

Short notes on:

## **DOMESTIC VIOLENCE – THE PREVALENT SOCIAL “EVIL”**

### ***Introduction***

We currently live in very unpredictable times in the midst of the COVID-19 pandemic. South Africa enforced strict lockdown regulations on 27 March 2020 with the gradual phasing out of certain lockdown regulations as the COVID-19 virus curve flattened. One of the regulations enforced was a nationwide curfew, which is a rule prescribing a certain time at which civilians have to be confined at their home.

Being at home for many, especially for women and children, has been a terrifying experience. Reports of domestic and gender-based violence significantly increased during the first 21-day period of the initial level 5 lockdown regulation. One of the main characteristics of domestic violence is its private nature. Abuse in the family setup occurs within the home environment. The most common types of violence reported were physical, sexual and emotional (or psychological) abuse. Sadly, however, most cases of domestic violence and sexual abuse in South Africa go unreported.

### ***Importance Of Knowing What Domestic Violence Entails***

A domestic relationship is a broad term that includes intimate partner violence, child abuse, elder abuse and violence between siblings. In terms of *The Domestic Violence Act 116 of 1998* (hereafter “The Act”) defines this relationship to include the following:

- They are or were married to each other, including a marriage according to any law, custom or religion;
- They (whether they are of the same or opposite sex) live or lived together in a relationship in the nature of a marriage, although they are not, or were not, married to each other, or are not able to be married to each other;
- They are the parents of a child or are persons who have or had parental responsibility for that child;
- They were or are engaged, dating or in a customary relationship, including an actual or perceived romantic, intimate or sexual relationship of any duration;

- They are family members related by adoption, consanguinity or affinity;
- They share or recently shared the same residence.

Domestic violence includes more than just physical, sexual and emotional abuse. Domestic Violence in terms of The Act encapsulates the following:

- physical abuse;
- sexual abuse;
- emotional, verbal and psychological abuse;
- economic abuse;
- intimidation;
- harassment;
- stalking;
- damage to property;
- entry into the complainant's residence without consent, where the parties do not share the same residence;
- any other controlling or abusive behaviour towards a complainant, where such conduct harms, or may cause imminent harm to, the safety, health or wellbeing of the complainant.

### ***Importance Of Knowing What Action To Take***

Being trapped in a relationship or marriage where Domestic Violence is evident, could have a severe effect on your life. It is important to take action by protecting oneself. The first step would be to obtain a protection order, which is also known as a Domestic Violence Interdict. This is a court order that instructs an abuser to refrain from the abusive behaviour and sets out certain conditions that prevents an abuser from harassing or abusing the victim.

In the case where a marriage is involved, Section 4(2) of *The Divorce Act 70 of 1979* stipulates many circumstances that can be proof of the permanent breakdown of a marriage. Domestic Violence is listed as one of these circumstances; and no defence can be raised to prevent the divorce from proceeding. Thus divorce proceedings is another action that could be taken to save oneself from a situation entailing domestic violence.

Both these actions can also be an emotional burden and legal representation would be to your

advantage.

### **Conclusion**

Domestic violence should be taken seriously, it continues to be a broad social problem, which needs to be addressed by society, the government, communities and individual citizens. It is important to take action before the abuse has a permanent effect on its victims. Taking action is a necessary step to prevent the abuse to continue and to heal the damage caused as a result of this social evil.

Contact an attorney at SchoemanLaw Inc for your legal needs.

