

New anti-GBV legislation to provide victims more protection

The three new anti-GBV bills that were signed into law by President Cyril Ramaphosa last week will afford victims and survivors of domestic violence increased protection.



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These three new bills are:

1. The Criminal Law (Sexual Offences & Related Matters) Amendment Act Amendment Bill
2. The Criminal & Related Matters Amendment Bill
3. The Domestic Violence Amendment Bill

“The changes coming into effect through the new Act usher in a strengthened protection order system that removes some of the earlier administrative hurdles and gaps that made it difficult for victims to access protection and justice from the system,” says Kerryh Rehse, Advocacy, Policy and Research Officer at Mosaic Training, Service & Healing Centre, a non-governmental organisation (NGO) that helps empower women and girl survivors of domestic violence and abuse.

Mosaic, which contributed to the amendment process of the Act, says South Africa can make strides against domestic violence and GBV when there is the kind of alignment between civil society activism and lobbying, and political will and leadership, as was demonstrated in this legislative process.

“This process, which was just under 18 months from start to finish, was very expeditious in law-making terms. The Act came to be because of greater collaboration between political parties serving on the Justice Portfolio Committee, civil society organisations working together with government officials, and the receptiveness of government officials and legislation drafters to input,” says Rehse. “It is a significant achievement.”

Introduction of electronic application process for protection orders

One of the significant changes to the Act is the introduction of electronic applications for protection orders. Applications for such orders can now be sent electronically to the relevant court for consideration without the applicant needing to leave home, which is sometimes not an option. The applications can be submitted 24-hours a day, meaning they can even be prepared and lodged with the court for consideration outside normal court hours. If the magistrate believes there are sufficient grounds for to grant an interim protection order, they will be able to grant it without the applicant presenting at the court.

“The new process does not require applicants to take a day’s leave from work to be at court in-person to submit the application, which will be a relief to many, especially shift workers and those who live in areas far away from courts, such as rural areas. They can now be assisted by NGOs – such as Mosaic – to complete applications and only attend court on their return dates. Ultimately, this simplified process increases access to justice in a way that has not been seen in South Africa before,” says Rehse.

Safety monitoring notices

The new legislation now also contains provisions for safety monitoring notices, which is an order made by the court for the relevant SAPS station to monitor the safety of any person who has been awarded a protection order, but who still has to share a residence with the respondent or their abuser.

The notice compels the SAPS to ‘check-in’ with the applicant through electronic channels and visits to the home or joint residence, to assess the applicant’s safety. “The safety monitor notice and subsequent SAPS monitoring are preventative measures aimed at reducing instances of violence escalation and femicide, where there are reasonable grounds to suspect that the abuser poses a threat to the applicant’s safety,” explains Rehse.

The Act further provides SAPS the authority to use necessary force to gain access to a victim, where the abuser or another person denies access.

Integrated electronic repository for protection orders

Victims will now also be better served by an integrated electronic repository for domestic violence protection orders. If used as outlined in the Act, Mosaic says the electronic repository will provide a centralised system for storing and retrieving domestic violence protection order applications and ordered issues – something that civil society has been advocating for many years.

“There will no longer be a need to turn away a complainant who lost the copy of their paper-based protection order but lives in another magisterial district or to send them to go to the court of application to obtain a new copy,” says Rehse.

Extended interim protection orders and return dates

Recognising that complainants can be kept away from attending court in the hope that the matter will be struck off the roll or set aside, the Act now compels the court to extend the interim order in the case that a respondent appears on the return

date, but the complainant does not attend. The court must also extend the return date, and the clerk of the court must notify the complainant in the prescribed form and manner of the extended return date.

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