



ANGUILLA

A BILL FOR
DOMESTIC VIOLENCE ACT, 2011

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A BILL FOR

DOMESTIC VIOLENCE ACT, 2011

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SCHEDULE 1

SCHEDULE 2

I Assent

Governor

ANGUILLA

No. /2011

A BILL FOR

DOMESTIC VIOLENCE ACT, 2011

[Gazetted] [Commencement:]

An Act to provide greater protection for victims of domestic violence and to make provision for the granting of protection orders and for matters incidental thereto and connected therewith.

ENACTED by the Legislature of Anguilla.

PART 1

PRELIMINARY

Interpretation

1. In this Act—

“applicant” means a person who applies or on whose behalf and application is made for an order in section 4;

“approved social worker” means a person experienced and qualified in social work and approved by the Minister in writing;

“attorney-at-law” means an individual who has been admitted to practice law before the Eastern Caribbean Supreme Court in Anguilla;

“child” means a person under the age of eighteen years who—

(a) normally resides with the applicant or, whether or not the child is a child of the applicant and the respondent or either of them; or

(b) is an adopted child, a stepchild, or a child who is treated as a child of the family; or

- (c) is related by consanguinity or affinity to either the applicant or the respondent; or
- (d) is in the care and protection of the applicant or the respondent; or
- (e) is a person of whom either the applicant or the respondent is a guardian; or
- (f) is or has been a member of a shared household; and
- (g) is not a person who is or has been married.

“Commissioner” means the Commissioner of Social Development;

“cohabitant” means a person who is living or has lived with a person as a husband or wife although not legally married to that person or, if of the same sex, in an equivalent relationship;

“Court” means the Magistrate’s Court or the High Court;

“dangerous weapon” means any article or object made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use;

“dependant” means a person over the age of eighteen years who by reason of physical or mental disability, age or infirmity is reliant on either the applicant or the respondent for his or her welfare;

“domestic relationship” means a relationship between an applicant and a respondent in any of the following ways—

- (a) they are or were married to each other, including marriage according to any law, custom or religion;
- (b) they are cohabitants or were cohabitants;
- (c) they are the parents of a child or are persons who have or had parental responsibility for the child, whether or not at the same time;
- (d) they are family members related by consanguinity, affinity or adoption;
- (e) they would be family members related by affinity if the persons referred to in paragraph (b) were, or were able to be married to each other;
- (f) they are or were in an engagement, dating or visiting relationship which includes but is not limited to an actual or perceived romantic, intimate or sexual relationship of any duration; or
- (g) they share or shared the same household or residence;

“domestic violence” means any controlling or abusive behaviour that harms (or may harm) the health, safety or well-being of a person or any child regardless of gender or sexuality and includes but is not limited to the following—

- (a) physical abuse or threats of physical abuse;

- (b) sexual abuse or threats of sexual abuse;
- (c) emotional, verbal or psychological abuse;
- (d) economic abuse;
- (e) intimidation;
- (f) harassment;
- (g) stalking;
- (h) Ill treating or threatening to ill treat any person who has a close relationship with the applicant even though that relationship may not be a domestic relationship;
- (i) causing or threatening to cause damage to or destruction of property;
- (j) entry into the applicant's residence without consent, where the parties do not share the same residence;

“economic abuse” means the avoidance of financial obligations owed to the applicant and child or a dependant of the respondent, including mortgage or rental obligations;

“emotional, verbal and psychological abuse” means degrading or humiliating conduct by the respondent to the applicant, including—

- (a) insults, ridicule or name calling;
- (b) threats used to cause emotional pain;
- (c) exhibition of behaviour which constitutes serious invasion of the applicant's privacy, liberty, integrity or security; or
- (d) the transmission of telephone text messaging or electronic mail to the applicant or the public with a view to embarrass, degrade or humiliate the applicant.

“firearm” shall have the meaning assigned to it under the Firearms Act, Revised Statutes of Anguilla, Chapter F30.

“harassment” means engaging in a pattern of conduct that induces the fear of harm including—

- (a) watching or loitering outside of or near the building or place where the applicant resides, works or carries on business, studies or happens to be;
- (b) repeatedly making telephone calls or inducing another person to make telephone calls to the applicant, whether or not conversation ensues;
- (c) repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, telephone text messages, facsimiles, electronic mails or other objects to the applicant;

“interim protection order” means an order made in section 5;

“intimidation” means uttering, conveying or causing any person to receive a threat which induces fear;

“Judicial Officer” means a Judge or a Magistrate;

“member of the household” means a person who normally resides in the same dwelling house as the applicant or the respondent and is related to the applicant or respondent by blood marriage or adoption;

“Minister” means the Minister responsible for Social or Family Services;

“Monetary relief” means compensation for monetary losses suffered by an applicant and any child at the time of the issue of an interim protection order as a result of the domestic violence, including—

- (a) loss of earnings;
- (b) medical and dental expenses;
- (c) moving, relocation and accommodation expenses;
- (d) household necessities and other interim expenses; or
- (e) any other monetary relief that the Court considers to be just.

“order” includes an interim protection order and a final protection order;

“police officer” has the meaning assigned to it in the Anguilla Police Act, Revised Statutes of Anguilla, Chapter A70;

“Police Force” means the Royal Anguilla Police Force;

“physical abuse” means any act of assault;

“prescribed” means prescribed by the Regulations made in this Act;

“probation officer” means an officer appointed as such by the Governor in Council acting under the Probation Act;

“protection order” means an interim order issued under section 6 and a final protection order issued under section 12;

“Registrar” means the Registrar of the High Court or Court Clerk in the Magistrate’s Court;

“respondent” means a person who is or has been in a domestic relationship with the applicant and against whom the applicant has applied for an order under this Act;

“sexual abuse” means any sexual conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the applicant;

“shared household” means a household where the applicant and the respondent live or lived together in a domestic relationship;

“spouse” includes a former spouse, a cohabitant or a former cohabitant;

“stalking” includes repeatedly following, pursuing or accosting the applicant;

“victim” means any person who alleges to have been subjected to an act of domestic violence;

“visiting relationship” means a non cohabitational relationship which is otherwise similar to the relationship between husband and wife or to an intimate partner of a same sex couple.

Duty to inform victim and applicant of rights

2. (1) A police officer, at the scene of an incident of domestic violence, or when the incident of domestic violence is reported shall—

- (a) inform the victim and the applicant of his or her rights in the manner as stated in Schedule 1; and
- (b) hand the victim a printed copy of the information relating to the right of the victim in paragraph (a).

(2) Upon the report of a breach of a protection order to a police officer by a person or a victim, the police officer shall inform the person or the victim of the right to lodge a complaint against the respondent if a criminal offence appears to have been committed against the person, victim or a child.

(3) The Commissioner may inform any person or a victim of the relief available in this Act.

Arrest by police officer without warrant

3. Subject to section 30, a police officer may arrest any person at the scene of an incident of domestic violence, without a warrant, whom he or she reasonably suspects of having committed an act of domestic violence.

PART 2

PROTECTION ORDERS

Person entitled to apply for a protection order

4. (1) A person referred to in subsection (2) may apply to the Court, in Form 1 in Schedule 2, for a protection order on the grounds that the respondent engaged in domestic violence.

(2) An application for a protection order referred to in subsection (1), may be made by—

- (a) the spouse of the respondent;
- (b) a member of a shared household, either on his or her own behalf or on behalf of any other member of the shared household;
- (c) a child;
- (d) a dependant;

- (e) a parent or sibling by consanguinity or affinity of either the spouse or respondent not being a member of the shared household;
- (f) a person who has a child in common with the respondent;
- (g) a person who is or has been in a visiting relationship; and
- (h) a cohabitant.

(3) An application made in subsection (1) may be brought on behalf of the applicant by any other person, who has a material interest in the well-being of the applicant, including a police officer, the Commissioner, a probation officer or an approved social worker, except that the application shall be brought with the consent of the applicant, but such consent shall be dispensed with in circumstances where the applicant is—

- (a) a child;
- (b) a dependant;
- (c) physically or mentally incapacitated by unsoundness of mind or a disability;
- (d) unconscious;
- (e) under the influence of intoxicating liquor or is misusing drugs; or
- (f) a person whom the Court is satisfied is unable to provide the required consent.

(4) In subsection (3) (a), a child or dependant may apply for a protection order through—

- (a) a person with whom the child or dependant ordinarily or periodically resides or resided with or is reliant upon for his or her welfare or any adult member of his or her household;
- (b) a parent or guardian or a person who is in *loco parentis* to the child; or
- (c) the Commissioner or other person who has parental responsibility for the child.

(5) The application referred to in subsection (1) may be brought outside the ordinary hours of the Court or on a day which is not an ordinary day for the sitting of the Court.

(6) The application for an order under this Act must be supported by evidence on affidavit unless the Court otherwise orders and an affidavit must include—

- (a) the facts on which the application is based;
- (b) the nature of the order applied for; and
- (c) the name of the police station at which the applicant is likely to report any breach of the order.

(7) The application made in this Act may be accompanied by supporting affidavit of any person who has knowledge of the matter concerned.

(8) The applicant may request that his or her physical address be omitted from the protection order.

(9) The application and affidavits shall be lodged with the Registrar who shall immediately submit the application and the affidavits for consideration of the Court.

(10) In considering an application made in subsection (1), the Court—

- (a) may require further oral evidence or evidence by affidavit; and
- (b) shall record any oral evidence referred to in paragraph (a).

Power of Court to issue interim protection order

5. (1) If the Court is satisfied that the respondent is committing, or has committed or is likely to engage in conduct that would constitute an act of domestic violence, the Court shall issue an interim protection order against the respondent, in Form II of Schedule II.

(2) The Court may issue an interim protection order, pending the hearing and determination of the proceedings for a protection order, if it appears necessary or appropriate to do so in order to ensure the safety and protection of the applicant.

(3) In exercising its powers in this section, the Court shall not refuse to issue an interim protection order by reason of the fact that the respondent has not been given notice of the proceedings.

(4) An interim protection order issued in this section must be served on the respondent and must call upon the respondent to show cause on the return date specified in the interim protection order as to why the interim protection order should not be confirmed.

(5) The return date referred to in subsection (4) must not be less than ten days after the date of the order.

(6) An interim protection order may be made for such period of time as the Court considers necessary but shall not exceed twenty-eight days.

(7) An interim protection order shall have no effect until it has been served on the respondent in the manner provided for in section 9(1).

Terms of final Protection Order

6. (1) A protection order issued by the Court in this Act may prohibit the respondent from—

- (a) committing any act of domestic violence;
- (b) enlisting the help of any person to commit any act of domestic violence;
- (c) entering the shared household, except that the Court shall only impose this prohibition only if it appears to be in the interests of the applicant or any child or dependant;
- (d) entering a specified part of the shared household;

- (e) entering the residence of the applicant;
- (f) entering the place of employment or education of the applicant;
- (g) preventing the applicant or any child or dependant who ordinarily resides or has resided in the shared household from entering or remaining in the shared household or a specified part of the shared household;
- (h) taking possession of, damaging, converting, destroying or otherwise dealing with property that the applicant may have an interest in, or is reasonably used by the applicant as the case may be;
- (i) ill treating or threatening to ill treat any person who has a close relationship with the applicant even though that relationship may not be a domestic relationship;
- (j) transmitting telephone text messages or electronic mail with a view to embarrass, degrade or humiliate the applicant;
- (k) approaching the applicant within a specified distance; or
- (l) committing any other act as specified in the order.

(2) In addition to the prohibitions referred to in subsection (1), the Court may direct that—

- (a) any or all of the conditions of an order be applied for the benefit of a child or a dependant
- (b) the respondent:
 - (i) return to the applicant, specified property that is in his or her possession or under his or her control,
 - (ii) pay monetary relief to the applicant including loss of earnings and costs reasonably incurred in bringing the application,
 - (iii) pay interim monetary relief to the applicant for the benefit of the child, or a dependant, where there is no existing order relating to maintenance until such time as an obligation for support is determined, in the provisions of any other law,
 - (iv) immediately vacate any shared household for a specified period, whether or not the shared household is owned or leased by the respondent and the applicant, or solely owned or leased by the respondent or the applicant,
 - (v) make or continue to make payments in respect of rent or mortgage payment for premises occupied by the applicant having regard to the financial needs and resources of the applicant or dependant,
 - (vi) the applicant or both, receive professional counselling or therapy from any person or agency or from a programme which is approved by the Commissioner in writing, or

(vii) abides by any other order which the Court considers meets the justice of the case.

(3) The Court may impose any additional conditions which it considers reasonably necessary to provide and protect the safety of the applicant, any child or dependant, including but not limited to an order that a police officer shall accompany the applicant to a specified place to supervise the collection of personal property.

(4) The Court may direct that any or all of the prohibitions or conditions contained in an order apply for the benefit of a child or dependant.

(5) The Court may—

(a) refuse the respondent contact with any child if it is shown that such contact is not in the best interests of the child; or

(b) order structured contact with any such child.

(6) The Court shall not refuse to issue an order under this Act on the basis that—

a) a single act has been committed or a single threat has been made by the respondent; or

(b) the acts or threats when viewed in isolation, appear to be minor or trivial.

(7) Where in subsection (2) (b) (vi) the Court makes an order which includes counselling or therapy, the order must specify—

(a) that the Court receives written notification from the counsellor or therapist of sessions missed by the applicant, the respondent or both, as the case may be without reasonable excuse; and

(b) the date by which the counsellor or therapist shall submit a report to the Court in respect of the counselling or therapy;

(8) Where the Court makes an order which includes a direction that the respondent—

(a) vacate any shared household; or

(b) return to the applicant specified property that is in his or her possession or control, the Court may, in the same order, if it considers necessary, direct a police officer to remove the respondent either immediately or within a specified time from the shared household, or to accompany the applicant, as the case may be, either immediately or within a specified time to specified premises, in order to supervise the removal of property belonging to the applicant and to ensure the protection of the applicant.

(9) A Protection order may be for such period as the Court considers necessary but shall not exceed three years.

(10) Where an order contains any prohibitions or directions, the Court shall specify different periods none of which shall exceed three years, as the period for which each prohibition or direction shall remain in force.

Matters to be considered by Court

7. In determining whether or not to impose one or more of the prohibitions or issue a direction specified in section 6, the Court shall have regard to the following—

- (a) the nature, history, or pattern of the domestic violence that has occurred and whether a previous Interim Protection Order or a final Protection Order has been issued;
- (b) the nature, history, or pattern of any criminal conduct (including criminal convictions and police reports) committed by the respondent;
- (c) the need to protect the applicant and any other person for whose benefit the order has been granted from further domestic violence;
- (d) the welfare of any child;
- (e) the accommodation needs of the applicant and any other person;
- (f) the hardship that may be caused to the applicant as a result of making the order;
- (g) the income, assets and financial obligations of the respondent, the applicant and any other person affected by the order;
- (h) the state of mind or mental condition of the respondent;
- (i) the respondent's use of or dependence on intoxicating liquor or drugs;
- (j) the need to preserve and protect the institution of marriage and other relationships whilst affording protection and assistance to the family as a unit; and
- (k) any other matter, that in the circumstances of the case, which the Court considers relevant.

Seizure of firearm and dangerous weapons

8. (1) The Court may make an order directing a police officer to seize any firearm or dangerous weapon in the possession of the respondent, if the affidavit made in section 4(1) contains information to the effect that—

- (a) the respondent has threatened or expressed the intention to kill or injure any person in a domestic relationship, including himself or herself whether or not by means of the firearm or dangerous weapon; or
- (b) possession of the firearm or dangerous weapon is not in the best interests of the respondent or any other person as a result of the respondent's:
 - (i) state of mind or mental condition;

- (ii) inclination to violence, whether a firearm or a dangerous weapon was used in the violence or not; or
- (iii) the use of or dependence on intoxicating liquor or drugs.

(2) The Court shall direct the Registrar to refer a copy of the affidavit made in section 4 (1) to the Commissioner of Police for consideration in relation to the Firearms Act, R.S.A. c. F30, if the Court had ordered the seizure of any firearm in this Act.

Service of notice of proceedings

9. (1) Upon an application for a protection order in section 4 (1) and the granting of an interim protection order by the Court, a copy of the application and the interim protection order, together with the notice of the date on which, and the time at which the respondent is to appear before the Court to show cause as to why the interim protection order shall not be confirmed, shall be served on the respondent.

(2) A notice of the proceedings in subsection (1) shall be issued in Form 3 of Schedule 2.

(3) Where an application is filed in respect of a child or dependant, a copy of the application, together with notice of the date on which, and the time and place at which, the application is to be heard, shall as soon as practicable be served on the parent or guardian of the child or dependant or other person with whom the child or dependant ordinarily resides or resides with on a regular basis.

(4) A notice of proceedings which is issued and served under this section shall be deemed to be a summons that is duly issued and served pursuant to the Rules of the Court made under section 43 and shall compel the respondent to appear in Court to answer to the application.

(5) A notice of proceedings issued under this Act may be served on the respondent or his or her agent and the Court shall receive proof of service by affidavit in Form 4 of Schedule 2.

(6) Where the hearing of an application is adjourned because the application and notice of the proceedings have not been served on the respondent, the time and place fixed by the Court for the adjourned hearing, shall be the date, time and place stated in the new notice of proceedings.

Service other than personal service

10. (1) Where the Court has not served notice of proceedings in section 9 or the interim protection order on the respondent personally, it may make an order for substituted service of the notice of the proceedings or interim protection order, as the case may be.

(2) For the purpose of subsection (1) “substituted service” means service—

- (a) by registered post to the last known address of the respondent;
- (b) by leaving the document at the last known address of the respondent or his or her closest relative;
- (c) at the workplace of the respondent;

- (d) by advertisement in a newspaper of general circulation, which service is deemed to have been effected at midnight on the date of the later advertisement, the cost to be borne by the applicant; or
- (e) provided in such other manner as the Court may direct.

Filing of affidavits

11. (1) The respondent shall, before the return date, file with the Registrar supporting affidavits showing cause as to why the interim protection order must not be confirmed.

(2) A copy of the affidavits of the respondent shall immediately be served on the applicant.

(3) The applicant, upon receipt of the affidavits may, before the return date, file a replying affidavit together with any supporting affidavits with the Registrar in which shall be stated the reasons why the interim protection order must be confirmed.

(4) A copy of the replying affidavit of the applicant shall immediately be served on the respondent.

(5) On the return date, the Registrar shall submit to the Court the—

- (a) application for the protection order;
- (b) the interim protection order granted;
- (c) any supporting affidavits made by the respondent; and
- (d) any replying affidavits made by the applicant.

Power to issue final protection order

12. (1) Where notice of the proceedings has been served on the respondent in accordance with section 9 or 10 and the respondent fails to appear in person at the time fixed for the hearing, the Court may—

- (a) proceed to hear and determine the matter in the absence of the respondent and issue a final protection order in Form 5 of Schedule 2; or
- (b) if the Court is satisfied, having regard to the materials before it, that it is appropriate to do so, adjourn the matter and issue a warrant for the respondent to be apprehended and brought before the Court.

(2) If the applicant or the person on whose behalf the application is made does not appear either in person or represented by an attorney-at-law, on the return date as stated in section 5 (4) and (5) and the respondent appears in Court, the Court may—

- (a) dismiss the application;
- (b) having received a reasonable excuse for the non-appearance of the applicant or other person, adjourn the hearing on such terms as it considers just; or

- (c) where it is satisfied, having regard to the submissions before it, that it is appropriate for evidence to be given by affidavit in this section, it may so direct, but the Court shall, on the application of any other party, order the attendance for cross examination of the person making such affidavit.

(3) If the respondent appears on the return date in order to show cause as to why the interim protection order should not be issued or confirmed and the applicant or the person on whose behalf the application is made also appear the Court must proceed—

- (a) to hear the matter and consider any evidence previously received under section 5 (6) and (7); and
- (b) to consider such further affidavits or oral evidence as it may direct, which shall form part of the record of the proceedings.

(4) At the hearing of the matter, the Court may—

- (a) decide the matter on the papers in the absence of either or both of the parties; or
- (b) refer the matter for oral evidence.

(5) At the conclusion of the hearing in subsection (4) (a) or (b), the Court—

- (a) may confirm, amend, or set aside the interim protection order; and
- (b) shall issue a final protection order in Form 5 of Schedule 2.

(6) The Registrar shall immediately notify the parties of the result and shall—

- (a) serve the original final protection order referred to in subsection (5) (b) on the respondent;
- (b) serve a certified copy of the final protection order referred to in subsection (5) (b) on the applicant.

(7) A final protection order shall be for such period as the Court considers necessary but shall not exceed three years.

(8) Where a final protection order contains any prohibitions or directions, the Court may specify different periods, none of which shall exceed three years, as the period for which each prohibition or direction shall remain in force.

Explanation of orders

13. Where the Court proposes to make an interim protection order or a final protection order and the respondent is before the Court, the Court shall explain to the respondent—

- (a) the purpose, terms and effect of the order;
- (b) the consequences of failing to comply with the order; and
- (c) the means by which the order may be varied or revoked.

Respondent to have notice of final protection order

- 14.** A respondent shall not be bound by a final protection order issued in section 12—
- (a) if he or she was not present at the time of the making of the order; or
 - (b) if the order has not been served on him or her personally or in accordance with section 10.

Variation and revocation of orders

- 15.** (1) Where an order is in force, a party to the proceedings in respect of whom the order was made may make an application to the Court in Form 6 of Schedule 2, for an order to vary or revoke the order that is in force.
- (2) On an application made in subsection (1), the Court may by order, vary or revoke the order.
- (3) A copy of an application made under this section must be served on each person who was a party to the proceedings in respect of which the original order was made.
- (4) In determining whether to vary or revoke an order and issue an order in Form 7 of Schedule 2, the Court shall have regard to the matters specified in section 7.

Service of protection order

- 16.** Where an interim protection order or a final protection order is made or varied by the Court—
- (a) the Registrar shall arrange for the order to be drawn up in Form 7 of Schedule 2 and filed with the Court; and
 - (b) the Court shall serve a copy of the order on:
 - (i) the respondent;
 - (ii) any other person to whom the order is to apply whether or not the person is a party to the proceedings; and
 - (iii) the police officer in charge of the police station located nearest to the area where the respondent or the applicant resides.

Criminal process for breach of protection order

- 17.** (1) A person against whom an order has been made or to whom a direction has been issued by the Court, commits an offence if that person—
- (a) has notice of the order or direction; and
 - (b) contravenes any provision of the order or fails to comply with the direction.
- (2) A person who commits an offence under subsection (1) is liable—

- (a) on a first summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding one year or to both;
- (b) on a second summary conviction, to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding two years or to both;
- (c) on any subsequent summary conviction, to a fine not exceeding ten thousand dollars and to a period of imprisonment not exceeding five years.

(3) Where an order contains a direction of the Court in section 7 that the respondent seek counselling or therapy and it is brought to the attention of the Court that the respondent has refused or neglected to comply with such a direction and the Court finds that such refusal or neglect was unreasonable, the respondent commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

PART 3

ATTACHMENT OF DEBTS AND ATTACHMENT OF EARNINGS ORDER

Attachment of debts and attachment of earnings order for breach of protection order

18. (1) Where the breach of a protection order includes the failure to pay any kind of monetary relief, an application may be made to the Court for an attachment of debts or an attachment of earnings order.

(2) Where an application is made under subsection (1) costs reasonably associated with the application may be included.

Application for attachment of debts order

- 19.** (1) An application for an attachment of debts order must be made—
- (a) for money standing to the credit of any account (including joint accounts) of the respondent with a bank or any other deposit taking institution;
 - (b) by any of the persons entitled to apply for a protection order under section 4(2) of this Act; and
 - (c) by filing an application notice in Form 8 of Schedule 2.

Service of notice of proceedings for attachment of debts order

20. (1) Where an application for an attachment of debt order is filed under section 19(1), the Court must serve—

- (a) a notice of proceedings on the respondent using Form 9 of Schedule 2; and
 - (b) a copy of the notice of proceedings on the applicant.
- (2) The notice of proceedings must—

- (a) call upon the respondent to show cause as to why the attachment of debts order should not be issued;
- (b) state the date for the hearing but such date must be not more than 10 days after the date on which the notice is issued by the Court;
- (c) contain a statement indicating that the respondent may file affidavit evidence in response to the notice of proceedings and the date by which such affidavit must be filed; and
- (d) contain a statement indicating that the respondent must not pay any of the amount due to any person until the Court further orders.

(3) The procedure under sections 9(3), (4), (5) and (6) of this Act applies to service of proceedings for an attachment of debts order.

(4) Where notice of the proceedings has been served on the respondent in accordance with subsection (1), (2) and (3) and the respondent or the respondent's attorney-at-law fails to appear at the time fixed for the hearing, the Court may—

- (a) proceed to hear and determine the matter in the absence of the respondent and issue a notice to attach a debt in Form 10 of Schedule 2; or
- (b) if the Court is satisfied, having regard to the materials before it, that it is appropriate to do so, adjourn the matter and issue a warrant for the respondent to be apprehended and brought before the Court.

(5) If the applicant or the person on whose behalf the application is made does not appear either in person or represented by an attorney-at-law, on the date of the hearing as stated in notice of proceedings and the respondent appears in Court, the Court may—

- (a) dismiss the application;
- (b) having received a reasonable excuse for the non-appearance of the applicant or other person, adjourn the hearing on such terms as it considers just; or
- (c) where it is satisfied, having regard to the submissions before it, that it is appropriate for evidence to be given by affidavit in this section, it may so direct, but the Court shall, on the application of any other party, order the attendance for cross examination of the person making such affidavit.

An attachment of debts order

21. (1) If the respondent appears on the return date in order to show cause as to why the attachment of debts order should not be issued and the applicant or the person on whose behalf the application is made also appear the Court must proceed—

- (a) to hear the matter and consider any evidence previously received; and
- (b) to consider such further affidavits or oral evidence as it may direct, which shall form part of the record of the proceedings.

- (2) At the conclusion of the hearing in subsection (1) the Court—
- (a) may serve a notice to attach a debt under Form 10 of Schedule 2 requesting that the bank or other deposit taking institution disclose to the Court information about all accounts in the name of the respondent including joint accounts; or
 - (b) may issue and serve on the bank or deposit taking institution an attachment of debts order in Form 11 of Schedule 2.
- (3) On return of the information requested under subsection (2)(a) the court may proceed, without conducting a further hearing, to issue an attachment of debts order.
- (4) The Registrar must immediately notify the parties of the result under subsection (2) and (3).
- (5) An attachment of debts order shall freeze or retain specified sums from the respondent's accounts or joint accounts in an amount that satisfies the outstanding monetary relief and such sums shall include any legal and administrative costs associated with enforcing the order.
- (6) An attachment of debts order must direct the bank or deposit taking institution to provide the respondent with a statement of accounts for all accounts affected by the order.
- (7) Unless the Court rules otherwise, an attachment of debts order extinguishes when the total sum frozen or retained in the order has been transferred to an account of the Government of Anguilla or the bankers cheque has been deposited with the Registrar.

Service binds debts

22. A bank or deposit taking institution served with an attachment of debts order must immediately freeze or retain money in the specified accounts held by the respondent from the date of service and this includes all wages or salary that become due or payable at any time within 10 days after service of the order.

Attachment of debt proceedings not mentioned under this Act

23. The Court is empowered to utilize, with the necessary modifications, the procedure under the Civil Procedure Rules, 2000 of the Supreme Court that sets out the rules for attachment of debt orders that are not dealt with by this Act.

Attachment of earnings

- 24.** (1) "Earnings" mean sums payable by way of wages or salary including any fee, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary.
- (2) An attachment of earnings order—
- a) attaches to future debts which are payable by an employer and compels such employer to make deductions from the earnings of the respondent and pay them into court;

- b) must only be made if the Court, having regard to the respondent's resources and needs, is satisfied that it is reasonable to make such an order; and
- c) must be an order directed to a person who appears to the court to have the respondent in his or her employment and must operate as an instruction to that person.

(3) For the purposes of this Act, the relationship of employer and employee shall be treated as subsisting between two persons if one of them as a principal and not as a servant or agent, pays to the other any sums defined as earnings by this Act.

Application for attachment of earnings order

- 25.** (1) An application for an attachment of earnings order must be made—
- (a) by any of the persons entitled to apply for a protection order under section 4(2) of this Act; and
 - (b) by filing an application notice in Form 12 of Schedule 2.

Service of notice of proceedings for attachment of earnings order

- 26.** (1) Where an application for an attachment of earnings order is filed, the Court must serve—
- (a) a notice of proceedings on the respondent using Form 13 of Schedule 2;
 - (b) a copy of the notice of proceedings on the applicant; and
 - (c) a notice to the employer to deduct employees earnings using Form 14;
- (2) The notice of proceedings under subsection (1)(a) must—
- (a) call upon the respondent to show cause as to why the attachment of earnings order should not be issued;
 - (b) state the date for the hearing but such date should not be not more than 10 days after the date on which the notice is issued by the Court; and
 - (c) contain a statement indicating that the respondent may file affidavit evidence in response to the notice of proceedings and the date by which such affidavit must be filed.
- (3) The procedure under sections 9(3), (4), (5) and (6) of this Act applies to service of proceedings for an attachment of earnings order.
- (4) Where notice of the proceedings has been served on the respondent and the respondent or the respondent's attorney-at-law fails to appear at the time fixed for the hearing, the Court may—
- (a) proceed to hear and determine the matter in the absence of the respondent and issue an attachment of earnings order in Form 15 of Schedule 2; or

- (b) if the Court is satisfied, having regard to the materials before it, that it is appropriate to do so, adjourn the matter and issue a warrant for the respondent to be apprehended and brought before the Court.

(5) If the applicant or the person on whose behalf the application is made does not appear either in person or represented by an attorney-at-law, on the date of the hearing as stated in notice of proceedings and the respondent appears in Court, the Court may—

- (a) dismiss the application;
- (b) having received a reasonable excuse for the non-appearance of the applicant or other person, adjourn the hearing on such terms as it considers just; or
- (c) where it is satisfied, having regard to the submissions before it, that it is appropriate for evidence to be given by affidavit in this section, it may so direct, but the Court shall, on the application of any other party, order the attendance for cross examination of the person making such affidavit.

An attachment of earnings order

27. (1) If the respondent appears on the return date in order to show cause as to why the attachment of earnings order should not be issued and the applicant or the person on whose behalf the application is made also appear the Court must proceed—

- (a) to hear the matter and consider any evidence previously received; and
- (b) to consider such further affidavits or oral evidence as it may direct, which shall form part of the record of the proceedings.

(2) At the conclusion of the hearing in subsection (1) the Court may issue and serve on the employer an attachment of earnings order in Form 15 of Schedule 2.

(3) The Registrar must immediately notify the parties of the result and must serve a copy of the attachment of earnings order referred to in subsection (2) on the respondent.

(4) The order must specify—

- a) the whole amount payable or so much of that amount as remains unpaid, including any relevant costs in bringing the application;
- (b) that the employer makes periodical deductions from the respondent's earnings at such times as the order may require;
- (c) that the amounts deducted are paid to the collecting officer of the court or as specified in the order;
- (e) at the request of the employer, a sum that the Court considers reasonable for the employer to deduct to pay for clerical and administrative costs incurred in fulfilling the terms of the order;
- (f) that the employer must give to the respondent a statement in writing of the total amount of the deduction; and

- (d) any other condition that the Court considers to be reasonable in fulfilling the terms of the order.

PART 4

POLICE POWERS OF ENTRY AND ARREST

Duties of police officers

28. (1) A police officer shall respond to every complaint or report alleging domestic violence whether or not the person making the complaint or the report is the victim.

(2) A police officer responding to a domestic violence complaint shall complete a domestic violence report which shall form part of a Domestic Violence Register or a data collection system to be maintained by the Commissioner of Police in the prescribed manner.

(3) A domestic violence report must be in Form 16 of Schedule 2 and must include but not be limited to—

- (a) the name of the parties;
- (b) the relationship and sex of the parties;
- (c) information relating to the history of domestic violence between the parties;
- (d) the date and time the complaint was received;
- (e) the type of the abuse and the weapon used, if any.

Issue of warrant

29. Where a judicial officer is satisfied, by information on oath, that—

- (a) there are reasonable grounds to suspect that a person on a premises has suffered or is in imminent danger of physical injury at the hands of another person in a situation amounting to domestic violence and needs assistance to deal with or prevent the injury; and
- (b) a police officer has been refused permission to enter the premises for the purpose of giving assistance to the first mentioned person in paragraph (a),

the judicial officer may issue a warrant in writing authorising a police officer to enter the premises specified in the warrant at any time within twenty four hours after the issue of the warrant and subject to any conditions specified in the warrant, to take such action as is necessary to prevent the commission or repetition of the offence or a breach of the peace or to protect life or property.

Police powers of arrest without warrant

30. (1) A police officer may act in accordance with the provisions of the Criminal Code R.S.A. c. C140 where he or she has reasonable cause to believe that a person is engaging in or

attempting to engage in conduct which amounts to physical violence and failure to act immediately may result in serious physical injury or death.

(2) This section does not authorise the entry onto premises by a police officer, for the purpose of any search or the arrest of any person, otherwise than in connection with the conduct referred to in subsection (1).

(3) Where a police officer exercises a power of entry in subsection (1), he or she shall immediately submit a written report to the Commissioner of Police, through the head of his or her division where the incident occurred, and the report shall contain—

- (a) the reasons for entering the premises without a warrant;
- (b) the offence being committed or about to be committed; and
- (c) the manner in which the investigation was conducted and the measures taken to ensure the protection and safety of the person at risk.

(4) The report referred to in subsection (3) must be submitted to the Commissioner of Public Prosecutions by the Commissioner of Police within seven days of its receipt by the Commissioner of Police.

(5) Where a complaint is made against a police officer by a person resident in a premises alleging that the entry of the police officer onto the premises in subsection (1) was unwarranted, the Commissioner of Police shall authorise an investigation into the complaint and submit a copy of its report to the Commissioner of Police and the Attorney General within fourteen days of the complaint having been made.

(6) Where the investigation of the Commissioner of Police finds that entry made in subsection (1) was unwarranted, the Commissioner of Police shall also submit the report to the Public Service Commission and such report may form the basis of disciplinary action against the police officer.

Duty of police officer to assist victims

31. Where a police officer has entered on to premises in sections 4, 30 and 32(1), the police officer shall—

- (a) assist a person who has suffered injury;
- (b) ensure the welfare and safety of a child or dependant who may be on the premises; and
- (c) prevent any further breach of the law.

Warrant of arrest and procedure upon arrest of respondent where Court issues interim protection order

32. (1) In granting an interim protection order in section 5, the Court may—

- (a) issue a warrant for the arrest of the respondent, in Form 17 of Schedule 2; or

- (b) suspend the execution of such a warrant, subject to compliance with any prohibition, condition, obligation or order imposed under section 6.
 - (2) The warrant referred to in subsection (1) shall remain in force until the interim protection order is set aside.
 - (3) A police officer shall—
 - (a) execute a warrant of arrest upon its production and receipt of an affidavit in Form 18 of Schedule 2 wherein it is stated that the respondent has breached any prohibition, condition or obligation or order imposed in section 6; or
 - (b) arrest the respondent upon receipt of an affidavit by the applicant in Form 18 of Schedule 2 wherein it is stated that:
 - (i) an interim protection order has been issued in section 5 or that a final protection order has been issued in section 12;
 - (ii) a warrant of arrest for the respondent has been issued;
 - (iii) the warrant of arrest has been lost or destroyed; and
 - (iv) the respondent has breached any prohibition, condition, obligation or order imposed in section 6.
 - (4) The Court shall issue the applicant with a second or further warrant of arrest upon the applicant filing an affidavit in which it is stated that—
 - (a) the respondent has not been arrested; or
 - (b) the warrant of arrest issued has been lost or destroyed.
 - (5) Subject to this Act, the provisions of the Criminal Code R.S.A. c. C140 relating to—
 - (a) the form and manner of execution of warrants of arrest;
 - (b) the arrest;
 - (c) the detention, search, release from custody; and
 - (d) the criminal prosecution of the respondent;
- shall apply with the necessary changes applicable in respect of warrants of arrest issued in subsection (1).

- (6) A respondent arrested in subsection (3) shall—
 - (a) not be released, unless—
 - (i) a Court orders the release; and

- (ii) the respondent, having been given a reasonable opportunity to do so, adduces evidence which satisfies the Court that the interests of justice permit his or her release from detention in custody;
- (b) be brought before the Court as soon as reasonably possible, but not later than—
 - (i) forty eight hours after arrest; or
 - (ii) at the end of the first Court date, after the expiry of the forty eight hours, if the forty eight hours expire outside the ordinary court hours or on a day which is not an ordinary court day; and
- (c) be criminally charged with—
 - (i) an offence referred to in section 48; and
 - (ii) any other offence resulting from a complaint lodged by the applicant against the respondent.

Powers of arrest where a final protection order is in force

33. Where a final protection order is in force and a police officer believes on reasonable grounds that the respondent has committed or is committing a breach of the final protection order, he or she may arrest and detain the respondent without a warrant.

Existing criminal law to apply

34. (1) Subject to subsection (2), where a person is arrested in section 30 or 31, the person shall be charged in accordance with the relevant provisions of the criminal law for committing or attempting to commit any of the offences and shall be dealt with accordingly.

(2) Where upon hearing the evidence in section 12 for the granting of a final protection order, the Court is satisfied that—

- (a) the incident was an isolated one;
- (b) there are circumstances which make it desirable to preserve the family unit; and
- (c) the conduct complained of is not sufficiently grave to warrant the imposition of the order or the penalty, as the case may be;

the Court may, with the consent of the applicant, withhold the granting of a final protection order or the imposition of any penalty as prescribed by law and require the respondent to enter into a bond of good behaviour for a period not exceeding six months.

(3) Where a bond of good behaviour has been entered into in subsection (2), the Court shall prescribe such additional conditions as follows—

- (a) that the parties receive professional counselling, including family counselling;
- (b) that the parties report to a probation officer at certain fixed intervals; and
- (c) that the matter be reviewed by the Court at intervals not exceeding three months.

(4) A bond of good behaviour entered into in subsection (2) shall be forfeited if the Court is satisfied that—

- (a) the respondent has continued to engage in conduct amounting to domestic violence against the applicant;
- (b) based on a report from a probation officer, the Commissioner, an approved social worker or a police officer, domestic violence is likely to be perpetrated against the applicant; or
- (c) the applicant has become fearful of the respondent to the extent that he or she is no longer willing to continue the domestic relationship.

(5) A bond of good behaviour is an order of the Court, the breach of which, entitles the Judicial Officer, if he or she so desires, to pursue contempt of court proceedings under section 35.

PART 5

CONTEMPT OF COURT PROCEEDINGS

Contempt of Court

35. (1) Notwithstanding any other law, the Court has jurisdiction under this section to find a person guilty of contempt of court if that person—

- (a) breaches any term of a consent order or bond of good behaviour;
- (b) having been summoned by the court refuses or neglects without sufficient cause to attend;
- (c) being examined as a witness or being present in court and required to give evidence, the person refuses to be sworn or to answer any lawful question or, without sufficient excuse, to produce any documents or things that the person has been or is required to produce;
- (d) immediately prior to, during or within a reasonable time after court proceedings wilfully insults the Judicial Officer, any witness, or any other officer of the court;
- (e) wilfully interrupts the proceedings of the court or otherwise misbehaves in court;
or
- (f) being the director, manager or owner of a business or company was served with a notice or order of this Court and fails without reasonable excuse to perform the terms of such notice or order.

(2) Where the Judicial Officer finds that a contempt of court has occurred in subsection (1), the Judicial Officer may—

- (a) order any police officer to arrest the offender and specify the time, not exceeding 3 days, by which the offender must be brought before the court;

- (b) issue a warrant for his or her arrest and specify the time, not exceeding 3 days, by which the offender must be brought to court; or
- (c) where the issue of contempt occurs in the precincts of the court, proceed to deal with the matter immediately.

(3) When a person is before the court for the offence of contempt of court, the court must cause him or her to be informed of the contempt with which he or she is charged and provide that person with an opportunity to be heard.

(4) If the Judicial Officer finds that the person is guilty of contempt of court, the Judicial Officer may order that the person be sentenced to a term of imprisonment of not more than six months or fined not more than \$2000.00 or to both.

(5) If a person found guilty of contempt of court is ordered to be imprisoned and that person makes an apology to the Court and the Court accepts that apology then the Court may—

- (a) order his or her discharge before the end of the term; or
- (b) reduce the term of imprisonment as the Court sees fit.

(6) To avoid doubt, a finding of guilty of contempt of court does not suspend, terminate or in any other way interfere with a protection order, interim protection order, consent order or any other order made by the Court.

PART 6

MISCELLANEOUS

Conduct of proceedings

36. (1) The following persons may be present during the hearing of any proceedings in this Act—

- (a) an officer of the Court;
- (b) parties to the proceedings and their attorneys-at-law;
- (c) witnesses giving evidence; or
- (d) any other person permitted by the judicial officer to be present.

(2) A witness shall leave the Court room if asked to do so by the judicial officer.

(3) This section shall not limit any other power of the Court to hear proceedings in camera or to exclude any person from the Court.

(4) Where an application is made on behalf of a child, the parent or guardian of that child or the person with whom the child ordinarily resides with on a regular basis shall be entitled to be a party to the proceedings.

(5) This section shall not prevent a child, on whose behalf an application for an order is made, from being heard in the proceedings and where the child expresses his or her views, the Court shall take account of those views having regard to the age and maturity of the child and the ability of the child to express his or her views.

Evidence

37. In any proceedings in this Act, other than criminal proceedings, the Court may receive such evidence as it thinks fit whether it is otherwise admissible in a court of law.

Standard of proof

38. Every question of fact arising in any proceedings in this Act, other than criminal proceedings shall be decided on a balance of probabilities.

Restriction of publication of reports

39. (1) Subject to subsections (3) and (4), a person shall not publish any report of proceedings in this Act, other than criminal proceedings, except with the leave of the Court.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding one year.

(3) This section does not limit—

- (a) the provisions of any other enactment relating to the prohibition or regulation of the publication of reports or particulars relating to judicial proceedings; or
- (b) the power of the Court to punish any contempt of Court.

(4) This section shall not apply to the publication of any report in any publication that—

- (a) is of a bona fide professional or technical nature; or
- (b) is intended for circulation among members of the legal or medical profession, officers of the public service, police officers, psychologists, marriage counsellors or social workers.

(5) Reports of proceedings may be published if it—

- (a) does not identify or lead to the identification of the parties to the proceedings;
- (b) is of a bona fide professional or technical nature; and
- (c) is intended for circulation among members of the legal or medical profession, officers of the public service, police officers, psychologists, marriage counsellors or social workers.

Orders by consent

40. (1) In any proceedings in this Act, the Court may make any order with the consent of all the parties to the proceedings.

(2) The Judicial Officer may pursue contempt of court proceedings if a party breaches an order made under subsection (1).

Appeals

41. (1) A person aggrieved by—

- (a) an order of the Court; or
- (b) the refusal of the Court to make an order,

may, within twenty eight days after the decision of the Court, appeal to the Court of Appeal.

(2) Except where the Court which makes an order in the provisions of this Act otherwise directs, the operation of such an order shall not be suspended by virtue of an appeal made in this section, and every order may be enforced in the same manner and in all respects as if an appeal under this section is not pending.

Protection of mortgage

42. (1) The rights conferred on any person in respect of any property by an order made under this Act shall be subject to the rights of any person entitled to the benefit of any mortgage, security, charge or encumbrance affecting the property if—

- (a) the mortgage, security, charge or encumbrance was registered before the order was registered; or
- (b) the rights of that other person entitled to that benefit arise under an instrument executed before the date of the making of the order.

(2) Money payable under any mortgage, security, charge or encumbrance shall not be called up or become due by reason of the making of the order under this Act.

Rules of the Court

43. The Chief Justice may make Rules of the Court—

- (a) to regulate the practice and procedure of the Court with respect to proceedings under this Act; and
- (b) to provide for such matters as are necessary for giving full effect to this Act and for its due administration.

Property rights

44. This Act shall not be construed as altering the rights of a spouse in respect of ownership of any real, personal, movable or immovable property.

Obligation to report ill-treatment of a child

45. (1) A dentist, medical practitioner, nurse, psychologist, social worker, or a teacher who examines, attends to or deals with any child in circumstances giving rise to reasonable suspicion that the child has been subject to any act of domestic violence as a result of which the child suffers from injury, whether single or multiple, shall immediately notify a police officer of the said circumstances.

(2) A person referred to in subsection (1) shall not be liable in respect of any notification given in good faith in accordance with this section.

Bail

46. (1) Where the Court is required to determine whether to grant bail in respect of an offence committed under this Act, the Court shall consider—

- (a) the need to protect the applicant from domestic violence;
- (b) the welfare of a child or dependant where the respondent or the applicant has custody of that child or dependant;
- (c) the welfare of any child or dependant being a member of the household; and
- (d) any hardship that may be caused to the respondent or other members of the family if bail is not granted.

(2) The Court in granting bail, may order that the recognisance be subject to any one or more of the following conditions, as the Court considers appropriate—

- (a) that the respondent not harass or molest or cause another person to harass or molest the applicant;
- (b) that the respondent not be present on the premises in which the applicant works or resides; and
- (c) that the respondent not be in a locality in which is situated the premises in which the applicant works or resides.

(3) Where a police officer believes on reasonable grounds that a person, who has been admitted to bail subject to one or more conditions, has failed to comply with a condition of the recognisance, the police officer may arrest the person without a warrant.

Offences

47. A person who contravenes any prohibition, condition or obligation or order imposed under this Act and for which a penalty is not stipulated commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding five years or to both such fine and imprisonment.

Regulations

48. The Minister may make regulations to give effect to this Act.

Citation

49. This Act may be cited as the Domestic Violence Act, 2011.

Speaker

Passed in the House of Assembly this day of , 2011

Clerk of the House of Assembly

SCHEDULE 1

DOMESTIC VIOLENCE ACT, 2011

(Section 3)

INFORMATION TO VICTIM AND APPLICANT REGARDING HIS OR HER RIGHTS

1. You have the right to request the assistance of a member of the Police Force in order to protect yourself and your children, and the member is obliged to provide you with information on how to obtain a protection order.
2. You may also request police assistance in locating and taking you and your children to a place of safety, including a shelter, the home of a family member or friend, or any other place of safety.
3. If you or your children are in need of medical treatment, you have the right to request a member of the Police Force to assist you in obtaining such medical treatment.
4. A protection order can be obtained from the Court at any time of the day or night and will be served on your abuser free of charge.
5. You may request that your address not be disclosed to your abuser.
6. The abuser can be ordered to pay monetary relief and any or all contact with you or your children may be prohibited.
7. You may also request the Court to convict your abuser or prohibit the abuser from preventing you to enter the shared household. This order is of a temporary nature, and if you wish it to be confirmed, you will be required to appear in Court at a later date.
8. If you and your children require any counselling or support, you should contact who can offer services to you and your children.
9. You also have the right to lodge a criminal complaint against the abuser if a criminal offence has been committed against yourself and your children. You may do this now, or at any time in the future.
10. Should you obtain a Protection Order, or lodge a criminal complaint, in which false facts are knowingly alleged, you may be convicted of an offence.

If you do not understand any of the above information, you may request more detail from myself or another member of the Police Force that you may be more comfortable with".

Dated this day of 201[]

Name of Police Officer

Signature of Police Officer

SCHEDULE 2
FORM 1
Anguilla
DOMESTIC VIOLENCE ACT
(Section 4(1))

APPLICATION FOR PROTECTION ORDER

1. (a) APPLICANT'S DETAILS:

- i. name:
- ii. date of birth:
- iii. address:.....
- iv. occupation:
- v. contact information:
 - tel: cell-phone.....; home.....; work.....
 - email...../.....
- vi. nature of domestic relationship with the respondent:
 - marriage;
 - cohabitants or were cohabitants;
 - parents or parental responsibility for the child;
 - family members;
 - engaged, dating or visiting relationship;
 - they share or shared the same household or residence;
 - other _____

(b) **If you are applying on behalf of beneficiary of a protection order fill in this part:**

- i. name:
- ii. address:.....
- iii. contact information:
 - tel: cell-phone.....; home.....; work.....
 - e-mail...../.....

(c) nature of relationship to beneficiary of protection order:

- i. Commissioner or social worker;
- ii. police officer
- iii. parent / parental responsibility
- iv. probation officer
- v. Other _____

(d). I _____ confirm that I have the consent of the applicant to apply for this order on their behalf..

2. RESPONDENT'S DETAILS

- i. Name:
- ii. Date of birth:
- iii. Address:.....
- iv. Contact details:
 - tel: cellphone.....; home.....; work.....
 - e-mail...../.....

3. The following CHILDREN (if any) have been born from the domestic relationship:

.....

.....

.....

.....

4. **Since the respondent** at or near....., and on or about the day of.....201[] committed the following act(s):

See Annex for the affidavit, together with any supporting affidavit(s)

5. **I request that the respondent be ordered—**

- (a) not to commit any act of domestic violence;
- (b) not to enlist the help of another person to commit any act of domestic violence;
- (c) not to enter the shared household;
- (d) not to enter the applicant’s residence;
- (e) not to enter the applicant’s place of study or employment;
- (f) not to prevent the applicant or any child or dependant who normally resides or resides in the shared household from entering or remaining in the shared household or part thereof;
- (g) not to transmit telephone text messaging or electronic mail to the applicant or the public when such telephone text messaging or electronic mail is designed to embarrass, degrade or humiliate the applicant; or
- (h) not to commit any other act *as requested and/ or specified in the affidavit(s)*.

6. **I further request the Court to order that:**

- (a) A member of the Police Force is to accompany the applicant to the residence specified in the application to supervise the collection of the Applicant’s personal property;
- (b) A member of the Police Force is to seize the arm or dangerous weapon as specified in the affidavit;
- (c) The respondent is to pay the rent or mortgage payments specified in the affidavit;
- (d) The respondent is to pay monetary relief as specified in the affidavit;
- (e) The respondent is to pay the educational expenses as specified in the affidavit;

- (f) the respondent is refused any contact with the child or children as specified in the affidavit;
- (g) The respondent is granted structured contact with the child or children as specified in the affidavit; or
- (h) the address of the applicant’s residence shall not be disclosed to the respondent.

7. I am likely to report a breach of the Protection Order at the
Station of the Police Force.

8. Additional conditions requested as per affidavit:

.....

Dated this day of....., 20..... .

Signature of Applicant

The following affidavit evidence is annexed—

- 1.(name of deponent)
- 2.(name of deponent)
- 3.(name of deponent)
- 4.(name of deponent)
- 5.(name of deponent)

FORM 2
Anguilla
DOMESTIC VIOLENCE ACT
(Section 5 (1))

INTERIM PROTECTION ORDER

IN THE COURT

APPLICATION NO.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT

1. **RESPONDENT'S DETAILS:**

- a. name:
- b. address:.....
- c. occupation:
- d. contact information:
 tel: cell-phone.....; home.....; work.....
 e-mail...../.....

2. Whereas the Applicant (or.....on behalf of the applicant), has applied for a protection order against the respondent, as per the affidavit(s) and record of oral evidence (if any) attached, and after consideration of the application;

3. **THE COURT ORDERS** that the application for a protection order be:

3.1 **Dismissed;** or

3.2 **Granted:** and the respondent is ordered:

3.2.1 Not to commit the following act(s) of domestic violence:

.....
.....
.....
.....

3.2.2 Not to enlist the assistance of any other person to commit the acts of domestic violence specified in paragraph 3.2.1;

3.2.3 Not to enter the shared household at.....
.....

3.3.4 Not to enter the following parts of the shared household.....
.....
at.....
.....

3.2.5 Not to enter the Applicant’s residence

3.2.6 Not to enter the applicant’s place of employment at.....
.....

3.2.7 Not to prevent the applicant or any child or dependant who normally resides or resides in the shared household at.....
.....
from entering or remaining in the shared household, or any part thereof;

3.2.8 Not to commit any other act, to wit.....
.....
.....

3.2.9 To make rent or mortgage payments in the sum ofper month,;

3.2.10 To pay the sum ofto the applicant as educational expenses.

4. **IT IS FURTHER ORDERED** that:

(1) a member of the Police Force accompanies the applicant to the following residence in order to supervise the collection of personal property;
ie.....

(2) a member of the Police Force atseizes the following arm or dangerous weapon in the possession of the respondent
ie.....
.....

(3) the applicant’s address is not to be disclosed to the respondent;

(4) the respondent is refused any contact with the following children ie.
.....

(5) the respondent is allowed contact with the following children. ie

.....
 on the following basis:.....

(6) A warrant is authorised for the arrest of the respondent, the execution of which is suspended subject to the respondent’s compliance with the provisions of the protection order as stated above; and

(7) A copy of this order and the warrant of arrest be forwarded to the police station at.....
once this interim protection order has been served on the respondent.

5. The respondent is furthermore hereby informed of his or her right to appear in theCourt at.....on the..... day of.....201[]at.....in order to show cause as to why the interim protection order should not be confirmed and made final.

.....
 Judicial Officer

.....
 Date

FORM 3
Anguilla
DOMESTIC VIOLENCE ACT
(Section 9(2))

NOTICE OF PROCEEDINGS

IN THE COURT
APPLICATION NO

BETWEEN

.....APPLICANT

AND

.....RESPONDENT

TO THE RESPONDENT

An application in section 5 of the Domestic Violence Act, 201[]for a protection order has been made by.....
(name of applicant)

A copy of the application is attached. The application has been set down for hearing on theday of....., at.....A.M/P.M at.....

IF YOU DO NOT APPEAR IN PERSON AT THE HEARING OF THE APPLICATION, THE COURT MAY:

- (a) deal with the application in your absence; or
- (b) issue a warrant for your arrest to be brought before the Court.

.....
Registrar of the Court

Dated this.....day of.....

FORM 4
Anguilla
DOMESTIC VIOLENCE ACT
(Section 9 (5))

AFFIDAVIT FOR USE IN PROVING SERVICE OF PROCESS

No.....

Return of service of process in respect of domestic violence offence(s) for the
[.....] Court

Name of applicant.....

Name of respondent.....

Document served.....

Date of service.....

Place of service.....

Mode of service.....

I do swear that the above Return of Service is true and in accordance with the facts of such
service.

.....
(Deponent)

Sworn by me.....the above-named Deponent

This.....day of.....201[]

.....
[Registrar] of the Court

FORM 5
Anguilla
DOMESTIC VIOLENCE ACT
(section 12(1)(a); 12(5)(b))

FINAL PROTECTION ORDER

IN THE [.....] COURT

APPLICATION NO.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT

Whereas the applicant has applied for a protection order; and

After considering the facts of the matter;

The Court orders that the interim protection order be:

1 Confirmed;

2. Amended as follows:.....
.....
.....
.....
.....

3. Set aside

Dated at.....this.....day of.....201[]

.....
Judicial Officer

.....
Date

FORM 6
Anguilla
DOMESTIC VIOLENCE ACT
(Section 15(1))

**APPLICATION FOR VARIATION OR REVOCATION OF INTERIM/FINAL
PROTECTION ORDER**

IN THE COURT

APPLICATION NO.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT

Ihereby apply for a variation/revocation of
(Name of Applicant)

the order made against.....on the
(Name of Respondent)

..... day of....., by the Court (a copy of which is attached to the said
application) in respect of certain conduct or threatened conduct towards

.....
(Name of person who is protected by the order)

I ask for a revocation/ variation of the order in the following terms:

SPECIFY DETAILS OF VARIATION

.....
.....
.....
.....
.....
.....

Dated this.....day of.....201[]
.....
Applicant

FORM 7
Anguilla
DOMESTIC VIOLENCE ACT
(Section 15 (4))

ORDER VARYING INTERIM/ FINAL PROTECTION ORDER

IN THE COURT

APPLICATION NO.....

The Court, having heard an application made in **section 15** of the Act by
(*name of the applicant*) in respect of conduct or threatened conduct of
(*name of respondent*) and the Court having on theday of, made an order, a copy of
which is herewith attached, prohibiting the respondent from engaging in the conduct specified
therein.

NOW the Court on the application of.....does this day Order that the
[interim/final] protection order be:

1. REVOKED
(*specify effective date of revocation*)

2. VARIED AS FOLLOWS:
(*Specify details of variation*)
.....
.....
.....
.....

Dated this.....day of.....201.....

.....

Registrar of Court

FORM 8
Anguilla
DOMESTIC VIOLENCE ACT
(Section 19(1)(c))

APPLICATION FOR ATTACHMENT OF DEBT ORDER

1. APPLICANT'S DETAILS:

- e. name:
- f. address:.....
- g. occupation:
- h. contact information:
 tel: cell-phone.....; home.....;
 work.....
 e-
 mail...../.....

Details of beneficiary of protection order if different to above:

- a. name:
- b. address:.....
- c. occupation:
- d. contact information:
 tel: cell-phone.....; home.....;
 work.....
 e-
 mail...../.....

2. RESPONDENT'S DETAILS

- a. Name:
- b. Address:.....
- c. Contact details:
 tel: cell-phone.....; home.....;
 work.....
 e-mail...../.....

3. PROTECTION ORDER

- a. The date of the protection order
- b. The total sum ordered to be paid by the court is:.....
.....
- c. The amount now due is:

OR

If the judgment debt is payable by instalments, the amount of any instalments which have fallen due and remain unpaid is:.....
.....

- d. Please attach any proof of any payment made.

4. THIRD PARTY

name is:.....
 address:.....
 account number is :

.....
 :.....

Notes

- i. The third party must be in Anguilla and must hold money to the credit of the respondent.
- ii. The third party must be a bank or deposit taking institution.

Dated this day of....., 20..... .

Signature of Applicant

Notes by Court

FORM 9
Anguilla
DOMESTIC VIOLENCE ACT
(Section 20)(1)(a)

NOTICE TO ATTACH A DEBT

IN THE COURT
APPLICATION NO.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT

Respondent's Details:

To
of

TAKE NOTICE that an application for an attachment of debts order for failure to pay monetary relief has been made against you.

Allegation of breach of failing to pay monetary relief or make a payment ordered by Court— :

- i. date of order:.....
ii. total amount of order: \$.....
iii. total amount of order that remains unpaid: \$.....

Costs

Costs reasonably incurred in bringing this application:

Court:\$.....
Applicant:\$.....

TOTAL

Total amount that now remains due \$.....

THIS IS TO COMMAND YOU to appear before this Court located at Parliamentary Drive, The Valley, Anguilla, on theday of, 20....., at the hour of in thenoon, to show cause as to why an attachment of debt order should not be made against you.

YOU ARE FURTHER COMMANDED not to pay over any of the total amount now due to any person until this Court shall further order.

You may file with this Court affidavit evidence in response to this notice on or before the day of 201.....

If you are the attorney-at-law who represents you do not appear at the hearing of the application, the court may:

- (a) deal with the application in your absence; or
- (b) issue a warrant for your arrest to be brought before the Court.

Dated this day of, 20.....

Registrar of the Court

JOINT ACCOUNT INFORMATION

ACCOUNT NUMBER	NAMES ON ACCOUNT	BALANCE	DATE RECORDED BY BANK

If this institution requires that a fee be paid for services in fulfilling this order and any freezing order that may be made please indicate this below—

- i. fee for fulfilling this order: \$.....
- ii. fee for fulfilling any freezing order that may be made: \$.....

This Form must be returned to the court office no later than 5 days after the date of service.

The Form may be returned—

- i. electronically (e-mail):
- ii. by fax at:.....
- iii. by filing a hard copy at the Registry of the Court House, Parliamentary Drive, the Valley Anguilla.

Given under my hand this day of, 20..... .

Judicial Officer

FORM 11
Anguilla
DOMESTIC VIOLENCE ACT
(section 21(2)(b))

ATTACHMENT OF A DEBT ORDER

IN THE COURT

APPLICATION NO.....

TO:
Manager/Director of:.....
(address).....

Please be informed that the respondent of
..... has breached an order of this court by failing to pay either
monetary relief or a fine. The said.....has appeared before this
Court and having appeared has failed to satisfy the outstanding debt of \$.....
.....

IT IS NOW ORDERED that this institution—

- i. Freeze or retain \$..... from account
- ii. Freeze or retain \$..... from account
- iii. Freeze or retain \$..... from account
- iv. Freeze or retain \$..... from account
- v. Freeze or retain \$..... from account
- vi. Freeze or retain \$..... from account

AND collectively pay such sums to this Court either by bankers cheque or into account number
..... such account being the account in the name of the Government of
Anguilla.

You may deduct \$ which represents a reasonable amount of costs
associated with fulfilling this order from account number.....

NOTE:

Each account listed above must be frozen on the date of service on this institution. This order
also serves to freeze or retain all funds coming into each account listed within 10 days after
service.

You must provide the respondent with a statement of accounts for each account listed above immediately after the fulfilment of this court order.

Further instructions (if any) by Court to Institution:

Given under my hand this day of, 20..... .

Judicial Officer

FORM 12
Anguilla
DOMESTIC VIOLENCE ACT
(Section 25(1)(b))

APPLICATION FOR AN ATTACHMENT OF EARNINGS ORDER

1. APPLICANT'S DETAILS:

- i. name:
- ii. address:.....
- iii. occupation:
- iv. contact information:
tel: cell-phone.....; home.....; work.....
e-mail...../.....

Details of beneficiary of protection order, if different to above:

- i. name:
- ii. address:.....
- iii. occupation:
- iv. contact information:
tel:cellphone.....;home.....;work.....
e-mail...../.....

2. RESPONDENT'S DETAILS

- i. name:
- ii. address:.....
- iii. contact details:
tel: cell-phone.....; home.....; work.....
e-mail...../.....

3. PROTECTION ORDER

- i. The date of the protection order is:.....
- ii. The total sum ordered to be paid by the court is:.....
- iii. The amount now due is:
- iv. If the judgment debt is payable by instalments, the amount of any instalments which have fallen due and remain unpaid is
- v. Please attach any proof of any payment made.

4. EMPLOYERS DETAILS

- 1. Name is of business/company.....
 Address:.....
 Email:
- Phone number fax:.....

- 2. Name is of business/company.....
 Address:.....
 Email:
- Phone number fax:.....

- 3. Name is of business/company.....
 Address:.....
 Email:
- Phone number fax:.....

Dated this day of....., 20..... .

Signature of Applicant

Notes by Court

FORM 13
Anguilla
DOMESTIC VIOLENCE ACT
(Section 26(1)(a))

NOTICE FOR AN ATTACHMENT OF EARNINGS ORDER

IN THE COURT

APPLICATION NO.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT

Respondent's Details:

To
of

TAKE NOTICE that an application for an attachment of earnings order for failure to pay monetary relief and/or failure to a make a monetary payment has been made against you.

Allegation of breach of failing to pay monetary relief— :

- (a) Date of order:.....
- (b) Total amount of order: \$.....
- (c) **Total amount of order that remains unpaid:** \$.....

Costs

Costs reasonably incurred in bringing this application:

Court:\$.....
Applicant:\$.....

TOTAL

Total amount that now remains due \$.....

THIS IS TO COMMAND YOU to appear before this Court located at Parliamentary Drive, The Valley, Anguilla, on theday of, 20....., at the hour of in thenoon, **to show cause why an attachment of earnings order should** not be made against you.

YOU ARE FURTHER COMMANDED not to pay over any of the total amount now due to any person until this Court shall further order.

You may file with this Court affidavit evidence in response to this notice on or before the day of 201.....

TAKE NOTICE THAT If you are the attorney-at-law who represents you do not appear at the hearing of the application, the court may:

- (c) deal with the application in your absence; or
- (d) issue a warrant for your arrest to be brought before the Court.

Dated this day of, 20.....

Registrar of the Court

FORM 14
Anguilla
DOMESTIC VIOLENCE ACT
(Section 26(1)(c))

NOTICE TO EMPLOYER FOR DEDUCTION OF EMPLOYEES EARNINGS

IN THE COURT

APPLICATION NO.....

TO:.....(name of employer/manager of business)

Of(name of business)

.....is reported to be an employee in your business.

Please be informed that this employee has breached the protection order of this court by failing to pay monetary relief or a fine.

THE COURT REQUESTS THE FOLLOWING INFORMATION—

1. Does work with your business/enterprise? **Yes** **No**
2. What is name of the position held by the employee.....
3. What is the amount of salary paid to the employee?.....
4. What period or when is the salary paid:.....
.....
5. Specify the amount of bonus or other monetary benefit paid to the employee:
.....
6. What period or when is the bonus or monthly salary paid.....
7. What is the bank account information, if any, that earnings are paid into?
.....
8. Do you require that a sum be deducted from the earnings of the employer for your administrative costs in fulfilling this order? **Yes** **No** . If yes indicate reasonable amount
.....
9. How long has this employee been employed in your business/enterprise?.....

NOTE

This Form must be returned to the court office no later than 5 days after the date of service.

The Form may be returned—

- i. electronically (e-mail):
- ii. by fax at:.....
- iii. by filing a hard copy at the Registry of the Court House, Parliamentary Drive, the Valley Anguilla.

Given under my hand this day of, 20..... .

Judicial Officer

FORM 15
Anguilla
DOMESTIC VIOLENCE ACT
(Section 26(4)(a) and 27(2))

ORDER TO EMPLOYER TO DEDUCT EARNINGS

IN THE COURT

APPLICATION NO.....

TO:.....(name of employer/manager of business)

Of(name of business)

.....is reported to be an employee in your business/enterprise.

PLEASE BE INFORMED that this employee has breached the protection order of this court by failing to pay monetary relief or a fine.has appeared before this Court and having appeared has failed to satisfy the outstanding debt of \$.....

IT IS NOW ORDERED that in fulfillment of the protection order you or your business/enterprise do the following—

- i. deduct the sum of on a basis from the earnings of the respondent/employee;
- ii. the deduction **commences** onday of20.....and **ends** onday of 20.....
- iii. pay such sums to this Court either by bankers cheque or into account number such account being the account in the name of the Government of Anguilla;
- iv. deduct the sum of.....which is your administrative costs reasonably incurred in fulfilling this order in the following manner:

NOTE

- i. If you have served a notice which indicates that the employee will no longer be employed with your establishment or if the employee has been dismissed without notice then you must immediately write to inform the court of this situation.

- ii. You must give to the respondent a statement in writing of the total amount of the deduction made as a result of this order.

Given under my hand this day of, 20..... .

Judicial Officer

FORM 16
Anguilla
DOMESTIC VIOLENCE ACT
(Section 28(3))

DOMESTIC VIOLENCE POLICE REPORT

Station..... Reference No.....

Complaint made by...(surname, first name).....

Address.....

Relationship of victim to alleged offender.....

Mode of report.....

Date..... Time..... Diary Reference.....

Recorded by:...(Number/Rank/Name).....

Name of (surname, first name).....

Address.....

Telephone No..... Nature of domestic relationship to alleged offender.....

Sex..... Age..... Occupation.....

Address of employment.....

Name of alleged offender:(surname, first name).....

Address.....

Sex..... Age..... Occupation.....

Telephone No..... Nature of domestic relationship to alleged offender.....

Address of employment.....

Name of Witness..... Name of Witness.....

Address..... Address.....

Relationship to alleged offender.....

BRIEF FACTS AS REPORTED

.....
.....
.....
.....
.....
.....

Extent of Inquiry.....

Medical report Form Attached (*tick*) Yes No

Instrument used to inflict injury.....

Whereabouts of children at time of incident.....
.....

State whether previous complaints were made (*tick*) Yes No

Date.....time.....Diary Reference.....

Investigator: (Number/Rank/Name).....

Action taken.....
.....

Other previous complaints made

Date.....time.....Diary Reference.....

Investigator: (Number/Rank/Name).....

Action taken.....
.....

Is protection order in existence? (*tick*) Yes No

Date of Issue.....

Comments.....
.....
.....

Duration of protection order.....

ACTION TAKEN WITH RESPECT TO PRESENT REPORT

Date

Time.....

Action taken, by whom.....

Arrest made:

Date of arrest..... Mode of arrest.....

Present status of report.....

CHARGES PREFERRED:

(1).....

(2).....

(3).....

(4).....

STATE REASONS IF NO CHARGES PREFERRED:

.....
.....
.....
.....
.....

.....
Investigator

.....
Supervising officer

.....
Date

.....
(Date)

FORM 17
Anguilla
DOMESTIC VIOLENCE ACT
(Section 32 (1)(a))

WARRANT OF ARREST

IN THECOURT OF

APPLICATION NO.

BETWEEN

.....APPLICANT

AND

.....RESPONDENT

TO ALL POLICE OFFICERS:

Whereas *the attached Interim Protection Order/ Protection Order as attested to by the applicant in the attached affidavit, was granted against the respondent by the _____ Court on the _____ day of _____ 201[]; and

Whereas the applicant has stated in the affidavit attached that the respondent has breached (a) condition(s) of the Protection Order;

Therefore you are hereby authorised and ordered to immediately arrest the respondent in terms of the Domestic Violence Act, 201[].

Given under my hand this day of 201[]

.....
Judicial Officer

.....
Date

*Delete whichever is not applicable

FORM 18
Anguilla
DOMESTIC VIOLENCE ACT
(Section 32 (3)(a))

BREACH OF PROTECTION ORDER

IN THE COURT OF

APPLICATION NO.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT

1.1 (Full Names)

Residential Address:.....

(Tel. No.).....

Business Address:.....

(Tel. No.).....

Occupation:.....

(Hereinafter referred to as the APPLICANT)

Hereby declare under **oath/solemnly affirm that:**

A Protection Order was granted on the ____ day of _____ 201__ in the Court
at..... Against.....(Full Names)

Residential Address:.....

(Tel. No.).....

Business Address:.....

(Tel. No.).....

Occupation:.....

(Hereinafter referred to as the RESPONDENT)

2.*A copy of the Protection Order (indicating what orders were made), and the original Warrant
of Arrest is attached.

3*A copy of the Protection Order and/or the original Warrant of Arrest cannot be attached for the following reasons:

.....
.....
.....

In the said Protection Order the respondent was ordered:

- (a).....
- (b).....
- (c).....
- (d).....
- (e).....
- (f).....
- (g).....

4. The respondent has breached the Protection Order (which has not been set aside), in that *he /she on the _ day of201.....:

.....
.....
.....
.....
.....
.....

.....
Signature of Deponent

.....
Date

5. I certify that before administering the *oath/taking the affirmation I asked the Deponent the following questions and noted *his/her answers in *his/her presence as indicated below:

(a) Do you know and understand the contents of the above declaration? Answer.....

(b) Do you have any objection to taking the prescribed oath? Answer.....

(c) Do you consider the prescribed oath to be binding on your conscience? Answer.....

I certify that the Deponent has acknowledged that *he/she knows and understands the contents of this declaration which was *sworn to/affirmed before me, and that the Deponent's *signature/thumb print/mark was placed thereon in my presence.

Dated at this day of 201

.....
Judicial Officer