



**INFORMATION ON
EXPULSION PROCEDURES IN
CASES OF DOMESTIC VIOLENCE**



Baden-Württemberg

MINISTERIUM FÜR SOZIALES, GESUNDHEIT UND INTEGRATION

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Foreword

Protection from violence is a human right. If your own four walls are no longer a place of security and protection, this is not a private matter. All victims of domestic violence should, therefore, know their rights. One thing is clear: No one has to endure violence.

Domestic violence is mainly directed against women. Statistically, every 45 minutes, a woman in Germany is the victim of a completed or attempted assault in her domestic environment. Every three days, a woman is killed by her partner or ex-partner. A high number of unreported cases must be expected, for example, in the area of domestic violence against men. Domestic violence includes all forms of physical, sexual and psychological violence that take place between people who are in a close relationship with each other. In reality, this is often the (ex-) partner. The state government is clearly committed to the principle of “If you hit, you have to go”. The state intervenes decisively here and holds the perpetrators of violence responsible. For there is no question that the perpetrator must bear responsibility for domestic violence.

Expulsion from the home is a quick and effective way to protect those affected. They cannot be expected to take care of their own protection and to accept the loss of their familiar surroundings. Expulsion from the home is a clear signal that violence is not tolerated as a solution to conflicts.

This brochure provides practical and valuable support, as well as advice in connection with the expulsion from housing. The most important questions and answers on the exact legal situation are addressed, as well as further possibilities for help and support.

The brochure was produced on the occasion of the project to strengthen and further develop the intervention centres for partner violence in Baden-Württemberg 2020/2021 in close cooperation between the Ministry of Social Affairs, Health and Integration, the Ministry of Justice and Migration and the Ministry of the Interior, Digitalisation and Municipalities. Thus, the different perspectives from the field of women’s aid and support systems, the judiciary and the police were able to be incorporated.

Together, we take responsibility for those affected by domestic violence. We do not look the other way when people need protection and support. No one in our society should have to simply endure violent situations in their own home. It is our common duty to do everything we can to ensure that people in this difficult situation get the help they need.

Yours sincerely

MANNE LUCHA MDL

Minister for Social Affairs, Health
and Integration Baden-Württemberg





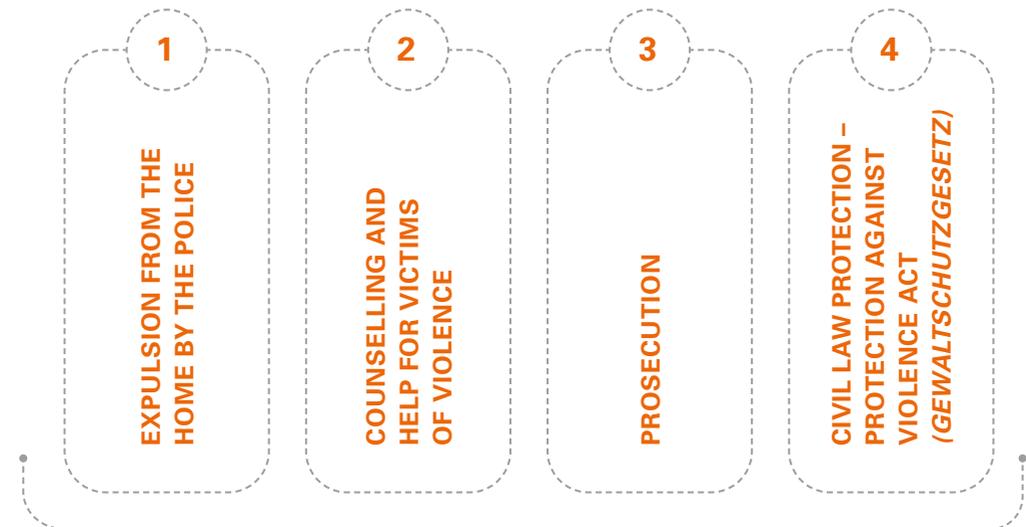
Together against domestic violence: the housing expulsion procedure



The housing expulsion procedure in Baden-Württemberg denotes a joint strategy of police, judiciary, counselling and child protection. The expulsion from the home of the violent person serves to immediately protect the victim and the relatives from domestic violence. The procedure that follows the expulsion from the home aims to support those affected by violence to find a way to a safe and violence-free life, including in the long term.

THE 4 PILLARS OF THE PROCEDURE

The housing expulsion procedure consists of several measures which, in their interaction, are intended to contribute to the prevention of further domestic violence:



The chart on page 29 illustrates that you may be dealing with a whole range of people from different institutions and authorities. Some steps in this process are initiated by the authorities. Other steps are only checked and carried out on your initiative. You are faced with some decisions that are not easy to make. The brochure serves to explain this procedure to you. Personal support in this procedure is provided by specialised counselling centres for domestic violence (especially intervention and clearing centres). Contact the professionals, ask your questions and ask for explanation and support. The individual measures are presented below.



2.0

The police measure “Expulsion from the home”

An expulsion from the home is a police measure in cases of domestic violence, which is intended to protect the person concerned from the attacks of the partner or a roommate and thus ensure their safety.¹

The situation of violence does not have to have occurred yet, but it must be imminent. The home expulsion is usually issued by the Police Enforcement Service (*Polizeivollzugsdienst*) in a domestic violence case on the spot. The violent partner must leave the home immediately. It is still possible for the police to seize the key to the house and home. If it can be assumed that the expulsion from the home does not sufficiently avert the danger, the police can also issue a prohibition to return and approach. This means that until

the expiry of the prohibition to return and approach, the expelled person must not return to the home, must not approach you and must move away in the event of any chance encounter. Where appropriate, these measures may also include joint children.

The expelled partner can arrange his or her own accommodation during the expulsion and, for example, move in with friends or stay in a guest house. If this is not possible for him, the municipality must offer him accommodation. Before leaving the home, the expelled partner is given the opportunity to pack up his personal belongings. If he subsequently needs something from the home, he must contact the police, who will discuss the handover with the parties involved and, if necessary, accompany him.

The duration of the police-instigated expulsion from the home can be set by the Police Enforcement Service to a maximum of four working days and limited by the police authority responsible for your place of residence (Public Order Office [*Ordnungsamt*]) to a maximum of two weeks. In order for the Public Order Office to decide on the duration of the housing expulsion, it receives information on the facts of the case from the Police Enforcement Service. In addition, the Public Order Officers usually summon offenders and victims separately for an interview. If they come to the conclusion that there is still a risk, the housing expulsion will be continued. In the event of a continuation of the housing expulsion, the parties involved shall be notified in writing of the duration. If you are unsure about the decision of the Public Order Office, call and ask.

1) Since, in cases of domestic violence, it is mostly men who are violent towards their partners, the spelling is adapted to this constellation for reasons of readability. However, this is not to diminish the significance of domestic violence against men.



2.1

Frequently asked questions about the expulsion from the home

Can I apply to the police to have my violent partner expelled from my home?



No. The police-instigated expulsion from the home is a decision made solely by the police (Police Enforcement Service or Public Order Office). There is no legal entitlement to protection through a housing expulsion. The basis for the decision on issuing an expulsion order is the police's assessment of the existence of a threat.

Can a housing expulsion be extended beyond 14 days?



An extension of another two weeks is possible if you apply for protective measures under the Protection against Violence Act at the local court before the deadline expires. Contact the Public Order Office for this. The Public Order Office is responsible for the extension of the housing expulsion. As soon as the court has decided on your application under the Protection against Violence Act, the police order to leave the home ends.

What do I do if my partner does not comply with the ban on returning to or approaching my home?



If your partner does not abide by the home ban, comes to the home or approaches you, it is important for your protection to inform the police via the emergency number 110. Violation of the order may result in a fine. In the case of a considerable propensity to violence, the police also have the option, among other things, to take the offender into custody for a short period of time on the basis of a court order.

Can I obtain the annulment of a housing expulsion?



Your partner may ask you to return to the home you share. Perhaps you yourself also have doubts as to whether the housing expulsion is right for the family. Basically: A housing expulsion is a police order that must be obeyed. You can raise your concerns with the Public Order Office. The staff of the Public Order Office decide on a case-by-case basis, and always by reviewing the current dangerous situation, whether it is justifiable to lift the housing expulsion. **PLEASE CONSIDER:** In the spatial separation through the expulsion from the home, there is always also the chance that both partners can seriously reconsider the situation in the partnership and tackle changes. Talk to a competent person at a counselling centre about your thoughts, doubts and possible ways forward.



3.0

Counselling and support for victims of violence

Violence by a partner hurts, it frightens and violates mental and physical health. Many affected persons repeatedly experience physical violence, humiliation and restrictions by their partner over a long period of time.

They often report that their self-confidence and self-esteem diminish over time. Their own attempts to put an end to the violence were not successful in the long run. Friends and family often feel overwhelmed by the violence in the relationship. It is, therefore, good to seek professional advice from a counselling centre. Specialists work there who will look for a solution that suits you best.

In Baden-Württemberg, there is a close form of cooperation between the police and the counselling centres². The police officers can tell you about the facilities in your region or actively refer you to them with your consent.

Since the housing expulsion lasts a maximum of two weeks, it makes sense to ask for an appointment as soon as possible.

As the occurrence of violence, the police intervention and the expulsion from the home represent a painful and drastic experience, there is a counselling service for domestic violence: The counsellors listen without judgement. They attempt to gain a picture of your personal situation and your wishes. They will inform and advise you comprehensively, as required, about:

- The Protection Against Violence Act and the procedure for filing an application with the court
- Your personal opportunities to strengthen your security
- Your role in the criminal proceedings, support in deciding on whether to press charges
- Your situation in the event of separation and divorce
- Ways of addressing and averting the problem of violence within the partnership
- The situation of the children
- Financial or residence issues
- Further assistance

The counsellors are there to support you and weigh up different options with you so that you can make the decisions that are right for you. They accompany you on the path you take. Counselling is voluntary, free of charge and subject to confidentiality. You can find an overview of the specialised counselling centres for victims during a home expulsion procedure in Baden-Württemberg here: <https://interventionstellen-bw.de>

2) Often, so-called intervention centres or clearing houses



3.1

Frequently asked questions about counselling and assistance

Is it also possible to receive advice
by telephone or e-mail?



Yes, many local counselling centres also offer counselling by phone, some additionally offer counselling by e-mail or chat. Ask about these options when you contact us. There is also a nationwide help line for women and men. A translation can be added:

HILFETELEFON
GEWALT GEGEN FRAUEN

08000 116 016

Help hotline for violence
against women: 08000 116 016
(24 hour availability)



0800 1239900
HILFETELEFON
GEWALT
AN MÄNNERN

Help hotline for violence
against men: 0800 123 99 00

Will the counselling centre also help
me with financial problems?



During counselling, you can clarify which authority to turn to in order to avert financial difficulties from the family. You can get all the information you need here to get financial help as quickly as possible.

Does the Youth Welfare Office (*Jugendamt*) become aware
of the police action due to domestic violence?



Yes, as a rule, the police will also inform the responsible Youth Welfare Office about the incident and the expulsion from the home if there are underage children living in the family. For girls and boys, domestic violence is usually a high burden. It is, therefore, possible that an employee of the Youth Welfare Office will approach you and offer you support in relation to the children and their welfare. However, you can also contact the Youth Welfare Office yourself and ask for possible help for the children and the family.

What help is there for my partner?



In Baden-Württemberg, there are some specialised counselling centres for men or for people who have become violent. They offer a special training programme to learn non-violent conflict resolution strategies. The general life counselling centres and psychological practices on site can also help if necessary.



4.0

Prosecution

The task of the police is to investigate criminal offences.

The police officers will, therefore, question you about the incident and its background and seize evidence. If necessary, they will also ask you whether you would like to file a criminal complaint, with which you can express whether that you are interested in a prosecution or not. However, the outcome of criminal proceedings does not depend solely on your criminal complaint. The Public Prosecutor's Office receives the investigation process from the police in all cases of domestic violence. Unless a criminal complaint has been filed for so-called simple bodily injury offences (e.g. slapping), the Public Prosecutor's Office decides whether or not there is a special public interest in prosecution.

In the case of serious violent offences, such as dangerous bodily harm or rape, prosecution will take place regardless of whether or not you have filed a criminal complaint. However, whether charges are brought or the offender is eventually convicted ultimately depends on the evidence: the police investigation, the documentation of the injuries and your willingness to testify.

4.1

Frequently asked questions about prosecution

Do I have to testify to
the police and the court?



In the context of criminal prosecution, it is significant whether or not you make a statement about the incident of violence to the police. Often, your testimony is the only evidence, as witnesses are rarely present during the violence.

As a relative of the accused (as a spouse, ex-spouse, fiancée, in the case of kinship or affinity), you can refuse to give evidence to the police, Public Prosecutor's Office and court. This also means that the statement you initially made to the police may not be used at a later point in time, e.g. in the main court hearing. This can lead to the dismissal of the case if no other evidence is available. The police will inform you about your right to refuse to testify before questioning you.





I don't know if I should press charges, what can I do?



Filing a criminal complaint against a partner or ex-partner is often a difficult decision. Prosecution of the accused is possible as a result of a criminal complaint until the statute of limitations for prosecution renders this time-barred. However, some offences – especially insulting offences – are only prosecuted if a criminal complaint is filed. The time-barring for filing a criminal complaint is three months. So if you don't want to make this decision right away, you have the option of reserving the right to file a criminal complaint. In doing so, you declare to the police that you do not, in principle, want to waive a criminal complaint, but that you do not want to file one at this point in time. This reservation is granted to you for three months. You must keep track of the deadline yourself.

What is confidential forensics?



If you are unsure whether you want to file criminal charges, you can make use of confidential forensics. In some violence outpatient clinics in Baden-Württemberg (for example, at the University Hospitals in Ulm, Freiburg and Heidelberg), your injuries are documented anonymously and in a court of law, and the examination findings are kept. Only if you decide to file a criminal complaint, the police can request the findings as evidence in the criminal proceedings.

Can I withdraw a criminal complaint that has been filed?



Yes, you can withdraw the criminal complaint at any time. However, this decision is then final, which means that you cannot revive the withdrawn criminal complaint. In the case of simple bodily injury offences, the public prosecutor decides whether there is a special public interest in prosecution. If the accused is charged exclusively with offences relating to insulting behaviour, the proceedings will be discontinued after your criminal complaint has been withdrawn. In the event of a withdrawal of the criminal complaint and the resulting discontinuation of the proceedings, there is a possibility that you will be charged with procedural costs.

How can I be supported and accompanied in the criminal proceedings?



For example, you can take a person you trust with you to the police interview. You can also seek advice or representation from a lawyer of your choice. In order to give you access to legal advice even if you have a low income, you can claim so-called counselling assistance for out-of-court counselling if the requirements for this are met. If you are a joint plaintiff in criminal proceedings, a lawyer can be appointed to assist you, or legal aid can be granted if the respective requirements are met. You can get more information at the legal application office of the district court or at the lawyer's office.





What does psycho-social process support do?



Psycho-social process support is a source of support for you if you have experienced serious violence and a main hearing is held in court as part of the criminal proceedings. The specially trained professionals accompany you before, during and after a court hearing. They will explain the procedure to you, the tasks of the parties involved and discuss the course and outcome of the proceedings with you. However, psycho-social process support does not provide legal advice or psychological or therapeutic assistance. Under certain circumstances, adults who have been victims of serious violent or sexual offences may also be assigned a psycho-social support worker. In the case of a court order, psycho-social support is free of charge for the victim. In cases where the prerequisites for a summons are not met, each victim may also avail himself or herself of the assistance of psycho-social support during the proceedings at his or her own expense.

Further information on criminal proceedings:

www.bmjv.de/SharedDocs/Publikationen/DE/Opfermerkblatt.pdf?__blob=publicationFile&v=15

www.justiz-bw.de/site/pbs-bw-rebrush-jum/get/documents_E-787615818/jum1/JuM/Justizministerium%20NEU/Opferschutz/Opferschutz-Flyer.pdf

Further information on psycho-social process support:

www.bmjv.de/DE/Themen/OpferschutzUndGewaltpraevention/Prozessbegleitung/Prozessbegleitung_node.html

www.justiz-bw.de/,Lde/Startseite/Justiz/Psychosoziale+Process+Accompaniment

www.service-bw.de/leistung/-/sbw/Psychosoziale+Prozessbegleitung++Beiordnung+beantragen-3700-leistung-0



Protection under civil law – the Protection against Violence Act (*Gewaltschutzgesetz*)

If you fear that your partner will become violent against you again or threaten you with an act of violence for the first time, you have the possibility to apply for measures under the Protection against Violence Act at your local court. The court may issue orders against the offender under the Protection against Violence Act.

In particular, it can issue prohibitions and restraints against the perpetrator (so-called protection orders) and allow the victim temporary sole use of the shared home. A home transfer (*Wohnungsüberlassung*) means that you as the victim can use the home alone in the future and your partner has to leave it. This applies even if you are not the owner or tenant of the home.

Moreover, your partner can be prohibited, for example, from approaching your home, your workplace or your child's kindergarten, from contacting you (including via social networks such as Facebook or WhatsApp) or setting up meetings.

The court can issue measures under the Protection against Violence Act in the urgent procedure of interim measures, if there is an immediate need for action. As a victim, you have to prove this special urgency to the court. For this purpose, a description of the facts in the form of an affidavit is recommended. Medical certificates and police reports are also helpful.

In summary proceedings, the court may refrain from hearing the offender before issuing an interim injunction. The offender may appeal against the court's decision without a verbal hearing. The court must then make a decision again after a verbal hearing. However, perpetrators and victims do not necessarily have to meet. If necessary, and for the protection of a party, the hearing may also be held separately.

It is highly advisable to obtain information on the procedure for the protection against violence from a specialised counselling centre beforehand and possibly to involve a lawyer.



5.1

Frequently asked questions about the Protection against Violence Act (*Gewaltschutzgesetz*)

How long are protection orders under the Protection Against Violence Act valid?



If you, as the victim, are not the only person entitled to use the shared home, the court may only allocate the home to you for a certain period of time. This applies, for example, if you are the joint owner or tenant of the home with the perpetrator. As a rule, the time limit is six months at the most. If it is not possible to find a replacement home during this period, the court can extend the deadline by a maximum of another six months.

Where can I apply for measures under the Protection against Violence Act?



You can submit the application in writing to the district court or file it at the legal application office (*Rechtsantragsstelle*) of the district court. Your application will then be processed by the family court, a division of the district court. In addition to your identity card, please bring all relevant paperwork that documents the act of violence and the injuries (for example, photographs of injuries, medical certificates) and consider whether third parties (e.g. relatives or neighbours) can testify to parts of the facts. If the police have already issued an expulsion order, attach a copy of this decision or give the court the date and file number of the decision. Representation by a lawyer is not mandatory in violence protection proceedings. Nevertheless, it may be helpful to seek legal advice. A lawyer can also help you apply for legal aid if your income is low.



Can I also file an application under the Protection against Violence Act at a later date?



Yes, you can also file an application under the Protection against Violence Act at a later date – even if your partner has returned to the home after being expelled by the police. In the event of a later application, it is important to have secured evidence, such as documentation of the injuries. However, a period of three months applies to the home transfer: Therefore, according to the Protection against Violence Act, you only have a claim to a home transfer if you demand the surrender of the home from the perpetrator in writing within three months after the act of violence. Once this period has expired, your claim to a home transfer also expires.

Further information on the Protection against Violence Act:

[www.bmfsfj.de/bmfsfj/service/publikationen/
mehr-schutz-bei-haeuslicher-gewalt-81936](http://www.bmfsfj.de/bmfsfj/service/publikationen/mehr-schutz-bei-haeuslicher-gewalt-81936)

[www.justiz-bw.de/site/pbs-bw-rebrush-jum/get/
documents_E-475445011/jum1/JuM/Brosch%C3%BCren/
Schutz%20vor%20h%C3%A4uslicher%20Gewalt.pdf](http://www.justiz-bw.de/site/pbs-bw-rebrush-jum/get/documents_E-475445011/jum1/JuM/Brosch%C3%BCren/Schutz%20vor%20h%C3%A4uslicher%20Gewalt.pdf)



Helpful contacts



Police Emergency
Line: 110



**Counselling centres for victims
after an expulsion procedure in
Baden-Württemberg:**
www.interventionsstellen-bw.de



08000 116 016

**Help hotline for violence
against women:**
www.hilfetelefon.de
available free of charge
under: 08000 116 016



**HILFE TELEFON
GEWALT
AN MÄNNERN**

**Help hotline for violence
against men:**
www.maennerhilfetelefon.de
available free of charge
under: 0800 123 99 00



Further information:

Women's and children's shelters:

www.frauenhaus-suche.de

Overview of available women's shelter places in the Federal Republic of Germany – Women's Shelter Coordination:

www.frauenhauskoordination.de

Federal Association of Women's Advisory and Emergency Hotline Services:

www.frauen-gegen-gewalt.de

Heidelberg Outpatient Clinic for the Protection Against Violence:

0152 54648393, www.klinikum.uni-heidelberg.de/

rechts-und-verkehrsmedizin/leistungsspektrum/medizin/gewaltambulanz

Freiburg Outpatient Clinic for the Protection Against Violence:

0761 203 6850, www.uniklinik-freiburg.de/rechtsmedizin/

default-bafc91fab1.html

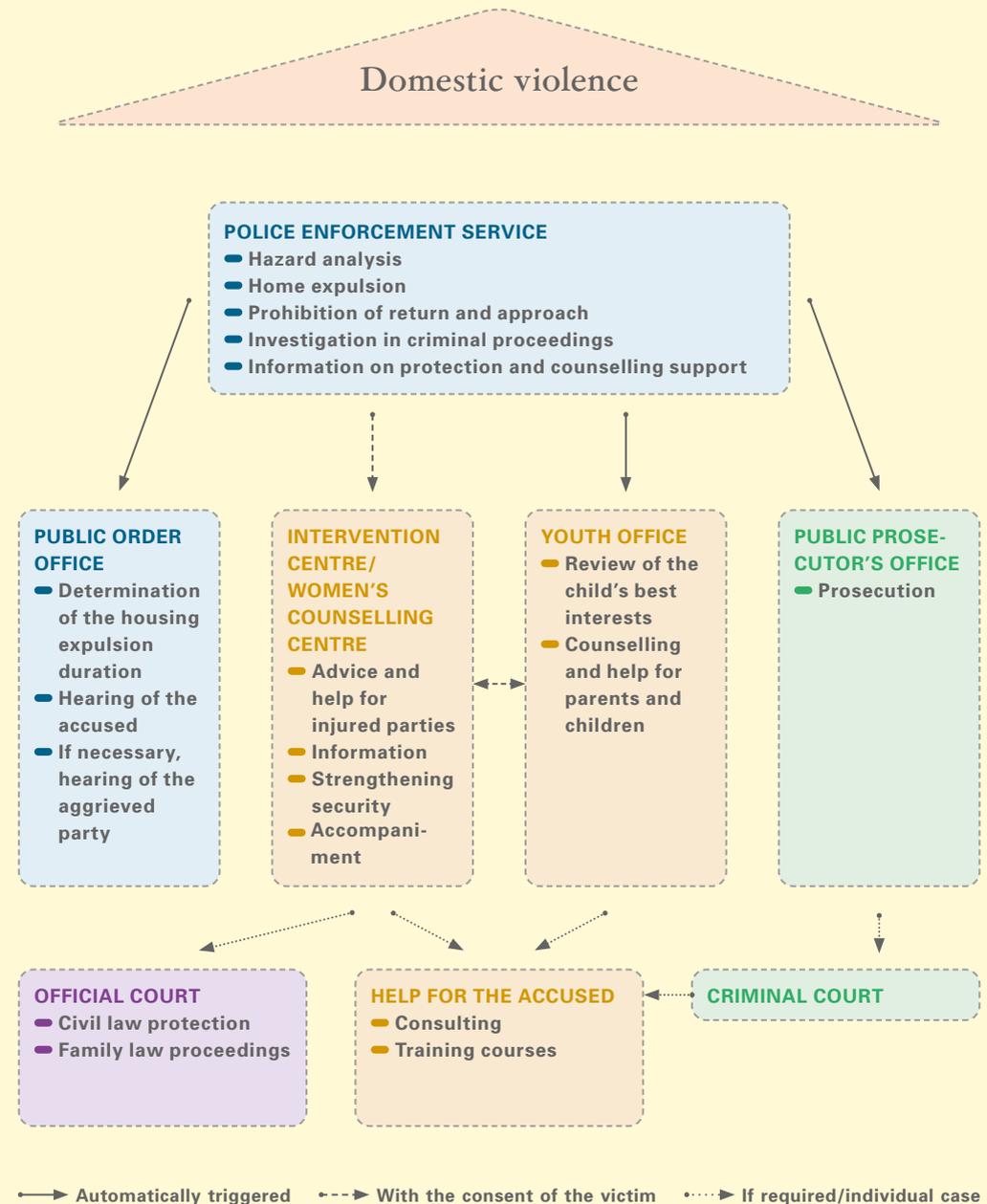
Ulm Outpatient Clinic for the Protection Against Violence:

0731 500-65009, www.uniklinik-ulm.de/rechtsmedizin/

gewaltopferambulanz.html

Ministry for Social Affairs, Health and Integration Baden-Württemberg:

sozialministerium.baden-wuerttemberg.de/de/soziales/gegen-gewalt-an-frauen





Imprint

BROCHURE

Information on the housing expulsion procedure
in cases of domestic violence

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Baden-Württemberg

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