

FAQ

If the Police are called to a reported domestic battery are they required to make an arrest?

No. Police are not required by law to make an arrest but departmental policies may dictate an arrest be made. It is also possible that, based on the circumstances, both persons involved in the dispute are arrested.

Does the victim have the ability to just “drop” the charges?

No. Only the prosecutor can dismiss or “drop” the case. A victim can inform the prosecutor they do not wish to participate in the case by calling the State’s Attorney’s office or in writing.

If the victim is served with a subpoena they can be forced to appear in court or risk arrest and being found in contempt of court. If the victim testifies differently than what they previously told police, they can be charged with a criminal offense. Most interactions with police are now audio/video recorded.

What is an Order of Protection?

An Order of Protection is a separate proceeding that can occur alongside or without a charge of domestic battery. A Judge will decide whether there is a basis to grant an order, which will bar a person from being in certain places and communicating with the protected person. There are criminal penalties for violating the order. A Judge can also order that the Defendant have no contact with the victim during the case as a condition of bond .

Interacting with Police

Victim

- Seek/request necessary medical attention
- Document any injuries/redness/swelling or property damage with photos or video
- Save evidence and medical reports
- Provide names of witnesses, if any
- Cooperate with law enforcement

Interacting with Police

Alleged Perpetrator

- Affirmatively state you are exercising your right to remain silent
- Request a lawyer be present during questioning
- Do not consent to search
- Do not resist arrest
- Comply with commands

University Resources

Counseling Center: 217-333-3704
counselingcenter.illinois.edu

Women’s Resource Center: 217-333-3137
oir.illinois.edu/womens-center

Emergency Dean (non-confidential): 217.333.0050
odos.illinois.edu/community-of-care/emergency-dean/

Community Resources

Courage Connection-Domestic Violence Hotline:
(217) 384-4390 or (877) 384-4390
courageconnection.org

Illinois Domestic Violence Hotline:
(877) 863-6338
www.ilcadv.org

This information is not intended as a substitute for legal advice. Students who are confronted with legal problems or who need specific advice should seek assistance from a licensed attorney at Student Legal Service.

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Domestic Battery and Violence

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Student Legal Services

STUDENT AFFAIRS

**324 Illini Union / 1401 W Green St.
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217-333-9053**

studentlegalservice@illinois.edu

odos.illinois.edu/sls

Facebook: *illinois.sls*

Instagram: *illinois.sls*

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Illinois Law

Domestic Battery

A Domestic Battery occurs when a person

- (1) knowingly makes physical contact of an insulting or provoking nature to a family or household member or
- (2) causes bodily harm to a family or household member.

You do not have to injure someone to be charged with this offense.

Interfering with domestic violence reporting

This is a separate offense from domestic battery and is committed when,

- (1) A person commits a domestic violence offense,
- (2) That person prevents or tries to prevent the victim or a witness from
 - a. calling a 9-1-1,
 - b. getting medical assistance, or
 - c. making a report to law enforcement.

“Domestic violence” is a broader term than domestic battery and does not require physical contact.

Family or Household Members

Many different individuals fall under this legal definition including:

- Spouses and former spouses;
- Parents and children;
- Stepchildren;
- Persons related by blood or by a present or prior marriage;
- People who share or formerly shared a common dwelling, (**e.g. roommates**)
- People who have or have had a dating or engagement relationship including same sex couples, (**no time limit**)

Relationships that do not qualify:

- Casual acquaintanceships or ordinary socializing between two individuals in business or social contexts.
- People who have had one or even numerous sexual encounters. Purely physical, sexual encounters do not establish a dating relationship.
- A “dating relationship” has been defined by Illinois Courts to mean serious courtships, which must be, at a minimum, an established relationship with a significant romantic focus.
- This is heavily fact-dependent and Courts have looked at whether the relationship involved exclusivity, giving of gifts, and shared expectations of growth.

Firearm Restrictions

A person convicted of any type of domestic battery may be subject to federal criminal penalties for possessing, transporting, shipping, or receiving any firearm or ammunition in violation of the federal Gun Control Act of 1968.

You cannot receive a non-conviction disposition on a domestic battery offense involving firearms in Illinois.

Criminal Penalties

Typically, a first time Domestic Battery offense is a Class A misdemeanor punishable by up to \$2,500 fine, up to 364 days in county jail, and up to 24 months of probation.

Domestic Battery is a Class 4 felony if you have 1 or 2 prior convictions for Domestic Battery and must serve a minimum of 72 hours in jail. If you have 3+ prior convictions the severity of the felony class increases.

It is also possible to be charged with a felony Domestic Battery based on numerous other prior convictions for different offenses.

Student Discipline

An arrest for domestic battery can result in Student Code violations. This process is separate and independent of the criminal proceedings. Sanctions can include up to dismissal from the University.

It is not necessary to be convicted of a criminal offense. Even if the charges are dropped, the Office for Student Conflict Resolution may contact you and may give sanctions.

Aggravated Domestic Battery

A Domestic Battery can be charged as a felony offense, even if there are no prior convictions, if a person causes **great** bodily harm, permanent disability, or disfigurement while committing a domestic battery.

A Domestic Battery can be charged as a felony offense, even if there are no prior convictions, if the person strangles another individual while committing a domestic battery.

“Strangle” means intentionally impeding the normal breathing or circulation of the blood of an individual by applying pressure on the throat or neck of that individual or by blocking the nose or mouth of that individual. **Physical Injury is not required.**