sexual relationship with the respondent within one (1) year before the filing of the petition; or ☐ an individual who alleges that within six (6) months before the filing of the petition the respondent committed rape or a sexual offense or attempted rape or sexual offense against the individual.
2. I want relief for ☐ myself ☐ minor child ☐ vulnerable adult, from abuse by _____ Name of alleged abuser.

   The respondent, whose present whereabouts (if known) are _____,

   committed the following acts of abuse against _____ Name(s)

   on or about, _____ Date *(check all that apply)* ☐ kicking ☐ punching ☐ choking/strangling

   ☐ slapping ☐ shooting ☐ rape or other sexual offense (or attempt) ☐ hitting with object ☐ stabbing ☐ shoving

   ☐ threats of violence ☐ mental injury of a child ☐ detaining against will ☐ stalking ☐ biting ☐ revenge porn

   ☐ other _____

   The details of what happened are: _____ (Give specific details of what happened, when and where it happened, and any injuries sustained)

"Abuse" defined

- **MD ANN. CODE FAM. LAW §4–501.**

(a) In this subtitle the following words have the meanings indicated.
(b) (1) **"Abuse" means** any of the following acts:
(i) an act that causes serious bodily harm;
(ii) an act that places a person eligible for relief in fear of imminent serious bodily harm;
(iii) assault in any degree;
(iv) rape or sexual offense under § 3–303, § 3–304, § 3–307, or § 3–308 of the Criminal Law Article or attempted rape or sexual offense in any degree;
(v) false imprisonment;
(vi) stalking under § 3–802 of the Criminal Law Article; or
(vii) revenge porn under § 3–809 of the Criminal Law Article.

Different "levels" of Protective Orders

- Who can file for protection? POs versus Peace Orders.
- Interim Protective Orders (IPO)
  - Only at Commissioner's Office during non-court hours. Lasts for 2-3 days
  - *Ex parte*
- Temporary Protective Orders (TPO)
  - Can be filed at District or Circuit Court. Lasts for up to 7 days. Longer is DSS involvement or …
  - *Ex parte.*
- Final Protective Orders (FPO)
- Extreme Risk Protective Orders

Interim Protective Order

- Interim Protective Order (IPO) – to provide protection when the Court is not open.
- Commissioner's Office
- "'**Reasonable Grounds**' to believe" abuse
- Expires at the end of the 2nd business day or when the TPO concludes

TPO Hearing

- Reasons to file in Circuit Court and Reasons to file in District Court
- Who testifies? **Reasonable grounds.**
- What relief? For how long?

FPO Hearing

- Service on Respondent. Who testifies? Burden of Proof? What is admissible? **Preponderance of evidence.**
- **KNOW** your Judge!
- What relief is available? How long? How to get the FPO extended?

Defenses by Respondents

- What evidence can Respondent use to show something did not happen? How to prove a negative.
- Mutuality. Impeachment. 3rd party witnesses, video, photos, writings, etc.
- Why consent?
- Is a lawyer needed?

Alternatives to a FPO?

- When is it best to *not* go forward with a DV case?
- What are other options?
  - Out-of-court agreement
  - File Agreement in Divorce/Custody Case
    - Difference between Emergency Order in Family Case
  - Mutual Stay Away/No Adverse contact Order
- Impact of alternatives in Family Law cases?
  - Will the grant/denial of PO come up in the litigation? How? When?
    - Divorce? Custody? Other?

Violation of Protective Orders!

- What can be done if the abuser does not comply with the Order?
- What can the attorney do? What are the sanctions? What are the options?
- How does this differ from enforcement in Family Law cases?

Mediation with DV?

It depends ... *kinda*

- Generally – NO.
  - The parties likely do not have equal bargaining power. The survivor needs to feel comfortable to say no.
  - Survivors often develop learned helplessness or PTSD.
  - Survivors have a hard time advocating for themselves.
  - Separation/Litigation is the most dangerous time for a survivor – the abuser is losing control.
- Yes, if it is empowering to the survivor and it is their choice.
- If yes, what can be done to mitigate/protect.

Abuser behaviors during litigation

- Insists on being the party that speaks first. Talks over the other party or you. May try to control the space.
- Shows lack of accountability or perspective: Blaming all things – big and small on the other party.
- Attempts to shame the other party. Uses demeaning language when referring to the other party.
- Uses the children as leverage in negotiation.

Should a Petitioner Rescind Their PO?

- It depends
- Things to think about
  - Why did the client get the PO in the first place
  - Can similar relief be granted in Family Law case
  - Does the client need the extra teeth of the PO
  - What is the benefit to rescinding
  - How does a PO affect the jobs of the parties
    - Job requires a gun
    - Military
    - Security clearance
  - How long has the PO been in place

Making Agreements with Abusers

- Be wary and don't expect the abuser to be compliant with any agreement. Consider the fable of the Scorpion and the Frog which teaches that vicious people cannot resist hurting others even when it is not in their own interests.

Safety Planning

- When should you have a plan?
- Best thought of as an escape route
  - Be aware of all exits and proximity to them
  - Phone charged. Keys. “Go bag”
- Should have a plan for work, home, and court
  - Emotional, physical, and financial
- Involving children with safety plans?

Outside Resources

- Every county has their own dedicated domestic violence agency: YWCA, House of Ruth, Heartly House, Sexual Assault Legal Institute, HopeWorks, SARC, etc.
- MNADV → https://www.mnadv.org/
- https://mcasa.org/providers/resources/legal-lawyers-sali
- Judiciary has approved several AIP courses throughout the state
- Several counties have dedicated Police and SAO units for intimate partner violence.
- Protective Orders - Frequently Asked Questions | The Maryland People's Law Library
- National Network to End Domestic Violence – 24/7 hotline
  - By phone – 1.800.799.SAFE (7233)
  - Chat through their website - https://www.thehotline.org/
  - By text – text START to 88788

SUMMARY

- DV may be present in any family law situation. Do not minimize abuse.
- But NOT all bad behavior is “abuse” under MD Law.
- Advocate for realistic protective solutions (both sides)
- Best Interests of the Child remains paramount concern
- Expect the worst and take all realistic protective measures.
- Maintain boundaries with your client and realistic expectations.