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Domestic Violence Victims Can Obtain Financial Relief, And Protection, From New York State Family Courts

On average, nearly 20 people per minute are physically abused by an intimate partner in the United States. This equates to more than 10 million Americans each year. 1 in 4 women and 1 in 9 men experience some form of severe intimate partner violence during their lifetime. Domestic violence accounts for more than 15% of all violent crime nationwide.¹ According to a study from the *Huffington Post*: “The number of American troops killed in Afghanistan and Iraq between 2001 and 2012 was 6,488. The number of American women who were murdered by current or ex male partners during that time was 11,766. That’s nearly *double* the amount of casualties lost during *war*.”

Any New Yorker experiencing abuse or domestic violence in his or her intimate relationship has the option to file a “Family Offense” proceeding in a New York State Family Court. Family Offense proceedings are governed by Article 8 of the Family Court Act and are designed to stop violence amongst families and intimate partners and to provide protection for domestic violence victims and any children residing in the household.

Many people are aware that, in Family Offense proceedings, the Family Court has the authority to issue an Order of Protection (or a “restraining order”) limiting or preventing an abuser from having contact with the petitioning party. An Order of Protection can direct an abuser to stay away from the victim, her house, her job, her school and her car; and can direct that he have no contact with her or other members of her household.² This can be a very powerful tool in keeping victims and their families safe and preventing further abuse and violence.

However, many people are not aware that the Family Court’s power under Article 8 extends far beyond simply issuing Orders of Protection. In fact, there are several other types of relief available to victims of domestic violence in Family Court that victims and their advocates should be aware of. For example, the Family Court can sentence a perpetrator to a period of probation; it can direct him to engage in a batterer’s education program; it can require him to surrender all of his weapons and firearms; or it can require him to submit to drug and/or alcohol counseling. The Family Court can award custody of a child through a Family Offense proceeding and can even direct an abuser to stay away from a household pet if there is concern that he may cause harm to the animal.

The Family Court can also direct a perpetrator to pay financial restitution to his victim up to \$10,000.00, cover her medical bills and medical insurance, and/or require him to pay the victim’s legal fees incurred in obtaining an

¹ Statistics provided by the National Coalition Against Domestic Violence.

² This article refers to perpetrators of domestic violence using masculine (he/him) pronouns and victims of domestic violence using feminine (she/her) pronouns simply for ease of reading. This is not a suggestion that all perpetrators are male, or all victims are female.

Order of Protection. For victims of domestic violence who have children in common with their perpetrator, the Family Court also has the authority to award temporary child support to the petitioning party.

It is now well established that domestic violence takes many forms and is not limited to physical abuse or the infliction of physical injuries against a partner. Financial abuse, often manifested by an abuser controlling the finances and the victim's access to money, has been cited by many domestic violence victims as one of the hardest and scariest parts about leaving an abusive relationship – especially if there are children involved.

According to a 2016 study, an estimated 98% of domestic violence victims experience some form of financial abuse in which their partner controls their access to money. Many times, this means that, if they were to leave their relationship, they would be cut off financially with no means to support themselves or their children. This is cited by many victims as the primary reason for staying in an abusive relationship, or for returning to one.

The ability to obtain an award of child support in connection with a Family Offense proceeding offers victims a much-needed lifeline by providing them with the ability to obtain protection from their abuser while at the same time ensuring that they (and their children) are provided for financially.

Importantly, the Family Court can order a perpetrator to pay child support “in an amount sufficient to meet the needs of the child” without even requiring the petitioner to first prove that she is in a state of immediate financial need. Unlike in ordinary child support proceedings, the Family Court can order the payment of child support without regard to the child support calculation set forth in the Child Support Standards Act (CSSA) and without having first reviewed financial documentation from the perpetrator. This prevents an abuser from holding up a child support proceeding by refusing to provide documentation regarding his finances to the petitioner or the court.

A temporary child support award can even be made *ex parte*, without the perpetrator being present in court or receiving advance notice of the proceeding. This means that a domestic violence victim who is intending to leave an abusive partner can not only obtain an Order of Protection against her abuser, but can also obtain custody of their child(ren), protection for their pet(s) *and* financial support all at the same time.

As a family law attorney working with victims of domestic violence, it is important to take advantage of every nuance and subsection available under the law to provide comprehensive and meaningful representation to my clients. If you or someone you know is experiencing any type of domestic violence, please reach out to the experienced attorneys as Copps DiPaola Silverman, PLLC to discuss your options to keep yourself and your family safe.



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