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Crime Victim Compensation

There is a program that may be able to provide financial assistance to you for medical and counseling bills as well as loss of earnings. This program provides assistance to victims of domestic violence for costs not covered by insurance or public assistance.

Below are the basic guidelines for qualifying for funds from the Crime Victim Compensation Program:

- **The crime must be reported** to the police within 72 hours, and you must cooperate with the police and the prosecutor. Domestic abuse victims meet the cooperation requirement by making a report to law enforcement. The filing of a petition for a protection order meets the requirement for making a report to law enforcement. The 72-hour reporting limit can be extended where there are health and safety issues for the victims.
- **The claim must be filed** within two years from the date of the crime.
- You must not have incited the crime, or have been committing a crime, which caused your injuries.

This fund does not cover property losses. It covers costs related only to injury from the crime. The **Crime Victim Assistance Division of the Attorney General's Office** at 281-5044 or 1-800-373-5044 can answer any questions concerning this fund and help you in filing an application. They are located in the Department of Justice in the **Old Historical Building, East 12th and Grand, Des Moines, IA 50319**. Applications may also be made by telephone.

For additional information on the Crime Victim Compensation Program, contact the **Family Violence Center** at 243-6147, or refer to the Iowa Code, Chapter 912.

Personal Protective Orders

Whether or not the abuser has been arrested, if he has been violent, harassing or stalking, getting a Protective Order may help. A Protective Order is an order by the court requiring the abuser to stop certain conduct toward you. **There are two types of Protection Orders: criminal and civil.**

Criminal Protective Orders

A Criminal Protective or “No-Contact” Order prohibits a person charged with a crime from having contact with the victim of that crime. You can request a No-Contact Order from the police after an assault has occurred. The police will advise the county attorney of your request. You should follow up with the police or local county attorney to get your copy of the No-Contact Order. This type of order does not address custody of children or possession of property.

Civil Protective Orders

A Civil Protective Order can be filed with the assistance of a private attorney or can be filed “pro se” without an attorney. Forms for “pro se” Protective Orders can be obtained from the **Civil Clerk of Court Office** at the Polk County Courthouse, 500 Mulberry Street, Des Moines. There is a cost to file this type of Protective Order, but the judge may temporarily waive that cost if you do not have the money to pay. If you have been married to the abuser, are living with him, have lived with him within one year of the assault or have a child in common with him, or have been in a dating relationship, you may qualify for this type of order.

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A Civil Protective Order can require the abuser to do the following:

- Stay away from you except during court appearances.
- Stop communicating either personally or through third parties (includes writing, telephoning or any other means).
- Stop assaulting, attacking, molesting you.
- Stay away from your home.
- Stay away from your place of employment.

A Civil Protective Order can also do the following:

- Give you physical custody of your children
- Give you possession of the marital home (if married)
- Give you possession of a vehicle
- Order the abuser to pay financial support to you
- Allow limited contact between you and the abuser (example: permit you to talk by telephone regarding issues involving minor children, or allow you to have physical contact to exchange the minor children for visitation, etc.)
- Order counseling
- Assess all court costs to the abuser

It is very important to note that if you obtain a Protective Order, the order also applies to you. You must avoid the abuser as well, or you may be charged with “aiding and abetting” the abuser to violate the Protective Order.

How to obtain a Civil Protective Order

You must complete an application for a Protective Order at the **Clerk of Court’s Office**, Room 115 at the Polk County Courthouse. The clerk will take you to a judge who will review the application with you. You will give testimony under oath as to why you feel you should have a Protective Order. If the Court grants the Protective Order, then the judge will sign the order and the clerk will then take you back to the Clerk’s office. You will be instructed

to take the paperwork to the Polk County Sheriff's Office (across the street from the Courthouse). You will write down instructions on how to find the abuser and to "serve" him with the paperwork at his place of employment, home or anywhere else he may be.

Individuals in same-sex relationships, if living together, may also obtain this order. You must keep the Protective Order with you at all times. If the abuser violates the Order, you must show a copy of the Order to the police or sheriff.

The terms of the Civil Protective Order

In Iowa, the Civil Protective Order is usually issued for one year. The Order can be renewed if it is still needed at the end of the year. A Civil Protective Order/Restraining Order can also be secured with the assistance of a **private attorney**.

If the abuser violates the Personal Protective Order

Always keep a written journal to track the dates and times of each violation. If the abuser telephones you, you should state "you are violating the Protective Order," and hang up. If the abuser drives by or attempts to approach your residence, you must not make physical contact. It is always wise to **call the police** whenever a violation occurs. If the police arrive and find the abuser at the scene, they will arrest the abuser and he will be taken to jail. The judge will set a court date and you will be notified of the time and date of the "contempt" hearing. You must appear at the contempt hearing or else the charges against the abuser will be dropped. You will be required to testify about the abuser's violations of the Protective Order. Regardless of the outcome of the contempt hearing, the Protective Order will remain in effect.

If the police choose to not arrest the abuser for violations, you can still **file an Application for Contempt** at the Clerk of Court's office. A hearing on the application will be set. If the abuser is not served

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with the papers by the hearing date, the hearing will be continued. You will need to appear at the hearing to testify about the abuser's violations or else the charges will be dropped.

Consider consulting an attorney

You may contact a private attorney through the yellow pages. You may also qualify for free legal services through the **Legal Aid Society of Polk County** at **243-1193** which has a domestic abuse attorney on staff. An attorney can help you in processing the paperwork to file for a Civil Protection Order as well as prosecuting the contempt actions against the abuser. The attorney can discuss other options that may be available to you as well.

Contact the advocates at the Family Violence Center at 243-6147. They can be present with you in criminal and civil proceedings.



The Polk County Courthouse, 500 Mulberry, Des Moines, Iowa

Divorce, custody and visitation

Divorce

Here is some information to help you see how the divorce process works through the Civil Justice System in Iowa.

Iowa allows no-fault divorce. This means you must show that there has been a breakdown of your marriage. You may have to give the court your basic reason for the divorce, but you do not have to prove adultery or cruelty. With no-fault divorce, one spouse can get a divorce even if the other spouse does not want one. You do not have to be living apart to file.

Before you can file for divorce in Iowa, you must be a resident of this state for one year unless both husband and wife are currently residing in this state. Iowa has a 90-day waiting period before a divorce can be granted. The court may waive this period if there is good cause. If there are disputes about property, children, etc., the case may extend up to nine months or longer.

You will need an attorney to file for divorce, preferably one who is knowledgeable about domestic violence. You may be eligible for legal assistance at the **Iowa Legal Aid** at 243-1193, if you meet their income guidelines and certain other criteria. The **Family Violence Center** at 243-6147 can help you sort out your options and make referrals.

Divorce kits or “do it yourself” divorces may be an option where both spouses agree about everything, where there is no danger and where there are no custody issues. Otherwise, they should be avoided.

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In a divorce action, the spouse who files first is the “plaintiff,” and the other spouse is the “respondent.” Your attorney files a complaint for divorce in civil court. **Many women seek shelter at the time their abusive spouse is served papers that tell him a divorce complaint has been filed. This can be a very dangerous time.**

Along with the complaint, temporary orders are usually filed. Those orders ask the court to decide about use of the marital home, custody and parenting time, spousal support and civil restraining orders or personal protection orders that will be in effect until the divorce is final.

Custody

In a divorce, the court decides which parent will have custody of the children and the type of visitation the other parent will have. Unless there are court orders already, both parents have equal rights to the children, once paternity has been established. If you are married, paternity is legally assumed. The court will decide which parent will have custody of the children and what visitation the other parent will have.

The judge will decide custody of two types. Joint legal custody allows both parties to be involved in decisions, schooling, medical care, religious training. Sole legal custody leaves those decisions to one parent. Joint legal custody is often granted. The other type of custody is physical custody. Normally, one party is granted primary physical custody, and the other party gets visitation. Sometimes the parties share physical custody. This is not usually the case in domestic violence situations.

Custody decisions are made in temporary orders when the divorce is filed, and in permanent orders when the divorce is final.

Your attorney can request a District Court order from a third party to do a custody evaluation and recommendation. This can be requested from the court at the time you are served papers that tell about custody.

If paternity has not been established, then the mother has “sole” custody under the law. This means the biological father has no rights to your children. If the father’s name is on the child’s birth certificate, that does not establish paternity. Once paternity is established, then the father has rights to a child. Difficulties arise when the biological father has the children in his care and will not return them to their mother. Law enforcement officials often choose to not get involved in these disputes until a custody order is entered by the judge.

Visitation

Most custody orders give the non-custodial parent either reasonable visitation (any arrangement agreed upon between the parents) or specific visitation (usually every other weekend and an evening during the week).

In cases of domestic violence, the court considers the effect of the violence upon the children and can order restricted or supervised visitation, especially if the children are at risk of emotional or physical abuse or neglect. Police reports, hospital records and affidavits or testimony of witnesses are types of evidence the court may consider.

Summary of Iowa violence laws

Arrest Without a Warrant for Domestic Abuse Assault— Iowa Code Chapters 236 & 708.2A

This law lets police arrest if the police officer has “reasonable cause” to believe an assault has taken place, or is taking place, AND that the person who committed the violation is a spouse, or a person who resides in, or who has resided in the same household as the victim, or who has a child in common with the victim. Under these circumstances, the officer may arrest the suspect without a warrant, whether the violation was committed in the presence of the officer or not. The police officer must make an arrest under the mandatory arrest law if the victim sustained bodily injury.

Arrest Without a Warrant for Protective/No-Contact Order Violations—Iowa Code Chapter 236

This statute lets the police arrest a person and take him or her into custody when the officer has reasonable cause to believe that there is a valid Protective Order or No-Contact Order, and the order has been violated.

Criminal Sexual Abuse—Iowa Code Chapter 709

A spouse can be charged with the rape of his partner. **See page 8.**

Advising of Availability of Shelter Program or Other Community Services—Chapter 236

After intervening in a domestic dispute, police officers are required by law to provide the victim with written information on the availability of any local shelter program or other community services and their phone numbers.

Compensation for Injured Crime Victims—Iowa Code Chapter 912

Victims of certain personal injury crimes may receive financial compensation for particular losses that result from the crime. See page 40.

Victim and Witness Protection Act—Iowa Code Chapter 910

This law sets out the rights of victims who register with the County Attorney to be notified of proceedings and decisions in their case. Other rights include the filing of victim impact statements and privacy for child victims.

Court Ordered Batterer's Education Program—Iowa Code Chapter 708

This law states that a person who pleads guilty, or is convicted of Domestic Abuse Assault, will be ordered by the court to participate in a mandatory Batterer's Education Program as a condition of any sentence. In many circumstances, the person will be placed on probation.

Victims Seeking Help Assured of Confidentiality—Iowa Code Chapter 236

Victims of sexual assault and domestic violence who seek the services of workers at sexual assault or domestic violence crisis centers have the protection of the law that the counseling sessions are confidential and not admissible in the court of law without the victim's written consent.

The Iowa Stalking Law—Iowa Code Chapter 708

This law makes it a crime to repeatedly threaten or intimidate someone or to make repeated unwanted contact that causes emotional distress. Unwanted contacts might include telephone harassment, coming onto your property or making threats.