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Legal Remedies for Domestic Violence in the #MeToo Era

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The #MeToo movement has brought the issue of sexual abuse and sexual assault out of hiding and into the public view. In the past, victims of sexual abuse or assault often felt silenced and ashamed and, as a result, the crimes went unreported or uncharged by authorities. Victims often were made to feel responsible for what had been done to them. Now, with the support of an army of other survivors who have also responded to #MeToo on social media, victims have the strength to report the crime that was committed against them. But what if your abuser lives with you? And what if after you report the crime, you will be returning to live with that person since you do not have any of your own financial resources? How do you stop abuse in this circumstance? These are exactly the types of questions faced by victims of domestic abuse. Luckily, the law is catching up to protect and assist such victims.

Physical abuse, although perhaps the most visible and most often discussed, is not the only

form of domestic violence. In fact, many domestic abuse victims do not show any outward signs of the trauma they suffer at home. Often, victims are abused emotionally or psychologically by their partners. Other times, victims are sexually assaulted by their partners. Others are financially abused and, therefore, feel trapped in their situation since they may not have any outside support. Many victims of domestic violence suffer from various types of these abuses simultaneously. Combined with the fact that shame and embarrassment may cause the victims to withdraw from family and friends and to keep the abuse hidden, it is no wonder that victims of domestic violence often feel alone and unaware of their legal options.

The Protection from Abuse Act (hereinafter referred to as The PFA Act), 23 Pa. C.S.A, Section 6101, *et. seq.*, gives victims of physical and sexual abuse the ability to obtain a Protection from Abuse Order, also known as a PFA order, against their abuser. A PFA order can only be filed against “family members or household members, sexual or intimate partners or persons who share biological parent-



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hood.” Under The PFA Act, the definition of a “family or household member” includes former family or household members. The PFA Act defines abuse as physical or sexual assault, threats of such assault, false imprisonment and stalking. A PFA order may include various forms of relief, including: removing the alleged abuser from the home and granting the victim exclusive possession of the home, granting temporary custody or visitation and asking the court to order the alleged abuser to surrender firearms. If a PFA order is dismissed, the person who was accused may

have the order expunged from his/her record.

On July 1, 2015, the Protection from Sexual Violence or Intimidation Act (hereinafter referred to as The PSVI Act) went into effect. The PSVI Act fills the gaps left behind by The PFA Act and extends the protections provided by the PFA Act. The PSVI Act seeks to protect victims of sexual violence or intimidation by obtaining a stay away order. This is similar to a PFA order, but only applies to victims who do not have any of the relationships listed in The PFA Act. There are two types of protection orders available under The PSVI Act. First, a minor or adult victim of sexual violence may file for a sexual violence protection (SVP) order against someone with whom they do not have a family or household relationship. Second, a minor victim who is alleging stalking or intimidation against someone over 18 years of age may file for a protection from intimidation (PFI) order. The relief available from both types of PSVI orders include prohibiting the alleged abuser from contacting the victim, prohibiting the alleged abuser from entering the victim's home, work or school and any other appropriate relief sought by the victim. Unlike The PFA Act, the relief offered by The PSVI Act does not include firearm relinquishment.

Financial abuse may be difficult for someone on the outside to notice. Oftentimes, this situation

involves a financially dependent spouse. The dependent spouse likely does not have their own source of income and may be given an "allowance" to live on while with their partner. Without any source of income, the dependent spouse may feel trapped. There are, however, several forms of interim relief remedies that can assist the financially abused spouse. First, pursuant to 23 Pa. Section 3702, a spouse can be awarded alimony pendente lite, spousal support and reasonable counsel fees and expenses. In general, to be successful in obtaining counsel fees, it is necessary to show a lack of financial ability. Second, pursuant to C.S.A. 23 Pa. C.S.A. Section 3502(f), the financially dependent spouse can seek an interim distribution of the marital estate. Many times, this is the only way that a financially dependent spouse can obtain counsel and, thus, be on equal footing with their spouse throughout divorce proceedings. Third, although a PFA order cannot be obtained if there is no abuse or threat of abuse, the dependent spouse may still be able to petition the court for exclusive possession of the marital residence during divorce proceedings, pursuant to Pa. C.S.A. Section 3502(c) and Section 3323(f). Lastly, pursuant to 23 Pa. C.S.A. Section 3505(a), the financially abused spouse can ask the court to freeze assets to prevent dissipation of the marital estate.

No matter the type of abuse that is occurring, exiting the situation

is not simple and plans should be made in advance. The risk of violence increases right before, during and after separation. There are a multitude of support services in every jurisdiction that can and should be utilized to assist the abuse victim during this transitional period. Family lawyers can assist their client in court, but they must also know what support services exist for abuse victims and should inform their client of where to turn for additional assistance. The #MeToo movement has made abuse less of a taboo subject and the law seems to be catching up, as well. Victims have more of a voice than ever before. Victims should feel empowered that they are not alone and there are a multitude of legal remedies that can assist them regain their independence.

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