

# **NOTICE OF LEGAL RIGHTS AND REMEDIES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, REPEAT VIOLENCE, SEXUAL VIOLENCE, STALKING**



## **BOCA RATON POLICE SERVICES**

**100 N.W. BOCA RATON BOULEVARD  
BOCA RATON, FLORIDA 33432**

**NON-EMERGENCY POLICE SERVICES  
(561) 368-6201**

**VICTIM ADVOCATE  
(561) 338-1317**

According to Florida Statute § 741.29 - "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from domestic violence which may include, but need not be limited to, provisions which restrain the abuser from further acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business, or place of employment; award you custody of your minor child or children; and direct the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

## **WHAT IS DOMESTIC VIOLENCE?**

Under the provisions of Section 741.28 of the Florida Statutes, domestic violence means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. A family or household member includes spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

### **Domestic Violence includes:**

**PHYSICAL ABUSE** - Pushing, slapping, kicking, punching, choking, and beating

**EMOTIONAL/VERBAL ABUSE** - Verbal intimidation, credible threats, following and stalking, acting out in anger

**SEXUAL ABUSE OR BATTERY** - Any unwanted touching or forcing of someone to engage in a sexual act against his or her will

## **WHAT IS SEXUAL VIOLENCE?**

Under the provisions of Section 784.046 of the Florida Statutes, sexual violence is one incident of

- sexual battery, as defined in chapter 794;
- a lewd or lascivious act, as defined in chapter 800, committed upon or in the presence of a person younger than 16 years of age;
- luring or enticing a child, as described in chapter 787;
- sexual performance by a child, as described in chapter 827; or
- any other forcible felony wherein a sexual act is committed or attempted, regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney.

## **WHAT IS DATING VIOLENCE?**

Under the provisions of Section 784.046 of the Florida Statutes, dating violence is violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- A dating relationship must have existed within the past 6 months
- The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties and
- The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

### **WHAT IS REPEAT VIOLENCE?**

Under the provisions of Section 784.046 of the Florida Statutes, repeat violence means two incidents of violence or stalking, one of which must have been within 6 months of filing a petition and must have been directed against the petitioner or the petitioner's immediate family member.

### **WHAT IS STALKING?**

Under the provisions of Section 784.048 of the Florida Statutes, stalking occurs when a person willfully, maliciously, and repeatedly follows, harasses, or cyber stalks another person. Aggravated stalking occurs when that person makes a credible threat to that person through stalking.

### **HOW CAN THE LAW HELP ME?**

You have the right to ask the State Attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, or stalking if you are

- the victim of domestic violence, repeat violence, dating violence, sexual violence, or stalking;
- the parent of any minor child living at home who is seeking an injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, or stalking; or
- if you have reasonable cause to believe, you or your minor child is in imminent danger of becoming the victim of any act of domestic violence.

This may include, but need not be limited to provisions that

- Direct the abuser to leave your household
- Restrain the abuser from any contact or further acts of abuse as a "no contact" condition of pretrial release, which will prevent the abuser from being within 500 feet of your residence, vehicle, school, business, or place of employment
- Award you custody of your minor child or children
- Direct the abuser to pay support to you and the minor child or children if the abuser has a legal obligation to do so

For safety reasons, you may provide your address to the court in a separate confidential filing when filing the petition for injunction.

You are not required to remain in a residence or household where you are a victim of domestic violence. Your address may be different from that of your partner without penalty.

If you have been a victim of domestic violence, repeat violence, dating violence, sexual violence, stalking, or if you are afraid that you will be hurt, Florida's domestic violence law enables you to work with the court system to help keep you safe. Contact your local domestic violence center for safety planning prior to filing for an injunction. The Clerk of the Court is required to assist you in seeking both injunctions for protection and enforcement for a violation of an injunction. Representation by an attorney is not required of either party as per Section 741.30(1)(f) of the Florida Statutes. When you go to the Clerk of the Court's Office in your county courthouse:

- You should bring identification and any papers relating to your case.
- You should bring information about the abuser's whereabouts, as well as his/her photo or identification.
- Tell the clerk that you are interested in filing a petition for injunction for protection against domestic violence, repeat violence, dating violence, or sexual violence.
- The court clerk will help you in filing the proper paperwork. By filling out these forms, you will be explaining to the judge exactly what type of protection you need and from whom you need protection.
- After you have completed the paperwork, the court may determine that danger of domestic violence exists. The court may order a temporary injunction, which is good for 15 days. Then a full hearing is held to consider your safety and the safety of your children.
- The abuser must be served with the injunction before it becomes effective. The injunction will tell the abuser what the judge requires and when to return to court for a hearing. This hearing will be within 15 days unless the abuser cannot be served.
- You are able to request notification of service of the injunction and receive notice automatically within 12 hours after the injunction is served.
- It is important for you to attend the hearing so that you can make sure the judge understands exactly what help you need and why. If you do not attend, usually the judge will end the injunction.
- After the hearing, a final injunction may be granted. The final injunction is valid until dissolved or amended by the court.

### **WHAT DO I DO IF THE ABUSER VIOLATES THE INJUNCTION?**

You will receive a copy of the injunction. Keep it with you at all times.

- If the abuser violates the conditions of an injunction, call the police right away.
- The abuser may be arrested.
- If the abuser is arrested, he/she will be held until the court determines bail.
- The judge will consider your safety and the safety of your children.
- You may go to court if you wish.
- The court may order penalties as allowed by law.

If the injunction has been violated, report the violation to the Clerk of the Circuit Court only if law enforcement states it cannot issue an arrest warrant, or issue a notice to appear because there is no criminal violation. Report the violation in the county where the violation occurred and complete an affidavit in support of the violation. The judge will determine what action should be taken for your safety and the safety of your children. Under the provisions of Section 741.315(2) of the Florida Statutes, if you have an out-of-state court order for protection against domestic violence, federal and state law provides that law enforcement recognize and act on the protections in the order as if issued by a Florida court, as long as the issuing court gave the accused the opportunity for a hearing before issuing the order. This includes orders issued by courts from the District of Columbia, Indian tribes, commonwealth territories, or possessions of the United States.

### **EXEMPTION FROM PUBLIC INSPECTION**

Under the provisions of Section 119.071(2)(j) of the Florida Statutes, any information which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from public inspection and examination.

You must make a written request and provide official verification, such as a law enforcement report, to the custodian of the records that an applicable crime has occurred. Such information shall remain exempt for 5 years, after which it will become available to the public.

### **MARSY'S LAW**

Article I, Section 16 of the Florida Constitution gives crime victims the following rights.

#### **You have the right:**

- To receive due process from the courts and to be treated with fairness and respect for your dignity
- To be free from intimidation, harassment and abuse
- Within the judicial process, to be reasonably protected from the accused
- To have the safety and welfare of you and your family considered when setting bail or pretrial release conditions that could affect you or your family
- To be heard in any public proceeding involving bail or pretrial release
- To prevent disclosure of information or records that could be used to locate or harass you or your family or which could disclose confidential or privileged information about you
- To prompt return of your property when no longer needed as evidence
- To full and timely restitution in every case and from each offender convicted of the crime for all losses suffered, both directly and indirectly, as the result of the criminal conduct

- To proceedings free from unreasonable delay and to a prompt and final conclusion of the case and any related post-judgment proceedings (In appropriate cases, the prosecutor may file a good faith demand for a speedy trial, allowing the case to be tried within sixty days, assuming the defendant's due process rights can be met by such, and advancement in the trial date. In non-capital cases, all state level appeals, and post-conviction proceedings must be completed within two years, and capital cases within five years, unless the court enters an order with specific findings concerning why the court was unable to do so and the circumstances causing the delay.)
- To be informed of these rights and to seek an attorney's advice regarding these rights

**Also, upon your specific request, you have these additional rights:**

- To reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct including, but not limited to, trial, plea, sentencing, or adjudication, even if you are a witness at the proceeding
- To reasonable, accurate, and timely notice of any release or escape of the defendant and of any proceeding during which a right of yours as the victim may be implicated
- To confer with the prosecutor concerning any plea agreements, restitution issues, participation in pretrial diversion or release programs by the defendant and sentencing or any other disposition of the case
- To provide information to anyone conducting or compiling a pretrial investigation regarding the crime's impact on you or your family, and to have such information considered by the court. Once the report is completed, you have a right to receive a copy of it except for portions made confidential by law.
- To be informed of the conviction, sentence, adjudication, or other dispositions of a convicted offender, his or her release date, or the date of their escape from custody
- To be informed of all post-conviction processes and procedures, to provide information to the release authority to be considered before any such release and to be notified of any release decision regarding the offender. This right is extended to every person harmed by the offender.
- To be informed of any clemency or expungement procedures regarding the offender, to provide information to the governor, the court, any clemency board, and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made, and to be given notice of that authority's decision before the offender's release

## WHOM SHOULD I TALK TO FOR MORE INFORMATION?

Florida Domestic Violence Hotline  
1-800-500-1119  
(For legal assistance hit prompt #3)

Florida Abuse Hotline  
1-800-962-2873  
(To file confidential reports of child abuse)

National Child Abuse Hotline  
1-800-422-4453  
(24-hour helpline which provides crisis counseling,  
information and referrals)

National Domestic Violence Hotline  
1-800-799-7233

National Teen Dating Abuse Hotline  
1-866-331-9474

**If you need assistance with crisis counseling,  
court advocacy or criminal justice system information,  
please call a counselor at the nearest location:**

BOCA RATON POLICE SERVICES DEPARTMENT  
Victim Advocate  
(561) 338-1317

YOUTH CRIME SPECIALIST  
(561) 338-1386

SOUTH COUNTY COURTHOUSE  
200 West Atlantic Avenue, Suite 120  
Delray Beach, Florida 33444  
(561) 274-1500

VICTIM SERVICES HOTLINE  
(561) 833-7273  
\*Services are offered at no cost.

**If you need assistance with shelter, relocation or  
counseling, the Department of Children and Families  
(DCF) has designated the following domestic violence  
centers where you may receive services:**

AID TO VICTIMS OF DOMESTIC ASSAULT (AVDA)  
P.O. Box 6161  
Delray Beach, Florida 33447-0667  
(561) 265-2900  
24-HOUR HOTLINE

YWCA DOMESTIC VIOLENCE SHELTER  
HARMONY HOUSE  
901 South Olive Avenue  
West Palm Beach, Florida 33401  
(561) 640-9844

CRISIS LINE  
#211  
OR  
1-866-882-2991  
24-HOUR HOTLINE



[BOCAPOLICE.COM](http://BOCAPOLICE.COM)