

WYOMING

CHAPTER 21 DOMESTIC VIOLENCE PROTECTION

35-21-101. Short title.

This act may be cited as the "Domestic Violence Protection Act".

35-21-102. Definitions.

- (a) As used in this act:
 - (i) "Adult" means a person who is sixteen (16) years of age or older, or legally married;
 - (ii) "Court" means the county court or, if the county does not have a county court, the district court in the county where an alleged victim of domestic abuse resides or is found;
 - (iii) "Domestic abuse" means physical abuse, threats of physical abuse or acts which unreasonably restrain the personal liberty of any household member by any other household member;
 - (iv) "Household member" means:
 - (A) Persons married to each other;
 - (B) Persons living with each other as if married;
 - (C) Persons formerly married to each other;
 - (D) Persons formerly living with each other as if married;
 - (E) Parents and their adult children;
 - (F) Other adults sharing common living quarters; and
 - (G) Persons who are the parents of a child but who are not living with each other.
 - (v) "Order of protection" means a court order granted for the protection of victims of domestic abuse;
 - (vi) "This act" means W.S. 35-21-101 through 35-21-108.

35-21-103. Petition for order of protection; contents; prerequisites; indigent petitioners; counsel to be provided petitioners.

- (a) A victim of domestic abuse may petition the court under this act [35-21-101 through 35-21-107] by filing a petition with the county court clerk or the district court clerk if the county does not have a county court for an order of protection.
- (b) The petition shall be made under oath or be accompanied by a sworn affidavit setting out specific facts showing the alleged domestic abuse.
- (c) No petitioner is required to file for annulment, separation or divorce as a prerequisite to obtaining an order of protection nor is a person's right to petition for relief affected by that person's leaving the residence or household to avoid domestic abuse.
- (d) No filing fee or other court costs shall be assessed or charged to a petitioner seeking an order of protection under this act.
- (e) The clerk of the court shall make available standard petition forms with instructions for completion to be used by a petitioner. Forms are to be prepared by the victim services division within the office of the attorney general. Upon receipt of the initial petition by the clerk of the court, the clerk shall refer the matter to the court. The court may appoint an attorney to assist and advise the petitioner. The petitioner may hire an attorney or file pro se.

35-21-104. Temporary order of protection; setting hearing.

(a) Upon the filing of a petition for order of protection, the court shall:

- (i) Immediately grant an ex parte temporary order of protection if it clearly appears from the specific facts shown by the affidavit or by the petition that there exists a real danger of further domestic abuse;
- (ii) Cause the temporary order of protection, together with notice of hearing, to be served on the alleged perpetrator of the domestic abuse immediately;
- (iii) Within seventy-two (72) hours after the granting of the temporary order of protection, hold a hearing on the question of continuing the order; or
- (iv) If an ex parte order is not granted, serve notice to appear upon the parties and hold a hearing on the petition for order of protection within seventy-two (72) hours after the filing of the petition.

(b) An order of protection issued under this section shall contain a notice that willful violation of any provision of the order constitutes a crime as defined by W.S. 6-4-404, can result in immediate arrest and may result in further punishment.

35-21-105. Order of protection; contents; remedies; order not to affect title to property.

(a) Upon finding that an act of domestic abuse has occurred, the court shall enter an order of protection ordering the respondent household member to refrain from abusing the petitioner or any other household member. The order shall specifically describe the behavior that the court has ordered the respondent to do or refrain from doing. As a part of any order of protection, the court may:

- (i) Grant sole possession of the residence or household to the petitioner during the period the order of protection is effective or order the respondent to provide temporary suitable alternative housing for petitioner and any children to whom the respondent owes a legal obligation of support;
- (ii) Repealed by Laws 1987, ch. 196, 2.
- (iii) Order that the respondent shall not initiate contact with the petitioner;
- (iv) Prohibit the respondent from abducting, removing or concealing any child in the custody of the petitioner;
- (v) Restrain the respondent from transferring, concealing, encumbering or otherwise disposing of petitioner's property or the joint property of the parties;
- (vi) Order other injunctive relief as the court deems necessary for the protection of the petitioner;
- (vii) If, after a hearing, it finds by a preponderance of evidence that an act of domestic abuse has occurred or that there exists a real danger of further domestic abuse, require the respondent to undergo appropriate counseling for a specified period of time not to exceed ninety (90) days.

(b) As part of any order of protection pursuant to subsection (a) of this section, the court shall:

- (i) When in the best interests of the children, award temporary custody of any children involved to the petitioner and provide for visitation rights by the respondent;
- (ii) Order the payment of child support and when appropriate, temporary support for the petitioner;
- (iii) Order the payment of any medical costs incurred by the petitioner as a result of the abuse inflicted by the respondent.

(c) The order shall contain a notice that willful violation of any provision of the order constitutes a crime as defined by W.S. 6-4-404, can result in immediate arrest and may result in further punishment.

(d) No order issued under this act shall affect title to any property nor allow the petitioner to transfer, conceal, encumber or otherwise dispose of respondent's property or the joint property of the parties.

35-21-106. Service of order; duration and extension of order; violation; remedies not exclusive.

(a) An order of protection granted under this act shall be filed with the clerk of court and a copy shall be sent by the clerk to the county sheriff who shall, after service, notify the local law enforcement agency within the county in which the petitioner resides. The order shall be personally served upon the respondent, unless he or his attorney was present at the time the order was issued.

(b) An order of protection granted by the court shall be effective for a fixed period of time not to exceed three (3) months. The order may be extended repetitively for good cause upon motion of the petitioner for additional periods of time not to exceed three (3) months each. The filing of an action for divorce shall not supersede an order of protection granted under this act.

(c) Willful violation of an order of protection is a crime as defined by W.S. 6-4-404. An order of protection granted under this act has statewide applicability and a criminal prosecution under this subsection may be commenced in any county in which the respondent commits an act in violation of the order of protection.

(d) The remedies provided by this act are in addition to any other civil or criminal remedy available to the petitioner.

35-21-107. Emergency assistance by law enforcement officers; limited liability.

(a) A person who allegedly has been a victim of domestic abuse may request the assistance of a local law enforcement agency.

(b) A local law enforcement officer responding to the request for assistance may take whatever steps are reasonably necessary to protect the victim from further domestic abuse, including:

(i) Advising the victim of the remedies available under this act and the availability of shelter, medical care, counseling and other services;

(ii) Providing or arranging for transportation of the victim to a medical facility or place of shelter;

(iii) Accompanying the victim to the residence to remove the victim's personal clothing and effects required for immediate needs and the clothing and personal effects of any children then in the care of the victim;

(iv) Arresting the abusing household member when appropriate;

(v) Advising the victim, when appropriate, of the procedure for initiating proceedings under this act or criminal proceedings and the importance of preserving evidence.

(c) Any law enforcement officer responding to a request for assistance under this act is immune from civil liability when complying with the request, providing [that] the officer acts in good faith and in a reasonable manner.

35-21-108. Protection orders; priority.

(a) Any order entered in a district court in this state in a proceeding where the petitioner and respondent are parties shall supersede any inconsistent language in any other order entered under this act or in any other court proceeding in this state.

(b) Any order entered under this act shall supersede any inconsistent language in any other order other than one issued by a district court proceeding described in subsection (a) of this section.

(c) Any order allowing the conditional release of a defendant in a criminal proceeding in this state where either the petitioner or the respondent is the named defendant shall include by reference all terms and conditions of an order entered under this act where the petitioner and respondent are parties.