

# Justice Services for Women

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### MAINTENANCE

Maintenance is the obligation to provide another person, for example a child, with housing, food, clothing, education and medical care, or with the means that are necessary for providing the person with these essentials.



#### Who can apply for maintenance?

- The parent/person who is in custody of a child/ren may claim maintenance from the other parent who is responsible or liable to pay maintenance.
- Maintenance is also applicable to spouses.

#### Where can one apply for maintenance?

- You can lodge an application for maintenance at any local magistrates' court where the applicant and/or the child resides.

#### What documents do you need to lodge a maintenance claim?

- The Identity Document, birth certificate of the child, bank statements of both the parents, list of the expenses of the child, list of expenses of both the parents, proof of applicant's income and expenditure, name and surname of parent/person responsible for the payment of maintenance money, physical/ work address of the parent/person responsible for the payment of maintenance money if available, copy of bank statement, proof of residence/affidavit,
- The maintenance clerk will then assist you in completing the forms.
- The maintenance clerk will refer your application to the maintenance officer for final assessment of your documents.
- After assessment the registration of your application, a reference number will be issued.

#### Court date

- On the day of the court appearance, an enquiry will be held to determine the needs of the applicant and the means available to provide maintenance from both parties.
- After consideration, the Magistrate will make a maintenance order indicating the amount to be paid.

#### Payment method

The court may order the respondent to make payments by means of:

- An electronic funds transfer (EFT) to the beneficiary's bank account.
- A deduction of the maintenance money from the respondents' salary (called a Garnishee order).
- Direct deposit to the beneficiary's bank account.

#### What to do when a respondent does not pay maintenance:

- If a respondent fails to pay within the specified times, you should report the matter to the Maintenance Office at the court. The court will follow one of the following two options:
  - Civil enforcement of maintenance - through which the Magistrate may order one of the following: emolument attachment, attachment of debt and/or execution of movable/ immovable property.
  - Criminal prosecution - a warrant of arrest can be issued as the respondent failed to comply with an order of court.
- If the person from whom maintenance is sought cannot be traced, the court can grant an order directing electronic communication service providers (such as cellular service providers) to provide the court with contact information.
- If a person has defaulted on paying maintenance, their personal details will be submitted to all credit bureaus. This will prevent maintenance defaulters from continuing to receive credit while owing maintenance.

### OFFICE OF THE FAMILY ADVOCATE

A Family Advocate is an unbiased family law specialist who assists parental parties to reach an agreement on disputes regarding care contact, guardianship and maintenance of the child through mediation.



#### What does the Family Advocate do?

- Helps parents draft parental rights and responsibilities agreements and parenting plans in the case of divorces.
- To register parenting plans and parental rights and responsibilities agreements, and also to amend and terminate parental rights and responsibilities agreements registered by the Family Advocate.
- The Family Advocate also helps to mediate where there is a dispute on whether the unmarried father of the child has parental rights and responsibilities or not.
- Helps in parental/guardian child abduction cases.
- Monitors court proceedings such as summonses where children are involved, settlement agreements and any other document impacting on the best interests of children.

#### When do you consult the Family Advocate?

- When there is a dispute between parents regarding contact or care of a child.
- When a person wants to draft, register amend or terminate a parental rights and responsibilities agreement.
- When there is a dispute on whether an unmarried father of a child born out of wedlock has satisfied the requirements which makes him eligible to acquire full parental rights and responsibilities in terms of the law.

#### What are the benefits of engaging the Family Advocate?

- If the parties to a divorce reach agreement on disputed issues, the matter does not proceed to trial, thereby saving legal costs and time.
- Parental rights and responsibilities agreements or parenting plans registered with the Family Advocate have the same legal effect as those made an order of court.
- The Family Advocate can amend or terminate parental rights and responsibilities agreements registered by the Family Advocate's office. This means that the parties do not have to go to court if they want to amend the agreement when need arise.
- Courts will not readily grant a decree of divorce where there is a dispute regarding minor children without the report or recommendations of the Family Advocate.
- The matter can be resolved speedily without taking the child/ children through the traumatic experience of going to court.

For more information on how to access the services of the Family Advocate, visit:  
<http://www.justice.gov.za/family.html>

### SEXUAL OFFENCES



#### What are sexual crimes (offences)?

The Sexual Offences Amendment Act (SOAA Act 32 of 2009) protects any person who has experienced rape, sexual assault, sexual grooming, incest, child pornography or prostitution.

#### How to report a sexual offence?

- Go to your nearest police station or Thuthuzela Care Centre. A Thuthuzela Care Centre is a one-stop facility that offers assistance for victims of sexual offences.
- The police will record everything you tell them in the form of a statement. Do not forget to get a case number from the police officer.
- When reporting to the police, you may be asked to undergo a medical examination.

For a full list of sexual offences courts, go to:  
<http://www.justice.gov.za/vg/sxo-SOC-list.html>

### Did you know?

The Department reintroduced Sexual Offences Courts in August 2013 to combat sexual violence, especially against women and children.

The Sexual Offences Courts provides specialised victim-support services to improve the effectiveness of sexual offences matters and improves the turnaround time of conviction rates.

The Sexual Offences Courts aim to improve the conviction rates of the sexual crimes and decrease the turnaround time from the date of report to the police to the finalisation of the case.

To date, a total of 92 sexual offences courts have been designated since 2013.

### DOMESTIC VIOLENCE



#### What is domestic violence?

According to the Domestic Violence Act (Act 116 of 1998) it is:

- Any form of abuse which includes physical, sexual, emotional, psychological or economic harassment.
- Damage to property.
- Stalking.
- Entry into a person's property without their consent.
- Any other abusive or controlling behaviour where such a conduct causes harm or may cause harm to your health, safety, or well-being.

#### Report your complaint to the local police station

- You have a choice to lodge either a criminal case or to apply for a protection order, or both.
- If necessary, the police will take you to a medical practitioner to assess injuries that you may have suffered during the abuse. The assessment can be used as evidence.
- After the assessment, the police officer will refer you to the local magistrates' court to apply for a protection order.

#### Obtaining a protection order

- At the Magistrate's court, the clerk of the court will assist you to complete an affidavit.
- The Magistrate may decide to issue an interim protection order and a date for a hearing.
- If the interim protection order is issued this means that a warrant of arrest can be effected if the respondent acts abusively towards you again.

#### Interim protection order is served on the respondent

- The interim protection order will then be served immediately by the police officer, sheriff or clerk of the court to the respondent and will also indicate the date of the hearing.

#### Court proceedings/hearing

- During the hearing you and the respondent will have the opportunity to present your side of the story. The Magistrate will then make a decision whether to issue a Final Protection Order or not.
- The conditions contained in the Final Protection Order are permanent and can only be changed by a court of law.

#### What happens if the respondent violates the conditions of the final protection order?

- You must report the respondent's actions at the nearest police station. The respondent can be arrested for violating the protection order.

### MASTER OF THE HIGH COURT



#### Some of the main services offered by the Master's Offices include:

- The administration of estates of deceased and insolvent persons.
- The protection of the interests of minors and legally incapacitated persons.
- The protection and administration of the funds of minors, contractually incapacitated and undetermined and absent heirs, which have been paid into the Guardian's Fund.
- The supervision of trusts.
- The appointment of impartial and capable persons as executors, trustees, curators and liquidators.

#### Reporting a deceased estate

If your husband or spouse dies, a deceased estate comes into existence. The death must be reported to the Master within 14 days from date of death. Thereafter, it takes no more than 15 days to get an appointment with a representative from the Master's Office.

If someone dies without a will, the estate is devolved in terms of the legislation that governs intestate succession.

#### Wills

A will is a specialised document that should preferably be drawn up by an expert such as an attorney or trust company. Several banking institutions also offer the service to their clients. It is important to have a valid will so that when you die, there is a clear directive as to how your estate should be devolved.

#### Guardian's Fund

The purpose of the Guardian's Fund is to protect the funds of minors; persons incapable of managing their own affairs, unborn heirs or absent or untraceable heirs out of deceased estates and future maintenance. The Master of the High Court holds and administers these funds on their behalf, thus ensuring that their interests are looked after.

#### How do I find the Master of the High Court?

A Master of the High Court is appointed for every provincial division of the High Court of South Africa. Masters' Offices are situated in Bloemfontein, Cape Town, Grahamstown, Kimberley, Mmabatho/Mafikeng, Nelspruit, Pietermaritzburg, Pretoria, Umtata, Bisho, Thohoyandou, Johannesburg, Polokwane, Durban, and Port Elizabeth.

Find details at:  
<http://www.justice.gov.za/master/index.html>