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Compendium of International and National Legal Frameworks on Domestic Violence

Volume III of V — Countries H to P

FIRST EDITION, JANUARY 2019

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The Compendium is a working document intended as a reference tool for anyone interested in the topic of Domestic Violence (development practitioners, lawyers, community leaders, academics, researchers, students, etc.). It does not constitute an exhaustive treatment of the legal framework on Domestic Violence and may be updated from time to time.

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Volume III of V

This compendium on domestic violence is divided in five volumes. Each volume should be observed as a part of the whole.

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FOREWORD

It is undisputed that domestic violence against women and girls remains one of the most extreme forms of gender inequality, a violation of human rights, and a development issue. Domestic violence against women and girls takes many forms, including physical, sexual, emotional, and economic. As a result, women and girls' lives are endangered with negative consequences not only for them, but also for their households, their communities, and society as a whole. It is an epidemic that leads to girls dropping out of school and affects women's ability to acquire more and better jobs; it increases absenteeism at work and limits mobility that hinder productivity and earnings. Altogether, domestic violence impedes women and girls from thriving, and takes away their voice, agency, rights and opportunities. This in turn affects every country's growth and development.

The international community recognizes that domestic violence is an important development challenge, and strides have been made to support countries in acquiring the tools and resources needed to end it along with other forms of discriminatory practices. Twenty-five years ago, the United Nations Declaration on the Elimination of Violence Against Women first called upon States to adopt legislation which prohibits domestic violence and to provide legal protection to end all forms of violence and harmful practices against women and girls in public and private spheres. More recent efforts have called for stronger action to address the underlying structural causes that increase the risks of domestic violence.

The share of countries with laws on domestic violence increased from 70.9 percent to 75.9 percent thanks to legal reforms in seven countries over the last four years, but more remains to be done, as 49 countries still do not have specific laws against domestic violence. Laws are an important step that countries can and should take towards ending violence against women and girls. We must support and strengthen the tools and means to end domestic violence everywhere.

I am pleased to share the following Compendium of International and National Legal Frameworks on Domestic Violence. In it you will find international and regional instruments that address domestic violence, and national legislations adopted to prevent and prosecute such crimes. This is a practical online legal tool to empower those fighting domestic violence and help shape change for the elimination of domestic violence.

We hope this responds to the needs of all persons and professionals interested in this subject as well as those who work with and support women and girls affected or at risk.

Sandie Okoro
Senior Vice President and General Counsel
World Bank Group

INTRODUCTION, DISCLAIMER AND LIMITATIONS

Domestic Violence (DV) is a universal phenomenon that affects millions of women of all social strata worldwide. It is the most pervasive, common, underrecognized, underestimated and underreported type of violence against women. It reflects discriminatory social norms, stereotypes, impunity and gender inequality. It is all too often considered as a "private, family issue", widely accepted and minimized although it impairs the full enjoyment of life and fundamental rights and freedoms by victims and survivors who are overwhelmingly women.

Domestic Violence (DV) is a development challenge and has a high economic and social cost, including health and medical costs, death, suicide, depression, lost productivity, lost income, , psychological consequences and trauma, increased stress, reactive violence, reduced ability to study or find and hold a job, judicial and prison costs, economic insecurity and abuse, debt, housing instability, homelessness, *inter alia*[1]. Beyond data and statistics, DV undermines autonomy and represents an enormous loss in terms of wellbeing not only for the women affected but also for the men who share their lives, for their children, their families and their societies.

The Compendium on International and National Legal Frameworks on Domestic Violence (the "Compendium") provides a survey of the key international and regional instruments as well as national legislation as they relate to domestic violence.

In this Compendium, DV is understood and defined as gender-specific violence, commonly directed against women, occurring in the family and in interpersonal intimate relationships[2], and can encompass different types of abuse. As such, it includes legislation addressing DV as any type of violence (physical, sexual, psychological/emotional or financial/economic) committed by an intimate partner or family member. A number of countries have adopted legislation on DV against women specifically while others have not defined the gender of the victim or survivor.

The Compendium is a working document intended as a reference tool for anyone interested in the topic of DV – survivors, advocates, development practitioners, lawyers, policy makers, academics, among others. It does not constitute an exhaustive treatment of the legal framework on DV and may be updated from time to time.

The Compendium consists of topical chapters with jump links to source documents, such as United Nations conventions, regional treaties, and national legislations[3]. It is based on information available online, offline or both, and relies on research conducted, verified and

[1] Some research shows that DV costs USD 460 billion each year in the USA and USD 4.3 trillion internationally. https://www.washingtonpost.com/opinions/the-cost-of-domestic-violence-is-astonishing/2018/02/22/f8c9a88a-0cf5-11e8-8b0d-891602206fb7_story.html?noredirect=on&utm_term=.00059cae58fd;

[2] Based on several United Nations documents, including the United Nations General Assembly, Declaration on the Elimination of Violence against Women, December 20, 1993; United Nations Economic and Social Council 1996; UNHCR 2005; United Nations 2010.

[3] Jump links are in bold colored font and can be accessed by clicking on the link which will take the reader to the source document.

updated as of December 2018[4]. The hyperlinked references are not under the control of the World Bank, nor is the World Bank responsible for the accuracy of the content provided through these references. The content of the Compendium does not necessarily reflect the views of the World Bank, its Board of Executive Directors, or the governments they represent. Furthermore, the World Bank does not guarantee the accuracy of the data included in this work.

The research on country-level DV legislation builds on the *Women Business and the Law*[5] database and includes additional legislation found during the course and time-frame for compiling the research. The Compendium is limited to countries that have adopted specific laws or provisions addressing DV[6] and includes legislation from almost 160 countries; as such, the absence of a country's name may be due to the fact that no DV legislation has yet been enacted or that no information was available online[7].

Ending all forms of gender-based violence, including domestic violence, is a critical development objective and comprehensive legislation addressing DV is a key first step towards ensuring prevention and protection. It is also a *sine qua non* condition for any effective strategy to address the problem. Nonetheless, many countries worldwide have yet to adopt laws against DV, while many others have adopted legislation that fails to comprehensively offer protection for the different types of survivors and against the different forms of abuse.

We hope the Compendium will contribute to this urgent and important debate.

Isabella Micali Drossos
Maya Goldstein-Bolocan
Paula Tavares

World Bank

[4] Because it was developed primarily based on information publicly available online, the Compendium includes references to more than several hundred URLs and links to available treaties, laws and electronically published documents. All referenced URLs and links were verified and active at the time they were inserted. There is no guarantee as to their future accessibility nor as to the continued accuracy of the information contained therein after the last date on which they were last accessed and verified.
[5] See more at http://wbl.worldbank.org/en/data/exploretopics/protecting-women-from-violence
[6] Specific provisions addressing DV may include those in domestic violence laws, criminal codes, or laws on gender-based violence or violence against women more generally, provided they address violence or abuse between spouses, within the family or members of the same household, or in interpersonal relationships, including intimate partner violence.
[7] When legislative information was not available online but was found by the team of authors, these have been attached as annexes to the Compendium.

VOLUME III

1. HONDURAS

Law against Domestic Violence, 1997 (As amended) [8]

Article 1. The provisions of this law are of public order, of mandatory observance and are intended to protect the physical, psychological, patrimonial and sexual integrity of women against any form of violence by their spouse, ex-spouse, partner, former cohabiting partner, or any relation of a couple regardless of cohabitation, including those in which there is, or there was, a sentimental relationship. The rights enshrined here are universal. Any act of discrimination and domestic violence against women will be sanctioned in accordance with this Law, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, the International Convention on the Elimination of All Forms of Discrimination against Women and others that subscribe in the future on the subject.

Article 2. The State will adopt as a public policy the measures that are necessary to prevent, punish and ultimately eradicate domestic violence against women, therefore promote and implement, where appropriate, the commitments and policy guidelines which follow:
1. Promote and implement interrelated and global measures that include short and long-term solutions that contribute to the prevention and eradication of violence against women;
2. Provide assistance and immediate protection to women who suffer domestic violence, promoting the creation of new public services and strengthening existing ones;
3. Formulate, with the direct participation of local or municipal governments, governmental plans of action, which must be agreed with the different Honduran civil society organizations, welcoming their initiatives and recovering their experiences. These plans should be reviewed and evaluated periodically; and,
4. All the others that are necessary to guarantee the full enjoyment of the rights and freedoms of women.

Article 3. In the application of this law, the principles of: public action, gratuity, speed, secrecy, orality and informality will be observed.

Article 4. For the presentation of a complaint and imposition of security measures referred to in this law, the representation of a legal professional shall not be required; however, in the subsequent procedural substantiation, if the services of said professionals will be necessary. To guarantee [assistance] free of charge to the complainant, the institutions, whether public or private, that undertake programs or projects of legal aid to women affected by domestic violence, such as the Public Ministry, legal professionals of the family counsellors, or any state institution or non-governmental organization must assist and provide the appropriate legal services on any days and hours.
Prosecutors in the course of trial proceedings will act on behalf of the affected party.
For the purposes of this law, all witnesses are able to declare, and all days and hours are good for such actions. The applicable procedure shall be oral.

Article 5. For the purposes of this Law, it is understood as:
1. Domestic Violence: any pattern of behavior associated with a situation of unequal exercise of power that is manifested in the use of physical, psychological, patrimonial and / or economic, and sexual violence; and,
2. Unequal Power Exercise: Any behavior aimed at affecting, compromising or limiting the free development of the personality of women due to their gender.
The following are considered forms of domestic violence:
1. Physical violence: Any action or omission that produces damage or impairment to the physical integrity of the woman, not classified as an offense in the Penal Code;
2. Psychological Violence: Any action or omission with the purpose of degrading or controlling the actions, behaviors, beliefs and decisions of the woman, through intimidation, manipulation, direct or indirect threat, humiliation, isolation, confinement or any other conduct or omission that implies a detriment to the integral development or self-determination of the woman, or that causes emotional damage, diminishes the self-esteem, harms or disturbs the healthy development of the woman, through acts that discredit the woman or show contempt for her personal value or dignity, humiliating or harassing treatment,

[8] Law Against Domestic Violence (Ley contra la violencia doméstica), Decree No. 132-97 (11 September 1997, as amended on 1 September 2005), available at https://www.oas.org/dil/esp/Ley_contra_la_violencia_domestica_Honduras.pdf (last visited December 30, 2018). Unofficial translation by Compendium team.

vigilance, isolation, insults, blackmail, degradation, ridicule, manipulation, exploitation or threatening to leave the children, among others;
3. Sexual Violence: any behavior involving threat or intimidation that affects the integrity or sexual self-determination of women, such as unwanted sexual relations, denial of contraception and protection, among others, provided that such actions are not criminalized in the Penal Code; and,
4. Patrimonial and / or Economic Violence: any act or omission that involves loss, transformation, denial, subtraction, destruction, retention of objects, personal documents, movable and / or immovable property, values, rights or economic resources destined to satisfy the needs of the woman or the family unit, including the impairment, reduction or denial that affects the woman's income or the breach of maintenance obligations.

Article 6. To protect or restore the rights of women who suffer from domestic violence, protection mechanisms will be established that consist of: security, precautionary and preventive measures.
1. Security Measures: Those that seek to prevent and stop violence in any of its manifestations and prevent greater harm. With the mere presentation of the complaint, they will be imposed ex officio by the competent court, the Public Prosecutor or the Secretary of State in the Security Office, through the National Police.
The security measures are the following:
a. Temporarily separate the defendant from the home shared with the complainant. The defendant may take only his personal belongings and work and / or study supplies. The safety, health and life of the victim will prevail over the right of the defendant to occupy the home;
b. Prohibit the defendant to pass by the home, workplace or places usually frequented by the complainant, so long as this measure does not interfere with the work or study relations of the defendant. To guarantee the execution of this measure, when the defendant's work place is located in the dwelling house that it shares with the complainant, the judge will impose the appropriate measures according to the specific circumstances, always guaranteeing the personal security of the victim;
c. Arrest for not more than twenty-four (24) hours of the accused caught in flagrante;
d. Prohibit the accused from carrying out acts of intimidation or harassment against the woman, any member of the family group or persons related to the complainant;
e. Retain immediately and temporarily weapons that are in the possession of the accused. The judge who hears the complaint may at any time order this measure. In all cases, the weapons seized must be handed over to the competent court and will be delivered:

> e.1. to the defendant, once the imposed measure is complied with and has expired, if the weapon is not prohibited and is legitimate owned by him. When the non-prohibited weapon does not have a current registration, it must be sent immediately to the Departmental Headquarters of the Preventive Police. The mere possession of a weapon, ammunition or explosive or prohibited object allows its confiscation and delivery to the Public Prosecutor; and,
> e. 2. to his boss or employer, in the case of weapons related to the work of the accused, who must prove their legitimate property and take responsibility for compliance with the measures dictated by the judge to prevent the defendant from having such weapons in his possession outside of working hours. The arms seized and not claimed, once the instance has expired, must be sent to the evidence warehouse of the Public Prosecutor.

f. The Secretary of State in the Security Office may deny, suspend or cancel permits to carry firearms when they are used in acts of domestic violence;
g. Return to the domicile at the request of the woman who had to leave it for reasons of her personal safety or that of the family unit, as well as restitution of her property or of the household, by immediately imposing the measure established in subsection a) of this paragraph, so long as the complainant does not object;
h. Enter or search the domicile without any warrant in case of flagrancy, or by court order where the defendant fails to comply with the measure established in subparagraph a) of this numeral; flagrancy consists of stopping the person at the time of committing the act to avoid greater harm;
i. When the woman is forced to leave the home she shares with the defendant for safety reasons, she may take with her those goods that guarantee her well-being and that of the family group; and,
j. The institutions that know about the complaint must send the affected woman to a safe home. The State, through the National Institute of Women (INAM), the State Secretariat within the Interior and Justice Offices, and the municipal authorities commit to establish temporary shelters and safe housing, in order to provide immediate protection to women affected by domestic violence and their dependent children.
The Courts, the Public Prosecutor's Office and the Police will inform the corresponding police post or station about the measures taken in order to give immediate assistance to the affected woman.
When the security measures are imposed by the Public Prosecutor or the National Police, these institutions must send the proceedings to the competent court within twenty-four (24) hours;
2. Precautionary Measures: These measures are aimed at preventing the recurrence of domestic violence through the re-education of the accused and the strengthening of the woman's self-esteem. They are as follows:

a) Provide the mandatory referral of the accused to services for his reeducation, which will be provided by the nearest family counselor trained in gender perspective, or any natural or legal person trained in this type of care as authorized by the Secretary of State in the Health Office; and,
b) Arrange for the referral of the woman and, where appropriate, of her close family, to family counseling or any other entity in accordance with the previous paragraph.
The family counselor or person authorized to provide this type of care must report monthly on compliance with the same and issue a mandatory opinion on behavioral changes to the court that imposed the measure. Non-compliance will be understood as the absence of the accused to two (2) sessions, without the existence of a fortuitous event or force majeure duly verified.
The above provisions require the employer to grant their employees the respective permits in order to strictly comply with the measures imposed by the competent court, without causing any work prejudice to the employee.
3. Precautionary Measures: These are intended to ensure compliance with the family responsibilities of the accused and will be exclusively imposed by the competent judge or court in cases that are submitted directly or by referral. They may dictate one or more of the followings:
a) Establish ex officio a provisional alimony, whose amount will correspond to the alimentary needs. The determination of this amount will take into account not only the official income of the accused, but also his lifestyle, in accordance with the provisions of the Family Code. The alimony must be paid in advance by daily, weekly, bi-weekly or monthly installments as appropriate in the court that imposes the measure, or in any other place so long as compliance is guaranteed.
Failure to comply with this measure, prior to the imposition of the corresponding penalty, will require the defendant to pay or consign before the court the alimony due within a period of twenty-four (24) hours. Depending on the case, the corresponding provisional embargo must be carried out;
b) Give the affected person the custody and provisional care of minor dependent children. However, this may be granted to third persons at the request of the mother. When appropriate, a special visiting regime for the father may be established; and,
c) Attribute to the woman the use and provisional enjoyment of the family home and the household. To guarantee this measure, both partners will be prohibited from disposing, through acts or contracts, of the real estate that has been acquired during the relationship, even if the latter has been registered in the name of only one of them and when such property is duly accredited. For this purpose, the competent Court will issue urgent notification or communication to the Registry of Real and Commercial Property, to the corresponding public or private entity, such as patronages, cooperatives, municipalities or municipal corporations, PROLOTE, FONAPROVI, INJUMPEP, INPREMA, or others, so that in a term not exceeding forty-eight (48) hours, the precautionary measure imposed will be faithfully and strictly complied with. In these cases, the entries in the Property Registry will be exempt from any type of tax.
The performance of acts and contracts on movable property, as well as the latter's movement from the common residence to any other place is prohibited. The woman who, for her own convenience and upon her own request, leaves the common home is exempted from this prohibition. In this case, she can take those goods that guarantee her well-being and that of the family group, and the judge, accompanied by an acting secretary, will make an inventory of said assets, both at the time of issuing the measure and of suspending it.
The precautionary measures may be imposed without prejudice to the right of the complainant to promote actions of the accused directed at guaranteeing permanently his family responsibilities.
The protection mechanisms cannot be appealed against.
These mechanisms are temporary; they shall not last less than two (2), nor more than six (6) months. The precautionary measures will have a duration of two (2) months for women and three (3) months for men, without prejudice to extend its duration according to the diagnosis issued by the respective family counselor. The competent court, ex officio or at the request of the complaining party, may extend for two (2) months, and only once, one or more of the security and precautionary measures where it deems it appropriate. At any time, the judge may modify the protection mechanisms imposed.

Article 7. The aggressor who, under the terms of this act, commits acts of domestic violence without actually causing damages classified as crimes in the Penal Code, shall be punished as follows:
1. With the rendering of services to the community for the term of one (1) to three (3) months, when the complaint is declared with place; and,
2. With the rendering of services to the community for one (1) to three (3) months for non-compliance with one or more of the protection mechanisms imposed, without prejudice to the penalty that may be incurred for the offense of disobedience to authority.
The provision of services to the community must consist of a profession, trade or work activity different from that ordinarily performed by the defendant and will be equivalent to a day of two (2) hours, which may be performed during working or non-working hours. However, it may in any case accumulate days to be completed in non-working hours of the respective week, provided that the nature of community service so allows.
In order to guarantee compliance with what is stated in the previous paragraph, the competent court will be required to send to the corresponding Municipal City Hall the list of the persons sanctioned the first five (5) days of each month. Likewise, the

corresponding Municipal Mayor's Office shall mandatorily report on the assistance and compliance with the sanction imposed on the defendant within the same term indicated above. The Family Counselor, and any other public institution where the defendant undertakes the measures, or performs community service, will be subject to the same requirement. The complainant may inform the competent court or judge of the execution about the breach of any protection mechanism imposed on the defendant.
In addition to the provisions set forth above, non-compliance with the sanction imposed will be penalized according to Article 346 of the Criminal Code providing the crime of disobedience, by immediately referring the proceedings to the Public Prosecutor's Office, and by making a record of them.
The defendant who, under the terms of this law, commits acts of patrimonial and / or economic violence shall reimburse the expenses and repair the damages caused to the victim. Said compensation shall include, but not be limited to: compensation for moving expenses, expenses for property repairs, legal expenses, medical expenses, psychiatric, psychological, counseling, guidance, professional fees of any kind, lodging, shelter and other similar expenses.

Article 8. The aggressor who commits again acts of violence after having complied with the protection mechanisms, and once a final judgment has been issued, shall be subject to the security measures provided in number one (1) of Article 6 of this law, with referral of the case to the Public Prosecutor for the exercise of the corresponding criminal action.

Article 9. When the woman is the active subject of domestic violence according to this law, the competent Courts, the Public Prosecutor, and the Secretary of State in the Security Office, under the best criteria, may impose the measures contained in Article 6, number subparagraphs b), d) and e), provided that these do not prejudice the work or studies needs of the defendant and with the possibility for the competent court to ratify or modify them.
Other security measures may be imposed on the defendant, only by the competent courts, where it was proven that such aggressions do not constitute a response to aggressions suffered by the woman on behalf of the alleged victim. If necessary, the court may request specialized assistance.

Article 10. If it is proven that the domestic violence exercised by the woman is a response to aggressions suffered and not reported by the woman of her own will, that is, without the non-denunciation being due to coercion, fear or other restriction, the competent judge will apply to both members of the couple the security measures listed in Article 6, number 1) subparagraphs c), d) and e) of this law.
In this case, the imposed security measures may be extended only once as a result of the risk assessment prepared by the specialist that deals with the case, without need for one or both members of the couple to request it.
If domestic violence persists on both sides, the competent judge or court, in accordance with the law, will impose, if they live under the same roof, the temporary ban from the common home of one of the members of the couple, preferably the man, in order to prevent the coexistence from degenerating into more severe violence.
This will not exceed six (6) months, during which both parties will decide on the convenience, or not, of maintaining the relationship. This agreement will be communicated jointly to the court that imposed the measure.

Article 11. Whoever is subjected to one or more of the security measures imposed, will be sanctioned in accordance with the provisions of Article 7 of this law.

Article 12. A judge or execution judge will oversee and control implementation of the protective mechanisms, extension of measures and sanctions imposed by the courts. This will oversee the faithful implementation of the resolutions, and will impose the corresponding sanctions in case of breach of protection mechanisms.
Where there is no judge or execution judge, this responsibility will be attributed to the judge of the case.
The judge who receives the complaint will impose the corresponding sanction according to Article 7, paragraph 1 of this law.
These officials will be responsible for referral of the proceedings to the Public Prosecutor in case of non-compliance with the measures imposed and / or in case of a crime.

Article 13. Special jurisdictions of domestic violence that will apply the provisions of this law, and will work through the specialized courts and tribunals in different regions of the country according to specific requirements, are hereby created.
Pending creation of the specialized Courts and Tribunals, the Family Courts, the Departmental or Sectional Courts, and the Peace Courts will have jurisdiction.
In this case, the corresponding Courts of Appeals will have jurisdiction.

Article 14. In accordance with Article 6 above, both the Public Prosecutor and the Secretary of State in the Security Office must impose security measures and refer the case to the corresponding courts within twenty-four (24) hours after its reception.
Appropriate levels of coordination must be established between the competent Court, the Secretary of State in the Security Office and the Public Prosecutor's Office in order to guarantee that attention will be provided twenty-four (24) hours a day.

Article 15. Non-governmental organizations and the National Commissioner of Human Rights shall remit those cases that come to their knowledge, within the same period indicated in the preceding article, to the competent court according to Article 11, or failing that to the Public Prosecutor or the Secretary of State in the Security Office. These organizations may suggest the imposition of the protection mechanisms deemed necessary.

Article 16. A domestic violence complaint may be filed by:
1. The woman directly affected;
2. Any member of the family group;
3. Any civil servant, public or professional employee who, for reasons of his position, has contact with the woman directly affected or with some of the members of her family group;
4. State institutions and non-governmental organizations that assume the defense of the fundamental rights of women and that, in general, address family and human rights issues, and;
5. Anyone who knows about the case.
The complaint may be presented orally or in writing.

Article 17. Doctors, pharmacists, dentists, medical or odontology students, nurses, paramedics, midwives and others related to the exercise of psychological professions, jobs or techniques related to health, have the obligation to record and report acts of domestic violence against women of which they have become aware in the exercise of their professions.

Article 18. The security measures that are dictated must be notified, preferably, personally to the accused.
These notifications will be carried out by the secretary or registrar of the court who will read the decision, in full, to the defendant and will hand over to him, if requested, a verbatim copy of such decision, signed by the notifier. This will be mentioned in the decision, along with the place, date and time of notification.
The notification will be made at the address or work place of the defendant, as indicated by the complainant. If it is not possible to personally notify the defendant at home, the notification will be considered as made when delivered to any person who is more than fourteen (14) years old, or posted at the door of the house, if no one is found or they have refuse to receive it. The latter procedure will be mentioned in the documents and will be signed by the notifier and by the person receiving the notification.
This notification will have the effect of a summon by informing the defendant of the date on which the hearing will be held in the court competent to hear the complaint; [the defendant] must also be informed that he may, if so wishes, appear accompanied by a legal professional. Notifications to the accused will not imply costs for the complainant.

Article 19. For the ratification or modification of security measures, and the imposition of precautionary and preventive measures, the competent court shall hold a hearing within the following twenty-four (24) hours. No extension of this period will be granted. Judges who hear other cases should give priority to complaints of domestic violence. This hearing will be presided personally by the judge who has knowledge about the case.
The hearing will be held with the appearance of the complainant and the accused. In this hearing, the parties will expose, in their order, their requests.
When the facts are disputed, the relevant evidence will be admitted and examined within the same hearing and, where this cannot be done, the hearing must be suspended and shall continue within the next two (2) business days. No extension of this period will be granted.
Every witness can testify according to the terms of Article 4, second paragraph, of this law.
Notwithstanding the foregoing, the hearing will be considered valid with the sole appearance of the complainant, under the presumption that the defendant accepts the facts and the protection mechanisms that are imposed on him.
Where the defendant does not appear, all the protection mechanisms that are deemed appropriate will be imposed in the same hearing, and a final judgment will be issued.
In this case, police support will be required to compel the appearance of the accused at a later hearing, which will be held when this is taken to court by the national police.
This hearing will be held for the sole purpose of informing [the accused] of the protection mechanisms imposed and the final judgment issued at the hearing that was held with the sole appearance of the complainant.
No hearing will be held if only the defendant appears.
If the complainant does not appear at the hearing indicated by the court, judge may order that within a period not exceeding one (1) month the necessary investigative measures be taken to determine the cause of this withdrawal. Once ascertained the abandonment of the case and after six (6) months from the last procedure, the withdrawal of the complaint will be declared.
The judge shall draw up the minutes of the hearing, which shall be signed by the parties or only by the complainant, and a final judgment shall be issued [at that time] or within a term not exceeding three (3) days if the facts were disputed.

In case the complaint takes place, a decision will be issued imposing the sanction according to article 7, paragraph 1) of this law.

Article 20- The appeal shall be granted only in the devolutive effect and shall be included in the act of notification of the final judgment, in which case the secretary shall deliver it with that act, or within three (3) days following appearance before the court that hears the complaint.
The appeal against orders must be filed with the act of notification [of the judgment], or the day after this, by appearing before the court that knows the complaint, and be granted without suspensive effect.

Article 20-A For purposes of determining the prevalence of domestic violence against women in our society, evaluate the results of this law and mainstream statistical control, the Public Prosecutor, the State Secretaries in the Health and Safety Offices, and all public institutions linked to domestic violence assistance, as well as non-governmental organizations and the courts in charge of implementing the law, will use the measurement and control instruments designed and provided by the National Institute for Women (INAM). All entities will send every semester the information to the National Institute for Women (INAM), who must establish procedures to maintain updated statistics.

Article 20-B. The National Institute for Women (INAM), will be responsible for coordinating policies directed to women and, in coordination with public and private entities linked to this topic, will design a policy and national action plan to address domestic violence against women, as well as plan the execution of actions aimed at eradicating these behaviors in the Honduran society. The national [action] plan shall contain educational measures, research, comprehensive medical, psychological, legal and social attention to those attacked, sensitization and training for judges, police, officials and employees of different public or private institutions that are involved in the prevention, punishment [of domestic violence], as well as the protection of women who suffer [from it].
For the purposes of dissemination of the scope and objectives of this law, the action plan should involve social communicators, promoting new forms of mass communication that delegitimize violence of all kinds against women, disseminate the positive contribution and image of women and that, generally, help to establish new relationships between the sexes. The National Institute for Women (INAM) will conclude agreements with legally recognized non-governmental organizations that offer shelters, as well as legal and emotional support to women affected by domestic violence.

Article 21. The Public Prosecutor and the Secretary of State in the Security Office shall be competent to monitor the execution and compliance with the security measures they impose, this obligation ceasing with the hearing that will be held by the relevant court.
Likewise, the court is responsible for the execution and enforcement of the measures imposed, and must request police assistance, if necessary.
Notwithstanding the foregoing, the burden of proof of compliance with the measures imposed will fall on the accused. This must be monitored by those who have competence to demand compliance with the measures.

Article 22. If those who need to implement the law establish that an act of domestic violence, that was brought to their knowledge, constitutes a criminal offense, they shall immediately transmit the acts to the Public Prosecutor's office, by creating a report of the proceedings in order to impose other protective mechanisms where needed.

Article 23. Without prejudice to the basic procedural principles already established in this law, women affected by domestic violence shall have the right to:
1. demand the assistance of the National Police, in any circumstance where their personal safety or that of the family group is threatened;
2. demand the assistance of the National Police, by judicial order, to execute what is established in Article 6, number 1), paragraph h) of this law;
3. be respected in the course of the interrogation;
4. be attended to, following an opinion by the Forensic Medicine Directorate, when referred to it by the Public Prosecutor or the competent court, or by any of the institutions equally competent to impose security measures;
5. not to be subject to inadequate or unnecessary medical or psychological expertise;
6. not to be subject to confrontation with the accused, if not in [adequate] emotional conditions for it;

[…]

Penal Code, 1983 (As amended)[9]

TITLE II
CRIMES AGAINST SEXUAL FREEDOM AND HONESTY
CHAPTER I
VIOLATION, RAPE, CRIMES AGAINST MODESTY, KIDNAPPING

ARTICLE 140. Carnal knowledge with a person of either sex through violence, or threat to cause a serious and imminent harm to the passive subject, his/her spouse or cohabitant, or to one of his/her relatives within the fourth degree of consanguinity, or second of affinity, constitutes the crime of violation.
Special cases of violation exist when carnal knowledge with a person of either sex occurs in any of the following circumstances:
1) the victim is less than fourteen (14) and more than twelve (12) years old;
2) the victim is deprived of mental capacity, will or, for any other reason, is unable to resist.
Anyone who intentionally drugs or intoxicates a person in order to violate her will incur in the same penalty;
3) when the perpetrator is in charge of the custody or guardianship of the victim, and uses his condition of authority to have access to her; and,
4) when the perpetrator pretends to be someone else.
The perpetrator of the crime of violation will be punished with imprisonment from nine (9) to thirteen (13) years. If the victim is under twelve (12), or over seventy (70) years old, or if the violation is committed by more than one person, or by a recidivist, the penalty shall be fifteen (15) to twenty (20) years.
The penalty referred to in the previous paragraph will also apply to those who knowingly carry the Acquired Immune Deficiency Syndrome / Human Immunodeficiency Virus (AIDS /HIV), or an incurable contagious disease, commit the violation.
For the purposes of this provision, carnal access will be understood as having vaginal, anal or oral access.
[…]

CHAPTER V
OF INTRAFAMILY VIOLENCE

ARTICLE 179-A. Whoever uses force, intimidation, or persecutes his or her spouse, or ex-spouse, or the person with whom he or she cohabits, or has or with whom he has procreated a child, with the aim of causing physical or emotional harm or damaging property, will be punished with imprisonment from one (1) to three (3) years, without prejudice to the penalty corresponding to the injuries or damages caused. The same penalty shall apply when the violence is exercised over the common children, or over the children of the aforementioned persons who are subject to their parental authority, or over the minor or incapacitated subject to guardianship or care, or over the ascendants.

ARTICLE 179-B. Whoever mistreats a spouse, ex-spouse, cohabitant or ex-cohabitant, or the person with whom he has procreated a child, in any of the following circumstances:

a) Enters the dwelling of the victim or the place where she is housed or installed to commit the act;
b) Infers serious bodily harm;
c) Performs the action with a deadly weapon even if there was no intent to kill or mutilate;
d) Acts in the presence of minors;
e) Induces, incites or obliges the person to consume drugs, narcotics or other psychotropic or intoxicating substances;
f) Also mistreats a minor; and
g) Uses as a pretext to restrict the freedom that the victim suffers from an illness or mental defect.

Will be punished with imprisonment between two (2) to four (4) years.

The provisions of this Article shall be understood without prejudice to the penalty that corresponds to other crimes committed.

ARTICLE 179-C. Notwithstanding what is established in article 15 of the Code of Criminal Procedures, the crimes contemplated in this Chapter and in the previous one will be of public action.

[9] Penal Code, Decree No. 144-83 (26 September 1983, as amended up to 17 September 1999), available at https://oig.cepal.org/sites/default/files/1999_hnd_d144-83.pdf (last visited December 30, 2018). Unofficial translation by Compendium team.

2. HONK KONG (CHINA)

Domestic and Cohabitation Relationships Violence Ordinance, 1986 (As amended) [10]

To provide protection of persons from violence in domestic and cohabitation relationships and for matters ancillary thereto. *(Amended 18 of 2009 s. 3)* [19 December 1986] *L.N. 305 of 1986*

[…]

1.Short title

This Ordinance may be cited as the Domestic and Cohabitation Relationships Violence Ordinance.

(Amended 18 of 2009 s. 4)

2.Interpretation and application

(1) In this Ordinance, unless the context otherwise requires—

"applicant" (申請人) means a person who applies for an injunction to be granted under section 3, 3A or 3B; *(Added 18 of 2009 s. 5)*

"cohabitation relationship" (同居關係)—

(a)means a relationship between 2 persons (whether of the same sex or of the opposite sex) who live together as a couple in an intimate relationship; and

(b)includes such a relationship that has come to an end; *(Added 18 of 2009 s. 5)*

"matrimonial home" (婚姻居所) includes a home in which the parties to a marriage ordinarily reside together whether or not it is occupied at the same time by other persons; *(Amended 17 of 2008 s. 3)*

"minor" (未成年人) means a person under the age of 18 years; *(Added 17 of 2008 s. 3)*

"party to a cohabitation relationship" (同居關係一方) does not include a person who is or was the spouse of the other party to that relationship; *(Added 18 of 2009 s. 5)*

"respondent" (答辯人) means the person against whom an injunction is granted or sought to be granted under section 3, 3A or 3B; *(Added 17 of 2008 s. 3. Amended 18 of 2009 s. 5)*

"specified minor" (指明未成年人) means a minor—

(a)who is a child (whether a natural child, adoptive child or step-child) of the applicant or respondent concerned; or

(b)who is living with the applicant concerned. *(Added 18 of 2009 s. 5)*

(Amended 17 of 2008 s. 3)

(2) *(Repealed 18 of 2009 s. 5)*

3.Power of District Court to grant injunction: spouses and former spouses (Amended 17 of 2008 s. 4)

(1) On an application by a person the District Court, if it is satisfied that the applicant or a specified minor has been molested by the spouse or former spouse of the applicant and subject to section 6, may grant an injunction containing any or all of the following provisions— *(Amended 17 of 2008 s. 4)*

(a)a provision restraining the respondent from molesting the applicant;

(b)a provision restraining the respondent from molesting any specified minor;

(c)a provision prohibiting the respondent— *(Amended 17 of 2008 s. 4)*

(i)(where the applicant has been molested by the respondent) from entering or remaining in—

(A)the residence of the applicant;

(B)a specified part of the residence of the applicant; or

(C)a specified area whether or not the residence of the applicant is in that area,

whether or not the residence is the common residence or matrimonial home of the applicant and the respondent;

(ii)(where the specified minor has been molested by the respondent) from entering or remaining in—

(A)the residence of the specified minor;

(B)a specified part of the residence of the minor; or

(C)a specified area whether or not the residence of the minor is in that area,

whether or not the residence is the common residence of the minor and the respondent;

(d)a provision requiring the respondent to permit— *(Amended 17 of 2008 s. 4)*

(i)(where the applicant resides with the respondent) the applicant to enter and remain in the common residence or matrimonial home of the applicant and the respondent or in a specified part of such common residence or matrimonial

[10] Domestic and Cohabitation Relationships Violence Ordinance, L.N. 305 (19 December 1986, as amended by ordinance 18 of 2009), available at https://www.elegislation.gov.hk/hk/cap189!en?p0=1&p1=1 (last visited December 30, 2018).

home; or

(ii)(where the specified minor resides with the respondent) the minor to enter and remain in the common residence of the minor and the respondent or in a specified part of such common residence,

whether or not any other relief is being sought in the proceedings.

(1A)A court may in an injunction containing a provision mentioned in subsection (1)(a) or (b) include a provision requiring the respondent to participate in any programme, approved by the Director of Social Welfare, that is aimed at changing the attitude and behaviour that lead to the granting of such injunction. *(Added 17 of 2008 s. 4)*

(2)In exercising its power to grant an injunction containing a provision mentioned in subsection (1)(c) or (d) the District Court shall have regard to the conduct of the parties, both in relation to each other and otherwise, to their respective needs and financial resources, to the needs of any specified minor and to all the circumstances of the case.

(3)*(Repealed 18 of 2009 s. 6)*

(Amended 17 of 2008 s. 4)
[cf. 1976 c. 50 s. 1 U.K.]

3A. Power of District Court to grant injunction: other relatives

(1) The District Court may, on an application made by a person , if satisfied that the applicant has been molested by a relative of the applicant, grant an injunction against that relative. *(Amended 18 of 2009 s. 7)*

(2) In subsection (1), "relative" (親屬) means—

(a)the applicant's father, mother, grandfather or grandmother (whether natural or adoptive);

(b)the applicant's step-father, step-mother, step-grandfather or step-grandmother;

(c)the applicant's father-in-law or mother-in-law who is the natural parent, adoptive parent or step-parent of the applicant's spouse;

(d)the applicant's grandfather-in-law or grandmother-in-law who is the natural grandparent, adoptive grandparent or step-grandparent of the applicant's spouse;

(e)the applicant's son, daughter, grandson or granddaughter (whether natural or adoptive);

(f)the applicant's step-son, step-daughter, step-grandson or step-granddaughter;

(g)the applicant's son-in-law or daughter-in-law who is the spouse of the applicant's natural child, adoptive child or step-child;

(h)the applicant's grandson-in-law or granddaughter-in-law who is the spouse of the applicant's natural grandchild, adoptive grandchild or step-grandchild;

(i)the applicant's brother or sister (whether of full or half blood or by virtue of adoption);

(j)the brother or sister (whether of full or half blood or by virtue of adoption) of the applicant's spouse;

(k)the applicant's step-brother or step-sister;

(l)the step-brother or step-sister of the applicant's spouse;

(m)the applicant's uncle, aunt, nephew, niece or cousin (whether of full or half blood or by virtue of adoption);

(n)the uncle, aunt, nephew, niece or cousin (whether of full or half blood or by virtue of adoption) of the applicant's spouse; or

(o)the spouse of any person mentioned in paragraph (i), (j), (k), (l), (m) or (n).

(3) A minor who applies for an injunction under subsection (1) shall apply by his next friend.

(4) Subject to section 6, an injunction granted under subsection (1) may, whether or not any other relief is being sought in the proceedings, contain any or all of the following provisions—

(a)a provision restraining the respondent from molesting the applicant;

(b)a provision prohibiting the respondent from entering or remaining in—

(i)the residence of the applicant;

(ii)a specified part of the residence of the applicant; or

(iii)a specified area whether or not the residence of the applicant is in that area,

whether or not the residence is the common residence of the applicant and the respondent;

(c)(where the applicant resides with the respondent) a provision requiring the respondent to permit the applicant to enter and remain in—

(i)the common residence of the applicant and the respondent; or

(ii)a specified part of such common residence.

(5) A court may in an injunction containing a provision mentioned in subsection (4)(a) include a provision requiring the respondent to participate in any programme, approved by the Director of Social Welfare, that is aimed at changing the attitude and behaviour that lead to the granting of such injunction.

(6) In exercising its power to grant an injunction containing a provision mentioned in subsection (4)(b) or (c), the District Court shall have regard to—

(a)(where the applicant resides with the respondent) who has—

(i)the legal or beneficial interest in; or

(ii)a contractual or legal right to occupy,

the common residence of the applicant and the respondent;

(b) (where the applicant resides with the respondent) the impact of the injunction on the relationship between the applicant, the respondent and their other family members who reside with them;

(c)the conduct of the applicant and the respondent, both in relation to each other and otherwise;

(d)the respective needs and financial resources of the applicant and the respondent; and

(e)all the circumstances of the case.

(Added 17 of 2008 s. 5)

3B. Power of District Court to grant injunction: cohabitants and former cohabitants

(1) On an application by a party to a cohabitation relationship, the District Court, if it is satisfied that the applicant or a specified minor has been molested by the other party to the cohabitation relationship and subject to section 6, may grant an injunction containing any or all of the following provisions—

(a) a provision restraining the respondent from molesting the applicant;

(b)a provision restraining the respondent from molesting the specified minor;

(c)a provision prohibiting the respondent—

(i)(where the applicant has been molested by the respondent) from entering or remaining in—

(A)the residence of the applicant;

(B)a specified part of the residence of the applicant; or

(C)a specified area whether or not the residence of the applicant is in that area,

whether or not the residence is the common residence of the applicant and the respondent;

(ii)(where the specified minor has been molested by the respondent) from entering or remaining in—

(A)the residence of the specified minor;

(B)a specified part of the residence of the minor; or

(C)a specified area whether or not the residence of the minor is in that area,

whether or not the residence is the common residence of the minor and the respondent;

(d)a provision requiring the respondent to permit—

(i)(where the applicant resides with the respondent) the applicant to enter and remain in the common residence of the applicant and the respondent or in a specified part of such common residence; or

(ii)(where the specified minor resides with the respondent) the minor to enter and remain in the common residence of the minor and the respondent or in a specified part of such common residence,

whether or not any other relief is being sought in the proceedings.

(2) In determining whether 2 persons ("the parties") are in a cohabitation relationship, the court shall have regard to all the circumstances of the relationship including but not limited to any of the following factors that may be relevant in the particular case—

(a)whether the parties are living together in the same household;

(b)whether the parties share the tasks and duties of their daily lives;

(c)whether there is stability and permanence in the relationship;

(d)the arrangement of sharing of expenses or financial support, and the degree of financial dependence or interdependence, between the parties;

(e)whether there is a sexual relationship between the parties;

(f)whether the parties share the care and support of a specified minor;

(g)the parties' reasons for living together, and the degree of mutual commitment to a shared life;

(h)whether the parties conduct themselves towards friends, relatives or other persons as parties to a cohabitation relationship, and whether the parties are so treated by their friends and relatives or other persons.

(3) A court may in an injunction containing a provision mentioned in subsection (1)(a) or (b) include a provision requiring the respondent to participate in any programme, approved by the Director of Social Welfare, that is aimed at changing the attitude and behaviour that have led to the granting of the injunction.

(4) In exercising its power to grant an injunction containing a provision mentioned in subsection (1)(c) or (d), the District Court shall have regard to the conduct of the parties, both in relation to each other and otherwise, to their respective needs and financial resources, to the needs of any specified minor and to all the circumstances of the case.

(Added 18 of 2009 s. 8)

4.Court of First Instance may exercise powers of District Court in certain cases

The Court of First Instance may exercise the powers conferred on the District Court under section 3, 3A or 3B— *(Amended 17 of 2008 s. 6; 18 of 2009 s. 9)*

(a)in a case of urgency; or

(b)where the Court of First Instance is satisfied that special circumstances are present which make it appropriate for the Court of First Instance rather than the District Court to exercise those powers.

(Amended 25 of 1998 s. 2)

5. Arrest for breach of order

(1) Where a court grants, pursuant to section 3, 3A or 3B, or pursuant to any other power upon an application made by a party to a marriage against the other party to the marriage, an injunction containing—(Amended 18 of 2009 s. 10)*

(a) a provision restraining any person from using violence against another person ("protected person"); or

(b) a provision prohibiting any person from entering or remaining in any premises or area,

the court may, subject to subsection (1A) and section 6, attach to the injunction an authorization of arrest in the prescribed form.

the court may, subject to subsection (1A) and section 6, attach to the injunction an authorization of arrest in the prescribed form.

(Replaced 17 of 2008 s. 7)

*(1A) A court shall not attach under subsection (1) an authorization of arrest to an injunction granted against a person unless—

(a)it is satisfied that the person has caused actual bodily harm to the protected person; or

(b)it reasonably believes that the person will likely cause actual bodily harm to the protected person. *(Added 17 of 2008 s. 7)*

*(1B) An authorization of arrest may be attached under subsection (1) to an injunction—

(a)at the time the injunction is granted; or

(b)at any time during the validity period of the injunction. *(Added 17 of 2008 s. 7)*

(2) Where under subsection (1) an authorization of arrest is attached to an injunction a police officer may arrest without warrant any person whom he reasonably suspects of being in breach of the injunction by reason of that person's use of violence or, as the case may be, his entry into or remaining in any premises or area specified in the injunction, and the police officer shall have all necessary powers including the power of entry by the use of reasonable force to effect that arrest.

(3) Where a person is arrested under subsection (2) he shall—

(a)be brought—

(i)in the case of an authorization of arrest attached under subsection (1) to an injunction by the Court of First Instance, before the Court of First Instance; and

(ii)in the case of an authorization of arrest attached under that subsection to an injunction by the District Court, before the District Court,

before the expiry of the day after the day of his arrest; and

(b)not be released within the period referred to in paragraph (a) except on the direction of the Court of First Instance or of the District Court, as the case may be,

but nothing in this section shall authorize his detention at any time after the expiry of the period mentioned in paragraph (a).

(4)Section 71 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to this section except in so far as that section applies to a gale warning day or black rainstorm warning day.

(Amended 25 of 1998 s. 2; 17 of 2008 s. 7)

[cf. 1976 c. 50 s. 2 U.K.]

[Editorial Note: * This section was amended by section 7 of the Domestic Violence (Amendment) Ordinance 2008 (17 of 2008). The saving provision contained in section 18 of that Amendment Ordinance reads as follows—

"18.Saving provision

A power of arrest attached to an injunction under section 5(1) of the Domestic Violence Ordinance (Cap. 189) before the commencement# of this Ordinance shall, upon such commencement, be regarded for all purposes as an authorization of arrest attached under that section as amended by this Ordinance." Commencement date: 1 August 2008.]

6. Limitations as regards injunctions and authorizations of arrest*

(1)A provision mentioned in section 3(1)(c) or (d), 3A(4)(b) or (c) or 3B(1)(c) or (d) contained in an injunction granted under section 3, 3A or 3B shall have effect for a period, not exceeding 24 months, as the court considers appropriate. *(Replaced 17 of 2008 s. 8)*

(2)An authorization of arrest attached under section 5(1) to an injunction shall—

(a)have effect for a period, not exceeding 24 months, as the court considers appropriate; and

(b)expire upon the expiry of the validity period of the injunction. *(Replaced 17 of 2008 s. 8)*

(3)Nothing in this Ordinance authorizes a court, on an application by a party to a cohabitation relationship— *(Amended 18 of 2009 s. 11)*

(a)to grant an injunction containing a provision mentioned in section 3B(1)(c) or (d); or

(b)to attach to an injunction an authorization of arrest under section 5(1),

unless the court is satisfied that having regard to the permanence of the cohabitation relationship it is appropriate in all the circumstances to grant that injunction or attach that authorization of arrest. *(Amended 17 of 2008 s. 8)*

(Amended 18 of 2009 s. 11)

[Editorial Note: * (Amended 17 of 2008 s. 8)]

7.Court may extend injunctions and authorizations of arrest

(1)Subject to subsection (4), a court may, on an application—

(a)extend the validity period of an injunction granted under section 3, 3A or 3B that contains a provision mentioned in section 3(1)(c) or (d), 3A(4)(b) or (c) or 3B(1)(c) or (d); or *(Amended 18 of 2009 s. 12)*

(b)(where an authorization of arrest is attached under section 5(1) to the injunction) extend the validity period of the authorization of arrest,

for such further period as the court considers appropriate.

(2)The court may extend an injunction or an authorization of arrest under subsection (1) only during the validity period of the injunction concerned.

(3)An application under subsection (1) may be made by—

(a)the applicant of the injunction concerned;

(b)(where the applicant of the injunction concerned is a minor) the minor applying by his next friend.

(4)The validity period of an injunction or an authorization of arrest may not be extended under subsection (1) beyond the second anniversary of the date on which the injunction was granted.

(Replaced 17 of 2008 s. 9)

7A. Court may vary or suspend custody or access order

(1) If—

(a) a court grants, under section 3, 3A or 3B, an injunction containing a provision mentioned in section 3(1)(c), 3A(4)(b) or 3B(1)(c) that concerns a minor; and *(Amended 18 of 2009 s. 13)*

(b)at the time the court determines the application for the injunction, there is in force—

(i)a court order that grants the custody of the minor to the respondent to the injunction; or

(ii)a court order that allows the respondent to the injunction to have access to the minor,

the court may vary or suspend the court order in such manner as the court considers necessary for giving effect to the provision.

(2) In subsection (1)(b), "court order" (法庭命令) means—

(a)in relation to the application of subsection (1) to the District Court, an order made by the District Court; and

(b)in relation to the application of subsection (1) to the Court of First Instance, an order made by the Court of First Instance or the District Court.

(3) In considering varying or suspending a court order under subsection (1), the court shall—

(a)regard the welfare of the minor as the first and paramount consideration; and

(b)in having such regard, give due consideration to—

(i)the wishes of the minor if, having regard to the age and understanding of the minor and to the circumstances of the case, it is practicable to do so; and

(ii)any material information, including any report of the Director of Social Welfare available to the court at the hearing.

(4) If a court order is varied under subsection (1), the order shall, notwithstanding any other Ordinance or rule of law, have effect subject to such variation.

(5) A variation of a court order under subsection (1) in respect of an injunction shall be signified by attaching to the injunction a copy of the order endorsed with the particulars of the variation.

(6) A variation or suspension of a court order made in respect of an injunction shall cease to have effect upon the expiry of the validity period of the injunction.

(Added 17 of 2008 s. 10)

8.Rules of practice and procedure

The Chief Justice may make rules for the purposes of this Ordinance in respect of the following matters—

(a)the hearing and determination of applications under this Ordinance;

(b)forms to be used in connection with any application or order under this Ordinance;

(c)the service of documents;

(d)the attendance of parties;

(e)the release on bail of persons arrested under an authorization of arrest attached, under section 5(1), to an injunction; and *(Amended 17 of 2008 s. 11)*

(f)the transfer of proceedings commenced in the Court of First Instance from the Court of First Instance to the District Court and of proceedings commenced in the District Court from the District Court to the Court of First Instance. *(Amended 25 of 1998 s. 2)*

9. Saving as to existing jurisdiction

The powers conferred under this Ordinance shall be in addition to and not in derogation from the powers of the Court of First Instance and the District Court.

(Amended 25 of 1998 s. 2)

10.Injunctions not to be registered

An injunction containing a provision mentioned in section 3(1)(c) or (d), 3A(4)(b) or (c) or 3B(1)(c) or (d) shall not be registered under the Land Registration Ordinance (Cap. 128).

(Amended 17 of 2008 s. 12; 18 of 2009 s. 14)

11.Powers of the court to be exercised by a judge

(1) The powers conferred by this Ordinance on the Court of First Instance shall be exercised by a judge. *(Amended 25 of 1998 s. 2)*

(2) The powers conferred by this Ordinance on the District Court shall be exercised by a District Judge.

Crimes Ordinance, 1971 [11]

Part XII
Sexual and Related Offences

17.Interpretation

117 (1A) For the purposes of this Part a person does an unlawful sexual act if, and only if, that person—

(a)has unlawful sexual intercourse;

(b)commits buggery or an act of gross indecency with a person of the opposite sex with whom that person may not have lawful sexual intercourse; or

(c)commits buggery or an act of gross indecency with a person of the same sex. *(Added 90 of 1991 s. 2)*

(1B)For the avoidance of doubt, it is declared that for the purposes of sections 118, 119, 120 and 121 and without affecting the generality of any other provisions of this Part, ***unlawful sexual intercourse*** (非法性交、非法的性交) does not exclude sexual intercourse that a man has with his wife. *(Added 23 of 2002 s. 11)* […]

Sexual offences

118.Rape

(1)A man who rapes a woman shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life. *[cf. 1956 c. 69 s. 1 U.K.]*

(2)A man who induces a married woman to have sexual intercourse with him by impersonating her husband commits rape.

(3)A man commits rape if—

(a)he has unlawful sexual intercourse with a woman who at the time of the intercourse does not consent to it; and

(b)at that time he knows that she does not consent to the intercourse or he is reckless as to whether she consents to it. *(Added 25 of 1978 s. 3) [cf. 1976 c. 82 s. 1(1) U.K.]*

(4)It is hereby declared that if at a trial for a rape offence the jury has to consider whether a man believed that a woman was consenting to sexual intercourse, the presence or absence of reasonable grounds for such a belief is a matter to which the jury is to have regard, in conjunction with any other relevant matters, in considering whether he so believed. *(Added 25 of 1978 s. 3) [cf. 1976 c. 82 s. 1(2) U.K.]*

(5)In relation to such a trial as is mentioned in subsection (4) which is a trial in the District Court or a summary trial before a magistrate or in a juvenile court, references to the jury in that subsection shall be construed as references to the District Court, the magistrate or the juvenile court, as the case may be.*(Added 25 of 1978 s. 3) [cf. 1976 c. 82 s. 7(3) U.K.]*

(Added 1 of 1978 s. 6)

3. HUNGARY

Restraining Orders Related to Violence Between Relatives, 2009 [12]

Criminal Code, (2012)[13]

CHAPTER XIX
SEXUAL FREEDOM AND SEXUAL OFFENSES

Sexual Violence
Section 197

[11] Crime Ordinance, 19 November 1971 (consolidated as at 31 December 1972), available at https://www.elegislation.gov.hk/hk/cap200?p0=1&p1=1 (last visited December 30, 2018).

[12] Restraining Orders Related to Violence Between Relatives, Act LXXII (1 October 2009), available at http://njt.hu/cgi_bin/njt_doc.cgi?docid=125288.284235 (last visited December 30, 2018).

[13] Criminal Code, Act C (13 July 2012), available at http://www.parliament.am/library/Qreakan/Hungary.pdf (last visited December 30, 2018).

(1) Sexual violence is a felony punishable by imprisonment between two to eight years if committed:
a) by force or threat against the life or bodily integrity of the victim;
b) by exploiting a person who is incapable of self-defense or unable to express his will, for the purpose of sexual acts.
[…]
(3) The penalty shall be imprisonment between five to ten years if the criminal act described in Subsection (1) is committed:
[…]
b) by a family member or against a person who is in the care, custody or supervision of or receives medical treatment from, such family member, or if abuse is made of a recognized position of trust, authority or influence over the victim; […]

CHAPTER XX
OFFENSES AGAINST CHILDREN AND AGAINST FAMILY LAW

Domestic Violence
Section 212/A.
(1) Any person who, on a regular basis:
a) seriously violates human dignity or is engaged in any degrading and violent conduct,
b) misappropriates or conceals any assets from conjugal or common property, and thus causing serious deprivation, against the parent of his/her child, or against a family member, former spouse or domestic partner living in the same household or dwelling at the time of commission or previously, against his/her conservator, person under conservatorship, guardian or person under guardianship
is guilty of a misdemeanor punishable by imprisonment not exceeding two years, insofar as the act did not result in a more serious criminal offense.
(2) Any person who commits:
a) battery under Subsection (2) of Section 164 or slander under Subsection (2) of Section 227 against a person defined in Subsection (1) is guilty of a felony punishable by imprisonment not exceeding three years;
b) battery under Subsections (3) and (4) of Section 164, or violation of personal freedom or duress under Subsection (1) of Section 194 against a person defined in Subsection (1) is guilty of a felony punishable by imprisonment between one to five years.
(3) Banishment may also be imposed against persons found guilty of domestic violence.
(4) The perpetrator of the criminal offense defined in Subsection (1) shall only be prosecuted upon private motion.

CLOSING PROVISIONS

Definitions
Section 459
(1) For the purposes of this Act:
[…]
14. 'family member' shall mean:
a) next of kin and his spouse or domestic partner,
b) adoptive and foster parents (including resident stepparents), adopted and foster children (including resident stepchildren),
c) siblings, spouses or registered partners of siblings,
d) spouses and domestic partners, e) next of kin and siblings of spouses and domestic partners; […]

4. ICELAND

Law 23/2016 amending the Penal Code, art. 4

Law 85/2011 on Restraining Orders

Penal Code, 1940 (As amended) [14]

Chapter VIII. Factors influencing the severity of punishment.

Article 70 When punishment is decided, the following factors, in particular, are to be considered.

[…]

[14] Penal Code, Law No. 19 (12 August 1940, with amendments up to l. 44/2015), available at http://www.parliament.am/library/Qreakan/islandia.pdf (last visited December 30, 2018).

☐ [If the action was directed against a man, woman or child closely related to the perpetrator, and the relationship between them is considered as having aggravated the seriousness of the offence, this shall normally be considered as aggravating the punishment.

L. 27/2006, 1 gr.

Chapter XXII. [Sexual offences.]
L. 40/1992, 1. gr.

■ Art. 194 [Any person who has sexual intercourse or other sexual relations with a person by means of using violence, threats or other unlawful coercion shall be guilty of rape and shall be imprisoned for a minimum of 1 year and a maximum of 16 years. 'Violence' here refers to the deprivation of independence by means of confinement, drugs or other comparable means.
☐ Exploiting a person's psychiatric disorder or other mental handicap, or the fact that, for other reasons, he or she is not in a condition to be able to resist the action or to understand its significance, in order to have sexual intercourse or other sexual relations with him or her, shall also be considered as rape, and shall result in the same punishment as specified in the first paragraph of this Article.]
L. 61/2007, 3. Gr

■ Art. 200 [Any person who has sexual intercourse or other sexual relations with his or her own child or other descendant shall be imprisoned for up to [8 years] and up to [12 years] if the child [is 15, 16 or 17 years of age].
☐ [Sexual harassment of a type other than that specified in the first paragraph of this Article and directed at the perpetrator's own child or other descendant shall be punishable by up to 4 years' imprisonment, providing that the child is aged 15 years or older.]
☐ Sexual intercourse or other sexual relations between siblings shall be punishable by up to 4 years' imprisonment. If one or both of the siblings were under the age of 18 years at the time of the offence, it may be decided to waive punishment applying to them.]

■ Art. 201 [Any person who has sexual intercourse or other sexual relations with a child aged 15, 16 or 17 year who is his or her adopted child, step-child, foster-child or the child of his or her cohabiting partner, or is bound to him or her by similar family relationships in direct line of descent, or is a child who has been committed to his or her authority for education or upbringing, shall be imprisoned for up to 12 years.
[…]

■ Art. 232 [A person who violates a restraining order or order to leave the home under the Restraining Orders and Occupation Orders Act shall be fined or imprisoned for up to 1 year. In the event of a repeated or gross violation, punishment may take the form of up to 2 years' imprisonment.]
[…]

■ [Art. 233 b Anyone who insults or denigrates his or her spouse or ex-spouse, child or other closely-related person, the offence being considered as constituting serious defamation, shall be imprisoned for up to two years.]

5. INDIA

5.1. FEDERAL

The Protection of Women from Domestic Violence (Central Government) Act, 2005 [15]

[…]

CHAPTER I - PRELIMINARY

1. Short title, extent and commencement.
(1) This Act may be called the Protection of Women from Domestic Violence Act, 2005.
(2) It extends to the whole of India except the State of Jammu and Kashmir.

[15] The Protection of Women from Domestic Violence (Central Government) Act, Act No. 43 (13 September 2005), available at http://www.wcd.nic.in/sites/default/files/wdvact.pdf (last visited December 30, 2018).

(3) It shall come into force on such date [1] as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.
In this Act, unless the context otherwise requires,—
(a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;
(b) "child" means any person below the age of eighteen years and includes any adopted, step or foster child;
(c) "compensation order" means an order granted in terms of section 22;
(d) "custody order" means an order granted in terms of section 21;
(e) "domestic incident report" means a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person;
(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;
(g) "domestic violence" has the same meaning as assigned to it in section 3;
(h) "dowry" shall have the same meaning as assigned to it in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961);
(i) "Magistrate" means the Judicial Magistrate of the first class, or as the case may be, the Metropolitan Magistrate, exercising jurisdiction under the Code of Criminal Procedure, 1973 (2 of 1974) in the area where the aggrieved person resides temporarily or otherwise or the respondent resides or the domestic violence is alleged to have taken place;
(j) "medical facility" means such facility as may be notified by the State Government to be a medical facility for the purposes of this Act;
(k) "monetary relief" means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, at any stage during the hearing of an application seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence;
(l) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;
(m) "prescribed" means prescribed by rules made under this Act;
(n) "Protection Officer" means an officer appointed by the State Government under sub-section (1) of section 8;
(o) "protection order" means an order made in terms of section 18;
(p) "residence order" means an order granted in terms of sub-section (1) of section 19;
(q) "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act: Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner.
(r) "service provider" means an entity registered under sub-section (1) of section 10;
(s) "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.
(t) "shelter home" means any shelter home as may be notified by the State Government to be a shelter home for the purposes of this Act.

CHAPTER II - DOMESTIC VIOLENCE

3. Definition of domestic violence.
For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or
(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.—For the purposes of this section,—

(i) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;
(ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;
(iii) "verbal and emotional abuse" includes—
(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and
(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.
(iv) "economic abuse" includes—
(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;
(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and
(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.
Explanation

II.—For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under this section, the overall facts and circumstances of the case shall be taken into consideration.

CHAPTER III - POWERs AND DUTIES OF PROTECTION OFFICERS, SERVICE PROVIDERS, ETC.

4. Information to Protection Officer and exclusion of liability of informant.
(1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.
(2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1).

5. Duties of police officers, service providers and Magistrate.
A police officer, Protection Officer, service provider or Magistrate who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person—
(a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;
(b) of the availability of services of service providers;
(c) of the availability of services of the Protection Officers;
(d) of her right to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987);
(e) of her right to file a complaint under section 498A of the Indian Penal Code (45 of 1860), wherever relevant:
Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

6. Duties of shelter homes.
If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home.

7. Duties of medical facilities.
If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility.

8. Appointment of Protection Officers.
(1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and perform the duties conferred on him by or under this Act.
(2) The Protection Officers shall as far as possible be women and shall possess such qualifications and experience as may be prescribed.
(3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed.

9. Duties and functions of Protection Officers.
(1) It shall be the duty of the Protection Officer—
(a) to assist the Magistrate in the discharge of his functions under this Act;
(b) to make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;
(c) to make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order;
(d) to ensure that the aggrieved person is provided legal aid under the Legal Services Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made;
(e) to maintain a list of all service providers providing legal aid or counselling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;
(f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated;
(g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place;
(h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973 (2 of 1974);
(i) to perform such other duties as may be prescribed.
(2) The Protection Officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act.

10. Service providers.
(1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.
(2) A service provider registered under sub-section (1) shall have the power to—
(a) record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place;
(b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the local limits of which the domestic violence took place;
(c) ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place.
(3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

11. Duties of Government.
The Central Government and every State Government, shall take all measures to ensure that—
(a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;

(b) the Central Government and State Government officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;
(c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted;
(d) protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

CHAPTER IV – PROCEDURE FOR OBTAING ORDERS OR RELIEFS

12. Application to Magistrate.
(1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act: Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.
(2) The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent: Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance amount, if any, left after such set off.
(3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.
(4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.
(5) The Magistrate shall endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.

13. Service of notice.
(1) A notice of the date of hearing fixed under section 12 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt.
(2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved.

14. Counselling.
(1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counselling with any member of a service provider who possess such qualifications and experience in counselling as may be prescribed.
(2) Where the Magistrate has issued any direction under sub-section (1), he shall fix the next date of hearing of the case within a period not exceeding two months.

15. Assistance of welfare expert.
In any proceeding under this Act, the Magistrate may secure the services of such person, preferably a woman, whether related to the aggrieved person or not, including a person engaged in promoting family welfare as he thinks fit, for the purpose of assisting him in discharging his functions.

16. Proceedings to be held in camera.
If the Magistrate considers that the circumstances of the case so warrant, and if either party to the proceedings so desires, he may conduct the proceedings under this Act in camera.

17. Right to reside in a shared household.
(1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.

18. Protection orders.
The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from—
(a) committing any act of domestic violence;
(b) aiding or abetting in the commission of acts of domestic violence;
(c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person;
(d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact;
(e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;
(f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence;
(g) committing any other act as specified in the protection order.

19. Residence orders.
(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order—
(a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;
(b) directing the respondent to remove himself from the shared household;
(c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;
(d) restraining the respondent from alienating or disposing of the shared household or encumbering the same;
(e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or
(f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require: Provided that no order under clause (b) shall be passed against any person who is a woman.
(2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.
(3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.
(4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be dealt with accordingly.
(5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer-in-charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order.
(6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.
(7) The Magistrate may direct the officer-in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.
(8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her stridhan or any other property or valuable security to which she is entitled to.

20. Monetary reliefs.
(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include but is not limited to—
(a) the loss of earnings;
(b) the medical expenses;

(c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and

(d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in-charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

21. Custody orders.

Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent: Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.

22. Compensation orders.

In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.

23. Power to grant interim and ex parte orders.

(1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.

(2) If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

24. Court to give copies of order free of cost.—The Magistrate shall, in all cases where he has passed any order under this Act, order that a copy of such order, shall be given free of cost, to the parties to the application, the police officer-in-charge of the police station in the jurisdiction of which the Magistrate has been approached, and any service provider located within the local limits of the jurisdiction of the court and if any service provider has registered a domestic incident report, to that service provider.

25. Duration and alteration of orders.

(1) A protection order made under section 18 shall be in force till the aggrieved person applies for discharge.

(2) If the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

26. Relief in other suits and legal proceedings.

(1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

27. Jurisdiction.
(1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which—

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
(b) the respondent resides or carries on business or is employed; or
(c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

(2) Any order made this Act shall be enforceable throughout India.

28. Procedure.
(1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).
(2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.

29. Appeal.
There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

CHAPTER V - MISCELLANEOUS

30. Protection Officers and members of service providers to be public servants.
The Protection Officers and members of service providers, while acting or purporting to act in pursuance of any of the provisions of this Act or any rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

31. Penalty for breach of protection order by respondent.
(1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.
(2) The offence under sub-section (1) shall as far as practicable be tried by the Magistrate who had passed the order, the breach of which has been alleged to have been caused by the accused.
(3) While framing charges under sub-section (1), the Magistrates may also frame charges under section 498A of the Indian Penal Code (45 of 1860) or any other provision of that Code or the Dowry Prohibition Act, 1961 (28 of 1961), as the case may be, if the facts disclose the commission of an offence under those provisions.

32. Cognizance and proof.
(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence under sub-section (1) of section 31 shall be cognizable and non-bailable.
(2) Upon the sole testimony of the aggrieved person, the court may conclude that an offence under sub-section (1) of section 31 has been committed by the accused.

33. Penalty for not discharging duty by Protection Officer.
If any Protection Officer fails or refuses to discharges his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

34. Cognizance of offence committed by Protection Officer.
No prosecution or other legal proceeding shall lie against the Protection Officer unless a complaint is filed with the previous sanction of the State Government or an officer authorised by it in this behalf.

35. Protection of action taken in good faith.
No suit, prosecution or other legal proceeding shall lie against the Protection Officer for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

36. Act not in derogation of any other law.
The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

37. Power of Central Government to make rules.
(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.
(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the qualifications and experience which a Protection Officer shall possess under sub-section (2) of section 8;
(b) the terms and conditions of service of the Protection Officers and the other officers subordinate to him, under sub-section (3) of section 8;
(c) the form and manner in which a domestic incident report may be made under clause (b) of sub-section (1) of section 9;
(d) the form and the manner in which an application for protection order may be made to the Magistrate under clause (c) of sub-section (1) of section 9;
(e) the form in which a complaint is to be filed under clause (d) of sub-section (1) of section 9;
(f) the other duties to be performed by the Protection Officer under clause of sub-section (1) of section 9;
(g) the rules regulating registration of service providers under sub-section (1) of section 10;
(h) the form in which an application under sub-section (1) of section 12 seeking reliefs under this Act may be made and the particulars which such application shall contain under sub-section (3) of that section;
(i) the means of serving notices under sub-section (1) of section 13;
(j) the form of declaration of service of notice to be made by the Protection Officer under sub-section (2) of section 13;
(k) the qualifications and experience in counselling which a member of the service provider shall possess under sub-section (1) of section 14;
(l) the form in which an affidavit may be filed by the aggrieved person under sub-section (2) of section 23;
(m) any other matter which has to be, or may be, prescribed.

Penal Code, 1860 (As amended) [16]

498A. Husband or relative of husband of a woman subjecting her to cruelty.

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

1. Chapter XXA inserted by Act 46 of 1983, s. 2.

Explanation.-For the purposes of this section, "cruelty" means-
(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

5.2. STATE

5.2.1. JAMMU AND KASHMIR

Protection of Women from Domestic Violence Act, 2010 [17]

6. INDONESIA

Law Regarding Elimination of Violence in Household, 2004 [18]

[16] Penal Code, Act No. (6 October 1860, as amended), available at http://www.wipo.int/wipolex/en/text.jsp?file_id=201592 (last visited December 30, 2018).
[17] Protection of Women from Domestic Violence Act, Act No. XI/2010 (29 April, 2010), available at http://www.jklaw.nic.in/The_Jammu_and_Kashmir_Protection_of_Women_from_Domestic_Violence_Act,2010.pdf (last visited December 30, 2018).
[18] Law Regarding Elimination of Violence in Household, Law No. 23 (22 September 2004), available at https://www.wcwonline.org/pdf/lawcompilation/Indonesia-Regarding-Elimination-of-Violence-in-Household.pdf (last visited December 30, 2018).

[…]

CHAPTER I - GENERAL STIPULATIONS

Article 1

In this Law the definition of:
1. Violence in Household shall be any act against anyone particularly woman, bringing about physical, sexual, psychological misery or suffering, and/or negligence of household including threat to commit act, forcing, or seizure of freedom in a manner against the law within the scope of household.
2. Elimination of Violence in Household shall be the guarantee provided by the state to prevent the occurrence of violence in household, take action against perpetrator of violence in household, and protect the victim of violence in household.
3. Victim shall be the individual experiencing violence and/or threat of violence within the scope of household.
4. Protection shall be all efforts intended to provide a sense of security to the victim to be provided by the family, an advocate, a social institution, the police, district attorney office, a court, or another party either temporarily or based on ruling of a court.
5. Temporary Protection shall be the protection to be directly provided by the police and/or a social institution or another party, prior to the issuance of enactment of protection instruction from a court.
6. Protection Instruction shall be the ruling issued by a court to provide protection to the victim.
7. Minister shall be the Minister whose scope of duty and responsibility is in the woman empowerment sector.

Article 2

(1) The scope of household in this Law shall include:
a. husband, wife, and children;
b. people whose family relationship with the individual referred to under letter a is due to blood relationship, marriage, suckling at the same breast, care, and guardianship, who lives in the household; and/or
c. the individual working to assist the household and living in the household.
(2) People working as referred to under letter c shall be considered as family member during the period while living in the household in question.

CHAPTER II - PRINCIPLES AND PURPOSE

Article 3

Elimination of violence in household shall be done based on these principles:
a. respect for human rights;
b. justice and gender equality;
c. non-discrimination; and
d. victim protection.

Article 4

Elimination of violence in household shall be intended to:
a. prevent all forms of violence in household;
b. protect the victim of violence in household;
c. take action against the perpetrator of violence in household; and
d. maintain the intactness of harmonious and prosperous household.

CHAPTER III - PROHIBITION OF VIOLENCE IN HOUSEHOLD

Article 5

Anyone shall be prohibited to carry out violence in household against an individual within the scope of the household, be means of:
a. physical violence;
b. psychic violence;
c. sexual violence; or
d. negligence of household.

Article 6

The physical violence referred to in Article 5 letter a shall be act bringing about pain, sickness, or serious injury.

Article 7

The psychic violence referred to in Article 5 letter b shall be an act bringing about fear, loss of self-confidence, loss of capability to act, hopelessness, and/or serious psychic suffering on someone.

Article 8
The sexual violence referred to in Article 5 letter c shall include:
a. forcing sexual intercourse carried out against an individual living within the scope of the household;
b. forcing sexual intercourse against one of the individuals within the scope of the household for commercial purpose and/or a certain purpose.

Article 9
(1) Anyone shall prohibited to neglect an individual within the scope of the household, whilst in fact according to the law prevailing on him/her or on account of acceptance or agreement he/she shall be obliged to provide livelihood, treatment, or care for the individual.
(2) The negligence referred to in paragraph (1) shall also apply to anyone bringing about economic dependence by limiting and/or prohibiting an individual to work properly inside or outside the house thereby the victim is placed under the control of the individual.

CHAPTER IV - THE VICTIM RIGHTS

Article 10
The victim shall be entitled to get:
a. protection of the family, police, district attorney office, a court, advocate, social institution, or another party either temporary or based on the ruling on protection instruction of a court;
b. health service in accordance with medical need;
c. special handling related to confidentiality of the victim;
d. counter parting by a social worker and a legal aid worker at each examination process level in accordance with the stipulations of laws and regulations; and
e. spiritual guidance service.

CHAPTER V - OBLIGATIONS OF GOVERNMENT AND PUBLIC

Article 11
The Government shall be responsible in the effort to prevent violence in household.

Article 12
(1) To implement the stipulation set forth in Article 11, the government shall:
- a. Formulate the policy regarding elimination of violence in household;
- b. Organize communication, information, and education regarding violence in household;
- c. Organize socialization and advocacy regarding violence in household; and
- d. Organize gender-sensitive education and training on and the issue of violence in household and shall establish gender- sensitive service standard and accreditation.

(2) The stipulation set forth in paragraph (1) shall be implemented by the minister.
(3) The Minister may conduct coordination with the related agency in implementing the stipulation set forth in paragraph (2).

Article 13
To organize service for the victim, the government and the regional government in accordance with their respective functions and duties may make these efforts:
a. provision of special service room at a police station;
b. provision of officials, health personnel, social workers, and spiritual mentors;
c. preparation and development of service program cooperation system and mechanism involving a party that is easily accessible to the victim; and
d. provision of protection for counterpart, witness, family, and friend of the victim.

Article 14
To organize the effort referred to in Article 13, the government and the regional government in accordance with the function and duties may establish cooperation with the public or another social institution.

Article 15
Anyone hearing, seeing, or knowing the occurrence of violence in household shall be obliged to make efforts in accordance with his/her limit of capability to:
a. prevent the continuation of crime;
b. provide protection to the victim;
c. provide emergency assistance; and
d. assist in the process of submission of application for protection ruling.

CHAPTER VI - PROTECTION

Article 16
(1) Within a period of 1 x 24 (one time twenty-four) hours with effect from the time of knowing or receiving report on violence in household, the police shall be obliged to immediately provide temporary protection to the victim.
(2) The temporary protection referred to in paragraph (1) shall be provided for not longer than 7 (seven) says since the victim is received or handled.
(3) Within a period of 1 x 24 (one time twenty-four) hours with effect from the time of the provision protection referred to in paragraph (1), the police shall be obliged to request protection instruction ruling from a court.

Article 17
In providing temporary protection, the police may cooperate with a health worker, social worker, companion volunteer, and/or spiritual mentor to accompany the victim.

Article 18
The police shall be obliged to furnish information to the victim regarding the right of the victim to get service and companionship.

Article 19
The police shall be obliged to immediately conduct investigation after knowing or receiving report regarding the occurrence of violence in household.

Article 20
The police shall immediately inform the victim regarding:
a. identity of the officer for introduction to the victim;
b. violence in household shall be crime against human dignity; and
c. the obligation of the police to protect the victim.

Article 21
(1) In providing health service to the victim, the health worker must:
a. examine the health of the victim in accordance with the professional standard;
b. prepare written report on the result of examination on the victim and *visum et repertum* at the request of the police investigator or medical certificate having the same legal force and effect as instrument of proof.
(2) The health service referred to in paragraph (1) shall be provided at a health facility owned by the government, a regional government, or the public.

Article 22
(1) In providing service, the social worker must:
a. conduct counseling to strengthen and provide sense of security to the victim;
b. furnish information regarding the rights of the victim to obtain protection from the police and protection instruction ruling from a court;
c. take the victim to a safe house or alternative dwelling; and
d. conduct integrated coordination in providing service to the victim with the police, social service, social institution needed by the victim.
(2) The service of the social worker referred to in paragraph (1) shall be done at a safe house belonging to the government, a regional government, or the public.

Article 23
In providing serviced, the companion volunteer may:
a. Inform the victim of his/her right to get one or several companions;
b. accompany the victim at the level of investigation, prosecution, or
court examination by guiding the victim to objectively and completely describe the violence in household experienced by him/her;
c. listen emphatically to all accounts of the victim so that the victim feels safe being accompanied by the companion; and
d. provide actively psychological and psychic strengthening to the victim.

Article 24
In providing service, the spiritual mentor must provide clarification regarding the rights, obligations, and shall provide faith and piety strengthening to the victim.

Article 25
With regard to provision of protection and service, the advocate shall be obliged to:
a. provide legal consultation covering information on the rights of the
victim and the court process;
b. accompany the victim at the level of investigation, prosecution, and examination in court proceeding and assist the victim to completely describe the violence in household experienced by him/her; or
c. conduct coordination with fellow law enforcers, companion volunteer, and social worker so that the judicial process can proceed appropriately.

Article 26
(1) The victim shall be empowered to report directly the violence in household to the police at the place where the victim is located or at the place of occurrence of the case.
(2) The victim may delegate authority to the family or another individual to report violence in household to the police at the place where the victim is located or at the place of occurrence of the case.

Article 27
In case the victim is a child, the report may be made by the parent, guardian, caretaker, or the child concerned to be made in accordance with the stipulations of the prevailing laws and regulations.

Article 28
The chief judge of the court within a period of 7 (seven) days since receiving the application shall be obliged to issue ruling letter containing protection ruling for the victim and other family members, unless there proper reason.

Article 29
Application to obtain protection instruction letter may be submitted by:
a. the victim or family of the victim;
b. a friend of the victim;
c. the police;
d. the companion volunteer; or
e. the spiritual mentor.

Article 30
(1) Application for protection ruling shall be submitted in verbal or written form.
(2) In case the application is submitted verbally, the clerk of the local district court shall be obliged to register the application.
(3) In case the application for protection instruction is submitted by the family, a friend of the victim, the companion volunteer, or the spiritual mentor, then the victim must give his/her approval.
(4) In certain conditions, the application may be submitted without the approval of the victim.

Article 31
(1) Upon the application of the victim or his/her proxy, the court may consider to:
a. lay down a special condition;
b. amend or annul a special condition of the protection instruction.
(2) The consideration referred to in paragraph (1) may be submitted

together with the process of submission of case of violence in household.

Article 32
(1) The protection instruction may be provided for a period of not longer than 1 (one) year.
(2) The protection instruction may be extended upon a court ruling.
(3) The application for extension of the Protection Instruction shall be submitted 7 (seven) days prior to the expiration of the validity
period.

Article 33
(1) The court may declare one or more addendum to the protection instruction.
(2) In the provision of additional protection instruction, the court shall be obliged to consider the account of the victim, the health worker, the social worker, the companion volunteer, and/or the spiritual mentor.

Article 34
(1) Based on consideration of the danger that may arise, the court may declare one or more additional conditions in the protection instruction.
(2) In the provision of the additional condition in the protection instruction, the court shall be obliged to consider the account of the victim, the health worker, the social worker, the companion volunteer, and/or the spiritual mentor.

Article 35
(1) The police may arrest and to subsequently conduct detention without instruction letter against the perpetrator believed to have violated the protection instruction, although the violence is not committed at the place where the police is assigned.
(2) The arrest and detention referred to in paragraph (1) must be given arrest and detention instruction letter after 1 x 24 (one time twenty-four) hours.
(3) Postponement of arrest shall not apply to the arrest referred to in paragraph (1) and paragraph (2).

Article 36
(1) To provide protection to the victim, the police may arrest the perpetrator with sufficient initial proof for having violated the protection instruction.
(2) The arrest referred to in paragraph (1) may be conti9nued with detention accompanied with detention instruction letter within a period of 1 x 24 (one time twenty-four) hours.

Article 37
(1) The victim, the police or the companion volunteer may submit report in writing regarding the existence of suspicion of violation of the protection instruction.
(2) Incase the court gets the report in writing referred to in paragraph (1), the perpetrator shall be instructed to appear within a period of 3 x 24 (three times twenty-four) hours to undergo examination.
(3) The examination referred to in paragraph (2) shall be done by the court at the place where perpetrator lives together with the victim at the time the violation is believed to occur.

Article 38
(1) If the court knows that the perpetrator has violated the protection instruction and is suspected to have committed further violation, then the Court may require the perpetrator to make a declaration in writing the contents of which shall be in the form of preparedness to comply with the protection instruction.
(2) If the perpetrator still fails to comply with the declaration in writing referred to in paragraph (1), the court may detain the perpetrator for not longer than 30 days.
(3) The detention referred to in paragraph (2) shall be accompanied with detention instruction letter.

CHAPTER VII - RECOVERY OF VICTIM

Article 39
For the purpose of recovery, the victim pay obtain the service of:
a. health worker;
b. social worker
c. companion volunteer; and/or
d. spiritual mentor.

Article 40

(1) The health worker shall be obliged to examine the victim in accordance with the professional standard.
(2) In case the victim needs treatment, the health worker shall be obliged to restore and rehabilitate the health of the victim.

Article 41
The social worker, companion volunteer, and/or spiritual mentor shall be obliged to provide service to the victim in the form of provision of counseling to strengthen and/or provide a sense of security to the victim.

Article 42
For the purpose of restoration on the victim, the health worker, social worker, companion volunteer, and/or spiritual mentor may establish cooperation.

Article 43
Further stipulations regarding the organization of restoration and cooperation efforts shall be provided for with a Government Regulation.

CHAPTER VIII - CRIMINAL STIPULATIONS

Article 44
(1) Anyone committing act of physical violence in household as referred to in Article 5 letter a shall be punished with imprisonment of not longer than 5 (five) years or fine of not more than Rp15,000,000.00 (fifteen million rupiah).
(2) In case the act referred to in paragraph (2) causes the victim to be sick or to sustain serious injury, the perpetrator shall be punished with imprisonment of not longer than 10 (ten) years or fine of not more than Rp30,000,000.00 (thirty million rupiah).
(3) In case the act referred to in paragraph (2) brings about death of the victim, the perpetrator shall be punished with imprisonment of not longer than 15 (fifteen) years or fine of not more than Rp45,000,000.00 (forty-five million rupiah).
(4) In case the act referred to in paragraph (1) is committed by a
husband against the wife or vice versa not bringing about sickness or obstruction to perform work of the position or to earn daily livelihood or activity, the perpetrator shall be punished with imprisonment of not longer than 4 (four) months or fine of not more than Rp5,000,000.00 (five million rupiah).

Article 45
(1) Anyone committing psychic act of violence within the scope of household as referred to in Article 5 letter b shall be punished with imprisonment of not longer than 3 (three) years or fine of not more than Rp9,000,000.00 (nine million rupiah).
(2) In case the act referred to in paragraph (1) is committed by a husband against the wife or vice versa not bringing about sickness or obstruction to perform work of the position or to earn daily livelihood or activity, the perpetrator shall be punished with imprisonment of not longer than 4 (four) months or fine of not more than Rp3,000,000.00 (three million rupiah).

Article 46
Anyone committing sexual violence act as referred to in Article e letter a shall be punished with imprisonment of not longer than 12 (twelve) years or fine of not more than Rp36,000,000.00 (thirty-six million rupiah).

Article 47
Anyone forcing an individual living in the same house to commit sexual intercourse as referred to in Article 8 letter b shall be punished with imprisonment of not shorter than 4 (four) yeas and imprisonment of not longer than 15 (fifteen) years or fine of at least Rp12,000,000.00 (twelve million rupiah) or fine of not more than Rp300,000,000.00 (three hundred million rupiah).

Article 48
In case the act referred to in Article 46 and Article 47 causes the victim to sustain injury providing no hope for healing at all, suffering from mental or spiritual disorder for at least 4 (four) weeks continuously or 1 (one) month not continuously, miscarriage or death of fetus, or causes dysfunction of reproductive organ shall be punished with imprisonment of at least 5 (five) years and imprisonment of not logner than 20 (twenty) years or fine of at least Rp25,000,000.00 (twenty-five million rupiah0 and fine of not more than Rp500,000,000.00 (five hundred million rupiah).

Article 49
Shall be punished with imprisonment of not longer than 3 (three) years or fine of not more than Rp15,000,000.00 (fifteen million rupiah), anyone who:
a. neglect another individual within the scope of household referred
to in Article 9 paragraph (1);
b. neglect another individual referred to in Article 9 paragraph (2).

Article 50
Besides the punishment referred to in this Chapter, the judge may impose additional sentence in the form of:
a. limitation of movement of the perpetrator intended to get the perpetrator away from the victim at a certain distance and within a certain period, or limitation of certain rights of the perpetrator;
b. ruling the perpetrator to undergo counseling program under the supervision of a certain institution.

Article 51
The physical violence crime referred to in Article 44 paragraph (4) shall constitute offense warranting complaint.

Article 52
The psychic violence crime referred to in Article 45 paragraph (2) shall constitute offense warranting complaint.

Article 53
The sexual violence crime referred to in Article 46 committed by a husband on the wife or vice versa shall constitute offense warranting complaint.

CHAPTER IX - OTHER STIPULATIONS

Article 54
Investigation, prosecution, and examination in a trial proceeding shall be conducted according to the stipulations of the prevailing criminal procedural law, unless stipulated otherwise in this Law.

Article 55
As one of the legitimate instruments of proof, the testimony of a victim witness alone shall be adequate to proof that the accused is guilty, if accompanied with another legitimate instrument of proof.

CHAPTER X - CONCLUDING STIPULATIONS

Article 56
This law shall take effect on the date of legislation.
To ensure that everyone can know about this law, it is instructed that this law be legislated by inserting in the State Gazette of the Republic of Indonesia.
Ratified in Jakarta on 22nd September 2004

Elucidation on the Law Regarding Elimination of Violence in Household, 2004 [19]

[…]

Article 2
Paragraph (1) Letter a
The definition of child in this stipulation includes adopted child and step-child.
Letter b
The definition of marriage relationship in this stipulation is for example parents-in-law, children in-law, brothers/sisters-in-law, and relationship between parents-in-law.

Article 3
Letter b
The definition of gender equality is a situation in which women and men enjoy equal status and have the same condition to realize fully their human rights and potentials for household intactness and continuity proportionally.

Article 8
Letter a
The definition of "sexual violence" in this stipulation is any act in the form of forcing sexual intercourse, forcing sexual intercourse with a method that is improper and/or not liked, forcing of sexual relationship with another individual for commercial purpose and/or certain purpose.

[19] Elucidation on Law of the Republic of Indonesia Number 23 of Year 2004 Regarding Elimination of Violence in Household, available at https://www.wcwonline.org/pdf/lawcompilation/Indonesia-Regarding-Elimination-of-Violence-in-Household.pdf (last visited December 30, 2018).

.Article 10
Letter a
The definition of "social institution" is a social institution or organization concerned with violence in household, such as legal aid institutions.
Letter d
The definition of "social worker" is someone having professional skill in social work obtained through formal education or practical experience in the social work/social welfare sector officially recognized by the government and performing social work professional duties.

Article 13
Letter b
The definition of "health worker" is any individual devoting himself/herself in the health sector and possessing knowledge and/or skill through education in the health sector that for a certain of type requires authority to carry out health action, as referred to in Law number 23 of 1992 regarding Health.

Article 14 The definition of cooperation is as realization of public participation.

Article 17 The definition of "companion volunteer" in this stipulation is an individual having expertise to conduct counseling, therapy, and advocacy for strengthening and restoration of the victim of violence.

Article 22 Paragraph (1)
Letter c
The definition of "safe house" in this stipulation is temporary dwelling place used to provide protection to the victim in accordance with the designated standard. For example, trauma center at the Ministry of Social Affairs. The definition of "alternative dwelling place" in this stipulation is dwelling place for the victim who is forced to be placed to be separated and/or to be far from the perpetrator.

7. IRELAND

Domestic Violence Act, 2018 [20]

[…]

DOMESTIC VIOLENCE ACT 2018

An Act to consolidate the law on domestic violence; to provide for emergency barring orders in certain circumstances; to provide for evidence to be given through television link in certain proceedings; to provide for the right of an applicant to be accompanied in certain proceedings; to provide for the obtaining of the views of a child in certain proceedings; to provide for the giving of information on support services to victims of domestic violence; to provide for the making of recommendations for engagement with certain services by respondents; to provide for restrictions on those present in court during certain proceedings; to prohibit the publication or broadcast of certain matters; to provide for an offence of forced marriage; to repeal provisions for exemption, in certain cases, from minimum age requirements for marriage; for those and other purposes to repeal the Domestic Violence Act 1996 and the Domestic Violence (Amendment) Act 2002 and to provide for the consequential amendment of certain other enactments; and to provide for related matters. [8*th May*, 2018]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement 1.

(1) This Act may be cited as the Domestic Violence Act 2018.

[20] Domestic Violence Act, No. 6 (8 May 2018), available at https://data.oireachtas.ie/ie/oireachtas/act/2018/6/eng/enacted/a0618.pdf , (last visited December 30, 2018).

(2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions, and for the repeal of different enactments or provisions of enactments effected by *section 3*.

Interpretation **2.** (1) In this Act—

"Act of 1964" means the Guardianship of Infants Act 1964;

"Act of 1976" means the Family Home Protection Act 1976;

"Act of 1991" means the Child Care Act 1991;

"Act of 1995" means the Family Law Act 1995;

"Act of 1996" means the Domestic Violence Act 1996;

"Act of 2004" means the Civil Liability and Courts Act 2004;

"Act of 2010" means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

"Act of 2013" means the Courts and Civil Law (Miscellaneous Provisions) Act 2013; "Agency" means the Child and Family Agency;

"applicant" has the meaning assigned to it by *section 6*, *section 7* or *section 9*, as the case may be, and where—

(a) an interim barring order has been made the applicant for the barring order to whom the interim barring order relates shall be deemed to be the applicant for that interim barring order, and

(b) a protection order has been made the applicant for the safety order or the barring order to whom the protection order relates shall be deemed to be the applicant for that protection order;

"barring order" has the meaning assigned to it by *section 7(2)*; "child" means a person who has not attained the age of 18 years other than a person who is or has been married;

"civil partner" has the meaning assigned to it by section 3 of the Act of 2010 and for the purposes of this Act includes a person who was a civil partner in a civil partnership that has been dissolved under the Act of 2010 but does not include a person who was in a civil partnership that has been dissolved by reason only of the application of section 109A of the Act of 2010;

"civil proceedings under this Act" means—

(a) proceedings relating to an application for the making, variation or discharge of a safety order, a barring order or an emergency barring order,

(b) proceedings, consequent on the making of an application for a barring order, for the making, variation or discharge of an interim barring order which relates to the application,

(c) proceedings, consequent on the making of an application for a safety order or a barring order, for the making, variation or discharge of a protection order which relates to the application,

(d) proceedings by way of appeal or case stated which are related to proceedings to which *paragraph (a)*, *(b)* or *(c)* applies;

"court" means the District Court or the Circuit Court;

"dependent person", in relation to the applicant or the respondent or both of them, as the case may be, means any child—

(a) of the applicant and the respondent or in respect of whom the applicant and the respondent are *in loco parentis*,

(b) of the applicant or in respect of whom the applicant is *in loco parentis*, or

(c) of the respondent or in respect of whom the respondent is *in loco parentis* and—

(i) where the child is a child of the respondent, the applicant is *in loco parentis* to that child, or

(ii) where the respondent is *in loco parentis* to the child, that child is a child of the applicant, who is not of full age, or, if the child has attained full age is suffering from a mental or physical disability to such an extent that it is not reasonably possible for him or her to live independently of the applicant;

"emergency barring order" has the meaning assigned to it by *section 9(3)*; "full age" has the same meaning as it has in the Age of Majority Act 1985; "interim barring order" has the meaning assigned to it by *section 8(1)*; "Minister" means the Minister for Justice and Equality;

"prohibited degree of relationship" shall be construed in accordance with *subsection (2)*;

"protection order" has the meaning assigned to it by *section 10(1)*;

"respondent" has the meaning assigned to it by *section 6*, *section 7* or *section 9*, as the case may be, and where—

(a) an interim barring order has been made the respondent to the application for the barring order to which the interim barring order relates shall be deemed to be the respondent to that interim barring order, and

(b) a protection order has been made the respondent to the application for the safety order or the barring order to which the protection order relates shall be deemed to be the respondent to that protection order;

"safety order" has the meaning assigned to it by *section 6(2)*; "specified order" means—

(a) a safety order, barring order, interim barring order, emergency barring order or protection order, or

(b) an order varying or discharging an order referred to in *paragraph (a)*;

"spouse" includes a person who was a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State; "welfare" includes physical and psychological welfare.

(2) For the purposes of this Act, two people are related to each other within a prohibited degree of relationship if they would be prohibited from marrying each other in the State by reason of that relationship.

(3) For the avoidance of doubt, a relationship does not cease to be an intimate relationship for the purposes of this Act by reason only that it is no longer sexual in nature.

Repeals

3. The following are repealed:

(a) section 51 of the Family Law (Divorce) Act 1996;

(b) the Domestic Violence Act 1996;

(c) the Domestic Violence (Amendment) Act 2002.

Expenses

4. The expenses incurred by the Minister and the Minister for Children and Youth Affairs in the administration of this Act shall, to such an extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

PART 2

COURT PROCEEDINGS

Factors or circumstances to which court shall have regard in determining applications for specified orders

5. (1) Nothing in *subsection (2)* shall be construed as limiting the power of a court to make a specified order under this Act.

(2) In determining an application for a specified order, the court shall have regard to all the factors or circumstances that it

considers may have a bearing on the application including where relevant:

(a) any history of violence inflicted by the respondent on the applicant or a dependent person;

(b) any conviction of the respondent for an offence under the Criminal Justice (Theft and Fraud Offences) Act 2001 that involves loss to, or is to the prejudice of, the applicant or a dependent person;

(c) any conviction of the respondent for an offence that involves violence or the threat of violence to any person;

(d) whether any violence inflicted by the respondent on the applicant or a dependent person is increasing, or has increased, in severity or frequency over time;

(e) any exposure of any dependent person to violence inflicted by the respondent on the applicant or any other dependent person;

(f) any previous order under this Act or the Act of 1996 made against the respondent with regard to any person;

(g) any history of animal cruelty by the respondent;

(h) any destruction or damage caused by the respondent to—

(i) the personal property of the applicant, the respondent or a dependent person, or

(ii) any place where the applicant or a dependent person resides;

(i) any action of the respondent, not being a criminal offence, which puts the applicant or a dependent person in fear for his or her own safety or welfare;

(j) any recent separation between the applicant and the respondent;

(k) substance abuse, including abuse of alcohol, by the respondent, the applicant or a dependent person;

(l) access to weapons by the respondent, the applicant or a dependent person;

(m) the applicant's perception of the risk to his or her own safety or welfare due to the behaviour of the respondent;

(n) the age and state of health (including pregnancy) of the applicant or any dependent person;

(o) any evidence of deterioration in the physical, psychological or emotional welfare of the applicant or a dependent person which is caused directly by fear of the behaviour of the respondent;

(p) whether the applicant is economically dependent on the respondent;

(q) any matter required to be considered by the court under, and in accordance with, *subsections (2)* and *(3)* of *section 29*;

(r) any other matter which appears to the court to be relevant to the safety or welfare of the applicant and any dependent person.

Safety order

6. (1) (a) In this section—

"applicant" means a person (other than the Agency) who has applied, or a person on whose behalf the Agency has applied by virtue of *section 11*, for a safety order against another person (in this section referred to as "the respondent") and the person so applying or on whose behalf the Agency has so applied—

(i) is the spouse of the respondent,
(ii) (ii) is the civil partner of the respondent,
(iii) is not the spouse or civil partner of the respondent and is not related to the respondent within a prohibited degree of relationship, but was in an intimate relationship with the respondent prior to the application for the safety order,
(iv) is a parent of the respondent and the respondent is of full age and is not, in relation to the parent, a dependent person,

(v) being of full age, resides with the respondent in a relationship the basis of which is not primarily contractual, or
(vi) is a parent of a child whose other parent is the respondent;

"kindred", in relation to two or more persons, means the relationship of each of those persons to the other person or to the rest of those persons by blood, adoption, marriage or civil partnership.

(b) For the purposes of *paragraph (a)(v)*, in deciding whether or not a person is residing with another person in a relationship the basis of which is not primarily contractual, the court shall have regard to—

(i) the length of time those persons are residing together,

(ii) the nature of any duties performed by either person for the other person or any kindred person of that other person,

(iii) the absence of any profit or of any significant profit made by either person from any monetary or other consideration given by the other person in respect of residing at the place concerned, and

(iv) any other matters the court considers appropriate in the circumstances.

(2) Where the court, on application to it, is of the opinion that there are reasonable grounds for believing that the safety or welfare of an applicant or a dependent person so requires, it shall, subject to *section 12*, by order (in this Act referred to as a "safety order") prohibit the respondent to the application from doing one or more of the following:

(a) using or threatening to use violence against, molesting or putting in fear, the applicant or the dependent person;

(b) if he or she is residing at a place other than the place where the applicant or that dependent person resides, watching or besetting a place where the applicant or the dependent person resides;

(c) following or communicating (including by electronic means) with the applicant or the dependent person.

(3) A safety order may be subject to such exceptions and conditions as the court may specify.

(4) Subject to *subsection (5)* and *section 21*, a safety order made by the District Court or by the Circuit Court on appeal from the District Court shall expire 5 years after the date of the making of the order or on the expiration of such shorter period as the court may provide for in the order.

(5) On or before the expiration of a safety order to which *subsection (4)* relates, a further safety order may be made by the District Court, or by the Circuit Court on appeal from the District Court, for a period of 5 years or such shorter period as the court may provide for in the order which further order shall take effect from the date of expiration of the first-mentioned order.

(6) On or before the expiration of a safety order, other than a safety order to which *subsection (4)* relates, a further safety order may be made by the District Court, or by the Circuit Court on appeal from the District Court, for a period of 5 years or such shorter period as the court may provide for in the order and that further safety order shall take effect from the date of expiration of the first-mentioned order.

(7) The court shall not, on an application for a barring order, make a safety order unless there is also an application for a safety order before the court concerning the same matter.

(8) Where a safety order has been made, any of the following persons may apply to have the order varied: (a) where the application for the order was made by the Agency in respect of a dependent person by virtue of *section 11*—

(i) the Agency,

(ii) the person referred to in *subsection (1)(c)* of that section, or

(iii) the respondent to that application;

(b) where the application for the order was made by the Agency in respect of any other person (other than a dependent person referred to in *paragraph (a)*) by virtue of *section 11*—

(i) the Agency,

(ii) the applicant for the order, or

(iii) the respondent to that application;

(c) in any other case—

(i) the applicant for the order, or

(ii) the respondent to the application for that order.

(9) The court may, upon hearing an application under *subsection (8)*, make such order varying the safety order as it considers appropriate in the circumstances.

(10) For the purposes of making an application under *subsection (8)*, a safety order made by a court on appeal from another court shall be treated as if it had been made by that other court.

Barring order

7. (1) In this section "applicant" means a person (other than the Agency) who has applied, or a person on whose behalf the Agency has applied by virtue of *section 11*, for a barring order against another person (in this section referred to as "the respondent") and the person so applying or on whose behalf the Agency has so applied—

(a) is the spouse of the respondent,

(b) is the civil partner of the respondent,

(c) is not the spouse or civil partner of the respondent and is not related to the respondent within a prohibited degree of relationship but lived with the respondent in an intimate relationship prior to the application for the barring order, or

(d) is a parent of the respondent and the respondent is a person of full age who is not, in relation to the parent, a dependent person.

(2) (a) Where the court, on application to it, is of the opinion, having taken into account any order made or to be made to which *paragraph (a)* or *(d)* of *section 15(2)* relates, that there are reasonable grounds for believing that the safety or welfare of the applicant or a dependent person so requires, it shall, subject to *section 12*, by order (in this Act referred to as a "barring order")—

(i) direct the respondent, if residing at a place where the applicant or the dependent person resides, to leave the place, and

(ii) whether the respondent is or is not residing at a place where the applicant or the dependent person resides, prohibit the respondent from entering the place until further order of the court or until such other time as the court shall specify.

(b) In deciding whether or not to make a barring order the court shall have regard to the safety and welfare of any dependent person in respect of whom the respondent is a parent or *in loco parentis*, where the dependent person is residing at the place to which the order, if made, would relate.

(3) A barring order may, if the court thinks fit, prohibit the respondent from doing one or more of the following:

(a) using or threatening to use violence against, molesting or putting in fear, the applicant or a dependent person;

(b) attending at or in the vicinity of, or watching or besetting, a place where the applicant or a dependent person resides;

(c) following or communicating (including by electronic means) with the applicant or a dependent person.

(4) A barring order may be subject to such exceptions and conditions as the court may specify.

(5) For the purposes of *subsections (2)* and *(3)* an applicant or a dependent person who would, but for the conduct of the

respondent, be residing at a place shall be treated as residing at that place.

(6) (a) In respect of a person who is an applicant by virtue of *paragraph (c)* or *(d)* of *subsection (1)*, the court shall not make a barring order in respect of the place where the applicant or dependent person resides where the respondent has a legal or beneficial interest in that place and—

(i) the applicant has no legal or beneficial interest, or

(ii) the applicant's legal or beneficial interest is, in the opinion of the court, less than that of the respondent.

(b) Where in proceedings to which this section applies the applicant states the belief, in respect of the place to which *paragraph (a)* relates, that he or she has a legal or beneficial interest in that place which is not less than that of the respondent, then that belief shall be admissible in evidence.

(7) Without prejudice to *section 32*, nothing in this Act shall be construed as affecting the rights of any person, other than the applicant or the respondent, who has a legal or beneficial interest in a place in respect of which the court has made an order under this section.

(8) A barring order, if made by the District Court, or by the Circuit Court on appeal from the District Court, shall, subject to *subsection (9)* and *section 21*, expire three years after the date of its making or on the expiration of such shorter period as the court may provide for in the order.

(9) On or before the expiration of a barring order to which *subsection (8)* relates, a further barring order may be made by the District Court, or by the Circuit Court on appeal from the District Court, for a period of three years or such shorter period as the court may provide for in the order and that further barring order shall take effect from the expiration of the first-mentioned order.

(10) On or before the expiration of a barring order, other than a barring order to which *subsection (8)* relates, a further barring order may be made by the District Court, or by the Circuit Court on appeal from the District Court, for a period of three years or such shorter period as the court may provide for in the order and that further barring order shall take effect from the date of expiration of the first-mentioned order.

(11) The court shall not, on an application for a safety order, make a barring order unless there is also an application for a barring order before the court concerning the same matter.

(12) Where a barring order has been made, any of the following may apply to have the order varied:

(a) where the application for the order was made by the Agency in respect of a dependent person by virtue of *section 11*—

(i) the Agency,

(ii) the person referred to in *subsection (1)(c)* of that section, or

(iii) the respondent to that application;

(b) where the application for the order was made by the Agency in respect of any other person (other than a dependent person referred to in *paragraph (a)*) by virtue of *section 11*—

(i) theAgency,

(ii) the applicant for the order, or

(iii) the respondent to that application;

(c) in any other case—

(i) the applicant for the order, or

(ii) the respondent to the application for that order.

(13) The court may, upon hearing an application under *subsection (12)*, make such order varying the barring order as it

considers appropriate in the circumstances.

(14) For the purposes of making an application under *subsection (12)*, a barring order made by a court on appeal from another court shall be treated as if it had been made by that other court.

Interim barring order

8. (1) Where the court, on application to it for a barring order or between the making of that application and its determination, is of the opinion, having taken into account any order made or to be made to which *paragraph (a)* or *(d)* of *section 15(2)* relates, that there are reasonable grounds for believing—

(a) there is an immediate risk of significant harm to the applicant or a dependent person, and

(b) the making of a protection order would not be sufficient to protect the applicant or a dependent person, the court shall, subject to *section 12*, by order (in this Act referred to as an "interim barring order")—

(i) direct the respondent, if residing at a place where the applicant or the dependent person resides, to leave the place, and

(ii) whether the respondent is or is not residing at a place where the applicant or the dependent person resides, prohibit that respondent from entering the place until further order of the court or until such other time as the court shall specify.

(2) An interim barring order may, if the court thinks fit, prohibit the respondent from doing one or more of the following:

(a) using or threatening to use violence against, molesting or putting in fear, the applicant or a dependent person;

(b) attending at or in the vicinity of, or watching or besetting, a place where the applicant or a dependent person resides;

(c) following or communicating (including by electronic means) with the applicant or a dependent person.

(3) An interim barring order may be made subject to such exceptions and conditions as the court may specify.

(4) For the purposes of *subsections (1)* and *(2)*, an applicant or a dependent person who would, but for the conduct of the respondent, be residing at a place shall be treated as residing at that place.

(5) (a) In respect of a person who is an applicant by virtue of *paragraph (c)* or *(d)* of *subsection (1)* of *section 7*, the court shall not make an interim barring order in respect of the place where the applicant or dependent person resides where the respondent has a legal or beneficial interest in that place but—

(i) the applicant has no legal or beneficial interest, or

(ii) the applicant's legal or beneficial interest is, in the opinion of the court, less than that of the respondent.

(b) Where in proceedings to which this section applies the applicant states the belief, in respect of the place to which *paragraph (a)* relates, that he or she has a legal or beneficial interest in that place which is not less than that of the respondent, then that belief shall be admissible in evidence.

(6) Without prejudice to *section 32*, nothing in this Act shall be construed as affecting the rights of any person, other than the applicant or the respondent, who has a legal or beneficial interest in a place in respect of which the court has made an order under this section.

(7) Where an interim barring order has been made, any of the following may apply to have the order varied:

(a) where the application for the order was made by the Agency in respect of a dependent person by virtue of *section 11*—

(i) the Agency,

(ii) the person referred to in *subsection (1)(c)* of that section, or

(iii) the respondent to that application;

(b) where the application for the order was made by the Agency in respect of any other person (other than a dependent person referred to in *paragraph (a)*) by virtue of *section 11*—

(i) the Agency,

(ii) the applicant for the order, or

(iii) the respondent to that application;

(c) in any other case—

(i) the applicant for the order, or

(ii) the respondent to the application for that order.

(8) The court may, upon hearing an application under *subsection (7)*, make such order varying the interim barring order as it considers appropriate in the circumstances.

(9) For the purposes of an application under *subsection (7)*, an interim barring order made by a court on appeal from another court shall be treated as if it had been made by that other court.

(10) An interim barring order may be made *ex parte* where, having regard to the circumstances of the particular case, the court considers it necessary or expedient to do so in the interests of justice.

(11) Where an application for an interim barring order is made *ex parte*, the application shall be grounded on an affidavit or information sworn by the applicant.

(12) An affidavit or information sworn by the applicant under *subsection (11)* shall state whether the property from which it is sought to bar the respondent on an interim basis is also a place of business of the respondent or includes or abuts a place of business of the respondent.

(13) If an interim barring order is made *ex parte*—

(a) a note of evidence given by the applicant shall be prepared forthwith—

(i) by the judge,

(ii) by the applicant or the applicant's solicitor and approved by the judge, or

(iii) as otherwise directed by the judge, and

(b) a copy of the interim barring order, affidavit or information sworn under *subsection (11)* and note of evidence shall be served on the respondent as soon as practicable.

(14) If an interim barring order is made *ex parte* that order shall have effect for a period, not exceeding 8 working days, specified in the order unless on application by the applicant for the barring order and on notice to the respondent the interim barring order is confirmed within that 8 day period by order of the court.

(15) An interim barring order made *ex parte* shall contain a statement of the effect of *subsection (14)*.

(16) An interim barring order ceases to have effect on the determination by the court of the application for the barring order.

Emergency barring order

9. (1) In this section, "applicant" means a person (other than the Agency) who has applied, or on whose behalf the Agency has applied by virtue of *section 11*, for an emergency barring order against another person (in this section called "the respondent") and the person so applying or on whose behalf the Agency has so applied—

(a) is not the spouse or civil partner of the respondent and is not related to the respondent within a prohibited degree of relationship but lived with the respondent in an intimate relationship prior to the application for the emergency barring order, or

(b) is a parent of the respondent and the respondent is a person of full age who is not, in relation to the parent, a dependent person.

(2) The court may only make an order under this section in respect of a place where an applicant or a dependent person resides and where—

(a) the respondent has a legal or beneficial interest in the place but the applicant has no such interest, or

(b) the applicant's legal or beneficial interest is, in the opinion of the court, less than that of the respondent.

(3) Subject to *subsection (2)*, where the court, on application to it, is of the opinion, having taken into account any order made or to be made to which *paragraph (a)* or *(d)* of *section 15(2)* relates, that there are reasonable grounds for believing that there is an immediate risk of significant harm to the applicant or a dependent person if an order is not made immediately, the court shall, subject to *section 12*, by order (in this Act referred to as an "emergency barring order")—

(a) direct the respondent, if residing at the place where the applicant or that dependent person resides, to leave that place, and (b) whether the respondent is or is not residing at the place where the applicant or that dependent person resides, prohibit that respondent from entering that place for such period, not exceeding 8 working days, as is specified in the order.

(4) An emergency barring order may, if the court thinks fit, prohibit the respondent from doing one or more of the following:

(a) using or threatening to use violence against, molesting or putting in fear, the applicant or a dependent person;

(b) attending at or in the vicinity of, or watching or besetting, a place where the applicant or a dependent person resides;

(c) following or communicating (including by electronic means) with the applicant or a dependent person.

(5) An emergency barring order may be made subject to such exceptions and conditions as the court may specify.

(6) For the purposes of *subsections (2)* and *(3)*, an applicant or a dependent person who would, but for the conduct of the respondent, be residing at a place shall be treated as residing at that place.

(7) Without prejudice to *section 32*, nothing in this Act shall be construed as affecting the rights of any person, other than the applicant or the respondent, who has a legal or beneficial interest in a place in respect of which the court has made an order under this section.

(8) Where an emergency barring order has been made, any of the following may apply to have the order varied:

(a) where the application for the order was made by the Agency in respect of a dependent person by virtue of *section 11*—

(i) the Agency,

(ii) the person referred to in *subsection (1)(c)* of that section, or

(iii) the respondent to that application;

(b) where the application for the order was made by the Agency in respect of any other person (other than a dependent person referred to in *paragraph (a)*) by virtue of *section 11*—

(i) theAgency,

(ii) the applicant for the order, or

(iii) the respondent to that application;

(c) in any other case—

(i) the applicant for the order, or

(ii) the respondent to the application for that order.

(9) The court may, upon hearing an application under *subsection (8)*, make such order varying the emergency barring order as

it considers appropriate in the circumstances.

(10) For the purposes of making an application under *subsection (8)*, an emergency barring order made by a court on appeal from another court shall be treated as if it had been made by that other court.

(11) An emergency barring order may be made *ex parte* where, having regard to the circumstances of the particular case, the court considers it necessary or expedient to do so in the interests of justice.

(12) Where an application for an emergency barring order is made *ex parte*, the application shall be grounded on an affidavit or information sworn by the applicant.

(13) An affidavit or information sworn by the applicant under *subsection (12)* shall state whether the property from which it is sought to bar the respondent on an emergency basis is also a place of business of the respondent or includes or abuts a place of business of the respondent.

(14) If an emergency barring order is made *ex parte*—

(a) a note of evidence given by the applicant shall be prepared forthwith—

(i) by the judge,

(ii) by the applicant or the applicant's solicitor and approved by the judge, or

(iii) as otherwise directed by the judge, and

(b) a copy of the emergency barring order, affidavit or information sworn under *subsection (12)* and note of evidence shall be served on the respondent as soon as practicable.

(15) Where an emergency barring order is made *ex parte* it shall have effect for such period, not exceeding 8 working days, as is specified in the order.

(16) (a) Subject to *paragraph (b)*, where an emergency barring order has been made against a respondent, no further emergency barring order shall be made against the respondent on application by or on behalf of the same applicant unless a period of at least one month has elapsed since the expiration of the last day of the period specified in the first-mentioned order.

(b) A further emergency barring order may be made against the respondent within the one month period referred to in *paragraph (a)* where the court is satisfied, having due regard to the circumstances of the respondent, that there are exceptional circumstances which justify the making of a further order.

Protection order

10. (1) Where the court, on application to it for a safety order or a barring order or between the making of that application and its determination, is of the opinion that there are reasonable grounds for believing that the safety or welfare of the applicant for the order concerned or of a dependent person so requires, the court shall by order (in this Act referred to as a "protection order") prohibit the respondent to the application from doing one or more of the following:

(a) using or threatening to use violence against, molesting or putting in fear, the applicant or the dependent person;

(b) if he or she is residing at a place other than the place where the applicant or the dependent person resides, watching or besetting the place where the applicant or the dependent person resides;

(c) following or communicating (including by electronic means) with the applicant or that dependent person.

(2) A protection order may be subject to such exceptions and conditions as the court may specify.

(3) For the purposes of this section, an applicant or a dependent person who would, but for the conduct of the respondent, be residing at a place shall be treated as residing at that place.

(4) Where a protection order has been made, any of the following may apply to have the order varied:

(a) where the application for the order was made by the Agency in respect of a dependent person by virtue of *section 11*—

(i) the Agency,

(ii) the person referred to in *subsection (1)(c)* of that section, or

(iii) the respondent to that application;

(b) where the application for the order was made by the Agency in respect of any other person (other than a dependent person referred to in *paragraph (a)*) by virtue of *section 11*—

(i) the Agency,

(ii) the applicant for that order, or

(iii) the respondent to that application;

(c) in any other case—

(i) the applicant for the order, or

(ii) the respondent to the application for that order.

(5) The court may, upon hearing an application under *subsection (4)*, make such order varying the protection order as it considers appropriate in the circumstances.

(6) For the purposes of making an application under *subsection (4)*, a protection order made by a court on appeal from another court shall be treated as if it had been made by that other court.

(7) A protection order may be made *ex parte* where, having regard to the circumstances of the particular case, the court considers it necessary or expedient to do so in the interests of justice.

(8) Where an application for a protection order is made *ex parte*, the application shall be grounded on an affidavit or information sworn by the applicant.

(9) If a protection order is made *ex parte*—

(a) a note of evidence given by the applicant shall be prepared forthwith—

(i) by the judge,

(ii) by the applicant or the applicant's solicitor and approved by the judge, or

(iii) as otherwise directed by the judge, and (b) a copy of the protection order, affidavit or information sworn under *subsection (8)* and note of evidence shall be served on the respondent as soon as practicable.

(10) A protection order shall cease to have effect on the determination by the court of the application for a safety order or a barring order.

Power of the Agency to apply for certain orders

11. (1) Subject to *subsections (2)*, *(3)* and *(4)*, this section applies where the Agency—

(a) becomes aware of an alleged incident or series of incidents which in its opinion puts into doubt the safety or welfare of a person (in this section referred to as the "aggrieved person"),

(b) has reasonable cause to believe that the aggrieved person has been subjected to molestation, violence or threatened violence or otherwise put in fear of his or her safety or welfare,

(c) is of the opinion that there are reasonable grounds for believing that, where appropriate in the circumstances, a person would be deterred or prevented as a consequence of molestation, violence or threatened violence by the respondent or fear of the respondent from pursuing an application for a safety order, a barring order or an emergency barring order on his

or her own behalf or on behalf of a dependent person, and

(d) considers, having ascertained as far as is reasonably practicable the wishes of the aggrieved person or, where the aggrieved person is a dependent person, of the person to whom *paragraph (c)* relates in respect of the dependent person, that it is appropriate in all the circumstances to apply for a safety order, a barring order or an emergency barring order in accordance with this Act on behalf of the aggrieved person.

(2) The Agency may apply to the court on behalf of the aggrieved person for a safety order, a barring order or an emergency barring order for which the aggrieved person or, where the aggrieved person is a dependent person, the person to whom *subsection (1)(c)* relates in respect of that dependent person, could have applied.

(3) Where an application is made by the Agency in accordance with this section, the court shall, in determining whether, and if so to what extent, to exercise any of its functions under *section 6*, *7*, *8*, *9*, *10* or *21*, have regard to any wishes expressed by—

(a) the aggrieved person, or

(b) where the aggrieved person is a dependent person, the person to whom *subsection (1)(c)* relates in respect of the dependent person and, where the court considers it appropriate, the dependent person.

(4) The provisions of *paragraphs (a)* and *(b)* of *subsection (1)* need not be complied with where an application relates to an aggrieved person who is a dependent person, or in respect of so much of an application as relates to an aggrieved person who is a dependent person, if the court is of the opinion that there is reasonable cause to believe that—

(a) the dependent person has been or is being assaulted, ill-treated, sexually abused or seriously neglected, or

(b) the dependent person's health, development or welfare has been, is being or is likely to be avoidably impaired or seriously neglected,

and that if the order is made the likelihood of harm to that dependent person will not arise or will be materially diminished.

(5) The court shall not make a barring order, an interim barring order or an emergency barring order where the aggrieved person is a dependent person unless the Agency satisfies the court that the person to whom *subsection (1)(c)* relates in respect of that dependent person is willing and able to provide reasonable care for that dependent person.

Power to make care order or supervision order under Child Care Act 1991

12. (1) Where in proceedings for an order under this Act, other than proceedings to which *section 11* relates, it appears to the court that it may be appropriate for a care order or a supervision order to be made with respect to a dependent person concerned in the proceedings, the court may, of its own motion or on the application of a person concerned, adjourn the proceedings and direct the Agency to undertake an investigation or, as the case may be, further investigations of that dependent person's circumstances.

(2) Where proceedings are adjourned and the court gives a direction under *subsection (1)*, the court may give such directions under the Act of 1991 as it sees fit as to the care and custody of, and may make a supervision order in respect of, the dependent person concerned pending the outcome of the investigation by the Agency.

(3) Where the court gives a direction under *subsection (1)* in respect of a dependent person, the Agency shall undertake an investigation of the dependent person's circumstances and shall consider if it should— (a) apply for a care order or a supervision order, (b) provide any service or assistance for that dependent person's family, or (c) take any other action in respect of that dependent person.

(4) Where the Agency undertakes an investigation under this section and decides not to apply for a care order or supervision order with respect to the dependent person concerned, it shall inform the court of—

(a) its reasons for so deciding,

(b) any service or assistance it has provided, or intends to provide, for that dependent person and his or her family, and

(c) any other action which it has taken, or proposes to take, with respect to that dependent person.

(5) In this section— "care order" means a care order under the Act of 1991; "supervision order" means a supervision order

under the Act of 1991.

Application of section 9(2) of Family Home Protection Act 1976

13. (1) Where an application for a barring order or a safety order is made against the spouse of the applicant, subsection (2) of section 9 of the Act of 1976 shall apply—

(a) between the making of the application for the order and the determination of that application, and

(b) if that order is made, while that order is in force,

as it applies between the institution and final determination of matrimonial proceedings to which that section relates.

(2) The court which is empowered under subsection (2)(b) of section 9 of the Act of 1976 to grant permission for a disposition or removal of household chattels within the meaning of that section is, notwithstanding anything in section 10 of that Act, the court before which the proceedings, including proceedings for a barring order or a safety order, have been instituted.

Application of section 34(2) of Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

14. (1) Where an application for a barring order or a safety order is made against the civil partner of the applicant, subsection (2) of section 34 of the Act of 2010 shall apply—

(a) between the making of the application for the order and its determination, and

(b) if that order is made, while that order is in force,

as it applies between the institution and final determination of dissolution proceedings to which that section relates.

(2) The court which is empowered under subsection (2)(b) of section 34 of the Act of 2010 to grant permission for a disposition or removal of household chattels within the meaning of that section is, notwithstanding anything in section 140 of that Act, the court before which the proceedings, including proceedings for a barring order or a safety order, have been instituted.

Hearing of applications under Acts together

15. (1) Where an application is made to the court for an order under this Act, the court may, on application to it in the same proceedings and without the institution of proceedings under one or more of the Acts referred to in *subsection (2)*, if it appears to the court to be proper to do so, make one or more of the orders specified in that subsection.

(2) The orders specified for the purposes of *subsection (1)* are orders made under—

(a) section 11 of the Act of 1964,

(b) section 5, 5A, 5B, 6, 7 or 21A of the Family Law (Maintenance of Spouses and Children) Act 1976,

(c) section 5 or 9 of the Act of 1976,

(d) the Act of 1991, or

(e) section 30, 34 or 45 of the Act of 2010.

Protection against cross-examination by applicant or respondent

16. (1) Where—

(a) an application is made to a court for a specified order,

(b) a person under the age of 18 years is to give evidence, and

(c) the applicant or respondent proposes to cross-examine the person referred to in *paragraph (b)* personally,

the court shall direct that the applicant or the respondent, as the case may be, may not personally cross-examine the witness unless the court is of the opinion that the interests of justice require the applicant or respondent to conduct the cross-examination personally.

(2) Where—

(a) an application is made to a court for a specified order,

(b) a person who has attained the age of 18 years (being the applicant for the specified order, an aggrieved person under *section 11*, a dependent person or the respondent to that application) is to give evidence, and

(c) the applicant or respondent proposes to cross-examine the person referred to in *paragraph (b)* personally,

the court may direct that the applicant or the respondent, as the case may be, may not personally cross-examine the witness unless the court is of the opinion that the interests of justice require the applicant or respondent to conduct the cross-examination personally.

(3) Where an applicant or respondent, as the case may be, is prevented from cross- examining a witness by virtue of *subsection (1)* or *(2)*, the court shall—

(a) invite the applicant or respondent to arrange for a legal representative to act for him or her for the purpose of cross-examining the witness, and

(b) require the applicant or respondent to notify the court, by the end of such period as it may specify, as to whether a legal representative is to act for him or her for that purpose.

(4) If by the end of the period referred to in *subsection (3)(b)*, the applicant or respondent has notified the court that no legal representative is to act for him or her for the purpose of cross-examining the witness or no notification has been received by the court and it appears to the court that no legal representative is to so act, the court shall consider whether it is necessary, in the interests of justice, for the witness to be cross- examined by a legal representative appointed to act for the applicant or respondent for that purpose.

(5) If the court decides under *subsection (4)* that it is necessary, in the interests of justice, for the witness to be cross-examined by a legal representative appointed to act for the applicant or respondent for that purpose, the court shall appoint a legal representative (chosen by the court) to cross-examine the witness on behalf of the applicant or respondent.

Requirement to give reasons for certain decisions

17. Where an application is made to a court for a specified order, the court shall give reasons for its decision—

(a) to grant or refuse the application,

(b) if applicable, to make the specified order subject to exceptions or conditions, and

(c) to vary the exceptions or conditions referred to in *paragraph (b)*.

Taking effect of orders

18. (1) A relevant order shall take effect on notification of the making of the relevant order concerned being given to the respondent.

(2) Oral communication to the respondent by or on behalf of the applicant of the fact that a relevant order has been made, together with production of a copy of the relevant order, shall, without prejudice to the sufficiency of any other form of notification, be taken to be sufficient notification to the respondent of the making of the order.

(3) If the respondent is present at a sitting of the court at which the relevant order is made, that respondent shall be taken for the purposes of *subsection (1)* to have been notified of its making.

(4) A court may direct that a relevant order be served personally by a member of the Garda Síochána on a respondent who is not present at a sitting of the court at which the order is made in any case where—

(a) there are reasonable grounds for believing that the respondent may evade service of the order, or

(b) there is any other good and sufficient reason to so direct.

(5) In this section, "relevant order" means—

(a) a safety order, barring order, interim barring order, emergency barring order or protection order, or

(b) an order varying an order referred to in *paragraph (a)*.

Copies of orders to be given to certain persons

19. (1) The court, on making, varying or discharging a safety order or a protection order, shall cause a copy of the order in question to be given or sent as soon as practicable—

(a) to the applicant for the safety order or, in respect of a protection order, the applicant for the safety order or barring order concerned,

(b) to the respondent to the application for the safety order or, in respect of a protection order, the respondent to the application for the safety order or barring order concerned,

(c) where the Agency has made the application by virtue of *section 11* for the safety order or, in respect of a protection order, for the safety order or barring order concerned, to the Agency,

(d) to the member of the Garda Síochána in charge of the Garda Síochána station for the area in which the person, for whose benefit the safety order or protection order was made, resides, and

(e) where the order in question is a variation or discharge of a safety order or a protection order and the person for whose benefit the order was made had previously resided elsewhere, to the member of the Garda Síochána in charge of the Garda Síochána station for the area in which that person had so resided but only if that member had previously been sent under this subsection a copy of that safety order, protection order, or any order relating thereto.

(2) The court on making, varying or discharging a barring order or an interim barring order shall cause a copy of the order in question to be given or sent as soon as practicable—

(a) to the applicant for the barring order,

(b) to the respondent to the application for the barring order,

(c) where the Agency has made the application by virtue of *section 11* for the barring order concerned, to the Agency,

(d) to the member of the Garda Síochána in charge of the Garda Síochána station for the area in which the place, in relation to which the application for the barring order was made, is situated, and

(e) where the order in question is a variation or discharge of a barring order or an interim barring order and the place in respect of which the previous order was made is elsewhere, to the member of the Garda Síochána in charge of the Garda Síochána station for the area in which that place is situated but only if that member had previously been sent a copy of the barring order or interim barring order that has been varied or discharged or any order relating thereto.

(3) The copy of the order to be given or sent as soon as practicable—

(a) to the applicant for the emergency barring order,

(b) to the respondent to the application for the emergency barring order,

(c) where the Agency has made the application by virtue of *section 11* for the emergency barring order concerned, to the Agency,

(d) to the member of the Garda Síochána in charge of the Garda Síochána station for the area in which the place, in relation to which the application for the emergency barring order was made, is situated, and

(e) where the order in question is a variation or discharge of an emergency barring order and the place in respect of which the previous order was made is elsewhere, to the member of the Garda Síochána in charge of the Garda Síochána station for the area in which that place is situated but only if that member had previously been sent a copy of the emergency barring order that has been varied or discharged or any order relating thereto.

(4) The court on making, varying or discharging a safety order, a barring order, an interim barring order, an emergency barring

order or a protection order on the application of, or on behalf of, a person who is not of full age, shall cause a copy of the order in question to be given or sent as soon as practicable to the Agency.

(5) The validity of an order to which this section relates shall not be affected by non- compliance with *subsections (1)*, *(2)*, *(3)* or *(4)*.

Effect of appeal from order

20. (1) An appeal from a safety order or a barring order shall, if the court that made the order or the court to which the appeal is brought so determines (but not otherwise), stay the operation of the order on such terms (if any) as may be imposed by the court making the determination.

(2) An appeal from a protection order, an interim barring order or an emergency barring order shall not stay the operation of the order.

Discharge of orders

21. (1) Where a safety order, barring order, interim barring order, emergency barring order or protection order has been made, any of the following persons may apply to the court that made the order to have the order discharged:

(a) where the application for the order was made by the Agency in respect of a dependent person by virtue of *section 11*—

(i) the Agency,

(ii) the person referred to in *subsection (1)(c)* of that section, or

(iii) the respondent to that application;

(b) where the application for the order was made by the Agency in respect of any other person (other than a dependent person referred to in *paragraph (a)*) by virtue of *section 11*—

(i) the Agency,

(ii) the applicant for that order, or

(iii) the respondent to that application;

(c) in any other case—

(i) the applicant for the order, or

(ii) the respondent to the application for the order.

(2) The court shall, on an application under *subsection (1)*, discharge the order if it is of the opinion that the safety and welfare of the applicant or the dependent person for whose protection the order was made does not require that the order should continue in force.

(3) A court may, if it thinks fit, discharge a safety order, barring order, interim barring order, emergency barring order or protection order where the court is determining, as between the applicant and the respondent— (a) a matrimonial cause or matter, (b) annulment or dissolution proceedings under the Act of 2010, or (c) proceedings under the Act of 1964.

(4) For the purposes of this section, an order made by a court on appeal from another court shall be treated as if it had been made by that other court.

Exercise of jurisdiction by court in civil proceedings

22. (1) The jurisdiction of the court in respect of civil proceedings under this Act may be exercised—

(a) as regards the Circuit Court, by the judge of the Circuit Court within whose circuit, and

(b) as regards the District Court, by a judge of the District Court for the time being assigned to the district court district within which,

the applicant resides or, if the application is for a barring order or an emergency barring order, the place, in relation to which that application was made, is situated.

(2) For the purposes of *subsection (1)*, a person concerned who would, but for the conduct of the respondent, be residing at a place may be treated by the court as residing at that place.

Hearing of civil proceedings

23. (1) Subject to section 40 of the Act of 2004 and *section 26(1)*, civil proceedings under this Act shall be heard otherwise than in public.

(2) Where under *section 15* a court hears together applications under more than one Act, the court shall, in so far as is practicable, comply with the requirements relating to the hearing of applications under each of those Acts and the other relevant provisions of those Acts shall apply accordingly.

(3) (a) Civil proceedings under this Act before the District Court shall be as informal as is practicable and consistent with the administration of justice.

(b) District Court judges hearing and determining civil proceedings under this Act and barristers and solicitors appearing in those proceedings shall not wear wigs or gowns.

(4) Civil proceedings under this Act before the Circuit Court shall be heard by the Circuit Family Court and accordingly, section 32 and subsections (1) and (2) of section 33 of the Act of 1989 shall apply to those proceedings.

(5) The proceedings to which subsections (3) and (4) of section 33 of the Act of 1989 apply shall be deemed to include proceedings under this Act.

(6) In this section, "Act of 1989" means the Judicial Separation and Family Law Reform Act 1989.

Special sitting of District Court

24. (1) A member of the Garda Síochána not below the rank of sergeant may request the Courts Service to arrange a special sitting of the District Court for the purposes specified in *subsection (2)*—

(a) where a person has informed the member that he or she wishes to make an application referred to in *paragraph (a)* of that subsection, and

(b) at the time the person so informs the member, there is no District Court sitting in the district court district in which that person would make such an application if that court was sitting.

(2) The purposes referred to in *subsection (1)* are—

(a) to facilitate the making and determination of an application for an interim barring order, an emergency barring order or a protection order, and

(b) where necessary for the purposes of an application referred to in *paragraph (a)*, to facilitate the making of an application for a safety order or a barring order.

(3) The Courts Service may, with the consent of a judge of the District Court exercising jurisdiction in accordance with *section 22*, arrange such special sittings of the District Court in the district court district referred to in *subsection (1)(b)* as may be necessary for the purposes specified in *subsection (2)*.

(4) In this section, "special sitting" means a sitting of the District Court at a place and time not standing appointed for the time being under section 26 of the Courts of Justice Act 1953 or section 40 or 42 of the Courts (Supplemental Provisions) Act 1961 for the transaction of the business of the District Court.

Evidence through television link for civil proceedings

25. (1) In civil proceedings under this Act, a person (other than the respondent) may give evidence through a live television link—

(a) where that person has not attained the age of 18 years, unless the court sees good reason to the contrary,

(b) in any other case, with the leave of the court.

(2) Evidence given under *subsection (1)* shall be video-recorded or audio-recorded.

(3) Where live television link facilities are not in operation in a circuit court or district court district, and in the opinion of the court concerned it is desirable that evidence in the proceedings be given through a live television link, the court may by order transfer the proceedings to a circuit or district court district in relation to which those facilities are in operation.

(4) Where a court transfers proceedings under *subsection (3)*, the jurisdiction of the court to which the proceedings have been transferred may be exercised—

(a) in the case of the Circuit Court, by the judge of the circuit concerned, and

(b) in the case of the District Court, by the judge of that court for the time being assigned to the district court district concerned.

(5) In this section, "video-recorded" means a recording on any medium from which a moving image may, by any means, be produced and includes the accompanying soundtrack (if any).

Right to be accompanied in court in certain circumstances

26. (1) Subject to *subsection (2)*, an applicant may, in addition to being accompanied by his or her legal representative (if any), be accompanied in court by an individual (including a support worker) of his or her choice.

(2) The court may refuse to allow an applicant to be accompanied in court by a particular individual at any stage in the proceedings which relate to the applicant if the court considers that it would not be in the interests of justice for the individual concerned to accompany, or continue to accompany, the applicant and where the court so refuses it shall give reasons for such refusal.

(3) In this section, "support worker" means a volunteer of, or an individual employed under a contract of service or under a contract for services by, an organisation which provides support to victims of domestic violence.

Views of a child for whom an order is sought

27. (1) In civil proceedings under this Act, other than proceedings for the making of an interim barring order, an emergency barring order or a protection order, where an order is sought on behalf of a child, the court may, having regard to the age and maturity of that child, ascertain the views of the child prior to deciding whether or not to make the order in so far as that order relates to that child.

(2) The court may, by order, appoint an expert to ascertain and convey the views of a child where the court considers that appointment to be necessary for the purpose of *subsection (1)*.

(3) Without prejudice to the generality of *subsection (2)*, the court shall, in deciding whether to make an order under that subsection in relation to a child, have regard in particular to the following:

(a) the age and maturity of the child;

(b) any previous report made under this section in respect of the child;

(c) whether the making of the order will assist the expression by the child of his or her views in the proceedings;

(d) the best interests of the child.

(4) An expert appointed under *subsection (2)* shall—

(a) ascertain the maturity of the child,

(b) where so requested by the court, determine whether or not the child is capable of forming his or her own views on the matters which are the subject of the proceedings and report to the court on that determination, and

(c) where not so requested by the court under *paragraph (b)*, or where so requested and the expert determines that the child is capable of forming his or her own views on the matters which are the subject of the proceedings— (i) ascertain

the views of the child either generally on those matters or on a specific question on which the court requests the child's views, and (ii) furnish a report to the court setting out the views of the child ascertained under *subparagraph (i)*.

(5) The court may call an expert appointed under *subsection (2)* as a witness in the proceedings.

(6) Regulations made by the Minister in consultation with the Minister for Children and Youth Affairs under subsection (10) of section 32 of the Act of 1964 shall, in so far as those regulations apply to an expert appointed under subsection (1)(b) of that section, apply to an expert appointed under *subsection (2)*.

(7) The fees and expenses of an expert appointed under *subsection (2)* shall be paid by such party to the proceedings, or by such parties to the proceedings and in such proportions, as the court may specify.

(8) Where the court has under this section by order appointed an expert, nothing in this section shall prevent the court from making a further order appointing the same or a different expert to perform the function of ascertaining the views of the child concerned.

Information to victims of domestic violence on support services

28. The Courts Service shall provide each applicant with information on, and contact details for, support services for victims of domestic violence.

Recommendation for engagement by respondent with certain services

29. (1) A court may, when making a safety order, a barring order or an emergency barring order, recommend to a respondent that he or she engage with a programme or service to address any issue relating to his or her behaviour which contributed to the application for the order being made including—

(a) a programme for perpetrators of domestic violence,

(b) an addiction service,

(c) a counselling or psychotherapy service, or

(d) a financial planning service.

(2) The court may, when hearing an application for a variation of, or an appeal from, a safety order, barring order or emergency barring order or when hearing an application for a further safety, barring or emergency barring order, consider the engagement of the respondent with a programme or service referred to in *subsection (1)* or any engagement of the respondent with a similar programme or service, whether or not on the recommendation of the court and the outcome of that engagement.

(3) If a court considers the engagement of the respondent with a programme or service in accordance with *subsection (2)*, it shall have regard to the view (if any) of the applicant on that engagement and the effect of that engagement on the behaviour of the respondent.

Costs 30. The costs of civil proceedings under this Act shall be at the discretion of the court.

Rules of court and service of documents

31. (1) For the purpose of ensuring the expeditious hearing of applications under this Act, rules of court may make provision for the service of documents otherwise than under section 7 of the Courts Act 1964 in circumstances to which that section relates.

(2) This section is without prejudice to section 24 of the Interpretation Act 2005 which provides for rules of court.

Orders not to affect rights under certain enactments or estate or interest

32. (1) Where, by reason only of an interim barring order, emergency barring order or a barring order, a person is not residing at a place during any period, that person shall be deemed, for the purposes of any rights under the Statutes of Limitations, the Landlord and Tenant Acts 1967 to 2008, the Housing (Private Rented Dwellings) Acts 1982 and 1983 and the Residential Tenancies Acts 2004 to 2015, to be residing at that place during that period.

(2) Except in so far as the exercise by a respondent of a right to occupy the place to which a barring order, an interim barring order or an emergency barring order relates is suspended by virtue of the order, that order shall not affect any estate or interest in that place of that respondent or any other person.

PART 3

OFFENCES AND PROCEEDINGS FOR OFFENCES

Offences 33. (1) A respondent who—

(a) contravenes a safety order, a barring order, an interim barring order, an emergency barring order or a protection order, or

(b) while a barring order, an emergency barring order or an interim barring order is in force, refuses to permit the applicant or a dependent person to enter in and remain in the place to which the order relates or does any act for the purpose of preventing the applicant or dependent person from so doing,

commits an offence and shall be liable on summary conviction to a class B fine or to imprisonment for a term not exceeding 12 months, or both.

(2) *Subsection (1)* is without prejudice to the law relating to contempt of court or any other liability, whether civil or criminal, that may be incurred by the respondent concerned.

Restrictions on those present in courtroom in proceedings under *section 33*

34. In proceedings relating to an offence under *section 33*, the judge shall exclude from the court during those proceedings all persons except officers of the court, persons directly concerned with those proceedings, *bona fide* representatives of the press and such other persons (if any) as the judge may in his or her discretion permit to remain.

Arrest without warrant

35. (1) Where a member of the Garda Síochána has reasonable cause for believing that an offence is being or has been committed under *section 33* the member may, on complaint being made to him or her by or on behalf of the person who was the applicant for the order referred to in *subsection (1)* of that section, arrest the respondent concerned without warrant.

(2) For the purpose of arresting a respondent under *subsection (1)*, a member of the Garda Síochána may enter, if need be by force, and search a place where the member, with reasonable cause, suspects the respondent to be.

Prohibition on publication or broadcast of certain matters

36. (1) Subject to *subsection (2)* and any direction given under *subsection (4)*, where a person is charged with an offence under *section 33*, a person who publishes or broadcasts information about, or a photograph, depiction or other representation of the physical likeness of, the relevant person, the person charged or a dependent person of either of them that is likely to enable the identification of the relevant person or the person charged commits an offence.

(2) A person does not commit an offence under *subsection (1)* where—

(a) the relevant person consents in court to being identified or to the person charged being identified, or both, and

(b) the court, having considered the effect of identification on a dependent person of either the relevant person or the person charged, consents to that identification.

(3) If any matter is published or broadcast in contravention of *subsection (1)*, the following persons commit an offence:

(a) in the case of matter published in a newspaper or periodical publication, the proprietor, the editor and the publisher thereof;

(b) in the case of matter published in any other written publication, the publisher thereof;

(c) in the case of matter broadcast, each person who transmits or provides the programme in which the broadcast is made and each person who performs functions in relation to the programme corresponding to those of the editor of a newspaper.

(4) The judge of the court in which proceedings for an offence under *section 33* are brought may, where he or she considers that the interests of justice so require, direct that such information to which *subsection (1)* applies as he or she shall specify in the direction, may be published or broadcast in such manner and subject to such conditions as he or she may specify in the direction.

(5) In this section—

"broadcast" has the same meaning as it has in the Broadcasting Act 2009;

"publish" means publish, other than by way of broadcast, to the public or a portion of the public;

"relevant person" means the applicant for the order referred to in *section 33(1)* to which the offence relates.

Penalties for offence under *section 36*

37. (1) A person who commits an offence under *subsection (1)* of *section 36* is liable—

(a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or to imprisonment for a term not exceeding 3 years, or both.

(2) A person who contravenes a direction or a condition specified in a direction given under *subsection (4)* of *section 36* commits an offence and is liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, and

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years, or both.

(3) (a) Where an offence under *section 36* has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate commits an offence and shall be liable to be proceeded against and punished as if he or she committed the first-mentioned offence.

(b) Where the affairs of a body corporate are managed by its members, *paragraph (a)* shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

(4) It shall be a defence for a person who is charged with an offence under *section 36* to prove that at the time of the alleged offence the person was not aware, and neither suspected nor had reason to suspect, that the matter alleged to have been published or broadcast was a matter specified in that section.

Offence of forced marriage

38. (1) A person commits an offence where he or she engages in relevant conduct for the purpose of causing another person to enter into a ceremony of marriage.

(2) A person commits an offence where he or she—

(a) removes another person from the State, and

(b) intends the other person to be subject to relevant conduct outside the State for the purpose of causing that other person to enter into a ceremony of marriage.

(3) A person commits an offence where, in a place other than the State, the person engages in relevant conduct for the purpose of causing another person to enter into a ceremony of marriage and the first-mentioned person is, at the time he or she engages in that conduct—

(a) an Irish citizen or ordinarily resident in the State and that conduct for that purpose would constitute an offence in the place in which that conduct occurs,

(b) on board an Irish ship within the meaning of section 9 of the Mercantile Marine Act 1955, or

(c) on an aircraft registered in the State.

(4) For the purpose of an offence under this section, the relevant conduct concerned (other than undue influence) may be directed at the other person referred to in *subsection (1)* or *(2)(a)*, as the case may be, or another person.

(5) Proceedings for an offence under *subsection (3)* may be taken in any place in the State and the offence may, for all incidental purposes, be treated as having been committed in that place.

(6) In proceedings for an offence under *subsection (3)*—

(a) a certificate signed by an officer of the Department of Foreign Affairs and Trade and stating that a passport was issued by that Department to a person on a specified date, and

(b) a certificate signed by an officer of the Minister and stating that, to the best of the officer's knowledge and belief, the person has not ceased to be an Irish citizen, is evidence of the facts stated in the certificate, and is taken to have been signed by the person purporting to have signed it, unless the contrary is shown.

(7) A person who commits an offence under this section shall be liable—

(a) on summary conviction to a class A fine or a term of imprisonment not exceeding 12 months, or both, or

(b) on conviction on indictment to a fine or a term of imprisonment not exceeding 7 years, or both.

(8) For the purposes of this section a person shall be deemed to be ordinarily resident in the State if he or she has had his or her principal residence in the State for the period of 12 months immediately preceding the alleged commission of the offence.

(9) Where a person has been acquitted of an offence in a place other than the State, he or she shall not be proceeded against for an offence under this section consisting of the alleged act or acts constituting the first-mentioned offence.

(10) Where a person has been convicted of an offence in a place other than the State, he or she shall not be proceeded against for an offence under this section consisting of the act or acts constituting the first-mentioned offence.

(11) In this section— "ceremony of marriage" means any religious, civil or secular ceremony of marriage, whether legally binding or not; "relevant conduct" means violence, threats, undue influence or any form of coercion or duress; "removes another person from the State" includes—

(a) arranging any part of the other person's travel out of the State,

(b) accompanying the other person for any portion of that travel,

(c) arranging that the other person be met when his or her travel out of the State has terminated, or

(d) doing any other act that could facilitate the other person's travel out of the State.

Offence of coercive control

39. (1) A person commits an offence where he or she knowingly and persistently engages in behaviour that—

(a) is controlling or coercive,

(b) has a serious effect on a relevant person, and

(c) a reasonable person would consider likely to have a serious effect on a relevant person.

(2) For the purposes of *subsection (1)*, a person's behaviour has a serious effect on a relevant person if the behaviour causes the relevant person—

(a) to fear that violence will be used against him or her, or

(b) serious alarm or distress that has a substantial adverse impact on his or her usual day-to-day activities.

(3) A person who commits an offence under *subsection (1)* is liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, and

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years, or both.

(4) In this section, a person is a "relevant person" in respect of another person if he or she—

(a) is the spouse or civil partner of that other person, or

(b) is not the spouse or civil partner of that other person and is not related to that other person within a prohibited degree of relationship but is or was in an intimate relationship with that other person.

Relationship between defendant and victim as aggravating factor in sentencing for certain offences

40. (1) Where a court is determining the sentence to be imposed on a person for a relevant offence, the fact that the offence was committed by the person against a relevant person shall be treated, for the purpose of determining the sentence, as an aggravating factor.

(2) Subject to *subsection (3)*, where *subsection (1)* applies the court shall impose a sentence which is greater than that which would have been imposed if the person against whom the offence was committed was not a relevant person.

(3) *Subsection (2)* shall not apply where the court considers that there are exceptional circumstances justifying it not applying that subsection.

(4) The sentence imposed as a result of the application of *subsection (2)* shall not be greater than the maximum sentence permissible for the relevant offence concerned.

(5) In this section— "Act of 1990" means the Criminal Law (Rape) (Amendment) Act 1990; "relevant offence" means—

(a) an offence under sections 2 to 15 of the Non-Fatal Offences against the Person Act 1997,

(b) any offence which involves violence or a threat of violence to a person other than an offence—

(i) referred to in *paragraph (a)*, or

(ii) under *section 39*,

(c) rape,

(d) rape under section 4 of the Act of 1990,

(e) sexual assault within the meaning of section 2 of the Act of 1990,

(f) aggravated sexual assault within the meaning of section 3 of the Act of 1990,

(g) an offence consisting of attempting or conspiring to commit, or aiding or abetting, counselling or procuring or inciting the commission of, an offence referred to in *paragraphs (a)* to *(f)*.

(6) In this section, a person is a "relevant person" in respect of another person if he or she—

(a) is the spouse or civil partner of that other person, or

(b) is not the spouse or civil partner of that other person and is not related to that other person within a prohibited degree of relationship but is or was in an intimate relationship with that other person.

PART 4

TRANSITIONAL AND SAVINGS AND CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

Continuance of orders made under Act of 1996

41. (1) A safety order made under the Act of 1996 in force immediately before the coming into operation of *section 6* shall, after that coming into operation, continue in force as if it had been made under that section and this Act shall apply to that order.

(2) A barring order made under the Act of 1996 in force immediately before the coming into operation of *section 7* shall, after that coming into operation, continue in force as if it had been made under that section and this Act shall apply to that order.

(3) An interim barring order made under the Act of 1996 in force immediately before the coming into operation of *section 8* shall, after that coming into operation, continue in force as if it had been made under that section and this Act shall apply to that order.

(4) A protection order made under the Act of 1996 in force immediately before the coming into operation of *section 10* shall, after that coming into operation, continue in force as if it had been made under that section and this Act shall apply to that order.

Continuation of proceedings

42. (1) Where on the coming into operation of *Part 2*, proceedings referred to in *subsection (2)* have been commenced under the Act of 1996 but not determined, those proceedings shall be continued as if they were civil proceedings under this Act.

(2) *Subsection (1)* applies to the following proceedings:

(a) proceedings for the making, variation or discharge of a safety order or a barring order;

(b) proceedings, consequent on the making of an application for a barring order, for the making, variation or discharge of an interim barring order which relates to the application;

(c) proceedings, consequent on the making of an application for a safety order or barring order, for the making, variation or discharge of a protection order which relates to the application;

(d) any proceedings by way of appeal or case stated which are related to proceedings to which *paragraph (a)*, *(b)* or *(c)* applies.

Amendment of section 1 of Criminal Damage Act 1991

[…]

Amendment of section 12 of Criminal Evidence Act 1992

[…]

Amendment of Family Law Act 1995 45.

(1) The Act of 1995 is amended—

(a) in section 2(1)—

(i) by the deletion of the definition of "Act of 1996", and

(ii) by the insertion of the following definition: " '*Act of 2018*' means the *Domestic Violence Act 2018*;",

(b) in section 6, by the substitution of the following paragraph for paragraph (a): "(a) an order under *section 6*, *7*, *8* or *10* of the *Act of 2018*,",

(c) in section 10(1), by the substitution of the following paragraph for paragraph (d): "(d) an order under *section 6*, *7*, *8* or *10* of the *Act of 2018*,",

(d) in section 31(1), by the deletion of paragraph (b),

(e) by the repeal of section 33,

(f) in section 38(4)—

(i) by the deletion of paragraph (a), and

(ii) in paragraph (b), by the deletion of the words "in any other case,", and

(g) in section 47(6), by the substitution of the following paragraph for paragraph (d):

"(d) under the *Act of 2018*,".

(2) Where on the coming into operation of this section, an application has been made under section 33 of the Act of 1995 but not determined that application shall continue as if the amendments effected by *paragraphs (d)*, *(e)* and *(f)* of *subsection (1)* had not been made and, where an order is made under section 33 pursuant to that application exempting the marriage from the application of section 31(1)(a) of the Act of 1995, that exemption shall be a valid exemption for that purpose.

(3) Notwithstanding the coming into operation of *paragraph (d)* of *subsection (1)*, section 31(1)(b) of the Act of 1995 shall continue to apply to an exemption granted under section 33 of that Act prior to that coming into operation and to an exemption granted in accordance with *subsection (2)*. (4) For the avoidance of doubt, nothing in this section shall affect the validity of a marriage by reason only that the marriage was entered into in reliance on an exemption granted under section 33 of the Act of 1995— (a) prior to the coming into operation of this section, or (b) in accordance with *subsection (2)*.

Amendment of section 28 of Civil Legal Aid Act 1995

46. Section 28 of the Civil Legal Aid Act 1995 is amended by the insertion of the following subsection after subsection (5C):

"(5D) Notwithstanding any other provision of this Act, where an applicant or respondent (within the meaning of the *Domestic Violence Act 2018*) is prevented from conducting a cross-examination referred to in *section 16* of that Act, the Board shall grant a legal aid certificate to the applicant or respondent, as the case may be, for the purpose of his or her being represented in relation to such a cross-examination.".

Amendment of Family Law (Divorce) Act 1996 47.

[…]

Amendment of section 9 of Mental Health Act 2001 48.

[…]

Amendment of section 2 of Civil Registration Act 2004 49.

[…]

Amendment of section 39 of Civil Liability and Courts Act 2004

[…]

Amendment of Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

[…]

Amendment of Schedule 3 to National Vetting Bureau (Children and Vulnerable Persons)

[…]

Amendment of section 61 of Animal Health and Welfare Act 2013

[…]

Amendment of section 2 of Assisted Decision-Making (Capacity) Act 2015

[…]

Amendment of section 3 of Mediation Act 2017

[…]

Amendment of section 2 of Criminal Justice (Victims of Crime) Act 2017

[…]

8. ISRAEL

Prevention of Family Violence Law, 1991 (As amended)[21]

5751-1991 [as amended by Amendment no. 3, 5748-1997 and Amendment no. 4, 5748-1998]

1. Definitions (Amendment: 5755, 5756)
In this Law -
"court" - Magistrate's Court, Family Court, as well the Religious Court with regard to the parties in matters which it may decide;
"religious court" - Rabbinical Court, Shari'a Court, Christian Court and Druze Court; "spouse" - including common-law spouse
"family member" - including a person who was a family member in the past, and he is one of the following:
(1) a spouse, parent or spouse of a parent, parent of a spouse or spouse of a parent, grandfather or grandmother, offspring of a spouse, brother or sister, brother-in-law or sister-in-law, uncle or aunt, nephew or niece;
(2) the person responsible for the sustenance, health, education or welfare of a minor or incapacitated person residing with the person responsible for him as stated.
"incapacitated person" - as defined in section 368A of the Penal Law, 5737-1977;
"minor" - as defined in the Legal Capacity and Guardianship Law, 5722-1962; "welfare officer" - a person legally appointed as such.

2. Protection order (Amendment: 5756, 5758)
(a) A court may issue an order prohibiting a person from doing all or some of the following acts, or attach conditions thereto (hereinafter "protection order"):

(1) enter the dwelling where the family member resides or be found within a certain distance of such dwelling, notwithstanding that he has any right therein;
(2) harass a family member in any manner and at any place;
(3) act in any way which prevents or hinders the use of an asset lawfully in use by a family member, notwithstanding that he has any right to the asset;
(4) carry or possess a weapon, including a weapon given to him by the Israel Defense Forces or by any other State agency.

(b) A protection order may also include a requirement to post bail with regard to compliance therewith and good behavior, or any other directive, as the court shall see fit, to guarantee the well-being and safety of the family member, and may also include directives in respect of the arrangement required as a result of granting the order.
(c) Conditions in respect of bail as stated in subsection (b), including its revocation, shall be specified in the protection order.

(c1) The court may, on particular grounds to be set out in its decision, extend the validity of bail on good behavior for a period that shall not exceed one year from the expiry of the protection order.

(d) Where a protection order has been issued which includes a prohibition pursuant to subsection (a)(4), notice thereof shall given by the court to the licensing officer as defined in the Firearms Law, 5709-1949, and if the person bound by the order is a member of the Reserves of the Israel Defense Forces, notice thereof shall be given to the Israel Defense Forces.
(e) Where a protection order has been issued which includes a prohibition pursuant to subsection (a)(4) and the person bound by the order is a member of the security service, the court may prescribe conditions in the order according to which that person may carry or possess a weapon in order to carry out his duties. Notice of such an order shall be given by the court to the relevant security service, and it shall make the necessary arrangements to ensure compliance with the order. For the purposes of this section, "member of the service" is a member of the Israel Police Force, the Prison Service or General Security Service or a soldier as defined in the Articles of War Law, 5716-1955.
(f) Where a protection order has been issued which does not include a prohibition pursuant to subsection (a)(4), the court shall specify the grounds for not including the said prohibition in the order.

[21] Prevention of Family Violence Law, Law No. 5751 (as amended by Laws No. 3, 5748-1997 and No. 4, 5748-1998), available at https://www.jewishvirtuallibrary.org/jsource/Politics/PreventionofFamilyViolenceLaw.pdf (last visited December 30, 2018).

(g) (1) Where a protection order has been issued for the protection of a minor, notice thereof shall be given by the court to the welfare officer within the meaning of the Youth (Care and Supervision) Law, 5720-1960.

(2) Where a protection order has been issued for the protection of a minor, the court may order the welfare officer, as set out in paragraph (1), to file a written report at the time it sets out.

(3) Where a protection order has been issued for the protection of a minor as set out in subsection (a)1 in respect of the person responsible for the minor, the court shall order the welfare officer as set out in paragraph (1) to file a report with the court. The said report shall be filed within 30 days and the welfare officer shall state his position regarding, among other things, regarding the existence of the possibility of maintaining a connection between the minor and the person responsible for the minor.

(4) If it is the opinion of the court, based on the report as set out in paragraph (3), that maintaining the connection between the person responsible for the minor in respect of whom the protection order was issued falls in line with the good of the minor, it may grant orders in the matter.

(h) Where a protection order has been issued for the protection of a minor as set out in subsection (a)1 in respect of the person responsible for the minor and the purpose of the order is not to protect the minor, the court may order maintaining the connection between the person and the minor, but only where it is convinced, on the basis of the report pursuant to the provisions of section 6 or otherwise, that there will not be harm to the minor.

(i) In respect of this section, "responsible for a minor" means a parent, step-parent, guardian, or one who has the care and custody of the minor.

2A. Undertaking to obtain treatment (Amendment: 5756)

(a) Where a protection order has been granted, the court may, upon issuing the order or at a later time, order the person to whom the order applies to give an undertaking that he shall obtain treatment from a person to be determined by the court (hereinafter in this clause "undertaking to obtain treatment").

(b) The court shall not order an undertaking to obtain treatment unless a report as stated in section 6 was filed with the court as stated in section 6, and the court is convinced that the person to whom the protection order applies is suitable for the treatment as well as agrees to and understands the terms and the nature of the treatment, and there is a framework for treating him.

(c) Where the court has ordered an undertaking to obtain treatment, it shall order the submission of a report to the court regarding progress of the treatment, at such times and in the manner it determines.

3. Application to grant a protection order and conditions for granting the same (Amendment: 5756, 5758)

At the request of a family member, the Attorney General or his representative, a police prosecutor or welfare officer nominated pursuant to the Youth (Care and Supervision) Law, 5720-1960, the court may grant a protection order against a person if it sees that one of the following has occurred:

(1) shortly before the petition was filed the person acted violently against a family member, committed a sexual offense against him or unlawfully detained him;

(2) his behavior constitutes a reasonable basis for assuming that he poses a substantial physical threat to a family member he may commit a sexual offense against him;

(3) where he has committed continuous mental abuse or behaved in a manner which does not permit a family member to run his life is a reasonable and proper manner.

For the purposes of this section, "sexual offense" means offense pursuant to Article Five of Chapter Ten of the Penal Law, 5737-1977.

4. Procedure (Amendment: 5758)

(a) The court may grant a protection order ex-parte; where an ex-parte order has been granted the hearing in the presence of both parties shall be conducted as soon as possible and no later than seven days from the granting of the order.

(b) Where a hearing is held as stated in subsection (a), the court may extend the validity of the order as stated in section 5, cancel it or insert changes in it, even if the person to whom the order applies is not present at the hearing.

(c) Notwithstanding subsection (a), an order as stated in section 3(3) shall be granted only with both parties present, unless the respondent has been legally served at is not present at the hearing.

5. Period of validity (Amendment: 5758)

The validity of a protection order shall not exceed three months. The court may extend the validity of the order from time to time, provided that the total period shall not exceed six months. However, on special grounds to be specified in its decision, it may extend the validity of the order for a total period not to exceed one year.

6. Report (Amendment: 5758)

For the purpose of procedure pursuant to clause 4(b), the court may order a welfare officer to prepare a written report by the

time it shall adjudicate in any matter relating to a protection order, and the provisions of the Welfare (Procedure Regarding Minors, Mentally-ill and Missing Persons) Law, 5716-1955, shall apply, mutatis mutandis, even if report is requested regarding someone not included in the said Law.

7. Breaching an order (Amendment: 5758)
(a) Abrogated
(b) Where a complaint has been filed with the police in respect of the breach a protection order which includes a prohibition pursuant to section 2(a)(1), a police officer may arrest the offender.
(c) It shall not be a valid defense for one who has violated a protection order to claim that his family members did not insist on its compliance or the operation of the Law as a result of the breach.

8. Rules of evidence (Amendment: 5755)
(a) In proceedings pursuant to this Law, the provisions of sections 3 and 4 of the Evidence Ordinance (New Version), 5731-1971, shall not apply.
(b) The provisions of the Family Courts law, 5765-1995, shall apply to the Magistrate's Court hearing a claim pursuant to this Law.

9. Methods of furnishing
Court documents and orders pursuant to this Law shall be furnished by a clerk of the court or by one authorized in writing by a court of the director of the courts; however, a family member of a party to proceedings or anyone on his behalf shall not be authorized unless it is his lawyer, if he agrees to it.

10. Jurisdiction
In a proceeding under this Law, the court may not be precluded from considering or providing relief in the matter on the basis that it is being heard in another proceeding or on the basis that a family member waived his right pursuant to this Law or for another reason.

11. Costs and damages
Where the court has dismissed a claim to grant a protection order as vexatious, it may impose on the person who sought the protection order all or part of the following:
(1) Costs in favor of the State and the aggrieved party, at such rate as it sees fit;
(2) Adequate damages to the party aggrieved by the filing of the petition.

12. Observance of laws
The provisions of this Law are in addition to the provisions of any law and do not derogate from them.

13. Implementation and regulations (Amendment: 5756(2))
(a) The Minister of Justice is responsible for the implementation of this Law and he may make regulation regarding anything related to its implementation.
(b) The Minister for Religious Affairs, with the consent of the Minister of Justice, may make regulations as set out in subsection (a), for all religious courts, mutatis mutandis.

14. Amendment to the Youth (Care and Supervision) Law
In the Youth (Care and Supervision) Law, 5720-1960, the following shall be inserted after section 3:

> 3A. "Protection order
> The court seized with a matter in respect of a minor may, if it views it as necessary, issue a protection order pursuant to the Prevention of Family Violence Law, 5751- 1991".

15. Amendment to the Criminal Procedure Law
In the Criminal Procedure Law (Consolidated Version), 5742-1982, at the end of section 44, there shall be added "the court may also grant a protection order as stated in the Prevention of Family Violence Law, 5751-1991".

16. Commencement
This Law shall come into force 90 days from the day of its publication.

[…]

Penal Law, 1997 [22]

Harm and wounding under aggravating circumstances
335.

[…]

(a1) If a person committed an offense under section 333[23] against his relative, then he is liable to ten years imprisonment.
(b) If a person committed an offense under section 334[24] against his relative, then he is liable to double the penalty set for the offense; for purposes of this section, "relative" – including a person who was his relative in the past and is one of the following:
(1) his spouse, including the person publicly known as his spouse;
(2) a minor or helpless person, for whom the offender is responsible, as said in the definition of "guardian of minor or helpless person" in section 368A.

Assault that causes actual bodily harm
380. If a person commits assault that causes actual bodily harm, then he is liable to three years imprisonment.

Assault under aggravating circumstances
382.
[…]
(b) If a person commits an offense under section 379[25] against his relative, then he is liable to double the penalty set for the offense; for purposes of this section, "relative" includes a person who was his relative in the past and is one of the following:
(1) his spouse, including the person publicly known as his spouse;
(2) a minor or helpless person, for whom the offender is responsible, as said in the definition of "guardian of minor or helpless person" in section 368A.
(c) If a person commits an offense under section 380[26] against his spouse, within the meaning of the term in subsection (b), then he is liable to double the penalty set for the offense.

Sex offenses within the family and by persons responsible for helpless persons
351. (a) If a person committed an offense of rape under section 345(a)[27], or of sodomy under section 347(b)[28], on a person who is a minor and his relative or on a helpless person for whom he is responsible, then he is liable to twenty years imprisonment.
(b) If a person had intercourse with a woman who has reached age 14, but has not yet reached age 21, or committed sodomy upon a person who reached age 14, but has not yet reached age 21 and is his relative, then he is liable to sixteen years imprisonment.
(c) If a person committed an indecent act upon a minor who is his relative or on a helpless person for whom he is responsible, then he is liable –
(1) for an offense under section 348(a) or (c1) – to ten years imprisonment;
(2) for an offense under section 348(b) – to fifteen years imprisonment;
(3) in any case not specified in paragraphs (1) and (2) – to five years imprisonment.
(d) If a person in any place committed an indecent act upon a minor who is a member of his family, then he is liable to four years imprisonment;
[…]
(e) For purposes of this section –
"foster parent" – one of the following:
(1) the father or mother of a foster family approved by the Ministry of Welfare;
(2) the person responsible for a minor under paragraph (3) of the definition of the definition of "guardian of minor or of a helpless person " in section 368A;
"stepbrother" or "stepsister" – son or daughter of a parent's spouse;
[…]

[22] Penal Law, No. 5737 of 1977, available at http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/43289694.pdf (last visited December 30, 2018).
[23] Grievous harm.
[24] Wounding.
[25] Common assault.
[26] Assault that causes actual bodily harm.
[27] Rape (of a woman).
[28] Sodomy (through rape of a woman).

"relative" –
(1) parent; spouse of parent, even if not married to him; grandfather or grandmother;
(2) a person who has reached age 15 and who is one of these: brother or sister, stepbrother or stepsister, uncle or aunt, brother-in-law or sister-in-law; however, for purposes of the offense of prohibited intercourse under subsection (b), or of an indecent act under subsection (c)(3), committed upon a person aged 16 or more, uncle and aunt, brother-in-law or sister-in-law shall not be included in the definition of "relative";
(3) a foster parent; the spouse of a foster parent, even if not married to him; the father or mother of a foster parent;
(4) a person who has reached age fifteen and is one of the following: the son or daughter of a foster parent and the spouse of each of these; the brother or sister of a foster parent and the spouse of each of these; however, in respect of the offense of prohibited intercourse under subsection (b) and indecent act under section (c)(3), committed on a person who has reached age sixteen, the spouse of a foster parent's son or daughter, the foster parent's brother and sister and the spouse of any of these shall not be included in the definition of "relative";

[…]

9. ITALY

Law No. 119/2013 (converting into law, with amendments, Law Decree No. 39/2013 containing urgent provisions, inter alia, on the fight against gender-based violence), 2013 [29]

[…]

TEXT OF THE LAW DECREE No. 93 of 14 August 2013, (*Official Gazette* No. 191 of 16 August 2013), AS CONSOLIDATED BY CONVERSION LAW No. 119 of 15 October 2013, (*Official Gazette* No. 242 of October 15, 2013), containing: «Urgent provisions in matters of security and the fight against gender-based violence, as well as in matters of civil protection and provincial commissioners». (13A08425) [30]

[…]

Chapter I - PREVENTION AND FIGHT AGAINST GENDER-BASED VIOLENCE

[…]

Art. 3
Measures of prevention of domestic violence

1. In cases where, ***((in a non-anonymous form))*** is reported to the police a fact attributable ***((to the crimes, consumed or attempted, in articles 581 and 582, second paragraph, of the Criminal Code[31],))*** [and committed] in a context of domestic violence, the commissioner, even in the absence of a complaint, can issue a warning to the perpetrator, after taking the necessary information from the investigative bodies and upon hearing the persons informed of the facts. For the purposes of this article, domestic violence is intended as ***((one or more serious, or non- isolated, acts,))*** of physical, sexual, psychological or economic violence occurring within the family or family unit ***((or between persons who are, or used to be, married or in a sentimental relationship,))*** regardless of whether the author of such acts shares, or has shared, the same residence with the victim.

2. The provisions of Article 8, paragraphs 1 and 2 of Law Decree No. 11 of 23 February 2009, converted, with amendments, by Law No. 38 of April 23, 2009, ***((as amended by this decree))*** are applied where compatible. The commissioner can ask the prefect of the place of residence of the recipient of the warning to apply the measure of suspension of the driving license for a

[29] Law No. 119/2013 converting into law, with amendments, Law Decree No. 93 of 14 August 2013, containing urgent provisions on security and for the fight against gender-based violence, as well as on the issue of civil protection and provincial commissioners (13G00163), (Legge 15 ottobre 2013, n. 119-Conversione in legge, con modificazioni, del decreto-legge 14 agosto 2013, n. 93, recante disposizioni urgenti in materia di sicurezza e per il contrasto della violenza di genere, nonchè in tema di protezione civile e di commissariamento delle province), (15 October 2013), available at http://www.lexitalia.it/leggi/2013-119.htm (last visited December 30, 2018). Unofficial translation by Unofficial translation by Compendium team.
[30] The amendments made by Conversion Law No. 119/2013 to Law Decree No. 93/2013 are printed by using bold italic characters into parenthesis *((…))*.
[31] Beatings and bodily injuries.

period of one to three months. The prefect proceeds to the suspension of the driving license according to article 218 of the ***((Street Code, adopted with))*** legislative decree No. 285 of 30 April 1992. The prefect shall not order the suspension of driving licenses if, taking into account the economic conditions of the family unit, it appears that the job obligations of the person concerned cannot be guaranteed by issuing the permit referred to in Article 218, ***((comma 2,))*** of the aforementioned legislative decree No. 285 of 1992.

3. The Ministry of the Interior - Department of Public Security, including through the data contained in the Data Processing Center referred to in Article 8 of the Law No. 121 of 1 April 1981, prepares annually a criminological analysis of gender-based violence as a separate section of the annual report to Parliament referred to in article 113 of Law No. 121 of 1981.

4. In every action of the procedure for the adoption of ***the warning*** referred to in paragraph 1, information on the reporting person must be omitted ***(unless the report is manifestly unfounded.) The report can only be used for the purpose of initiating the procedure.))***

5. The measures referred to in paragraph 1 of article 11 of Law Decree No. 11 of 23 February 2009, converted, with amendments, by Law No. 38 of April 23, 2009, can also be applied in cases where the police, health centers and public institutions receive from the victim communication of ***((crimes referred to in articles 581 and 582 of the Penal Code in the context of domestic violence as per paragraph 1 of this article.***

5-bis. When the commissioner proceeds to the warning pursuant to Article 8 of Law Decree No.11 of 23 February 2009, converted, with amendments, by law No. 38 of April 23, 2009, as amended by this decree, and pursuant to this article, he informs without delay the perpetrator of the fact about services available on the territory including family counseling, mental health, and addiction rehabilitation services as identified by the Plan referred to in Article 5 and aimed at the rehabilitation of authors of domestic or gender-based violence.))

Art. 4

Protection for foreigners who are victims of domestic violence

1. After Article 18 of the Law consolidating provisions on Immigration and on the Condition of Foreigner pursuant to Legislative Decree No. 286 of 25 July 1998, is ***((inserted))*** the following:

"Article 18-bis

(Residence permit for victims of domestic violence)

"1. When, in the course of police operations, investigations or proceedings for one of the offenses provided for in Articles 572, 582, 583, 583-bis, 605, 609-bis and 612-bis of the Criminal Code[32], or for one of the crimes in Article 380 of the Criminal Procedure Code[33] committed in the context of domestic violence on the national territory, situations of violence or abuse against a foreigner are ascertained, and there is a concrete and current danger for her safety as a consequence of attempts to escape the violence, or due to statements made during the preliminary investigations or at the trial, the police superintendent ***((with the favorable opinion of the judicial authority or on the proposal of the latter))***, issues a residence permit to allow the victim to escape the violence in accordance with Article 5, paragraph 6. For the purposes of this article, domestic violence is intended as ***((one or more serious, or non-isolated, acts))*** of physical, sexual, psychological or economic violence occurring within the family, or family unit or ***((among people who are or used to be married or in a sentimental relationship,))*** regardless of whether the author of such acts shares, or has shared, the same residence with the victim.

2. With the proposal or the opinion referred to in paragraph 1, the elements of the existence of the conditions indicated therein shall be communicated to the police superintendent, with particular reference to the seriousness and current existence of a danger to personal safety.

3. The same residence permit can be issued by the police superintendent when the situation of violence or abuse has emerged in the course of welfare interventions by ***((anti-violence centers, territorial social services or))*** social services specialized in

[32] Mistreatment of family members or cohabitants (art. 572); Bodily injuries (art. 582); Aggravating circumstances (art. 583); Female genital mutilation (art. 583 bis); Kidnapping (art. 605); Sexual violence (art. 609 bis); Persecutory acts (art. 612 bis). See Criminal Code, R.D. No. 1398 of 19 October 1930 (consolidated version with amendments up to 1 March 2018), available at http://www.altalex.com/documents/codici-altalex/2014/10/30/codice-penale (last visited December 30, 2018).

[33] Crimes for which arrest in fragrante delicto is mandatory. See Criminal Procedure Code, *D.P.R. No. 447 of 22 September 1998* (consolidated version with amendments up to 11 January 2018), available at http://www.altalex.com/documents/codici-altalex/2014/10/30/codice-di-procedura-penale (last visited December 30, 2018).

assisting victims of violence. In this case, the existence of the elements and conditions referred to in paragraph 2 is assessed by the police superintendent on the basis of the report prepared by the same social services. *((For the purposes of issuing the residence permit, the opinion of the competent judicial authority is in any case required pursuant to paragraph 1)).*

4. The residence permit referred to in paragraphs 1 and 3 is revoked in case of conduct incompatible with the purposes of the same, reported by the general prosecutor or, to the extent of their competence, by the social services referred to in paragraph 3, or ascertained by the police superintendent, or when the conditions that justified its adoption are no longer valid.
((4-bis) With regard to the foreigner who is convicted, even with a non-definitive sentence, including that adopted following the application of the penalty upon request pursuant to Article 444 of the Criminal Procedure Code, for one of the crimes referred to in paragraph 1 of this article committed in a context of domestic violence, the revocation of the residence permit and expulsion may be ordered pursuant to article 13 of this consolidated text.))

5. The provisions of this Article shall apply, insofar as they are compatible, also to nationals of Member States of the European Union and their family members. "

Art. 5

((Extraordinary Action Plan Against Sexual and Gender-based Violence

1. The Minister delegated for equal opportunities, including by using the Fund for policies related to rights and equal opportunities […], elaborates, with the contribution of the relevant administrations, the women's associations engaged in the fight against violence, and anti-violence centers, and adopts, following agreement in a joint Conference pursuant to legislative decree No. 281 of 28 August 1997, an "Extraordinary Action Plan against Sexual and Gender-based Violence", hereinafter referred to as the "Plan", which must be implemented in synergy with the new EU programming for the period 2014-2020.

2. The Plan, which aims to ensure homogeneous actions in the national territory, has the following objectives:
a) to prevent the phenomenon of violence against women through public information and awareness raising, as well as by increasing the engagement of men and boys in the process of eliminating violence against women and in resolving interpersonal conflicts;
b) to sensitize actors within the media to engage in communication and information, including in the commercial field, that is respectful in the representation of gender and, in particular, of the female figure also through the adoption of self-regulation codes by the actors themselves;
(c) to promote adequate training of school staff on gender relations, and against gender-based violence and discrimination, and to promote, within national guidelines for the national curriculum for nursery school and the first cycle of education, guidelines for high schools, technical and vocational schools, curricular and extra-curricular teaching modules for schools of all levels, awareness raising, information and training for students in order to prevent violence against women and gender-based discrimination, including through the appropriate enhancement of these topics in textbooks;
d) to improve the forms of assistance and support for women victims of violence and their children through homogeneous methods of strengthening local service networks, anti-violence centers and services to assist women who are victims of violence;
e) to ensure the training of all professional who come into contact with incidents of gender-based violence or stalking;
f) to increase the protection of victims by strengthening collaboration between all the institutions involved;
g) to promote, throughout the national territory, the development and implementation of measures of support and reintegration of those responsible for acts of violence in sentimental relationships, based on consolidated methodologies and consistent with specific guidelines, in order to favor rehabilitation and to limit recidivism;
h) to plan, at least annually, a structured and periodically updated collection of data on the phenomenon, including through surveys by anti-violence centers and the coordination of existing databases;
i) to plan for specific positive actions that also take into account the skills of the administrations involved in the prevention, contrast and support of victims of gender-based violence and stalking, and the experiences of associations providing assistance in the sector;
l) to define a structured governance system among all levels of government, which is also based on the different experiences and good practices already implemented in local networks and on the territory.

3. The Minister for Equal Opportunities sends an annual report on the implementation of the Plan to both Houses.

4. To finance the Plan, the Fund for policies relating to rights and equal opportunities is increased by € 10 million Euros for the year 2013. The relative cost is supported by a corresponding reduction in the authorization of expenditure referred to in Article 61, paragraph 22, of Law Decree No. 112 of 25 June 2008, converted, with amendments, by Law No. 133 of 6 August 2008, and subsequent modifications.

5. The implementation of provisions contained in this article, without prejudice to the provisions of paragraph 4 of the same article and article 5-bis, is provided through the use of human, instrumental and financial resources available under current legislation, without new or higher public expenses.))

((Article 5 bis
Actions relative to anti-violence centers and shelters

1. In order to implement the provisions of article 5, paragraph 2, letter d) of this decree, the Fund for policies relating to rights and equal opportunities, as per article 19, paragraph 3, of Law Decree No. 223 of 4 July 2006, converted, with modifications, by Law No. 248 of 4 August 2006, is increased by 10 million Euros in 2013, by 7 million Euros in 2014, and by 10 million Euros a year starting from 2015. The relative charge of 10 million Euros for 2013 is made through an equivalent reduction of the spending authorization referred to in Article 61, paragraph 22, of Law Decree No. 112 of 25 June 2008, converted, with amendments, by Law No. 1336 of August 2008, as amended, and with regard to 7 million Euros for 2014 and 10 million Euros per year starting from 2015, by equivalent reduction of the authorization of expenditure referred to in Article 10, paragraph 5, of Law Decree No. 282 of 29 November 2004, converted, with amendments, by Law No. 307 of December 2004, relative to the Fund for structural interventions of economic policy. The Minister of Economy and Finance is authorized to make the necessary changes to the budget by decree.

2. The Minister with responsibility for equal opportunities, upon agreement within the Permanent Conference for Relations between the State, the Regions and the Autonomous Provinces of Trento and Bolzano, distributes annually the resources referred to in paragraph 1 by taking into account:
a) regional plans and actions already in place to combat violence against women;
b) the number of public and private anti-violence centers already existing in each region;
c) the number of public and private shelters already existing in each region;
d) the need to rebalance the presence of the anti-violence centers and shelters in each region, reserving one third of the funds available to the establishment of new centers and shelters in order to achieve the objective set forth by recommendations of the Meeting of Experts on Violence against Women - Finland, 8-10 November 1999.

3. Anti-violence centers and shelters, to which anonymity is guaranteed, are promoted by:
a) local authorities, individually or in partnership;
b) associations and organizations active in the field of support and aid to women victims of violence, who have gained specific experience and expertise in the field of violence against women by using a reception methodology based on the relationship among women, with staff specifically trained;
c) subjects indicated in letters a) and b), upon agreement, consensus or in a consortium form.

4. Anti-violence centers and shelters operate in an integrated way with the local network of social and health services by taking into account the fundamental protection needs of victims of violence, even if they perform specialized service functions.

5. Regardless of the methodologies of intervention adopted and the specific professional profiles of the operators involved, the training of staff of anti-violence centers and shelters promotes an integrated approach to the phenomenon of violence, in order to acknowledge the different forms of violence suffered by individuals at a relational, physical, psychological, social, cultural and economic level. The recognition of the dimensions of violence attributable to gender inequalities is also part of the training of staff of anti-violence centers and shelters.

6. By March 30th of each year, the regions recipients of resources to be distributed shall transmit to the Minister for Equal Ppportunities a report concerning the initiatives taken in the previous year to avail themselves of the same resources.

7. On the basis of the information provided by the regions, the Minister for Equal Opportunities presents to both Houses, by June 30th each year, a report on the use of the resources allocated under this article.))

[…]

Criminal Code, 1930 (As amended) [34]

[34] *Criminal Code,* R.D. No. 1398 (19 October 1930, consolidated version with amendments up to*1 March 2018)*, available at *http://www.altalex.com/documents/codici-altalex/2014/10/30/codice-penale* (as amended by *Law No. 119/2013 Converting into law, with amendments, Law Decree No. 39/2013 containing urgent provisions (inter alia) on the fight against gender-based violence)* (last visited December 30, 2018).

Art. 61
General aggravating circumstances
The following circumstances, when they are no constitutive elements or special aggravating circumstances, aggravate the crime:

[…]

11) having committed the act with abuse of a domestic relationship or authority, or with abuse of a relationship of work or employment, cohabitation, or hospitality;

[…]

11-quinquies) in crimes of negligence against individual life and safety, personal liberty, as well as in the crime referred to in Article 572 [maltreatment of family members or cohabitants], having committed the act in the presence or to the damage of a minor of eighteen years, or in damage of a pregnant person.

Book II – Of Specific Crimes
Title XI - Of crimes against the family

Chapter IV - Of crimes against family assistance
Art. 570 - Violation of family assistance obligations.
Anyone who, by abandoning the family home, or otherwise by adopting a conduct contrary to the order or morals of families, escapes from the obligations of assistance concerning parental responsibility, [legal guardianship] or the status of spouse, is punished with imprisonment up to a year or a fine ranging from 103 to 1,032 Euros.

The said sentences apply jointly to whomever:
1. misuse or dilapidates assets of the minor child [c.p. 540], the pupil [c.c. 343, 414], or the spouse;
2. fails to provide the means of subsistence to the descendants [c.c. 75] who are minors or incapable to work, to the ascendants, or to the spouse
who is not legally separated by his/her fault.

The crime is punishable on complaint by the injured party except in the cases provided for by number 1 and, when the offense is committed against minors, by number 2 of the preceding paragraph.

The provisions of this article do not apply if the fact is foreseen as a more serious offense by another legal provision.

Art. 572
Maltreatment of family members and cohabitants.
Whoever, except in the cases indicated in the preceding article, mistreats a family member or, in any case, a cohabitant, or a person subjected to his authority or entrusted to him for reasons of education, care, supervision or custody, or for the exercise of a profession or art, is punished with imprisonment from two to six years.

If from the fact derives a severe bodily injury, the imprisonment from four to nine years is applicable; if the injury is extremely severe, the imprisonment is from seven to fifteen years; if death derives from it, the imprisonment is from twelve to twenty-four years.

Title XII - Of crimes against the person

Art. 575.
Murder.
Anyone who causes the death of a man is punished with imprisonment of not less than twenty-one years.

[…]

Art. 576.
Aggravating circumstances. Life imprisonment.

The sentence of life imprisonment is applied if the fact foreseen by the preceding article is committed:

[…]

2. against the ascendant or the descendant, when some of the circumstances indicated in numbers 1 and 4 of article 61 are involved, or when a poisonous medium or other insidious means are used, or when there is premeditation;

Art. 577.
Other aggravating circumstances. Life imprisonment.

The sentence of life imprisonment applies if the fact foreseen by article 575 [murder] is committed:

1) against the ascendant, or the descendant, or against the spouse, even if legally separated, against the other part of the civil union or against the person who is in a sentimental relationship and permanently cohabiting with the perpetrator;
[…]

Art. 609-bis.
Sexual violence.

Anyone who, through violence, threat, or abuse of authority forces someone to perform or to undergo to sexual acts is punished with imprisonment from five to ten years. […]

Art. 609-ter.
Aggravating circumstances.

The penalty is imprisonment from six to twelve years if the facts referred to in article 609-bis are committed:

[…]

5) against a person who has not completed the sixteen years of which the culprit is the ascendant, the adoptive parent, the guardian;

[…]

5-ter) against a pregnant woman;

5-quater) against a person of whom the perpetrator is the spouse, even if separated or divorced, or with whom he is or has been in a sentimental relationship, even without cohabitation;

[…]

Art. 609-quater.
Sexual acts with a minor.

Whoever, outside the cases provided for in this article, performs sexual acts with a person who, at the time of the fact

[…]

2) has not completed the sixteen years, when the culprit is the ascendant, the parent, also adoptive, or the cohabitant, the guardian, or other person to whom, for reasons of treatment, education, supervision or custody, the child is entrusted or has, with the latter, a relationship of cohabitation

is subject to the penalty established by Article 609-bis,

Outside the cases referred to in Article 609-bis, the ascendant, the parent, including the adoptive parent, or the cohabitant, the guardian, or other person to whom, for reasons of treatment, education, supervision or custody, the child is entrusted, or with the latter has a relationship of cohabitation, who, with the abuse of the powers connected to his position, performs sexual acts with a minor person who has completed the sixteen years, is punished with imprisonment from three to six years. […]

Art. 612-bis.

Persecutory acts.

Except where the fact constitutes a more serious offense, whomever, by means of a repetitive conduct, threatens or harasses another person in order to cause a persistent and severe state of anxiety or fear, or generates a well-founded fear about one's own safety or that of a close relative or of a person to whom is bound by a sentimental relationship, or forces him/her to alter his/her own life habits, is punished with imprisonment from six months to five years.

The penalty is increased if the act is committed by the spouse, even if separated or divorced, or by a person who is or has been in a sentimental relationship with the offended person, or if the act is committed through IT or telematic means.

[…]

The crime is punished on complaint by the injured person. The deadline for filing a criminal complaint is six months.
The withdrawal of the criminal complaint can only be procedural. The criminal complaint is in any case irrevocable if the fact has been committed through repeated threats according to the second paragraph of Article 612 [threats]. However, the crime is prosecuted ex-officio if the act is committed against a minor or a person with disabilities as referred to in Article 3 of Law No. 104 of 5 February 1992, as well as when the fact is connected to another crime for which ex-officio prosecution is warranted.

Criminal Procedure Code, 1998 (As amended)[35]

PART I
BOOK IV - PRECAUTIONARY MEASURES
TITLE I - Personal precautionary measures
Chapter II. Coercive measures

Art. 282-bis.
Removal from the family home.

1. With the provision that provides for removal, the judge requires the defendant to immediately leave the family home, or not to return, and not to access it without the authorization of the judge who is proceeding. Any authorization may prescribe certain visitation methods.

2. The judge, if there is a need to protect the injured party or her immediate relatives, may also require the defendant not to approach certain places habitually frequented by the injured person, in particular the workplace, the domicile of the family of origin or of the next of kin, unless the presence is necessary for work reasons. In the latter case, the judge prescribes the relevant procedures and may impose limitations.

3. The judge, at the request of the public prosecutor, may also order the periodic payment of a check to the cohabiting persons whom, as a result of the precautionary measure ordered, remain without adequate means. The judge determines the extent of the allowance taking into account the circumstances and income of the obligor and establishes the terms and conditions of the payment. It may order, if necessary, that the allowance is paid directly to the beneficiary by the obligor's employer, deducting it from the remuneration due to him. The order of payment has the effect of an enforceable title.

4. The measures referred to in paragraphs 2 and 3 may also be taken after the provision referred to in paragraph 1, provided that this has not been revoked or has not in any case lost its effectiveness. Even if adopted subsequently, they lose their effectiveness if the measure referred to in paragraph 1 is in any way lost or ineffective. The measure referred to in paragraph 3, if in favor of the spouse or children, also loses effectiveness upon adoption of the ordinance provided for by article 708 of the Code of Civil Procedure or other provision of the civil court regarding the economic-patrimonial relations between spouses or the support of children.

5. The measure referred to in paragraph 3 may be amended if the conditions of the obligor or beneficiary change, and is revoked if the cohabitation resumes.

6. When proceeding for one of the crimes provided for by Articles 570, 571, 582, limited to the hypothesis of ex officio prosecution or otherwise aggravated, 600, 600-bis, 600-ter, 600-quater, 600-septies.1, 600-septies .2, 601, 602,609-bis, 609-

[35] Criminal Procedure Code, D.P.R. n. 447 (22 September 1988, consolidated with amendments up to 11 January 2018), available at http://www.altalex.com/documents/codici-altalex/2014/10/30/codice-di-procedura-penale, *as amended by* Law No. 119/2013 converting into law, with amendments, Law Decree No. 39/2013 containing urgent provisions (inter alia) on the fight against gender-based violence) (last visited December 30, 2018).

ter, 609-quater, 609-quinquies and 609-octies and 612, second paragraph of the Penal Code[36], committed to the detriment of the next of kin or cohabitant, the measure may also be adopted outside the penalty limits provided for in Article 280, also with the control procedures provided for in article 275-bis.

Art. 282-ter.
Prohibition to approach the places frequented by the injured person.

1. With the measure that provides for the prohibition of contact, the judge prescribes the accused not to approach specific places habitually frequented by the injured person, or to maintain a certain distance from such places or from the injured person.

2. If there are further needs for protection, the judge can prescribe the defendant not to approach specific places habitually frequented by close relatives of the injured person, or by persons living with this as cohabits or in any case linked to [the injured person] by an affective relationship, or to maintain a certain distance from such places or such persons.

3. The judge can also forbid the accused to communicate, by any means, with the persons referred to in paragraphs 1 and 2.

4. When the attendance of the places referred to in paragraphs 1 and 2 is necessary for work reasons or for housing needs, the judge prescribes the relevant modalities and may impose limitations.

Article 282-quater.
Communication obligations.

1. The measures referred to in articles 282-bis and 282-ter shall be communicated to the competent public security authority, for the purpose of the potential adoption of measures regarding arms and ammunitions. They are also communicated to the injured party and to the social-welfare services of the territory. When the accused is positively submitted to a program of violence prevention organized by the social-welfare services of the territory, the person in charge of the service communicates this to the public prosecutor and to the judge for the purposes of the evaluation pursuant to article 299, paragraph 2.

1-bis. With the communication provided for in paragraph 1, the offended person is informed of the right to request the issuance of a European protection order.

Art. 299. Revocation and replacement of measures.

1. The coercive and interdictory measures are immediately revoked whenever the criteria of applicability provided for by art. 273, or by the provisions relating to the individual measures, or the precautionary requirements provided for by Article 274 are missing, also due to supervened events.

2. Except as provided by Art. 275, paragraph 3, when the precautionary requirements are mitigated, or the measure applied no longer appears proportionate to the extent of the fact or to the sanction that may be imposed, the judge replaces the measure with a less severe measure or determines its application by less cumbersome modalities.

2-bis. The measures referred to in paragraphs 1 and 2 [revocation and replacement] relative to the measures provided for in articles 282-bis, 282-ter, 283, 284, 285 and 286, when applied in proceedings concerning crimes committed violently against the person, must be immediately communicated by the judicial police to the social welfare services as well as the counsel of the injured party or, failing that, to the injured party.

3. The public prosecutor and the accused request the revocation or replacement of the [coercive] measures to the judge, who provides by order within five days from the filing of the request. The request for revocation or replacement of the measures provided for in articles 282-bis, 282-ter, 283, 284, 285 and 286 applied in proceedings referred to in paragraph 2-bis of this

[36] Violation of family assistance obligations (art. 570); Abuse of means of correction or discipline (art. 571); Personal injury (art. 582); Reduction or maintenance in slavery or servitude (art. 600); Child prostitution (art. 600-bis); Child pornography (art. 600-ter); Possession of pornographic material (art. 600-quarter); Mitigating circumstances (art. 600-septies.1); Accessory penalties (art. 600-speties.2); Human trafficking (art. 601); Purchase and sale of slaves (art. 602); Sexual violence (art. 609-bis); Sexual violence (aggravated) (art. 609-ter); Sexual acts with a minor (art. 609-quarter); Corruption of a minor (art. 609-quinquies); Group sexual violence (art. 609-octies); (Serious) Threats (art. 612). See Criminal Code, *R.D. No. 1398 of 19 October 1930* (consolidated version with amendments up to *1* March 2018), available at http://www.altalex.com/documents/news/2014/10/28/dei-delitti-contro-la-persona (last visited December 30, 2018).

article, which was not proposed in the course of the security questioning, must be notified simultaneously by the requesting party, and under penalty of inadmissibility, to counsel of the injured person or, failing that, to the injured person, unless this has not declared or elected domicile. The defendant and the injured person may, in the two days following the notification, submit statements pursuant to Article 121. Once the aforesaid term has expired, the judge proceeds. [...]

3-bis. The judge must hear the public prosecutor before ordering the revocation or replacement of the coercive and interdictory measures, either at the office or at the request of the defendant. If the public prosecutor does not express his opinion within two days, the judge proceeds.

3-ter. The judge, after evaluating the elements supporting the request of revocation or replacement of the measures, may interrogate the person under investigation before taking action. If the request for revocation or replacement is based on new or different elements compared to those already assessed, the judge must interrogate the accused who has requested it.

4. Without prejudice to the provisions of article 276, when the precautionary needs are exacerbated, the judge, at the request of the public prosecutor, replaces the measure with a more severe one, or provides to its more cumbersome application, or applies jointly other coercive or interdictory measures.

4-bis. After closing the preliminary investigations, if the accused asks for the revocation or replacement of the measure with another less severe, or its application by less burdensome modalities, the judge, if the request is not presented at the hearing, communicates it to the public prosecutor, who, within two days, formulates his own requests. The request for revocation or replacement of the measures provided for in articles 282-bis, 282-ter, 283, 284, 285 and 286, applied in the proceedings referred to in paragraph 2-bis of this article, must be simultaneously notified, by the requesting party, under penalty of inadmissibility, to counsel of the injured party or, failing that, to the injured party, unless this has failed to declare or elect domicile.

PART II
Book V: Preliminary investigations and preliminary hearing

Article 380.
Mandatory arrest in flagrante delicto.

[…]

1. Even outside of the cases referred to in paragraph 1, the agents and officers of judicial police proceed to arrest anyone who is caught in flagrante delicto of one of the following non-culpable, consumed or attempted, crimes:

[…]

l-ter) crimes of mistreatment of family members and cohabitants, and of persecutory acts, provided for by Articles 572 and 612-bis of the penal code;

[…]

Art. 384-bis.
Urgent removal from the family home

1. The judicial and police officers have the right to dispose, previous written authorization by the public prosecutor, or made orally and confirmed in writing or by electronic means, the urgent removal from the family home of those who are caught in the flagrante commission of crimes referred to in Article 282-bis, paragraph 6, with the prohibition to approach the places habitually frequented by the injured person, where there are reasonable grounds to believe that the criminal conduct may be repeated by placing in serious and present danger the life, physical or mental integrity of the injured person. The judicial police, without delay, proceeds to undertake the information obligations under Article 11 of Law Decree No. 11 of 23 February 2009, converted, with amendments, by Law No. 38 of 23 April 2009, and subsequent modifications.

2. The provisions of articles 385 et seq. of this title shall apply mutatis mutandis. The provisions of article 381, paragraph 3, are observed. The oral complaint is recorded in the report on the removal measure.

TITLE IV

Activities at the initiative of the judicial police

Art. 351.
Other summary information

1. The judicial police assume summary information from persons who can report circumstances useful for the purpose of the investigations.
[...]
1-ter. In proceedings for crimes provided for in articles 572,600, 600-bis, 600-ter, 600-quater, 600-quater.1, 600-quinquies, 601, 602, 609-bis, 609-quater, 609-quinquies, 609- octies, 609-undecies and 612-bis of the Penal Code[37], the judicial police, when it must assume summary information from minors, make use of the help of an expert in psychology or child psychiatry, appointed by the public prosecutor. It proceeds in the same way when it has to assume summary information from an injured person, even an adult, who is in conditions of particular vulnerability. In any case, when requesting summary information, it ensures that the particularly vulnerable injured person does not have any contacts with the person under investigation, and is not called to give such information repeatedly, except where absolutely necessary to the investigation.
[…]

TITLE VIII
Closing of preliminary investigations

Art. 415-bis.
Notice to the suspect of the conclusion of the preliminary investigations.

Before the expiration of the period provided for in Article 405, paragraph 2, even if extended, the public prosecutor, if he does not have to make a request to dismiss pursuant to articles 408 and 411, shall give notification of the conclusion of the preliminary investigations to the person under investigation, his/her lawyer as well, when proceeding for the crimes referred to in articles 572 and 612-bis of the Penal Code[38], to the lawyer of the injured party or, lacking this, to the injured party.

[…]

Part II
Book VI
Special Proceedings
TITLE III
Expedited Trial

Art. 449.
Cases and forms of direct judgment.

[...]

5. [...] When a person has been removed urgently from the family home in accordance with Article 384-bis, the judicial police, at the disposal of the public prosecutor, can summon him for the expedited proceedings and the contextual validation of the arrest within the next forty-eight hours, unless this seriously undermines the investigations. In this latter case, the judicial police, within the same period, summons him to the validation hearing indicated by the public prosecutor.

Book VII
Trial
TITLE II
Adversarial proceedings

[37] Maltreatment of family members and cohabitants, reduction or maintenance in slavery, prostitution of minors, pornography of minors, possession of pornographic material, virtual pornography, tourism directed at the sexual exploitation of minors, human trafficking, acquisition and sale of slaves, sexual violence, sexual acts with a minor, corruption of minor, group sexual violence, solicitation of minors, persecutory acts. See Criminal Code, *R.D. No. 1398 of 19* October 1930 (consolidated version with amendments up to1 March 2018), available at http://www.altalex.com/documents/news/2014/10/28/dei-delitti-contro-la-persona (last visited December 30, 2018).
[38] Maltreatments of family members and cohabitants; Persecutory acts. See Criminal Code, R.D. No. 1398 of 19 October 1930 (consolidated version with amendments up to1 March 2018), available at http://www.altalex.com/documents/news/2014/10/28/dei-delitti-contro-la-persona (last visited December 30, 2018).

Art. 498.
Direct examination and cross-examination of witnesses.

[…]

4-ter. When proceeding for the offenses referred to in articles 572, 600,600-bis, 600-ter, 600-quater, 600- quinquies, 601, 602,609-bis, 609-ter, 609-quater, 609-octies and 612-bis of the criminal code[39], the examination of the minor victim of the crime, or of the adult victim who is mentally ill, is carried out, upon request of his/her lawyer, by using a mirrored glass with an intercom system.
4-quater. Notwithstanding the provisions of the preceding paragraphs, when it is necessary to proceed to the examination of an injured person who is in a position of particular vulnerability, the judge, if that person or her lawyer request it, proceeds to adopt special protective modalities.[40]

Book I
Title VII
Counsel

Art. 101.
Counsel for the injured person

1. The person injured by the crime [CC 120 et seg.] may appoint a lawyer in the forms provided by Article 96 paragraph 2 [24, 33, 65] in order to exercise his/her rights and prerogatives. At the time of the acquisition of the notice of crime, the public prosecutor and the judicial police inform the person offended by the crime of this right. The injured person is also informed of the possibility of access to legal aid under Article 76 of the Consolidated Law and Legislative Rules, as per the Presidential Decree No. 115 of 30 May 2002 and subsequent modifications.

2. The provisions of Article 100 shall apply to the appointment of defenders of bodies and associations acting under Article 93.

Civil Code, 1942 (As amended) [41]

First Book
Of People and Family
Title IX-bis[42]
Protection orders against family abuse

Art. 342-bis.
Protection orders against family abuse.

When the conduct of the spouse or other cohabitant causes serious prejudice to the physical, moral integrity or freedom of the other spouse or cohabitant, the judge, [when the fact does not constitute crime prosecutable ex officio] on application by the party, may adopt by decree one or more of the measures referred to in Article 342-ter.

Article 342-ter.
Content of protection orders.

With the decree referred to in article 342-bis, the judge orders the spouse or cohabitant who has carried out the prejudicial conduct, the termination of the same and orders his removal from the family home also prescribing, where necessary, not to approach the places habitually frequented by the requesting party and, in particular, her workplace, the domicile of the family of origin, of other close relatives, or other persons, the places of education of the couple's children, unless the former has to frequent these places for work purposes.
The judge, where necessary, may also provide for the intervention of the social services of the territory or of a family mediation center, as well as of associations that have as their statutory purpose the support and reception of women and minors or other victims of abuse and mistreatment; the periodic payment of a check to cohabiting persons who, as a result of

[39] Maltreatment of family members and cohabitants, reduction or maintenance in slavery, prostitution of minors, pornography of minors, possession of pornographic material, virtual pornography, tourism directed at the sexual exploitation of minors, human trafficking, acquisition and sale of slaves, sexual violence, pornography of minors, sexual acts with a minor, corruption of minor, group sexual violence, solicitation of minors, persecutory acts. See Criminal Code, *R.D. No. 1398 of 19 October 1930* (consolidated version with amendments up to*1* March 2018), available at http://www.altalex.com/documents/news/2014/10/28/dei-delitti-contro-la-persona (last visited December 30, 2018).
[40] Paragraph added by art. 2, paragraph 1, lett. i), n. 2, of Law Decree No. 93 of 14 August 2013, converted, with amendments, by Law No. 119 of 15 October 2013, and, subsequently replaced by art. 1, paragraph 1, lett. l), Legislative Decree No. 212 of 15 December 2015.
[41] Civil Code, R.D. 16 No. 262 (March 1942, as amended up to January 2018), available at http://www.altalex.com/documents/news/2013/04/11/ordini-di-protezione-contro-gli-abusi-familiari (last visited December 30, 2018).
[42] Title added by Law 4 April 2001, No. 154.

the measures referred to in the first paragraph, remain without adequate means, establishing payment methods and terms and prescribing, if necessary, that the sum be paid directly to the beneficiary by the obligor's employer, by deducting it from his salary.
With the same decree the judge, in the cases referred to in the preceding paragraphs, establishes the duration of the protection order, which starts running from the day of the execution of the same. This cannot be more than one year and can be extended, upon request of the party, only for serious reasons and for the time strictly necessary.
With the same decree, the judge determines the modalities of implementation [of the protection order]. Where difficulties or disputes arise in relation to its execution, the same judge, by decree, provides to decide most appropriate modalities for its implementation, including through the use of public force and the assistance of a health officer.

10. JAMAICA

The Domestic Violence Act, 1996 (As amended)[43]

[…]

PART I. *Preliminary*

1. This Act may be cited as the Domestic Violence Act.

2.-(1) In this Act-
"applicant" means any person who applies or on whose behalf application is made, pursuant to this Act, for an order;
"child" means-
(a) a person who is under the age of eighteen years and who has never been married, being a child of both spouses who resides, or immediately preceding the date of the application was residing, in the household residence;
(b) a child of either spouse who resides, or immediately preceding the date of the application was residing, in the household residence and who is or was, living in the household as a child of the family;
(c) a child whether or not a child of a member of the household and-
(i) who is or has been a member of the household; or
(ii) who resides in the household on a regular basis; or
(iii) of whom any member of the household is the guardian;
"Court" means the Resident Magistrate's Court or the Family Court;
"dependant" includes-
(a) a member of the family of a respondent being a person who is eighteen years of age or older and normally resides, or resides on a regular basis, with the respondent; and
(b) a person who, by reason of physical or mental disability, age or infirmity, is reliant on the respondent for his welfare or maintenance;
"ex parte application" means an application made without notice to the respondent;
"member of the household" means a person who normally resides, or resides on a regular basis, with the respondent and "member of the respondent's household" shall be construed accordingly;
"occupation order" means an order made pursuant to section 7 and includes an interim order made under section 8;
"prescribed person" means the spouse, a parent, a child or dependant of the respondent or any person who is a member of the respondent's household or is in a visiting relationship with the respondent;
"protection order" means an order made pursuant to section 4 and includes an interim order made under that section;
"respondent" means a person who is named in an
application made pursuant to this Act;
"spouse" includes-
(a) a woman who cohabits with a man as if she were in law his wife;
(b) a man who cohabits with a woman as if he were in law her husband;
(c) a former spouse:
"visiting relationship" means a relationship between a man and a woman who do not share a common residence, which is a close personal relationship by virtue of its nature and intensity having regard to-
(a) the amount of time that the persons spend together;
(b) the place where that time is ordinarily spent;
(c) the manner in which that time is ordinarily spent;

[43] Domestic Violence Act, No. 15 of 1995 (as amended by Law No. 32 of 2004), available at http://moj.gov.jm/sites/default/files/laws/The%20Domestic%20Violence%20Act_0.pdf, (last visited December 30, 2018).

(d) the duration of the relationship; and
(e) the existence of a child (if any) of both parties.

PART II. *Application for Orders*

3.-(1) The Court may, on application, grant a protection order or occupation order in accordance with this Act.
(2) An application for an order referred to in subsection (I), may be made-
(a) by the spouse or parent in respect of whom the alleged conduct has been, or is likely to be, engaged in by the respondent;
(b) where the alleged conduct is used or threatened against a child or dependant by-
(i) a person with whom the child or dependant normally resides or resides on a regular basis;
(ii) a parent or guardian of the child or dependant;
(iii) a dependant who is not mentally disabled;
(iv) a person who is approved by the Minister responsible for social welfare to carry out social welfare work; or
(v) a Constable;
(c) by a person who is a member of the respondent's household or who is in a visiting relationship with the respondent, in respect of the alleged conduct engaged in or threatened by the respondent toward that person.
(3) An application under subsection (2) may be made on behalf of a person entitled to apply under paragraph (a) or (c) of that subsection by-
(a) a Constable; or
(b) any other person, whether or not a member of the household, with the leave of the Court.
(4) In determining whether to grant leave under subsection (3)(b), the Court may take into account whether or not the application is-
(i) in accordance with the wishes; or
(ii) in the best interests of the person entitled to apply; and
(b) there is any conflict between the interests of the person seeking leave and the person entitled to apply.

Protection Orders

4.-(1) Application may be made to the Court for a protection order to prohibit the respondent-
(a) from entering or remaining in the household residence of any prescribed person; or
(b) from entering or remaining in any area specified in the order being an area in which the household residence of the prescribed person is located; or
(c) from entering the place of work or education of any prescribed person; or
(d) from entering or remaining in any particular place;
(e)or from molesting a prescribed person by-
(i) watching or besetting the household residence, place of work or education of a prescribed person;
(ii) following or waylaying the prescribed person in any place;
(iii) making persistent telephone calls to a prescribed person;
(iv) using abusive language to or behaving towards a prescribed person in any other manner which is of such nature and degree as to cause annoyance to, or result in ill-treatment of the prescribed person; or
(v) damaging any property owned by, or available for the use or enjoyment of, the prescribed person, or any property in the care or custody or situated at the residence of the prescribed person.
(2) On hearing an application under subsection (I), the Court may make a protection order if it is satisfied that-
(a) the respondent has used or threatened to use, violence against, or caused physical or mental injury to, a prescribed person and is likely to do so again; or
(b) having regard to all circumstances, the order is necessary for the protection of a prescribed person.
(3) A protection order may be made on an ex parte application if the Court is satisfied that the delay that would be caused by proceeding on summons would or might result in-
(a) risk to the personal safety of a prescribed person; or
(b) serious or undue hardship,
and any protection order made on an *ex parte* application shall be an interim order.
(4) Where a protection order is granted on an *ex parte* application, it shall be served personally on the respondent who may apply immediately for it to be discharged.
(5) In making a protection order under this section or an occupation order under section 7, the Court may at the same time, of its own volition or upon the application of any party applying for the order, make an order, in accordance with the provisions of the Maintenance Act, for the maintenance of-
(a) any applicant entitled to be maintained by the respondent; or

(b) any member of the household in respect of whom the applicant is entitled to apply for maintenance as against the respondent,

if no such order for maintenance is already in force:

Provided that the duration of an order for maintenance under this section shall not exceed the duration of the protection order made under this section or the occupation order made under section 7, as the case may be.

5 –(1)Where a protection order, whether interim or otherwise, is made and-

(a) it is served personally on the respondent; and

(b) the respondent contravenes the order in any respect,

the respondent commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) Subject to the provisions of this section, where a protection order is in force, a Constable may arrest without warrant a person whom he has reasonable cause to suspect of having committed a breach of the order.

(3) No person shall be arrested pursuant to this section unless a Constable believes that the arrest of that person is reasonably necessary for the protection of the prescribed person.

(4) For the purposes of subsections (2) and (3), the Constable shall take into account-

(a) the seriousness of the act which constituted the alleged breach;

(b) the time that has elapsed since the alleged breach was committed; and

(c) the restraining effect of other persons or circumstances on the respondent.

(5) Where an arrest is made under this section-

(a) the person arrested shall be entitled to make a telephone call to one person of his choice, not being the applicant;

(b) the Constable who makes the arrest shall ensure that the person arrested is informed, at the time of arrest, of the right conferred by paragraph (a);

(c) and the person arrested shall be brought before the Court within a period of forty-eight hours beginning at the time of his arrest.

6.-(1) A party to the proceedings may apply to the Court for a discharge of a protection order.

(2) A copy of an application made under subsection (1) shall be served personally on each person who was a party to the proceedings in which the original order was made.

(3) In determining whether to discharge a protection order the Court shall have regard to the matters referred to in section 4 (2).

Occupation Orders

7.-(1) Application may be made to the Court by or on behalf of a prescribed person for an occupation order granting the prescribed person named in the order the right to live in the household residence.

(2) Subject to subsection (3), the Court may, on an application under subsection (I), make an occupation order granting to the prescribed person, for such period or periods and on such terms and subject to such conditions as the Court thinks fit, the right to occupy the household residence.

(3) The Court may make an order under subsection (2) only if the Court is satisfied that such an order-

(a) is necessary for the protection of the prescribed person; or

(b) would be in the best interest of a child.

8.-(1) An occupation order may be made on an *ex parte* application if the Court is satisfied that-

(a) the respondent has used violence against or caused physical or mental injury to a prescribed person; and

(b) the delay that would be caused by proceeding on summons could or might expose the prescribed person to physical injury.

(2) An occupation order made on an ex *parte* application shall be an interim order and shall be served personally on the respondent.

(3) Where the Court grants an occupation order on an *ex parte* application, the Court shall at the same time make an interim protection order unless it considers that there are special reasons why such an order should not be made.

(4) An occupation order which is made on an *ex parte* application while the prescribed person and the respondent are living together in the same household residence shall expire-

(a) on the discharge of the order by the Court; or

(b) on the discharge of an interim protection order made pursuant to subsection (3).

(5) Where an occupation order is made on an *ex parte* application, the respondent may apply for variation or discharge of that order.

9. Where an occupation order is made the prescribed person to whom it relates shall be entitled, to the exclusion of the

respondent, personally to occupy the household residence to which that order relates.

10. The Court may, if it thinks fit, on the application of either party, make an order-
(a) extending or reducing any period specified by the Court pursuant to subsection (2) of section 7; or
(b) varying or discharging any terms and conditions imposed by the Court pursuant to that subsection.

11.-(1) Before making an occupation order (other than an interim occupation order) the Court shall direct that notice be given to any person having an interest in the property which would be affected by the order.
(2) The person referred to in subsection (1) shall, upon being notified pursuant to that subsection, be entitled to appear and be heard in the matter of the application for the occupation order as a party to that application.

12.-(1) Subject to subsection (2), the Court may on or after making an occupation order, make an order granting to the applicant the use of all or any of-
(a) the furniture;
(b) the household appliances; and
(c) household effects,
in the household residence to which the occupation order relates for such period and subject to such terms and conditions as the Court thinks fit.
(2) An order made under subsection **(1)** shall continue in force for a period of three months from the date of the making thereof unless the Court otherwise directs but shall expire before that period if the occupation order expires or is discharged.

PART III. *General*

13.(1) Every interim order made under this Act on an *ex parte* application shall specify a date for a hewing which shall be as soon as reasonably practicable thereafter to determine whether an order shall be made in substitution for the interim order.
(2) The copy of an interim order which is served on the respondent shall notify the respondent that unless the respondent attends Court on the date specified therein to show cause why an order should not be made in substitution for the interim order, the Court may discharge the interim order and make an order in substitution therefor.
(3) At the hearing referred to in subsection (1) the Court may-
(a) discharge the interim order;
(b) discharge the interim order and make an order in
(3) (c) the Court shall, at the adjourned hearing, exercise either the power conferred by paragraph *(a)* or *(b)*of that subsection.
(4) Where a hearing is adjourned under subsection (3) (c) the Court shall, at the adjourned hearing, exercise either the power conferred by paragraph *(a)* or *(b)*of that subsection.
(5) In this section-
"interim order" means an interim protection order or interim occupation order, as the case may be;
"order" means a protection order or an occupation order, as the case may be, not being an interim order.

14.-(1) No person shall be present during the hearing of any proceedings under this Act unless such proceedings are criminal proceedings or the person is-
(a) an officer of the Court;
(b) a party to the proceedings;
(c) the attorney-at-law for a party to the proceedings;
(d)a witness; or
(e) any other person permitted by the Judge to be present.
(2) Any witness shall leave the courtroom if asked to do so by the Judge.
(3) Nothing in this section shall limit any other power of the Court to hear proceedings *in camera* or to exclude any person from the Court.

15. Every question of fact arising in any proceedings under this Act (other than criminal proceedings) shall be decided on a balance of probabilities.

16.-(1) Subject to subsection (4), no person shall publish any report of any proceedings under this Act unless he is first granted leave of the Court which heard the proceedings.
(2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.
(3) Nothing in this section limits-
(a) the provisions of any other enactment relating to 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 professions, officers of the Public Service, psychologists, marriage counsellors or social welfare workers.

17. In any proceedings under this Act, the Court may make an order by the consent of all the parties to such proceedings.

18. The Court may, on making an order under this Act, recommend that either or both parties participate in counselling of such nature as the Court may specify.

19.-(1) Any person aggrieved by-

(a) the making of an order by the Court; or

(b) the refusal of the Court to make an order, may appeal to the Court of Appeal.

(2) Except where the Court which makes an order under this Act otherwise directs, the operation of such order shall not be suspended by virtue of an appeal under this section, and every such order may be enforced in the same manner and in all respects as if no appeal under this section were pending.

20.(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 other person entitled to the benefit of any mortgage, security, charge or encumbrance affecting the property if such mortgage, security, charge or encumbrance was registered before the making of the order or if the rights of the person entitled to the benefit arise under an instrument executed before the date of the making of the order.

(2) Notwithstanding anything in any enactment or in any instrument, no money payable under any such mortgage, security, charge or encumbrance shall be called up or become due by reason of the making of an order under this Act.

21. This Act shall not affect the power of the Supreme Court to make orders under section 10 of the Matrimonial Causes Act.

22. Rules of Court may be made by the Rules Committee constituted under the Judicature (Resident Magistrates) Act for the purpose of regulating the practice and procedure of the Court in proceedings under this Act providing for such matters as are necessary for giving full effect to the provisions of this Act and for the due administration thereof.

The Sexual Offences Act, 2009 [44]

5.---(I) A husband commits the offence of rape against his wife if he has sexual intercourse with his wife in any of the circumstances specified in subsection (3)-

(a) without her consent; and

(b) knowing that she does not consent to sexual intercourse or recklessly not caring whether she consents or not.

(2) For the purposes of subsection (I), consent shall not Itbe deemed to exist where the apparent agreement to sexual intercourse is-

(a) extorted by physical assault or threats or fear of physical assault to the wife or to a third petson; or

(b) obtained by false and fraudulent representation as to the nature of the act or the identity of the offender.

(3) The circumstances referred to in subsection (1) are that-

(a) the spouses have separated and thereafter have lived separately and apart within the meaning of the Matrimonial Causes Act;

(b) there is in existence a separation agreement in writing between the spouses;

(c) proceedings for the dissolution of the marriage or for a decree of nullity of marriage have been instituted;

(d) there has been made or granted against the husband an order or injunction, as the case may be, for non-cohabitation, non-molestation or ouster from the matrimonial home for the personal protection of the wife; or

(e) the husband knows himself to be suffering from a sexually transmitted infection.

11. JAPAN

Act on the Prevention of Spousal Violence and the Protection of Victims, 2001 [45]

[44] The Sexual Offences Act, No. 12 of 2009, available at http://moj.gov.jm/sites/default/files/laws/Sexual%20Offences%20Act.pdf (last visited December 30, 2018).

[45] Act on the Prevention of Spousal Violence and the Protection of Victims, Act No. 31 of 2001, available at http://www.cao.go.jp/en/doc/sv.pdf (last visited December 30, 2018).

[...]

In consideration of respect for individuals and equality under the law expressly stipulated in the Constitution, progress has been made in Japan through efforts toward the protection of human rights and the realization of genuine equality between women and men.
Nevertheless, even though spousal violence constitutes a serious violation of human rights, as well as being a crime, efforts to relieve victims have not always been adequate in all instances. In addition, the majority of victims of spousal violence are women. When women who find it difficult to achieve economic self-reliance are subject to violence from their spouses, it adversely affects the dignity of individuals and impedes the realization of genuine equality between women and men.
In order to improve these conditions and to achieve the protection of human rights and the realization of genuine equality between women and men, we must establish measures to prevent spousal violence and protect victims. Such action will be in line with the efforts taken by the international community to eradicate violence against women.
This Act has been framed in order to prevent spousal violence and protect victims through the establishment of a system to deal with spousal violence, providing for notification, counseling, protection and support for self-reliance, etc.

Chapter I
General Provisions

Article 1 (Definitions)
(1) The term "spousal violence" as used in this Act means bodily harm by one spouse (illegal attacks threatening the other's life or body; the same shall apply hereinafter) or the words and deeds of one spouse that cause equivalent psychological or physical harm to the other (hereinafter collectively referred to as "bodily harm" in this paragraph), and shall cover cases where, subsequent to being subjected to violence by one spouse, the other spouse has obtained a divorce or annulment of the marriage but continues to be subjected to violence by his/her former spouse.
(2) The term "victim(s)" as used in this Act means a person(s) who has been subjected to spousal violence.
(3) The term "spouse" as used in this Act shall include persons who are in a de facto state of marriage, even if it has not been legally registered. "divorce" shall include the circumstances of persons who were in a de facto state of marriage, even if it were not legally registered, and whose situation has changed to a de facto state of divorce.

Article 2 (Responsibilities of the national government and local public entities)
The national government and local public entities shall have the responsibility of preventing spousal violence and providing appropriate protection for victims, including assistance in making them self-reliant.

Chapter I-2 Basic Policy and Prefectural Basic Plans, etc.

Article 2-2 (Basic Policy)
(1) The Prime Minister, the National Public Safety Commission, the Minister of Justice and the Minister of Health, Labor and Welfare (hereinafter collectively referred to as the "competent Ministers" in this Article and paragraph 5 of the following Article) shall establish a basic policy concerning measures for the prevention of spousal violence and the protection of victims (hereinafter referred to as the "Basic Policy" in this Article and paragraphs 1 and 3 of the following Article).
(2) The Basic Policy shall establish a guideline for the Prefectural Basic Plans set forth in paragraph 1 of the following Article and the Municipal Basic Plans set forth in paragraph 3 of the same Article with regard to the following:
(i) Basic matters related to the prevention of spousal violence and the protection of victims;
(ii) Matters related to the contents of measures for the prevention of spousal violence and the protection of victims;
(iii) Other important matters related to the implementation of measures for the prevention of spousal violence and the protection of victims.
(3) When establishing or revising the Basic Policy, the competent Ministers shall consult in advance with the heads of the administrative organs concerned.
(4) When establishing or revising the Basic Policy, the competent Ministers shall publicize the contents without delay.

Article 2-3 (Prefectural Basic Plans, etc.)
(1) In line with the Basic Policy, prefectures shall establish their own basic plans
concerning the implementation of measures for the prevention of spousal violence and the protection of victims within their jurisdiction (hereinafter referred to as "Prefectural Basic Plans" in this Article).
(2) Prefectural Basic Plans shall provide the following matters:
(i) Basic policy related to the prevention of spousal violence and the protection of victims;
(ii) Matters related to the contents of the actual implementation of measures for the prevention of spousal violence and the protection of victims;

(iii) Other important matters related to the implementation of measures for the prevention of spousal violence and the protection of victims.
(3) In line with the Basic Policy and by taking into consideration Prefectural Basic Plans, municipalities (including special wards; the same shall apply hereinafter) shall endeavor to establish their own Basic Plans concerning the implementation of measures for the prevention of spousal violence and the protection of victims within their jurisdiction (hereinafter referred to as "Municipal Basic Plans" in this Article).
(4) When establishing or revising Prefectural Basic Plans or Municipal Basic Plans, prefectures or municipalities shall publicize the contents without delay.
(5) The competent Ministers shall endeavor to provide prefectures or municipalities with the advice and other assistance needed to establish such Prefectural Basic Plans or Municipal Basic Plans.

Chapter II
Spousal Violence Counseling and Support Centers, etc.

Article 3 (Spousal Violence Counseling and Support Centers)
(1) Prefectures shall authorize Women's Consulting Offices or other appropriate facilities which they have established within their jurisdiction to function as Spousal Violence Counseling and Support Centers.
(2) Municipalities shall endeavor to authorize appropriate facilities which they have established within their jurisdiction to function as Spousal Violence Counseling and Support Centers.
(3) In order to prevent spousal violence and protect victims, Spousal Violence Counseling and Support Centers shall undertake the following activities:
(i) To provide victims with counseling regarding various problems affecting them or to introduce them to Women's Consultants or organizations that provide such counseling;
(ii) To provide victims with medical or psychological guidance or other required guidance in order to help them recover their psychological and physical health;
(iii) To secure safety in an emergency and provide temporary protection for victims (in cases where a victim is accompanied by family members, for the family members as well as the victim; the same shall apply in the following item, item 6, Article 5, and Article 8-3);
(iv) To offer information, advice, and liaison and coordination with concerned organizations, as well as other forms of assistance, concerning measures including employment promotion, housing procurement, and the use of systems for social assistance in order to promote the self-reliance of victims;
(v) To offer information, advice, and liaison and coordination with concerned organizations, as well as other forms of assistance concerning the use of the protection order system prescribed in Chapter IV;
(vi) To offer information, advice, and liaison and coordination with concerned organizations, as well as other forms of assistance concerning the use of facilities where victims may live and receive protection.
(4) The temporary protection set forth in item 3 of the preceding paragraph shall be provided directly by Women's Consulting Offices or entrusted to parties that meet the criteria specified by the Minister of the Health, Labor and Welfare.
(5) The Spousal Violence Counseling and Support Centers shall, during the course of their duties, when necessary, endeavor to collaborate with private bodies that are engaged in activities designed to prevent spousal violence and protect victims.

Article 4 (Counseling by Women's Consultants, etc.)
Women's Consultants may provide counseling to victims and undertake guidance as necessary.

Article 5 (Protection at Women's Protection Facilities)
Prefectures may provide protection to victims at Women's Protection Facilities.

Chapter III
Protection of Victims

Article 6 (Notification, etc. by those who detect cases of Spousal Violence)
(1) Those who detect spousal violence (limited to cases of bodily harm by a spouse or former spouse; hereinafter the same shall apply in this Chapter) shall endeavor to notify the fact to a Spousal Violence Counseling and Support Center or a police officer.
(2) Physicians or other medical personnel who detect, during the course of their duties, a person whom they consider to have suffered from injuries or medical conditions resulting from spousal violence may notify the fact to a Spousal Violence Counseling and Support Center or a police officer. In such cases, they shall endeavor to respect the intentions of the person in question.
(3) Provisions of the Penal Code (Act No. 45 of 1907) concerning the unlawful disclosure of confidential information and provisions of other acts concerning confidentiality obligations shall not be construed as those preventing notification under

the preceding two paragraphs.
(4) Physicians or other medical personnel who detect, during the course of their duties, a person whom they consider to have suffered from injuries or medical conditions resulting from spousal violence shall endeavor to provide the person with the information at their disposal concerning the use of Spousal Violence Counseling and Support Centers, etc.

Article 7 (Explanations, etc. about protection provided by Spousal Violence Counseling and Support Centers)
When receiving notification about a victim or consulting with a victim, Spousal Violence Counseling and Support Centers shall offer explanations and advice regarding their duties as Spousal Violence Counseling and Support Centers pursuant to the provisions of Article 3, paragraph 3 and recommend the victim to receive any necessary protection as needed.

Article 8 (Prevention of harm by the police)
When, following notification or by other means, the police believe that there is a case of spousal violence, they shall endeavor to take any necessary measures pursuant to the provisions of the Police Act (Act No. 162 of 1954), Police Official Duties Execution Act (Act No. 136 of 1948) and other laws and regulations in order to prevent the victim from suffering harm from spousal violence, such as stopping the violence or providing protection to the victim, etc.

Article 8-2 (Assistance by the Chief of the Prefectural Police Headquarters, etc.)
When receiving a request from a victim for assistance in preventing harm from spousal violence on his/her own behalf and finding the request appropriate, the Superintendent General of the Metropolitan Police Department or the Chief of the Prefectural Police Headquarters (or the Chief of the Area Headquarters except for the areas including the location of the Hokkaido Prefectural Police Headquarters; the same shall apply in Article 15, paragraph 3) or the chief of the police station shall advise the victim on measures to prevent the said harm on his/her own behalf and offer other necessary assistance to prevent him/her from suffering harm from spousal violence pursuant to the provisions of the regulations established by the National Public Safety Commission.

Article 8-3 (Support for self-reliance by Welfare Offices)
Offices handling welfare affairs as defined by the Social Welfare Act (Act No. 45 of 1951) (referred to as "Welfare Offices" in the following Article) shall endeavor to take any necessary measures to support victims to become self-reliant pursuant to the provisions of the Public Assistance Act (Act No. 144 of 1950), Child Welfare Act (Act No. 164 of 1947), Mother and Child and Widows Welfare Act (Act No. 129 of 1964) and other laws and regulations.

Article 9 (Cooperation among concerned organizations to protect victims)
The prefectural or municipal organizations concerned, such as Spousal Violence Counseling and Support Centers, the Prefectural Police and Welfare Offices, and the other organizations concerned shall endeavor to work in collaboration in seeking to provide appropriate protection for victims.

Article 9-2 (Appropriate and prompt processing of complaints)
The concerned organizations set forth in the preceding Article shall, when receiving complaints from victims regarding the performance of duties by personnel in charge of the protection of victims, endeavor to process such complaints in an appropriate and prompt manner.

Chapter IV
Protection Orders

Article 10 (Protection Orders)
(1) In cases where a victim (limited to a victim who has been subjected to bodily harm or life threatening intimidation, etc. (intimidation through announcing an intention to inflict harm on the life or body of a victim; hereinafter the same shall apply in this Chapter) by a spouse; hereinafter the same shall apply in this Chapter) who has been subjected to bodily harm by a spouse is highly likely to receive serious harm on his/her life or body due to renewed bodily harm by the spouse (including cases where subsequent to being subjected to bodily harm by the spouse, the victim has obtained a divorce or annulment of the marriage but continues to be subjected to bodily harm by the former spouse; the same shall apply in Article 12, paragraph 1, item 2) or where a victim who has been subjected to life-threatening intimidation, etc. by a spouse is highly likely to receive serious harm on his/her life or body due to bodily harm by the spouse (including cases where subsequent to being subjected to life-threatening intimidation, etc. by the spouse, the victim has obtained a divorce or annulment of the marriage but continues to be subjected to bodily harm by the former spouse; the same shall apply in the same item), the court shall, upon a petition from the victim, find against the spouse (including the former spouse in cases where subsequent to being subjected to bodily harm or life threatening intimidation, etc. by the spouse, the victim has obtained a divorce or annulment of the marriage; hereinafter the same shall apply in this Article, Article 12, paragraph 1, items 3 and 4, and Article 18, paragraph 1) and order the matters listed below the following items in order to prevent harm to the victim's life or body. The matters listed in item 2,

however, shall only be applied to cases where the victim and the spouse in question are still living together at the time of the petition:
(i) To oblige the spouse, for a six-month period from the day the order comes into effect, to refrain from approaching the victim at the victim's domicile (except for the domicile that the victim shares as the main home with the said spouse; hereinafter the same shall apply in this item) or any other place where the victim is staying, or from loitering in the vicinity of the domicile, workplace, or any other location normally frequented by the victim;
(ii) To oblige the spouse to leave, for a two-month period from the day the order comes into effect, the domicile that the spouse shares as the main home with the victim and to refrain from loitering in the vicinity of the said domicile.
(2) In cases provided in the main clause of the preceding paragraph, the court that issues or has issued an order under item 1 of the same paragraph shall, upon a petition from the victim, find against the spouse and order the spouse to refrain from taking any of the matters listed below the following items against the victim during a period from the day the order comes into effect to the day after six months from the day the order came into effect, in order to prevent harm to the victim's life or body:
(i) To request a meeting;
(ii) To tell the victims matters that suggest that the spouse is monitoring the victim's behaviors or to let be in a situation where the victim may know about it;
(iii) To use or carry out extremely rude or violent words and deeds;
(iv) To make a phone call without saying anything, or to make phone calls, transmit messages by fax or send e-mails incessantly, except in cases of urgent necessity;
(v) To make phone calls, transmit messages by fax or send e-mails between 10 p.m. and 6 a.m., except in cases of urgent necessity;
(vi) To send filthy materials, animal carcasses or other extremely disgusting or repulsive materials or to let the victim know about it;
(vii) To reveal matters that harm the victim's dignity or to let the victim know about it;
(viii) To reveal sexually insulting materials or to let the victim know about it, or send documents, pictures or other sexually insulting materials or to let the victim know about it.
(3) In cases provided in the main clause of paragraph 1, when the victim lives with children who have not reached their majority (hereinafter referred to simply as "children" in this paragraph, the following paragraph and Article 12, paragraph 1, item 3), and when it is found necessary to prevent the victim from being obliged to meet the spouse with regard to the children who live with the victim, by taking into consideration the fact that the spouse uses or carries out words or deeds sufficient to lead to a suspicion that the spouse is likely to take any young children back, or other circumstances, the court that issues or has issued an order under paragraph 1, item 1 shall, upon a petition from the victim, find against the spouse and order the spouse to refrain from approaching the children at their domicile (except for the domicile that the children share as the main home with the said spouse; hereinafter the same shall apply in this paragraph), the school the children attend or any other place where the children are staying, or from loitering in the vicinity of the domicile, school, or any other locations normally frequented by the children during a period from the day the order comes into effect to the day after six months from the day the order came into effect, in order to prevent harm to the children's lives or bodies. However, if the children in question are 15 years of age or over, this provision shall only apply to cases where the court has obtained the children's consent.
(4) In cases prescribed in the main clause of paragraph 1, when there are certain circumstances such that the spouse visits the domicile of the victim's relative or other person with whom the victim has close relationships in his/her social life (except for children who live with the victim and persons who live with the spouse; hereinafter referred to as a "relative, etc." in this paragraph, the following paragraph, and Article 12, paragraph 1, item 4) and uses or carries out extremely rude or violent words or deeds and therefore it is found necessary to prevent the victim from being obliged to meet the spouse with regard to the relative, etc. in question, the court that issues or has issued an order under paragraph 1, item 1 shall, upon a petition from the victim, find against the spouse and order the spouse to refrain from approaching the relative, etc. at his/her domicile (except for a domicile that the relative, etc. shares as the main home with the said spouse; hereinafter the same shall apply in this paragraph) or any other place where the relative, etc. is staying, or from loitering in the vicinity of the domicile, workplace, or any other location normally frequented by the relative, etc. during a period from the day the order comes into effect to the day after six months from the day the order came into effect, in order to prevent harm to the life or body of the relative, etc.
(5) A petition set forth in the preceding paragraph may be filed only when the said relative, etc. (except for the victim's children under 15 years of age; hereinafter the same shall apply in this paragraph) gives his/her consent (in cases where the relative, etc. is a person under 15 years of age or an adult ward, only when the statutory representative thereof gives consent).

Article 11 (Court with jurisdiction)
(1) Cases pertaining to a petition for an order under paragraph 1 of the preceding Article shall be within the jurisdiction of the district court which exercises jurisdiction over the area where the opposite party maintains an address (or a place of residence in cases where the opposite party does not have an address in Japan or the address of the opposite party is unknown).
(2) A petition for an order under paragraph 1 of the preceding Article may be filed in a district court that exercises jurisdiction

over the areas listed in the following items:
(i) The address of the petitioner's domicile or residence;
(ii) The place where the bodily harm or life-threatening intimidation, etc. by the spouse pertaining to the said petition took place.

Article 12 (Petition for Protection Orders)
(1) A petition for an order under Article 10 paragraphs 1 to 4 (hereinafter referred to as "Protection Order") shall be filed with a document containing the following matters:
(i) The circumstances under which the victim was subjected to bodily harm or life threatening intimidation, etc. by the spouse;
(ii) Sufficient evidence at the time of the petition to prove that there still exists a grave risk of serious harm to the life or body of the victim resulting from renewed bodily harm by the spouse or bodily harm by the spouse after receiving life threatening intimidation, etc. from the spouse;
(iii) When filing a petition for an order under Article 10, paragraph 3, sufficient evidence at the time of the petition to prove the necessity of issuing an order to prevent the victim from being obliged to meet the spouse on with regard to the Children in question who live with the victim;
(iv) When filing a petition for an order under Article 10, paragraph 4, sufficient evidence at the time of the petition to prove the necessity of issuing the order to prevent the victim from being obliged to meet the spouse with regard to the Relative, etc. in question;
(v) The existence or absence of the victim having sought counseling or asked for assistance or protection from the staff of a Spousal Violence Counseling and Support Center or police personnel concerning the matters listed in the preceding items. In cases such circumstances exist, matters listed below:
(a) The name of the Spousal Violence Counseling and Support Center or the police station to which the police personnel belongs;
(b) The date, time and location that the counseling was sought or the assistance or protection was asked for;
(c) The details of the counseling or the assistance or protection asked for;
(d) The details of the measures taken in response to the counseling or the request from the petitioner.
(2) In the case where the document set forth in the preceding paragraph (hereinafter referred to as "Written Petition") misses any of the matters listed in item 5 (a) to (d) of the same paragraph, the Written Petition shall be submitted with the petitioner's written statements regarding the matters listed in items 1 to 4 of the same paragraph certificated pursuant to the provisions of Article 58-2, paragraph 1 of the Notary Act (Act No. 53 of 1908).

Article 13 (Prompt judicial decision)
The court shall render a judicial decision promptly with regard to cases pertaining to a petition for a protection order.

Article 14 (Proceedings for Protection Order cases)
(1) A protection order may not be issued before a fixed date for oral arguments or a hearing that the opposite party may witness; provided, however, that this shall not apply to cases where there are circumstances where waiting for the date will interfere with the fulfillment of the intent of the petition for a protection order.
(2) When a Written Petition contains the matters listed in Article 12, paragraph 1, item 5 (a) to (d), the court shall request the chief of the Spousal Violence Counseling and Support Center or the police station in question to submit a written explanation of the circumstances at the time when the petitioner sought counseling or asked for assistance or protection, as well as the details of the measures taken in response to them. In such cases, the chief of the Spousal Violence Counseling and Support Center or the police station in question shall respond promptly.
(3) The court shall, when it is found to be necessary, ask the chief of the Spousal Violence Counseling and Support Center or the police station set forth in the preceding paragraph or the personnel with whom the petitioner sought counseling or asked for assistance or protection to explain further the matters for which the court requested the submission of written explanations pursuant to the provisions of the same paragraph.

Article 15 (Decision, etc. on a petition for a Protection Order)
(1) The decision on a petition for a Protection Order shall contain the reasons adduced for it. However, in cases where it is made without going through oral arguments, it would be sufficient to show the gist of the reasons.
(2) A Protection Order shall come into effect when the written decision has been sent to the opposite party or when the decision has been rendered on the date of oral arguments or a hearing at which the opposite party appeared.
(3) The clerk of the court shall, when issuing a protection order, promptly notify the Superintendent General of the Metropolitan Police Department or the chief of the Prefectural Police Headquarters with jurisdiction over the address or place of residence of the petitioner of its gist and contents.
(4) When a Protection Order is issued, and it is known that the petitioner has sought counseling or has requested assistance or

protection from the personnel at a Spousal Violence Counseling and Support Center and the Written Petition includes matters listed in Article 12, paragraph 1, item 5 (a) to (d) pertaining to the said fact, the clerk of the court shall promptly notify the gist and contents of the protection order to the chief of the Spousal Violence Counseling and Support Center whose name is entered in the said Written Petition (in cases where the names of more than two Spousal Violence Counseling and Support Centers are entered in the Written Petition, the last one entered where the petitioner sought counseling or asked for assistance or protection from the personnel).
(5) A protection order does not have the power of enforcement.

Article 16 (Immediate appeals against rulings)
(1) An immediate appeal against a ruling may be lodged against a judgment related to a petition for a protection order.
(2) An immediate appeal against a ruling set forth in the preceding paragraph shall not have any impact on the validity of a protection order.
(3) In the case where an immediate appeal against a ruling has been lodged, and only when there is prima facie evidence showing that there are circumstances that will cause the revocation of the protection order, an appellate court may order, upon a petition, the suspension of the validity of the protection order until the judgment on the immediate appeal against a ruling has come into effect. The court that originally had jurisdiction over the case may also order such a disposition if the case records are still in its possession.
(4) When ordering the suspension of the validity of an order under Article 10, paragraph 1, item 1 pursuant to the provisions of the preceding paragraph, if an order under Article 10, paragraphs 2 to 4 has been issued, the court shall also order the suspension of the validity of the said order.
(5) No appeal may be entered against the judgment pursuant to the provisions of the preceding two paragraphs.
(6) When revoking an order under Article 10, paragraph 1, item 1, if an order under paragraphs 2 to 4 of the same Article has been issued, the appellate court shall also revoke the said order.
(7) Regarding a Protection Order for which a notification has been made pursuant to the provisions of paragraph 4 of the preceding Article, when the court has ordered the suspension of the validity of the order or the appellate court has revoked the order pursuant to the provisions of paragraph 3 or paragraph 4, the clerk of the court shall promptly notify the gist and contents of the suspension or revocation to the chief of the Spousal Violence Counseling and Support Center to which the said notification was made.
(8) The provisions of paragraph 3 of the preceding Article shall apply mutatis mutandis to the cases set forth in paragraph 3 and paragraph 4 and when the appellate court has revoked a Protection Order.

Article 17 (Revocation of Protection Orders)
(1) The court that has issued a Protection Order shall revoke the order when the person who petitioned for the Order has filed a petition for its revocation. The same shall apply to cases where the person subject to the Order has filed a petition for the revocation of the order and the court has confirmed that the person who petitioned for the said Order does not object, when three months have elapsed from the day the order under Article 10, paragraph 1, item 1 or paragraphs 2 to 4 came into effect or when two weeks have elapsed from the day the Order under paragraph 1, item 2 of the same Article came into effect.
(2) The provisions of paragraph 6 of the preceding Article shall apply mutatis mutandis to cases where the court that has issued an order under Article 10, paragraph 1, item 1 revokes the order pursuant to the provisions of the preceding paragraph.
(3) The provisions of Article 15, paragraph 3 and paragraph 7 of the preceding Article shall apply mutatis mutandis to the cases set forth in the preceding two paragraphs.

Article 18 (Repeated Petition for an order under Article 10, paragraph 1, item 2)
(1) When an order under Article 10, paragraph 1, item 2 has previously been issued and a repeated petition for an order under the same item has been filed on the grounds that the same fact of bodily harm or life threatening intimidation, etc. that was the ground for the petition for the issued order, the court shall issue the order in question only when finding it necessary to reissue the order under the same item, by taking into consideration the fact that the victim who intends to move from the domicile that the victim shares as his/her main home with his/her spouse is unable to complete the move from the domicile within two months from the day the issued order comes into effect due to cause imputable to the victim himself/herself, or other circumstances. However, the court may choose not to issue the order when finding that the issuance of the order will cause extreme hindrance to the spouse's daily life.
(2) With regard to the application of the provisions of Article 12 to cases of filing a repeated petition set forth in the preceding paragraph, the term "the following matters" in the part other than those enumerated in each item of Article 12, paragraph 1 shall be deemed to be replaced with "matters listed in item 1, item 2, and item 5 and circumstances set forth in the main clause of Article 18, paragraph 1," the term "the matters listed in the preceding items" in item 5 of the same paragraph shall be deemed to be replaced with "matters listed in item 1 and item 2 and circumstances set forth in the main clause of Article 18, paragraph 1," and the term "the matters listed in items 1 to 4 of the same paragraph" in paragraph 2 of the same Article shall be deemed to be replaced with "matters listed in item 1 and item 2 of the same paragraph and circumstances set forth in

the main clause of Article 18, paragraph 1."

Article 19 (Inspection, etc. of case records)
With regard to procedures concerning a Protection Order, the party may request the clerk of the court for the inspection or a copy of case records, the delivery of a transcript or an extract thereof, or the issuance of a certificate of matters concerning the case; provided, however, this shall not apply to the opposite party until the date for oral proceedings or a hearing in the presence of the opposite party with regard to the petition for the protection order is designated or until the protection order has been sent to the opposite party.

Article 20 (Certification of oath by a Secretary in the Ministry of Justice)
When a notary is not available or cannot perform his/her duties within the area of the jurisdiction of the responsible Legal Affairs Bureau, Regional Legal Affairs Bureau, or branch office thereof, the Minister of Justice may authorize a Secretary in the Ministry of Justice who works for the said Legal Affairs Bureau, Regional Legal Affairs Bureau, or branch office thereof to make a certification under Article 12, paragraph 2 (including in cases where the provisions of Article 12, paragraph 2 are applied with a replacement of the terms pursuant to the provisions of Article 18, paragraph 2).

Article 21 (Application mutatis mutandis of the Code of Civil Procedure)
The provisions of the Code of Civil Procedure (Act No. 109 of 1996) shall apply mutatis mutandis to the procedures concerning a Protection Order, unless the application is inconsistent with the nature thereof, except as otherwise provided for by this Act.

Article 22 (Rules of the Supreme Court)
In addition to the matters provided for by this Act, any necessary matters with regard to the procedures concerning a Protection Order shall be provided by the Rules of the Supreme Court.

Chapter V
Miscellaneous Provisions

Article 23 (Consideration, etc. by related officials)
(1) Officials related to the protection of victims, investigations and judicial decisions
pertaining to spousal violence (referred to as "related officials" in the following paragraph) shall, in the performance of their duties, take into consideration of the psychological and physical conditions of the victims and their environment, etc., respect their human rights regardless of their nationality or disability, etc., and give due consideration to ensuring their safety and protecting their privacy.
(2) The national government and local public entities shall conduct the training and enlightenment activities necessary to deepen the related officials' understanding concerning the human rights of victims and the characteristics of spousal violence, etc.

Article 24 (Education and enlightenment)
The national government and local public entities shall endeavor to promote education and enlightenment activities to deepen citizens' understanding concerning the prevention of spousal violence.

Article 25 (Promotion, etc. of research and study)
In order to contribute to the prevention of spousal violence and the protection of victims, the national government and local public entities shall endeavor to promote research and study concerning methods, etc. for guidance for the rehabilitation of perpetrators and the restoration of the physical and psychological health of victims, as well as to foster personnel pertaining to the protection of victims and enhance their qualifications.

Article 26 (Assistance to private bodies)
The national government and local public entities shall endeavor to provide the necessary assistance to private bodies that are engaged in activities to prevent spousal violence and protect victims.

Article 27 (Payment by prefectures and municipalities)
(1) Prefectures shall pay the expenses listed in the following items:
(i) Expenses needed to operate Women's Consulting Offices that perform duties listed in Article 3, paragraph 3 pursuant to the provisions of the same paragraph (excluding expenses listed in the following item);
(ii) Expenses needed for the temporary protection provided by Women's Consulting Offices pursuant to the provisions of Article 3, paragraph 3, item 3 (including cases where duties are entrusted to persons who meet the criteria specified by the

Minister of Health, Labor and Welfare as prescribed in paragraph 4 of the same Article);
(iii) Expenses needed for duties performed by Women's Consultants entrusted by prefectural governors pursuant to the provisions of Article 4;
(iv) Expenses needed for the protection by prefectures pursuant to the provisions of Article 5 (including cases where the duties are entrusted to municipalities, social welfare corporations or other persons whom prefectures deem appropriate) and expenses needed for the clerical work necessary for the protection.
(2) Municipalities shall pay expenses needed for duties performed by Women's Consultants entrusted by municipal mayors pursuant to the provisions of Article 4.

Article 28 (Share of Expenses and Subsidies of the National Government)
(1) Pursuant to the provisions of a Cabinet Order, the national government shall bear five-tenths of the amount of the expenses listed in item 1 and item 2 of paragraph 1 of the preceding Article that have been paid by prefectures pursuant to the provisions of the same paragraph.
(2) The national government may, within budgetary limits, provide subsidies for up to five-tenths of the amount of the expenses listed below:
(i) Expenses listed in item 3 and item 4 of paragraph 1 of the preceding Article that have been paid by prefectures pursuant to the provisions of the same paragraph;
(ii) Expenses that have been paid by municipalities pursuant to the provisions of paragraph 2 of the preceding Article.

Chapter VI
Penal Provisions

Article 29
Persons who have violated a Protection Order shall be punished by imprisonment with work for not more than one year or a fine of not more than one 1,000,000 yen.

Article 30
Persons who have filed a petition for a Protection Order with a Written Petition that contains a false entry with regard to matters to be entered pursuant to the provisions of Article 12, paragraph 1 (including cases where the provisions of Article 12, paragraph 1 are applied with the replacement of terms pursuant to the provisions of Article 18, paragraph 2) shall be punished by a non-penal fine of not more than 100,000 yen.

Supplementary Provisions [Extract]

Article 1 (Effective date)
This Act shall come into effect as from the day on which six months have elapsed from the day of promulgation; provided, however, that the provisions of Chapter II, Article 6 (limited to the part pertaining to Spousal Violence Counseling and Support Centers), Article 7, Article 9 (limited to the part pertaining to Spousal Violence Counseling and Support Centers), Article 27, and Article 28 shall come into force as from April 1, 2002.

Article 2 (Transitional measures)
With regard to the application of the provisions of Article 12, paragraph 1, item 4 and Article 14, paragraph 2 and paragraph 3 to cases concerning a petition for a Protection Order from the victim who has sought counseling or asked for assistance or protection with regard to bodily harm by the spouse to Women's Consulting Offices by March 31, 2002, the term "Spousal Violence Counseling and Support Center" in these provisions shall be deemed to be replaced with "Women's Consulting Office."

Article 3 (Review)
With regard to the provisions of this Act, approximately three years after this Act comes into force, a review shall be conducted by taking into consideration the status of the enforcement of this Act and necessary measures shall be taken based on the results thereof.

Supplementary Provisions [Act No. 64 of 2004]

Article 1 (Effective date)
This Act shall come into effect as from the day on which six months have elapsed from the day of promulgation.

Article 2 (Transitional measures)
(1) With regard to cases concerning an order issued prior to the enforcement of this Act pursuant to the provisions of Article

10 of the Act on the Prevention of Spousal Violence and the Protection of Victims prior to the revision by this Act (referred to as the "Old Act" in the following paragraph) pertaining to a petition for an order under the same Article, the provisions then in force shall remain applicable.
(2) With regard to the application of the provisions of Article 18, paragraph 1 of the Act on the Prevention of Spousal Violence and the Protection of Victims revised by this Act (hereinafter referred to as the "New Act") to cases where, after the issuance of an order under Article 10, item 2 of the Old Act, a petition was filed for an order under Article 10, paragraph 1, item 2 of the New Act (limited to the first petition filed after the enforcement of this Act) on the grounds of the same fact of illegal attacks threatening the other's life or body that was the ground for the petition for the said Order, the term "two months" in the same paragraph shall be deemed to be replaced with "two weeks."

Article 3 (Review)
With regard to the provisions of the New Act, approximately three years after this Act comes into force, a review shall be conducted by taking into consideration the status of the enforcement of the New Act and any necessary measures shall be taken based on the results thereof.

Supplementary Provisions [Act No. 113 of 2007] [Extract]

Article 1 (Effective date)
This Act shall come into effect as from the day on which six months have elapsed from the day of promulgation.

Article 2 (Transitional measures)
With regard to cases concerning an order issued prior to the enforcement of this Act pursuant to the provisions of Article 10 of the Act on the Prevention of Spousal Violence and the Protection of Victims prior to the revision by this Act pertaining to a petition for an order under the same Article, the provisions then in force shall remain applicable.

12. JORDAN

The Protection from Domestic Violence Act, 2008 [46]

Article [1]:

This law is named (Domestic Violence Act for 20008) and is effective from the date of its publication in the Official Gazette.

Article [2]:

The following terms, whenever found in the law, shall mean the following unless the context indicates otherwise:

Ministry: Ministry of Social Development.
Minister: Minister of Social Development.
Court: Specialized Court
Family Members: The peoples mentioned in Article 3 below of this law and who reside in the family residence.
Family Residence: The residence where the family members live together.
The Victim: The Victim of domestic violence in accordance with the provisions of this law.
Safe Place: Any place that provides security for the victim and approved by the Minister.
The Assigned Staff: The Ministry's employees designated by the Minister and the officers and members of the Department of Family Protection.
Department of Family Protection: The Department established in the Directorate of public Security and in charge of family protection.
Security Center: The center depending of the police department wherever it may be located.
Family Reconciliation Committee: Any family reconciliation committee established in accordance with the provisions of this law.

Article [3]:

For purposes of this law, Family Members have the following meaning:
A. Husband and Wife, with a valid marriage license and their sons and daughters, and their grandchildren.

[46] Criminal Code, Proclamation No. 414/2004 (9tMay 2005), available at http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70993/75092/F1429731028/ETH70993.pdf (last visited December 30, 2018).

B. The children of one of the spouse form another valid marriage.
C. The father or mother of one of the spouses.
D. The brothers and sisters of one of the spouses.
E. The person having the custody of another family under the age of eighteen in accordance with the provisions of the laws in force.

Article [4]:

(a) Subject to the provisions of the penal code in force and any other relevant legislation, the provisions of this law shall apply to cases of domestic violence.
(b) All procedures and information on domestic violence cases before any relevant body, including the courts, are fully confidential.
(c) The court shall take into account the reports on cases of domestic violence submitted to it by the competent official authorities.

Article [5]:

With the exception of crimes of the criminal court, crimes against natural persons are considered family violence if committed by a family member against any other individual.

Article [6]

A/1 The committee shall be formed by a decision of the minister, in coordination with the family protection department, called committees (family conciliation committees). In this decision, the number of members of each committee shall be determined and the president appointed.
A / 2 The Family reconciliation committees shall endeavor to reform and reconcile family members, and shall be assisted by experts and specialists from any relevant body and from the local community to achieve this purpose
B. the minister may delegate the powers provided for in paragraph (A/1) of this article to the secretary general of the ministry or to any director of directorates in the ministry or in the centers of governorates and districts. This authorization shall be in writing and specific

Article [7]

Preference shall be given to referring the family to the conciliation committees before taking any of the protection measures provided for in this law, taking into account the interests of the family.

Article [8]

A. Any medical, social or educational service providers from the public or private sectors shall inform the competent authorities, whenever they are aware of, the effects of violence and their notification that they are the result of domestic violence the staff assigned to take the necessary.
B. Measures to ensure the safety of the affected family members if they know of any cases of domestic violence.

Article [9]

The police officers and public security officers must go to the place of the alleged domestic violence in any of the following cases:
A. When the complaint indicates that there is a case of family violence in place or is about to occur.
B. Upon the receipt of a complaint containing a breach of a valid protection order issued in accordance with the provisions of this law.

Article [10]

The employees responsible for protecting the complainer shall be committed not to disclose their name and identity unless the judicial proceedings require otherwise under the responsibility of legal liability.

Article [11]

In the case of domestic violence, the director of the family protection department or the head of the family protection department may take any of the measures described below as a precautionary measure to ensure that the victim or any member of the family is not harmed:

A. An undertaking by the complainant not to harm the victim or any of the family members.
B. In the event the victim is in danger or a loved one, any of the following actions may be taken:
    1. Not to allow the complainant to enter the family home for a period not exceeding (48) hours if there is no other means to provide protection for the victim or any family member.
    2. Hold the defendant for a period not to exceed (24) hours in the family protection department or one of its departments until the protection of the victim or any of the family members is assured if the action referred to in item (1) of this paragraph cannot be taken.

Article [12]

A. The director of the family protection department or the heads of the protection departments in the governorates, in cooperation and coordination with the ministry or any of its directorates, may refer the victim and the complainant to the family conciliation committees in the first stage in case the parties agree before referring the matter to the court.
B. If an agreement is not reached between the parties in accordance with the provisions of paragraph (a) of this article, the matter shall be referred to the court. If an agreement is reached between the parties, the prosecution of the complainant shall be suspended.

Article [13]

A. The court shall issue its conviction that the victim and family members shall be protected by a protection order to which the complainant shall be liable in any of the following cases:
    1. Not expose or incite the victim or any family member.
    2. Not to approach the alternative place of residence whether it is a safe place, a care home or any other place in the protection.
    3. Order not to damage the personal property of the victim or any family member.
    4. The victim or his / her representative shall be allowed to enter the family home in the presence of the employee assigned to take his personal property and hand it over to the owner in accordance with the order.
B. The parties to the complaint are committed not to dispose of the funds allocated to the family's livelihood.

Article [14]

A. The order of protection shall be issued by the court for a period not exceeding one month, renewable in accordance with the provisions of this article the protection order may be renewed.
B. Provided that the protection period shall not exceed six months in any of the following cases:
    1. if it is violated or breached by the complainant
    2. if the court is satisfied that the victim or any of the family members mentioned in the protection order should be protected.
C. Either party to the dispute during the entry into force of the protection decision shall submit to the court a request to cancel it or amend it on the basis of any developments.
D. The court shall issue subsequent decisions on the protection order where necessary to ensure its implementation and the safety of family members

Article [15]

The court may detain the complainant for a period not exceeding one week in any of the following instances as a protective measure:

A. if it is satisfied that the precautionary protective order or protection order does not meet the purpose of protecting the victim or any family member who needs protection.
B. If the complainant does not comply with the precautionary protective order or the protective order.

Article [16]

A. If the protection order or any of its conditions is violated by the complainant intentionally, he shall be punished by the court as follows

1. shall be liable to a fine not exceeding one hundred dinars or to imprisonment for period not exceeding one month or both.
2. shall be liable to a fine of not more than two hundred dinars or to imprisonment for a term not exceeding three months or both of these penalties if the violation of the protection order is accompanied by violence against any of the persons covered.

B. If the protection order is breached more than twice, the complainant shall be punished by imprisonment for a period of not less than three days and not exceeding six months and fine not exceeding two hundred dinars.

Article [17]

The court shall consider the request for compensation at the request of the aggrieved or any related party, taking into consideration, in addition to the general rules, the following:

A. The financial situation of the parties to the dispute and the extent to which the defendant's obligation to pay the full compensation for the family situation.
B. The expenses incurred as a result of protection measures.

Article [18]

If the parties to the dispute agree, the court may take the following actions as an alternative or addition to the protection order:

A. To refer both the victim and the complainant to the family reconciliation committees.
B. To refer one or both of the parties to the complaint and members of the family to family counseling or psychological and social rehabilitation sessions.

Article [19]

The council of ministers shall issue the necessary regulations to implement the provisions of this law.

Article [20]

The minister shall issue the necessary instructions to implement the provisions of this law.

Article [21]

The Prime minister and the ministers are in charge of implementing the provisions of this law.

13. KAZAKHSTAN

Law on Prevention of Domestic Violence, 2009 [47]

This Law determines legal, economic, social and organizational grounds of the state bodies' activity, self-governing authorities, organizations and citizens of the Republic of Kazakhstan concerning prevention of domestic violence.

Chapter 1. GENERAL PROVISIONS
Article 1. Basic terms used in this Law
The following basic terms are used herein:
1) victim shall mean an individual, concerning whom there is a basis to believe that he/she has been directly caused any moral, physical and (or) property damage;
1-1) aid organization shall mean legal entities performing assistance of special social services and (or) assistance to the victims in accordance with this Law;
2)family and domestic relations shall mean the relationship between persons having matrimonial relations, persons cohabiting within an individual house, apartment or any other accommodations, and between divorced spouses, immediate relatives, persons, having common child (children);
3) domestic violence shall mean any deliberate unlawful act (action or omission) of one person in the sphere of family and domestic relations with respect to the other (others) causing or threatening to cause any physical and (or) mental hurt;

[47] Law on Prevention of Domestic Violence, No. 214-IV (December 04, 2009, consolidated version of 2018), available at https://online.zakon.kz/Document/?doc_id=30525680 (last visited December 30, 2018).

4) prevention of domestic violence shall mean a complex of legal, economic, social, and organizational measures carried out by the subjects of prevention of domestic violence, and aimed to protection of the constitutional rights, liberties and legal interests of a person and citizen in the sphere of family and domestic relations, prevention and restraint of domestic violence, and to establishing and elimination of the reasons and conditions contributing to commitment thereof;
5) Subjects of domestic violence prevention shall mean state bodies, the bodies of local self-government, organizations and citizens of the Republic of Kazakhstan, performing the domestic violence prevention.

Article 2. Legislation of the Republic of Kazakhstan on prevention of domestic violence

1. Legislation of the Republic of Kazakhstan on prevention of domestic violence is based on the Constitution of the Republic of Kazakhstan and consists of this Law and other regulatory legal acts of the Republic of Kazakhstan.
2. Shall any international treaty ratified by the Republic of Kazakhstan establish any other rules different from those contained herein, then the rules of the international treaty shall apply.

Article 3. Principles of prevention of domestic violence

Prevention of domestic violence shall be based on the following principles:
1) legality;
2) guaranteed observance of rights, liberties and legal interests of a person and citizen;
3) inadmissibility of causing any physical and (or) mental hurt to a person and citizen;
4) family support and preservation;
5) confidentiality;
6) individual approach to each person and citizen in a difficult life situation;
7) priority of preventive measures on domestic violence over the repressive ones;
8) complexity and consistency.

Article 4. Types of domestic violence

1. Domestic violence may be expressed in the form of physical, psychological, sexual and (or) economic violence.
2. Physical Violence shall mean deliberate bodily injury by acts of force and causing physical pain.
3. Psychological Violence shall mean deliberate psychoactivity with respect to a person, humiliation or degradation by means of threatening, contempt, extortion, or coercion (canvassing) of wrong doing or acts of serious danger to the life or health and resulting in disturbance of psychological, physical and personal development.
4. Sexual Violence shall mean any deliberate unlawful act encroaching upon sexual immunity or sexual freedom of a person, and any sexual actions with respect to juveniles.
5. Economic Violence shall mean deliberate deprivation of a person of housing, food, clothes, property, funds, to which he/she has a legal right, which may result in deterioration of physical and (or) mental health.

Article 5. Special social services

1. Special social services shall be provided to a victim recognized by law as being in a difficult life situation;
2. Special social services shall include a guaranteed package of special social services and paid-for special social services;
3. Provision of a guaranteed and additional scope of special social services provided in addition to the guaranteed scope, shall be ensured by local executive bodies of districts, cities of the province importance;
4. Standards for provision of the special social services, the order of their provision, rights and responsibilities of a person (a family) in a difficult life situation, shall be defined by the Law on Special Social Services of the Republic of Kazakhstan.

Chapter 2. ENTITIES OF DOMESTIC VIOLENCE PREVENTION

Article 6. Competence of the Government of the Republic of Kazakhstan

The Government of the Republic of Kazakhstan shall:
1) elaborate main directions of state policy in scope of prevention of domestic violence;
2) repealed by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V;
3) ensure interaction between domestic violence prevention entities, and coordinate their activities;
4) execute other powers as envisaged by the Constitution, laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan

Article 7. Competence of the local representative and executive bodies

1. Local representative bodies shall:
1) repealed by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V ;
2) confirm and control the fulfillment of local budgets in line of domestic violence prevention;
3) support implementation of regulations of this Law by citizens and organizations.
2. Local executive bodies shall:

1) repealed by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enacted ten calendar days after its first official publication);
2) ensure interaction between domestic violence prevention entities at the local level;
3) create organizations on rendering of assistance and provide their functioning;
4) detect and keep count of minors, injured by domestic violence and problem families;
5) organize for provision of special social services to victims as established by the Law on Special Social Services of the Republic of Kazakhstan.

Article 8. Commission for women and family population policy

Commission on women and family population policy shall:
1) interact with domestic violence prevention entities on issues of preventing domestic violence;
2) introduce proposals to local executive bodies for taking organizational/practical measures directed at the prevention of domestic violence
3) together with assistance providers, organize and carry out measures for the prevention of domestic violence and rehabilitation of persons having suffered from domestic violence.

Article 9. Competence of commission for cases of minors and protection of their rights

Commission for cases of minors and protection of their rights shall:
1) interact with domestic violence prevention entities on issues of preventing domestic violence among minors;
2) repealed by the Law dated 03.07.2013 No. 124-V (shall be enacted ten calendar days after its first official publication);
3) introduce proposals to local executive bodies for taking organizational/practical measures directed at the prevention of domestic violence among minors;
4) together with assistance providers, organize and carry out measures for the prevention of domestic violence and rehabilitation of minors having suffered from domestic violence.

Article 10. Competence of the bodies of internal affairs

Bodies of internal affairs shall:
1) repealed by the Law dated 03.07.2013 No. 124-V (shall be enacted ten calendar days after its first official publication);
2) participate in elaboration of projects of regulatory legal acts in scope of the domestic violence prevention;
3) carry out measures on prevention of domestic violence;
4) identify the parents or surrogate parents, who fail to fulfil or improperly fulfil their child-rearing responsibilities and performing any unlawful acts with respect to them;
5) keep preventive records and exercise preventive control;
6) consider application and reports on facts of domestic violence or on threat of their commitment visiting the place and take measures on their suppression;
7) direct the victims to the assistance or health organizations;
8) perform preventive talk;
9) deliver the person, who has committed the domestic violence, to the bodies of internal affairs;
10) issue a restriction order;
11) apply before the procurator on giving sanctions on extension of the validity of restraining order;
12) perform administrative arrest;
13) apply to the court for establishment of specific requirements to the behaviour of the person, who has committed the domestic violence;
14) carry out criminal prosecution, proceedings on the cases on administrative infractions;
15) apply measures of the criminal-procedure compulsion;
16) apply criminal-legal Security Measures with respect to the victim;
17) ensure organization of special training courses related to prevention of domestic violence for the employees of the bodies of internal affairs;
18) is excluded by the Law dated 13.01.2014 No. 159-V (shall be enacted ten calendar days after its first official publication);

Article 11. Competence of the Authorized Education Agency

Authorized Education Agency shall:
1) repealed by the Law dated 18.02.2014 No. 175-V (shall be enacted ten calendar days after its first official publication);
2) ensure monitoring and analysis of the needs of students and pupils suffered from domestic violence for the special social services in accordance with the standards of provision of the special social services;
3) participate in elaboration of the statutory legal acts in the sphere of prevention of domestic violence;
4) develop and implement into the practice of operation of the educational organizations programmes and methods aimed to shaping of the law-abiding behaviour of students and pupils of the educational organizations.

Article 12. Competence of the authorized body in the field of health and social development

The authorized body in the field of health and social development shall:

1) develop and implement into practice of health organizations guidelines for provision of medical and psychological assistance to victims;

2) participate in the development of draft of normative legal acts in the field of prevention of domestic violence;

3) develop measures for the use of active forms of employment promotion.

Article 13. Competence of health care organizations

Health care organizations:

1) provide addiction treatment, psychological, mental, preventive assistance and carry out medical rehabilitation of victims and perpetrators of domestic violence;

2) inform the bodies of internal affairs of the facts of applications of the victims and rendering of the medical assistance to them;

3) take measures on prevention of alcoholism, drug addiction, and substance abuse.

Article 14. Competence of the Authorized Agency for Social Protection of Population

Footnote. Article 14 is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V

Article 15. Assistance organizations

1. Assistance organizations shall:

1) receive victims;

2) organize provision of necessary physiological, pedagogical, medical, juridical assistance to the injured persons, direct them in organizations of health care for rendering of medical assistance and further rehabilitation if so required;

3) in accordance with possibilities provide temporary residence to injured persons;

3-1) render special social services to the victims, as well as apply in the local executive bodies of districts, cities of region significance with statement on provision of warrant and (or) additional extent of special social services, provided over warrant extent;

4) perform psychocorrective programmes with persons, committed domestic violence;

5) inform bodies of internal affairs on facts of domestic violence or on threats of their commitment;

6) perform the explanatory work on the rights with respect to prevention of domestic violence;

7) cooperate with individuals and legal entities with respect to prevention of domestic violence.

Assistance, provided by subparagraphs 1), 2), 3), 4) and 5) of part one of this paragraph shall be rendered to victims independently from place of residence.

2 Assistance provider organizations shall be established by local executive bodies, also by legal entities and physical person as specified by the legislation of the Republic of Kazakhstan.

3. Activities of assistance provider organizations shall be funded from the state budget and other sources that are not prohibited by the

Chapter 3. MEASURES ON PREVENTION OF DOMESTIC VIOLENCE

Article 16. Regulation of relations arising upon appliance of measures of prevention of domestic violence

Regulation of the relations arising upon application of measures on prevention of domestic violence shall be performed in accordance with the legislation of the Republic of Kazakhstan concerning law violation prevention subject to peculiarities established by this Chapter.

Article 17. Measures of individual prevention of domestic violence

1. The measures of individual prevention of domestic violence shall be applied for systematic purposeful influence on the legal conscience and behavior of person, committed domestic violence, in purpose of prevention of commitment new infractions on his (her) part and provision of victim's safety.

2. Measures of individual prevention of domestic violence are:

1) preventive talk;

2) delivering person committed domestic violence in the bodies of internal affairs for executing a minute on administrative infraction or pronouncement of restraining order;

3) restraining order;

4) administrative arrest;

5) compulsory measures of medical character;

6) establishment of special requirements to law breaker's behavior;

7) administrative sanctions;
8) deprivation or restriction of rights of parents, abrogation of child adoption, exemption or dismissal of guardians/trustees from fulfilling their responsibilities, early termination of a patronage agreement;
9) measures of procedural coercion and measures for ensuring security of victims in the criminal process;
10) measures taken under the sentence.
3. Measures of individual prevention of domestic violence shall be determined in recognition of individual particularities of person in respect of whom they applied, nature and degree of public danger of infractions committed by him (her).
4. The decision on appliance of measures of individual prevention may be appealed by interested persons in manner established by the legislation of the Republic of Kazakhstan.

Article 18. Grounds for appliance of measures of individual prevention of domestic violence
1. Grounds for taking measures of individual prevention of domestic violence shall be any of the following circumstances:
1) Applications or notifications by physical persons and legal bodies;
2) direct detection by the employee of the body of internal affairs of the fact of commitment of domestic violence or an attempt thereof;
3) materials received from the public and local authorities.
2. Applications and messages on commitment of domestic violence or on threat of its commitment shall be considered by the state bodies in manner established by the legislation of the Republic of Kazakhstan.

Article 19. Preventive talk
1. Basic tasks of preventive talk are detection of reasons and conditions of the commitment of domestic violence, explanation of social and legal consequences of the domestic violence and conviction in necessity of law abiding behavior.
2. The preventive interview shall be held by the subject of prevention of domestic violence with the person, who has committed the domestic violence or with respect to whom there are bases for taking the measures of individual prevention of domestic violence.
3. The preventive interview shall be held in the official premises of the subjects of prevention of domestic violence, and at the place of residence, study, work or immediately at the place of commitment of the domestic violence and cannot last longer than one hour.
4. Person with whom the preventive talk is performed shall be notified on necessity of determination of illegal actions.
5. Preventive talk with minor shall be performed in the presence of his (her) parents, teachers or other legal representatives.

Article 20. Restraining order
1. In order to ensure the safety of the victim and in the absence of grounds for the production of administrative detention in accordance with the procedure provided by the Code of the Republic of Kazakhstan on Administrative Offenses or detention in accordance with the procedure provided for in Article 128 of the Code of Criminal Procedure of the Republic of Kazakhstan, restraining order shall be issued by the head of the local police office, district police force of the body of the interiors, their deputies, district police officer, district police officer for juvenile affairs and protection women from violence taking into account the views of the victim, which shall be given to a person who committed domestic violence or has a threat of its commission for execution against receipt.
A copy of the restraining order shall be given on the day of its issue to the victim upon written acknowledgment along with explanation of his rights and consequences of failure to abide by the person whom it was issued.
A copy of the protection order shall be sent to the prosecutor's office within twenty four hours after delivery to the person against whom it was issued.
2 protective order shall be issued with respect to a sane person, who has attained sixteen years.
3. The protective order shall prohibit the domestic violence, searching, pursuit, visiting, carrying on verbal or telephonic conversations and otherwise coming in contact with the victim against his/her will.
4. The protective order shall specify: time and place of issue thereof, by whom and to whom it is issued, place, time and circumstances of commitment or threat of domestic violence, prescribed limitations in relations with the victim, and legal consequences in the event unlawful actions and violation of the protective order.
5. The term of validity of the protective order shall be thirty days from the time of serving thereof upon the person, with respect to whom it is issued. The frequency of inspection shall be not less than once in seven calendar days
6. repealed by the Law dated 18.02.2014 No. 175-V (shall be enforced upon expiry of ten calendar days after its first official publication);
7. Violation of the protective order shall entail the liability established by the Administrative Violations Code of the Republic of Kazakhstan.
8. The bodies of internal affairs shall keep a preventive file on the person, with respect to whom the protective order is issued, and perform the preventive control of him/her.

Article 21. Administrative arrest

1. For the purpose of suppressing domestic violence containing components of administrative offense, and when there are reasons to believe that a protection order would not be sufficient for ensuring the security of the victim, an official from bodies of the interior shall carry out administrative detention of the perpetrator of domestic violence which means temporary deprivation of the freedom of action and movement by means of coercive custody in a special room;
2. Order, term of administrative arrest, rights and obligations of persons are subject to the administrative arrest shall be determined by the Code of the Republic of Kazakhstan on administrative infractions.

Article 22. Establishment Specific Requirements to the Offender's Behaviour

1. A court may establish special requirements to behavior of a domestic violence perpetrator for the purpose of ensuring the security of the victim.
2. Fixing of specific requirements to the offender's behaviour is an administrative and legal treatment measure and shall be applied both along with the imposition of an administrative sanction and instead of such administrative sanction when the person committed an administrative offence is released from administrative responsibility.
3. The person to whom specific requirements have been fixed may be forbidden:
1) to search, chase, visit the victim, to carry on verbal or telephone conversations and otherwise come in contact with the victim against his/her will, including minor children and members of the family who have been declared legally incompetent;
2) to purchase, keep, bear and use fire arms and other types of weapons.
3) consuming alcohol, drugs and psychotropic substances, including their analogues for non-medical purposes

In exceptional cases, to protect the victim and members of his or her family, the court may also apply administrative or legal action in the form of prohibiting the person who committed domestic violence from living in an individual dwelling, house, apartment, or other dwelling with the victim in the event this person has another dwelling.
4. During the period of validity of the specific requirements to the offender's behaviour, the offender may be charged with the duty to appear to the internal affairs authorities one to four times a month for preventive interviews.
5. The procedure for determination of specific requirements to the offender's behaviour, period of validity thereof, rights and obligations of the parties to the proceeding on administrative offences are provided for by the Administrative Code of the Republic of Kazakhstan.
6. The authorities of internal affairs shall put the person to whom specific requirements have been fixed on the crime watch list and exercise preventive control over him.

Article 23. Measures of Procedural Coercion and Safety Measures for Criminal Proceedings

1. In order to suppress domestic violence containing the composition of a criminal offense and ensure the safety of the victim, witness and other persons participating in criminal proceedings, members of their families and close relatives, procedural coercive measures and procedural security measures shall be used by the bodies conducting criminal prosecution and leading the criminal process.
2. The reasons for application of procedural coercion and security measures, the procedure for application thereof, the rights and obligations of the persons involved in the criminal procedure are provided for by the Code of Criminal Procedure of the Republic of Kazakhstan.

Chapter 4. FINAL PROVISIONS

Article 24. Supervision of compliance with the law in the field of preventing domestic violence

The highest supervision of compliance with the law in the field of preventing domestic violence shall be carried out by the prosecutor's bodies.

Article 25. Confidentiality in Rendering Assistance to Victims

The information about private and family lives of victims shall be confidential and may not be disclosed.
Disclosure of any confidential information by the person, who has become aware of the fact of domestic violence due to his/her official position, shall entail the liability provided for by the laws of the Republic of Kazakhstan.

Article 26. The Procedure for Putting this Law in Force

This Law shall be put in force on the expiry of ten calendar days after the first official publication thereof.

Code of Administrative Offences, 2014[48]

[48] Code of Administrative Offences No 235-V (5 July 2014, consolidated version of 2018), available at https://online.zakon.kz/Document/?doc_id=31577399#pos=1662;-57 , (last visited December 30, 2018).

Article 73. Illegal actions in the scope of family relations

1. Abusive language, offensive annoyance, degrading, damage of domestic goods and other actions expressing disrespect to the persons being in family relations with an offender, violating their calm committed in an individual resident house, flat or another dwelling place, if these actions do not contain signs of criminally punishable act shall, –

entail notification or administrative arrest for a term up to three days.

2. The actions provided by a part one of this Article, committed repeatedly second time second time within a year after imposition of administrative sanction, shall, –

entail administrative arrest for a term up to ten days.

3. The actions provided by a part two of this Article, committed by persons to whom the administrative arrest in accordance with a part two of Article 50 of this Code is not applied shall, –

entail a fine in amount of five monthly calculation indices.

Note. Family relations for the purposes of this Code shall be understood as relations between spouses, former spouses, persons residing or that resided jointly, close relatives, persons having common child (children).

14. KENYA

Protection Against Domestic Violence Act, 2015 [49]

[…]

AN ACT of Parliament to provide for the protection and relief of victims of domestic violence; to provide for the protection of a spouse and any children or other dependent persons, and to provide for matters connected therewith or incidental thereto.

PART I — PRELIMINARY

1. Short title
This Act may be cited as the Protection Against Domestic Violence Act, 2015.

2. Interpretation
In this Act, unless the context otherwise requires—
"alternative residence" means the premises or accommodation which an applicant is or has been compelled to seek or move into because of domestic violence;
"applicant" means—
(a) a person who applies for a protection order under this Act; or
(b) a person on whose behalf an application for a protection order under this Act is made;
"applicant's representative" means any one of the following persons who may make an application for a protection order on behalf of an applicant —
(a) a police officer;
(b) a social welfare officer;
(c) an employer of the applicant;
(d) the guardian of a child or a guardian appointed by the court;
(e) a relative, neighbour or fellow employee of the applicant;
(f) a medical practitioner;
(g) a counsellor;
(h) a probation officer;
(i) a non-governmental organization concerned with the welfare of victims of domestic violence;
(j) a religious leader;
(k) community elders; or

[49] Protection Against Domestic Violence Act, Law No. 2 (14 May 2015), available at http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101063/121597/F1978815707/KEN101063.pdf (last visited December 30, 2018).

(l) any other person or class of persons as may be specified by law.

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to social services;

" children's officer" has the meaning assigned to it in section 37 of the Children Act, 2001;

"co-respondent” means a person against whom a protection order made under section 17 applies;

“court" means a court having jurisdiction under section 24;

"domestic relationship" has the meaning assigned to it in section 4;

"domestic violence" has the meaning assigned to it in section 3;

“Director of Children’s Services” has the meaning assigned to in section 37 of the Children Act 2001;

“dwelling house” includes any mobile home or other means of shelter, placed or erected upon any land and intended for occupation on that land;

“economic abuse” includes—

(a) the unreasonable deprivation of economic or financial resources to which an applicant is entitled or which the applicant requires, including household necessities, medical expenses, school fees, rent, mortgage expenses or other similar expenses; and

(b) the denial to the applicant of the right to seek employment or engage in any income-generating activity;

"emotional, verbal or psychological abuse" means a pattern of degrading or humiliating conduct towards the applicant, including but not limited to the following—

(a) repeated insults, ridicule or name-calling; and

(b) repeated threats to cause emotional pain.

"enforcement officer" means a police officer or an officer designated as such by the Cabinet Secretary for the purposes of this Act;

"harassment" means engaging in a pattern of conduct that induces in an applicant the fear of imminent harm, including—

(a) watching or loitering outside or near the building or place where the applicant resides, works, carries on business, studies or happens to be;

(b) repeated contact or attempts to contact the applicant by telephone, electronic means, post or otherwise, whether or not a conversation ensues; and

(c) sending, delivering or causing the delivery of offensive or abusive documents or offensive objects to the applicant;

"interim protection order" means an order made by the court pending the full hearing of a matter and the making of a final order;

"intimidation" includes uttering or conveying a threat or causing an applicant to receive a threat which includes a fear of imminent harm to the applicant;

“medical practitioner" has the meaning assigned to it in the Medical Practitioners and Dentists Act [Cap. 253];

“parent" in relation to a child, includes a step parent, guardian of the child or a person with whom the child normally or regularly resides;

“physical abuse" includes any act or threatened act of physical violence towards the applicant;

“probation officer" has the meaning assigned to it in section 2 of the Probation of Offenders Act [Cap. 6];

“property" in relation to a family member, means—

(a) the property of the family member;

(b) the property of any person situated in premises in which the family member lives or works; or

(c) the property of any person that is being used by the family member;

"protected person" in relation to a protection order, means—

(a) the person for whose protection the order is made;

(b) any child of that person;

(c) any person for whose benefit the order applies under section 16;

"protection order" means the final order made by the court in a matter concerning domestic violence;

"respondent” means the person against whom an application for a protection order under this Act is made and includes a person against whom an order under this Act is made;

"sexual abuse" has the meaning assigned to it in the Sexual Offences Act, 2006;

"shared residence" means the premises at which the parties are, or have been, living as members of the same household;

"social welfare officer" means a person registered as a social welfare worker;

"stalking" includes pursuing or accosting a person;

“victim" means a victim of domestic violence; and

“virginity testing" is the practice and process or examination of a female's genitals for tears of the hymen.

3. Meaning of domestic violence.

In this Act, “violence” means—

(a) abuse that includes—

(i) child marriage;
(ii) female genital mutilation;
(iii) forced marriage;
(iv) forced wife inheritance;
(v) interference from in-laws;
(vi) sexual violence within marriage;
(vii) virginity testing; and
(viii) widow cleansing;

(b) damage to property;
(c) defilement;
(d) depriving the applicant of or hindering the applicant from access to or a reasonable share of the facilities associated with the applicant's place of residence;
(e) economic abuse
(f) emotional or psychological abuse;
(g) forcible entry into the applicant's residence where the parties do not share the same residence;
(h) harassment;
(i) incest;
(j) intimidation;
(k) physical abuse;
(l) sexual abuse;
(m) stalking;
(n) verbal abuse; or
(o) any other conduct against a person, where such conduct harms or may cause imminent harm to the safety, health, or well-being of the person.

(2) "Domestic violence", in relation to any person, means violence against that person, or threat of violence or of imminent danger to that person, by any other person with whom that person is, or has been, in a domestic relationship.

(3) Despite subsection (1)(f), a person psychologically abuses a child if that person—

(a) causes or allows the child to see or hear the physical, sexual, or psychological abuse of a person with whom the child has a domestic relationship; or

(b) puts the child or allows the child to be put at risk of seeing or hearing the physical, sexual, or psychological abuse of a person with whom the child has a domestic relationship, but the person who suffers the abuse shall not be regarded as having caused or allowed the child to see or hear the abuse or as having put the child, or allowed the child to be put, at risk of seeing or hearing the abuse.

(4) Despite subsection (1)—

(a) a single act may amount to abuse; and

(b) a number of acts that form part of a pattern of behaviour may amount to abuse, even when some or all of those acts, when considered in isolation, may appear to be minor or trivial.

(5) Behaviour may be psychological abuse for the purposes of subsection (1) even if it does not involve actual or threatened physical or sexual abuse.

(6) Conduct constituting domestic violence does not by that reason alone cease to constitute an offence under any other law and any such conduct may, despite this Act, be dealt with in accordance with any other law.

4. Meaning of domestic relationship.

(1) For the purposes of this Act, a person shall be deemed to be in a domestic relationship with another person if the person—

(a) is married to that other person;
(b) has previously been married to that other person;
(c) is living in the same household with that person;
(d) has been in a marriage with the other person which has been dissolved or declared null;
(e) is a family member of that other person;
(f) is or has been engaged to get married to that person;
(g) has a child with that other person; or
(h) has a close personal relationship with the other person.

(2) For the purpose of subsection (1)(c), a person shall not be regarded as sharing a household with another person by reason only of the fact that—

(a) the person has—
(i) a landlord-tenant relationship;
(ii) an employer-employee relationship; or
(iii) an employee-employer relationship, with that other person; and

(b) they occupy a common dwelling house (whether or not other people also occupy that dwelling house).

(3) For the purposes of subsection (1)(h), a person shall not be regarded as having a close personal relationship with another person by reason only of the fact that the person has—

(a) an employer-employee relationship; or

(b) an employee-employer relationship with that other person.

(4) Without limiting the matters to which a court may have regard in determining, for the purpose of subsection (1) (h), whether a person has a close personal relationship with another person, the court shall have regard to—

(a) the nature and intensity of the relationship (not necessarily a sexual relationship), and in particular—

(i) the amount of time the persons spend together;

(ii) the place or places where that time is ordinarily spent;

(iii) the manner in which that time is ordinarily spent; and

(b) the duration of the relationship.

5. Meaning of family member.

(1) For purposes of this Act, 'family member', means—

(a) a spouse;

(b) a child including an adopted child, a step-child and a foster child;

(c) an adult son or daughter;

(d) a parent;

(e) a sibling; or

(f) any other relative of that person who, in the circumstances of the case, should be regarded as a member of the family.

(2) For the purposes of this section, a relative means—

(a) a father, mother, grandfather, grandmother, stepmother, stepfather, father-in-law or mother-in-law;

(b) an uncle, aunt, uncle-in-law or aunt-in-law of that person;

(c) a nephew or niece of that person; or

(d) cousin of that person.

PART II — PROTECTION ORDERS

6. Duties of police officers in relation to domestic violence.

(1) A person to whom a complaint of domestic violence is made or who investigates any such complaint shall—

(a) advise the complainant of all relief measures available to the complainant, including access to shelter, medical assistance or they shall assist the complainant in any other suitable way; and

(b) advise the complainant of the complainant's right to apply for relief under this Act and how the complainant may lodge a criminal complaint.

(2) Where the complainant so desires, the person to whom the complainant makes a statement may be a person of the same sex as the complainant.

(3) The provisions of this section shall not limit the power of a police officer to enter any premises under this Act or any other law.

(4) The Inspector–General of Police shall ensure the development of procedures regarding matters under this Act including—

(a) training police officers to deal with family related matters or domestic violence;

(b) facilitating the reporting process so that complainants may report to the police without fear or otherwise; and

(c) ensuring that complaints are processed expediently and efficiently.

7. Information on offences involving domestic violence.

(1) Any person who reasonably suspects that an offence of domestic violence is being or has been committed may give such information to the police officers or any other person in authority.

(2) Any person who attacks, intimidates or harms a person who reports domestic violence commits an offence.

(3) No action or proceeding, including disciplinary action, may be instituted or maintained against a person in respect of the disclosure of information made by the person to a person named under subsection (1).

(4) Subsection (3) does not apply to any person who provides false information maliciously intended to injure another person.

(5) In any proceeding under this Act, no witness shall be required to identify, or provide information that might lead to the identification of, a person who assisted or disclosed information about domestic violence.

(6) In any proceedings under this Act, the court may order that information that identifies, or might lead to the identification of a person who assisted or disclosed the information concerning any violence is removed or concealed from any documents to be produced or inspected in connection with the proceedings.

8. Application for protection order.
(1) A person who is in a domestic relationship with another person may apply to the Court for a protection order in respect of that other person.
(2) Where the person who is eligible to apply for a protection order is a child, the application may be made by a representative in accordance with section 9 (2).

(3) Where the person who is eligible to apply for a protection order is a person to whom section 10 applies, the application may be made by an applicant's representative in accordance with that section.
(4) An applicant's representative may, with the leave of the court, with or without the consent of the applicant, make an application for a protection order or any other order the court considers fit to award.
(5) An applicant's representative who makes an application under subsection (4) shall seek the leave of the court together with such other orders as the court deems fit to award in the circumstances.
(6) Where the person who is eligible to apply for a protection order is not a child but is unable, in the circumstances specified in section 10 (1) (b), to make the application personally, an application may be made on that person's behalf by a representative appointed in accordance with section 11.

9. Application by children.
(1) Subject to subsection (2), a child may make an application for a protection order under this Act.
(2) A child may make the application for a protection order through—
(a) parent or guardian;
(b) a children officer;
(c) the Director of Children's Services:
(d) a police officer;
(e) a probation officer;
(f) a conciliator;
(g) any other person with the leave of the court;
(h) social welfare officer;
(i) a person acting on behalf of—
(i) a church or any other religious institution; or
(ii) a non-governmental organization concerned with the welfare of
victims of domestic violence; or
(j) a relative or neighbour.
(3) Where an application has been made under subsection (2) by a person, other than a parent or guardian of a child, no orders shall be issued by the court unless the parent or guardian of the child has been served or the court is satisfied that reasonable efforts to serve such parent or guardian have failed.
(4) Nothing in subsection (2) prevents a child on whose behalf an application for a protection order is made by a representative from being heard in the proceedings, and where the child expresses views on the need for and outcome of the proceedings, the court shall take account of those views to the extent that it thinks fit, having regard to the age and maturity of the child.
(5) Subject to sections 10 and 11, a minor who has attained the age of eighteen years may, with the leave of the court, make the application on his/her own behalf, without a next friend or guardian ad litem, and orders may be made on the application, and enforced, as if the minor were of full age.

10. Application by person lacking capacity.
(1) The provisions of this section shall apply to any other person (not being a child) who—
(a) lacks, wholly or partly, the capacity to understand the nature, and to foresee the consequences, of decisions in respect of matters relating to his or her personal care and welfare; or
(b) has the capacity to understand the nature, and foresee the consequences, of decisions in respect of matters relating to his or her personal care and welfare, but wholly lacks the capacity to communicate decisions in respect of such matters.
(2) Where a person to whom this section applies is eligible to apply for a protection order, an application may be made on that person's behalf by—
(a) a police officer;
(b) an applicant's representative; or
(c) any other person with the leave of the court.

11. Application on behalf of certain persons.
(1) This section applies to a person entitled to a protection order who is incapable of applying for a protection order and for

whom it is necessary to make a protection order.
(2) Any person may apply to the court to be appointed as a representative of the person referred to in subsection (1) for the purposes of applying for a protection order.
(3) The court may appoint a representative for the person referred to in subsection (1) if it satisfied that—
(a) the representative has reasonably ascertained the wishes of the victim;
(b) the victim consents to being represented;
(c) the appointment of the representative is in the best interest of the victim;
(d) the representative accepts his appointment in writing; and
(e) there is no conflict of interest between the victim and the representative.

12. Application without notice for protection order.
(1) An interim protection order may be made on an application without notice and outside ordinary court hours or on a day which is not an ordinary court day, if the court is satisfied that delay would be caused by proceedings on notice or might entail—
(a) a risk of harm; or
(b) undue hardship to the applicant or child of the applicant's family.
(2) Without limiting the matters to which the court may have regard when determining whether to grant a protection order on an application without. notice, the court shall have regard to-
(a) the perception of the applicant or a child of the applicant's family , of the nature and seriousness of the respondent's behaviour; and
(b) the effects of that behaviour on the applicant or a child of the applicant's family.
(3) An interim order may, where appropriate, contain any direction, prohibition or award which may be contained in a protection order issued under section 19.
(4) Whenever a court issues an interim protection order, the court shall issue a summons to appear in respect of the respondent which shall be attached to the order.
(5) Where an application is made under this section and the court is satisfied prima facie that the respondent has committed, is committing or threatening to commit an act of domestic violence but that the circumstances do not justify or require the issue of an interim protection order, the court may issue a notice requiring the respondent to show cause why a protection order should not be made:
Provided that an interim protection order shall remain in force until it is replaced by a protection order or varied or revoked by a competent court.
(6) Section 22 applies to any person who fails to comply with the terms and condition of an interim protection order.

13. Power to make protection order.
(1) The court may make a protection order if it is satisfied that—
(a) the respondent is using, or has used, domestic violence against the applicant, or a child of the applicant's family or both; and
(b) the making of an order is necessary for the protection of the applicant or a child of the applicant's family or both.
(2) For the purpose of subsection (1)(a), a respondent who aids or abets another person to engage in behaviour that, if engaged in by the respondent, would amount to domestic violence against the applicant or a child of the applicant's family or both, shall be regarded as having engaged in that behaviour personally.
(3) Without limiting section 3(4)(b), the matters that the court may consider in determining, for the purpose of subsection (1)(b), whether the making of an order is necessary for the protection of the applicant or a child of the applicant's family, or both where some or all of the behaviour in respect of which the application is made appears to be minor or trivial when viewed in isolation, or appears unlikely to recur, are whether the behaviour forms part of pattern of behaviour in respect of which the applicant or a child of the applicant family or both need protection.
(4) For the avoidance of doubt, an order may be made under subsection (1) where the need for protection arises from risk of domestic violence of a different type from the behaviour found to have occurred for the purpose of paragraph (a) of that subsection.
(5) Without limiting the matters that the court may consider when determining whether to make a protection order, the court shall have regard to—
(a) the perception of the applicant, or a child of the applicant's family or both, of the nature and seriousness of the behaviour in respect of which the application is made; and
(b) the effect of that behaviour on the applicant, or a child of the applicant's family, or both.

14. Counselling.
(1) The Court may, taking into account the circumstances of each case, direct the parties to participate in counselling and conciliation programmes or any other programme that is acceptable to the Court.

(2) The counselling provided shall be aimed at ensuring respect for the law prohibiting domestic violence, the promotion of a protective environment for all within the family and the promotion of harmonious domestic relations between and among the parties.

15. Existence of other proceeding not to preclude granting of protection order.
(1) A court shall not decline to make a protection order merely because of the existence of other proceedings (including, but not limited to, proceedings relating to custody of, or access to, a minor) between or relating to the parties, whether or not those proceedings also relate to any other person.
(2) Despite the provisions of subsection (1), an application for a protection order shall not be a bar to criminal proceedings against a respondent.

16. Protection of dependants.
(1) Where the court makes a protection order, the order shall apply for the benefit of any child of the applicant's family.
(2) Subject to subsection (3), where the court makes a protection order, it may direct that the order also apply for the benefit of a particular person with whom the applicant has a domestic relationship.
(3) No direction may be made pursuant to subsection (2) in respect of a person unless the court is satisfied that—
(a) the respondent is engaging, or has engaged, in behaviour that, if the respondent and the person were or, as the case may be, had been in a domestic relationship, would amount to domestic violence against the person;
(b) the respondent's behaviour towards the person is due, in whole or in part, to the applicant's domestic relationship with the person;
(c) the making of a direction under this section is necessary for the protection of the person; and
(d) where practicable, the person consents to the direction being made.
(4) Section 12 (2) and (5) shall apply, with the necessary modifications, in respect of an application for a direction pursuant to subsection (2).

17. Protection from co-respondents.
(1) Subject to subsection (2), where the court makes a protection order against the respondent, the court may also direct that the order apply against a person who aids and abets the respondent.
(2) Section 12 (2) to (5) shall apply, with the necessary modification, in respect of an application for a direction pursuant to subsection (1).

18. Mutual orders.
Nothing in this Act shall be construed as preventing the court, in the course of determining an application, from granting a protection order, in favour of the respondent even though no application has been made by the respondent.

19. Contents of protection order.
(1) A protection order may direct that a respondent shall not do any one or more of the following—
(a) physically or sexually abuse or threaten to abuse the protected person;
(b) damage, or threaten to damage, any property of the protected person;
(c) engage, or threaten to engage, in behaviour including intimidation or harassment, which amounts to psychological abuse of the protected person;
(d) encourage any person to engage in behaviour against the protected person where the behaviour, if engaged in by the respondent would be prohibited by the order;
(e) engage, or threaten to engage, in behaviour including intimidation, harassment or stalking which amounts to emotional, verbal or psychological abuse of the protected person;
(f) engage, or threaten to engage, in economic abuse of the protected person; or
(g) engage, or threaten to engage, in cultural or customary rites or practices that abuse the protected person.
(2) Without limiting the provisions of subsection (1) but subject to section 20, it shall be a condition of every protection order that at any time other than when the protected person and the respondent are, with the express consent of the protected person, living in the same dwelling house, the respondent shall not do any one or more of the following—
(a) watch, loiter near, or prevent or hinder access to or from, the protected person's place of residence, business, employment, educational institution, or other place that the protected person visits often;
(b) stalk the protected person or stop or accost the protected person in any place;
(c) without the protected person's express consent, enter or remain on any land or building occupied by the protected person;
(d) where the protected person is present on any land or building, enter or remain on that land or building, in circumstances that constitute a trespass; or
(e) make any other contact with the protected person (whether by telephone correspondence, or otherwise), except

such contact that is —

(i) reasonably necessary in any emergency;

(ii) permitted under any order or written agreement relating to custody of, or access to, any minor; or

(iii) permitted under any special condition of the protection order.

(3) Without prejudice to the provisions of this section, the court may in an order under this section—

(a) subject to subsection (6), grant to any protected person the right of exclusive occupation of the shared residence or a specified part thereof by excluding the respondent from the shared residence or the specified part thereof, regardless of whether the shared residence is solely owned or leased by the respondent or jointly owned or leased by the parties;

(b) require the respondent to permit any protected person to enter the shared residence, or to enter the residence of the respondent accompanied by any enforcement officer for the purpose of collecting the personal belongings of the protected person or persons;

(c) require the respondent to permit any protected person to have the continued use of necessities which had previously been ordinarily used by the protected person or persons; or

(d) give such other directions as may be necessary and incidental for the proper carrying into effect of any order made under paragraph (a), (b) or (c).

(4) Before making an order which restricts the respondent's access to any premises, the court shall take into account—

(a) the need to ensure that the protected person is protected from violence;

(b) the welfare of any child affected by the order; and

(c) the accommodation needs of all persons affected by the order.

(5) Without prejudice to the provisions of this section, where an exclusion order has been made under this section, the court may—

(a) direct the respondent to pay all expenses or emergency monetary relief in respect to the applicants needs and those of any child or dependant of the respondent;

(b) award temporary custody of any child or dependant of the respondent to any person or institution and regulate access by the respondent to such child or dependant;

(c) direct the respondent to afford the applicant or dependant access to their place of residence and use of the facilities associated therewith; and

(d) direct the respondent to do or omit to do any act or thing which the court considers necessary or desirable for the well-being of the applicant or a dependant of the applicant.

(6) Except so far as the exercise by the respondent of a right to occupy the shared residence, or to enter the alternative residence, may be suspended restricted, prohibited or restrained, by virtue of an order under subsection (3) (a) or (b), a protection order shall not affect any title or interest that the respondent or any other person might have in the said premises.

(7) The court shall not make an order excluding the respondent from the whole of a shared residence that is solely or jointly owned or leased by the respondent unless it is satisfied that there is no other way to secure the personal safety of any protected person for the time being, and such order, where made, shall, in the case where the shared residence is jointly owned or leased by the parties, be-

(a) revoked if a suitable alternative residence is found for the protected person or persons; or

(b) revoked or varied upon the court being otherwise satisfied that it is no longer necessary for securing the personal safety of the protected person or persons.

(8) Where, pursuant to a direction made under section 18, a protection order applies against a co-respondent, the provisions of this section shall, with necessary modifications, apply in respect of the co-respondent.

20. Further provisions relating to prohibitions of contact.

(1) The contents of a protection order specified in section 19 (2) in this section referred to as "the non-contact condition" shall have effect except where the protected person and the respondent are with the express, voluntary consent of the protected person living in the same dwelling house, taking into account the vulnerability relating to the protected person .

(2) The non-contact condition shall automatically be suspended for any period during which the protected person and the respondent, with the express, free and voluntary consent of the protected person, live in the same dwelling house.

(3) Where the non-contact condition is suspended in accordance with subsection (2), and the protected person subsequently withdraws his or her consent to the respondent living in the same dwelling house then (unless the protection order has been sooner discharged) the non-contact conditions shall automatically revive.

(4) The non-contact condition may—

(a) become suspended in accordance with subsection (2) on one or more occasions; or

(b) revive in accordance with subsection (3) on one or more occasions.

(5) Where, pursuant to a direction made under section 17, a protection order applies against a co-respondent, the provisions of this section shall with necessary modifications, apply in respect of the co-respondent.

(6) References in this section to the consent of a protected person, or to the withdrawal of a protected person's consent,

includes, as the case requires, the—

(a) free and voluntary consent of a person (other than the respondent or, as the case may be, the co-respondent) who is specified, in a special condition of the protection order, on the protected person's behalf, in relation to the matter; and

(b) withdrawal of consent by such a person in respect of an application for a direction pursuant to subsection (2).

(7) In this section, where the protected person is a child, the court may, if satisfied that it is in the best interests of the child so to do, declare any purported consent to be null and void.

21. Duration of protection order.

A protection order shall remain in force for such period as may be specified by the court and may be reviewed, from time to time, depending on the circumstances.

22. Breach of protection order.

A respondent who has been served with a copy of a protection order and who contravenes the order in any respect, commits an offence and is liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a period not exceeding twelve months, or to both.

23. Arrest for breach of protection order.

(1) A police officer may, without warrant, if he or she believes on reasonable ground that any person has committed an offence under section 22, arrest and detain the person.

(2) Without limiting the provisions of subsection (1), in exercising the powers conferred by that subsection, a police officer shall take into account—

(a) the risk to the safety of the protected person or property;

(b) the seriousness of the act that constitutes a breach; and

(c) the time that has lapsed since the alleged breach was committed.

PART III — MODE OF APPLICATION

24. Application by victims of domestic violence.

(1) Jurisdiction for any proceedings under this Act shall be vested in the Resident Magistrates' Courts.

(2) An application for a protection order shall be lodged with the court and, where directed by the court shall—

(a) be supported by the affidavit of any person who can depone to matters which are relevant to the application; and

(b) require the police, a social worker, probation officer, medical practitioner, children officer or other appropriate person or authority to investigate the acts or omissions of the domestic violence and forward findings directly to court as may be directed by the Court.

(3) If the applicant is not represented by an advocate, the court shall inform the applicant of the—

(a) reliefs available under this Act;

(b) effect of any order which may be granted and the means provided by the law for its enforcement under this Act;

(c) right to lodge a criminal complaint against the respondent if a criminal offence has been committed by the respondent; and

(d) right to claim compensation for any loss suffered or injury caused by any act of domestic violence.

25. Applications by other parties.

Where the application for a protection order is made by a person other than the actual victim of domestic violence, the person making the application shall, as soon as reasonably practicable after the making of the application, cause a copy thereof to be served on the victim personally or, where the victim is a child or physically, mentally, intellectually or sensory challenged person, on the parent or guardian of the child or such challenged person.

26. Procedure in third party applications.

In any case where an application for a protection order is made by a person, other than the actual victim of domestic violence, the court shall not commence or continue the hearing of the application if the victim, or if the victim is a child or a physically, mentally, intellectually or sensory challenged person, the person referred to under section 10 (2), objects to the application being heard and determined.

27. Explanation of order.

(1) Where the court proposes to make a protection order and the respondent is before the court, the court shall, before making the order, explain to the respondent —

(a) the purpose, term and effect of the proposed order;

(b) the consequences that may follow if the respondent fails to comply with the terms of the proposed order; and
(c) the means by which the proposed order may be varied or revoked.

(2) No order under subsection (1) shall be invalid for the reason only that the court did not explain any particular matter contained in the order to the respondent.

28. Persons who may be present during proceedings.

(1) No person shall be present during the hearing of any proceeding under this Act except—
(a) an officer of the court;
(b) parties to the proceedings and their advocates, if any;
(c) a representative, if any;
(d) witnesses; and
(e) any other person whom the court permits to be present.

(2) A witness shall leave the courtroom if so directed by the court.

(3) Nothing in this section shall limit any other power of the court to hear proceedings in private or to exclude any person from the court.

29. Evidence.

In any proceedings under this Act, and during hearing in the first instance or during hearing of an appeal, or otherwise, the court may receive any evidence it thinks fit, for the fair determination of the case.

30. Appeal by respondent.

(1) The respondent may appeal to the High Court against the making of a protection order or any term thereof within thirty days of the date of the order.

(2) An appeal under subsection (1) shall not stay the operation of the order unless the respondent moves the court for an order of stay.

(3) The court which made the order may, on the. application of the respondent and taking into account the circumstances of the case, stay the operation of the order or any term thereof pending the decision of the appeal.

31. Restriction on reports of proceedings.

(1) In proceeding under this Act, no person shall publish or cause to be published—
(a) in any newspaper or broadcast proceedings containing the locality or any particulars calculated to lead to identification of the particular venue of the court or the name, address or any particulars calculated to lead to the identification on the victim or any other person in the proceedings either as a party to the proceedings or as a witness in the proceedings; or
(b) in a newspaper or by television or by any other means, any picture of the victim or other person concerned in the proceedings.

(2) A person who contravenes any of the provisions of subsection (1) commits an offence and is on conviction liable —
(a) in any newspaper or broadcast proceedings containing the locality or any particulars calculated to lead to identification of the particular venue of the court or the name, address or any particulars calculated to lead to the identification on the victim or any other person in the proceedings either as a party to the proceedings or as a witness in the proceedings; or
(b) in a newspaper or by television or by any other means, any picture of the victim or other person concerned in the proceedings.

(3) The provisions of 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; and
(b) is intended for the circulation among members of the legal or medical professions.

(4) A publication under this section shall be made thirty days after the final determination of proceedings.

PART IV — MISCELLANEOUS PROVISIONS

32. Compensation.

(1) Where a victim of domestic violence suffers personal injuries or damage to property or financial loss as a result of the domestic violence, the court hearing a claim for compensation may award such compensation in respect of the injury or damage or loss as it deems just and reasonable.

(2) The court hearing a claim for such compensation may take into account—
(a) the pain and suffering of the victim, and the nature and extent of the physical or mental injury suffered;
(b) the cost of medical treatment for such injuries;
(c) any loss of earnings arising therefrom;

(d) the amount or value of the property taken or destroyed or damaged;
(e) necessary and reasonable expenses incurred by or on behalf of the victim when the victim is compelled to separate or be separated from the respondent due to the domestic violence, such as—
(i) lodging expenses to be contributed to a safe place or shelter;
(ii) transport and moving expenses;
(iii) the expenses required in setting up a separate household which, subject to subsection (3), may include amounts representing such housing loan payments or rental payments or part thereof, in respect of the shared residence, or alternative residence, as the case may be, for such period as the court considers just and reasonably necessary;
(f) the financial position of the victim as well as that of the respondent
(g) the relationship that exists between the parties and the reasonableness of requiring the respondent to make or contribute towards such payments; or
(h) the possibility of other proceedings being taken between the parties and the matter being more appropriately dealt with under the relevant laws relating to the financial provision of spouses or former spouses and other dependants.

33. General provisions as to offences.
(1) Where any offence, other than one referred to in this Act, is committed by a respondent upon an applicant during or in furtherance of the commission of any act of domestic violence, the court convicting the respondent thereof shall have regard to such circumstances as aggravating the offence committed, when assessing the sentence to be imposed.
(2) For the avoidance of doubt, a prosecution under this Act or any other law shall not prevent the applicant from seeking protection or redress under this Act.

34. Provision on delegated powers.
(1) The Rules Committee established under section 81 of the Civil Procedure Act shall make rules to regulate any matter of practice or procedure under this Act.
(2) Without prejudice to the generality of subsection (1), such rules may prescribe—
(a) the procedure to be followed and the forms to be used under this Act;
(b) the time within which documents are to be filed and served under this Act; and
financial position of the victim as well as that of the respondent;
relationship that exists between the parties and the
(c) the contents of orders to be issued under this Act.

15. KIRIBATI

Family Peace Act, 2014 [50]

[…]

Part 1- Preliminary

1. Short title
(1) This Act may be cited as Te RauN Te Mwenga Act 2014.

2. Interpretation
In this Act, unless the context otherwise requires-
"access order" means an order issued pursuant to section 22 of this Act granting access to the respondent to any child or children within the domestic relationship where temporary custody of the children has been awarded by the court to the complainant or to some other person;
"applicant" means a person who applies for a protection order under this Act and includes a person on whose behalf an application is made;
"CEDAW" means the Convention on the Elimination of All Forms of Discrimination against Women;
"child" means a person under the age of 18 years;
"community worker" includes an island community worker;
"complainant" means a person who applies for or for whose benefit a protection order or other order under this Act is applied for;

[50] Family Peace Act (10 December 2014), available at http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/102529/124002/F-830436630/KIR102529.pdf (last visited December 30, 2018).

"Court" means the Magistrates' Court or High Court;
"counsellor" means a counsellor registered under section 7 o f this Act;
"CRC" means the Convention on the Rights of the Child;
"custody order" means an order issued pursuant to section 22 of this Act granting temporary custody of any child or children to the applicant;
"domestic violence" has the meaning set out in section 4;
"domestic violence offence" means an offence as provided for in section 32;
"economic abuse" has the meaning set out in section 4
"emergency protection order" means an order in situations of urgency as provided for in section 16;
"final order" means a final protection order made under section 18 of this Act that deals with a substantive matter in issue in proceedings on a final basis;
"harassment" means engaging in a pattern of conduct that induces the fear of harm in a complainant including-
(a)repeatedly watching, or loitering outside of or near the building or place where the complainant resides, works, carries on business, studies or happens to be;
(b)repeatedly making unwarranted phone calls or inducing another to make such phone calls to the complainant, whether or not conversation ensues;
(c)repeatedly sending, delivering or causing the delivery of unwanted letters, packages, other objects, facsimiles, text messages or other electronic mail to the complainant;
"health care provider" means a doctor, nurse or health worker engaged in any medical facility providing medical services to members of the public;
"intimidation" means any word or action that intentionally threatens the use of force or the threat of force, causing or threatening to cause physical injury to any person;
"respondent" means any person who is or has been in a domestic relationship with the complainant and who has committed or allegedly committed an act of violence against the complainant or against whom an order is sought or made under this Act;
"person at risk" means any person in a domestic relationship who is at risk, or has been subjected to domestic violence;
"police safety order" means an on-the-spot order issued by the Police and referred to in section 26;
"'protection order" means an emergency, temporary or final protection order made under this Act;
"sexual assault" means sexual contact that involves the intentional touching or penetration by the perpetrator of the complainant's intimate parts; or, the touching by the complainant of the perpetrator's, the complainant's, or another's intimate parts effected by the person in a position of authority; or, by coercion, or by inducement if the complainant is under 13 years of age or mentally impaired; or the
touching of the clothing covering the immediate area of the intimate parts; or, the intentional penetration or touching with seminal fluid or sperm by the perpetrator of the complainant's body or the clothing covering the complainant's body.
"sexual harassment" means an unwelcome sexual advance made in verbal, physical and/or other forms, intimidation, threat and/or other forms of coercion that makes sexual intercourse an unavoidable option for the victim or that creates an unbearable hostile environment and or causes damage in terms of the person's employment, professional, economic, psychological and or any other form of well-being.
"social welfare officer" includes the assistant welfare officer;
"stalking" means repeatedly following or pursuing the complainant in an unwanted and unwelcomed manner whether in person or by telephone calls, text messages or other electronic means;
“Te RauN Te Mwenga" means Family Peace;

3. Objects of the Act
(1) The objects of this Act are-
(a) to ensure the safety and protection of all persons including children, who experience or witness domestic violence;
(b) to provide support and redress for all victims of domestic violence;
(c) to implement programmes for victims of domestic violence to ensure their recovery to lead a safe and healthy life.
(d) to facilitate enforcement of Court orders issued in order to stop acts of domestic violence;
(e) to enact provisions that are consistent with certain principles underlying the Declaration on the Elimination of Violence against Women; and
(f) to enact provisions that are consistent with the CEDAW and the CRC.
(2) In enacting this Act, the Maneaba ni Maungatabu recognises-
(a) that domestic violence, in all its forms, is unacceptable behavior and is a crime;
(b) that on the basis of statistics domestic violence is a crime almost always perpetrated by men against women and children;
(c) that domestic violence occurs and impacts on all sectors of the community;
(d) that domestic violence extends beyond physical, sexual, psychological and economic violence and may involve the

exploitation of power imbalances and/or patterns of abuse over many years;
(e) that domestic violence occurs in traditional and non-traditional settings; Page 3 of32
(f) the particularly vulnerable position of children who are exposed to domestic violence as victims or witnesses, and the impact that such exposure can have on their current and future psychological, physical and emotional well-being;
(g) that domestic violence is best addressed through a coordinated legal and social response of assistance to victims and measures to prevent violence and, in certain case, may be the subject of appropriate intervention by the Court.

(3) A Court that, or any person who, exercises any power conferred by or under this Act in relation to domestic violence must be guided in the exercise of that power by the objects referred to in this section.

4. Meaning of domestic violence

(1) For the purposes of this Act, any act or omission or conduct of the respondent or any threats to the complainant or any person related to the complainant by the respondent in a domestic relationship shall constitute domestic violence if it-

(a) harms, injures or endangers the health. safety, life, limb or well-being, whether mental or physical of the complainant or tends to do so and includes causing physical abuse, sexual abuse. verbal and emotional abuse and economic abuse;
(b) harass, harms, injures or endangers the complainant with a view to coercing the complainant or any other person related to the complainant to meet any lawful demand for any property; or
(c) otherwise injures or causes harm. whether physical or mental. to the complainant by any conduct mentioned in paragraph (a) or in paragraph (b);
(d) otherwise injures or causes harm, whether physical or mental to the complainant

(2) For the purposes of this section-

(a) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm or danger to life, limb or health or impair the health or development of the complainant and includes assault, criminal intimidation and criminal force;
(b) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of a person;
(c) "verbal, emotional and psychological abuse" means a pattern of degrading or humiliating conduct towards the complainant, including -
(i) repeated insults, ridicule or name calling, manipulating, making the victim feel guilty, ashamed and responsible for what he or she is experiencing;
(ii) repeated threats to cause physical and emotional pain; or
(iii) the repeated exhibition of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of the victim's privacy, liberty. integrity or security;
(d) "economic abuse" includes-
(i) deprivation of all or any economic or financial resources to which the complainant is entitled under any law or custom whether payable under an order of a court or otherwise or which the complainant requires out of necessity including, but not limited to, household necessities for the complainant and dependent children, if any, property, jointly or separately owned by the complainant, payment of rent related to the shared household and maintenance;
(ii) disposal of household effects. any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the complainant has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the complainant or her children or any other property jointly or separately held by the complainant;
(iii) prohibition to, or restriction on, continued access to resources or facilities which the complainant is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.
(iv) damaging or destroying personal property in which the complainant has an interest.

(3) Without limiting subsection (2), -

(a) a single act may amount to violence for the purposes of that subsection;
(b) a number of acts that form part of a pattern of behaviour may amount to violence for that purpose, even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial.

5. Meaning of domestic relationship

Domestic relationship means a relationship between the complainant and the respondent in any of the following ways-

(a) they are or were married to each other, whether in accordance to law, custom or religion;
(b) they live or lived together in a relationship in the nature of marriage, although they are not, or were not, married to each other;
(c) they are the parents of a child or are persons who have or had parental responsibility for that child;
(d) they are family members related by legal or customary adoption;
(e) they are or were in an engagement, courtship or customary relationship, including an actual

or perceived intimate or sexual relationship of any duration;
(f) they share or recently shared the same residence; or
(g) they are wholly or partially dependent upon ongoing care in the same household; Page 5 0(32

6. Conferral of jurisdiction
(1) A Magistrate's Court has jurisdiction-
(a) to hear and decide on any application made to the court under this Act; and
(b) to perform any other function or exercise any other power conferred on the court under this Act.
(2) Despite any other law or rule of court, a Magistrate's Court in any district may hear and decide a proceeding under this Act that has been started in a Magistrate's Court in any other district.

7. Registered counsellors
(1) The Minister sha1l from time to time call for applications from those wishing to be registered as counsellors for the purposes of this Act.
(2) The Minister may declare a person to be a registered counsellor only if he or she has appropriate qualifications or experience in counselling in relation to domestic violence.
(3) The Minister may declare a person to be a registered counsellor for up to five years.
(5)[51] In making declaration, the Minister must-
(a) consult with the Secretary of the Ministry responsible for women affairs, President of a recognised national council of women, and an organisation or task force established solely for the purpose of protecting women or protecting victims of domestic violence; and
(b) ensure so far as practicable that there are registered counsellors in each local government region.
(6) A declaration must be in writing and a copy of it must be published in the Gazette as soon as practicable after it is made.
(7) The Minister must deregister a counsellor at any time to consultation with those named in subsection (5)(a) where misconduct has been proved.
(8) A registered counsellor has the following functions -
(a) counselling and advising on the problems in personal relationships that are likely or have led to the use of domestic violence;
(b) carrying out, upon the directions of a Court, any counselling, assessment or investigation relating to the children and the family of the parties and providing reports accordingly;
(c) facilitating arrangements for accommodation of the complainant and other persons at risk, as necessary;
(d) facilitating immediate arrangements for medical or other examination of a child of the household; and
(e) performing any other function which the Minister may assign for the purposes of this Act.
(9) Any counsellor may, in carrying out his duties, seek the assistance of any police officer.

8. Register
(1) The Secretary of the Ministry responsible for women affairs must-
(a) establish a register of persons in respect of whom a declaration is made under section 8; and
(b) keep the register up to date.
(2) The register is to be located at-
(a) the offices of the Ministry responsible for women affairs; and
(b) the office of each local government body including a copy o f the register.
(3) The register may be kept wholly or partly by computer.
(4) Any person may inspect the register or a copy of it free of charge during normal office hours.

9. Act binds the Republic
This Act binds the Republic.

Part 2 - Protection Orders

10. Objects of this Part
The objects of this Part are-
(a) to prevent violence between family members and others in a domestic relationship; and
(b) to facilitate and maximise safety and protection of persons who experience and fear domestic violence.

[51] Numbering in the original law.

Division 1 - Application for a protection order

11. Who can apply?
(1) An application for a protection order may be made by the Complainant to the Court nearest to where the complainant lives either temporarily or permanently, works or where the act of domestic violence occurred or is occurring.
(2) In the case of a complainant who is unable to make an application personally-
(a) due to physical incapacity, fear of harm or for any other sufficient cause; or
(b) due to lack of capacity to understand the nature and to foresee the consequences of decisions in respect of matters relating to his or her personal welfare or lacks the capacity to make or communicate decisions in respect of such matters.
the following persons may apply to the court on behalf of such a person-

(i) a family member, guardian or a friend; or
(ii) a social welfare worker, counselor, community worker or women's interest worker; or (iii). a legal practitioner, or
(iv) a healthcare provider; or
(v) ahead of a school; or
(vi) a police officer.

(3) Where a person is unable to give oral or written consent due to mental incapacity to the filing of an application for a protection order, any person making an application on behalf of such a person in such a situation shall act in the best interests of that person.
(4) No person who in good faith makes an application for a protection order or provides to the court any evidence or information in support of such an application, shall incur any civil or crimina1 liability in respect of the giving of such information.
(5) An application under subsection (I) may be made by or on behalf of more than one person.
(6) An application for a protection order may be made *ex parte,* unless the Court otherwise orders it to be on notice.
(7) A court must give priority to the bearing of applications for protection orders.

12. Form of application to a court for protection order
(1) An application to a court for a protection order may be made-

(a) in person orally; or
(b) in writing; or
(c) by telephone, radio or *similar* facility; or
(d) by facsimile, telex, text messaging or email.

(2) A written application must comply with Form I in the Schedule.
(3) If an application is made orally, the court clerk must reduce the application to writing on Form 1 in the Schedule.
(4) A written or oral application made by other persons on behalf of the complainant must comply with Form 2 in the Schedule.
(5) A court must keep a written register of-

(a) all applications for protection orders made to it; and
(b) all protection orders granted by it; and
(c) all protection orders that have been declined and record the reasons for refusing to make a protection order;

13. Protection order in family or criminal proceedings
(1) A court where family or criminal proceedings are pending and considering the circumstances of the case, may on its own motion or on an application by the complainant, issue a protection order upon such terms and conditions as the court considers appropriate.
(2) In considering whether to grant a protection order, the court must take into account the safety, health and well-being of the complainant and the interests of any person dependent on the complainant.

Division 2 - *Power of the court to make protection orders*

14. Court may make protection order
(1) The court may, on an application made under section 12 make a protection order if it is satisfied that-

(a) the respondent is using, or has used, domestic violence against the complainant, or a child or any other member of the family living in the same household; and
(b) the making of an order is necessary for the protection of the complainant, or a child or any other member of the family living in the same household.

(2) In deciding whether to make a protection order, the court must take into account the following-

(a) the need to ensure that the complainant is protected from domestic violence;

(b) the well-being and the accommodation needs of the complainant, the complainant's children and any other family member living in the same household;
(c) the principles mentioned in section 3 of this Act; and
(d) any other matter that the court considers relevant.

(3) In deciding whether to grant a protection order, the court must not take into account any custom that may put the applicant or child or any other member of the household at risk of domestic violence.

(4) The court may include in the protection order the names of other family members, if the court is satisfied the respondent has committed or is likely to commit an act of domestic violence against other family members.

(5) Without limiting subsection (1)(b), the court must consider whether the behaviour of the respondent forms part of a pattern of behaviour in respect of which the complainant, or child or other members of the family living in the same household, need protection.

(6) Without limiting the matters that the court may consider when determining whether to grant a protection order, the court must have regard to-

(a) the opinion of the applicant or complainant, or a child of the complainant's family, or a member of the family living in the same household, of the nature and seriousness of the behaviour in respect of which the application is made; and
(b) the effect of that behaviour on the applicant or a child or a member of the family living in the same household.

(7) In all cases when granting protection orders, the court IS required to explain the orders and consequences of court orders to the parties.

15. Temporary protection order in relation to cross applications

(1) This section applies if-

(a) an application for a protection order has been made and is before a court; and
(b) the person named in the original application as the respondent applies for a protection order and the complainant named in the original application is named in the cross application as the respondent; and
(c) the cross application is made orally, or is made in writing but not served on the complainant named in the original application at least I business day before the hearing of the original application.

(2) If the cross application is made in accordance with subsection (l) (c), the court must adjourn the hearing of the cross application and set a date by which the written cross application is to be served on the original complainant named in the original application unless that complainant consents to the court hearing the cross application before hearing the original application or together with the original application.

(3) The court may make a temporary protection order in relation to the cross application if-

(a) the complainant named in the original application does not consent as mentioned m subsection (2);
(b) at least one of the following persons is in danger of personal injury, or the property of at least one of the following persons is in danger of substantial damage-
(i) the person for whose benefit the protection order, based on the cross application, is sought;
(ii) another person who is sought to be protected by the domestic violence order based on the cross application.

Division 3 - *Types of protection orders*

16. Emergency protection order

(1) A court may make an emergency protection order where an *ex parte* application for a protection order is made orally or on Form 1 in the Schedule of this Act.

(2) In determining whether to grant an emergency protection order, the court shall consider and be satisfied that-

(a) there are reasonable grounds for believing that if an emergency protection order is not made, the respondent may cause-
(i) physical, further verbal, emotional, psychological violence to the complainant or to a child or to any other member in the household; or
(ii) remove or cause damage to the property or cause death or injury to any animal of the complainant; or
(iii) the complainant will be prevented or deterred from pursing the application if the order is not made immediately.

(3) An emergency protection order may contain any conditions set out in Division 4 of this Part of the Act.

(4) A copy of the emergency protection order must be immediately sent by the court to the Police in the area nearest where the complainant is currently residing, whether temporarily or permanently.

(5) An emergency protection order shall be effective for a period of no more than 28 days including the day the order is made.

(6) A court must determine an application for an emergency protection order on the same day on which the application is made unless there are exceptional circumstances.

17. Temporary Protection Order

(1) The court may grant a temporary protection order and include any conditions listed in Division 4 of

this Part of the Act if it considers it to be in the best interests of the complainant.
(2) In determining whether it is in the best interests of the complainant to issue a temporary protection order, the Court shall consider whether there is risk of harm to the complainant if the order is not made immediately.
(3) If the court makes a temporary order under this Act, the court shall order immediate service on the respondent by the police of the temporary protection order together with-

(a) the notice of the date of the hearing in accordance with Form 3 in the Schedule of this Act; and
(b) a notice to the respondent that clearly states that if the respondent does not take any steps in the proceedings, the temporary order will become final in accordance with section 18 by operation of law 90 days after the date on which it is made.

(4) Where the respondent fails to appear before the court in accordance with subsection (3)(a) and the court being satisfied on the evidence that the respondent has been served, the court may-

(a) give further directions; or
(b) order that the temporary order becomes final by operation of law 90 days after the date on which is made.

(5) Where a temporary order becomes a final order pursuant to subsection (4)(b), the final order comes into effect immediately.
(6) Temporary protection orders shall be effective for 90 days.
(7) A temporary protection order may be made by the court on an *ex parte* basis.

18. Final Order
(1) Where an application is made on notice to the court for a protection order and the court being satisfied on the evidence that notice has been served on the respondent in accordance with Form 3 in the Schedule of this Act, the court-

(a) may give further directions; or
(b) make a final order and include any conditions set out in Division 4 of this Part of the Act as it considers appropriate on Form 4 in the Schedule of this Act.

(2) A final protection order shall remain in force unless varied or cancelled by the court on an application by the respondent, if there is good cause.
(3) In considering the application the court must take in account the best interests o f the victim o f domestic violence and dependent persons in the domestic relationship.

Division 4 - *Conditions of a protection order*

19. Standard conditions
(1) Any protection order granted under this Act must include these conditions, namely that the respondent must not-

(a) physically or sexually abuse the complainant;
(b) threaten to physically or sexually abuse the complainant;
(c) damage or threaten to damage property or cause death or injury to any animal of the complainant;
(d) engage, or threaten to engage, in other behaviour, including intimidation, harassment or stalking which amounts to psychological abuse of the complainant;
(e) deprive or threaten to deprive the complainant of economic or financial resources or dispose or threaten to dispose of any movable or immovable property in which the complainant has a material interest.
(f) encourage any person to engage in behaviour against a complainant where the behaviour; if engaged in by the respondent would be prohibited by the order;
(g) prohibit the respondent or complainant from approaching each other while under the influence of alcohol, kava or non-prescription drugs.

(2) Without limiting subsection (I), it is a condition of every protection order that at any time other than when the complainant and the respondent are living in the same dwelling house, the respondent must not-

(a) watch, loiter near, or prevent or hinder access to or from, the complainant's place of residence, business, employment, educational institution, or any other place that the complainant visits often; and
(b) follow the complainant about or stop or accost the complainant in any place; and
(c) where the complainant is present on any land or building, enters or remains on that land or building without the complainant's express consent; and
(d) make any other contact with the complainant (whether by telephone, electronic message, correspondence or otherwise), except such contact-
(i) as is reasonably necessary in any emergency; or
(ii) as is permitted under any order or written agreement relating to the role of providing day-to-day care for, or contact with, or custody of or access to any children.

20. Conditions relating to property and accommodation

A court shall include any or all or any of the following conditions in a protection order-

(a) prohibit the respondent from taking, damaging, destroying, burning, selling or giving away any property of the complainant;

(b) direct the respondent-

(i) to return through a third party any specific personal property of the complainant; or

(ii) to allow the complainant to recover, have access to or make use of any specified personal property.

(c) grant the complainant temporary occupancy to a residence or specified part of it whether or not the residence is solely owned or leased by the respondent.

21. Conditions relating to weapons

The court directs the respondent to surrender any weapon to the nearest police station or dispose of any weapon that has been used or threatened to be used to commit domestic violence.

22. Custody, access and maintenance orders

A protection order shall include, where appropriate, all or any of the following conditions-

(a) a custody order granting temporary custody of any dependent child to the complainant or to another appropriate person if the court is satisfied that it is in the best interest of the child and for the safety and welfare of the child in question; or

(b)an access order to the respondent under such terms and conditions as the court considers appropriate in the best interests of the child;

(c)a maintenance order directing the respondent to pay maintenance in cash or kind or both to the complainant and any dependent children.

23. Urgent maintenance orders

(1) Where the court makes a protection order, it must also make an order for urgent maintenance where it appears that the party is in need of immediate financial assistance, until further orders of the court.

(2) The court may order payment of a weekly or monthly or other periodic amount as the court considers reasonable.

Division 5 - *Variation and cancellation of protection order*

24. Application by either party

(1) A complainant or respondent may, upon written notice to the other party and the Court concerned on Form 3 in the Schedule apply for the variation or cancellation ofa protection order.

(2) If the court is satisfied that good cause has been shown for the variation or cancellation of the protection order and the application has been made freely and voluntarily, it may issue an order to this effect and set out the order on Form 5 in the Schedule of this Act.

(3) The Registrar or clerk of the court as the case may be must forward the order and any variations made to the original protection order and set out the order according to Form 5 in the Schedule of this Act, to the complainant and respondent.

Part 3 - Prevention and Response

25. Public awareness, education, training, research

(1) Ministries and Departments shall support and help ensure the introduction of public awareness programmes on prevention and the causes and consequences of violence in the family and in the community and based on available data.

(2) Mechanisms for preventing, reducing the prevalence of violence and responding to help victims of violence shall include, but not be limited to-

(a) sensitisation and training in human rights, gender equality and causes and consequences of domestic violence for judicial officers, police officers, health care professionals, social welfare officers, other personnel in relevant Government agencies, youth groups, media personnel and civil society organizations;

(b) educating officials including and emphasizing human rights, gender equality and the problems of gender based violence in the education curricula in all levels of education;

(c) promoting and conducting educative campaigns on the National Action Plan on violence against women and on sexual and gender based violence;

(d) supporting and setting up facilities to support victims of gender and sexual based violence,

(e) Government officials promoting studies, research, data collection on the causes, consequences and frequency of domestic violence for regular evaluation and monitoring of trends and to form the basis of national and local preventive measures, national plans of action and strategy, policies and public awareness programmes to reduce, prevent and eliminate violence; and

(f) the Minister responsible for women affairs to present an annual report to the Maneaba in Maungatabu on

measures taken under this section.

Part 4 - Police Powers and Duties

26. Duty of Police to act in relation to domestic violence

(1) If a police officer suspects on reasonable grounds that a person who is or has been in a domestic relationship with another person -

(a) has committed or is about to commit a domestic violence offence; or

(b) has breached a protection order,

the police officer may issue a Police Safety Order in Form 6 of the Schedule if the officer-

(i)does not arrest that person for an offence against any enactment involving the use of violence; but

(ii)has reasonable grounds to believe, having regard to the matters specified in sub section (2), that the issue of a Police Safety Order is necessary to ensure the safety of the victim in accordance with section 27.

(2) When considering whether to issue a police safety order under subsection (1), the police officer must have regard to the following matters:

(a) whether there is a likelihood that the person will use, or again use domestic violence against the victim or any other person in the household;

(b) the welfare of any children residing in the household with the victim; and

(c) any other matter the police officer considers relevant.

(3) A police safety order comes into force immediately on being served on the person who commits domestic violence.

(4) An order continues in force for the period specified in the order, but that period must not exceed 14 days.

27. Police safety order

(1) A police safety order issued under section 26(1) must be served as soon as practicable on the person against whom the order is issued.

(2) An order may be issued without the consent of the person at risk for whose safety the order is proposed to be issued.

(3) A police officer who issues a Police Safety Order must explain to the person against whom the order is issued-

(a) the purpose, duration and effect of the order; and

(b)the consequences that may follow if the person against whom the order is issued contravenes the order.

(4) lf an order issued under section 26(1) has not been served within 48 hours from the time of issue, the order lapses.

(5) A police safety order may be issued by a police constable or any police officer above the rank of constable.

28. Effect of police safety order

(1) A person against whom an order is issued must-

(a) immediately surrender any weapons in his or her possession or control, used or about to be used to commit domestic violence; and

(b) vacate any land or building occupied by a person at risk, whether or not he or she has a legal or equitable interest in the land or building.

(2) It is a condition of every order that the person against whom the order is issued must not-

(a) physically or sexually abuse or threaten to abuse a person at risk;

(b) remove, endanger or threaten to damage property or any animal belonging to a person at risk;

(c) harass, stalk, sexually harass, intimidate, follow or verbally abuse a person at risk; or

(d) make any contact with a person at risk.

(3) In this section, a person at risk means-

(a) the person named in the order for whose safety the order is issued; and

(b) any child dependent upon the person at risk.

29. Contravention of Police Safety Order

(1) Where a person who has been served with a Police Safety Order fails to comply with the Order or any condition of the Order, a police officer shall-

(a) take the person into custody; and

(b) apply to the Magistrate's Court on behalf of the person at risk for an emergency protection order under section 12.

(2) A person taken into custody shall, subject to subsection (3), be brought before the Magistrate's Court within 24 hours.

(3) If a person is taken into custody under subsection (1) and it is not practicable to bring the person arrested before a Magistrate within 24 hours after he or she has been taken into custody, a police officer of the rank of sergeant or above or the police officer in charge of the police station shall inquire into the case and, at or before the expiry of that period -

(a) grant or withhold bail; or

(b) release the person; and

(c) serve the person with a summons requiring him or her to appear before the Magistrate's Court at the place and time specified in the summons.

(4) If the person who has been served with the summons under subsection (3)(c) does not attend personally at the place and time specified in the summons, the Magistrate's Court may issue a warrant to arrest him or her and bring him or her before the Court.

30. Duty to prosecute

(1) Where there is a report of domestic violence and provided that there is sufficient evidence for doing so, every police officer handling the matter shall ensure and undertake to do all things necessary in order that a charge or information is laid with the court in order to commence prosecution of the matter in court.

(2) In addition to subsection (1), every police office shall not endeavour to provide counselling to the parties to the proceedings to reconcile or to withdraw a charge or information laid under subsection (1).

(3) In every case prosecuted before the court, it is the duty of the police officer-

(a) to provide information to the complainant about court processes and procedures in a language that he or she understands, the remedies available under this Act and the right to hire or have access to a court appointed lawyer and lodge an appeal; and

(b) where necessary, make arrangements for the complainant and the complainant's dependents to find a suitable shelter, to obtain a medical treatment or counselling service where needed.

(4) The failure of a police officer to comply with an obligation imposed under this Act shall constitute misconduct for the purposes of section 41 of the Police Service Act 2008.

31. Annual reports to be tabled in the Maneaba ni Maungatabu

(1) The Police Commissioner must, at least once a year, compile annual statistics and an annual report from the information collected under this section and forward the statistics and annual report to the Minister responsible for women affairs.

(2) The annual statistics and annual report referred to in subsection (I) shall contain the following details-

(a) number of domestic violence reports filed;

(b) number of complaints filed by men;

(e) number of complaints filed by women;

(d) number of reported cases concluded after investigations; (e) total time spent on investigations;

(f) the manner in which the police responded to solve the issue when the report was filed and time taken in general;

(g) action taken by the police to resolve a matter and referrals made to other services; and

(h) the outcome of the domestic violence offences.

(3) On receipt of the statistics and annual report to in subsection (2), the Minister responsible for Women Affairs must prepare a consolidated report which the Minister must, at least once in every year submit to relevant authorities, the advisory council for women established under section 41 of this Act and table it in the Maneaba ni Maungatabu.

(4) Any information obtained under subsection (3) which may reveal the identity of the parties must not be disclosed in the consolidated report.

Part 5 - Role of Health Care Professionals and Social Service Provider

32. Duty of care and response to reports of domestic violence

(1) A duty of care is hereby established on any healthcare professional and social service provider who has been or is notified by a complainant that they have been a victim of domestic violence to-

(i) advise the complainant about counselling;

(ii) refer the complainant to counselling as appropriate;

(iii) advise the complainant about filing a complaint with the police

(2) In the event the police officer receive a report under subsection (1 iii), the police officer shall-

(a) instigate the processes required to investigate the incidence and take action; and

(b) ensure that the complainant is duly informed about the outcome of the investigations and the complainant of their rights and the remedies available under this Act.

(3) The health care professional must examine the complainant and applying the protocol established by the Ministry of Health providing for professional standards and confidential treatment and further advise the victim of support options available and refer the victim to counselling support where available.

(4) Any social service provider who has been notified by a complainant that he or she has been or are a victim of domestic violence must-

(a) advise the victim of the support options available;

(b) refer the victim to counselling;

(c) refer the victim for medical treatment;

(d) advise the victim about filing a complaint with the police;
(e) advise the victim of their rights and the remedies available under this Act; and
(f) assist the victim and any dependent children where necessary by taking them to a shelter, where available and/or a house of a relative or friend and shall further liaise with the Police in ensuring that protection orders are applied for, are obtained and enforced.

(5) Any health care professional or social service provider shall not give to any other person, whether directly or indirectly, any information acquired by reason of performing duty of a health care professional or social service provider under this Act.

Part 6 - Offences and Penalties

33. Domestic violence offence and breach of protection order

(1) A person who-
(a) engages in any conduct set out in section 4;
(b) breaches a protection order;
(c) fails to comply with a Police Safety Order;
commits a domestic violence offence.

(2) A person who commits a domestic violence offence referred to in subsection (1) shall be punished by up to a maximum term of 6 months imprisonment or a fine of up to $250.

(3) A person who commits a domestic violence referred to in subsection (1) for a second time shall be punished by up to a maximum term of 12 months imprisonment or a fine of up to $500 or both.

(4) A person who commits a domestic violence offence referred to in subsection (1) for a third time or more shall be punished by up to a maximum term of 3 years imprisonment with a fine of up to $1000 or both.

(5) It is not a defence to a domestic violence offence under subsection (1) that the respondent has paid compensation or reparation to the complainant or to the complainant's family.

(6) If a person instigates, counsels or procures another person to commit an act of domestic violence that person is taken to have committed the act and subsection (1) applies.

34. Relationship of Penal Code and relevant written laws to this Act

(1) Subject to section 10(5) of the Constitution. in addition to prosecution under section 30 of this Act, a respondent may also be prosecuted under any other criminal laws for the time being in force for the perpetrator's acts of domestic violence if the facts disclose the commission of a criminal offence under those provisions.

(2) In relation to domestic violence, the following circumstances shall be considered as aggravated circumstances, resulting in enhanced penalties for the offender, where-
(a) domestic violence is committed against a child; or the action of domestic violence is performed in the presence o f a minor;
(b) domestic violence is committed against a person with special needs, a pregnant woman or a woman who, due to whatever reason, is incapable of resisting;
(c) the violence is severe or life threatening;
(d) a weapon is used; or
(e) the respondent has committed repeated incidences of domestic violence.

Part 7 - Procedures

35. Procedures generally

(1) Proceedings under this Act are governed by the procedures, ru1es and regulations made under this Act and any other applicable criminal law.

(2) In cases of difficulty or doubt, a Court exercising jurisdiction in the proceedings may give directions about the procedures.

36. Service

(1) Where an application is being made to the Court for a protection order, the Court must issue as soon as practicable after filing-
(a) a summon directing the respondent to appear at the time and place set out in the summons on Form 3 in the Schedule; or
(b) a warrant in accordance with subsection (2) for the arrest of the respondent.

(2) The Court may issue a warrant if the Court is satisfied that the personal safety of the complainant would be seriously threatened unless the respondent is apprehended and brought into custody.

(3) The Court must give two copies of the application and any summons or warrants to the police officer in charge of the police station nearest to where the respondent lives or was last known to live.

(4) The police officer must personally serve the application and summons or warrant on the respondent.

(5) Where service is completed by the police officer, an affidavit of service must be completed by the police officer who served the respondent and the affidavit must be promptly delivered posted or transmitted by facsimile transmission or emailed to the court registry in which the application was filed for the hearing of the matter.
(6) In the case of a warrant, the police officer must arrest the respondent and take the respondent into custody.

37. Withdrawal or complaint
Where a complainant makes an oral or written application for withdrawal of a complaint against the respondent, the Court-
(a)must investigate the reasons for withdrawal;
(b)must ensure the safety and well-being of the complainant and any dependants;
(c)may make further directions; or
(d)grant the application.

38. Rights of complainant in domestic violence proceedings
In proceedings for domestic violence, the prosecutor or any other person acting for the complainant, must consult with the complainant and fully explain proceedings in order to ensure that all relevant information is provided to the complainant and that the complainant fully understands the court proceedings and orders made, in order to lessen the impact of the court hearing on the complaint, any dependent children and persons living in the same household.

Part 8 - Appeals
39. Appeals
(I) An appeal may be made to the High Court against a decision of a court-
(a) to make a protection order; or
(b) to revoke or vary a protection order (including a variation of the conditions imposed by the order); or
(c) to refuse to make, vary or revoke a protection order.
(2) An appeal-
(a) may be made by the complainant or the respondent; and
(b) must be instituted within 28 days after the day on which the court's decision is made.

40. Institution and nature of appeal
(1) An appeal must be instituted by-
(a) lodging a notice of appeal in writing with the Registrar of the High Court; and
(b) serving a copy of the notice of appeal on each person who is a party to the proceedings (other than the appellant); and
(c) giving a copy of the notice of appeal to the Commissioner of Police or his or her representative.
(2) A notice of appeal must specify the grounds of appeal and the facts that are relied upon.
(3) Unless a judge of the High Court orders otherwise, an appeal is to be by way of re-hearing and must be in accordance with the rules of the Court.
(4) An appeal against an order does not stay the operation of that order.

41. Decision on appeal
(1) If the High Court allows an appeal-
(a) it may confirm, dismiss or vary any order to which the appeal relates, as it considers appropriate; and
(b) it may make such order or decision as it considers should have been made. and every such order or decision takes effect on and from the day on which it is made.
(2) A person aggrieved by an order or decision of the High Court may appeal to the Court of Appeal against that order or decision.
(3) Neither the High Court nor the Court o f Appeal is bound by the rules of evidence in determining an appeal.

Part 9 - Advisory Council
42. Establishment, membership and functions
(1) The Minister responsible for the Ministry responsible for women affairs may establish an Advisory Council consisting of persons appointed by the Minister in accordance with subsection (2).
(2) The Council consists of such representatives of relevant government agencies, organisations or councils for protecting women, and other civil society groups as the Minister thinks fit.
(3) It is the function of the Council to advise and make recommendations to the Minister, either of its own motion or upon request made to it by the Minister, concerning-

(a) the workings of this Act and other legislation relating to family law;
(b) the working of legal aid in relation to this Act;
(c) research, monitoring and evaluation of the impact of domestic violence in the community;
(d) the adequacy of preventive measures, responses, shelters and counselling support services provided to victims of domestic violence; and
(e) any other matter relating to domestic violence and violence against women and children.

(4) The Minister must appoint one of its members to be Chairperson of the Council.
(5) A member of Council holds office for such period, not exceeding 3 years, as is specified. in the instrument of appointment, but is eligible for re-appointment.
(6) A member may resign by writing to the Minister.
(7) The Minister may terminate the appointment of a member because of misbehaviour, or physical or mental incapacity of the member.
(8) Meetings of the Council must be convened by the Chairperson.
(9) The Council must keep record of its meetings.
(10) The Council must, as soon as practicable after 31 December in each year, prepare and furnish to the Minister a report of the operations of the Council during the year that ended on 31 December the previous year.
(11) The Minister must cause a copy of a report furnished under subsection (10) to be laid before the Maneaba ni Maungatabu after the receipt of the report by the Minister.
(12) The Minister may determine the procedures for the meeting of the Advisory Council, the rate of the attendance allowance for the members of the council, and such other matters as are required to give effect to this section.

Part 10 - Miscellaneous

43. Proceedings not open to public

(1) A court hearing an application for a protection order is not open to the public.
(2) Subject to subsection (3), a person may not be present during the hearing of an application unless he or she is-
(a) a party to the proceedings;
(b) an officer of the court;
(c) a lega1 or other representative of the party;
(d) a witness; or
(e) any other particular person whom the Court permits to be present.
(3) A complainant is entitled to have a person with him or her throughout the proceedings to provide support and other assistance.

44. Central data collection, monitoring, reporting etc

(1) The Secretary for the Ministry responsible for women affairs must at least once a year, compile annual statistics and an annual report for the information collected under this section and forward the statistics and report to the Minister responsible for women affairs.
(2) The annual statistics and annual report referred to in subsection (1) shall contain the following details-
(a) the manner of victims applying to the courts for protection orders each year;
(b) the types of domestic violence incidences that come before the courts each year;
(c) an analysis of sentences imposed by the court in domestic violence cases each year;
(d) the number of self referrals and referrals made by the courts and other agencies to counselling services and shelters each year; and
(e) the effectiveness of all measures adopted by Government agencies to combat domestic violence.
(3) On receipt of the statistics and annual report referred to in subsection (2), the Minister responsible for women affairs must prepare a consolidated report which the Minister must, at least once in every year, submit to relevant authorities, the Council established under section 42 of this Act and table in the Maneaba ni Maungatabu, but any information which might revea1 the identity of the parties must not be disclosed in the consolidated report.

45. Power to make rules

The Chief Justice may from time to time make rules providing for and in relation to-
(a)forms and the use of forms as necessary for the purposes of this Act;
(b)applications for protection orders made by telephone and other similar facilities;
(c)partial and full remission of fees;
(d)data collection on the outcomes of domestic violence cases and orders of protection, including any violations; and
(e)on any other relevant matter.

46. Power to make regulations

The Minister may make regulations not inconsistent with this Act for all matters required or necessary to give effect to this Act.

[…]

Explanatory Memorandum

[…]

16. KOREA, REP.

Act on the Prevention of Domestic Violence and the Protection, Etc. of Victims, 2016 [52]

Article 1 (Purpose)
The purpose of this Act is to prevent domestic violence and to protect and support victims thereof.

Article 2 (Definitions)
The definitions of terms used in this Act shall be as follows:
1. The term "domestic violence" means any act under subparagraph 1 of Article 2 of the Act on Special Cases concerning the Punishment, etc. of Crimes of Domestic Violence;
2. The term "domestic violence assailant" means a person under subparagraph 4 of Article 2 of the Act on Special Cases concerning the Punishment, etc. of Crimes of Domestic Violence;
3. The term "victim" means a person who has been directly damaged by domestic violence;
4. The term "child" means a person who is under 18 years of age.

Article 3 Deleted.

Article 4 (Duty of State, etc.)
(1) The State and a local government shall take each of the following measures to prevent domestic violence and to protect and support victims thereof: *<Amended by Act No. 9668, May 8, 2009; Act No. 11981, Jul. 30, 2013; Act No. 13368, Jun. 22, 2015>*
1. Establishment and operation of a domestic violence reporting system;
2. Investigation, research, education and publicity for the prevention of domestic violence;
3. Establishment and operation of shelters for victims, grant of a preferential right to residency in a rental house and provision of other supportive services for them;
4. Establishment and operation of a cooperation network among related agencies to facilitate the protection of and support to victims;
5. Arrangement of the related Acts and subordinate statutes and the formulation, implementation and evaluation of various policies for the prevention of domestic violence and for the protection of and support to victims;
6. Preparation of safety measures for the protection of victims and employees, such as counselors at emergency hotlines under Article 4-6, counselors at counseling centers related to domestic violence under Article 5, counselors at shelters for victims of domestic violence under Article 7;
7. Establishment of systems to prevent exposure of victims' personal affairs and to provide protection and support to victims.
(2) In order to fully perform the duties under paragraph (1), the State and a local government shall take budgetary measures accordingly.
(3) A Special Metropolitan City, a Metropolitan City, a Do, a Special Self-Governing Province and a Si/Gun/Gu (referring to an autonomous Gu; hereinafter the same shall apply) shall have organizations and public officials in charge of preventing domestic violence and providing protection and support to victims.
(4) The State and a local government shall foster and support, with a subsidy for expenses, etc., counseling centers related to domestic violence and shelters for the victims established and operated under Articles 5 (2) and 7 (2).

Article 4-2 (Investigation into Actual Conditions of Domestic Violence)
(1) The Minister of Gender Equality and Family shall investigate actual conditions of domestic violence every three years, and announce the findings thereof and utilize such findings as basic materials in policy making for the prevention of domestic violence. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010>*
(2) Matters necessary for the method, contents, etc. of investigations into actual conditions of domestic violence under

[52] Act on the Prevention of Domestic Violence and the Protection, Etc. of Victims, Act No. 14058 (2 March 2016), available at https://elaw.klri.re.kr/eng_service/lawView.do?hseq=38392&lang=ENG (last visited December 30, 2018).

paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality and Family. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010>*

Article 4-3 (Provision of Domestic Violence Prevention Education)

(1) National agencies, local governments, principals at all school levels under the Elementary and Secondary Education Act and the heads of public organizations prescribed by Presidential Decree shall provide education necessary for the prevention and avoidance of domestic violence, and submit the outcomes thereof to the Minister of Gender Equality and Family. *<Amended by Act No. 11981, Jul. 30, 2013>*

(2) Where prevention education under paragraph (1) is provided, it may be carried out from the perspective of gender equality by integrating sex education and sexual violence prevention education under Article 5 of the Sexual Violence Prevention and Victims Protection Act, sexual harassment prevention education under the Article 31 of the Framework Act on Gender Equality, preventive education against sexual traffic under Article 4 of the Act on the Prevention of Sexual Traffic and Protection, etc. of Victims, and other related education. *<Newly Inserted by Act No. 10300, May 17, 2010; Act No. 12327, Jan. 21, 2014; Act No. 12698, May 28, 2014>*

(3) Persons who are not eligible for education under paragraph (1) may receive education necessary for the prevention and avoidance of domestic violence at a counseling center related to domestic violence under paragraph (5) or an educational institution prescribed by Presidential Decree. *<Newly Inserted by Act No. 11981, Jul. 30, 2013>*

(4) The Minister of Gender Equality and Family shall train professional instructors for the education under paragraph (1), and develop and disseminate educational programs. *<Newly Inserted by Act No. 11981, Jul. 30, 2013>*

(5) The Minister of Gender Equality and Family shall annually inspect the results of the practice of conducting domestic violence prevention education under paragraph (1), as prescribed by Presidential Decree. *<Newly Inserted by Act No. 12327, Jan. 21, 2014>*

(6) The Minister of Gender Equality and Family shall take necessary measures, such as special education of managers, against agencies or organizations deemed to have provided insufficient education as a result of inspection under paragraph (5), as prescribed by Presidential Decree. *<Newly Inserted by Act No. 12327, Jan. 21, 2014>*

(7) The Minister of Gender Equality and Family may require the heads of the relevant agencies or organizations to reflect the results of inspection under paragraph (5) in the following: *<Newly Inserted by Act No. 12327, Jan. 21, 2014>*

1. Self-evaluation conducted by central administrative agencies and local governments under Articles 14 (1) and 18 (1) of the Framework Act on Public Service Evaluation;
2. Evaluation of business performance of government-owned corporations or quasi-government agencies under Article 48 (1) of the Act on the Management of Public institutions;
3. Management evaluation of local enterprises under Article 78 (1) of the Local Public Enterprises Act;
4. Evaluation of schools under Article 9 (2) of the Elementary and Secondary Education Act.

(8) The Minister of Gender Equality and Family shall officially announce the results of inspection under paragraph (5) via news media, etc., as prescribed by Presidential Decree: Provided, That the foregoing shall not apply where an official announcement is restricted by other Acts. *<Newly Inserted by Act No. 12327, Jan. 21, 2014>*

(9) Matters necessary for the details and methods of education under paragraph (1), submission of outcomes, etc. shall be prescribed by Presidential Decree. *<Newly Inserted by Act No. 11981, Jul. 30, 2013>*

Article 4-4 (Support for School Attendance of Children)

(1) Where a victim or a family member accompanied by the victim (referring to a person who is protected or brought up by the victim among the persons under subparagraph 2 of Article 2 of the Act on Special Cases concerning the Punishment, etc. of Crimes of Domestic Violence; hereinafter the same shall apply) is a child, and if the child needs to attend school in a region other than the place of his/her domicile (including admission, readmission, transference, transfer admission into school; hereinafter the same shall apply), the State and a local government shall provide support so that he/she can attend school without difficulty.

(2) Matters necessary for attending school under paragraph (1) shall be prescribed by Presidential Decree.

Article 4-5 (Prohibition of Disadvantageous Disposition against Victims)

No person who is employing a victim shall dismiss him/her nor give any other disadvantages to him/her in connection with crimes of domestic violence under the Act on Special Cases concerning the Punishment, etc. of Crimes of Domestic Violence.

Article 4-6 (Establishment and Operation of Emergency Hotlines)

(1) The Minister of Gender Equality and Family or a Special Metropolitan City Mayor, a Metropolitan City Mayor, a Do Governor or the Governor of a Special Self-Governing Province (hereinafter referred to as the "Mayor/Do Governor") shall establish and operate emergency hotline centers in order to perform affairs referred to in the following subparagraphs. In such cases, he/she may separately establish and operate emergency hotline centers providing foreign language services: *<Amended by Act No. 9932, Jan. 18, 2010; Act No. 13368, Jun. 22, 2015>*

1. Receipt of reports from victims and provision of counseling;

2. Interconnection with related institutions and establishments;
3. Provision of emergency rescue services for victims;
4. Temporary protection of a victim transferred from police stations, etc. and the family members accompanied by the victim (hereinafter referred to as "victims, etc.").

(2) The Minister of Gender Equality and Family or the Mayor/Do Governor may entrust an institution or an organization prescribed by Presidential Decree with the establishment and operation of an emergency hotline center pursuant to paragraph (1). *<Amended by Act No. 9932, Jan. 18, 2010>*

(3) Where the Minister of Gender Equality and Family or the Mayor/Do Governor entrusts the establishment and operation of an emergency hotline center pursuant to paragraph (2), he/she shall support expenses necessary therefor. *<Amended by Act No. 9932, Jan. 18, 2010>*

(4) Matters necessary for the establishment and operation of an emergency hotline center pursuant to paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality and Family. *<Amended by Act No. 9932, Jan. 18, 2010>*

Article 4-7 (Domestic Violence Eradication Week)

(1) A week a year shall be designated as the Domestic Violence Eradication Week in order to raise social awareness on and prevent domestic violence, as prescribed by Presidential Decree.

(2) The State and local governments shall conduct projects including events in line with the objectives of the Domestic Violence Eradication Week. In such cases, the projects may be performed in conjunction with the events dedicated to the Sexual Assault Prevention Week prescribed in Article 6 of the Sexual Violence Prevention and Victims Protection Act.

Article 5 (Establishment and Operation of Counseling Centers)

(1) The State or a local government may establish and operate a counseling center related to domestic violence (hereinafter referred to as "counseling center").

(2) Any person, other than the State or a local government, who intends to establish and operate a counseling center shall report to the Governor of a Special Self-Governing Province, or the head of a Si/Gun/Gu (the head of a Gu means that of an autonomous Gu; hereinafter referred to as "head of a Si/Gun/Gu").

(3) Matters necessary for the standards of the establishment and operation of counseling centers, the number of counselors therein and the procedures for report thereof, etc. shall be prescribed by Ordinance of the Ministry of Gender Equality and Family. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010>*

Article 6 (Services of Counseling Centers)

The services of a counseling center shall be as follows: *<Amended by Act No. 11981, Jul. 30, 2013; Act No. 13368, Jun. 22, 2015>*

1. Receipt of reports, or consultations, on domestic violence;
1-2. Counselling for persons who report domestic violence or make a request for counselling thereon, and counselling for their family members;
2. Temporary protection of victims, etc. who have difficulty in leading a normal family life and social life due to domestic violence or require emergency protection, or transferring the victim, etc. to a medical institution or shelters for victims of domestic violence under Article 7 (1);
3. Requests for necessary cooperation and support from the Korean Bar Association or local bar associations and legal aid corporations established under the Legal Aid Act (hereinafter referred to as "legal aid corporation") for consultations with respect to legal matters, such as filing criminal charges against domestic violence assailants;
4. Temporary protection of victims, etc. transferred from police stations, etc.;
5. Education and publicity concerning the prevention and avoidance of domestic violence;
6. Other investigations and research on domestic violence and damage therefrom.

Article 7 (Establishment of Shelters)

(1) The State or a local government may establish and operate a shelter for victims of domestic violence (hereinafter referred to as "shelter").

(2) A social welfare corporation under the Social Welfare Services Act (hereinafter referred to as "social welfare corporation") and other nonprofit corporations may establish and operate shelters with the authorization from the head of a Si/Gun/Gu.

(3) A shelter shall have a counselor and may have employees, such as life aides, cooks, and janitors, depending on the scale of the shelter.

(4) Matters necessary for the standards for establishment and operation of shelters, the type of occupation and number of employees, including counselors, and the standards for authorization thereof shall be prescribed by Ordinance of the Ministry of Gender Equality and Family. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010>*

Article 7-2 (Categories of Shelters)

(1) Shelters shall be categorized as follows:

1. Short-term shelters: Facilities to protect victims, etc. for a period not exceeding six months;
2. Long-term shelters: Facilities to provide victims, etc. with residential convenience, etc. for their self-reliance for a period not exceeding two years;
3. Shelters for foreigners: Facilities to protect foreign victims, etc., whose spouse is a national of the Republic of Korea, for a period not exceeding two years;
4. Shelters for the disabled: Facilities to protect victims, etc., who are disabled persons governed by the Act on Welfare of Persons with Disabilities, for a period not exceeding two years.

(2) Heads of short-term shelters may extend the protection period only once for victims, etc. who have entered such shelters, by up to three months, as prescribed by Ordinance of the Ministry of Gender Equality and Family. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010>*

Article 7-3 (Persons, etc. subject to Admission to Shelters)

(1) A person subject to admission to a shelter shall be a victim, etc. who falls under any of the following subparagraphs:

1. Where the person in question wishes to be admitted or consents to be admitted to a shelter;
2. Where a guardian who is not a domestic violence assailant consents to admission of an intellectually disabled person or mentally disabled person under Article 2 of the Act on Welfare of Persons with Disabilities, or any other disabled person whose mental capacity is impaired;
3. Where it is deemed inappropriate to obtain the consent of a guardian to admission of an intellectually disabled person or mentally disabled person pursuant to Article 2 of the Act on Welfare of Persons with Disabilities, or any other disabled person whose mental capacity is impaired, although he/she needs to be admitted to a shelter according to the results of counseling by a counsellor.

(2) The head of a shelter, who has obtained authorization pursuant to Article 7 (2), shall report to the head of a Si/Gun/Gu personal details, grounds for admission to shelters, etc. of a person who is admitted to the shelter pursuant to paragraph (1) without delay, and where he/she admits a person falling under paragraph (1) 3 to the shelter, he/she shall obtain the approval from the competent head of a Si/Gun/Gu without delay.

Article 7-4 (Discharge from Shelters)

A person who has been admitted to a shelter pursuant to Article 7-3 may be discharged therefrom at his/her own will or at the request of a guardian who consented to his/her admission to the shelter pursuant to paragraph (1) 2 of the same Article, and the head of a shelter may, where a person who was admitted to the shelter falls under any of the following subparagraphs, order discharge of him/her from the shelter:

1. Where the purpose of protection has been accomplished;
2. Where a period of protection has expired;
3. Where a resident has been admitted to a shelter by fraud or other improper means;
4. Where a resident has committed an act that significantly disturbs order in the shelter.

Article 7-5 (Support of Protection Expenses for Shelters)

(1) Where necessary for the protection of a victim who has been admitted to a shelter or family members accompanied by the victim, the State or a local government may support each of the following expenses of protection to the head of the shelter or the victim: Provided, That where a victim who has been admitted to a shelter or a family member accompanied by the victim is protected pursuant to other Acts and subordinate statutes, such as the National Basic Living Security Act, the support under this Act shall not be provided within such scope of protection: *<Amended by Act No. 11981, Jul. 30, 2013>*

1. Costs of living;
2. Expenses incurred in providing assistance in the education of children;
3. Expenses incurred in providing childcare;
4. Expenses incurred in relation to vocational training;
5. Other expenses prescribed by Presidential Decree.

(2) Matters necessary for the methods, procedures, etc. for supporting protection expenses under paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality and Family.

Article 8 (Services of Shelters)

(1) A shelter shall provide the following services to victims, etc.: Provided, That a shelter may choose not to provide part of the services except those under subparagraph 1 to family members accompanied by a victim, and a long-term shelter may choose not to provide services under subparagraphs 1 through 5 (excluding the services of providing dwelling) to victims, etc.: *<Amended by Act No. 11832, May 28, 2013>*

1. Boarding and lodging;
2. Counseling and treatment for psychological stability and social adaptation;
3. Medical support, including transfer. etc. to medical institutions for disease treatment and health care (including physical

examinations within one month from the time a victim, etc. is admitted into a shelter);
4. Accompanying in investigations by criminal investigation agencies and witness examinations by courts of justice;
5. Requests for necessary cooperation and support from legal aid institutions, etc.;
6. Providing education on self-reliance and self-support and employment information;
7. Matters entrusted to a shelter under other Acts;
8. Other services necessary for the protection of a victim, etc.

(2) Any person who establishes and operates a shelter for the disabled shall, in providing services falling under any subparagraph of paragraph (1), render any appropriate assistance in consideration of the characteristics of the disabled.

(3) Deleted. *<by Act No. 13368, Jun. 22, 2015>*

Article 8-2 (Qualification Standards for Employees of Emergency Hotline Centers, Counseling Centers and Shelters)

(1) No person who falls under any of the following subparagraphs shall become the head of an emergency hotline center, a counseling center or a shelter, or an employee of an emergency hotline center, a counseling center and a shelter: *<Amended by Act No. 9668, May 8, 2009; Act No. 13368, Jun. 22, 2015>*

1. A minor, person under adult guardianship or person under limited guardianship;
2. A person who was declared bankrupt and has not been reinstated;
3. A person who was sentenced to imprisonment without labor or heavier punishment, but the execution has neither been completed (including where the execution is deemed completed) nor exempted.

(2) Any counselor serving in an emergency hotline center, a counseling center or shelters shall be a person who satisfies the requirements prescribed by Ordinance of the Ministry of Gender Equality and Family and who has completed the education and training courses for counselors prescribed by Ordinance of the Ministry of Gender Equality and Family in the education and training facilities for counselors related to domestic violence under Article 8-3. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9668, May 8, 2009; Act No. 9932, Jan. 18, 2010>*

(3) Other matters necessary for the qualification standards of employees serving in emergency hotline centers, counseling centers and shelters shall be prescribed by Ordinance of the Ministry of Gender Equality and Family. *<Amended by Act No. 8852, Feb. 2, 2008; Act No. 9668, May 8, 2009; Act No. 9932, Jan. 18, 2010>*

Article 8-3 (Education and Training Facilities for Counselors related to Domestic Violence)

(1) The State or a local government may establish and operate education and training facilities for counselors related to domestic violence (hereinafter referred to as "education and training facilities") to provide education and training to counselors (including persons who intend to become counselors).

(2) Any person who falls under any of the following subparagraphs and intends to establish education and training facilities shall report to the head of a Si/Gun/Gu:

1. An educational foundation establishing and operating a school under the Higher Education Act;
2. A legal aid corporation;
3. A social welfare corporation;
4. Any other nonprofit corporations.

(3) Matters necessary for the establishment standards for education and training facilities, the qualifications and the number of instructors working therein, the operation standards for counselor education and training courses and the report procedures, etc. shall be prescribed by Ordinance of the Ministry of Gender Equality and Family. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010>*

Article 8-4 (Execution of Supplementary Education)

(1) The Minister of Gender Equality and Family or the Mayor/Do Governor shall conduct supplementary education in order to improve the quality of employees of emergency hotline centers, counseling centers and shelters. *<Amended by Act No. 9932, Jan. 18, 2010>*

(2) The Minister of Gender Equality and Family or the Mayor/Do Governor may entrust affairs concerning education pursuant to paragraph (1) to a university or a junior college pursuant to Article 2 of the Higher Education Act or specialized institutions prescribed by Presidential Decree. *<Amended by Act No. 9932, Jan. 18, 2010>*

(3) Detailed matters necessary for a period, methods and details of supplementary education pursuant to paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality and Family. *<Amended by Act No. 9932, Jan. 18, 2010>*

Article 8-5 (Grant of Preferential Right to Residency in Rental House)

Matters necessary for the selection standards and methods, etc. of persons entitled to a preferential right to residency in a rental house prescribed in Article 4 (1) 3 shall be prescribed by Presidential Decree.

Article 9 (Obligation of Respect for Victim's Will)

The head of any counseling center or shelters shall not protect victims, etc. as provided in Articles 8 (1) and 18 against the explicit

will of such victims, etc.

Article 9-2 (Cooperation from Investigative Agencies)

Where a victim or employee, such as a counselor, etc. is in need of urgent rescue from a domestic violence assailant, the head of an emergency hotline center, counseling center or shelter may request the head of a competent police station to have a staff member under his/her control accompany. In such cases, the head of a police station in receipt of such request shall comply therewith, in the absence of special circumstances. *<Amended by Act No. 11981, Jul. 30, 2013>*

Article 9-3 (Production, Distribution, etc. of Promotional Pictures and Videos)

(1) In order to prevent and avoid domestic violence, the Minister of Gender Equality and Family shall produce promotional pictures and videos regarding the danger of domestic violence, assistance to victims of domestic violence, etc., and distribute them to broadcasting business operators under subparagraph 3 of Article 2 of the Broadcasting Act. *<Amended by Act No. 11832, May 28, 2013>*

(2) The Minister of Gender Equality and Family may request the terrestrial broadcasting business operators under subparagraph 3 (a) of Article 2 of the Broadcasting Act (hereafter referred to as "broadcaster" in this Article) to air promotional pictures and videos through each channel within the percentage of non-commercial public service advertisements to be aired as prescribed by Presidential Decree under Article 73 (4) of the same Act. *<Amended by Act No. 11832, May 28, 2013>*

(3) Broadcasters may independently produce and air promotional pictures and videos in addition to the promotional pictures and videos under paragraph (1). In such cases, they may request the Minister of Gender Equality and Family for necessary cooperation and support. *<Amended by Act No. 11832, May 28, 2013>*

Article 9-4 (Dispatch of Judicial Police Officers to Scene)

(1) A judicial police officer shall visit the scene of domestic violence without delay if a domestic violence offense report is received

(2) A judicial police officer who responds to a domestic violence offense report pursuant to paragraph (1) may visit the reported scene of domestic violence to protect victims or visit relevant places to inspect relevant persons or ask them questions for investigation of such case.

(3) No domestic violence assailant shall obstruct the duties of a judicial police officer, such as rejecting on-site investigations by the judicial police officer under paragraph (2).

(4) A judicial police officer who enters a scene of domestic violence, investigates a case or asks questions pursuant to paragraph (2) shall carry a certificate indicating his/her authority and produce it to interested parties.

(5) When making an onsite visit under paragraph (1), the head of an investigative agency may request the head of an emergency hotline center, counseling center or shelter to accompany to the scene of domestic violence, and the head of an emergency hotline center, counseling center or shelter who receives such request shall dispatch an affiliated counselor to the scene of domestic violence, in the absence of special circumstances.

(6) A judicial police officer who investigates a case of domestic violence or asks questions pursuant to paragraph (2) shall take necessary measures, such as interviewing the victim, reporter, witness, etc. in a place separate from the domestic violence assailant so that the person may freely make a statement, etc.

Article 10 (Closure, etc. of Counseling Centers, Shelters, or Education and Training Facilities)

(1) If the head of a counseling center, shelter, or education and training facility under Article 5 (2), 7 (2) or 8-3 (2) intends to suspend the operation of the said facility temporarily or close it, he/she shall report it to the head of a Si/Gun/Gu, as prescribed by Ordinance of the Ministry of Gender Equality and Family. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010; Act No. 14058, Mar. 2, 2016>*

(2) Where the head of a counseling center, shelter, or education and training facility temporarily suspends the operation of the relevant facility or closes it, he/she shall take measures to protect the rights and interests of those who use such facilities, including arranging the users' transfer to another facility, etc. *<Newly Inserted by Act No. 14058, Mar. 2, 2016>*

(3) Upon receipt of the reporting on the suspension of operation or closure of a counseling center, shelter, or education and training facility under paragraph (1), the head of a Si/Gun/Gu shall take measures prescribed by Ordinance of the Ministry of Gender Equality and Family, including confirming that the head of the relevant facility has taken actions to protect the rights and interests of the users of the relevant facility, etc. as prescribed in paragraph (2). *<Newly Inserted by Act No. 14058, Mar. 2, 2016>*

Article 11 (Supervision)

(1) The Minister of Gender Equality and Family or the head of a Si/Gun/Gu may require the head of a counseling center, shelter, or education and training facility to make a necessary report on the facility concerned and have competent public officials investigate the conditions of operation of the facilities concerned or inspect account ledgers and other documents. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010>*

(2) A competent public official performing the duties under paragraph (1) shall bear a certificate indicating the relevant authority and produce it to the persons concerned.

Article 12 (Cancellation of Authorization, etc.)

(1) Where a counseling center, shelter, or education and training facility falls under any of the following subparagraphs, the head of a Si/Gun/Gu may issue orders for closure of the facility, discontinuance of services or suspension of services for a period not exceeding six months, or cancel authorization therefor:

1. Where the facility fails to meet the standards for establishment or operation under Article 5 (3), 7 (4) or 8-3 (3);
2. Where the facility fails to meet the requirements for the number of counselors or instructors under Article 5 (3), 7 (4), 8-2 or 8-3 (3) or employs an unqualified person;
3. Where the facility fails to make a report under Article 11 (1), makes a false report, or refuses or evades an investigation and inspection by a competent public official without justifiable grounds;
4. Where a counseling center, shelter, or education and training facility has been established or operated for making profits in violation of Article 15.

(2) Where a counseling center, shelter, or education and training center is closed or suspends or discontinues its operation; or its authorization is revoked, the head of a Si/Gun/Gu shall take measures to protect the rights and interests of the users of the relevant facility, including arranging the users' transfer to another facility, etc. *<Newly Inserted by Act No. 14058, Mar. 2, 2016>*

(3) Detailed standards concerning orders for suspension and discontinuance of services or closure of facilities, or the revocation of authorization under paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality and Family. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010>*

Article 12-2 (Hearing)

The head of a Si/Gun/Gu shall hold a hearing to order suspension and discontinuance of services or closure of facilities, or revoke authorization under Article 12.

Article 13 (Subsidy of Expenses)

(1) The State or a local government may support part of the expenses for the establishment and operation of counseling centers or shelters under Article 5 (2) or 7 (2).

(2) The State or a local government shall support the shelters for the disabled to cover expenses of establishing equipment and installations meeting the standards prescribed by the Minister of Gender Equality and Family. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010>*

Article 13-2 (Assessment of Emergency Hotline Centers, etc.)

(1) The Minister of Gender Equality and Family may assess the performance records of emergency hotline centers, counseling centers and shelters every three years and reflect the results thereof into supervision, support, etc. of each facility.

(2) Matters necessary for the criteria, methods, etc. of assessment under paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality and Family.

Article 14 (Integrated Establishment and Operation of Counseling Centers or Shelters)

The State or a local government may establish and operate the integrated counseling centers or shelters by integrating counseling centers or shelters established and operated under this Act with counseling centers or shelters of a similar nature prescribed by Presidential Decree, or recommend to establish and operate such integrated counseling centers or shelters. *<Amended by Act No. 9668, May 8, 2009>*

Article 15 (Prohibition from Operation for Profit Making)

No person shall establish or operate a counseling center, shelters, or education and training facilities for making profits: Provided, That the heads of education and training facilities may receive tuition from those who take counselor education and training courses, as prescribed by the Minister of Gender Equality and Family. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010>*

Article 16 (Obligation of Confidentiality)

No person who is or was the head of an emergency hotline center, a counseling center or a shelter, or who is or was an assistant to him/her shall reveal confidential information acquired in the course of his/her duty.

Article 17 (Prohibition on Use of Similar Name)

No institution, other than emergency hotline centers, counseling centers, shelters, or education and training facilities under this Act, shall use such name as an emergency hotline center, a counseling center related to domestic violence, shelters for victims of domestic violence, or education and training facilities for counselors related to domestic violence, or any other name similar thereto. *<Amended by Act No. 9668, May 8, 2009>*

Article 18 (Medical Care and Protection)

(1) A medical institution shall, if requested by a victim, his/her family, acquaintance or the head of an emergency hotline center, a counseling center or shelters, etc., render to victims the following medical care and protection services: *<Amended by Act No. 9668, May 8, 2009>*

1. Consultation and guidance concerning health;
2. Medical care for physical and mental injuries;
3. Other matters concerning medical care prescribed by Presidential Decree.

(2) The relevant domestic violence assailant shall bear all the expenses incurred in medical care and protection referred to in paragraph (1).

(3) Where a victim applies for reimbursement of expenses for medical care and protection notwithstanding paragraph (2), the State or a local government shall pay the expenses necessary for medical care and protection referred to in paragraph (1) to a medical institution on behalf of the domestic violence assailant.

(4) Where the State or a local government has paid expenses pursuant to paragraph (3), it may exercise the right to reimbursement against the relevant domestic violence assailant: Provided, That the same shall not apply where a victim has received medical care and protection under paragraph (1) while being admitted in a shelter or where the domestic violence assailant falls under any of the following subparagraphs:

1. A beneficiary under Article 2 of the National Basic Living Security Act;
2. A disabled person registered under Article 32 of the Act on Welfare of Persons with Disabilities.

(5) Matters necessary for the procedures for the payment of expenses under paragraph (3) and the procedures for exercising the right to indemnity, etc. under paragraph (4) shall be prescribed by Ordinance of the Ministry of Gender Equality and Family. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010>*

Article 19 (Delegation of Authority)

The Minister of Gender Equality and Family may delegate part of his/her authority under this Act to the Mayor/Do Governor, or the head of a Si/Gun/Gu, as prescribed by Presidential Decree. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9668, May 8, 2009; Act No. 9932, Jan. 18, 2010>*

Article 20 (Penalty)

Any of the following persons shall be punished by imprisonment with labor for not exceeding one year or by a fine not exceeding ten million won: *<Amended by Act No. 12327, Jan. 21, 2014>*

1. A person who has established and operated counseling centers, shelters, or education and training facilities without report or authorization under Article 5 (2), 7 (2) or 8-3 (2);
2. A person who has continuously operated counseling centers, shelters, or education and training facilities, notwithstanding the orders for suspension and discontinuance of services or closure of facilities under Article 12;
3. A person who has violated the obligation of confidentiality under Article 16.

Article 21 (Joint Penalty Provisions)

If the representative of a corporation, or any agent, employee or other person employed or retained by a corporation or individual commits an offense referred to in Article 20 with respect to affairs of the corporation or individual, not only shall the offender be punished but the corporation or individual shall be punished by a fine pursuant to the relevant provisions: Provided, That this shall not apply where the corporation or individual has not neglected to pay due attention to and supervise the relevant affairs in order to prevent such offenses.

Article 22 (Administrative Fines)

(1) A domestic violence assailant who obstructs the performance of official duties, such as refusing or evading an on-site investigation, in violation of Article 9-4 (3) without justifiable grounds shall be punished by an administrative fine not exceeding five million won. *<Newly Inserted by Act No. 11981, Jul. 30, 2013>*

(2) Any of the following persons shall be punished by an administrative fine not exceeding three million won:

1. A person who fails to make a report under Article 11 (1) without justifiable grounds, makes a false report, or who refuses or evades investigation or inspection;
2. A person who violates prohibition against use of similar names under Article 17.

(3) Administrative fines under paragraphs (1) and (2) shall be imposed and collected by the Minister of Gender Equality and Family or the heads of Sis/Guns/Gus, as prescribed by Presidential Decree. *<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9932, Jan. 18, 2010; Act No. 11981, Jul. 30, 2013>*

(4) Deleted. *<by Act No. 9668, May 8, 2009>*

ADDENDUM
This Act shall enter into force on July 1, 1998.

ADDENDA *<Act No. 6400, Jan. 29, 2001>*

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 4 Omitted.

ADDENDA *<Act No. 7099, Jan. 20, 2004>*

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.
(2) (Applicability to Failure of State, etc. to Exercise Right to Reimbursement) The amended provisions of the proviso to Article 18 (4) shall apply to those expenses which are paid by the State or a local government on behalf of domestic violence assailants on or after the date when this Act enters into force.

ADDENDA *<Act No. 7413, Mar. 24, 2005>*

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation: Provided, That the enforcement date of any of the following matters shall be as follows:
1. Articles 2 through 4 of this Addenda shall enter into force on the date on which Presidential Decree concerning the organization of the Ministry of Gender Equality and Family under the amended provisions of Article 42 of the Government Organization Act enters into force within three months after the promulgation of this Act;
2. Omitted.

Articles 2 through 4 Omitted.

ADDENDA *<Act No. 7952, Apr. 28, 2006>*

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.
(2) (Transitional Measures concerning Shelters) At the time when this Act enters into force, shelters which are authorized by the head of a Si/Gun/Gu under the former provisions shall be deemed to be those provided for by this Act: Provided, that the standards for the establishment, etc. under the amended provisions of Article 7 (4) shall be met according to the categories of shelters falling under the amended provisions of any subparagraph of Article 7-2 (1) within one year after this Act enters into force.
(3) (Transitional Measures concerning Qualifications of Counselors) At the time when this Act enters into force, any person who is qualified as a counselor as prescribed by Ordinance of the Ministry of Gender Equality and Family shall be deemed to have completed the whole counselor education or training course under Article 8-2 (2).
(4) (Transitional Measures concerning Education or Training Facilities) An educational foundation, a legal aid corporation, a social welfare corporation or any other nonprofit corporation that has established and has been operating a school with a domestic violence-related counselor education course as prescribed by Ordinance of the Ministry of Gender Equality and Family under the Higher Education Act at the time when this Act enters into force shall, if it files a report under Article 8-3 (2) of this Act within three months after this Act enters into force, thereupon be deemed to have filed the report on the date on which this Act enters into force: Provided, That the standards for the establishment, etc. under the amended provisions of Article 8-3 (3) shall be met within six months after this Act enters into force.

[…]

Articles 2 through 7 Omitted.

ADDENDA *<Act No. 9668, May 8, 2009>*

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.
(2) (Transitional Measures concerning Previous Employees) Notwithstanding the amended provisions of Article 8-2, the previous provisions shall apply to the qualification standards for employees working in counseling centers and shelters before this Act enters into force.
(3) (Transitional Measures concerning Penalty) When the penalty provisions are applied to any offenses committed before this Act enters into force, the previous provisions shall apply to them.

[…]

ADDENDA *<Act No. 10300, May 17, 2010>*

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.
(2) (Transitional Measures concerning Sexual Violence Prevention and Victims Protection Act) The term "Article 5 of the Sexual

Violence Prevention and Victims Protection Act" under the amended provisions of Article 4-3 (2) shall be construed as "Article 3 (2) of the Act on the Protection, etc. of Victims of Sexual Crimes" until December 31, 2010.

[…]

Articles 2 (Transitional Measures concerning Grounds for Disqualification for Incompetent)
Notwithstanding the amended provision of Article 8-2 (1) 1, a person for whom a ruling for incompetency or quasi-incompetency under Article 2 of Addenda to the partial amendment to the Civil Act (Act No. 10429) is effective at the time the aforesaid amended provision enters into force shall be governed by the former provision.

[…]

Act on Special Cases Concerning the Punishment, Etc. of Crimes of Domestic Violence, 2016 [53]

CHAPTER Ⅰ
GENERAL PROVISIONS

Article 1 (Purpose)
The purpose of this Act is to help restore the peace and stability of a family destroyed by criminal domestic violence, maintain a healthy family environment and protect the human rights of victims and their family members, by providing for special provisions on procedures for the punishment of criminal domestic violence and by issuing protective orders to change an environment for the persons who committed criminal domestic violence and to correct their personality and behaviors.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 2 (Definitions)
The terms used in this Act shall be defined as follows: <Amended by Act No. 10921, Jul. 25, 2011; Act No. 11002, Aug. 4, 2011; Act No. 11150, Jan. 17, 2012; Act No. 12877, Dec. 30, 2014; Act No. 13719, Jan. 6, 2016>

1. The term "domestic violence" means actions inflicting physical or psychological harm or damage to the property of family members;
2. The term "family member" means any of the following persons:
(a) A spouse (including persons in a de facto marital relationship; hereinafter the same shall apply) or former spouse;
(b) A current or former lineal ascendant or descendant to himself/herself or his/her spouse (including those in a de facto parent-child relationship by adoption; hereinafter the same shall apply);
(c) A person currently or formerly in a relationship between step-parents and offspring or in a relationship between a father's legal wife and the child of a mistress;
(d) A relative living together;
3. The term "criminal domestic violence" means any of the following crimes:
(a) Crimes prescribed in Article 257 (inflicting bodily injury on another or on a lineal ascendant), Article 258 (aggravated bodily injury of another or of a lineal ascendant), Article 258-2 (special bodily injury), Article 260 (1) and (2) (assault against another or on a lineal ascendant), Article 261 (special violence) and Article 264 (habitual crimes), among the crimes of inflicting bodily injury and violence under Chapter XXV of PART II of the Criminal Act;
(b) Crimes prescribed in Article 271 (1) and (2) (abandonment of lineal ascendants) Article 272 (abandoning infants), Article 273 (cruelty to another and to lineal ascendants) and Article 274 (hard labor by children), among the crimes of abandonment and abuse under Chapter XXVIII of PART II of the Criminal Act;
(c) Crimes prescribed in Article 276 (false arrest and illegal confinement of lineal ascendants), Article 277 (aggravated false arrest and aggravated illegal confinement of lineal ascendants), Article 278 (special false arrest or illegal confinement), Article 279 (habitual crimes) and Article 280 (attempts), among the crimes of false arrest and illegal confinement under Chapter XXIX of PART II of the Criminal Act;
(d) Crimes prescribed in Article 283 (1) and (2) (intimidation, intimidation of lineal ascendants), Article 284 (special intimidation), Article 285 (habitual crimes) (limited to the crimes prescribed in Article 283) and Article 286 (attempts), among the crimes of intimidation under Chapter XXX of PART II of the Criminal Act;
(e) Crimes prescribed in Article 297 (rape), Article 297-2 (imitative rape), Article 298 (indecent acts by compulsion), Article 299 (quasi-rape, quasi-indecent acts by compulsion), Article 300 (attempts), Article 301 (death or injury resulting from rape), Article 301-2 (homicidal rape, etc.), Article 302 (statutory rape), Article 305 (sexual intercourse

[53] Act on Special Cases concerning the Punishment, Etc. of Crimes of Domestic Violence, Act No. 13719 (6 January 2016), available at https://elaw.klri.re.kr/kor_service/lawView.do?lang=ENG&hseq=39304&joseq=JO0002000 (last visited December 30, 2018).

or indecent acts with minor), Article 305-2 (habitual offenders) (limited to the crimes prescribed in 297, 297-2, and 298 through 300), among rape and indecent acts under Chapter XXXII of PART II of the Criminal Act;

(f) Crimes prescribed in Article 307 (defamation), Article 308 (defamation of deceased persons), Article 309 (defamation through printed materials, etc.) and Article 311 (insult), among the crimes against reputation under Chapter XXXIII of PART II of the Criminal Act;

(g) Crimes prescribed in Article 321 (illegal search of premises and persons), among the crimes of breaking and entering under Chapter XXXVI of PART II of the Criminal Act;

(h) Crimes prescribed in Article 324 (coercion) and Article 324-5 (attempts) (limited to the crimes under Article 324), among the crimes of obstructing another from exercising his/her rights under Chapter XXXVII of PART II of the Criminal Act;

(i) Crimes prescribed in Article 350 (extortion), Article 350-2 (special extortion), Article 352 (attempts) (limited to the crimes under Articles 350 and 350-2), among the crimes of fraud and extortion under Chapter XXXIX of PART II of the Criminal Act;

(j) Crimes prescribed in Article 366 (destruction of, damage to, etc. property), from among the crimes of destruction and damage under Chapter XLII of PART II of the Criminal Act;

(k) Crimes prescribed in items (a) through (j) subject to aggravated punishment pursuant to other Acts;

4. The term "domestic violence offender" means a person who commits criminal domestic violence and an accomplice who is his/her family member;

5. The term "victim" means a person who suffers direct harm from criminal domestic violence;

6. The term "home protection case" means a case subject to a protective order issued under this Act due to criminal domestic violence;

7. The term "protective order" means an order issued under Article 40 against an offender, taken after the court examines a home protection case;

7-2. The term "victim protective order case" means a case subject to a victim protective order under Article 55-2 due to criminal domestic violence;

8. The term "child" means a child defined in subparagraph 1 of Article 3 of the Child Welfare Act.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 3 (Relationship with Other Acts)
This Act shall prevail with respect to any criminal domestic violence: Provided, That the Act on Special Cases concerning the Punishment, etc. of Child Abuse Crimes shall prevail as to criminal child abuse cases. <Amended by Act No. 12340, Jan. 28, 2014>
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

CHAPTER Ⅱ
HOME PROTECTION CASES
SECTION 1 - General Provisions

Article 4 (Duty to Report, etc.)

(1) Any person who has become aware of criminal domestic violence may report the fact to an investigative agency.

(2) Where any of the following persons becomes aware of criminal domestic violence in the course of performing his/her duties, he/she shall promptly report the fact to an investigative agency except in extenuating circumstances: <Amended by Act No. 11150, Jan. 17, 2012; Act No. 12877, Dec. 30, 2014>

1. The employees and heads of institutions in charge of the education and protection of children;

2. The heads of medical institutions and medical personnel in charge of the treatment, etc. of children, senior citizens aged at least 60, or persons who lack normal judgment;

3. The employees and heads of welfare facilities for senior citizens prescribed in the Welfare of Older Persons Act, welfare facilities for children prescribed in the Child Welfare Act and welfare facilities for disabled persons prescribed in the Act on Welfare of Persons with Disabilities;

4. The professionals and head of a support center for multi-cultural families under the Multicultural Families Support Act;

5. International marriage brokers and their employees under the Marriage Brokers Business Management Act;

6. Crew members of rescue units and first-aid units under the Framework Act on Fire Services;

7. Public officials in exclusive charge of social welfare under the Social Welfare Services Act;

8. The employees and heads of healthy home support centers referred to in the Framework Act on Healthy Homes.

(3) When any counselor or and head of a child counseling center prescribed in the Child Welfare Act, domestic violence counseling center or shelter prescribed in the Act on the Prevention of Domestic Violence and Protection, etc. of Victims, or counseling center for victims of sexual crimes and shelters prescribed in the Act on the Protection, etc. of

Victims of Sexual Crimes (hereinafter referred to as "counseling centers, etc.") becomes aware of criminal domestic violence after counseling a victim or his/her legal representative, they shall promptly report such crime, in the absence of the victim's explicit objections. <Amended by Act No. 11150, Jan. 17, 2012>

(4) No one shall accord any disadvantage to any person who has reported criminal domestic violence under paragraphs (1) through (3) (hereinafter referred to as "informant") on the ground of such reporting.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 5 (Emergency Measures against Criminal Domestic Violence)

Upon receipt of a report on any ongoing crime of domestic violence, a judicial police officer shall arrive at the scene of the crime, without delay, and take any of the following measures:

1. To restrain violence, isolate domestic violence offenders from victims, and conduct an investigation of the crime;
2. To refer the victims to domestic violence counseling centers or shelters (limited to the cases where victims agree thereto);
3. To refer the victims requiring emergency treatment to medical institutions;
4. To notify that they are entitled to apply for ad hoc measures under Article 8 in cases of repeated violence.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 6 (Special Provisions on Complaints)

(1) A victim or his/her legal representative may file a complaint against a domestic violence offender. Where the legal representative of the victim is an offender or he/she has committed criminal domestic violence in collaboration with the domestic violence offender, a relative of the victim may file a complaint.

(2) Notwithstanding Article 224 of the Criminal Procedure Act, a victim may file a complaint where the domestic violence offender is a lineal ascendant of the victim or the spouse thereof. The same shall apply to the cases where his/her legal representative files a complaint.

(3) Where a victim has no legal representative or relative allowed to file a complaint, a prosecutor shall designate a person who may do so within ten days if requested by an interested person.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 7 (Judicial Public Officers' Transfer of Cases)

A judicial public officer shall promptly investigate criminal domestic violence and transfer the case to a prosecutor. In such cases, the judicial public officer may present his/her opinion on the propriety of handling the case in question as a home protection case.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 8 (Requests for Ad Hoc Measures, etc.)

(1) Where a prosecutor deems that criminal domestic violence is likely to recur, he/she may make a request for ad hoc measures prescribed in Article 29 (1) 1, 2 or 3 to the court, either ex officio or upon request by a judicial public officer.

(2) Where a prosecutor deems that a domestic violence offender is likely to repeat such criminal domestic violence in violation of ad hoc measures determined upon request under paragraph (1), the prosecutor may make a request for ad hoc measures prescribed in Article 29 (1) 5 to the court, either ex officio or upon request by a judicial public officer.

(3) In cases falling under paragraphs (1) and (2), a victim or his/her legal representative may request a prosecutor or judicial public officer to make a request for ad hoc measures under paragraphs (1) and (2), file such application, or present his/her opinions thereon.

(4) Where a judicial public officer, upon receipt of a request under paragraph (3), fails to request ad hoc measures under paragraphs (1) and (2), he/she shall report the grounds therefor to the prosecutor.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 8-2 (Urgent Ad Hoc Measures)

(1) Notwithstanding the emergency measures under Article 5, where criminal domestic violence is likely to recur and ad hoc measures determined by a court are not available due to its urgency, a judicial police officer may take any measure prescribed in Article 29 (1) 1 through 3 (hereinafter referred to as "urgent ad hoc measure"), either ex officio or upon the request of a victim or his/her legal representative.

(2) When a judicial police officer has taken urgent ad hoc measures under paragraph (2), he/she shall promptly prepare a written decision thereon.

(3) Each written decision on urgent ad hoc measures under paragraph (2) shall include a summary of the crime and grounds therefor, etc.

[This Article Newly Inserted by Act No. 10921, Jul. 25, 2011]

Article 8-3 (Requests for Urgent Ad Hoc Measures and Ad Hoc Measures)

(1) When a judicial police officer has taken urgent ad hoc measures under Article 8-2 (1), he/she shall immediately apply for ad hoc measures to a prosecutor under Article 8, and the prosecutor, upon receipt of such request, shall make an ad hoc measure request to a court. In such cases, the request shall be made within 48 hours from when the urgent ad hoc measures were taken and shall be accompanied by a written decision thereon.

(2) Where a judicial police officer fails to make an ad hoc measure request under paragraph (1), or a court fails to determine ad hoc measures, the urgent ad hoc measures shall be revoked without delay.

[This Article Newly Inserted by Act No. 10921, Jul. 25, 2011]

Article 9 (Handling Home Protection Cases)

(1) Where a prosecutor deems it appropriate to issue a protective order against criminal domestic violence under this Act, in consideration of the nature, motives and results of a case, the personality and behavior of a domestic violence offender, and other factors, the prosecutor may handle such crime as a home protection case. In such cases, the prosecutor shall respect the opinions of the victims.

(2) Paragraph (1) may apply to any of the following cases:

1. Where no complaint has been filed concerning criminal domestic violence, for which a complaint by the victim is required to file a prosecution, or such complaint has been revoked;
2. Where the victim expresses his/her wish not to prosecute the offender or retracts his/her previous wish to do so for criminal domestic violence which cannot be prosecuted against the express wish of the victim.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 9-2 (Suspension of Indictment on Condition of Counseling)

A prosecutor may suspend the indictment of a domestic violence offender on condition of counseling, where he/she deems it necessary to correct the personality and behavior of the offender after investigating a domestic violence case.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 10 (Jurisdiction)

(1) Home protection cases shall be under the jurisdiction of the family court having jurisdiction over the place of activities, residence or the place where the domestic violence offender is currently located: Provided, That home protection cases shall be under the jurisdiction of the district court of the relevant region (including its branch court; hereinafter the same shall apply) if such region has no family court.

(2) A home protection case shall be heard and determined by a single judge (hereinafter referred to as "judge").

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 11 (Transfer by Prosecution)

(1) Where a prosecutor handles criminal domestic violence as a home protection case pursuant to Article 9, he/she shall transfer such case to a competent family court or district court (hereinafter referred to as "court").

(2) Where criminal domestic violence conflicts with other crimes, a prosecutor may separate the case concerning such criminal domestic violence from other cases and transfer it to the competent court.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 12 (Transfer by Court)

Where the court deems it appropriate to issue a protective order against a domestic violence offender upon investigation under this Act, it may rule to transfer the case to the competent court of home protection cases. In such cases, the court shall respect the opinions of the victims.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 13 (Treatment of Domestic Violence Offenders in Cases of Transfer)

(1) When a decision to transfer is made under Article 11 (1) or 12, the head of a facility where a domestic violence offender is detained shall extradite the offender to the competent court within 24 hours from the receipt of such order from a prosecutor in the case of a Si (including a Special Metropolitan City, a Metropolitan City, and an administrative city under Article 10 (2) of the Special Act on the Establishment of Jeju Special Self-Governing Province and the Development of Free International City; hereinafter the same shall apply)/Gun in which the competent court referred to in Article 10 is located, and within 48 hours in the case of other Sis/Guns. In such cases, the court shall decide on whether to take ad hoc measures against the domestic violence offender under Article 29.

(2) Extradition and decision under paragraph (1) shall be completed within the period of custody specified in Article 92, 203 or 205 of the Criminal Procedure Act.

(3) An arrest warrant shall be deemed void when a decision on ad hoc measures is made under the latter part of paragraph (1).

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 14 (Warrant of Transfer)

(1) When a case is transferred as a home protection case under Articles 11 and 12, a warrant of transfer shall be sent to the competent court.

(2) A warrant of transfer under paragraph (1) shall include the name, address, date of birth and occupation of a domestic violence offender, his/her relationship with the victims, summary of his/her actions and domestic circumstances, and shall be accompanied by other materials for reference.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 15 (Transfer)

(1) The court to which a home protection case has been transferred shall promptly transfer the case to another competent court by ruling where such case is not under its jurisdiction or where it is deemed necessary for appropriate investigation and hearing.

(2) When the court has determined to transfer a case to another court under paragraph (1), it shall promptly notify the domestic violence offender, victims and prosecutors of such decision and the grounds therefor.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 16 (Effect of Protective Order)

When a protective order provided for in Article 40 is confirmed, the domestic violence offender shall not be prosecuted again for the same crime: Provided, that this shall not apply where a case is transferred under Article 46.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 17 (Suspension of Prescription of Public Prosecution and Its Effect)

(1) The prescription of public prosecution shall not run against criminal domestic violence after the home protection case in question is transferred to the court: Provided, That it shall resume running in any of the following cases:

1. Where a decision not to issue a disposition for the relevant home protection case under Article 37 (1) (limited to the decisions made based on the ground in subparagraph 1) has been confirmed;
2. Where the relevant home protection case has been transferred pursuant to Articles 27 (2), 37 (2) and 46.

(2) The suspension of prescription under paragraph (1) against an accomplice shall also take effect on another accomplice.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 18 (Duty of Confidentiality, etc.)

(1) No public official or assistant who is in charge of or is involved in the investigation of crimes of domestic violence or the investigation, examination or execution of home protection cases, no counselor or head of a counseling center or any person falling under Article 4 (2) 1 (including persons who held such positions) shall divulge any confidential information he/she has become aware of in the course of performing his/her duties.

(2) With regard to home protection cases under this Act, no one shall include the address, name, age, occupation and appearance of domestic violence offenders, victims, accusers, complainants or informants or other personal information and photographs, which help other people to recognize them, in publications such as newspapers, or air such information through broadcast media.

(3) No teacher or staff member of a school or nursery, who is in charge of the education or care of the children under the protection of victims or child victims, shall divulge the fact of sending the relevant children to schools, their admission to schools, changing their schools or entering facilities (including the change of facilities) to anyone, including persons with parental authority who are domestic violence offenders, unless any justifiable ground exists. <Amended by Act No. 10789, Jun. 7, 2011>

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 18-2 (Mutatis Mutandis Application of Criminal Procedure Act)

The provisions of the Criminal Procedure Act shall apply mutatis mutandis to the matters not provided for in this Chapter, to the extent that it does not violate the nature of home protection cases.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

SECTION 2 - Investigations and hearings

Article 19 (Direction of Investigations and Hearings)

When investigating or hearing a home protection case, the court shall utilize specialized knowledge of medical science, psychology, sociology, social welfare studies, etc., learn the personality, behavior, experiences and home circumstances of an offender, victims and other family members, as well as the motives, causes and circumstances of the crimes of domestic violence, in an effort to ensure that appropriate measures are taken to achieve the purposes of this Act.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 20 (Investigators of Home Protection Cases)

(1) A home protection case investigator shall be assigned at the court for the investigations and hearings of home protection cases.
(2) Qualifications, appointment and dismissal of home protection case investigators and other necessary matters shall be prescribed by the Supreme Court Regulations.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 21 (Investigation Orders, etc.)

(1) A judge may order or request a home protection case investigator or the head of a probation office having jurisdiction over the location of the court or the residence of a domestic violence offender to question the domestic violence offender, victims and family members or investigate their mental or psychological state or motives, causes and circumstances of the criminal domestic violence.
(2) Article 19 (2) and (3) of the Act on Probation, Etc. shall apply mutatis mutandis to a judge's request made to the head of a probation office to conduct investigations under paragraph (1).
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 22 (Seeking Expert Opinions)

(1) The court may seek opinions on the psychological or mental state of domestic violence offenders, victims or family members or the causes of the crimes of domestic violence from mental health doctors, psychologists, sociologists, social welfare scholars or other related experts. <Amended by Act No. 11005, Aug. 4, 2011>
(2) The court shall consider the opinions sought pursuant to paragraph (1) in investigating and hearing a home protection case.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 23 (Notification of Rights Not to Make Statements)

In investigating a home protection case, a judge or home protection case investigator shall, in advance, notify a domestic violence offender of his/her right to refuse to make any statement against themselves.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 24 (Summons and Warrant of Accompanying)

(1) A judge may summon a domestic violence offender, victims, family members or other witnesses to appear on a designated date, where deemed necessary for investigations and hearings.
(2) Where a domestic violence offender fails to comply with the summons under paragraph (1) without any justifiable ground, the judge may issue a warrant of accompanying.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 25 (Emergency Warrant of Accompanying)

A judge may issue a warrant of accompanying without summons under Article 24 (1), where a domestic violence offender is unlikely to comply with such summons or where it is deemed urgently necessary to protect a victim.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 26 (Form of Warrant of Accompanying)

A warrant of accompanying shall include the name, date of birth and address of a domestic violence offender, summary of the offence, place where the offender was apprehended or place where he/she will be admitted into, the period of validity, the intent that the judge is unable to commence execution after the warrant becomes invalid and that it shall be returned, and the date of issuance, and it shall carry the signature and seal of the judge.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 27 (Execution of Warrant of Accompanying, etc.)

(1) Home protection case investigators, court clerical officials of Grade IV, court clerical officials of Grade V, court clerical officials of Grade VI and court clerical officials of Grade VII (hereinafter referred to as "court officials") or judicial public officers may execute warrants of accompanying.

(2) Where the court fails to execute a warrant of accompanying for not less than one year due to the unknown whereabouts of a domestic violence offender, it may transfer such case to prosecutors of a public prosecutors' office corresponding to the competent court.

(3) When the court executes a warrant of accompanying, it shall notify the fact to the legal representative or assistant of a domestic violence offender, without delay.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 28 (Assistant)

(1) A domestic violence offender may appoint an assistant for his/her home protection case.

(2) An attorney-at-law, the legal representative, spouse, lineal relative, brother or sister of a domestic violence offender, and counselors or the head of a counselling center shall be eligible to be assistants: Provided, That the offender shall obtain approval from the court to appoint a person, other than an attorney-at-law, as his/her assistant.

(3) No assistant, other than an attorney-at-law appointed under paragraph (2), shall receive or promise to receive money, valuables, entertainment or other benefits, and allow or promise to allow a third party to offer such benefits.

(4) Where a domestic violence offender falls under any of the subparagraphs of Article 33 (1) of the Criminal Procedure Act, the court may, ex officio, appoint an attorney-at-law as his/her assistant.

(5) The Criminal Procedure Costs Act shall apply mutatis mutandis to expenses to be paid to assistants appointed under paragraph (4).

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 29 (Ad Hoc Measures)

(1) A judge may take any of the following ad hoc measures against a domestic violence offender by ruling, where deemed necessary for the smooth investigation and examination of a home protection case or for the protection of a victim:

1. Eviction, etc. from a room, in which victims or family members live, or a room occupied thereby, to isolate the offender from the victim;
2. A restraining order to stay at least 100 meters away from the residence or place of work of the victim or family members;
3. A ban on approaching the victim or family members through telecommunications under subparagraph 1 of Article 2 of the Framework Act on Telecommunications;
4. Admitting the offender into a medical institution or intermediate care center;
5. Confining the offender in a detention center or room of any State police station.

(2) A judge shall decide on whether to take measures under paragraph (1) against a domestic violence offender accompanied under a warrant to accompany or an offender extradited under Article 13 within 24 hours after the domestic violence offender is compelled to appear in court.

(3) When the court decides to take measures under paragraph (1), it shall notify prosecutors or the victim of such fact.

(4) After the court has taken measures under paragraph (1) 4 or 5, it shall notify the fact to an assistant, if any, or a person designated by a legal representative or the offender, if not. In such cases, when the court has taken measures under paragraph (1) 5, it shall notify the domestic violence offender that he/she may appoint an assistant, including an attorney-at-law and may file a complaint under Article 49 (1).

(5) A period for taking ad hoc measures under paragraph (1) 1 through 3 shall not exceed two months, and the period for taking ad hoc measures under paragraph (1) 4 and 5 shall not exceed one month: Provided, That the court may rule to extend the period for ad hoc measures under paragraph (1) 1 through 3 on up to two occasions and ad hoc measures under paragraph (1) 4 and 5 only once within the specified period, where deemed necessary to protect a victim.

(6) When an offender is committed to a medical institution, etc. under paragraph (1) 4, the court may impose necessary measures on the head of the medical institution, etc. for the protection of the offender.

(7) When the court intends to admit an offender to a medical institution, etc. operated by civilians, it shall make a prior notification to the head of such institution, etc. of the measures to be imposed under paragraph (6) and obtain his/her consent thereto.

(8) When a judge decides to take ad hoc measures under each subparagraph of paragraph (1), he/she may have home protection case investigators, court officials, judicial public officers or correctional public officials under the jurisdiction of a detention center implement such measures.
(9) A domestic violence offender, or the legal representative or assistant thereof may file a request for the revocation of a decision to take ad hoc measures under paragraph (1) or for the change of the type of such measures.
(10) A judge may rule to revoke the relevant ad hoc measures or change the type of such measures ex officio, or where he/she deems that requests made under paragraph (9) have justifiable grounds to the contrary.
(11) Standards for medical institutions or intermediate care centers to which a domestic violence offender is committed under paragraph (1) 4 and other necessary matters shall be prescribed by the Supreme Court Regulations.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 29-2 (Implementation, etc. of Ad Hoc Measures)

(1) Any person who implements a ruling on ad hoc measures under Article 29 (8) shall notify a domestic violence offender of the details thereof or the methods for objecting thereto.
(2) Where victims or family members have moved to a new residence or place of work after ad hoc measures under Article 29 (1) 1 and 2 were taken, they may request the competent court to revise a ruling to take ad hoc measures.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 30 (Setting of Hearing Date)

(1) A judge shall set a hearing date and summon a domestic violence offender. In such cases, the judge shall notify the offender of the summary of a home protection case and the fact that he/she is entitled to an assistant.
(2) Assistants and victims shall be notified of a hearing date under paragraph (1).
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 31 (Change of Hearing Date)

A judge may reschedule a hearing, either ex officio or upon request by a domestic violence offender or his/her assistant. In such cases, the domestic violence offender, victim and their assistant shall be notified thereof.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 32 (Closed Hearing)

(1) Where a judge deems it necessary to ensure privacy, to help promote a peaceful and stable home, or to maintain good public morals, he/she may choose to close to the public a hearing for a home protection case.
(2) Victims or family members summoned as witnesses may request the judge for a closed witness examination on the grounds of privacy protection or the peace and stability at home. In such cases, the judge may determine whether to grant such a request and the methods and places of such examination, including an examination in places other than open courts.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 33 (Victims' Rights to State Opinions)

(1) The court shall examine a victim as a witness, when the victim makes a request to do so: Provided, That the same shall not apply to cases falling under any of the following subparagraphs:
1. Where any further statement is not deemed necessary as he/she has already fully stated his/her opinions during the hearing proceedings;
2. Where the hearing proceedings are likely to be significantly delayed due to any further statement.
(2) When the court examines a victim under paragraph (1), it shall give him/her an opportunity to state his/her opinions on the relevant home protection case.
(3) The court may request victims or home protection case investigators to state their opinions or submit materials where deemed necessary for a hearing. In such cases, the judge may order a domestic violence offender to leave the court, where deemed necessary to ensure fair statements.
(4) In cases falling under paragraphs (1) through (3), a victim may allow an attorney-at-law, his/her legal representative, spouse, lineal relative, brother or sister, and counselors or the head of a counselling center to state their opinions on his/her behalf.
(5) When the applicant referred to in paragraph (1) fails to appear before the court without justifiable cause, after having been summoned, such request shall be deemed to have been revoked.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 34 (Witness Examination, Appraisal, Interpretation and Translation)

(1) The court may examine a witness and order an appraisal, interpretation and translation.

(2) The provisions of the Criminal Procedure Act governing the witness examination, appraisal, interpretation and translation shall apply mutatis mutandis to the cases falling under paragraph (1) to the extent that it does not violate the nature of home protection cases.

(3) With regard to the expenses paid to witnesses, appraisers, interpreters or translators, accommodation charges and other expenses, the provisions of the Criminal Procedure Act governing expenses and the provisions of the Criminal Procedure Costs Act shall apply mutatis mutandis.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 35 (Verification, Seizure, and Search)

(1) The court may conduct verification, seizure and search.

(2) The provisions of the Criminal Procedure Act governing the verification, seizure and search by the court shall apply mutatis mutandis to the cases falling under paragraph (1) to the extent that it does not violate the nature of home protection cases.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 36 (Cooperation and Assistance)

(1) The court may request cooperation and assistance from the relevant administrative agencies, counselling centers, medical institutions or any other organizations, where necessary for the investigation and hearing of home protection cases.

(2) Where the relevant administrative agencies, counselling centers, medical institutions or any other organizations refuse to comply with a request made under paragraph (1), they shall present justifiable grounds.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 37 (Decision not to Take Measures)

(1) The judge shall decide not to take any measure after hearing a home protection case, in any of the following cases:

1. Where it is deemed that he/she is unable to issue a protective order or such disposition is unnecessary;
2. When he/she deems that it is inappropriate to handle the case as a home protection case, in consideration of the nature, motives and results of incidents, or personality, behaviors and habits of the domestic violence offender.

(2) Where the court decides not to take measures on the grounds specified in paragraph (1) 2, it shall handle the case in accordance with the following classification:

1. Where the case has been transferred by a prosecutor under Article 11, the court shall transfer the case to a prosecutor of the prosecutors' office corresponding to the competent court;
2. Where the case has been transferred by the court under Article 12, the court shall transfer the case to the court which made the transfer order.

(3) When the judge makes a decision under paragraph (1), it shall notify such fact to the domestic violence offender, victims and prosecutors.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 38 (Period, etc. of Disposition)

A home protection case shall be handled promptly, in preference to other litigation. A decision on disposition shall be made within three months after the date when the case was transferred, unless any extenuating ground exists.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 39 (Provisions for Delegation)

Matters necessary for the investigation and hearing of home protection cases shall be prescribed by the Supreme Court Regulations.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

SECTION 3 - Protective Orders

Article 40 (Decision, etc. on Protective Orders)

(1) A judge may rule on any of the following, where a protective order is deemed necessary after a hearing:

1. Restrictions on a domestic violence offender's access to the victims or family members;
2. Restrictions on a domestic violence offender's access to the victims or family members through telecommunications under subparagraph 1 of Article 2 of the Framework Act on Telecommunications;
3. Restrictions on a domestic violence offender’s exercise of parental authority over the victims;
4. Order for community service or a lecture under the Act on Probation, Etc.;
5. Probation under the Act on Probation, Etc.;

6. Entrustment of the custody of offenders to protective facilities specified in the Act on the Prevention of Domestic Violence and Protection, etc. of Victims;
7. Entrustment of the treatment of offenders to medical institutions;
8. Entrustment of the counseling for offenders to counseling centers, etc.

(2) A disposition falling under each subparagraph of paragraph (1) may be imposed concurrently.

(3) When a disposition is imposed under paragraph (1) 3, the victims may be sent to other parental guardians, relatives or appropriate facilities.

(4) If the court has decided to issue a protective order, it shall notify the fact to a prosecutor, domestic violence offender, victim, probation officer, and the head of a protective facility, medical institution or counseling center, etc., which is entrusted with the performance of a protective order (hereinafter referred to as "entrusted institutions") without delay: Provided, That where it is a private institution, the court shall obtain consent from the head of the institution to such entrustment.

(5) When a disposition is imposed under paragraph (1) 4 through 8, it shall send reference materials necessary for the correction of domestic violence offenders to probation officers or the heads of entrusted institutions.

(6) Institutions entrusted with the custody of domestic violence offenders under paragraph (1) 6 shall provide them with education necessary to correct their personality and behavior.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 41 (Period of Protective Orders)

The period of a protective order under Article 40 (1) 1 through 3 and a protective order under Article 40 (1) 5 through 8 shall not exceed six months, and community service and lectures provided for in Article 40 (1) 4 shall not exceed 200 hours, respectively.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 42 (Confiscation)

A judge may rule to confiscate articles used or intended to be used for criminal domestic violence, which do not belong to persons, other than domestic violence offenders, in issuing a protective order.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 43 (Execution of Protective Orders)

(1) The court may allow home protection case investigators, court officials, judicial public officers, probation officers or employees belonging to entrusted institutions to execute a protective order.

(2) In executing a protective order, the provisions of the Criminal Procedure Act, the Act on Probation, etc. and the Mental Health Act shall apply mutatis mutandis to matters not prescribed in this Act, to the extent that it does not violate the nature of home protection cases.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 44 (Presentation, etc. of Reports and Opinions)

If the court has decided to issue a protective order under Article 40 (1) 4 through 8, it may request probation officers or the heads of entrusted institutions to present reports or written opinions on domestic violence offenders and may issue instructions for the execution of such order.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 45 (Revision of Protective Orders)

(1) The court may rule to revise the types and period of a protective order on no more than one occasion, either ex officio or upon request by a prosecutor, probation officer or the head of an entrusted institution, where deemed necessary, as long as the protective order remains in force.

(2) Where the court revises the type and period of a protective order under paragraph (1), the period of a protective order under Article 40 (1) 1 through 3 and Article 40 (1) 5 through 8 shall not exceed one year, and community service and lectures provided under Article 40 (1) 4 shall not exceed 400 hours, including the original period.

(3) When the court has decided to revise an order under paragraph (1), it shall notify the fact to a prosecutor, domestic violence offender, legal representative, assistant, victim, probation officer and entrusted institution, without delay.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 46 (Revocation of Protective Orders)

Where a domestic violence offender subjected to a protective order fails to implement the decision of a protective order under Article 40 (1) 4 through 8 or fails to comply with the execution thereof, the court shall rule to revoke such protective

order, either ex officio or upon request by a prosecutor, victim, probation officer or the head of an entrusted institution, and take any of the following measures:

1. If the case has been transferred by a prosecutor under Article 11, the court shall transfer the case to a prosecutor of the prosecutors' office corresponding to the competent court;
2. If the case has been transferred by the court under Article 12, the court shall transfer the case to the court which made such transfer order.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 47 (Termination of Protective Orders)

The court may rule to terminate all or part of a protective order, either ex officio or upon request by a prosecutor, victim, probation officer or the head of an entrusted institution, where it deems that domestic violence offenders are able to lead a normal life at home as their personality and behavior have been corrected or that protective orders are no longer necessary for other reasons.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 48 (Bearing Expenses)

(1) Domestic violence offenders who are committed to medical institutions, etc. under Article 29 (1) 4 or who are subjected to a protective order under Article 40 (1) 7 and 8 shall bear expenses incurred for such commitment or protective order: Provided, That where domestic violence offenders are unable to make payment, the State may bear such expenses.

(2) A judge may order domestic violence offenders to make an advance payment for the expenses referred to in the main sentence of paragraph (1).

(3) Calculation of expenses to be borne by domestic violence offenders under paragraph (1), requests for payment, procedures therefor, and other necessary matters shall be prescribed by the Supreme Court Regulations.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

SECTION 4 - Complaints and Further Complaints

Article 49 (Complaints)

(1) With regard to ad hoc measures under Article 8 or 29 (including decisions on the extension or revision of ad hoc measures; hereinafter the same shall apply), a protective order under Article 40, the revision of a protective order under Article 45 or the revocation of a protective order under Article 46, where there has been any violation of statutes or erroneous determination of facts that could affect the decision, or where such decision is significantly unfair, a prosecutor, domestic violence offender, the legal representative or assistant may file a complaint with the collegiate division of the family court: Provided, That where a family court has not been established, a complaint shall be filed with the collegiate division of the district court.

(2) When the court has decided not to take any measure under Article 37 and such decision is remarkably unfair, prosecutors, victims or the legal representative may file a complaint. In such cases, paragraph (1) shall apply mutatis mutandis to the appellate courts.

(3) A complaint shall be filed within seven days from the notification of such decision.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 50 (Filing of Written Complaints)

(1) In filing a complaint, a written complaint shall be filed with the court of original judgment.

(2) The court shall send relevant records, along with written opinions, to the appellate court within three days from the receipt of such written complaint.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 51 (Appellate Trial)

(1) The appellate court shall rule to dismiss a complaint where it deems that a complaint has no merit or that the proceedings therefor violate any Acts.

(2) Where the appellate court deems that a complaint has merit, it shall remand the case to the lower court or transfer it to another competent court, after revoking an original decision. In such cases, it may quash the original decision and make a decision on ad hoc measures, non-disposition or a protective order at its discretion, where it is too urgent to remand or transfer the case or where it is deemed necessary on other grounds.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 52 (Further Complaints)

(1) A further complaint may be filed with the Supreme Court against a decision to dismiss a complaint, only where such decision violates any statutes.
(2) Article 49 (3) shall apply mutatis mutandis to further complaints under paragraph (1).
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 53 (Non-Suspension of Execution)
No complaint or further complaint shall have the effect of suspending the execution of a decision.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 54 (Transfer of Records, etc. on Concluded Cases)
The court shall send case records and written decisions to prosecutors of the corresponding prosecutors' office, without delay, after a home protection case has been concluded.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

CHAPTER Ⅲ
VICTIM PROTECTIVE ORDERS

Article 55 (Jurisdiction over Victim Protective Order Cases)
(1) Victim protective order cases shall be under the jurisdiction of the family court having jurisdiction over the place of an action, residence or current place of a domestic violence offender and residence or current place of a victim: Provided, That victim protective order cases shall be under the jurisdiction of the district court of the relevant region in a region without a family court.
(2) Victim protective order cases shall be heard and determined by a judge.
[This Article Newly Inserted by Act No. 10921, Jul. 25, 2011]

Article 55-2 (Victim Protective Orders, etc.)
(1) If deemed necessary to protect a victim, a judge may rule to issue any of the following victim protective orders against a domestic violence offender, at the request of a victim or his/her legal representative:
1. Eviction, etc. from a room, in which victims or family members live, or a room occupied thereby, to isolate the offender from the victim;
2. A restraining order to stay at least 100 meters away from the residence and/or place of work of the victim or family members;
3. A ban on approaching the victim or family members through telecommunications under subparagraph 1 of Article 2 of the Framework Act on Telecommunications;
4. Restrictions on the exercise of parental authority against a domestic violence offender with parental authority.
(2) A victim protective order falling under paragraph (1) may be issued concurrently.
(3) A victim or his/her legal representative may request the revocation of a victim protective order issued under paragraph (1) or change of the type thereof.
(4) A judge may decide to revoke the relevant victim protective order or change the type of such order, either ex officio or where he/she deems that a request made under paragraph (3) has merit.
(5) If deemed necessary for the protection of a victim, the court may request a prosecutor to take measures to protect the victim from danger, as described in any of the following subparagraphs, for a fixed period either at the request of the victim or his/her legal representative or ex officio. In such cases, the prosecutor may request the chief of a police station having jurisdiction over the residence or current location of the victim to take measures to protect the victim from danger, and the chief of the police station shall comply therewith except in extenuating circumstances: <Newly Inserted by Act No. 12877, Dec. 30, 2014>
1. Measures to protect a victim who appears in court to be present at the hearings of a home protection case, victim protective order case or other family litigation procedures in which the other party is the domestic violence offender;
2. Measures to protect a victim who exercises his/her right to visit his/her child;
3. Other measures prescribed by Presidential Decree to protect the victim from danger.
(6) Other matters necessary to take the measures to protect victims from danger under paragraph (5), including the method, period and procedures for execution, shall be prescribed by Presidential Decree. <Newly Inserted by Act No. 12877, Dec. 30, 2014>
[This Article Newly Inserted by Act No. 10921, Jul. 25, 2011]

Article 55-3 (Period of Victim Protective Orders)

(1) A period of a victim protective order issued under each subparagraph of Article 55-2 (1) shall not exceed six months: Provided, That the court may extend the period by two months, ex officio or by ruling, upon request by a victim or his/her legal representative.
(2) Where the court extends a period of a victim protective order or changes its type, the period shall not exceed two years including the initial period.

Article 55-4 (Ad Hoc Protective Orders)

(1) When a request for a victim protective order is made under Article 55-2 (1), a judge may rule to issue an ad hoc protective order falling under any subparagraph of Article 55-2 (1) against a domestic violence offender if deemed necessary for the protection of the victim.
(2) An ad hoc protective order shall be valid until a victim protective order is determined: Provided, That a judge may restrict the period, if deemed necessary.
(3) Article 55-2 (3) and (4) shall apply mutatis mutandis to the revocation of an ad hoc protective order or the change of its type. In such cases, "a victim protective order" shall be construed as "an ad hoc protective order."
[This Article Newly Inserted by Act No. 10921, Jul. 25, 2011]

Article 55-5 (Investigation of Compliance)

(1) A court may have home protection case investigators, court officials, judicial police officers, probation officers, etc. frequently investigate the compliance with an ad hoc protective order and a victim protective order, and report the results thereof without delay.
(2) Where a domestic violence offender subjected to an ad hoc protective order or a victim protective order fails to comply therewith, a court may notify the fact to a prosecutor of public prosecutors' office corresponding to the competent court.
[This Article Newly Inserted by Act No. 10921, Jul. 25, 2011]

Article 55-6 (Joint Hearings)

In any of the following cases, a court may hold a joint hearing for a victim protective order case and home protection case:
1. Where a domestic violence offender or victim is the same person, respectively;
2. Where a joint hearing is required due to the relevance of the two cases.
[This Article Newly Inserted by Act No. 10921, Jul. 25, 2011]

Article 55-7 (Application Mutatis Mutandis)

Articles 19 through 22, 30 through 32, and 34 through 36 shall apply mutatis mutandis to the investigation and hearing for victim protective orders.
[This Article Newly Inserted by Act No. 10921, Jul. 25, 2011]

Article 55-8 (Complaints or Further Complaints)

(1) With regard to a victim protective order (including a decision on extension under Article 55-3) and the revocation or change of the type thereof under Article 55-2 or an ad hoc protective order and the revocation or change of the type thereof under Article 55-4, where there has been any violation of statutes or erroneous determination of facts that could affect the decision, or where such decision is remarkably unfair, the victim, domestic violence offender, or legal representative or assistant thereof may file a complaint with the collegiate division of the competent family court: Provided, That where there is no family court having jurisdiction over the area in question, a complaint shall be filed with the collegiate division of the relevant district court.
(2) If a judge dismisses a victim protective order, the victim or his/her legal representative may file a complaint. In such cases, paragraph (1) shall apply mutatis mutandis to the appellate court.
(3) Articles 49 (3) and 50 through 54 shall apply mutatis mutandis to complaints and further complaints filed against victim protective orders, etc.

[This Article Newly Inserted by Act No. 10921, Jul. 25, 2011]

Article 55-9 (Provisions for Delegation)

Matters necessary for the investigation and hearing of victim protective order cases shall be prescribed by the Supreme Court Regulations.
[This Article Newly Inserted by Act No. 10921, Jul. 25, 2011]

CHAPTER Ⅳ
SPECIAL PROVISIONS FOR HANDLING CIVIL CASES

Article 56 (Applications for Compensation)

(1) A victim may apply for a compensation order under Article 57 to the court of first instance, in which the home protection case is pending. In such cases, no stamp needs to be affixed.
(2) Article 26 (2) through (8) of the Act on Special Cases concerning Expedition, etc. of Legal Proceedings shall apply mutatis mutandis to cases falling under paragraph (1).
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 57 (Compensation Orders)

(1) The court may order monetary payment or compensation (hereinafter referred to as "compensation") under the following subparagraphs, either ex officio or upon request by a victim, when issuing a protective order during the hearing proceedings for home protection cases at first instance:
1. Payment of money necessary to support victims or family members;
2. Compensation for direct physical damage and medical expenses incurred in a home protection case.
(2) With regard to the amount of compensation agreed between a domestic violence offender and a victim in a home protection case, the court may issue an order to pay compensation under paragraph (1).
(3) Article 25 (3) (excluding cases under subparagraph 2) of the Act on Special Cases concerning Expedition etc. of Legal Proceedings shall apply mutatis mutandis to cases falling under paragraph (1).
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 58 (Issuance of Compensation Orders)

(1) Any compensation order shall be issued at the same time when a decision on a protective order is made.
(2) A compensation order shall be made by issuing an order to pay a certain amount of money, and the subject and amount of compensation shall be indicated in the main paragraph of each written decision on a protective order. In such cases, the grounds for a compensation order may be omitted, unless it is deemed especially necessary.
(3) The court may rule that a compensation order may be provisionally executed.
(4) Articles 213 (3), 215, 500 and 501 of the Civil Procedure Act shall apply mutatis mutandis to cases falling under paragraph (3).
(5) When issuing a compensation order, the court shall promptly send the original written decision on a protective order to offenders and victims.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 59 (Rejection of Applications)

(1) Where an application for compensation is illegal or groundless or where it is deemed that an order for compensation is inappropriate, the court shall rule to reject such application.
(2) When the court holds a trial under paragraph (1) at the same time when the decision on a protective order is made, the court may indicate such fact in the main paragraph of a written decision on a protective order.
(3) At a trial where an application has been rejected or partially accepted, no applicant may raise an objection and apply for the same compensation once again.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 60 (Objection to Judgements)

(1) When a complaint is filed against a protective order, a compensation order shall be transferred to an appellate trial, along with a home protection case. The same shall apply to a further complaint filed against a protective order.
(2) Even when the appellate court upholds the lower court's decision, it may revoke or revise a compensation order.
(3) A domestic violence offender may only file a complaint against a compensation order, without filing a complaint against a decision on a protective order. In such cases, a complaint against such decision shall be filed within seven days.
(4) Only where a decision to reject a complaint under paragraph (3) violates any statute, an offender may file a further complaint against such decision with the Supreme Court within seven days. The same shall apply to cases where an offender only files a further complaint against a compensation order with regard to the decision by the appellate court under the former part of paragraph (1).
(5) No complaint or further complaint referred to in paragraphs (1), (3) and (4) shall have the effect of suspending the execution of a compensation order.
[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 61 (Effect of Compensation Order and Compulsory Execution)

(1) The original written decision on a protective order, which states a finalized compensation order or a compensation order with the pronouncement of provisional execution, shall have the same effect as the original judgement on civil cases with the executive force, with regard to the compulsory execution under the Civil Execution Act.

(2) When a compensation order under this Act becomes final and conclusive, no victim may apply for compensation for damage under other procedures within the scope of the cited amount thereof.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 62 (Mutatis Mutandis Application of other Acts)

The relevant provisions of the Act on Special Cases concerning Expedition, etc. of Legal Proceedings and the Civil Procedure Act (excluding Article 162 (2) of the Civil Procedure Act) shall apply mutatis mutandis to the matters not prescribed in this Chapter.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

CHAPTER Ⅴ
PENALTY PROVISIONS

Article 63 (Non-Compliance with Protective Orders, etc.)

(1) Any of the following domestic violence offenders shall be punished by imprisonment with labor for up to two years, by a fine of up to 20 million won, or by misdemeanor imprisonment: <Amended by Act No. 11150, Jan. 17, 2012>

1. A domestic violence offender who fails to comply with the protective order after a protective order falling under any of the subparagraphs 1 through 3 of Article 40 (1) has been finalized;
2. A domestic violence offender who fails to comply with a victim protective order issued under Article 55-2 or ad hoc protective order issued under Article 55-4.

(2) A domestic violence offender who habitually commits a violation of paragraph (1) shall be punished by imprisonment with labor for up to three years or by a fine of up to 30 million won. <Newly Inserted by Act No. 11150, Jan. 17, 2012>

[This Article Wholly Amended by Act No. 10921, Jul. 25, 2011]

Article 64 (Violations of Confidentiality, etc.)

(1) Any assistant (excluding attorneys-at-law), counselor or the head of a counseling center, etc. (including any person who holds such position) who violates the duty of confidentiality under Article 18 (1) shall be punished by imprisonment with labor for up to one year, by the suspension of qualification for up to two years or by a fine of up to ten million won.

(2) An editor, publisher or employee of a newspaper, the chief editor, head or employee of a broadcasting company or author and publisher of any other publication, who violates the duty not to report under Article 18 (2), shall be punished by a fine of up to five million won.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 65 (Administrative Fines)

Any of the following persons shall be subject to an administrative fine of up to five million won: <Amended by Act No. 10921, Jul. 25, 2011>

1. A person who fails to comply with a summon under Article 24 (1), without justifiable grounds;
2. A person who fails to comply with an order to submit a report or written opinion under Article 44, without justifiable grounds;
3. A person who fails to comply with the execution of a protective order under Article 40 (1) 4 through 8 without justifiable grounds after such order has been finalized, with regard to home protection cases under Article 9 or 12, which were forwarded by prosecutors or a court;
4. A person who fails to comply with ad hoc measures falling under any of subparagraphs 1 through 3 of Article 29 (1), without justifiable grounds.

[This Article Wholly Amended by Act No. 10573, Apr. 12, 2011]

Article 66 (Administrative Fines)

Any of the following persons shall be subject to an administrative fine of up to three million won:

1. A person who falls under any of the subparagraphs of Article 4 (2), who fails to report criminal domestic violence without good cause, despite becoming aware of such crime in the course of performing his/her duties;
2. A person who fails to take urgent ad hoc measures under Article 8-2 (1) (excluding cases where a prosecutor fails to make the request for ad hoc measures under Article 8-3 (1) or the court fails to determine ad hoc measures) without a justifiable ground.

[This Article Wholly Amended by Act No. 12877, Dec. 30, 2014]

[…]

17. KOSOVO

Law on Protection Against Domestic Violence, 2010 [54]

CHAPTER I - GENERAL PROVISIONS

Article 1 Purpose of the Law
1. This Law aims to prevent domestic violence, in all its forms, through appropriate legal measures, of the family members, that are victims of the domestic violence, by paying special attention to the children, elders and disabled persons.
2. This Law, also aims, treatment for perpetrators of domestic violence and mitigation of consequences.

Article 2 Definitions
1. Terms used in this Law have the following meaning:
1.1. Family Relationship- is considered to exist amongst persons if they:
- 1.1.1. are engaged or were engaged;
- 1.1.2. are married or were married;
- 1.1.3. are in extra martial union or were in extra marital union;
- 1.1.4. are cohabiting in a common household or were cohabiting in such a household;
- 1.1.5. use a common house and are in connection by blood, marriage, or adoption, in-law or are in a guardian relationship, including parents, grandparents, children, grandchildren, nephews, siblings, aunts, uncles or cousins;
- 1.1.6. are parents of a common child;
- 1.1.7. are procedural parties in a dispute of family relationship.

1.2. Domestic Violence - one or more intentional acts or omissions when committed by a person against another person with whom he or she is or has been in a domestic relationship, but not limited to:
- 1.2.1.use of physical force or psychological pressure exercised towards another member of the family;
- 1.2.2. any other action of a family member, which may inflict or threaten to inflict physical pain or psychological suffering;
- 1.2.3. causing the feeling of fear, personal dangerousness or threat of dignity
- 1.2.4. physical assault regardless of consequences;
- 1.2.5. insult, offence, calling by offensive names and other forms of violent intimidation;
- 1.2.6. repetitive behavior with the aim of derogating the other person;
- 1.2.7. non-consensual sexual acts and sexual ill-treatment;
- 1.2.8. unlawfully limiting the freedom of movement of the other person;
- 1.2.9. property damage or destruction or threatening to do this;
- 1.2.10.causing the other person to fear for his or her physical, emotional or economic wellbeing;
- 1.2.11. forcibly entering removing from a common residence or other person's residence;
- 1.2.12. kidnapping.

1.3. Protected Party - a person subjected to domestic violence and his/her subordinate for whose benefit a protection order, an emergency protection order or temporary emergency order is sought.
1.4. Petition - the act through which protection from domestic violence is sought.
1.5. Perpetrator - a person who is has committed an act or acts of domestic violence and against whom a protection order, an emergency protection or temporary protection order is sought.
1.6. Victim - a person who was subjected to domestic violence.
1.7. Authorized Representative - the person who is authorized to advocate the
interests of the protected party and to provide support and assistance to victims.
1.8. Protection of victims - the official authorized person, who directly protects the damaged party since the first contact with competent protection authorities, advises, initiates procedures for imposing protection measures, is obliged to participate in all judicial sessions, to monitor the progress of the judicial process.
1.9. Protection order - an order issued by a court decision providing protection measures for the victim.
1.10. Emergency protection order - an order issued temporarily with the court decision.

[54] Law on Protection Against Domestic Violence, Law No.03/L –182 (1 July 2010), available at http://www.assembly-kosova.org/common/docs/ligjet/2010-182-eng.pdf (last visited December 30, 2018).

1.11. Temporary Emergency Protection Order - a order issued outside working hours of courts.

Article 3
Court Jurisdiction, Competent Authorities and Protection Measures
1. The municipal court that has the jurisdiction at the municipality where the applicant is temporarily or permanently residing or staying shall be competent to issue protection measures.
2. Every municipal court shall have the authority to review the request for protection order or emergency protection order and for issuing the order, if the competent court according to paragraph 1 of the present Article has submitted a request for protection order or emergency protection order and if that court has jurisdiction at the municipality where the protected party has changed his/her place of residence or stay or if this transfer serves to the best interest of the protected party.
3. If at the competent court, the request has been submitted according to the Law No. 2004/32 on Family of Kosovo, the same court shall be competent to review the request for protection order or emergency protection order as well as to issue the order.
4. Protection measures shall be issued with the purpose of preventing domestic violence, to protect a person who is exposed to violence, by removing the circumstances which impact or may impact in committing other acts.
5. The competent municipal court, with protection order or emergency protection order, may impose one or more protection measures.
6. Competent body for the execution of protection measures shall be the Kosovo Police.

Article 4
Protection Measure of Psycho-Social Treatment
1. The protection measure for psycho-social treatment may be issued to a perpetrator of domestic violence in combination with any other preventing measure with the aim of eluding violent behaviors of the perpetrator or if there is a risk to repeat the domestic violence.
2. The measure from paragraph 1 of this Article continues until the causes on basis of which it was issued, but may not continue more than six months.
3. Ministry responsible for Labor and Social Welfare in cooperation with the Ministry responsible for Health and relevant institutions prepare and propose for approval to the Government the issuance of a sub-legal act with which the way and location of implementation of psycho-social treatment is determined.

Article 5
Protection Measure on prohibition of approaching the domestic violence victim
1. Protective measures on prohibition of approaching the domestic violence victim and his/her subordinate and other persons if necessary, may be issued to a person who has committed domestic violence, if there is a risk of repetition of domestic violence.
2. In the order with which there is issued the measure on prohibition of approaching the domestic violence victim, the Court defines the location, region and distance within which the perpetrator cannot approach the victim of domestic violence.

Article 6
Protection Measures of Prohibition of Harassment to Persons Exposed to Violence
1. Protective measure of prohibition of harassment, in compliance with the definition provided in Article 2 paragraph 1.2. of this Law may be imposed to a perpetrator of domestic violence, where there is a risk of repetition of domestic violence.
2. The child custody shall be entrusted temporarily to the victim of domestic violence, while the parental right temporary shall be removed from the perpetrator of domestic violence.

Article 7
Protection Measures of Removal from Apartment, House or other Living Premises
1. Removal from the apartment, house or other living premise may be imposed to a person who has committed violence against a member of the family sharing the same apartment, house or living premise if there is a risk to repeat domestic violence.
2. A person who has been imposed measures as per paragraph 1. of the present article is immediately obliged to leave the apartment, house or other living premise, at the presence of a police officer.

Article 8
Protection Measure of Accompanying Victim of Violence
1. Accompanying victims may be imposed with the purpose of protection during collection of personal items.
2. Measure from paragraph 1. of this Article are applied under accompaniment of a police officer.

Article 9
Protection measures medical treatment from alcohol dependency and dependency from psychotropic substances
1. Mandatory medical treatment from alcohol and psychotropic substance dependency may be imposed to a person who has committed domestic violence under their influence, where there is a risk to repeat domestic violence.
2. Ministry responsible for Health shall issue a sub-legal act, for the treatment manner of persons to whom is imposed mandatory treatment from alcohol and psychotropic substances dependency.

Article 10
Protection Measure of Confiscation of Item
1. Protection Measure of confiscation of item by means of which the act of violence was committed, or items by means of which the act of violence is suspected to be repeated, is imposed with the aim of protection of person against whom domestic violence has been committed or other persons.
2. Protection measure from paragraph 1 of this Article is implemented in accordance with the Kosovo Criminal Code.

Article 11
Property Protection Measures
1. The Court, in addition to measures envisaged under articles 4 to 10 of this law, may impose the following measures:
    1.1. ordering the perpetrator to allow the protected party to use living premises shared, or a part of the premise;
    1.2. ordering the perpetrator to pay for rent of temporary living premise of the protected party or to pay alimony to the protected party and any children, for whom the domestic violence perpetrator has an obligation to support;
    1.3. prohibiting the perpetrator or the protected party to sell any assets within a determined period of time;
    1.4. offering the possibility to the protected party to exclusively possess and use its assigned personal assets;
    1.5. imposing any other measures that are necessary to protect the safety, health or welfare of the protected party or person the protected party is in a domestic relationship with;
    1.6. to order the perpetrator to allow the protected party to return to the household.
2. The perpetrator has the right to collect personal belongings in the presence of police officers.
3. Protective measures foreseen in articles 4,5,6,7,8,9,10,11 are issued in accordance with the duration of the protective measures.

Article 12 Relation to other Orders
1. Regardless of any other order issued by the court or any other decision issued by the court or any competent body, the protection order, emergency protection order or temporary emergency protection order may be issued in compliance with the present Law.
2. Issuance of a protection order, emergency protection order or temporary emergency protection order shall not infringe the property or custodian rights of any person following its expiry.

Article 13 Petitions for Protection Orders or Emergency Protection Orders
1. A petition for protection order may be submitted by:
    1.1. the protected party;
    1.2. an authorized representative of the protected party;
    1.3. a victim advocate, upon consent of the protected party;
    1.4. representative social welfare centre in the municipality where the protected party permanently or temporary resides in cases where the victim is minor.
2. A petition for emergency protection orders may be submitted by: 2.1. the protected party;
    2.2. an authorized representative of the protected party;
    2.3. the victim advocate, upon consent of the protected party;
    2.4. a person with whom the protected party has a domestic relationship;
    2.5. a representative from the Center for Social Work in the municipality where the protected party permanently or temporarily resides in cases where the victim is minor;
    2.6. a person with direct knowledge of an act or acts of domestic violence against the protected party.
3. A petition for protection order or emergency protection order may be submitted by NGOs that are familiar with problem of the victim and are well informed for their treatment.

Article 14
Petition Form for Protection Order or Emergency Protection Order
1. A petition for protection order or emergency protection order shall be submitted in writing or verbally and includes:
    1.1. the name of the court;
    1.2. the name, address and occupation of the perpetrator;

1.3. the name and address of the protected party and the person who has petitioned for protection of the party who is to be protected by the protection order and the relationship of such persons to the perpetrator;
1.4. a detailed description of the subject matter and, where possible, evidence should be attached as well as the reasons for petitioning to issue a protection order or emergency protection order;
1.5. the proposal protection measure.

2. If the disclosure of the permanent or temporary address of the petitioner, the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order or emergency protection order, would endanger such person, the one or more following measures may be taken:
2.1. the petition may provide an alternative address;
2.2. the alternative address provided in the petition shall be the only address reflected in public court documents and records; or
2.3. if the court determines that disclosure of an address in the court records is necessary, the records which reflect that address shall be sealed.

Article 15
Review of Petitions for Protection Orders

1. The competent court shall decide on a petition for a protection order within fifteen (15) days of receipt of the petition.
2. In reviewing a petition for a protection order, the court shall hold a hearing so that the following persons may be heard:
2.1. the protected party, an authorized representative or the victims advocate;
2.2. the perpetrator or an authorized representative;
2.3. the petitioner;
2.4. a representative from the Center for Social Work of the municipality where the person referred to below permanently or temporarily resides in a case where:
2.4.1. the petitioner is under the age of eighteen (18) years or lacks capacity to act; or
2.4.2. the alleged acts of domestic violence impact on a person who is under the age of eighteen (18) years or lacks capacity to act;
2.5. any witness deemed necessary by the court.
3. The hearing and issuance shall be held in the absence of the perpetrator where such individual was properly summoned and the petition is supported by sufficient evidence.
4. The court shall immediately summon the persons referred to in paragraph 2 of the present article, in accordance with the Law on Contentious Procedure.
5. The petition shall be considered withdrawn if neither the protected party nor the authorized representative of the protected party appear at the hearing, where such persons were properly summoned and did not inform the court for the reasons of their absence.
6. The withdrawal of the petition does not prevent the submission of another petition.

Article 16
Review of Petition for Emergency Protection Order

1. The court shall decide on a petition for an emergency protection order within twenty- four (24) hours after the submission of the petition.
2. In reviewing a petition for an emergency protection order, the court shall hold a hearing so that the following persons may be heard:
2.1. the protected party, the authorized representative, or the victims advocate; 2.2. the perpetrator or an authorized representative;
2.3. the petitioner; and
2.4. any witness, who knows about the domestic violence.
3. The court may hold a hearing and issuance of the protection order in the absence of the perpetrator, where appropriate, by applying also other alternative measures including electronic ones.

Article 17
Issuance of Protection Order and Emergency Protection Order

1. The competent court shall issue a protection order or emergency protection order, where it suspects that the perpetrator shall unavoidably risk the health, safety or wellbeing of the protected party and the person who has a domestic relationship with the protected party and who is to be protected by the protection order or emergency protection order.
2. A protection order or emergency protection order is executed immediately with a respective decision, issued by the competent court and shall be sent immediately to the domestic violence perpetrator, Kosovo Police, social welfare centers, as well as other parties in procedure.
3. Upon expiry of a protection order or emergency protection order, all imposed limitations shall cease to be effective.

Article 18
Contents of a Protection Order and Emergency Protection Order
1. In the protection order shall be stated:
1.1. the protection measure ordered by the court;
1.2. non-enforcement of the protective order constitute criminal offence;
1.3. a notification on the right to appeal;
1.4. a notification that the perpetrator may be assisted by authorized representative.
2. The duration of the prosecution order shall not exceed twelve (12) months, but with possible extension of no more than twenty-four (24) months.
3. In the emergency protection order shall be stated:
3.1. the protection measure ordered by the Court;
3.2. non-enforcement of the emergent protective order constitutes a criminal offence;
3.3. a notification on the right to appeal;
3.4. the date of the hearing for the confirmation of the emergency protection order, which shall be within eight (8) days of the issuance of the emergency protection order;
3.5. a notification that the perpetrator may be assisted by authorized representative.
4. The duration of the emergency protection order shall expire at the end of the hearing for the confirmation of the emergency protection order.
5. At the hearing for the confirmation of the emergency protection order, the court may:
5.1 order the termination of the emergency protection order; or
5.2 issue a protection order.

Article 19 Appeals
1. An appeal against a decision on a protection order may be filed within eight (8) days from the day of issuance of such decision.
2. An appeal, against a decision on emergent protective order, may be filed by an unsatisfied party, within three (3) days from the day of issuance of such decision.
3. The filing of an appeal shall not stay the execution of a protection order or emergency protection order.

Article 20
Modification, Termination and Extension of Protection Order
1. When the circumstances have changed, the protected party or the perpetrator may submit a petition to the court for the modification or termination of a protection order, where the court may decide that the protection order:
1.1. to remain in force;
1.2. to be modified;
1.3. to be terminated, where the Court assesses that all causes on basis of which the protection order was issued have ceased to exist.
2. The submission of a petition for the modification or termination of a protection order shall not suspend the execution of the protection order.
3. Within fifteen (15) days prior to the expiration of a protection order, the protected party or his/her authorized representative may submit a petition for the extension of the protection order. If no petition for extension is submitted, the protection order will terminate immediately on the day of expiration.
4. Upon receipt of a petition for the extension of a protection order, the court may: 4.1. terminate the protection order on its date of expiration; or
4.2. order the extension of the protection order, where the causes on basis of which the protection order was issued have ceased to exist.

Article 21
Modification, Termination and Extension of Emergency Protection Orders
1. Upon review of an appeal filed by the perpetrator or an authorized person, the Court may decide to confirm the emergency protection order, its modification or termination.
2. Within two (2) days prior to the expiration of an emergency protection order, the protected party or his or her legal representative, or the victims advocate may submit a petition for the extension of the emergency protection order.
3. If no petition for extension is submitted for an emergency protection order, the order will terminate immediately on the day of expiration.
4. Upon receipt of a petition for the extension of an emergency protection order, the court may:
4.1. order the extension of the emergency protection order, where the causes on basis of which the protection order was issued continue to exist.

4.2. terminate the emergency protection order on its date of expiration.

Article 22
Temporary Emergency Protection Order
1. Outside working hours of courts, a petition for a temporary emergency protection order may be submitted to Kosovo Police by:
1.1 the protected party;
1.2. the authorized representative or victims advocate;
1.3. a person with whom the protector party has a domestic relationship;
1.4. a representative from the Center for Social Work where the protected party permanently or temporarily resides;
1.5. a person with direct knowledge of an act or more acts of domestic violence against the petitioner.
2. The duration of the temporary emergency protection shall expire on the end of the next day that the court is in operation.
3. The Head of the Regional Kosovo Police Unit against Domestic Violence, may issue a temporary emergency protection order and order one or more of the measures referred to Articles 5, 6, 7 and 10 of this Law, if he or she determines that:
3.1. there are grounds to believe that the perpetrator has committed or threatened to commit an act of domestic violence;
3.2. the perpetrator poses an immediate or imminent threat to the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order; and
3.3. the issuance of a temporary emergency protection order is necessary to protect the safety, health or well-being of the protected party or a person who has a domestic relationship with the protected party and who is to be protected by the protection order.
4. A petition for temporary emergency protection order may be submitted to the Kosovo Police by the NGOs that have reliable information for domestic violence and are familiar with the victim.

Article 23
Contents of the Temporary Emergency Protection Order
1. In the temporary emergency protection order shall be stated:
1.1. the measure ordered by the Head of the Kosovo Police Regional Unit against Domestic Violence;
1.2. the duration of the temporary emergency protection order, which shall expire on the end of the next day that the court is in operation;
1.3. a warning that a violation of the interim emergency protection order constitutes a criminal offence;
1.4. a notification that the perpetrator may be assisted by legal counsel in the legal procedures, and
1.5. an explanation that after the expiry of the temporary emergency protection order, the protected party may file a petition for an emergency protection order which, if granted, would be subject to a confirmation hearing or a petition for a protection order against which there is submitted appeal.
2. A temporary emergency protection order issued by the Head of the Kosovo Police Regional Unit against Domestic Violence shall immediately be served on the perpetrator, in accordance with the Law.
3. The law enforcement authorities shall immediately deliver one copy of the temporary emergency order to each of the following persons:
3.1. the protected party and other persons named in the temporary emergency protection order;
3.2. the petitioner;
3.3. the local police station in the localities where the protected party and other persons named in the temporary emergency protection order reside on a permanent or temporary basis;
3.4. the Center for Social Work in the municipality where the protected party and other persons named in the temporary emergency protection order reside on a permanent or temporary basis;
3.5. the competent municipal court; and
3.6. victim protector.
4. A temporary emergency protection order shall be effective immediately upon issuance by the Head of the Kosovo Police Regional Unit against Domestic Violence or the acting Head of the Kosovo Police Regional Unit and shall be enforceable against the perpetrator after it had been delivered personally to him.
Article 24 Responsibilities of the Kosovo Police
1. Kosovo Police shall respond to any report for acts or threats to commit acts of domestic violence or a violation of a protection order or emergency protection order, regardless of who reports.
2. Where there are grounds for suspicion that a crime involving domestic violence was committed, Kosovo Police shall arrest the alleged perpetrator according to the law.
3. Kosovo Police shall use reasonable means to protect the victim and prevent further violence, including, but not limited to:
3.1. assuring the special telephonic line for reporting domestic violence;

3.2. informing the victim or the legal representative or the protector of the victim for his rights pursuant to this Law, including the right to request a temporary emergency protection order pursuant to Article 22 of the present Law;
3.3. informing the victim about legal, psychological, and other assistance services available from governmental institutions as well as from the authorized network of non-governmental organizations providing services for the victims;
3.4. informing the relevant service providers referred to in paragraph 3.2 of this Article regarding the incident of domestic violence and facilitating contact between the service provider and the victim, upon the request of the victim;
3.5. providing transport for the victim and the victim's dependants to an appropriate medical facility for treatment or a medical examination;
3.6. providing transport for the victim and when necessary also the victim's dependants to a shelter or other suitable safe haven, upon the request of the victim;
3.7. if it is need , providing protection to the reporter of violence in accordance with relevant legal obligations regarding protection of witnesses;
3.8. removing the perpetrator from the temporary or permanent residence of the protected party or a portion thereof, where the envisaged measure is imposed by means of a protection order or emergency protection order as per Article 7 of this Law;
3.9. providing the victim or the legal representative of the victim an official contact for an investigating officer within the Kosovo Police should further assistance be required. In case of the absence of the investigating officer, any other officer within the Kosovo Police will assist the victim.

4. The law enforcement authorities shall complete an incident report whether or not a crime was committed or an arrest was made and provide a copy of the incident report to the victim or the legal representative of the victim.
5. Where the victim is a person under the age of eighteen (18) years or a person who does not have capacity to act, or where the acts of domestic violence are so grave as to impact the safety or security of a person under the age of eighteen (18), or a person who does not have the full capacity to act living in the same residence, the law enforcement authorities shall immediately report the incident to the Center for Social Work of the Municipality where that person permanently or temporarily resides.
6. Where there are grounds for suspicion that a crime involving domestic violence was committed, whether or not the suspected perpetrator has been arrested or his whereabouts ascertained, the Kosovo Police shall regularly provide the victim or the legal representative of the victim with an update on the status of the investigation, including any information on the whereabouts of the suspected perpetrator or his or her release from custody.

Article 25
Violation of Protection Orders
1. Whoever violates a protection order, emergency protection order or an interim emergency protection order, in whole or in part, commits a criminal offence and shall be sentenced to a fine of two hundred (200) euro to two thousand (2000) euro or imprisonment of up to six (6) months.
2. The continues repetition of the violation in whole or in part of a protection order, emergency protection order or an interim emergency protection order shall be considered aggravating circumstances for the perpetrator.

Article 26
Prosecution of Criminal Offences Related to Domestic Violence
1. A violation of a protection order, emergency protection order or a temporary protection order shall be immediately prosecuted *ex officio*.
2 Issuance of a protection order or of an emergency protection order through a court decision shall not prevent the interested parties to file criminal proceedings regarding actions or inactions constituting criminal offences.

Article 27
Kosovo Program against Domestic Violence
1. Ministry for Labor and Social Welfare, in cooperation with: Ministry of Health, j Ministry of Justice, Ministry of Internal Affairs, Ministry of Culture, Youth and Sports and Ministry of Education is responsible for support and raise ancillary structures and necessary infrastructure, which serves to support and meet the needs of persons against whom domestic violence is exercised, including social assistance and medical services, in accordance with applicable law.

CHAPTER II - TRANSITIONAL AND FINAL PROVISION

Article 28 Implementation
1. Kosovo Government, six (6) months after entry into force of this Law, issues sub-legal acts arising from this Law.
2. For cases on which a legal procedure has started up to the point of entry into force of this law, applicable provisions shall

apply.

Article 29 Abrogation
This Law abrogates UNMIK Regulation No. 2003/12 on Protection against Domestic Violence.

Article 30 Entry into force
This law shall enter into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo.

18. KYRGYZ REPUBLIC

Law on Safeguarding and Protection from Domestic Violence, 2017 [55]

Chapter 1. General Provisions

Article 1. Basic Definitions

The following concepts are utilized in the current Law:

1) Safe place shall be defined as an area or premises, that poses no risk, in the opinion of a victim of domestic violence or his/her legal representative, to his/her life or health;
2) Counselling and prevention centre (crisis centre) shall be defined as an agency providing social and psychological, as well as legal and medical assistance to victims of domestic violence. A shelter may be established on the premises of the counselling and prevention centre;
3) Restraining order shall be defined as a document providing state protection to victims of domestic violence and invoking application of certain measures of the current Law to the perpetrator of domestic violence;
4) Victim of domestic violence shall be defined as a family member or a person who qualifies as a family member that suffered from domestic violence; minor who witnessed domestic violence
5) Negligence shall be defined as intentional failure to fulfil responsibilities related to caring for family members or persons who qualify as family members;
6) Suppression of domestic violence shall be defined as measures intended to stop domestic violence and providing protection of life, health, honour and dignity of victims of domestic violence;
7) Persons who qualify as family members shall be defined as persons being in actual marital relations; a person providing maintenance to a person who have been declared legally incompetent or minor dependent and the persons who have been declared legally incompetent or minor dependent himself/herself; parents of spouses; other relatives living in the same household;
8) Prevention of domestic violence shall be defined as a system of social, legal, medical, psychological, awareness, informational and other measures implemented by the entities safeguarding and providing protection from domestic violence and intended to identify and eliminate causes and conditions that create a risk of domestic violence;
9) Domestic psychological abuse shall be defined as a threat of physical, sexual, economic abuse, as well as the deliberate deprecation of honour and dignity, coercion to committing crimes or life- threatening actions, or actions leading to deterioration of mental and physical health, or restrictions of adults in the right to communicate.
10) Domestic violence (family violence) shall be defined as deliberate physical, psychological, economic, action or threat of actions committed by a family member/a person who qualifies as a family member against another family member/person who qualifies as a family member;
11) Specialised social service shall be defined as an entity, institution, regardless of the organizational and legal forms of ownership, providing social services and assistance to victims of domestic violence;
12) Shelter (temporary accommodation centre for victims of domestic violence) shall be defined as an entity providing secure, temporary housing to victims of domestic violence. Shelters are organised separately for women and men;

[55] Law on Safeguarding and Protection from Domestic Violence, No. 63 (27 April 2017), available at: http://cbd.minjust.gov.kg/act/view/ru-ru/111570 (last visited December 30, 2018). Unofficial translation by Compendium team.

13) Domestic physical violence shall be defined as a direct or indirect deliberate action of one family member/a person who qualifies as a family member against another family member/person who qualifies as a family member, deprivation of vital life functions, deprivation or restriction of freedom of movement, residence, food, clothes, coercion to hard physical labour, as well as evasion of obligations to provide maintenance and care;
14) Family members shall be defined as spouses, parents and children, grandmothers/grandfathers and grandsons/granddaughters, legal guardians/custodian and their wards, adoptive parents and adopted children, foster parents and foster children, other persons fostering children in compliance with the established legislation, former spouses, stepmothers/stepfathers and stepdaughters/stepsons, brothers and sisters (full siblings and half-siblings), actual educators and actual foster children;
15) Domestic economic violence shall be defined as deliberate failure of a family member/a person who qualifies as a family member to perform his/her obligations to maintain another family member/person who qualifies as a family member, as well as deliberate deprivation or limitation of a right to receive or dispose of property 1or profits that are subject to the person by law.

Article 2. Legislation of the Kyrgyz Republic on safeguarding and protection from domestic violence

The legislation of the Kyrgyz Republic on safeguarding and protection from domestic violence is based on the Constitution of the Kyrgyz Republic, consists of the current Law and other regulatory acts of the Kyrgyz Republic, as well as international treaties that have become effective in compliance with the legislation and to which the Kyrgyz Republic is a party.

Article 3. The scope of the Law

1) The current Law determines the legal principles of prevention and suppression of domestic violence, safeguarding and protection of victims of domestic violence.
2) The current Law covers family members and persons who qualify as family members residing in the same household.

Article 4. Principles of the Law
The current Law is based on the following principles:

1) Compliance with the legislation and international standards in the field of human rights and gender equality;
2) Equal access to safeguarding and protection from domestic violence;
3) Prevention of religious, cultural and other customs violating human right and contributing to domestic violence;
4) Responsibility for committed acts of domestic violence;
5) Preventive focus;
6) Responsibility of state authorities and local self-government bodies for observance of citizens' rights to safeguard and protection from domestic violence;
7) Public participation in protection from domestic violence;
8) Provision of protection from domestic violence regardless of the fact of initiation of criminal case or administrative proceedings.

Article 5. Rights of victims of domestic violence

1) A victim of domestic violence may seek legal, social, medical, psychological assistance and protection from domestic violence from state authorities, local self-government bodies and other entities providing protection from domestic violence, within the scope of their competence.
2) The reasons and procedure for safeguarding, provision of assistance and protection from domestic violence shall be defined by the current Law and by other regulatory acts.

Chapter 2. Entities providing protection from domestic violence

Article 6. The scope of entities providing protection from domestic violence
The entities providing protection from domestic violence shall be:

1) The Government;
2) The authorised state body responsible for coordination of activities of entities safeguarding and providing protection from domestic violence as determined by the Government;
3) The court;
4) The prosecutor's office;
5) Interior affairs bodies;
6) Social development bodies;
7) Public healthcare institutions;
8) Educational institutions;
9) Justice institutions;
10) Authorised body for protection of children;
11) The Ombudsman (Akyikatchy) of Kyrgyz Republic;
12) Bar Association;
13) Local state administrations;
14) Local self-government bodies;
15) The court of elders;
16) Mass media and electronic publications;
17) other state and non-governmental bodies within their competences.

Article 7. The authority of the Government to safeguard and protect from domestic violence
The Government shall exercise the following authority to safeguard and protect from domestic violence:

1) To ensure implementation of a single public domestic violence safeguarding and protection policy;
2) To develop and implement a single public domestic violence safeguarding and protection policy;
3) To define the authority of state executive bodies in the field of safeguarding and protection from domestic violence;
4) To define the mechanism of interaction of the state bodies in the field of safeguarding and protection from domestic violence;
5) To appoint the public authorised body responsible for coordination of activities of entities safeguarding and providing protection from domestic violence and approves its status;
6) Within the scope of its competence, to adopt regulatory acts, as well as to initiate draft laws designed to safeguard and protect from domestic violence;
7) To control the activity of the executive state bodies in the field of safeguarding and protection from domestic violence;
8) To provide organisational and other assistance to local self-government bodies in order to contribute to their activities in the field of safeguarding and protection from domestic violence;
9) To establish the national standards on provision of service and assistance in the field of safeguarding and protection from domestic violence;
10) To exercise other powers related to safeguarding and protection from domestic violence in compliance with the legislation of the Kyrgyz Republic.

Article 8. The authorised state body responsible for coordination of activities of entities safeguarding and providing protection from domestic violence

In order to exercise the powers defined by the Government of the Kyrgyz Republic, the authorised state body responsible for coordination of activities of entities safeguarding and providing protection from domestic violence (hereinafter referred to as the Authorised Body) shall:

1) Coordinate the activities and interact with other state bodies in the field of safeguarding and protection from domestic violence defined by the current Law;
2) Collect, integrate and analyse domestic violence data, evaluate the efficiency of the system of measures to safeguard and protect from domestic violence, and raises points on its improvement;

3) Provide methodological, informational, consulting, and organisational assistance to the entities safeguarding and providing protection from domestic violence;
4) Coordinate the development of the correctional programs for perpetrators of the domestic violence;
5) Monitor and evaluate the activities of entities safeguarding and providing protection from domestic violence, taking into account their independence, determined by the relevant laws, and sends recommendations on how to improve their activities in the field;
6) Organize scientific and other research on issues of domestic violence;
7) Carry out informational and awareness campaigns on the issues of safeguarding and protection from domestic violence;
8) Provide information on safeguarding and protection from domestic violence to mass media and electronic publications;
9) Draw and publish annual reports on enforcement of the current Law;
10) Provide access to information on safeguarding and protection from domestic violence, including via posting on its website;
11) Provide assistance to the entities safeguarding and providing protection from domestic violence with raising extra-budgetary funds and development of cooperation with international and other entities;
12) Carry out other activities in the field of safeguarding and protection from domestic violence, within its competence.

Article 9. Responsibilities of the prosecution authorities to safeguard and protect from domestic violence

The prosecution authorities shall carry out the following responsibilities related to safeguarding and protection from domestic violence:

1) Oversight of compliance with the legislation on protection from domestic violence;
2) Appeals to court for protection of the rights and interests of victims of domestic violence who for health reasons, age or other valid reasons can not personally defend their rights and freedoms in court
3) Carries out staff development for the officers of prosecutor's office in the field of safeguarding and protection from domestic violence;
4) Exercises other authority in the field of safeguarding and protection from domestic violence in compliance with the regulatory acts of the Kyrgyz Republic.

Article 10. Responsibilities of the interior affairs bodies to safeguard and protect from domestic violence

1.For the purpose of exercise of authority defined by the Government of the Kyrgyz Republic, the Ministry of Interior

Affairs shall carry out the following responsibilities to safeguard and protect from domestic violence:

1) Participate in the development and implementation of a single national policy on safeguarding and protection from domestic;
2) Introduce the issues of protection from domestic violence into curricula of educational institutions of the interior affairs bodies, provide professional training, retraining, staff development and other relevant types of trainings in the field of safeguarding and protection from domestic violence
3) Monitor activities of the interior affairs bodies, related to safeguarding and protection from domestic violence
4) Interact with other entities safeguarding and providing protection from domestic violence
5) Submit annual report, as well as information on its activities in the field of safeguarding and protection from domestic violence to the Authorised Body
6) Post statistical and other information on the activities of the interior affairs bodies related to protection from domestic violence on its website.

2.The interior affairs bodies shall carry out the following responsibilities to safeguard and protect from domestic violence:

1) Suppress domestic violence;
2) Monitor the execution of the restraining order conditions, as well as contribute to the enforcement of a court

order prohibiting or restraining a perpetrator of domestic violence from direct or indirect contacts with minor children;

3) Keep record of perpetrators of domestic violence and victims of domestic violence;
4) Notify the appropriate entities safeguarding and providing protection from domestic violence on detected cases of domestic violence against minor children;
5) Notify the appropriate entities safeguarding and providing protection from domestic violence on cases of domestic violence reported by the victims of domestic violence with their consent;
6) Refer the victim of domestic violence, with his/her consent, to medical examination, forensic examination. If a minor child has suffered from his/her parents or other legal representatives, he/she will be referred to medical examination, forensic examination without the consent of the parents of legal representatives.
7) Submit information on the committed act of domestic violence to the workplace of a perpetrator, with consent of the victim of domestic violence:
8) Interact with other entities safeguarding and providing protection from domestic violence;
9) Hold preventive and awareness campaign among the population in the field of safeguarding and protection from domestic violence;
10) Carry out other activities in the field of safeguarding and protection from domestic violence, within their competence.

Article 11. Responsibilities of social development bodies to safeguard and protect from domestic violence

1. For the purpose of exercise of authority defined by the Government of the Kyrgyz Republic, the authorised state body in charge of social development:

1) Organise activity of social development bodies to safeguard and protect from domestic violence;
2) Monitor activities of the state and local organisations and authorities in the field of safeguarding and protection from domestic violence, including compliance with the minimal standards of providing social services by state and local organisations and authorities in the field of safeguarding and protection from domestic violence;
3) Coordinate the activities of social development bodies and authorities in the field of safeguarding and protection from domestic violence
4) Ensure methodological and consulting assistance in the field of safeguarding and protection from domestic violence to the municipal social development bodies
5) Participate in the development of drafts of regulatory acts and other documents in the field of safeguarding and protection from domestic violence;
6) Organise staff development programmes for social development workers on detection, prevention and protection from domestic violence
7) Participate in development of correctional programmes for perpetrators of domestic violence and provide assistance in their introduction to municipal social development bodies;
8) Determine the procedure of detection, registration and recording of domestic violence cases for social development bodies
9) Interact with other entities safeguarding and providing protection from domestic violence;
10) Submit annual report, as well as information on its activity in the field of safeguarding and protection from domestic violence to the Authorised Body;
11) Post on its website statistical and other information on the activities of social development bodies in the field of safeguarding and protection from domestic violence along with information about organizations providing social services in the field of safeguarding and protection from domestic violence, minimal standards of providing social services

2.Social development bodies in the field of safeguarding and protection from Domestic Violence

1) Provide social services and assistance in the field of safeguarding and protection from domestic violence;
2) Notify interior affairs bodies of detected cases of domestic violence within 24 hours with consent of a victim of domestic violence; consent of a victim of domestic violence is not required in cases of domestic violence committed against minors or persons who have been declared legally incompetent;
3) Monitor and analyse the needs of victims of domestic violence in receiving social services and assistance;

4) Implement correctional programmes for perpetrators of domestic violence;
5) Carry out awareness campaigns in the field of safeguarding and protection from domestic violence;
6) Interact with other entities safeguarding and providing protection from domestic violence;
7) Submit reports on activities in the field of safeguarding and protection from domestic violence to the state social development body;
8) Carry out other activities in the field of safeguarding and protection from domestic violence within their competence.

Article 12. Responsibilities of public healthcare bodies to protect from domestic violence

1. For the purpose of exercise of powers set forth by the Government of the Kyrgyz Republic, the authorised public healthcare body:

1) Organise activity of public healthcare bodies to safeguard and protect from domestic violence;
2) Develop and implement in the practice of healthcare institutions the standards for public healthcare institutions in the field of safeguarding and protection from domestic violence and provision of assistance in the field of domestic violence and monitor the execution of thesestandards;
3) Control activity of public healthcare bodies in the field of safeguarding and protection from domestic violence;
4) Organise training and retraining of health care workforce in the issues of prevention of domestic violence and provision of health care in cases of domestic violence;
5) Organize information and awareness campaigns in the field of safeguard and protection from domestic violence;
6) Collect data in the field of provision of medical care and sanitary service in cases of domestic violence;
7) Interact with other entities safeguarding and providing protection from domestic violence;
8) Submit annual report, as well as information on its activity in the field of safeguarding and protection from domestic violence to the Authorised Body;
9) Post statistical and other information on activities of interior affairs bodies in the field of safeguarding and protection from domestic violence on its website.

2. Public healthcare institutions shall carry out the following responsibilities to safeguard and protect from domestic violence:

1) Provide necessary medical care, including medical rehabilitation, if necessary, to the victims of domestic violence;
2) Notify the interior affairs bodies about the cases of victims seeking assistance from healthcare bodies and provision of medical care with their consent within twenty-four hours. Consent of the victims is not required in cases of domestic violence against minor children or persons legally declared incompetent;
3) Issue an extract from medical record or medical chart;
4) Interact with other entities safeguarding and providing protection from domestic violence;
5) Carry out other activities related to safeguarding and protection from domestic violence within their competence.

Article 13. Responsibilities of educational bodies to safeguard and protect from domestic violence

1. For the purpose of exercise of powers set forth by the Government of the Kyrgyz Republic, the authorised educational body:

1) Organise activity of educational bodies to safeguard and protect from domesc violence;
2) Monitor and analyse activity of educational bodies related to the needs of students who fell victim to domestic violence, in obtaining social services and assistance
3) Include the issues of safeguarding and protection from domestic violence into the national educational standards in the context of human rights
4) Provide training educational staff to detect, prevent and protect from domestic violence;
5) Develop educational and instructional programmes for parents (or persons substituting them) and children in prevention and suppression of domestic violence and monitor and evaluate their implementation

6) Carry out informational and awareness campaigns in the fields of safeguarding and protection from domestic violence
7) Organise consultations students who fell victim to domestic violence;
8) Organize interaction with other entities safeguarding and providing protection from domestic violence
9) Submit annual report, as well as information on its activity in the field of safeguarding and protection from domestic violence to the Authorised Body;
10) Post statistical and other information on activities of educational bodies in the field of safeguarding and protection from domestic violence on its website.
11) Educational organisations, regardless of their types of ownership and levels of education
12) Notify interior affairs bodies, prosecutor's office and local subdivisions of the authorised state body responsible for protection of children of detected facts of domestic violence against minor children;
13) Implement educational and instructional programmes for trainess in prevention and suppression of domestic violence;
14) Make the trainees, parents or persons acting in their stead aware of unacceptability of domestic violence and measures to protect from it;
15) Keep record, monitor and analyse the needs of trainees who fell victim to domestic violence, in obtaining social services and assistance
16) Interact with other entities providing protection from domestic violence;
17) Carry out other activities in the field of safeguarding and protection from domestic violence within their competence.

Article 14. Responsibilities of state judicial bodies to safeguard and protect from domestic violence

For the purpose of exercise of powers set forth by the Government of the Kyrgyz Republic, the Ministry of Justice:

1) Provide legal counselling and qualified legal assistance in accordance with the requirements of the legislation of the Kyrgyz Republic of free legal aid;
2) Disseminate legal acts and other related information in the field of safeguarding and protection from domestic violence
3) Interact with other entities safeguarding and providing protection from domestic violence;
4) Submit annual report, as well as information on its activity in the field of safeguarding and protection from domestic violence to the Authorised Body;
5) Post statistical and other information on activities of state judicial bodies in the field of safeguarding and protection from domestic violence on its website.

Article 15. Responsibilities of the Authorised Body for protection of children to safeguard and protect from domestic violence

For the purpose of exercise of powers set forth by the Government of the Kyrgyz Republic, the Authorised Body for protection of children:

1) Organise, coordinate and control the activity of its municipal subdivisions in the field of safeguarding and protection from domestic violence;
2) Implements a set measures for safeguarding and protection of children who fell victim to domestic violence in compliance with the current law, Children's Code.
3) Post on its website statistical and other information on activity of authorities providing services to safeguard and protect children from domestic violence, information about social services providing services to safeguard and protect children, who fell victim to domestic violence, standards of services and procedure of their provision;
4) Provide its municipal bodies and other bodies in the system of child protection in the field of safeguarding and protection from domestic violence with methodological and consulting assistance;
5) Interact with other entities safeguarding and providing protection from domestic violence;
6) Submit annual report, as well as information on its activity in the field of safeguarding and protection of children from domestic violence to the Authorised Body.

Article 16. Responsibilities of the Ombudsman (Akyikatchy) to safeguard and protect from domestic violence

The Ombudsman (Akyikatchy) of the Kyrgyz Republic:

1) Applies to state authorities, local self-government bodies, or entity, institution, regardless of the organizational and legal forms of ownership petition for initiation of disciplinary or administrative proceedings against state officials, submits application with petition for initiation disciplinary or administrative proceedings or criminal proceedings against a state official, whose decisions or acts (omissions) are deemed to contain violations of human rights and freedoms in the field of safeguarding and protection from domestic violence
2) Based on the results of review of applicants' petition, if due to the condition of their health or other reasons they cannot independently exercise their rights, with their consent applies to court for protection of rights and freedoms violated by decisions or acts (omissions) of state authority, local self-government body or state official in the field of protection from domestic violence;
3) Prepares special reports on the issues of domestic violence and/or includes these issues in the annual reports on the state of observance of human and civil rights and freedoms;
4) Posts on its website statistical and other information related to the activity of the Ombudsman (Akyikatchy) of the Kyrgyz Republic in the field of safeguarding and protection from domestic violence

Article 17. Responsibilities of the Bar Association to safeguard and protect from domestic violence

Attorneys practicing law shall:
1) Provide legal advice orally or in writing;
2) Prepare applications, complaints, petitions and other legal documents;
3) Participate in civil, administrative, criminal proceedings and proceedings on administrative offences;
4) Provide other assistance in accordance with the law on the Bar Activities

Article 18. Responsibilities of local state administrations to safeguard and protect from domestic violence

Local state administrations shall:

1) Ensure coordinated activity of municipal subdivisions of the ministries, state committees, administrative agencies and other state bodies of the Kyrgyz Republic, their interaction with local self-government bodies, and execute state control of their activity within delegated functions and authority in the field of safeguarding and protection from domestic violence;
2) Include in the programs of socio-economic development of the territory and the social protection of the population measures to safeguard and protect from domestic violence;
3) Summarise and analyse domestic violence data on domestic violence received from local self-government bodies in compliance with the legislation;
4) Organise staff development programmes for the officials of local state administrations and local self-government bodies on issues of safeguarding and protection from domestic violence;
5) Interact with other entities safeguarding and providing protection from domestic violence
6) Carry out information and awareness campaigns on the issues of safeguarding and protection from domestic violence
7) Attract financial, technical and other support in compliance with the legislation to implement the programmes for safeguarding and protection from domestic violence
8) Submit annual consolidated report on activity in the field of safeguarding and protection from domestic violence to the Authorised Body

Article 19. Responsibilities of local self-government bodies to safeguard and protect from domestic violence

1.Local self-government bodies in the field of safeguarding and protection from domestic violence

1) Develop, approve and implement measure for prevention of domestic violence in the framework of the programs of socio-economic development of the region ansocial protection of the population
2) Approve the standards of services and assistance provision for local self-government bodies in the field of safeguarding and protection from domestic violence;
3) Allocate funds in the local budget for the implementation of relevant programmes aimed at prevention of domestic violence and the establishment of specialised social services providing civil protection and safeguarding from domestic violence;

2.Executive bodies of local self-government:

1) Organise provision of special social services on issues of safeguarding and protection from domestic violence in accordance with legislation on provision of social services;
2) Develop and implement programmes to prevent domestic violence and establish specialized entities designed to safeguard and protect from domestic violence;
3) Monitor and evaluate the effectiveness of the existing programmes;
4) Attract investments and grants to implement the programmes for safeguarding and protection from domestic violence
5) Keep record of domestic violence statistics within its territory;
6) Ensure interagency coordination and interaction of entities providing protection from domestic violence, at the municipal level via establishment of special bodies – local committees for safeguarding and protection from domestic violence;
7) Notify interior affairs bodies about potential threats of domestic violence incidence;
8) Participate in staff development programmes for local self-government officials on protection from domestic violence;
9) Post on its website information on implementation of measures to safeguard and protect from domestic violence;

Article 20. Responsibilities of the court of elders to safeguard and protect from domestic violence

The court of elders shall review and settle cases on domestic violence in compliance with the legislation of the court of elders.

Article 21. The authority of mass media and electronic publications in the field of safeguarding and protection from domestic violence

1. Mass media and electronic publications shall:
   1) Interact with other entities safeguarding and providing protection from domestic violence;
   2) Spotlight the issues of safeguarding and protection from domestic violence and form a negative image of any forms of violence in public consciousness;
   3) Upon request of the Authorised Body provide information on their activity in the field of safeguarding and protection from domestic violence;
   4) Ensure that their editorial policy prevents propaganda of gender racism and violence;
   5) Participate in staff development programmes for reporters and journalists on safeguarding and protection from domestic violence;

2.Mass media shall post information on safeguarding and protection from domestic violence within the broadcasting time or print space devoted to social advertising.

Article 22. Participation of non-governmental organisations and citizens in safeguarding and protection from domestic violence

1. Non-governmental organisations and citizens have the right to:

1) Provide social, legal, juridical, psychological and other support and assistance in the field of safeguarding and protection from domestic violence in compliance with the legislation, including:
   a) Inform the victims of domestic violence about their right to seek protection from state bodies or public organisations;

b) Provide appropriate consultations to the victims of domestic violence;
c) With the consent of the victims of domestic violence, report cases of domestic violence to the interior affairs bodies, prosecutor's office, local self-government bodies, and social protection bodies, except for the cases concerning minors or persons who have been declared legally incompetent, in such cases reporting to the above mentioned bodies is compulsory;

2) Carry out information and awareness campaigns on protection from domestic violence;

3) Interact with other entities safeguarding and providing protection from domestic violence.

2. Non-governmental organisations safeguarding and providing protection from domestic violence may, in compliance with the legislation, receive funding from state and municipal budgets or other sources;
3. Non-governmental organisations safeguarding and providing protection from domestic violence shall provide information on their activity in the field of safeguarding and protection from domestic violence upon request of the Authorised Body.

Chapter 3. Safeguarding and protection from domestic violence Article 23. Prevention of domestic violence

1.Domestic violence shall be prevented by all entities safeguarding and providing protection from domestic violence within their competences.

2.The preventive measures shall include:

1) Development and implementation of programmes for prevention of domestic violence, including special programmes for the victims of domestic violence, for the perpetrators of domestic violence, and for other persons;
2) Prevention talks, consultations, including hot lines, in order to prevent the repeated acts of domestic violence, as well as to ensure security of the victim;
3) Registration and recording of perpetrators of domestic violence;
4) Control over the enforcement of the restraining order;
5) Informing the perpetrators of domestic violence about unacceptability and illegality of domestic violence, as well as measures for safeguarding and protection from domestic violence;
6) Awareness campaigns, measures related to safeguarding and protection from domestic violence designed to protect civil rights and freedoms, to promote non-violent and conflict- free behaviour, prevention of discrimination against any person.

Article 24. Suppression of domestic violence

1. Types of suppression of domestic violence implemented by the interior affairs bodies:
1) Taking immediate measures to remove the threat to life or health of a victim or other family members or persons who qualify as such;
2) Detention of a perpetrator of domestic violence in compliance with the criminal procedure law;
3) Issue and extension of a restraining order;
4) Holding the perpetrator of domestic violence liable in compliance with the law;
5) Immediate placement to a secure place with consent of a victim of domestic violence facing threat to life and health.

2. Local self-government bodies and social development bodies shall provide assistance to the interior affairs bodies in immediate placement of victims of domestic violence to a secure place.

3. Other entities safeguarding and providing protection from domestic violence may provide assistance to the interior affairs bodies in immediate placement of victims of domestic violence to a secure place.

Article 25. Actions of the interior affairs bodies to respond to reported cases of domestic violence

1. The interior affairs bodies shall:
   1) Take measures in accordance with current Law, Criminal Procedure Code, Code of the Administrative Offences of Kyrgyz Republic, Law on the Interior Affairs Bodies;
   2) Receive and file a report of domestic violence case from any person;
   3) Explain the procedure of issuing and extending the restraining order, and procedure of administrative or criminal prosecution of a perpetrator of domestic violence
   4) Provide a victim of domestic violence with information on specialized social services;
   5) Organise, if necessary, transportation of a victim of domestic violence to a medical facility or other secure place;
   6) Issue a restraining order and monitor the execution of its conditions;
   7) Upon application of a victim of domestic violence, extend the restraining order and monitor the execution of its conditions;
   8) In case of domestic violence against minor children, immediately report about it to the authorised body for protection of children and an officer of interior affairs bodies who works with minor children
   9) With the consent of a victim of domestic violence, report the case to municipal subdivisions of social development bodies within three days from the moment of restraining order extension;
   10) Act as necessary to hand over materials to bring a perpetrator of domestic violence to administrative or criminal responsibility
2. An officer of interior affairs body has the right of unhindered access to the premises and properties of citizens if there is evidence that there are family members whose life and health are threatened, to take actions to suppress domestic violence.

Article 26. Grounds for issuing a restraining order

The domestic violence report by any person shall serve as grounds for issuing a restraining order.
Domestic violence incident shall be confirmed by the interior affairs bodies via verifying the information contained in the domestic violence report.

The restraining order shall be issued to a victim of domestic violence and a perpetrator of domestic violence aged 18 and above.

Article 27. Issuing and extending the restraining order

1. The restraining order shall be compulsorily issued for three days by the interior affairs body at the place of residence of a perpetrator of domestic violence within twenty-four hours of domestic violence incident.
2. Upon the application of a victim of domestic violence, the restraining order may be extended for thirty days by the interior affairs body.
3. An officer of the interior affairs bodies shall have a perpetrator of domestic violence give written acknowledgment stating that the latter has read the conditions of the restraining order and consequences of failure to abide by it.
4. An officer of the interior affairs bodies shall have a perpetrator of domestic violence who was issued a restraining order give written acknowledgment of conditions of correctional programmes aimed to change violent behavior.
5. A perpetrator of domestic violence who was issued a restraining order shall abide by the conditions thereof. Failure of a perpetrator of domestic violence who was issued a restraining order to abide by the conditions thereof shall involve administrative responsibility and not terminate its validity.
6. Information on issuing a restraining order shall be submitted to an officer of the interior affairs body in charge of the restraining order enforcement control.
7. Information on issuing a restraining order shall be submitted to municipal social development bodies and local self-government bodies and also to the workplace of a perpetrator of domestic violence with the consent of a victim of domestic violence.
8. Issuing, extension of a restraining order or denial of these actions may be appealed to prosecutors' office or court.

Article 28. Restraining order for the victims of domestic violence under the age of eighteen or persons who have been declared legally incompetent by court

1. The restraining order for victims of domestic violence under the age of eighteen or persons who have been declared legally incompetent by court shall be issued to their legal representative or municipal subdivisions of the authorised state bodies for protection of children, or an officer of the interior affairs bodies who works with minor children.

2. On behalf of persons under the age of eighteen, as well as persons who have been declared legally incompetent by court, their legal representative or municipal subdivisions of the authorised state bodies for protection of children, or an officer of the interior affairs bodies who works with minor children may apply for the extension of the restraining order for thirty days.

3. Information on issuing a restraining order shall be submitted to municipal subdivisions of the authorised state bodies for protection of children, municipal social development bodies, and local self-government bodies.

Article 29. Conditions of the restraining order

1. The restraining order shall stipulate the following conditions:
1) Prohibition to commit acts of domestic violence;
2) Prohibition of direct and indirect contacts with a victim of domestic violence;
2. The restraining order shall contain information on the right of a victim of domestic violence to apply to court with requests listed in article 32 of the current Law and also information on responsibility of the perpetrator of domestic violence in case of failure to abide the conditions of restraining order.
3. In case of extension of a restraining order, in addition to conditions listed in part 1 of the current article, it has compulsory include evidence of undergoing correctional programme aimed to change violent behavior in accordance with the model correctional programme, approved by the the government of the Kyrgyz Republic
4. The form of the restraining order shall be approved by the Government of the Kyrgyz Republic.

Article 30. Filing a statement of claim to the court for domestic violence

1. The right to file claim to the court for protection of rights and legitimate interests of a victim of domestic violence shall be granted to:

1) A victim of domestic violence, or his/her representative;
2) Public prosecutor;
3) Municipal subdivisions of the authorised state bodies for protection of children if a victim of domestic violence is a minor child or a person who has been declared legally incompetent by court.

2. A copy of a restraining order or a copy of court ruling to bring a person to administrative responsibility for committing an act of domestic violence shall be attached to the statement of claim as required by paragraphs 1-6, part 1, article 32 of the current Law.

Article 31. Term of filing and processing the statement of claim

1. As required by paragraphs 1 and 2, part 1, article 30 of the current Law, the statement of claim may be filed within six months of the date of issue of a restraining order or the effective date of a court ruling to bring a person to administrative responsibility for committing an act of domestic violence.

2. The statement of claim for cases related to domestic violence shall be reviewed by court within ten days from the date of receipt of the statement of claim by court, excluding time stipulated by the civil procedural law of the Kyrgyz Republic for initiation of proceedings and preparation of a case for adjudication.

3. As required by paragraph 3 and 4 part 1, article 32 current Law, the statement of claim shall be filed within the term specified by the legislation of the Kyrgyz Republic.

Article 32. Requests for a court ruling

1. Persons specified in part 1, article 30 the current Law may apply to court with one or several claims to a perpetrator of domestic violence:

1) To temporarily leave the joint residence;
2) To prohibit or restrict direct and/or indirect contacts with minor children;
3) To declare the person who committed domestic violence partly legally incompetent in accordance with the civil law legislation
4) Other requirements specified in the applicable legislation of the Kyrgyz Republic.

2. Restriction of rights as requested according to paragraphs 1-3, part 1 of the current article shall be imposed by court for one to six months.

3. Restriction of rights as requested according to paragraph 6, part 1 of the current article shall be imposed by court for five years.

Article 33. Enforcement of court decisions

1. A court decision made in compliance with the requirements stated in paragraphs 1 and 2, part 1, article 32 of the current Law shall become effective immediately after the judgement was read. The procedure for filing an appeal of the judgement shall be set forth in the civil procedural law of the Kyrgyz Republic.

2. A judgement shall be enforced in compliance with the legislation on enforcement proceedings of the Kyrgyz Republic.

Article 34. Assistance to the victims of domestic violence

1.Assistance provided to the victims of domestic violence shall cover legal, social, medical, psychological and other kinds of assistance, provided by the subjects defined in current Law within its mandates and competence

2.Legal assistance shall cover consultations, preparation of legal documents, representation on behalf of victims of domestic violence in courts and other state bodies, other kinds of legally significant activities defined by the legislation. State guaranteed legal aid shall be provided as prescribed by law.

3.Victims of domestic violence shall be provided with all kinds of medical and sanitary assistance defined in the health protection law of the Kyrgyz Republic.Social and psychological assistance to the victims of domestic violence shall cover:

1) Measures of social protection;
2) Assistance in obtaining the necessary documents and social allowances in compliance with the legislation;
3) Consultation by social worker, psychologist;
4) Provision of a secure place in specialised social services to ensure the safety of victims of domestic violence;
5) Assistance in social rehabilitation;
6) Social work with families where the acts of domestic violence have been detected;

Article 35. Rights of the victims of domestic violence

1. The victims of domestic violence shall have the right to obtain socio-psychological assistance at state and municipal authorities, organizations specialized to provide social services: counselling and prevention centres (crisis centres), shelters for victims of domestic violence, as well as other institutions in compliance with the legislation on social public services.
2. The reason for provision of social and psychological assistance shall be the request of such assistance by victims of domestic violence, either personally or via other bodies providing protection from domestic violence.
3. A victim of domestic violence has the right to be placed to a state/municipal shelter for secure temporary accommodation. Living in the shelter shall be free of charge on the basis of agreement according to the provisions of the charter or regulations of the shelter.
4. A victim of domestic violence has the right to obtain information on opportunities of training, professional development

and retraining, employment and other forms of social rehabilitation;

Chapter 4. Statistical monitoring and reporting of domestic violence

Article 36. Statistical monitoring of domestic violence cases

1. The National Statistical Committee shall ensure coordination of statistical activity of state bodies, local self-government bodies and counselling and prevention centres by coordinating the list and structure of indicators, statistical and accounting forms, order of collection, frequency and processing of statistical information, as well as instructive and methodological materials required for the implementation of institutional statistical works in the field of domestic violence.
2. The National Statistical Committee shall provide public authorities and local self- government bodies with statistical information on domestic violence, ensure dissemination and public access to statistical information on domestic violence by issuing statistical compendia, publications, fact sheets, reviews, website posts, as well as through other ways.

Article 37. Statistical reporting of domestic violence

Statistical reporting of domestic violence shall include gender-specific indicators demonstrating the number of recorded acts of domestic violence and/or reported acts of domestic violence disaggregated by types of violence; by types of measures taken, social and demographic data on perpetrators of domestic violence and victims of domestic violence, as well as on the level of relationship between the victim and perpetrator of domestic violence, and other statistical data.

Chapter 5. Responsibility for failure to abide by the current Law

Article 38. Responsibility for failure to abide by the current Law

Entities safeguarding and providing protection from domestic violence and their officials shall be responsible for failure to abide or for improper abidance of the current Law as prescribed by the legislation of the Kyrgyz Republic.

Chapter 6. Final Provisions

Article 39. On effectiveness of the current Law

1. The current Law shall be effective upon the expiry of ten days after the date of official publication, excluding provisions of the part 2 of current article.
2. Provisions of part 2 of article 11, part 2 of article 19, part 1of article 24, part 3 of article 29, part 1 of article 35(realization of the right to obtain assistance in counselling and prevention centers (crisis centres)) and part 3 of article 35 shall be effective from January, 1st 2018.
3. Unless and until other laws and regulatory acts of the Kyrgyz Republic are brought into compliance with the current Law, the laws and regulatory acts shall be effective to the extent that does not conflict with the current Law.
4. Shall become null and void:

1. The law of the Kyrgyz Republic “On social and legal protection from domestic violence” dated March 25, 2003, #62 (Erkin Too newspaper, dated April 4, 2003, issue #24) shall become null and void.
2. Article 15 of the Law of the Kyrgyz Republic to Amend and Supplement several legal acts in the field of delegation of state authorities, dated July, 6th 2016
3.Within six months the Government of the Kyrgyz Republic shall bring its regulatory acts into compliance with the current Law;

Code of Administrative Offences, 1998 (As amended)[56]

Article 66-3: Domestic Violence

Domestic violence (violence in the family) is physical, psychological, economic, sexual abuse or its threat, committed by one family member/person who qualifies as a family member, against another family member/person who qualifies as a family member, that does not justify criminal proceedings and entails an administrative fine of ten to twenty times the calculated indices or corrective labour for a term from 15 to 30 hours.

19. LATVIA

Civil Procedure Law, 1998 (As Amended) [57]

Chapter 30.[5]
Provisional Protection Against Violence
[13 February 2014]

Section 250.[43] Permissibility of Provisional Protection Against Violence in Claims
Provisional protection against violence is permissible in claims regarding annulment or divorce, or in claims arising due to personal injury, in claims regarding the recovery of maintenance, in claims regarding the division of joint dwelling of the parties where they live in one household, or determination of procedures for the use of the dwelling where the parties live in one household, and in cases arising from custody rights and access rights.

Section 250.[44] Persons who have the Right to Submit an Application for Provisional Protection Against Violence
An application for provisional protection against violence may be submitted by spouses or former spouses; persons between whom children and parent relations exist, guardianship or other out-of-family care relations exist or have existed; persons between whom kinship or affinity relations exist; persons who are living or have lived in one household; persons who have or are expecting a common child, regardless of whether such persons have ever been married or lived together; persons between whom close personal or intimate relations exist or have existed.

Section 250.[45] Basis for Provisional Protection Against Violence
(1) If any physical, sexual, psychological or economical violence, that occurs between former or present spouses or other mutually related persons regardless of whether a transgressor is living or has lived in one household with the infringed person, is turned against a person a court or judge may, upon a reasoned application of the person or application which is submitted through the police, take a decision to provide provisional protection against violence.
(2) Paragraph one of this Section shall be applied also in cases when violent control is applied to a person – such activity or an aggregate of activities which includes infringement, sexual compelling, threats, debasing, intimidation or other violent activities the purpose of which is to be harmful, to punish or intimidate the infringed person.
(3) The examination of the question of the determination of provisional protection against violence is allowed at any stage of the proceedings, and also prior to the bringing of an action to a court.

Section 250.[46] Contents of the Application for Provisional Protection Against Violence
(1) An application for provisional protection against violence shall be drawn up in conformity with the sample approved by the Cabinet.
(2) The following shall be indicated in the application for provisional protection against violence:
1) name of the court to which the application has been submitted;
2) the plaintiff's given name, surname, personal identity number, declared place of residence, additional address and place of residence provided for in the declaration. If the plaintiff agrees to electronic correspondence with the court, an electronic mail address shall also be indicated and, if he or she has been registered in the online system for correspondence with the court, an indication of registration shall be included as well. In addition the plaintiff may also indicate another address for correspondence with the court;

[56] Code of Administrative Offences No. 114 (14 August 1998, consolidated version of 2018), available at https://online.zakon.kz/Document/?doc_id=30232566#pos=6576;-44&sdoc_params=text%3D%25D1%2581%25D0%25B5%25D0%25BC%25D1%258C%25D0%25B5%26mode%3Dindoc%26topic_id%3D30232566%26spos%3D1%26tSynonym%3D0%26tShort%3D1%26tSuffix%3D1&sdoc_pos=4 (last visited December 30, 2018).
[57] Civil Procedure Law, 14 October 1998 (consolidated with amendments through December 2017), available at https://likumi.lv/ta/en/en/id/50500 (last visited December 30, 2018).

3) the defendant's given name, surname, personal identity number, declared place of residence, additional address and place of residence provided for in the declaration. The personal identity number of the defendant shall be included, if such is known;

4) the given name, surname, personal identity number and address for communication with the court of the representative of the plaintiff (if the action is brought by a representative); for a legal person – the name, registration number and legal address thereof. If the representative of the plaintiff whose declared place of residence or indicated address for correspondence with the court is in Latvia agrees to electronic correspondence with the court, an electronic mail address shall also be indicated and, if he or she has registered in the online system for correspondence with the court, an indication of registration shall be included as well. If the declared place of residence or indicated address of the representative of the plaintiff is outside Latvia, in addition electronic mail address shall be indicated or he or she shall notify regarding registration of his or her participation in the online system. If the representative of the plaintiff is a sworn advocate, an electronic mail address of the sworn advocate shall be indicated additionally;

5) the circumstances referred to in Section 250.[45], Paragraphs one and two of this Law and how such circumstances express themselves;

6) evidence which approves the circumstances referred to in Section 250.[45] , Paragraphs one and two, if any is at the disposal of the plaintiff and if a person is known from whom the abovementioned evidence can be requested, however they are not at the disposal of the plaintiff or the plaintiff cannot request them himself or herself due to objective reasons;

7) one or several applicable means of provisional protection against violence;

8) a list of documents attached to the application;

9) a certification that true information has been provided to the court regarding the facts and that the plaintiff or plaintiff and representative, if the application is submitted by the representative, are informed regarding liability in accordance with the Criminal Law regarding provision of false application;

10) the date of preparing the application and other information, if such information is necessary for examination of the case.

(3) If the applicable means of provisional protection is an obligation for the defendant to leave a dwelling where the plaintiff is permanently living and a prohibition to return and stay therein, an Annex shall be attached to the application where contact information (phone number, electronic mail address, address) of the plaintiff shall be indicated, in order for the State Police to be able to carry out enforcement control of the relevant decision, by contacting the plaintiff. Such Annex is restricted access information which in accordance with Section 250.62, Paragraph four of this Law shall be sent to the State Police and not be attached to the case materials.

(4) If the certification referred to in Paragraph two, Clause 9 of this Section is not included in the application, the application shall be regarded not submitted and it shall be set back to the submitter.

[23 April 2015; 23 November 2016; 1 June 2017]

Section 250.[47] Means of Provisional Protection Against Violence

(1) Means of provisional protection against violence are:

1) obligation for the defendant to leave the dwelling where the plaintiff is permanently living and prohibition to return and stay therein;

2) prohibition for the defendant to be closer to the dwelling, where the plaintiff is permanently living, than the distance referred to in the court decision regarding provisional protection against violence;

3) prohibition for the defendant to stay at specific places;

4) prohibition for the defendant to meet the plaintiff and keep physical or visual contact with him or her;

5) prohibition for the defendant to communicate with the plaintiff in any way;

6) prohibition for the defendant to organise meeting or communication of any kind with the plaintiff by using intermediation of other persons;

7) prohibition for the defendant to use personal data of the plaintiff';

8) other prohibitions and obligations, which the court or judge have determined for the defendant and the purpose of which is to ensure provisional protection against violence.

(2) Means of provisional protection against violence referred to in Paragraph one, Clauses 1 and 2 of this Section shall be determined, if the defendant attained legal age.

(3) It is permissible to concurrently determine several means of provisional protection against violence.

Section 250.[48] Obligation for the Defendant to Leave the Dwelling where the Plaintiff is Permanently Living and Prohibition to Return and Stay Therein

(1) An obligation for the defendant to leave the dwelling where the plaintiff is permanently living and a prohibition to return and stay therein is a restriction provided by a court decision or decision of the judge for the defendant to be and stay in such dwelling regardless of whether the defendant is owner, possessor or user of such dwelling.

(2) If the restriction referred to in this Section is determined for the defendant, the defendant shall be ensured the right to take the necessary clothes, footwear, underwear, books, instruments, tools, things necessary for health care and other articles, which are necessary for him or her in everyday life, present in the dwelling, or they shall be issued to him or her.

Section 250.[49] Prohibition for the Defendant to Be Closer to the Dwelling, where the Plaintiff is Permanently Living, than the Distance Referred to in the Court Decision on the Provisional Protection Against Violence

Prohibition for the defendant to be closer to the dwelling, where the plaintiff is permanently living, than the distance referred to in the court decision or decision of the judge on the provisional protection against violence is a restriction stipulated by the court decision or decision of the judge for the defendant to visit the relevant dwelling and be closer than the distance referred to in the decision.

Section 250.[50] Prohibition for the Defendant to Stay at Specific Places

(1) Prohibition for the defendant to stay at specific places is a restriction stipulated by the court decision or decision of the judge for the defendant to visit the relevant place, other than dwelling, where the plaintiff is permanently living, or to be present at such place closer than the distance referred to in the decision.

(2) The court or judge, when determining the restriction referred to in this Section for the defendant, may specify that the prohibition for the defendant to stay at specific places applies to the address of a specific place or places, which comply with certain features, or public or other specified events. The court or judge shall take into account, as far as possible, the obligations of the defendant to arrive at a work place and other obligations of the defendant which are related to arrival at certain places.

Section 250.[51] Prohibition for the Defendant to Meet the Plaintiff and Keep Physical or Visual Contact with Him or Her

(1) Prohibition for the defendant to meet the plaintiff and keep physical or visual contact with him or her is a restriction stipulated by the court decision or decision of the judge for the defendant to knowingly approach the plaintiff or be closer to him or her than the distance referred to in the decision, and to avoid physical or visual contact with the plaintiff.

(2) The court or judge, when determining the restriction referred to in this Section for the defendant, may specify that the prohibition for the defendant to meet the plaintiff and keep physical or visual contact with him or her shall apply also to the persons who are closely related to the plaintiff or dependent on him or her.

Section 250.[52] Prohibition for the Defendant to Communicate with the Plaintiff in Any Way

(1) Prohibition for the defendant to communicate with the plaintiff in any way is a restriction stipulated by the court decision or decision of the judge for the defendant to use communication means, including electronic communication means, or any other methods for transfer of information, with a view to contact the plaintiff.

(2) The court or judge, when determining the restriction referred to in this Section for the defendant, may specify that the prohibition for the defendant to communicate with the plaintiff in any way shall apply also to the persons who are closely related to the plaintiff or dependent on him or her.

Section 250.[53] Prohibition for the Defendant to Organise Meeting or Communication of Any Kind with the Plaintiff by Using Intermediation of other Persons

Prohibition for the defendant to organise meeting or communication of any kind with the plaintiff by using intermediation of other persons is a restriction stipulated by the court decision or decision of the judge for the defendant to use intermediation of other persons in order to approach the plaintiff or organise physical or visual contact with the plaintiff or to contact the plaintiff by using any communication means or any other methods for transfer of information.

Section 250.[54] Prohibition for the Defendant to Use Personal Data of the Plaintiff

Prohibition for the defendant to use personal data of the plaintiff is a restriction stipulated by the court decision or decision of the judge for the defendant to process, publish, disclose personal data of the plaintiff or use them otherwise, except for the procedural actions related to court proceedings.

Section 250.[55] Provisional Protection Against Violence before Bringing an Action before the Court

(1) The potential plaintiff may submit a reasoned application with request for the court to ensure provisional protection against violence before bringing an action before the court, if the circumstances referred to in Section 250.45, Paragraph one and two of this Section exist.

(2) If the circumstances referred to in Section 250.[45], Paragraphs one and two of this Law apply to a child, the application referred to in Paragraph one of this Section may be submitted by one of parents of the child, his or her guardian, Orphan's and Custody Court or prosecutor in the interests of the child.

(3) An application for provisional protection against violence before bringing an action shall be submitted to the court according to the location where the delicts were inflicted.

Section 250.[56] Provisional Protection Against Violence before Bringing an Action before the Court based on the Application which is Submitted with Intermediation of the Police

(1) If before bringing an action the police has taken a decision which imposes an obligation on the potential defendant, who is causing threats, to leave the dwelling, not to return and stay therein or nearby thereof, or prohibits the potential defendant from contacting with the potential plaintiff (police decision regarding separation), the police, upon a request of the potential plaintiff, shall send to the court a true copy of the police decision, the application of the potential plaintiff in which it is indicated that the potential plaintiff wants the court to examine an issue regarding provisional protection against violence, and also other information which is at the disposal of the police and is related to the issue regarding provisional protection against violence.
(2) The application referred to in Paragraph one of this Section shall be drawn up in conformity with the sample approved by the Cabinet.
(3) The police shall send the application referred to in Paragraph one of this Section, and also other information to the court according to the location where the delicts were inflicted.
(4) In the application of the potential plaintiff, which is submitted by intermediation of the police, an authorisation for the police to submit such application on behalf of the plaintiff shall not be included.
(5) The judge shall examine an issue regarding provisional protection against violence, on the basis of the application of the potential plaintiff, which is submitted by intermediation of the police, in accordance with Section 250.58, Paragraph one of this Law.

Section 250.[57] Evidence in Cases Regarding Provisional Protection Against Violence

(1) A participant in the case shall approve with certification the circumstances significant in the case indicated in the application in the cases regarding provisional protection against violence.
(2) If there is no other evidence or it is not sufficient, the court may, upon its own initiative, request the participant in the case to approve their explanations, which contain information regarding the facts and circumstances on which his or her claim or objections are based o, during the court hearing.
(3) Before provision of an explanation a participant in the case shall sign the certification of the following content:
"I, (given name, surname), hereby certify that to the best of my conscience I will say only the truth and nothing will be concealed. I certify that the information provided by me to the court on the facts and circumstances of the case are complete and true. I have been warned that I might be held criminally liable in accordance with the Criminal Law for knowingly providing false explanations and knowingly concealing facts and circumstances in the case known to me."
(4) A certification with a signature of the participant in the case referred to in Paragraph three of this Section shall be attached to the case.
(5) A participant in the case may be held criminally liable in accordance with the Criminal Law for knowingly providing false certified explanations or application to the court.
(6) A certification of explanations and application shall not be permissible as evidence in respect of such circumstances which are established by the court judgment which has come into effect, and also for approval or confutation of generally known facts.

Section 250.[58] Examination of the Issue Regarding Provisional Protection Against Violence

(1) A court or judge shall decide on the application for provisional protection against violence not later than on the next working day after receipt of the application, if it is not necessary to request additional evidence or delay may cause significant breach of the rights of the plaintiff. The court or judge shall decide on the abovementioned application without prior notification to the participants in the case.
(2) If evidence is not sufficient or it must be requested from the State or local government institutions indicated in the application or from other natural persons or legal persons, the court or judge shall decide on the application for provisional protection against violence within 20 days after receipt of the application.
(3) A court or judge shall decide on the application for provisional protection against violence also in the case when all the information referred to in Section 250.[46] of this Law is not indicated in the application or documents are not attached, if the lack of documents or necessary information does not significantly affect possibility of deciding on the application.
(4) A court or judge, when deciding on the application for provisional protection against violence, shall take into account proportionality between breach of the rights or possible breach thereof and applicable means of provisional protection against violence. The court or judge may, upon its own discretion, determine also other means of provisional protection against violence other than indicated in the application.
(5) If it is arising prima facie from the application for provisional protection against violence that delay could cause significant breach of the rights of the plaintiff, the court or judge, in accordance with Paragraph one of this Section, shall decide on such application and may satisfy it on the basis of the certification included in the application also in the cases when there is no other evidence or it is not sufficient.
(6) If it is not arising prima facie from the application for provisional protection against violence that delay could cause significant breach of the rights of the plaintiff and it was not possible to obtain other evidence in accordance with Paragraph two of this Section, the court or judge, in accordance with Paragraph two of this Section, shall decide on such application and may satisfy it

on the basis of the certification included in the application and certification of the explanations which is provided in accordance with Section 250.[57], Paragraph two and three of this Law.
(7) When satisfying an application for the provisional protection against violence prior to bringing an action, the court or judge shall determine a time period for the submission of the application to the court for the plaintiff – not longer than one year, but, when determining means of provisional protection against violence, which are referred to in Section 250.[47], Paragraph one, Clauses 1 and 2 of this Law, for the defendant, who is permanently living in the dwelling with the plaintiff – not more than 30 days.
(8) When satisfying the claim, provisional protection against violence shall be in effect up to the day when the judgment comes into lawful effect.
(9) In certain cases the court may determine in the judgment that provisional protection against violence is in effect also after coming into lawful effect of the judgment, however not longer than a year after coming into lawful effect of the judgment. If the means of provisional protection against violence, which are referred to in Section 250.[47], Paragraph one, Clauses 1 and 2 of this Law, have been determined for the defendant, who is permanently living in the dwelling together with the plaintiff, the court may determine that provisional protection against violence is in effect not longer than 30 days after coming into lawful effect of the judgment.
(10) When refusing a claim, the court shall withdraw provisional protection against violence in the judgment. The provisional protection against violence shall be in effect up to the day when the judgment comes into lawful effect.
(11) If the claim is left without examination or the court proceedings are terminated, the court shall withdraw the provisional protection against violence by taking a decision. The provisional protection against violence shall be in effect up to the day when the decision comes into lawful effect.
(12) If a decision on the provisional protection against violence has been taken prior to the bringing of an action and the action is not brought within the time period laid down by the court, the judge on the basis of the receipt of justified application from the potential plaintiff or the defendant shall take a decision on the withdrawal of provisional protection against violence.
(13) The application referred to in Paragraph two of this Section shall be decided at a closed court hearing upon prior notice to the participants in the case. The court, upon a request of one party, may hear each party in a separate court hearing. Failure of the defendant to attend shall not constitute a bar for the examination of the application.

Section 250.[59] Decision on the Provisional Protection Against Violence

(1) In addition to that laid down in Section 230 of this Law the court or judge shall provide in a decision the information regarding participants in the case [given name, surname, personal identity number (if any is known), declared place of residence and additional address indicated in the declaration and the place of residence].
(2) The court or judge, where necessary, shall indicate the time limit for voluntary execution of the decision in the decision regarding determination of means of provisional protection against violence – an obligation for the defendant to leave the dwelling where the plaintiff is permanently living.
(3) The court or judge shall warn the defendant in the decision on provisional protection against violence, that the police will perform the control of the decision, and, if the decision will not be executed voluntary, the defendant will be held liable in accordance with the Criminal Law.
(4) The court or judge shall indicate in the decision on determination of means of provisional protection against violence – an obligation for the defendant to leave the dwelling where the plaintiff is permanently living, that:

1) the defendant has an obligation to notify to the court of his or her future address for communication with the court, if this dwelling is the declared place of residence or additional address indicated in the declaration;
2) the defendant has the right to submit an application to the court for the replacement or withdrawal of the means of provisional protection against violence;
3) the date when the defendant is made familiar with the decision by the State Police shall be regarded as the date when the abovementioned decision is notified to the defendant, and that refusal of the defendant to become familiar with the decision does not affect legal consequences thereof;
4) the defendant may receive a true copy of such decision in the court chancellery.
(5) A decision on provisional protection against violence (Section 250.[58], Paragraph one and two) shall be executed immediately after taking thereof.

Section 250.[60] Withdrawal or Replacement of Provision of Provisional Protection Against Violence

(1) Upon a justified application of the party the means of provisional protection against violence may be replaced by other means by the same court which has determined the means of provisional protection against violence, or by the court in the court proceedings of which is the case for examination on the merits.
(2) Upon a justified application of the party the means of provisional protection against violence may be withdrawn by the same court which has determined the means of provisional protection against violence, or by the court in the court proceedings of which is the case for examination on the merits.

(3) The application referred to in Paragraphs one and two of this Section shall be decided at a closed court hearing upon prior notice to the participants in the case. The court, upon a request of one party, may hear each party in a separate court hearing. Failure of such persons to attend shall not constitute a bar for the examination of the application.
(4) A decision to replace or withdraw means of provisional protection against violence shall be executed immediately after the taking thereof.

Section 250.[61] Appeal of Decisions Taken on Provisional Protection Against Violence
(1) An ancillary complaint may be submitted in respect of the decisions referred to in Section 250.[60], Paragraph one of this Law, the decision by which the application for the means of provisional protection against violence has been refused and the decision by which the application for the withdrawal of means of provisional protection against violence has been refused.
(2) Submission of an ancillary complaint regarding decision referred to in Paragraph one of this Section shall not stay the execution thereof.
(3) If the decisions referred to in Paragraph one of this Section have been taken without the presence of a participant in the case, the time period for the submission of an ancillary complaint shall be counted from the day of the issuance of the relevant decision.

Section 250.[62] Notification, Issue and Sending of a Decision on Provisional Protection Against Violence
(1) The court shall notify of a decision on provisional protection against violence, a decision to replace or withdraw means of provisional protection against violence to the parties, by issuing it against a signature or by sending it in a registered postal item.
(2) The court shall send a decision on provisional protection against violence, a decision to replace or withdraw means of provisional protection against violence to the State Police immediately after receipt thereof for the control of execution to the electronic mail address indicated by it, and also to the unit of the State Police according to the place of residence of the plaintiff.
(3) If a decision on the issue regarding provisional protection against violence is taken according to the application which is submitted by intermediation of the police (Section 250.[56]), the potential defendant and potential plaintiff may receive a true copy of the decision in the court chancellery on the next working day when the court has received the application and information form the police. This date shall be regarded as the date when the abovementioned decision is notified to the potential defendant, and non-delivery of the true copy of the decision to the defendant shall not affect legal consequences thereof.
(4) If means of provisional protection against violence, which are referred to in Section 250.[47], Paragraph one, Clause 1 of this Law, are applied to the defendant according to a reasoned application of the plaintiff which is not submitted through the police, the court shall not send the decision to the defendant. The court shall send such decision and plaintiff's contact information referred to in Section 250.[46], Paragraph three of this Law to the State Police in accordance with Paragraph two of this Section. When commencing the control of enforcement of such decision, the State Police shall make the defendant familiar with the decision. The date when the State Police has made the defendant familiar with the decision shall be regarded as the date when the decision is notified to the defendant and non-delivery of a true copy of the decision shall not affect lawful consequences thereof. The defendant may receive a true copy of the decision in the court chancellery.
(5) If it arises from materials of the case regarding provisional protection against violence that the child's interests are affected, the court shall send a decision on provisional protection against violence, decision on the replacement or withdrawal of means of provisional protection against violence to the Orphan's and Custody Court based on the place of residence of the child.
[23 April 2015]

Section 250.[63] Special Provisions for Communication of the Defendant with the Court, if Prohibition to Return and Stay in the Dwelling, which is the Declared Place of Residence of the Defendant, is Applied for the Defendant
(1) If such means of provisional protection against violence are applied which impose on the defendant an obligation to leave the dwelling in which the plaintiff is permanently living and a prohibition to return and stay therein, and such dwelling is the declared place of residence of the defendant or his or her additional address indicated in the declaration, the court shall notify of further decisions on provisional protection against violence, decisions to replace or withdraw the means of provisional protection against violence to the defendant in the address indicated by him or her for communication with the court.
(2) If such means of provisional protection against violence are applied which impose on the defendant an obligation to leave the dwelling in which the plaintiff is permanently living and a prohibition to return and stay therein, and such dwelling is the declared place of residence of the defendant or his or her additional address indicated in the declaration, and if the plaintiff has brought an action before a court within the time period laid down in the decision on provisional protection against violence, the summons related to such claims and other court documents shall be delivered and issued to the defendant in the address indicated by him or her for communication with the court.
(3) If in the cases referred to in Paragraphs one and two of this Section the defendant has not indicated his or her address for communication with the court, the defendant shall be invited to the court and other court documents shall be delivered and issued by summoning the defendant by summons which is published in accordance with Section 59.

Section 250.[64] Forwarding of the Case Regarding Provisional Protection Against Violence According to the Application which is Submitted Prior to Bringing an Action

If the plaintiff brings an action before the court, other than the court which has determined means of provisional protection against violence, within the time period laid down in the decision on provisional protection against violence according to the application which is submitted prior to bringing an action, the court, which has determined the means of provisional protection against violence, shall forward the relevant case to the court in the jurisdiction of which is the examination of the case on the merits.

Criminal Law, 1998 (As amended)[58]

Chapter V - Determination of Punishment

Section 48.
Aggravating Circumstances
(1) The following may be considered to be aggravating circumstances:
[…]
15) the criminal offence related to violence or threats of violence was committed against a person to whom the perpetrator is related in the first or the second degree of kinship, against the spouse or former spouse, or against a person with whom the perpetrator is or has been in unregistered marital relationship, or against a person with whom the perpetrator has a joint (single) household.

Chapter XVI - Criminal Offences against Morals and Sexual Inviolability

Section 159.
Rape
(1) For a person who commits an act of sexual intercourse by means of violence, threats or taking advantage of the state of helplessness of a victim (rape), the applicable punishment is deprivation of liberty for a term of not less than two and not exceeding ten years, with probationary supervision for a term not exceeding three years.
(2) For a person who commits rape where commission is by a group of persons, or who commits rape of a minor, the applicable punishment is deprivation of liberty for a term of not less than five years and not exceeding fifteen years, with probationary supervision for a term not exceeding three years.
(3) For a person who commits rape, if serious consequences have been caused thereby, or commits rape of an under aged person, the applicable punishment is life imprisonment or deprivation of liberty for a term of not less than ten years and not exceeding twenty years, with probationary supervision for a term not exceeding three years. [13 December 2007/2; 21 May 2009; 8 July 2011; 13 December 2012]

Criminal Procedure Law, 2005 (As amended) [59]

Section 243. Security Measures
(1) The following are security measures:
1) [12 March 2009];
1^1) notification of the change of the place of residence;
1^2) reporting to the police authority at a specific time;
2) prohibition from approaching a specific person or location;
3) prohibition from a specific employment;
4) prohibition from departing from the State;
5) residence in a specific place;
6) personal guarantee;
7) bail;
8) placement under police supervision;
9) house arrest;

[58] Criminal Law, 17 June 1998 (consolidated with amendments through June 2017), available at https://likumi.lv/ta/en/en/id/88966 (last visited December 30, 2018).
[59] Criminal Procedure Law, 11 May 2005 (consolidated with amendments through February 2013), available at http://legislationline.org/documents/section/criminal-codes/country/19 (last visited December 30, 2018).

10) arrest.

Civil Law, 1992 (As amended) [60]

74. If the spouses have lived separately for less than three years, the marriage may be dissolved only in the case if:
1) a reason for breaking down of a marriage is physical, sexual, psychological or economical violation of the spouse against the other spouse who has requested the dissolution of the marriage, or against his or her child or joint child of the spouses;
[…]

20. LAO PDR

Law on Preventing and Combatting Violence against Women and Children, 2014 [61]

[…]

Part I General Provisions

Article 1. Objective
This law defines the principles, rules and measures for preventing and combating violence against women and children by prevention, protection, provision assistance to the victims of violence and handling of such violence to protect the rights and legitimate interests of women and children; aim at eliminating all forms of violence against women and children, uphold the roles, dignity of women and children, achieve the gender equality, [and] contribute to develop society in order to maintain peace, public order, solidarity, justice and civilization, protect and develop the country

Article 2. Violence against Women and Children
Violence against women and children is any behaviour that results in or is likely to result in danger; harm, physical, psychological, sexual, property or economic suffering to women and children.

Article 3. Preventing and Combatting Violence against Women and Children
Preventing and combatting violence against women and children refers to prevention, protection, assistance to the victims of violence and handling of such violence including taking measures against perpetrators of violence.

Article 4. Definitions
Wherever used in this law, the following terms shall have the following meanings:
• A family member refers to husband, wife, father, mother, child, older brothers, older sisters, younger brothers/sisters and other persons who reside with the family that are registered under the family book including the persons who has the official residential approval paper;
• A child refers to any person below eighteen years of age;
• Perpetrator of violence means a person who commits an act, negligence or neglect that results in physical, psychological, sexual, property or economic damage to women and children.
• Victim refers to any woman or child who is harmed physically, psychologically, sexually, property or economically from any act, negligence or neglect by the perpetrator of violence;
• Abuse means an act that has a physical and psychological effect on women and children, such as kick, whipping, tying up, locking up, not allowing to eat food, forced labor, unfaithful to spouse, sexual abuse of women and children.
• Behavior means any act, negligence or neglect
• Act means the actual physical and verbal action.
• Negligence or neglect means the failure to act according to the law or failure to act in a manner in which family members should treat each other, which results in physical, psychological harm or [affects] the health of women and children, such as failure to meet the commitment to take care of their own children or children who are under their obligation, failure to take care of family members when they are ill or when they have a disability.
• Forced sex [within marriage] means any act by a husband to have sexual intercourse with his wife by using force, coercion, threats when the wife does not want to have sex or is in situation when she is not ready to have sex.
• Rape means the use of force, use of a weapon to threaten, use of anesthesia drug, use of alcohol or other methods that

[60] Civil Law (1 September 1992, consolidated with amendments through July 2014), available at https://likumi.lv/ta/en/en/id/225418 (last visited December 30, 2018).
[61] Law on Preventing and Combatting Violence Against Women and Children, Law No. 56/NA (23 December 2014), available at http://un-act.org/publication/view/lao-pdrs-law-on-preventing-and-combating-violence-against-women-and-children-2014/ (last visited December 30, 2018).

place women and children in situation that they cannot help themselves, to have sexual relations with women and children.
• Having Sex with children means any sexual activity with a girl or boy by lying, luring, persuading, buying, alluring or other ways to make children consent and do what he/she was told to do.
• Social worker means a person who is approved or designated by the state concerned organization to help or assist the victim
• Social Welfare Staff means staff members or authorities that belong to Lao Women's Union and Labour and Social Welfare Sector that working on social welfare.
• Discrimination against women means any distinction, exclusion or restriction that is based on a women's race, colour, sex, ethnicity, religion, language, education, knowledge and capacity, intelligence, socio-economic status, health status, physical appearance, disability, and other aspect that makes women's rights unrealized.
• Discrimination against children means any distinction, exclusion or restriction that is based on a child's or a child's parent's race, colour, sex, ethnicity, religion, language, education, knowledge and capacity, intelligence, socio-economic status, health status, physical appearance, disability, origin and other aspect of a child, child's parents or other child's family members that makes children's rights unrealized.
• Child labour means admission of children aged below the working age, employment of children to work that is dangerous or at dangerous working places, work for more than the working hours as stipulated under the Labour Law and other relevant rules and regulations.
• Prevention means the prevention of violence against women and children by using methods, types and any measures.
• Protection means the use of methods, measures to stop, provide assistance and solve the problem based on the reality, law and regulations when there is violence against women and children.
• Minor offences refer to offences specified by law as punishable by public declaration of guilt and/or fines.

Article 5. State Policy on Preventing and Combatting Violence against Women and Children
The State has policies to promote the advancement of women, gender equality, to protect the rights and interests of women, to ensure the upholding of the basic rights of children by creating all favorable conditions for women and children to develop in all aspects, [to have the opportunity] to play their roles in [making decisions in their] families, society and political forum in order to become a driving force in the country's protection and development.
The State recognizes that violence against women and children is an offence and the State is against all forms of violence against women and children, and no custom, tradition, [or]belief should be invoked to justify violence.
The State provide human resource, transportation, equipment, budget to prevent and combat violence against women and children.
The State pays attention to awareness raising, educate, encourages, [and]promotes the public, private, organizations within country and in abroad including all citizens to take part in the activities to prevent [and]combat violence against women and children and promote the good tradition of the nation.

Article 6. Principles on Preventing and Combating Violence against Women and Children
Preventing and combating violence against women and children shall be conducted under the following principles:
• Prevention of violence against women and children is the priority consideration[;]the protection of, assistance to women and child victims, solving problem of violence, including using measures, are the vital consideration;
• Collaboration in prevention, protection, providing assistance, solving the problems and using measures [shall]take into account the best interests of women and children;
• Uphold , study and consider the opinions of women and children on all matters related to violence that affects them;
• Protect, assist women and child victims in a timely manner, in accordance with the laws. Actual situation and the actual capacity of individuals and the concerned organizations;
• Ensure the confidentiality of women and child victims of violence;
• Promote the role and responsibilities of individuals, families, communities and all kinds of organizations in preventing and combating violence against women and children.

Article 7. Scope of Application of Law
This law must be applied to individuals, legal entities[, and] the public and private organizations, including domestic and foreign organizations, residing in the territory of the Lao PDR.

Article 8. International Cooperation
The State promotes international relations and cooperation at regional and international level in preventing and combatting violence against women and children by exchange of experiences, information, scientific studies and other forms of cooperation including the implementation of international conventions and treaties to which the Lao PDR is Party.

Part II - Violence against Women and Children

COMPENDIUM OF INTERNATIONAL AND NATIONAL LEGAL FRAMEWORKS ON DOMESTIC VIOLENCE

Chapter 1 - Forms of Violence

Article 9. Forms of Violence

Violence against women and children has 2 forms as follows:

- Violence against women and children by a member of the family
- Violence against women and children by other people

Article 10. Violence against Women and Children by a member of the family

Violence against women and children by a family member is any act, negligence or neglect by a family member that results in physical, psychological, sexual, property or economic harm or suffering to women and children who are family members irrespective of the setting in which that violence occurs.

Article 11. Violence against Women and Children by other People

Violence against women and children by other people is any act, negligence or neglect by individuals, [or] a group of people who are not family members including authorities and staff members that results in physical, psychological, sexual, property or economic harm or suffering to women and children in the community setting, public setting, workplaces, educational setting, alternative care setting and other places.

Chapter 2 - Types of Violence against Women and Children

Article 12. Types of Violence against Women and Children

Violence against women and children has 4 types as follows:

- Physical violence
- Psychological violence
- Sexual violence
- Property and economic violence

Article 13. Physical Violence

Physical violence is an intentional act such as abuse, torture, hitting, kicking, pushing, throwing a child that cause injures, bruises or no sign of the use of violence in some cases; mental health problems; disability or death.

Article 14. Psychological Violence

Psychological violence is an act, negligence or neglect that has an [adverse] psychological effect on women and children such as having many wife, insults, gossip, defamation, scorn, humiliation, undervaluing, adultery, neglect, bias, discrimination, separation from friends or family, disrespectful, defamation, preventing someone from doing something, coercion or threats that harm [a person's] reputation, dignity, shame, self-esteem, cause mental health problems, trauma or suicide.

Article 15. Sexual Violence

Sexual violence is an act or attempt to act that results in harm to the sexual rights of women and children such as rape, forced sex, any act of obscenity, sexually indecent assault, unwanted sexual comments or sexual touching; or sending of women or children to another person for sexual purposes.

Article 16. Property and Economic Violence

Property and economic violence is an act, negligence or neglect that results in damaging property of family, property that belongs to a co-owner, property of individual women and children, or results in damaging the opportunity to earn an income or other economic benefits such as destruct, burning, house and materials destroying, hiding; illegal possession, transfer, use and division [of a person's property or money]; paying low wages for labour or apply the policy unequally compared to men, preventing [women and children] from participation or operation in any work/activity even that women and children has capacity to do and are in a condition to be able to do.

Article 17.

Acts considered as Violence against Women and Children Acts considered as violence against women and children are:

- Abuse, torture, beating, coercion, threats, throwing out of a child, inhumane treatment or other intentional act that affects the health, life and psychology [of women and children];
- Gossip, slander, scorn, insults, defamation, insult or other acts that intend to degrade/harm the reputation or dignity or psychology [of women and children];
- Discrimination, isolation, expulsion from the residence, improper discharge or pressure on the psychological health;
- Not given the opportunity, obstruction to someone from conducting their duties, participating in economic-social activities

or preventing someone from exercising their rights and performing obligations as provided for in regulations and laws;
• Obscenity, dissemination of pornography, adultery, forced sex, having sex with children, rape, forced prostitution, commercial prostitution or other forms of sexual violation;
• Kidnap, forced marriage or forced divorce or obstruction to marriage or divorce; marriage for the purpose of selling a person to other people.
• Failure to meet obligations to take care of, raise and educate children, failure to support and assist the family's work or earnings or failure to taking care of children who are under their responsibility;
• Illegal possession, move, transfer, use, divide, seize, concealment, or destruction of property;
• Using child labour, forcing [someone] to work or to economically contribute.
• Other acts that break the laws and regulations.

Part III
Prevention of Violence against Women and Children

Article 18. Prevention of Violence against Women and Children
Prevention of violence against women and children shall proceed as follows:
Public awareness raising on violence against women and children Promotion of the advancement of women and gender equality Promotion of children's rights
Strengthening the capacity of concerned organizations
Research and data collection
Responsibility of social organizations
Family members' responsibilities
Women's responsibilities
Men's responsibilities

Article 19.
Public awareness raising on Preventing and Combatting Violence against Women and Children
Awareness raising on preventing and combatting violence against women and children is one of the important areas of work of the State, individual, legal entities and all parts of society to make the public aware of and understand [the issue of violence against women and children], aimed at changing behaviors, eliminating cultural, customary, beliefs and attitudes that degrade, discriminate [against] and obstruct the advancement of women and children.
Awareness raising on preventing and combatting violence against women and children can be conducted in different forms and methods such as integration into the education curriculum, widespread and intensive awareness raising and other activities on preventing and combatting violence against women and children.

Article 20. Promotion of the Advancement of Women and Gender Equality
Promotion of the advancement of women and gender equality is one of the measures of the State to ensure women and men have the same values and equal opportunities in politics, economy, education, society and culture, family [affairs], national defense and security, and foreign affairs as provided in the Constitution and laws.
The State creates conditions for women to be aware of their rights and exercise their rights including improving the economy for women through access to education, vocational training, labour skills development and necessary financial resource to enable women to have working opportunities, [and] have a good living conditions.

Article 21. Promotion of Children's Rights
Promotion of children's rights is the State's measure to strengthen children's attainment of their rights and protection from violence in the family and other settings through awareness raising on children's rights, the care of children, the provision of education and children's development and the participation of children appropriate to their age.

Article 22. Strengthening the relevant Organizations
Strengthening organizations working to prevent and combat violence against women and children such as the Village Mediation Committee, Counselling Units, Child Protection Network or Committee for Protection and Assistance to Children, the Lao National Front for Construction, mass organizations, police, offices of the public prosecutor, and courts shall be carried out through upgrading, building capacity, trainings and workshops and the exchange of related information and lessons learned. In addition the State and society shall allocate a budget, funds, human resources, materials and transportation as appropriate.

Article 23. Research and Data Collection
Research and data collection concerning violence against women and children is important work in order to use the

information and data as fundamental information for making and improving policies, laws, rules and regulations and plans on prevent and combat violence against women and children.

Article 24. Responsibilities of Social organization
All social organizations shall have responsibilities to prevent violence against women and children by participating in the promotion of the rights of women and children, awareness raising, taking part in formulating and improving policies, laws and regulations [,] participate in carrying out the activities to prevent and combat violence against women and children [,] and taking ownership of a collaborative and cooperative role with relevant organizations in order to implement the relevant policies and laws and regulations effectively.

Article 25. Responsibilities of Family members
Members of the family have responsibilities to re-educate, [and] alert a family member to respect the rights of women and children, promote gender equality, combat all forms of act of using domestic violence and violence in society[, and] to encourage women and children in a family to develop in all aspects.

Article 26. Responsibilities of Women
Women shall take ownership in self-development and strengthening physically, psychologically, mannerly, social behavior, education, professional and labor skills training, uphold their own roles in political, economic, social and cultural affairs; [and in] national defense – public security and foreign affairs.
Women have responsibilities and shall take ownership to protect the rights and legitimate interests of themselves and of other women, encourage and participate in preventing violence against women and children. In addition [women]should not take believes and tradition to obstruct self-development.

Article 27. Responsibilities of Men
Men have responsibilities and [shall] take ownership in preventing violence against women and children, adapt-change the violence behavior and stop using violence, have a good attitude, respect the rights of individual women and children, aware of and implement their obligation in realizing the gender equality rights and children's rights. In addition men should not hold customs, traditions or beliefs to justify violence against women and children.
Men should take ownership in raising awareness, build knowledge on preventing and combatting violence against women and children

Part IV
Protection, Assistance, and Protection Measures for Victims of Violence

Chapter 1 - Protection and Assistance to the Victims

Article 28. Primary Protection and Assistance to the Victim
Family members, individuals, legal entities or organizations that have seen or know about the use of violence against women or children must protect and assist the victim, in accordance with the characteristic of violence and the urgency, by intervening to stop the violence, obstructing the violence, re-educating the parties, or requesting other individuals or organizations to help or assist in a timely manner. In cases where the violence caused injury, the victim should be referred to hospital.
Individuals, legal entities or organizations [that] have been requested to protect and assist the victim shall protect and assist the victim based on their abilities [and] by the means as mentioned in the above paragraph. Those who protect and assist the victim with good faith will be protected under the laws and regulations.

Article 29. Reporting
Individuals, legal entities or organizations [that] have found or seen the use of violence against women or children shall immediately notify or report the incident to village authorities, the organization where the incidence occurred, the Lao Women's Union, Child Protection and assistance Network or Committee for Protection and Assistance of Children or police.
If medical doctors, other health care professionals, teachers, professors, care givers or other professionals have seen or know about violence against women and children they must notify or report this to their own organization or to the police where the incidence occurred.
In cases where the victim is a child, the organization who received the report must cooperate with the Child Protection and Assistance Network or Committee for Protection and Assistance of Children to intervene in protecting and assisting children promptly.

Article 30. Response and Referral System
Organizations or police who received the report or notification about the incident of violence against women and children must immediately intervene to stop the violence and assist the victim, ask, interview, collect data and assess the situation of

the victim. If necessary, [they shall] coordinate with other concerned agencies to refer the victim and accompanied children [if there is accompanied children] to ensure that the victim receives the necessary protection and assistance as stipulated in Article 32 of this law.

Article 31. Rights of the Victim
The victim of violence has the following rights:
• To request or receive assistance from family members, nearby persons, village authorities, the organization to which the victim or offender belongs, Lao Women's Union, Child Protection and Assistance Networks or Committee for Protection and Assistance of Children, police officers or other relevant competent authorities;
• To have his/her rights respected and to be treated in a caring and sensitive/friendly manner;
• To report the violence to the village authorities, the police, Women's Union, or Child Protection and Assistance Networks or Committee for Protection and Assistance to Children to receive protection and assistance, or take judicial proceedings against the perpetrator;
• To choose the method to solve the issue of violence as stipulated in Article 47 of this law;
• To request and receive protection from coercion, threats or all forms of harm including [for] family members or accompanied children;
• To receive necessary assistance, such as counseling, safe temporally accommodation shelter, medical assistance, legal assistance, education, vocational training, and reintegration to family and society;
• To receive compensation for the harm and psychological recovery;
• To [have their information] be kept confidential;
• To receive protection and assistance from the State, National Front Construction, mass organizations and social organizations in according to the laws and regulations;
• To have other rights as prescribed under the laws and regulations.

Article 32. Necessary Protection and Assistance
After seeing and receiving the report on the incident of violence against women and children, the concerned agencies and sectors must protect and assist the victim of violence and accompanied children as follows:
•Social welfare assistance;
•Counseling assistance;
•Assistance in a safe temporally shelter;
•The assistance on care of children;
•Medical assistance;
•Legal assistance;
•Economic assistance;
•Education and vocational training assistance;
•Assistance with re-integration into family and society.

Article 33. Social Welfare Assistance
Social welfare assistance can be provided by the social welfare staff or social worker whenever there is use of violence against women and children. Such assistance shall include:
• Assess the victim's situation, such as the risks, the [victims'] development and then make an assistance plan for the victim;
• Coordinate with concerned authorities to provide necessary protection and assistance and monitor such protection and assistance;
• Report on the situation of the victim and propose the solution to the concerned authorities
• Participate in interviews, taking testimony from the victim, monitor mediation and
judicial proceedings against the perpetrator of violence

Article 34. Counselling Assistance
Psychological counselling, legal advice and health counselling assistance should be provided at any time to respond to the problem caused by the use of violence against women and children, including provision of information on women's and children's rights or victim' rights.

Article 35. Assistance in Temporary Safe Shelter
Victims who need to be separated from the perpetrator of violence who donot have shelter and have accompanied children shall receive assistance with temporary safe shelter from Lao Women's Union and Labour and Social Welfare sector with collaboration with other agencies, including food, medicine, clothes and other personal necessities according to the real situation.

Article 36. The Assistance on Care of Children
Child victims of violence committed by their parents or guardians shall receive assistance from Social Welfare sector with collaboration with other agencies, if there is a risk that violence
will continue and extended family/relatives do not have the capacity/conditions for taking care of the children.

Article 37. Medical Assistance
Victims of violence who are physically and psychologically harmed should receive medical assistance as follows:

1. To receive the medical examination, treatment and certification of health;
2. To receive psychological and psychiatric treatment and therapy;

In case of female victims, the medical examination should be carried out by a female doctor, if female victims are examined by a male doctor, a female social worker or female nurse should be presented.
In case a forensic medical examination is required by the concerned authorities, there must be consent from the victim before carrying out the examination.
If the victim is a child under 10 years of age there must be consent from a child's parents or guardian.
The victim's medical records and information shall be kept confidential, except for the provision to the authorized State authorities.

Article 38. Legal Assistance
The victim should receive legal assistance, such as legal counselling and advice, and have a lawyer or other legal protector who can protect their rights and act as the victim's representative to defend the case in court.
In the case that the victim cannot speak the Lao language, she or he should receive interpretation and translation assistance by a translator when requested, including the translation of necessary legal documents.
Victims from poor families shall receive legal assistance free of charge

Article 39. Economic Assistance
A victim who is poor and has no economic opportunities shall receive economic assistance from concerned sectors and concerned local community, such as primary financial assistance, access to financial resources or any type of work in order that the victim is able to generate an income and be economically self-sufficient.

Article 40. Education and Vocational Training Assistance
Child victims, women victims who are still in education or children accompanying the victim shall receive opportunities to continue their education in schools or in educational institutes where the victim is studying or in safe schools or educational institutes, which the Education and Sport sector and other concerned organizations shall facilitate and provide assistance according to the actual situation.
Victims who do not have the opportunity to continue their education, have the right to receive vocational training in order that they can get a job, earn an income and be able to improve their living conditions, which the Labour and Social Welfare sector shall coordinate with other relevant sectors and organizations under their roles and responsibilities.

Article 41. Assistance to Reintegrate into the Family and Society
Victims shall receive assistance to reintegrate into family and society, for which the social welfare staff or social worker or other concerned authorities must assess the victim's situation, family situation, organization and environment in which the victim resides in. If the victim is ready to re-integrate into the family, organization and environment, the social welfare staff or social worker or other concerned authorities must coordinate with the concerned authorities or concerned organizations for reintegration into the community and conduct regular periodic monitoring.
In case the victim cannot be reintegrated into the community or the victim does not want to go back to their family or community, the social welfare staff or social worker must coordinate with the concerned authorities or concerned organizations to seek a safe and appropriate place for the victim according to the actual situation and capacity.

Chapter 2 Protection Measures for Victims

Article 42. Protection Measures for Victims
In all stages of solving the problem of violence against women and children, if necessary there must be protection measures for the victims. Protection measures for the victims include:

- Prohibiting the perpetrator of violence to continue using violence against victims;
- Asking the perpetrator of violence to stop any behavior that threatens, intimidates the victim or family members of the victim;
- Asking the perpetrator of violence to provide necessary financial assistance to the victim, including the use of transportation and necessary materials or equipment;

• Prohibiting the sale, transfer, destruction of property that parties have the rights to or matrimonial property;
Asking the perpetrator of violence to participate in a rehabilitation program if the perpetrator addicted to alcohol, drugs, has mental problem;
Custody, arrest or detain of the perpetrator of violence and take legal proceeding against perpetrator;
Providing assistance, temporary shelter, medical assistance, legal assistance, vocational training, education assistance, and reintegration of the victim into family and society on a case by case basis.
Using other protection measures as needed.

Article 43.
Request for or Propose Protection Measures
The victim, their representative or an organization that the victim belongs to having seen that the victim is at further risk of being violated or at risk of further harm, can make a proposal or request to the police officers or concerned organizations to consider using protection measures promptly.
An organization or police officials who receive a report or notification of violence against women and children must propose or request the concerned organizations to consider using protection measures.
After receiving the request or proposal, the People's Court must consider issuing a protection measure for the victim within three (03) official working days from the date of receiving the request or proposal.

Article 44. Emergency Protection Measures
After receiving a report, notification of violence against women and children, the police investigation-interrogation officer must reach to incident occurred, assess the situation of the victim and the risk of violation continuing. If necessary and urgent the police investigation- interrogation officer can immediately use the protection measures for the victim and accompanied children.

Part V Prohibitions

Article 45. Prohibitions for Officers or relevant Organizations
Officers or relevant organizations are strictly prohibited to act as follows:
• Taking advantage of carrying out activities to prevent and combat violence against women and children for their own benefit, which is against the law;
• Ignoring, closing, not settling or settling the problem of violence against women and children in an unlawful way and against regulations;
• Disclosing information about the victims without their permission;
• Taking sides or favoring someone in performance of their duties;
• Abusing his/her authority or duties to other
• Engaging in any behavior that violates the laws and regulations.

Article 46. Prohibitions for Individuals, Legal Entities or Other Organizations
Individuals, legal entities, and other organizations are strictly prohibited to act as follows:
• Using violence as defined in Article 17of this law;
• Forcing, supporting, persuading or assisting other individuals to use violence;
• Taking revenge threatening to take revenge against those who protect and assist the victims;
• Obstructing persons who have seen the incidents to give testimony or cooperation in settlement of violence;
• taking advantage over opposed party or taking favoring to their own relatives and friends;
• Other acts that violate the laws and regulations.

Part VI
Settlement of Violence against Women and Children

Article 47. Type of Settlement of Violence against Women and Children
Settlement of violence against women and children is conducted in two ways as follows:
• Re-education, compromise or mediation
• Judicial proceedings
For violence that does not cause much harm either type of settlement can be applied but if the violence is serious it must be settled by judicial proceedings only.

Chapter 1
Re-education, Compromise or Mediation

Article 48. Re-education, [or] Compromise
Violence against women and children that does not cause much harm can be settled by re-education, [or] compromise.
Re-education, [and] compromise can be conducted by:
Family members, close relatives or elders of the village
An organization that the victim or perpetrator of violence belongs to
Re-education, [or] Compromise by Family Member, Close Relatives or
Family members have the responsibility to educate, compromise and find timely solutions to violence between family members to maintain the family status, security, and family solidarity aimed at preventing future violence and respecting the rights of family members.

Article 49. Village Elder
In cases that cannot be solved by family members themselves, if there is a request by a family member [,] a trusted close relative or village elder can organize re-education, [or] compromise including providing advice, assistance and encouraging parties to understand each other, love each other, reconcile and stop using violence.
In cases that cannot be solved, the victim can request mediation by the Village Mediation Committee or the Counselling and Protection of Women and Children Unit.

Article 50. Re-education, [or] Compromise by an Organization
An organization that the victim or perpetrator of violence belongs to has the responsibility to re-educate, [or] compromise in cases of violence against women and children that do not cause much harm if they occurred within the organization in order to maintain sodality, reconciliation, cooperation and to stop the use of the violence.
In cases where the violence continues, [the organization] shall report to the police for proceeding with the settlement.
Each re-education[or] compromise session should be recorded.

Article 51. Violence that can be Mediated
Violence against women and children that can be mediated is:
• Violence that is not a criminal offence
• Violence for which punishment by law is defined as a minor offence or imprisonment of
less than one year.

Article 52. Organizations that have the Rights to carry out Mediation
Mediation for violence against women and children can be conducted by the following organizations:
• Village Mediation Committee
• Counselling and Protection Unit for Women and Children
• Police Interrogation-investigation official
• The Public Prosecutor
• People's Court

Article 53. Principles for Mediation
Mediation shall proceed according to the following principles:
• Have agreement[consent] from the victim after they are informed of their rights and options for handling the case;
• Have information, comprehensive, thorough and objective evidence;
• Admission by the perpetrator of violence;
• Consider the rights and safety of the victims as the priority;
• The acceptance of the outcome of mediation should be made voluntary by the victim;
• The victim can propose to stop mediation at any time during the mediation;
• All issues that are raised or discussed at the mediation session should be kept confidential.

Article 54. Measures against Perpetrator of Violence
In mediating [cases of] violence against women and children, organizations that have the right to mediate can use the following measures against perpetrators of violence:
• Apology to the victim, the victim's family, and other affected persons;
• Warning; re-educating the perpetrator of violence to understand the negative impact of his/her action and to stop that behavior;
• Management of the behavior that caused the violence such as psychological rehabilitation, rehabilitation for alcohol and drug abuse;
• Community service or society at certain duration;

• Other measures as needed.

Article 55. Regulations and Mediation Process
In addition to the provisions under this chapter, mediation should follow the regulations and process of mediation prescribed in other separate regulations.

Article 56. Mediation Minutes
After completion of mediation, minutes should be made on all issues discussed and agreed, and issues that cannot be agreed through mediation including the measures that will be used for the perpetrator; the mediation minutes shall be read to the participants of mediation; if they agree with the minutes ask both parties and village mediation committee to sign and/or seal with their thumbprint.

Chapter 2 - Judicial Proceedings in Cases of Violence against Women and Children

Article 57. Prosecution or Filing a Petition
Filing a petition [in cases of] violence against women and children can be made verbally or in writing to the police investigation-interrogation officer.
Persons that have the rights to file a complaint or petition are:
• The victim, victims' representation or the organization that the victim belongs to
• Parents or guardians of the child victim
• Individuals, legal entities or organizations that have found or seen the violence against women or children
• Medical doctors, Labour and Social Welfare staff members or social workers, teachers, professors, care givers, police officials and other professionals who have found or seen the violence against women or children

Article 58. Consideration of Prosecution or Filing a Petition
Police investigation-interrogation officers must consider the filed petition within three official working days from the date of receiving the filled petition, whether to mediate or take judicial proceedings against the perpetrator of violence.
Mediation can be conducted only when there is agreement [consent] from the victim or parents or guardians of a child victim and mediation should follow chapter 1 under Part VI of this law and other concerned regulations.
In cases that do not meet the criteria/conditions for mediation, the police investigation- interrogation officer shall open the investigation-interrogation as prescribed in the Criminal Procedures Law.

Article 59. The Principles of Judicial Proceeding in Cases of Violence against Women and Children
The judicial proceeding in cases of violence against women and children at any stage of investigation-interrogation and court proceedings shall follow the principles stipulated under the Criminal Procedures Law.
In cases where the victim is a child or the perpetrator of violence is a child the judicial proceeding shall follow the principles stipulated under the Juvenile Criminal Procedures Law.

Article 60. Complaint for Civil Compensation
Complaint for civil compensation that involves a criminal offence shall proceed together with the criminal proceedings. In cases of violence against property or economic violence, the victim of such violence has the right to claim for civil compensation to the People's Court and the civil proceeding shall follow the Civil Procedure Law.

Part VII
Management and Monitoring

Chapter 1 - Management of Preventing and Combating Violence

Article 61. Managing Organizations
The Government manages work to prevent and combat violence against women and children centrally and uniformly throughout the country by delegating and mandating the Lao Women's Union and the National Commission for the Advancement of Women and the National Commission for Mothers and Children, line ministries and relevant organizations such as the Ministry of Labour and Social Welfare, the Ministry of Health, the Ministry of Education and Sports, the Ministry of Information, Culture and Tourism, the Ministry of Public Security, the Ministry of Justice, other sectors [and] the local administration for the implementation.

Article 62. The Rights and Duties of the Lao Women's Union

In carrying out activities to prevent and combat violence against women and children, the Lao Women's Union has the following key rights and duties:
• To make and improve policies, strategic plans, and laws related to preventing and combatting violence against women and children, gender equality and the elimination of all forms of violence against women and children [and] present these to the Government for consideration;
• To make and implement plans, [and] activities to prevent and combat violence against women and children;
• To raise awareness, disseminate policies, strategic plans, laws and regulations related to gender equality, upholding women's rights and the protection of women from violence including the concerned international conventions and treaties, to which the Lao PDR is party;
• To supervise, support, manage and monitor the performance of staff or social workers under the Lao Women's Union;
• To collect research and analyze data related to violence against woman and children;
• To provide counselling and protection for women and children, in order that women and children receive assistance, know about conditions and ways to access the justice process;
• To create activities to promote gender equality and uphold women and children's rights in families and society;
• To establish mechanisms and coordination systems to provide timely assistance to women victims and accompanied children;
• To provide assistance on counselling, safe temporary shelters, legal assistance, education, vocational training and re-integration into the community for victims, [and] represent victims during judicial proceedings free of charge;
• To coordinate, support and monitor ministries, local administrations, and other concerned agencies in implementing work to prevent and combat violence against women and children;
• To cooperate with foreign countries, at the regional level and internationally relating to preventing and combatting violence against women and children;
• To summarize and report on its own work performance to higher level.
• To implement the rights and other duties as defined under the laws [of Lao PDR].

Article 63. The Rights and Duties of the National Commission for the Advancement of Women and the National Commission for Mothers and Children
In carrying out activities to prevent and combat violence against women and children, the National Commission for the Advancement of Women has the following key rights and duties:
• To research, propose the making and improvement of policies, strategic plans, laws and regulations related to preventing and combating violence against women, promoting gender equality and combatting violence against women and children;
• To create and implement national action plan and activities to combating and preventing violence against women and children
• Raise awareness, disseminate policies, strategic plans, laws and regulations related to violence against women and children, [and] gender equality including the concerned international conventions and treaties, to which the Lao PDR is party;
• To be central coordination, support and monitor line ministries, local administration and other relevant sectors in relation with the implementation of combatting violence against women and children;
• To gather, research and data analysis on combatting violence against women and children
• To cooperate with and coordinate with foreign countries with regard to preventing and combating violence against women and children;
• To summarize and report on its own work performance to higher level regularly;
• To implement the rights and other duties as defined under the laws [of Lao PDR].

Article 64. The Rights and Duties of the Ministry of Labour and Social Welfare
In carrying out activities to prevent and combat violence against women and children, the Ministry of Labour and Social Welfare has the following key rights and duties:
• To implement the policies, laws and regulations with regard to the prevention, assistance and reintegration of victims of violence into the society and families;
• To raise awareness and disseminate laws and regulations with regard to preventing and combating violence against women and children under its responsibilities;
• To establish and manage the Child Protection and Assistance Networks or Committee for Protection and Assistance of Children to protect and assist child victims;
• To supervise, encourage, manage and monitor the work performance of staff or social workers;
• To supervise and manage the work of preventing and combating violence in factories, enterprises and other working spaces;
• To set up coordination mechanisms and systems to provide timely assistance to child victims;
• To provide vocational training, enhance labour skills and seek employment for the victims;
• To organize trainings and enhance knowledge on preventing and combating violence for staff and employees of their own organization such as the social welfare units;

• To summarize and report on its own work performance to higher level regularly;
• To implement the rights and other duties as defined under the laws [of Lao PDR].

Article 65. The Rights and Duties of the Ministry of Health
In carrying out activities to prevent and combat violence against women and children, the Ministry of Health has the following key rights and duties:
• To conduct research, propose the making of or revise policies, laws and regulations regarding medical assistance for the victims;
• To raise awareness, disseminate laws and regulations on preventing and combating violence against women and children under its responsibility;
• To supervise and manage the health care services, [and] primary health care education as necessary for families, organizations, in particular for the victims of physical, psychological and sexual violence;
• To create favorable conditions for women and children to access health care services.
• To establish and manage medical services system to provide assistance to victims and accompanied children at the same place;
• To summarize and report on its own work performance to higher level regularly;
• To implement the rights and other duties as defined under the laws [of Lao PDR].

Article 66. The Rights and Duties of the Ministry of Education and Sports
In carrying out activities to prevent and combat violence against women and children, the Ministry of Education and Sports has the following key rights and duties:
• To conduct research, propose the making of or revise policies, laws and regulations regarding education that promote gender equality and child development in all aspects;
• To raise awareness, disseminate laws and regulations on preventing and combating violence against women and children under its responsibility;
• To create favorable conditions for women to be able to access education at all levels, research on content with regard to gender equality, gender-based non-discrimination and combatting violence against women and children integration into the education curriculum;
• To supervise and manage the work to prevent and combat violence against women and children in schools and education settings;
• To provide training and enhancement of knowledge for staff members, teachers and professors on work to prevent and combat violence against women and children;
• To summarize and report on its own work performance to higher level regularly;
• To implement the rights and other duties as defined under the laws [of Lao PDR].

Article 67. The Rights and Duties of the Ministry of Information, Culture, and Tourism
In carrying out activities to prevent and combat violence against women and children, the Ministry of Information, Culture, and Tourism has the following key rights and duties:
• To raise the awareness, disseminate policies, laws and regulations with regard to preventing and combating violence against women and children, and the fine national culture and traditions;
• To disseminate [information about] the negative impacts and risks of using violence against women and children;
• To combat the production and distribution of media containing pornographic content that violate the law, [and] regulations and contradicts fine national culture and traditions. Limit media advertisements and dissemination that will cause or lead to the use of violence against women and children;
• To provide training and enhancement of knowledge for staff members, media personnel at all levels with regard to preventing and combatting violence against women and children;
• To summarize and report on its own work performance to higher level;
• To implement the rights and other duties as defined under the laws [of Lao PDR].

Article 68. The Rights and Duties of the Ministry of Public Security
In carrying out activities to prevent and combat violence against women and children, the Ministry of Public Security has the following key rights and duties:
• To monitor, search, collect information and initiate the judicial proceeding against the perpetrators of violence against women and children in a quick, accurate and correct manner;
• To re-educate, [and] mediate the perpetrators of minor violence or violence that does not cause much harm;
• To supervise and manage the use of methods and measures of investigation-interrogation or protection measures of victims, such as the arrest, detention, remand or prohibition of perpetrators to be close to the victims;
• To assist and rescue the victims and coordinate with other relevant sectors;

• To summarize and report on its own work performance to higher level regularly;
• To implement the rights and other duties as defined under the laws [of Lao PDR].

Article 69. The Rights and Duties of the Ministry of Justice
In carrying out activities to prevent and combat violence against women and children, the Ministry of Justice has the following key rights and duties:
• To research, propose the making of or revise laws related to preventing and combating violence against women and children in accordance with the actual situation of the country and the international conventions and treaties to which the Lao PDR is party;
• To raise awareness, disseminate laws and regulations on preventing and combating violence against women and children under its responsibility;
• To provide legal assistance to victims of violence;
• To provide training and enhance knowledge of laws related to preventing and combating violence against women and children for its staff members and organizations belonging to the Ministry of Justice such as the District Justice Offices, the Lao Bar Association, and the Village Mediation Units;
• To summarize and report on its own work performance to higher level regularly;
• To implement the rights and other duties as defined under the laws [of Lao PDR].

Article 70. The Rights and Duties of the Local Administration and Other Relevant Sectors
The Lao National Front for Construction, Lao Youth Unions, Lao Trade Union, Women National Assembly Members, other sectors, [and]local administration have the rights and duties to participate, collaborate, and coordinate in preventing and combating violence against women and children, settlement and assistance for victims of violence according to their roles.
For Offices of Public Prosecutor and People's Court shall be carried out the judicial proceeding in accordance with the law.

Chapter 2 - Inspection for Preventing and Combatting Violence

Article 71. Inspection Organizations
The inspection organizations consist of the following:
• Internal inspection organizations are the same as the managing organizations of preventing and combating violence against women and children as determined in Article 61of this law;
• External inspection organizations are the National Assembly, the State Inspection and anti - corruption Organization, and the Offices of Public Prosecutor, The Lao National Front for Construction and mass organization.

Article 72. Contents of the Inspection
The main contents of the inspection of work to prevent and combat violence against women and children are as follows:
• The implementation of laws and regulations related to preventing and combating violence against women and children;
• The implementation of rights and duties of the managing organizations [,] including the use of legal measures against the perpetrators;
• The prevention, protection and assistance of victims, settlement and other relevant matters.

Article 73. Forms of Inspection
There are three types of inspection as follows:
• Regular inspection;
• Inspection with advance notice;
• Emergency inspection.
Regular inspection is the inspection under a regular plan and at a set time that must be conducted at least once per year.
Inspection with advance notice is an unplanned inspection[,] which shall be conducted when deemed necessary, and subject to giving such notice to the persons that will be inspected at least twenty four hours prior to commencement of the inspection.
Emergency inspection is the inspection conducted through necessity and on an urgent basis and without prior notice to the monitored person.

Part VIII

Policies for Persons with Outstanding Performance and Measures against Perpetrators

Article 74. Policies for Persons with Outstanding Performance
An individual, legal entity or organization with outstanding performance in implementing and participating in preventing and combating violence against women and children [,] including protection and assistance to the victims shall be rewarded and receive policies [incentives] in accordance with relevant laws and regulations.

Article 75. Measures against the Violator
An individual, legal entity or organization that violates the provisions of this law particularly prohibitions as determined in Articles 45 and 46 of this law, shall be re-educated, disciplined, and be liable for fine, civil compensation or criminal punishment according to the nature and degree of severity of the violation.

Article 76. Re-education Measures
An individual, legal entity or organization that has committed violence against women or children within the family, their staff member, employee or other people [,] that does not cause much harm and it is the first time [,] shall be warned and re-educated with record.

Article 77. Disciplinary Measures
A public servant or government official [,] who has committed violence against women or children or violates the provisions of prohibitions as defined in Article 45 of this law [,] [and such behavior] is not a criminal offence [,] shall have any of the following disciplinary measures imposed on a case by case basis according to the regulation on public servants:
• Being blamed, warned and [such behavior or act] shall be recorded in her or his personnel records;
• Having his or her promotion, salary level, [and] awards suspended;
• Being dismissed from his or her position or transferred to another lower position;
• Being dismissed from public service without any incentive.

Article 78. Civil Measures
An individual, legal entity or organization [,] that has committed violence against women or children causing physical, health, life or property harm such as physical assault, obstruction to perform rights and obligations, illegal dismissal from work, forced sex [,] must be liable for civil compensation of damage caused such as costs of medical treatment, psychological rehabilitation, loss of income.

Article 79. Criminal Measures
Any individual [,] who has committed violence against women or children as defined as a criminal offence, will have legal proceedings taken against them and punished as stipulated in the
Criminal Law. In addition, the following perpetrators of violence will be also punished as follows:
• Any individual who forces his own wife to has sex will be imprisoned from three months to one year or punished without deprivation of liberty and will be fined from 300,000 Kip to 1,000,000Kip. In cases where forced sex caused serious injury the punishment will be one year to five years imprisonment and will be fined from 1,000,000 Kip to 3,000,000 Kip.
• Any individual who has sex with girls or boys below eighteen years old to fifteen years old will be imprisoned from three months to one year or punished without deprivation of liberty and will be fined from 1,000,000 Kip to 2,000,000 Kip. Cases where a person has sex with children below 15 years old to 12 years old will be imprisoned from one year to five years and will be fined from 2,000,000 Kip to 5,000,000 Kip. Cases where a person has sex with children below 12 years old will be considered as child rape and will be punished from seven to fifteen years imprisonment and will be fined from 7,000,000 Kip to 15,000,000 Kip.
• Any individual who forces any person under his/her care to get married, [or] divorced or obstruct a marriage or divorce will be punished by imprisonment of three months to one year or punished without deprivation of liberty and will be fined from 300,000 Kip to 1,000,000 Kip. In cases where a person forces a child under 18 years of age to get married [that person] will be punished by imprisonment of one year to three years and will be fined from 1,000,000 Kip to 3,000,000 Kip.
• Any individual who discriminates against children will be punished by imprisonment of one year to three years and will be fined from 1,000,000 Kip to 3,000,000 Kip.

Article 80. Criminal Measures against Those who do not Assist the Victim
Any Individual [,] who does not assist women or child victims of violence that are serious [cases of] violence where she or he is capable of giving such assistance, shall be liable for criminal responsibility as provided for in the Penal Law.

Part IX
Final Provisions

Article 81. Implementation
The Government of the Lao People's Democratic Republic and Lao Women Union are assigned to implement this law.

Article 82. Effectiveness
This law shall enter into force when the President of the Lao People's Democratic Republic has issued a decree to promulgate it and it is printed in the Official Gazette within 15 days.

Regulations and provisions that contradict this law shall be void.

Law on Protection and Development of Women, 2004 [62]

Part IV - The Protection of Women and Children against Trafficking and Domestic Violence

Chapter 2 Combating Domestic Violence Against Women and Children

Article 29. Domestic Violence against Women and Children Domestic violence against women and children is an act or omission committed by someone in the family which causes physical [or] mental impact on[,] or [which impacts on the] assets of[,] women and children in the family.

Article 30. Physical Impact
The use of violence to cause physical impact is an act of any individual in the family that causes death, incapacity, or injury to other members of the family as a result of battery, torture, locking up or tying up the person, rape or other immoral acts.

Article 31. Mental Impact
The use of violence to cause mental impact is an act of any individual in the family that causes damage to the mental health of women and children in the same family, such as: adultery, coercion, insults, defamation, scorn, [and] putting up obstacles against the performance of different kinds of activities[,] especially social activities.

Article 32. Impact on Assets
The use of violence to cause impact on assets is an intentional act of any individual in the family that causes damage to assets and results in consequences on the livelihood of family members, such as: the use of family assets for his or her own interests in an unlawful way, non-performance of obligations to take care of the family, causing women to lose their inheritance rights as provided in the laws, [and] destroying the house [or] property of the family.

Article 33. Rights of Victims
Victims of domestic violence have the right to seek assistance from other family members, persons nearby and relatives, or to report to village administrations aiming at educating the violator, stopping the violence and changing his or her bad behaviour to [achieve] a united, harmonious and happy family. In the case of domestic violence which results in serious impact constituting an offence, the victims shall have the right to report to police officers to deal with the matter in accordance with laws and regulations.

Article 34. Assistance to Victims and Protection of Persons who Provide Assistance A family member who discovers any domestic violence against women or children which threatens their life [or] physical health, which impacts on their liberty, mental health, [or] dignity or which damages their assets[,] or who is aware of such violence[,] shall assist them according to the nature and gravity of the violence and the urgency [and] necessity [of the situation,] by intervening, impeding the violence, offering conciliation, educating the parties, or requesting assistance to be provided to the victims by other people or organisations. Persons nearby, individuals or organisations discovering, being aware of or being asked to give assistance to victims who are in a situation threatening their life [or] physical health, impacting on their mental health, or damaging their assets shall give assistance to the victims in the above-mentioned ways. In the case of domestic violence which results in danger, such as physical violence, [or] burning [or] destroying houses, assets and other things, such assistance must be given promptly as provided in paragraphs 1 and 2 of Article 28 of this law. Any individual or organisation which provides assistance to the victims in good faith shall be protected according to the laws.

Article 35. Settlement of Domestic Violence against Women and Children
If the violence is not serious, the solution to it shall start from mediation and education of the user of the violence by family members, close relatives, persons nearby, counselling units to that by village mediation units, while keeping in mind the need for unity, harmony and happiness in the family. If the village mediation unit is unable to solve the problem, [or] if the violence is severe, then the village mediation unit, the counselling unit, the victim or his or her representative has the right to file a complaint to the police.

[62] Law on Protection and Development of Women, No. 70/PO (15 November 2004), available at http://www.vientianetimes.org.la/Laws%20in%20English/54.%20Law%20on%20Development%20and%20Protection%20of%20Women%20(2004)%20Eng.pdf (last visited December 30, 2018).

Article 36. Action by Police Officers After receiving a complaint from the village mediation unit, the counselling unit, the victims or their representatives, the police officers shall try to settle the matter while keeping in mind the need for unity, harmony and happiness in the family. If the violence is not serious, the police officers shall try to conciliate, [and] educate the parties with a view to reaching reconciliation and mutual trust in the family. If the above-mentioned conciliation is unsuccessful, or if the violence is serious, the police officers shall institute legal proceedings and use measures as provided under the laws. In such legal proceedings, if there is reliable evidence that the violence constitutes an offence, the police officers shall send the case to the public prosecutors, who will then prosecute the offender in court according to the laws.

Article 37. Combating Domestic Violence against Women and Children Domestic violence against women and children is a problem which is dangerous to the society, impacts on families, causes lack of warm family environment, [and causes] family separation, which makes it impossible for women and children to live in the family, creating a potential cause for them to become victims of trafficking, drug addiction, and prostitution. To combat domestic violence, the administrative authorities, the Lao Front for National Construction, mass organisations, and social organisations shall pay attention to the dissemination of information to and the education of families to be harmonious and to have gender equality, aiming at ensuring that the institution of the family is stable, happy and progressive.

Article 38. Rights of Women and Children to Counselling
In order to protect the rights and interests of women and children, women and children have the rights to counselling, legal advice, moral advice, advice on health issues and others from organisations that provide counselling services. Rights and duties of those counselling organisations will be provided in specific regulations.

Decree on the Implementation of the Law on Development and Protection of Women, 2006 [63]

[…]

Part V Combating Domestic Violence against Women and Children

Article 38: Act of domestic violence against women and children
Act of domestic violence against women and children is an action and negligence of any members of the family that create damages to the body, mind or assets of women and children in the family. Act of the use of domestic violence against women and children is any activity that causes losses in life, health, mind, liberty, dignity or assets resulting from beating, torture, detention, tying, oppression, preventing from undertaking social activities, rape, illegal divorce, adultery, insults, scorn, allegation, defamation, burning, destructing premises and other things, wasting the assets of the family. Negligence constituting a domestic violence against women and children is a noncompliance with what stipulated in the law or with what husband, family members shall be done to each other, which causes psychological damages or health to women and children in family shown by the acts of refusal of obligations in caring for-feeding the family, when delivering a child, miscarrying or getting sick, the act of not protecting right and benefits of wife and children when being harassed, the act of not sharing work for the improved standards of living of the family and the act of not sharing responsibilities of educating children to be good citizens.

Article 39: Degrees of domestic violence against women and children
There are two degrees of domestic violence against women and children: minor and severe domestic violence. Minor domestic violence is an act of:
- Gossip and allegation,
- Scorn,
- Insults,
- Defamation,
- Preventing from undertaking social activities,
- Not sharing responsibilities of educating children to be good citizens.

Severe domestic violence is an act of:
- Beating, torture,
- Detention,
- Tying,
- Oppression,

[63] Decree on the implementation of the law on development and protection of women, No. 26/PMO (6 February 2006), available at https://www.wcwonline.org/pdf/lawcompilation/Laos_On%20the%20Implementation%20of%20the%20Law%20on%20Development%20And%20Pr.pdf (last visited December 30, 2018).

- Rape,
- Adultery,
- Illegal divorce,
- Rudeness,
- Burning,
- Destructing of premises and other things,
- Wasting the assets of the family,
- Not taking responsibilities of caring for the family, when delivering a child or getting sick.
- Not protecting right and benefits of wife and children when being harassed.

Article 40: Assisting victims of minor domestic violence
In helping victims of minor domestic violence, members of families, relatives, nearby persons who see the case must intervene to stop it, prohibit the violence, mediate and educate the parties.

Article 41: Procedure of assistance to the settlement of cases
For minor domestic violence against women and children the following procedures shall be taken:
- Members of family and close relatives educate the parties,
- Nearby persons, mediation units at the village level, counseling and protecting women and children units continue to educate or mediate.

Article 42: Mediation
Having received information or requests on domestic violence against women and children, counseling and protecting women and children unit of the village must study it within 7 days in coordination with concerned authorities, fix date, venue and invite the parties and witnesses to attend mediation sessions. The mediation sessions can be held for one or several occasions, minutes of the session must be written on each occasion; the minutes must be read in front the parties, witnesses, signed and fingerprinted. On each session the parties must pay service fees of 50,000 Kips. If the parties could not reach settlement, village mediation unit notes its observation in the minutes and forwards the dossier of the case to the District Justice Office, Municipal to carry out the second mediation. In case that the settlement could not be reached, the parties have the rights to bring it to the People's Court.

Article 43: Assisting victims of severe domestic violence
In assisting victims of severe domestic violence members of family or witnesses must help immediately such as separate the parties, in case there is injured they must send the injured to hospital and at the same time they shall inform village administrative authorities and the police officers. Besides, witnesses have the right to arrest the offenders and send him/her to the police officers promptly to take necessary measures in accordance with the law such as custody, arrest, detention, spacing out the employment or depose and others.

Article 44: Informers
Individuals who have the right to inform on domestic violence are:
- Victims,
- Members of family of the victims,
- Close relatives, nearby persons and others who see the cases.
Informing shall be done orally, by phone call, or in written form. The informers will be secured and protected accordingly to the law.

Article 45: The informed
The informed Individuals who have the right to be informed on domestic violence against women and children are:
- Village administration,
- Village counseling and protecting women and children units,
- Organizations that the victims belong to and
- The Police.

Article 46: Minutes/records of information
Minutes/records of information on domestic violence against women and children shall be done as minutes of the information on trafficking in women and children as stipulated in Article 18 of this Decree.

Article 47: Necessary assistance to victims
The victims of domestic violence have the rights to receive necessary assistance in food and accommodation, legal matters,

health, short-term vocational training and repatriation as stipulated in Articles 21, 22, 23, 24, 25 and 26 of this Decree.

Article 48: Organizations responsible for providing assistance to the victims
The assistance to the victims of domestic violence shall be treated as the assistance to the victims of trafficking in persons especially trafficking in women and children as stipulated in Articles 28, 29, 30, 32, 33, 34, 35, 36 and 37 of this Decree.

21. LEBANON

The Protection of Women and Family Members from Domestic Violence Law, 2014 [64]

Article 1:

This law applies to all domestic violence cases in accordance with the following provisions.

Article 2:

The following terms, whenever found in the law, shall mean the following:

- Family: Includes either of the spouses, the father and mother of each, brothers, sisters, ascendants, and descendants, whether legitimate or illegitimate, and those related by adoption, marriage up to the second degree, guardianship, or orphan sponsorship, and the mother's spouse or the father's spouse.

- Domestic Violence: Any act, abstention, or threat committed by a family member against one or more family members as construed in the definition of family, involving one of the offenses set out under this Law and resulting in death or bodily, mental, sexual, or economic harm.

Article 3:

a. Domestic violence crimes shall be punishable as follows:
1. Article 618 of the Penal Code shall be amended to read as follows:
"New Article 618:
Anyone who forces a minor under the age of twelve to engage in begging shall be punishable with imprisonment from six months to two years and a fine ranging from one to two times the minimum wage."

2. Article 523 of the Penal Code shall be amended to read as follows:
"New Article 523:
Anyone who encourages one or more persons, whether male or female, who have not reached the age of twenty-one to engage in debauchery or corruption, facilitates such for them, or assists in the performance of such acts shall be punishable with imprisonment from a month to a year and a fine ranging from one to three times the minimum wage.
Anyone who deals in or facilitates secret prostitution shall be subject to the same penalty.
Retaining the provisions of Article 529 attached to Article 506, the penalty shall be increased in accordance with Article 257 of this Law if the crime occurs within the family, regardless of the age of the victim of the crime."

3. Article 527 of the Penal Code shall be amended and a new polarograph shall be added as follows:
"New Article 527:
Any person relying on prostitution of other persons to gain their living, or a portion thereof, shall be subject to imprisonment from six months to two years and a fine ranging from one to two times the minimum wage. Retaining the provisions of Article 529 attached to Article 506 of this Law, the penalty shall be increased in accordance with Article 257 of this Law if the crime occurs within the family, and shall be doubled if the crime was accompanied by any form of violence or threat."
[…]
6. Article 487, 488, and 489 of the Penal Code shall be amended to read as follows:
"New Article 487:
Adultery committed by either of the spouses shall be punishable with imprisonment from three months to two years. The same penalty shall be imposed on the partner in adultery, if married; otherwise they shall be imprisoned from a month to a year."
New Article 488: Either spouse shall be punishable with imprisonment from a month to a year if they take a lover openly, in any

[64]The Protection of Women and Family Members from Domestic Violence Law, Law No. 293 (7 May 2014), available in Arabic at http://www.isf.gov.lb/arabic/download/293.pdf (last visited December 30, 2018).

place whatsoever. The same penalty shall be imposed on the partner."
"New Article 489:

- An act of adultery may not be prosecuted unless one of the spouses files a complaint. The complainant shall take the capacity of a personal plaintiff.
- The accomplice or intervening party shall only be prosecuted along with the adulterer.
- Complaints shall not be accepted from a spouse who consented to the adultery.
- Complaints shall not be accepted after the passage of three months from the day on which the complainant received knowledge of the crime.
- The lapse of the right of the husband or wife shall cause the public right case and all personal cases against all offenders to lapse.
- If the plaintiff consents to resume shared life the complaint shall lapse.

7(a). Anyone who, with the intent of obtaining their conjugal rights to intercourse, hits or harms their spouse shall be punishable by one of the penalties set out in Articles 554 to 559 of the Penal Code. In the event of recurrent beatings and harm, the penalty shall be increased in accordance with Article 257 of the Penal Code. If the complainant withdraws, the public right case shall be dropped in those cases to which Articles 554 and 555 of the Penal Code apply. The provisions observed in cases of repeat and habitual commission of crimes shall remain in force if the conditions thereof are met.

7(b). Anyone who, with the intent of obtaining their conjugal rights to intercourse, threatens their spouse shall be punishable by one of the penalties set out in Articles 573 to 578 of the Penal Code. In the event of recurrent threats, the penalty shall be increased in accordance with Article 257 of the Penal Code.
If the complainant withdraws, the public right case shall be dropped in those cases to which Articles 577 and 578 of the Penal Code apply. The provisions observed in cases of repeat and habitual commission of crimes shall remain in force if the conditions thereof are met.

Article 4:

The Public Prosecutor at the Court of Appeals shall assign one or more advocates-general to a governorate to receive and follow up on complaints related to incidents of domestic violence.

[…]

Article 7:

In accordance with Article 41 of the Code of Criminal Procedure, members of the Judicial Police must go to a location where domestic violence has occurred without delay, after informing the advocate-general tasked with hearing domestic violence cases, if:

- It is a domestic violence offense discovered in flagrante;
- They are informed that a domestic violence protective order is being violated.

Article 8:

Judicial officers who attempt to force or exert pressure on a battered person with the aim of making the latter retract their complaint shall be subject to the penalty provided under Article 376 of the Penal Code.
A judicial officer's negligence of complaints and reports of domestic violence offences shall be deemed to be a significant error under Article 130, paragraph 2, of Law No. 17 of 06/09/1990 on the Regulation of the Internal Security Forces. Offenders shall be transferred before the Disciplinary Council.

Article 9:

Upon receipt of complaints or reports, and after consultation with the advocate general assigned to hear domestic violence cases, the Judicial Police shall, under the supervision of the advocate-general, undertake the following:

- Hear the victim and the suspects, in the presence of the social worker mentioned in Article 5 hereof, after informing them of their rights provided under Article 47 of the Code of Criminal Procedure.
- Hear the domestic violence witnesses, including minor children, in the presence of the social worker provided under Article 34 of Law No. 422 of 06/06/2002.

Article 10:

Members of the Judicial Police must inform the victim of their right to obtain a protective order under Article 12 ff. hereof, and to seek the assistance of an attorney if desired, in addition to informing them of all rights provided under Article 47 of the Code of Criminal Procedure.

Article 11:

The advocate-general assigned to receive domestic violence complaints may, before issuance of a protective order by the relevant authority, task the judicial police, under their supervision, to undertake one or more of the following measures:

a. Obtain a promise from the accused to refrain from confrontation with or instigation of a confrontation with the victim and all of the persons listed in Article 12 of this Law under penalty of application of item (1) of paragraph (b) of this Article.
b. If there is a danger to these same persons:
   1. Bar the accused from entering the family home for one 48-hour period, which may be extended once, if there is no other way to secure the protection of the victim and their children and all of the persons listed in Article 12 of this Law. 2. Arrest the accused in accordance with Article 47 of the Code of Criminal Procedure.
   3. Move the victim and all persons listed in Article 12, if they wish, to a secure location at the expense of the accused, according to his means.

c. If the violence results in a condition requiring medical treatment or hospitalization, the victims of violence shall be transferred to the hospital and the accused must advance the treatment expenses.

If the accused refrains from advancing the expenses stated in paragraph (b) item 3 and paragraph (c) of this Article, the procedures followed to enforce the expense provisions in the Code of Civil Procedure shall be applied against the accused. Notwithstanding Article 999 of the Code of Civil Procedure, the Public Prosecution shall issue an arrest warrant for an accused who refrains from advancing the aforementioned expenses.

Article 12: Protective orders are a provisional measure issued by the relevant judicial authority in accordance with the provisions of this Law connected to hearing domestic violence cases.

The purpose of protective orders is to protect the victim and their children. Other descendants and all those living with the victim shall benefit from a protective order if they are exposed to danger, as well as social assistants, witnesses, and any other person providing assistance to the victim, in order to prevent continued or repeated violence.
Children legally included in the protective order shall mean those who are at the age of legal custody in accordance with personal status legal provisions and all the laws in force.
[…]

Article 14: Protective orders shall include the imposition of one or more of the following measures on the accused:

1. Bar confrontation or the instigation of a confrontation with the victim and all of the persons listed in Article 12 of this Law.
2. Not obstructing the continued occupation of the familial home by the victim and the persons residing with her under protection.
3. Removal of the perpetrator of violence from the home, temporarily and for a period determined by the relevant authority, when the victim is seen to be in danger.
4. Removal of the victim and those residing with her included under the protection, when it appears that they face actual danger due to their continued occupation of the family home, to a secure and suitable temporary residence. If the victim is removed from the home, those of her children who are of the age of legal custody shall be legally removed with her, as well as all children and residents if they are exposed to danger. The accused must, in accordance with his capabilities, advance residence expenses.
5. Advance of an amount, in accordance with the capabilities of the accused, for food, clothing, and education, for those who require it.
6. Advance of an amount, in accordance with the capabilities of the accused, for the expenses required for medical treatment or hospitalization of the victim and all persons listed in Article 12 of this Law, if the violence perpetrated results in a condition requiring such treatment.
7. Refrain from damaging any of the property of the victim and the persons included in the protective order.
8. Refrain from damaging and bar disposal of furniture in the home and shared movable property.
9. Enable the victim, or anyone representing them, if they have left the home, from entering the home to take their personal belongings pursuant to a surrender order.

For all temporary advances, the victim and the accused retain the right to seek recourse before the competent courts to obtain

the appropriate ruling in accordance with the relevant rules in force.
Enforcement of an expense ruling issued by a competent court shall suspend the advance stipulated in the protective order.

Article 15:

Submission of a protection request shall not bar the right of the victim or the accused to file or pursue a case before the courts of all different types and jurisdictions.

Article 16:
Submission of a protection request may be done without the assistance of an attorney and shall be exempted from judicial expenses and fees.

Article 17: Protective orders issued by the courts for urgent matters shall be duly enforced. Protective orders issued by the criminal courts shall be enforced through the Public Prosecutor's Office at the Court of Appeals. The victim and all beneficiaries of the protective order, and the accused or defendant may request that the authority that issued the order or the court hearing the case cancel or amend the order if new circumstances arise. Decisions ruling to repeal or amend a protective order shall be subject to the review mechanism referred to in Article 13 of this law.

Article 18:

Anyone who violates a protective order shall be subject to imprisonment for up to three months and a maximum fine of twice the minimum wage, or one of the two punishments.
If the violation is accompanied by the use of violence, the violator shall be subject to imprisonment for up to a year and a maximum fine of four times the minimum wage.
The penalty shall be doubled if the violation is repeated.

Article 19:
The trial shall take place confidentially before the authorities hearing domestic violence crimes.

Closing Provisions

Article 20:
In addition to the penalties provided under the provisions of this Law, the court may oblige the perpetrator of a domestic violence crime to undergo antiviolence rehabilitation courses at specialized centers.

Article 21:
A special fund shall be established as a legal entity that is financially and administratively independent to assist and care for domestic violence victims, provide ways to reduce and prevent domestic violence crimes, and rehabilitate perpetrators.
This fund shall be funded by:

- State contributions, with a nominal allocation made for this purpose in the budget of the Ministry of Social Affairs.
- Donations

The regulation of the fund shall be specified under a decree adopted by the Parliament, based on a proposal from the Minister of Justice and the Minister of Social Affairs.
The Public Law for Public Institutions, issued under Decree No. 4517/1972, shall apply to the fund.
The fund shall be subject to the oversight of the Minister of Social Affairs.

[…]

22. LESOTHO

Penal Code Act, 2010 [65]

Unlawful sexual act
52. (1) A person who has unlawful sexual act with another person, or causes another person to commit an unlawful sexual act, commits an offence.

[65] Penal Code Act (2010), Act No. 6 (published in the Government Gazette on 9 March 2012), available at http://www.wipo.int/wipolex/en/text.jsp?file_id=344997 (last visited December 30, 2018).

[…]

A person does not consent to sexual intercourse if -

[…]

(h) he or she withholds consent from an act of sexual intercourse with a person to whom he or she is currently married, and one of the following conditions is satisfied –
(i) he or she is sick;
(ii) the husband or wife uses abusive language, violence or threats in order to have sexual intercourse;
(iii) he or she has obtained a judicial order of restraint in respect of the husband or wife; or
(iv) he or she has been separated from the husband or wife by judicial order.

23. LIBERIA

Executive Order on Domestic Violence, 2018 [66]

24. LIBYA

Penal Code, 1953 (As amended) [67]

Article 375 - Homicide or Injury to Preserve Honour
Anyone who surprises his wife, daughter, or sister in the act of sexual intercourse outside of wedlock or in any unlawful sexual intercourse and thereupon kills her, her associate, or both together, in response to the attack upon his honour or that of his family, shall be punished by detention.
If the act results in gross or serious harm to the persons mentioned in the same circumstances, the penalty shall be detention not exceeding two years.
Merely beating or causing simple harm in such circumstance shall not be subject to punishment.

Article (396)
Negligence in Performing Familial Duties
Anyone who avoids the duties of maintenance that arise from his paternal status or his duty as guardian or as husband, by abandoning his home, or following a course of conduct that is inconsistent with the sound order and morals of his family, shall be punished by detention for a period not exceeding one year or a fine not exceeding LYD 50. The penalty shall be increased by one half if the offender commits any of the following acts:

1. Steals or squanders the property of his juvenile son, of anyone entrusted to his guardianship, or of his spouse.

3. Deprives of the means of sustenance his descendants who are juveniles or incapable of work, his ascendants or his spouse, provided that he has not been legally separated from her through no fault of his own.

25. LITHUANIA

Law on Protection Against Domestic Violence, 2011 [68]

CHAPTER ONE
GENERAL PROVISIONS

Article 1. Purpose of the Law

[66] Law on Protection Against Domestic Violence, 2011, available at https://emansion.gov.lr/doc/sc.pdf (last visited December 30, 2018).
[67] Penal Code, 1953 (with amendments up to 5 February 2014), available in English at https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=97659&p_classification=01.04 ;in Arabic at http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/97659/115997/F-671669284/LBY97659%20Ara.pdf (last visited December 30, 2018).
[68] Law on Protection Against Domestic Violence, Law No. XI-1425 (26 May 2011), available at http://wbl.worldbank.org/en/data/exploreeconomies/lithuania/2017 (last visited December 30, 2018).

1. This Law shall aim at protecting persons against domestic violence, which, due to damage caused to society, is attributable to the acts of public importance, promptly responding to arising threats, undertaking prevention measures, applying protection measures and providing appropriate assistance.

2. Domestic violence shall be an act of violation of human rights and freedoms. This Law shall define the concept of domestic violence, establish the rights and liability of subjects of domestic violence, implementation of prevention measures, provision of assistance in the event of domestic violence and application of protection measures to victims of violence. Protection of children against violence shall be regulated by this Law and other legal acts of the Republic of Lithuania.

Article 2. Definitions

1. **Domestic environment** shall mean the environment comprising the persons currently or previously linked by marriage, partnership, affinity or other close relations, also the persons having a common domicile and a common household.
2. **Non-governmental organisation** shall mean a public legal person independent of state and municipal institutions and operating on a voluntary basis for the benefit of society or a group thereof, the purpose of whose activities is not seeking profit or political power or implementing exclusively religious goals.
3. **Assistance to victims of domestic violence** (hereinafter referred to as "**assistance**") shall mean psychological, legal, social, health care, educational, accommodation and other necessary services provided by state, municipal institutions and non-governmental organisations to victims of domestic violence.
4. **Victim of domestic violence** (hereinafter referred to as "**victim of violence**") shall be a person against whom domestic violence has been used, also a child who has become a witness of domestic violence or lives in an environment exposed to violence.
5. **Violence** shall mean an intentional physical, mental, sexual, economic or another influence exerted on a person by an act or omission as a result whereof the person suffers physical, property or non-pecuniary damage.
6. **Perpetrator of violence** shall mean a person who inflicts domestic violence.
7. **Subject of domestic violence** shall mean a victim of violence or a perpetrator of violence.
8. **Specialised comprehensive assistance to victims of violence** (hereinafter referred to as "**specialised comprehensive assistance**") shall mean comprehensive assistance provided by specialised assistance centres to address the critical situation in the event of domestic violence,
specialised assistance rendered by psychologists, legal and other assistance.
9. **Specialised assistance centre** shall mean an institution performing public functions and providing specialised comprehensive assistance to victims of violence.
10. Other concepts used in this Law shall be understood as they have been defined in other legal acts of the Republic of Lithuania.

Article 3. Principles of Protection against Domestic Violence

Protection against domestic violence shall be implemented in compliance with the following principles: co-operation, participation, comprehensiveness, accessibility and quality, solidarity, appropriateness, co-ordination, legality, protection of human rights and freedoms, proportionality, humanity, justice, effectiveness, impartiality and efficiency.

Article 4. Prevention of Domestic Violence

1. State and municipal institutions, agencies and non-governmental organisations shall, within the remit of their competence, prepare and implement the measures aiming at preventing domestic violence, act in compliance with the requirements of this Law and other legal acts.
2. Prevention measures shall be implemented in accordance with the programmes developed by the Government of the Republic of Lithuania (hereinafter referred to as the "Government") and the institutions authorised by it as well as municipalities and financed from the state budget and municipal budgets and funds of international programmes. The Government shall finance the prevention activities carried out by non-governmental organisations.
3. State and municipal institutions, agencies and non-governmental organisations shall, aiming to prevent domestic violence and within the remit of their competence, take the following prevention measures:
1) organise public education and awareness campaigns promoting zero tolerance of
violence;
2) organise training and in-service training courses for judges, prosecutors, police officers, specialists and other persons working in the field of prevention of domestic violence and assistance under the programmes developed by the Government and institutions authorized by it as well as municipalities and financed from the state budget and municipal budgets and funds of international programmes;
3) organise legal education of the public concerning the acts considered as domestic violence, the legal consequences of these acts and inevitability of liability for commission thereof;
4) organise research, collection of statistical data on domestic violence and analysis of these data;
5) organise courses teaching the ways of peaceful resolution of domestic conflicts;
6) refuse to issue an authorisation to keep (carry) a weapon or annul the authorisations currently held;
7) take other prevention measures.

CHAPTER TWO
PROTECTION OF A VICTIM OF VIOLENCE

Article 5. Measures Ensuring the Protection of a Victim of Violence

1. Where the fact of an incident of domestic violence is established, the following measures of protection of a victim of violence shall be imposed:
1) the obligation for the perpetrator of violence to temporarily move out of the place of residence, if he resides together with the victim of violence;
2) the obligation for the perpetrator of violence not to approach the victim of violence, not to communicate and not to seek contact therewith.
2. The measures specified in subparagraphs 1 and 2 of this Article shall be applied until completion of examination of a case, unless a pre-trial investigation judge imposes the pre-trial supervision measures specified in the Code of Criminal Procedure of the Republic of Lithuania, namely, detention or the obligation to reside separately from the victim. These measures shall be imposed by a ruling of the pre-trial investigation judge not later than within 48 hours.
3. The measures specified in subparagraphs 1 and 2 of paragraph 1 of this Article shall be imposed in combination with the punishment, with the exception of the cases when the convict is subject to arrest or imprisonment.
4. The measures referred to in subparagraphs 1 and 2 of paragraph 1 of this Article shall not be imposed if the perpetrator of violence is a minor.
5. In imposing the measures referred to in subparagraphs 1 and 2 of paragraph 1 of this Article, where a victim of violence or perpetrator of violence cannot be deprived of care due to their physical or mental defects or properties, the issue of care of these persons shall be resolved in accordance with the procedure laid down by legal acts of the Republic of Lithuania.

Article 6. Application of Measures Ensuring the Protection of a Victim of Violence

1. Upon recording an incidence of domestic violence, a police officer shall immediately take measures to protect a victim of violence and, taking account of the circumstances, initiate a pre-trial investigation and notify the prosecutor if the prosecutor's order is necessary to initiate the pre-trial investigation.
2. Procedural actions shall be subject to accelerated proceedings where the circumstances of an incident of domestic violence are clear, and a criminal case concerning the commission of this act must be heard by a district court.

Article 7. Functions of Police Officers

1. On receipt of a notice of an incident of domestic violence and on arrival to the place of the incident or being witnesses to the incident, police officers shall record the fact of occurrence of the incident of domestic violence and initiate pre-trial investigation. A victim of violence shall not file a complaint.
2. Police officers shall organise provision of assistance in accordance with the procedure established in paragraphs 1 and 3 of Article 9 of this Law.
3. Where an obligation is imposed on the perpetrator of violence to temporarily move out of the place of residence, if he resides together with the victim of violence, police offices shall immediately ensure the moving out of the perpetrator of violence. The procedure for evicting the perpetrator of violence shall be laid down by an institution authorised by the Government.
4. Police officers shall notify a specialised assistance centre of an obligation imposed by court on the perpetrator of violence to temporarily move out of the place of residence immediately, and in no case later than the next working day following adoption of the decision. Where, upon imposing on the perpetrator of violence the obligation to move out, a minor is left without care, the police officers shall notify thereof a children's rights protection division.
5. Police officers shall control execution of a court's decision. Control shall be exercised in accordance with the procedure laid down by an institution authorised by the Government.

CHAPTER THREE
MANAGEMENT AND ORGANISATION OF ASSISTANCE

Article 8. Management of Assistance

1. Management of assistance shall include planning, administration, organisation of assistance measures, allocation of responsibilities and securing of funding.
2. The Government shall approve a long-term state programme for the provision and funding of assistance developed by an institution authorised by the Government and financed from the state budget and municipal budgets and funds of international programmes.
3. The institutions authorised by the Government shall be responsible for development of a programme for specialised assistance centres. The specialised assistance centres shall be established with priority given to non-governmental organisations.
4. Specialised assistance centres shall provide specialised comprehensive assistance.

5. Municipal institutions and non-governmental organisations shall, in accordance with the procedure laid down by laws, render and implement long-term assistance services.
6. Provision of assistance shall be under supervision of competent authorities.

Article 9. Organisation of Assistance

1. On arrival to the place of an incident of domestic violence, police officers shall inform a victim of violence of the possibilities of receiving assistance and, upon informing him, report the incident to a specialised assistance centre.
2. Upon receipt of a report from police officers, a specialised assistance centre shall forthwith contact a victim of violence and offer him specialised comprehensive assistance.
3. Police officers shall forthwith, but in no case later than the next working day, give a notice to a children's rights protection division where a minor is exposed to domestic violence, becomes a witness thereof, lives in an environment wherein violence is inflicted or where a person suspected of inflicting violence is a minor.

CHAPTER FOUR
RIGHTS OF SUBJECTS OF DOMESTIC VIOLENCE

Article 10. Rights of a Victim of Violence

1. A victim of violence shall have the right to:
1) obtain from a police officer and from a specialised assistance centre information on the institutions providing assistance under this Law;
2) receive specialised comprehensive assistance provided for victims of violence;
3) apply for and receive assistance in accordance with the procedure laid down by this Law and other legal acts of the Republic of Lithuania.
2. The rights stipulated in paragraph 1 of this Law shall be granted also if a person does not apply to the police concerning domestic violence.

Article 11. Rights of a Perpetrator of Violence

A person suspected of inflicting violence shall have the right to:
1) obtain from a police officer information on the institutions providing accommodation services, if the person is imposed an obligation to move out from the place of residence;
2) submit explanations concerning domestic violence;
3) apply for and receive assistance in accordance with the procedure laid down by other legal acts of the Republic of Lithuania.

CHAPTER FIVE
LIABILITY FOR DOMESTIC VIOLENCE

Article 12. Liability For Domestic Violence

1. Violence shall incur criminal liability.
2. A perpetrator of violence who causes damage to a person's health, property, environment, also inflicts non-pecuniary damage must compensate the victim of violence for the damage incurred in accordance with the procedure laid down by legal acts of the Republic of Lithuania.

Article 13. Liability for a False Report

A person who files a false report on an incident of domestic violence or abuses the rights of a victim of violence shall be held liable in accordance with the procedure laid down by legal acts of the Republic of Lithuania.

CHAPTER SIX
FINAL PROVISIONS

Article 14. Entry into Force and Application of the Law

1. This Law, with the exception of Article15, shall enter into force six months after the publication thereof in the official gazette *Valstybės žinios*.
2. The provision of paragraph 4 of Article 8 of this Law shall apply after the Government or an institution authorised by it approves a programme for specialised assistance centres within the time limits specified in paragraph 3 of Article 15 of this Law.

Article 15. Proposals to the Government

1. The Government shall, within three months from publication of this Law in the official gazette *Valstybės žinios*, submit to the Seimas of the Republic of Lithuania draft amendments to the laws related to implementation of this Law.
2. The Government or an institution authorised by it shall adopt the legal acts implementing this Law prior to the entry into force of this Law.
3. The Government or an institution authorised by it shall, within six months from publication of this Law in the official gazette *Valstybės žinios*, approve a programme for specialised assistance centres.

[…]

Criminal Code, 2000 (As amended)
Arts. 129, 135, 140

Criminal Procedure Code, 2012 (As amended)
Art. 132-1

26. LUXEMBOURG

Domestic Violence Law, 2013 [69]

[…]

CHAPTER I

Amendment of the law of September 8th, 2003 on domestic violence amending[70]:
1. the Law of 31 May 1999 on the Police and the Police General Inspectorate[71];
2. the Criminal Code[72];
3. the new Code of Civil Procedure, known as the Domestic Violence Act.

Article 1 - Article I of the Domestic Violence Act includes as follows:
"Art. I.
(1) As part of its crime prevention and personal protection missions, the police, with the authorization of the State Prosecutor, evict from their homes and dependencies individuals whom there is evidence that they are preparing to commit against a person with whom they live in a family setting, an offense against life or his or her physical and mental integrity, or that they are preparing to re-commit to that person, who is already a victim, an offense against life or his or her physical and mental integrity.
The person who is the subject of an expulsion order may not plead any real or personal rights home report to oppose the measure.
The expelled person is informed of his right to appeal against the expulsion order provided for in articles 1017-1 and 1017-2 of the New Code of Civil Procedure. This appeal shall not have suspensory effect.
(2) The expulsion shall prohibit the evicted person from entering his or her home and its dependencies, from contact, orally, in writing or by proxy, with the protected person and approach them. Police have the right to verify compliance with these prohibitions.
If the need arises for the expelled person to enter his or her home or his or her dependencies, notwithstanding the prohibition referred to in paragraph 1, it may do so only in the presence of a police officer.
(3) The police shall give the person who is the subject of the expulsion order the opportunity to take the items urgently needed and to find out about their accommodation options.
The person communicates to the police the address to which he or she can be reached. If he or she cannot or does not want to provide an address, he or she is deemed to be an address for service to the municipal administration of the place of residence, in particular for the purposes of convocations and notifications provided for in articles 1017-3 and 1017-4 of the New Code of Civil Procedure and for those of the service of a possible summons under section 1017-9 of the New Code of Procedure and the police inform him or her.
In addition, the police are provided with all keys and other devices designed for opening doors giving access to the home and its outbuildings and notifies the person concerned that if he or she enters or tries to break into home or his dependencies, notwithstanding the expulsion measure, he or she is liable to the penal sanctions provided Article 439 of the Penal Code.

[69] Domestic Violence Law, Law A-No. 150 (30 July 2013), available at http://data.legilux.public.lu/file/eli-etat-leg-memorial-2013-150-fr-pdf.pdf (last visited December 30, 2018).
[70] Law on Domestic Violence (8 September 2003), available at http://legilux.public.lu/eli/etat/leg/loi/2003/09/08/n1/jo (last visited December 30, 2018).
[71] Law on the Police and the Police General Inspectorate, 31 May 1999, available at http://legilux.public.lu/eli/etat/leg/loi/1999/05/31/n7/jo (last visited December 30, 2018).
[72] Criminal Code, available at http://legilux.public.lu/eli/etat/leg/loi/1879/06/18/n1/jo (last visited December 30, 2018).

(4) Where the person concerned refuses to voluntarily comply with the eviction order or hand the keys over and other devices designed for doors opening, the police are authorized to resort to force if necessary to expel the person or to seize keys and other devices designed for doors opening.
(5) The expulsion shall be the subject of minutes to be drawn up by police officers immediately and forward to the state prosecutor. This report mentions in particular:
- the indices at the base of the expulsion measure;
- the day and time of the orderly measure;
- the address provided by the evicted person to reach it.
If the execution of the ordered measure had to be carried out by force, it is mentioned in the minutes.
The minutes mention any other statements that the evicted person intends to make.
The report is presented to the person evicted for signature. A copy is given to him or her. In case of refusal to sign or in case of refusal to accept the delivery of the copy, mention is made of the refusal and the reasons for it. A copy of the minutes is also given to the person to be protected. If that person, for reasons of fact or right, is not able to receive a copy, and if there is no other person able to receive the copy in place of the person to be protected, mention is made of it.
(6) The expulsion order is automatically terminated at 5 pm on the fourteenth day following the day of its entry in force unless the protected person has lodged a request for an extension in accordance with the formalities required by Article 1017-2 of the New Code of Civil Procedure.
At the expiry of the expulsion order and in the absence of a ban on return to home pronounced based on Articles 1017-1 and following of the New Code of Civil Procedure, the police return keys and other devices designed for the doors opening to the person claiming them. “

Art. 2. Article II of the same law reads as follows:
"Art. II.
(1) On the day of the entry into force of the expulsion order, the police shall inform an association providing help to victims of domestic violence of the expulsion measure. The prosecutor's office sends him a copy of the documents concerning the expulsion.
The term " association for victims of domestic violence " means any private law organization public whose purpose is to assist, guide and advise victims of domestic violence, including children who witness domestic violence, actively looking for their contact.
This organization must have, for the exercise of the activities referred to above, written approval in accordance with the law of September 8th, 1998 regulating the relations between the State and the organisms working in the social, family domains and therapeutic. In addition to the legal conditions provided for in Article 2 of the aforementioned Act of 8 September 1998 and regulatory requirements under this Act, the organization must ensure that its activities are carried out in cooperation with the police, the judiciary and other relevant state authorities, taking into account the specificity of the respective roles devolved to them, as well as respecting the will and dignity of the protected person.
Anyone who, in any capacity, participates in the activities of an assistance service for victims of violence domestic, obtains or receives the communication of personal data pursuant to this Article, is professional secrecy under the conditions and under the penalties of Article 458 of the Penal Code.
(2) the police inform the eviction measure of a service that supports perpetrators of domestic violence. The prosecutor's office sends him or her a copy of the documents concerning the expulsion.
The term " a service that supports perpetrators of domestic violence" means anybody governed by law public or private sector whose provide psychological care against violence and contact and proactive intervention for any perpetrator of domestic violence within the meaning of this law.
It works in collaboration with the service of assistance to the victims of domestic violence. Where applicable, the provisions of paragraphs 3 and 4 of paragraph 1 above shall apply by analogy.
(3) The police shall also inform the evicted person of his or her obligation to report within seven days to from the day of entry into force of the expulsion order, to a service that supports the authors of domestic violence. In the event of a no-show of the person expelled within this period, the service taking into the perpetrators of domestic violence contact her and summon her for an interview.
The service that deals with perpetrators of domestic violence report to the prosecutor's office. "

Art. 3. Article III of the same law reads as follows:
"Art. III.
The Minister responsible for Justice, Police, Public Prosecution, Services for victims of domestic violence and services that support with domestic violence perpetrators, prepares each year statistics broken down by gender, age and relationship between author and victim and indicating for each, the existence or absence of a situation of cohabitation between the author and the victim, each concerning, in particular, the number of complaints, denunciations, expulsion measures, other types of police, social interventions, prosecutions and convictions for the offenses referred to in the following articles:

327 to 330 in combination with Article 330-1,
372 to 377,
393; 394; 395; 396; 397
401bis,
409
434 to 438, in conjunction with section 438-1 and
439 paragraph 2 of the Penal Code
as well as on the measures referred to in Articles 1017-1 to 1017-12 of the New Code of Civil Procedure. "

Art. 4. Article IV of the same law reads as follows:
"Art. IV.
A committee of cooperation between professionals in the field of the fight against violence is created, hereinafter referred to as the Cooperation Committee, composed of representatives of State, for the implementation of this Law, as well as representatives of the approved services of assistance to the victims of violence domestic service providers and authorized service providers who deal with perpetrators of domestic violence. The Cooperation Committee is responsible for centralizing and studying the statistics referred to in the preceding Article, to examine the implementation and potential problems of practical application of the Articles I to III of this Law, Articles 1017-1 to 1017-12 of the New Code of Civil Procedure and Article 3-1 of the Code of Criminal Procedure and submit to the Government the proposals it deems useful. A grand-ducal regulation fixes its composition, its organization and how it works. "

CHAPTER II
Amendment of the amended law of May 31, 1999, on Police and the General Inspectorate of Police

Art. 5. The Article 33, paragraph 2, of the Law of 31 May 1999 on the Police and the General Inspectorate of Police takes the following content:
"For this purpose, it provides general surveillance and controls in places that are legally accessible to it, exercises the powers defined by the articles I to III of the amended law of 8 September 2003 on domestic violence, executes administrative police measures and takes physical measures of administrative police of its competence. "

CHAPTER III
Amendment of the Penal Code

Art. 6. Article 439 of the Penal Code is amended and supplemented as follows:
1. Paragraph 2 reads as follows:
"Shall be punished by imprisonment from six months to two years and a fine of 251 euros to 3,000 euros, or of one of those punishments only, the one who has introduced or attempted to break into a house, an apartment, room or dwelling inhabited by a person with whom he has cohabited, or their dependencies, in violation of an expulsion measure governed by Article I of the amended law of 8 September 2003 on domestic violence, an interim injunction granting interim housing to spouse or an order prohibiting him from returning home, in accordance with article 1017-1 or 1017-7 of the New Code of Civil Procedure. "
2 . A new paragraph 3 is added which reads as follows:
"If the introduction or attempted introduction was made using threats or violence against persons, whether by means of burglary, climbing or false keys, or even by means of keys or devices designed for opening the doors he had to hand over, the maximum fine is increased to 5,000 euros and the maximum of the prison sentence is increased to five years. "
3. A new paragraph 4 is added which reads as follows:
"Will be punished by imprisonment of fifteen days to two years and a fine of 251 euros to 3,000 euros, or only one of those two penalties, the person who acted intentionally in violation of a prohibition of approach to the protected person, a prohibition resulting from the expulsion measure governed by Article I of the amended law of 8 September 2003 on domestic violence. "
4. A new paragraph 5 is added which reads as follows:
"Shall be punished with imprisonment of fifteen days to two years and a fine of 251 to 3,000 euros, or only one of those penalties, anyone who will violate the prohibitions or injunctions by the President of the District Court pursuant to Article 1017-8 of the New Code of Procedure civil. The offenses provided for in this paragraph may be prosecuted only on the complaint of the victim or his
legal representative."

CHAPTER IV
Amendment of the New Code of Civil Procedure

Art. 7. Article 1017-1 of the New Code of Civil Procedure is replaced by the following provisions:
"Art. 1017-1.
(1) In cases where a person has benefited from the protection of an eviction measure based on the Article I of the amended law of 8 September 2003 on domestic violence, it may, by simple request, ask to the president of the district court to pronounce against the person expelled a prohibition of return at home for a maximum period of three months following expiry of the expulsion order, without regard to any real or personal rights of the evicted person in relation to the domicile, provided that cohabited in a family setting with the person expelled before being expelled and to justify that the satisfies its urgent housing needs.
(2) The plaintiff party may also, at the time of the motion, apply to the president of the court extension of the prohibitions provided for in the Article I, paragraph 2, of the amended Law of 8 September 2003 on domestic violence.
(3) The expelled person may, by simple application addressed to the president of the district court, formulate an appeal against the expulsion measure. This appeal does not have suspensive effect.
(4) The prohibitions referred to in paragraphs 1 and 2 shall terminate ipso jure, as soon as a decision is taken to regulate the residence of the spouses or the rights of access and accommodation during the divorce proceeding. "

Art. 8. Article 1017-2 of the same Code is replaced by the following provisions:
"Art. 1017-2.
The protected person's application must be filed no later than the fourteenth day following the entry into force of the expulsion measure based on the Article I of the amended law of 8 September 2003 on the domestic violence. If the application has been made in accordance with the provisions of this paragraph, the eviction will continue to have effect pending the order of the President to intervene. It shall be lodged at the registry by the person concerned or by his representative and recorded in a special register, on non-paper stamped, kept in the registry of the court.
The declaration contains, on pain of nullity:
1° the surnames, forenames, professions of the plaintiff and defendant;
2° the domicile in question, and the address that the defendant communicated to the police according to Article 1, paragraph 3, subsection 2 of the amended law of 8 September 2003 on domestic violence, unless that she failed to do so, in which case the mention of domicile is sufficient;
3° the subject of the application and the statement of the grounds.
On the request is attached the copy of the report drawn up at the time of the expulsion.
The petition of the evicted person must be introduced according to the same formalities. This request will not have an extension of the expulsion order beyond the 14th day pending the order of the President to intervene. "

Art. 9. Paragraph 4 of Article 1017-3 of the same Code is amended as follows:
"The order prohibiting the return home, or the release of the expulsion order is enforceable provisionally and without sureties, on a minute and before registration. "

Art. 10. Article 1017-5 of the same Code reads as follows:
"Art. 1017-5.
(1) The parties are required to appear in person or by the ministry of a lawyer.
(2) The parties may be assisted or represented by
a lawyer,
their spouse or the person with whom they usually live,
their parents or allies in a direct line,
their parents or allies in a collateral line up to the third degree included,
persons exclusively attached to their personal service or their business,
an employee of a helpdesk service for victims of domestic violence.
The representative, if not a lawyer, must have special authority.
(3) For the defense of the interests of minors, articles 388-1 and following of the Civil Code are applicable.
(4) The expelled person may be assisted by a collaborator of a service that supports the authors of
domestic violence. "

Art. 11. Article 1017-7 of the same Code is replaced by the following provisions:
"Art. 1017-7.
(1) When a person makes life at home intolerable to a person with whom he cohabits or has cohabited in a family setting, either because he or she assaults her/him or threatens to assault her/him or because he or she has a behavior that seriously affects him or her mental health, the president of the District Court orders him or her, at the request of the person concerned,

to leave the home and his dependence and forbids him or her to return there before the expiry of a maximum period of three months, without regard to any real or personal rights of the defendant in relation to the domicile.
(2) The plaintiff must prove that the home meets its urgent housing needs and that cohabiting or cohabiting in a family setting with the defendant during the three months preceding the request.
(3) The prohibition referred to in paragraph 1 terminates ipso jure, as soon as a decision is taken to settle the residence of the spouses or the rights of access and accommodation during the divorce proceedings. "

Art. 12. Article 1017-8 of the same Code reads as follows:
"Art. 1017-8.
When a person assaults or threatens to attack a person with whom he or she cohabits cohabiting in a family context, when he or she behaves in a manner that seriously psychic health and makes it intolerable any meeting with her, the president of the district court at the request of the person concerned, issue all or part of the injunctions or prohibitions enumerated below, provided that they do not conflict with the fundamental and legitimate interests of the defendant:
- the prohibition to contact the plaintiff;
- the prohibition to send messages to the plaintiff;
- the prohibition to approach the plaintiff;
- the prohibition of approaching the accommodation service and annexes, the childcare facility and the school;
- the prohibition to establish one's domicile in the same neighborhood as the plaintiff;
- the prohibition to frequent certain places;
- the prohibition to use certain routes;
- the order to let the plaintiff enter the common home to remove his personal belongings. "
Art. 13. Section 1017-9 of the Code reads as follows:

"Art. 1017-9.
The application is made by way of summons to a hearing held on the day and at the time indicated by President. The hearing may be held on a public holiday or a non-working day.
The order should be made within one month from the date of the subpoena.
The subpoena is exempt from stamp duty and registration and the formality of registration. "

Art. 14. Section 1017-10 of the Code reads as follows:
"Art. 1017-1010.
(1) The parties are required to appear in person or by the ministry of a lawyer.
(2) The parties may be assisted or represented by
a lawyer,
their spouse or the person with whom they usually live,
their parents or allies in a direct line,
their parents or allies in a collateral line up to the third degree included,
persons exclusively attached to their personal service or their business,
an employee of a helpdesk service for victims of domestic violence.

The representative, if not a lawyer, must have special authority.
(3) For the defense of the interests of minors, articles 388-1 and following of the Civil Code are applicable.
(4) The parties may be assisted by a collaborator of a service that deals with perpetrators of violence domesticated."

[...]

27. MACEDONIA

Law on Prevention, Suppression and Protection from Domestic Violence, 2014 [73]

FIRST PART

GENERAL TERMS
Subject to the law

[73] Law on Prevention, Suppression and Protection from Domestic Violence, No. 07- 3478/1 (15 September 2014), available at http://www.mtsp.gov.mk/content/pdf/zakoni/ZAkon%20za%20prevencija%20semejno.pdf (last visited December 30, 2018). Unofficial translation by Compendium team.

Article 1
This law regulates the responsible and obligatory actions of the institutions and associations, their mutual coordination and cooperation, to prevent and
prevent domestic violence and ensure the protection of victims.

Purpose of the law
Article 2
The purpose of the law is to take measures aimed at the prevention and protection of victims of domestic violence, respect for basic human freedoms and rights, life, personal integrity, non-discrimination and gender equality, with due attention to interests and needs of the victim.

Definition
Article 3
Domestic violence refers to maltreatment, insulting, endangering the security, bodily harm, gender or other psychological, physical or economic violence causing a feeling of insecurity, endangerment or fear, including threats to such actions, towards a spouse, parents or children, or other persons living in a marital or extra-marital union or a common household, such as and to a current or former spouse, an extramarital partner or a person who has a joint child or is in a close personal relationship, regardless of whether the perpetrator shares it or shared the same dwelling with the victim or not.

Glossary
Article 4
Certain terms used in this law have the following meaning:
- the perpetrator of domestic violence is any person who performs violence according to Article 3 of this Law;
- victim of domestic violence (hereinafter: victim) is any person who is a victim of domestic violence in the territory of the Republic of Macedonia in accordance with Article 3 of this Law;
- close personal relationships are personal relationships between those who are or have been in partnership relations;
- a child is any person under the age of 18;
- physical violence is any act of applying physical force or an act that violates the health of the victim;
- psychological violence is any action that causes a sense of fear, endangerment, anxiety, or violation of the dignity and the victim's sacrifice;
- harassment is a deliberate repeated threat to the victim, causing the same
to be afraid of their safety;
- Sexual violence is any sexual act or act of sexual harassment on a person without given consent;
- economic violence is any act of restraint or withholding of available personal income and financial resources, failure to maintain the common household and child care, causing economic dependence on the victim;
- gender-based violence against women means violence directed against a woman because she is a woman or which disproportionately affects her;
- the terms used in this law apply to men and women.

Competent authorities and institutions
Article 5
The Ministry of Labor and Social Policy, the Ministry of Internal Affairs, the Ministry of Health, the Ministry of Education and Science, the Ministry of Justice, the units of the local self-government, the institutions that perform activities in the field of social protection, child care, home affairs, health, employment and education, take measures to protect the victim and prevention of violence and undertake mutual cooperation and coordination.
The institutions referred to in paragraph 1 of this Article shall be obliged to carry out initiatives in their field of work to be performed by experts trained to undertake the tasks specified in this law regarding gender-based violence.
The competent court pronounces interim measures for the protection of victims, in accordance with this law.
The institutions referred to in paragraph 1 of this Article and the competent court shall establish a special registry for cases of domestic violence, in accordance with the regulations for protection of personal data.
The form and content of the data exchange between the competent authorities and
institutions for cases need to enable monitoring the situation regarding domestic violence, as well the manner of exchange of data from the institutions, which shall be prescribed by the Minister of Labor and social policy.

Article 6

The protection of victims of domestic violence can also be provided by associations that are registered for providing such services, in accordance with the Law on Social Protection.

Emergency of acting
Article 7
Officials in the institutions that perform activities in the field of social protection, home affairs, health care, child care and education, as well the competent courts in domestic violence proceedings are obliged to act urgently, with due attention to the interests and needs of the victim, and especially when the victim is a child, an elderly, a person who is unable to take care of themselves and a person with limited capacity.

Help and protection of victims
Article 8
The victim has the right to assistance, support and protection from domestic violence.
The victim has the right to be informed by the officials about their rights, protection measures and procedures for their realization, as well as the available services for
help and protection.

Companion
Article 9
The victim has the right to choose a person who will accompany them in the proceedings. The companion can be any adult, other than the person who is the perpetrator of domestic violence in the procedure.
The companion helps the victim in protecting their integrity in procedures in front of officials and institutions, and helps to find a solution for their case and provides support to the victim.
The official person who conducts the procedure will prohibit the companion from doing accompanying the victim in case they do not fulfill the requirements of paragraph 2 of this Article, such as if they assess that the companion cannot provide support to the victim as referred to in paragraph 3 of this article due to family relations or other relationships with the victim or perpetrator of domestic violence.
Children and persons with limited legal capacity or are impaired to undertake the procedures before the competent institutions are joined by the parent or the guardian.

Help and protection of children
Article 10
A child is a victim when he suffers direct violence when present in violent relationships between members of their family or when they live in an environment in which they are subject to violent relationships.
The temporary measures for protection of the child who suffers domestic violence apply from this law, and the provisions of the Children's Justice Law and the provisions of the Family Law apply relating to the regulation of the relations of
parents and children, supervision over the exercise of parental rights and guardianship.

Help and protection for people who are unable to take care of themselves
Article 11
In procedures for providing protection and prevention of domestic violence, the
persons who are unable to take care of themselves, in addition to the measures determined by this law, are ensured realization of rights and services of social protection, and if necessary a procedure is implemented for placing under guardianship and appointing a guardian, in accordance with Family law.

Reporting by citizens
Article 12
Every citizen is obliged to report the knowledge of domestic violence to the police
station, center for social work, association or the national SOS line.
The competent institutions referred to in paragraph 1 of this Article shall be obliged to act in anonymous application.

Reporting by officials
Article 13
The responsible person and the manager of the institution performing the activity from
the area of social and child protection, employment, home affairs, healthcare and education, are obliged to report the knowledge of domestic violence to the police station or the center for social work.
Every responsible and managerial person in a legal entity is obliged to report the information about domestic violence to a police station or a social work center.

Article 14
Information about the victim or perpetrator of violence on the basis of which the victim or members of her family can be identified must not publicly announced, unless the victim agrees.
Institutions, parents, caregivers, guardians and adoptive parents are obliged to protect the child from exposure in public, within their child care.

Integrated policies
Article 15
The Government of the Republic of Macedonia adopts a National Strategy for the prevention and protection against domestic violence for a period of five years.
The National Strategy referred to in paragraph 1 of this Article shall be prepared by the Ministry Labor and Social Policy in cooperation with ministries and institutions referred to in Article 5 paragraph 1 of this law concerning:
- analysis of the situation and determination of prevention objectives and tasks;
protection against domestic violence,
- determining the policies in the field of domestic violence,
- expanding the availability of prevention, protection, assistance and assistance measures support to victims, as well as measures for treatment of perpetrators,
- determination of measures, activities and carriers for realization,
- establishing a database in each line ministry,
- continuous education and training of professionals,
- necessary financial resources for implementation of the strategy and sources of
funds.

National Coordination Body against Domestic Violence
Article 16
The Government of the Republic of Macedonia has established a National Coordination Body against domestic violence for a term of five years.
The National Coordination Body referred to in paragraph 1 of this Article shall consist of:
- two representatives from the Ministry of Labor and Social Policy, of which one
member and one alternate member,
- two representatives from the Ministry of Internal Affairs, one of which is a member of the Ministry of the Interior one alternate member,
- two representatives from the Ministry of Health, one member and one
Deputy member,
- two representatives from the Ministry of Justice, one member and one
Deputy member,
- two representatives from the Ministry of Education and Science, of which one member and one alternate member,
- two representatives from the Assembly of the Republic of Macedonia,
- two representatives of the judicial system, of which one judge is a Basic Court
on the proposal of the Judicial Council of the Republic of Macedonia and one public prosecutor on the proposal the Council of the Public Prosecutors of the Republic of Macedonia,
- representative of the Ombudsman of the Republic of Macedonia and
- two representatives from associations that are registered for working with family
violence.
The National Coordination Body against Domestic Violence will also include other institutions, the business community, local self-governments, academic professors, cultural and scientific workers, associations and media.

The National Coordination Body against Domestic Violence is presided by the Minister of Labor and Social Policy.
Administrative work for the needs of the National Coordination Body against domestic violence is carried out by the Ministry of Labor and Social Policy.
The National Coordination Body against Domestic Violence will carry out
the following things:
- monitoring and analyzing the situation with domestic violence,
- coordinating the activities of the competent institutions and associations,
- proposing measures for the promotion of national policies and measures for
implementation of national policies.
The National Coordination Body against Domestic Violence carries a Rules of Procedure for its work.

The National Coordination Body against Domestic Violence for its work informs the Government of the Republic of Macedonia, by submitting an annual report in month January in the current year for the previous year.

I. PREVENTION

Article 17

The Ministry of Labor and Social Policy, the Ministry of Internal Affairs works, the Ministry of Health, the Ministry of Education and Science, The Ministry of Justice, the units of local self-government and the associations take preventive measures to prevent and reduce domestic violence, according to the powers determined by law.

Preventive measures are undertaken through:
- promoting the social and cultural values of behavior that are based on the equality of women and men,
- introduction of non-violent behavior programs from the earliest age in the pre-school institutions,
- introduction of programs for non-violent behavior and understanding of the gender equality in primary schools,
- introduction of programs for developing the skills for peaceful resolution of the conflicts, understanding and appreciation of the principle of equal opportunities between women and men, in high schools,
- introduction of programs for developing the skills for peaceful resolution of conflicts, respect for the dignity of the person, non-discrimination and equality between men and women in higher education institutions,
- providing expert advisory and counseling work at counseling centers for marriage and family, centers for social work and other institutions,
- conducting campaigns or programs for raising awareness and understanding the general public for recognition and the consequences of domestic violence,
- introduction of continuous trainings for professionals for performing the works from its competence and gender-based violence,
- raising the level of responsibility of print and electronic media for objective reporting of cases of domestic violence, without mentioning circumstances that may imply a violation of human rights, a person's dignity and avoiding any discrimination against men and women.

II. MEASURES FOR PROTECTION

Center for Social Work

Article 18

The Center for Social Work undertakes the following measures for protection of victims:
1) accommodation in a center for persons - victims of domestic violence;
2) adequate health care;
3) appropriate psycho-social intervention and treatment;
4) psycho-social treatment at counseling;
5) assistance to the family for regular schooling of a child;
6) legal assistance and advocacy, and
7) economic strengthening of the victim through its active involvement in the market of labor.

Article 19

The Center for Social Work is obliged to initiate the procedure immediately, and at the latest in within 24 hours of receiving the information, take measures to protect the victim.
The Center for Social Work begins the procedure after receiving information that domestic violence was committed above the person, ex officio, at the request of the victim, after application from a natural person, official person, institution and association.
The Center for Social Work, in cases when a child or a person appears as a victim who is not able to take care of himself or a person with limited or confiscated business ability, take protective measures, regardless if there is a parent's consent or the guardian.

Article 20

The Center for Social Work, when a child or a young person is a victim, or someone who is unable to take care of themselves or a person with limited capacity, in addition to the measures from Article 18, undertakes measures in accordance with the Law on family that relate to arranging the relationships of parents and children, supervision over the exercise of parental rights and guardianship and in accordance with the Law on Justice of children.

In the procedures for entrusting the child to one of the parents, the center for
social work takes into account the child's interest in protecting from domestic violence.
The Center for Social Work may temporarily restrict or prohibit the personal
relationships and direct contacts of the child with the parent with whom he does not live together, in case it is in the child's interest, involving a case of victim of domestic violence, but not more than a year.

Article 21

The official and managerial person of the institution referred to in Article 5 paragraph 1 of this Law are obligated immediately to take certain actions in cases of domestic violence and at the latest within 24 hours of the action taken, to provide official documentation and notification of the actions undertaken, to submit to the competent center for social work.

Article 22

The Center for Social Work carries out the protection measures through expert,
Advisory and interdisciplinary team work.
The Center for Social Work assesses the needs for protection of the victim according to the type, intensity, context of the occurrence of violence, the health and well-being family status of the victim, as well as age and other circumstances in the procedure for taking the necessary protection measures.
The Center for Social Work shall draw up a plan for the matters referred to in paragraph 1 of this Article for individual work with a user and in working with an expert team.

Article 23

In cases where there is knowledge of a situation that endangers the life and health of the victim and family members, as well as when a child is a victim of domestic violence, a security plan shall be prepared for assistance by a multisectoral expert team.
The multi-sectoral expert team referred to in paragraph 1 of this Article shall be composed of experts, from the center for social work, police and healthcare institution from the area for which it is competent center.
The work of the multisectoral expert team includes representatives of
associations that work in the field of domestic violence, which can propose and
carry out measures and activities from the victim's assistance plan.
The multisectoral expert team referred to in paragraph 2 of this Article shall be established at the Center for social work competent according to the place of residence, that is, the place of residence of the victim, in order to coordinate the activities in providing assistance to the victim in accordance with their needs.

Article 24

Accommodation of a victim in the center for victims of domestic violence is carried out when there is a realization of a real threat to the life and health of the victim and in the absence of other foster care resources, which can last up to three months with the possibility of extension for another three months.
In exceptional cases after assessing the Center for Social Work, accommodation in the center for victims of domestic violence can continue for a maximum of six months.
The Center for Victims of Domestic Violence can provide psycho-social support
intervention and treatment.
The Center for Victims of Domestic Violence is established as a separate institution
for social protection or as an organizational unit of an institution or other legal entity,
from associations and units of local self-government, in accordance with the Law on Social protection.

Article 25

The Center for Social Work provides the victim with the right to social justice
and health care, according to the law.

Article 26

Psycho-social intervention, counseling and treatment are provided by professionals in the Center for Social Work, Association, Counseling Center for Victims of Domestic Violence, counseling for perpetrators of domestic violence or counseling for parents and children, in accordance with the Law on Social Protection.

Article 27

Legal assistance is provided by the professionals in the Center for Social Work and
in associations.
The right to free legal aid is granted the victim in accordance with the Law on
free legal aid.

Article 28

The Center for Social Work, in cooperation with the Employment Agency of
The Republic of Macedonia - the competent center for employment, provides assistance on strengthening of economic opportunities for the victim through their active inclusion in the labor market.
The Center for Social Work, within seven days from the commencement of the procedure, notifies the Employment Agency of the Republic of Macedonia - the competent center for employment, as to the need to including the victims in active measures for employment.
The Employment Center is obliged within three days after receiving the notification
referred to in paragraph 2 of this Article, to invite the victim to start a procedure for inclusion in active measures and employment policies, training, employment mediation, motivation, acquisition of basic skills, to develop an individual plan for employment for the victim, to enable the availability of information about vacancies
places, and until her employment.
The responsible person from the Employment Center is obliged to make contact at least once a month with the victim for the implementation of the individual plan for employment, until they become employed.
The Center for Employment within three days notifies the competent center for employment social work for the inclusion of the victim in the active measures program for the victim employment.
The Center for Employment within three days notifies the competent center for employment social work if the victim established a labor relation or if the employment relationship has stopped.

Ministry of Interior

Article 29

A police officer, whenever there is an application for domestic violence, and for the sake of removing immediate and serious danger to the life and physical integrity of
the victim and members of her family, is obliged to come out at the scene and
to prepare a police report immediately, and at the latest within 12 hours of the intervention of the event.
In cases of domestic violence, the police officer, when taking over police work and the application of operational-technical powers and preventive measures as determined by the Law on Police, always makes a risk assessment regarding the life and bodily integrity of the victim and the risk of recurrence of violence, with the aim of protecting the victim through appropriate risk management.
The police officer provides the victim with an immediate response in terms of health protection referred to in Article 31 of this Law.
The police officer, while acting under paragraph 1 of this Article, temporarily
takes away the weapon from the perpetrator and initiates a procedure envisaged by the Law on the seizure of the license for weapons, the license for collector's weapon, that is, the license to carry weapons.
The police officer is obliged within the deadline specified in paragraph 1 of this article to the competent court to submit a proposal for pronouncing an interim measure of protection - removal of the perpetrator from the home and prohibition of getting closer to the home and the police a report prepared by the police officer.
The police officer is obliged to do so within the deadline set out in paragraph 1 of this article to inform the competent center for social work for undertaking measures for protection of the victim.
The way of assessing the risk to the life and bodily integrity of the victim and of the victim the risk of repeating the violence, the appropriate risk management, the template the police report and the proposal for the pronouncement of a temporary protection measure – removal of the perpetrator from the home and prohibition of getting closer to the house shall prescribe them to the Minister of the Interior.

Article 30

A police officer accompanies the victim to the apartment or other area where the victim lives, when necessary to take personal matters that are necessary for everyday life.
The activities referred to in paragraph 1 of this Article may also be carried out when the victim is placed in the Center for persons victims of domestic violence.

Health institutions

Article 31

The healthcare worker and the healthcare institution are obliged to immediately perform examination and other medical treatments of the victim and to issue the appropriate treatment and medical documentation for the established violation.
The healthcare worker and the healthcare institution are obliged to inspect and
report medical treatment, to issue appropriate medical documentation for
the established violation, whenever a child appears as a victim.

For the activities referred to in paragraph 1 of this article, victims are exempt from paying the costs for the performed medical service and documentation.

Associations
Article 32
Associations that are registered for achieving goals and tasks in the area of
social protection, in accordance with its programs, can take protective measures
determined in article 18 of this law, independently or in cooperation with the social welfare center work.
The association is obligated for the undertaken measures referred to in paragraph 1 of this Article within 24 hours to inform the Center for Social Work, competent according to the place of residence of person victim of domestic violence.

Units of local self-government
Article 33
The units of local self-government, in the domain of prevention and prevention of
domestic violence provide protection for victims in the community, establish
foster care centers, counseling centers for victims and counseling for perpetrators of the family violence, counseling for parents and children, counseling for marriage and family, and others forms for care and assistance to victims, as well as local SOS lines.
The units of the local self-government undertake measures to establish the mutual and coordinated cooperation at the local or regional level between the Centers for social work, police stations, health, pre-school and educational institutions and associations.

III. TEMPORARY MEASURES FOR PROTECTION
Article 34
For the removal of immediate and serious danger to life and physical the integrity of the victim and the members of her family, an interim measure is imposed for protection including removal of the perpetrator from the home and prohibition of getting closer to the home upon proposal of the Ministry of Internal Affairs referred to in Article 29 paragraph 4 of this Law, without consent of the victim.
Temporary protection measure - removal of the perpetrator from the home and ban on
approaching the home shall be pronounced for a duration of at least 10 and not longer than 30 days.

Article 35
In order to stop the violence, prevent consequences of violence and take effective measures against the perpetrator of violence, by eliminating causes of further domestic violence, the following temporary protection measures may be imposed on the perpetrator of domestic violence:
1) prohibition to threaten to commit domestic violence;
2) prohibition to harass, disturb, telephone, contact or otherwise communicate with a family member, directly or indirectly;
3) prohibition of approaching by a distance of less than 100 meters to the dwelling, school, workplace or a certain place regularly visited by another member family;
4) removal from home regardless of ownership,
5) prohibition to possess firearms or other weapons or to have these confiscated;
6) Mandatory order to return the objects necessary for satisfying the everyday needs of the family;
7) compulsory legal support of the family;
8) mandatory visits to an appropriate counseling center;
9) obligatory treatment of the perpetrator, if he abuses, alcohol, drugs and other psychotropic substances or have a mental illness;
10) mandatory reimbursement of medical and other expenses incurred by domestic violence and
11) authorization to impose any other measure which the court considers necessary to ensure the safety and well-being of other family members.

Article 36
The Ministry of the Interior is obliged to submit a proposal for pronouncement to a temporary protection measure from Article 34 of this Law to the competent court for the purpose of removing immediate and serious danger to the life and physical integrity of victim and members of her family.
The victim may submit a proposal for the pronouncement of a temporary protection measure from Article 35 of this Law, to the competent court directly or through the social center work, at their request.
The Center for Social Work may submit a proposal for the pronouncement of a
temporary protection measure based on Article 35 of this Law to the competent court, with consent of the victim.

The parent or guardian may submit a proposal for the pronouncement of a temporary measure of protection referred to in Article 35 of this Law on behalf of a minor child or of a person with limited capacity, as well as for a person over whom there is continued parental right.
The Center for Social Work will compulsorily submit to the Court a proposal for
pronouncing a temporary protection measure from Article 35 of this Law on behalf of children and persons with limited capacity whenever the parent, guardian or legal representative will not do it without their consent.
The Center for Social Work, in a motion to the court for the imposition of a temporary
protection measure referred to in Article 35 of this Law for a child, may propose an interim measure to protect them also from the parent with whom the child lives, in cases for protecting the interests or safety of the child.

Article 37
The Center for Social Work on the proposal for pronouncing a temporary measure for the protection referred to in Article 35 of this Law, shall submit a finding and opinion to an expert team in which it provides proposal for the pronouncement of an interim measure, depending on the determined needs for protection of the victim.

Article 38
A proposal for pronouncing an interim measure may be submitted regardless of whether it is leads criminal proceedings.

Article 39
The temporary protection measure referred to in Article 35 of this Law may last at least three months, and up to one year.
If domestic violence continues after the expiration of the period for which it was pronounced within the period of one year from paragraph 1 of this article, the victim or the center for social work may apply for the extension of the measure/s.
After the expiry of one year from the pronounced interim measure of protection referred to in paragraph 1 of this article, in case the domestic violence will happen again, the victim or the center for social work submits a new proposal to the court.

Article 40
The victim or center for social work can submit a proposal to the competent court for the abolition of the pronounced interim measure of protection referred to in Article 35 of this law even before the expiry of the deadline for which the measure was pronounced, if it is deemed to be the same has achieved the purpose for which it has been pronounced.
The victim or center for social work may file a motion for amendment the pronounced interim measure for protection referred to in Article 35 of this Law or its extension, if the pronounced measure did not provide adequate protection of the victim or changed circumstances have occurred.

Article 41
The Minister of Labor and Social Policy shall prescribe the manner of implementation
and monitoring the victim protection measures taken by the social welfare center
work and the manner of monitoring the pronounced temporary protection measures referred to in Article 35 of this law.

IV. TERMINATION OF TEMPORARY MEASURES FOR PROTECTION
Article 42
In procedures in which the court decides for temporary protection measures, these shall apply in accordance with the provisions of the Law on Litigation Procedure, unless otherwise provided by this Law defined.

Article 43
Procedures for pronouncing the temporary measures for protection from family
Violence are decided by an individual judge.
In the proceedings referred to in Article 43 of this Law, the public is excluded at the hearing.
As an exception to paragraph 2 of this article, the judge may allow the hearing to be held in the presence of scientists and public workers who deal with the problems of marriage and family, as well as persons whom the parties will propose.

Article 44
The court, immediately and no later than 24 hours after receiving the proposal from
The Ministry of the Interior and the police report, without holding a hearing, will
decide on the imposition of an interim measure of protection - removing the perpetrator from the home and the prohibition of getting closer to the home from Article 34 of this Law.
The court on the proposal of the victim or center for social work to impose
temporary protection measure from Article 35 of this Law, will act immediately, and at the latest in within seven days from the date of receipt of the request, shall make a decision.

The court, within 24 hours without holding a hearing, will decide on the pronouncement for temporary protection measure referred to in Article 35 of this Law when there is reasonable doubt serious danger to the life and health of the victim or a member of the family, on basis of expert findings and opinion of the Center for Social Work.

Article 45

The hearing is held in the presence of the victim of domestic violence, the opponent (the perpetrator of domestic violence) and a representative from the social welfare center work, when it is the submitter of the proposal for pronouncing the temporary protection measure from Article 35 of this Law.
When a victim of domestic violence is a child or a person with a limited legal capacity, the hearing is represented by the parent who is not an opponent in the procedure or the guardian.
The court shall deliver the invitation to hold the hearing to the opponent within a period of two days.
According to the court's assessment, other persons may be called.
Notwithstanding paragraph 1 of this Article, when there is a reasonable suspicion of serious danger to the life and health of the victim or family member the court may
pronounce a temporary protection measure from Article 35 of this Law in the absence of the opponent and based on expert findings and opinion of the Center for Social Work, if no other evidence has been obtained.

Article 46

The Court, on the proposal of the Center for Social Work, may continue, repeal or amend the pronounced interim measure for protection of the victim from domestic violence based on Article 35 of this Law.

Article 47

In the decision imposing the temporary protection measures from Articles 34
and 35 of this Law, the court shall oblige the perpetrator of domestic violence to respect the court’s decision.

Article 48

The decision on an temporary protection measure - removing the perpetrator
from the home and prohibition of getting closer to the home based on article 34 of this law, the court delivers the decision within 6 hours from the hearing held to the competent police station in the jurisdiction of enforcement, which shall be immediately and no later than 12 hours after the receipt of the decision,
submitted to the perpetrator of domestic violence.
In the event that the delivery cannot be performed within the deadline referred to in paragraph 1 of this Article, the court, after receiving the notification from the Ministry of Internal Affairs, shall publish the decision on the court's bulletin board, which considers the delivery to be duly performed.
The Ministry of Interior is obliged to remove the perpetrator from the home
within two hours, counted from the moment when the decision on the pronouncement was handed to them temporary protection measure - removal of the perpetrator from the home and ban on approximation to the home referred to in Article 34 of this Law, in case he does not wish to voluntarily leave the house.

Article 49

Following the decision on temporary protection measure - removal of
the perpetrator of the home and the prohibition of getting closer to the home from Article 34 of this Law, the court shall submit it to the public prosecutor and the Center for Social Work.
A copy of the decision for pronouncing a temporary protection measure from Article 35 of this Law, shall be submitted by the court to the parties, the Center for Social Work and the institution responsible for the execution of the interim measure of protection.

Article 50

Appeal against the decision of the Basic Court for a pronounced temporary protection measure on the removal of the perpetrator from the home and prohibition of getting closer to the home referred to in Article 34 of this Law or temporary protection measures referred to in Article 35 of this Law, may be issued though statements within three days from the date of receipt of the decision.
An appeal against a court decision does not preclude its execution.

V. EXECUTION OF TEMPORARY MEASURES FOR PROTECTION

Article 51

The Ministry of Internal Affairs carries out the pronounced temporary measure for the

protection - removal of the perpetrator from the home and prohibition of getting closer to the home based on Article 34 of this Law and temporary protection measure from Article 35 paragraph 2 items 1, 2, 3, 4 and 5 of this Law, the Ministry of Health shall execute the pronounced temporary measure for protection based on article 35 paragraph 2 item 9 of this law, counseling for perpetrators of familyviolates the pronounced temporary protection measure referred to in Article 35 paragraph 2 item
8 of this Law, and the execution of the pronounced temporary protection measures referred to in Article 35 paragraph 2 items 6, 7, 10 and 11 of this Law, shall be conducted in accordance with the law.
The Counseling Center for perpetrators of domestic violence executes a court decision on protective supervision in the part of the defined obligation for the convicted person for a crime in domestic violence for a program for dealing with convicts for criminal offenses acts committed during domestic violence and informs the court about the fulfillment of the obligation.

Article 52

The manner of execution of the pronounced temporary protection measure for
removal of the perpetrator from the home and prohibition of getting closer to the home from Article 34 of the this Law and a temporary measure of protection referred to in Article 35 paragraph 2 items 1, 2, 3, 4 and 5 of this Law is prescribed by the Minister of the Interior.
The manner of execution of the interim measure of protection referred to in Article 35, paragraph 2 item 9 of this Law shall be prescribed by the Minister of Health.
The manner of execution of the pronounced temporary protection measure referred to in Article 35 paragraph 2 item 8 of this Law shall be prescribed by the Minister of Labor and Social Policy.

Article 53

The Center for Social Work monitors the execution of the pronounced temporary
protection measures referred to in Article 35 of this Law.
For the monitoring of the temporary protection measures referred to in paragraph 1 of this Article, the Center for social work cooperates with citizens, legal entities, institutions and associations.
The Center for Social Work informs the court about the course and effects of
the execution of the pronounced temporary protection measures referred to in paragraph 1 of this Article.

Article 54

The court may request a notification from the Ministry of Internal Affairs for
the manner of implementation and compliance with the pronounced temporary protection measure for removal of the perpetrator from the home and prohibition of approaching the home based on Article 34 of the this law.
The court may request notification from the social work center for the implementation of the explicit temporary protection measure referred to in Article 35 of this Law, during the period.

Article 55

The victim informs the Center for Social Work in case of disrespect and / or violation of the pronounced temporary protection measures from Article 35 of this Law, in
procedure on her proposal.

Article 56

The Ministry of the Interior is obliged to immediately notify the court about any breach or violation of the pronounced interim measure of protection referred to in Article 34 of this Law. The Center for Social Work is obliged to immediately notify the court about disregard or breach of the pronounced temporary protection measure referred to in Article 35 of this Law.

Article 57

The Ministry of the Interior, when the interim measure on protection from article 34 of this law was violated in the part of the prohibition of getting closer to the home, will submit a proposal to the public prosecutor for the determination of precautionary measures, in accordance with the Law on Criminal Procedure.

Article 58

The Center is obliged to file criminal charges against the perpetrator of the
failure to comply with the court decision for a pronounced temporary protection measure referred to in Article 35 of this law.
The Center is obliged to file criminal charges against the perpetrator on the
failure to comply with the court decision for a pronounced temporary protection measure referred to in Article 35 of the this law, when violence is committed against a child or in the presence of a child.
The public prosecutor is obliged to inform the Center for Social Work in writing

regarding the initiated criminal proceedings, after the criminal charges referred to in paragraphs 1 and 2 of this Article.

VI. MULTISECTOR COOPERATION

Article 59

The multi-sectoral cooperation of the competent institutions and associations referred to in Article 5 and Article 6 of this Law shall be determined by a Protocol for mutual cooperation.
The Protocol referred to in paragraph 1 of this Article shall be adopted by the Government of the Republic Macedonia, on the proposal of the Ministry of Labor and Social Policy.

Article 60

The units of the local government with the institutions and associations that work
in the field of domestic violence prepare a protocol for mutual cooperation for
undertaking measures for prevention, prevention and protection against domestic violence in the local community.

VII. SUPERVISION OF THE IMPLEMENTATION OF THIS LAW

Article 61

Supervision over the implementation of the provisions of Articles 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 of this Law and the bylaws adopted on the basis of Articles 41 and 52 Paragraph 3 of this Law shall be performed by the Ministry of Labor and Social Policy.
Supervision over the implementation of the provisions of Articles 29 and 30 of this Law and by-laws adopted on the basis of Articles 29 paragraph 6 and 52 paragraph 1 of this Law carried out by the Ministry of Internal Affairs.
Supervision over the implementation of the provisions of Article 31 of this Law and the by-law an act adopted on the basis of Article 52 paragraph 2 of this Law shall be carried out by the Ministry of Health.

VIII. MISDEMEANOR PROVISIONS

Article 62

A fine in the amount of 2500 to 5,000 euros in denar exchange-value shall be impose on the perpetrator of domestic violence, who will not respect or violate the pronounced temporary protection measure - the removal of the perpetrator from the home and
prohibition of approximation to the home from Article 34 of this Law and the pronounced temporary protection measures referred to in Article 35 of this Law.
A fine in the amount of 3,000 to 5,000 euros in denar exchange-value shall be imposed for a misdemeanor to a legal entity that will not act in accordance with Article 13, paragraph 19, paragraphs 1, 21, 28 paragraphs 3 and 31 of this Law.
A fine in the amount of Euro 500 to 1,000 in Denar equivalent shall be imposed for
a violation of the responsible official person and of the manager who will not act
in accordance with Article 13 of this Law.
A fine in the amount of 1,000 to 1,500 euros in denar counter-value shall be imposed
for an offense to the official person and the manager of the Center for Social Work
which will not act in accordance with the deadline provided for in Article 19 paragraph 1 of this Law.
A fine in the amount of 1,000 to 1,500 euros in denar counter-value shall be imposed
for a misdemeanor to the responsible official person and the manager in the institution that it will not act in accordance with the deadline provided for in Articles 21, 28 paragraphs 2 and 3 and 31 of the this law.
A fine in the amount of Euro 500 to 1,000 in Denar equivalent shall be imposed for
a violation of a citizen who will not act in accordance with Article 12 of this Law.

A fine in the amount of 1,000 to 1,500 euros in denar counter-value shall be imposed
the association for non-compliance with the deadline stipulated in Article 32 paragraph 2 of this Law.

Article 63

Competent authority for conducting misdemeanor procedure and pronouncing misdemeanor charges sanctions from article 62 of this law is the competent court.

Article 64

Prior to filing a request for a misdemeanor procedure, for the misdemeanors determined by this law, the Ministry is leading a settlement procedure, in accordance with the Law on offenses.

IX. TRANSITIONAL AND FINAL PROVISIONS

Article 65
The bylaws envisaged by this Law shall be adopted within three months of
the day of entry into force of this law.

Article 66
With the entry into force of this Law, the title of the head "VI-
and family violence "and Articles 94-b, 94-c, 94-d, 94-d, 94-f, 94-e, 94-
header head "V-a Procedure for pronouncing a temporary protection measure from
Family Violence "and Articles 279-a, 279-b, 279-c, 279-d, 279-d, 279-f, 279-e and 279-h from the Family Law ("Official Gazette of the Republic of Macedonia" No. 80/92, 9/96, 38/2004, 33/2006, 84/2008, 67/10, 156/10, 39/12, 44/12 and 38/14).

Article 67
This Law shall enter into force on the eighth day from the date of its publication in the "Official" Journal of the Republic of Macedonia ", and it will start to apply from 1 January 2015.

Criminal Code of Macedonia, 1996 (As amended) [74]

Art. 122
[…]
(21) Family violence shall mean abuse, rude insults, threatening of the safety, inflicting physical injuries, sexual or other physical and psychological violence which causes a feeling of insecurity, being threatened, or fear towards a spouse, parents or children or other persons which live in a marital or other community or joint household, as well as towards a former spouse or persons which have a common child or are have close personal relations.

Murder
Article 123 (1) A person who takes the life of another shall be punished with imprisonment of at least five years.
(2) The following person shall be punished with at least ten years or with life imprisonment, who:
[…]
2) takes the life of another while performing family violence;
[…]

Body injury
Article 130
(1) A person who injures bodily another, or damages his health, shall be punished with a fine, or with imprisonment of up to one year.
(2) The person who commits the crime stipulated in paragraph 1 while performing family violence, shall be sentenced to imprisonment from six months to three years.
[…]

A grave body injury
Article 131
(1) A person who gravely injures bodily another, or damages gravely his health, shall be punished with imprisonment of six months to five years.
(2) The person who commits the crime stipulated in paragraph 1 while performing family violence, shall be sentenced to imprisonment from one to five years
[…]
(6) A person that commits the crime momentarily, brought without his guilt into a state of great irritation by an attack or grave insult or as a consequence of family violence by the damaged, shall be punished for the crime from paragraphs 1 and 2 - with a fine or with imprisonment of up to three years, and for the crime from paragraphs 3 and 4- with imprisonment of one to five years.

Coercion
Article 139
(1) A person, who by force or with a serious threat forces another to commit, not to commit, or to endure something, shall be punished with a fine, or with imprisonment of up to one year.

[74] Criminal Code, 1 November 1996 (consolidated version with the amendments from March 2004, June 2006, January 2008 and September 2009), available at https://www.legislationline.org/documents/action/popup/id/16066/preview, last visited December 30, 2018.

(2) If the crime stipulated in paragraph 1 is committed while performing family violence, the perpetrator shall be sentenced to imprisonment from six months to three years.
[…]

Unlawful arrest
Article 140
(1) A person who unlawfully arrests, keeps detained, or in some other way takes away or limits the freedom of movement of another, shall be punished with a fine, or with imprisonment of up to one year.
(2) If the crime stipulated in paragraph 1 is committed while performing family violence, the perpetrator shall be sentenced to imprisonment from six months to three years.
[…]

Endangering security
Article 144
(1) A person who endangers the security of another by a serious threat to attack his life or body, or the life and body of some person close to him, shall be punished with a fine, or with imprisonment of up to six months.
(2) The person that will commit the activity stipulated in paragraph 1, while performing family violence shall be sentenced to imprisonment from three months to three years.
[…]

28. MADAGASCAR

Penal Code, 1962 (As amended) [75]

Aggravated penalties for crimes against a spouse or family member

Article 312

Whoever voluntarily injures or hits their legitimate, natural or adoptive, father or mother, or other legitimate ancestors or spouse shall be punished as follows:

A prison term of two to five years, if injuries or blows have caused no illness or incapacity to work of the persons referred to in article 309.

A prison term of two to five years, if there was inability to work for more than twenty days, or premeditation or ambush.

Imprisonment if the violence were followed by mutilation, amputation or deprivation of the use of a limb, blindness, loss of an eye or other permanent disabilities, or, if injuries or blows caused an incapacity to work more than 20 days, when, in the latter case, there has been premeditation or ambush.

Life imprisonment, when the article referred in the case pronounces the life imprisonment.

Whoever intentionally injures or hits a child under the age of fifteen years of age, or voluntarily deprives a child of food or care to the point of compromising his health, or commits any other violence or assault against him, excluding minor violence, will be punished with imprisonment of one to five years and a fine of 100,000 to 450,000 Ariary.

If the results of these different types of violence or deprivations are illnesses or incapacity to work for twenty days, or if there has been premeditation or ambush, the penalty is three to ten years ' imprisonment and a fine of 100,000 to 600,000 Ariary.

If the culprits are the legitimate fathers and mothers, natural or adoptive, or other legitimate ancestors, or all other persons having authority over the child or having custody, sentences will be the same as the preceding paragraph, if there has been no illness or incapacity to work more than twenty days, nor premeditation or ambush; otherwise five to ten years imprisonment and a fine of 100,000 to 900,000 Ariary.

[75] Penal Code (17 June 1972, with amendments up to 30 December 2001), available at https://www.imolin.org/doc/amlid/Madagascar_Code_penal_annexes.pdf (last visited December 30, 2018).

If violence or deprivations were followed by mutilation, amputation or deprivation of the use of a limb, blindness, loss of an eye or other permanent disabilities, or if the cause of death without intent, the sentence will be prison time, and, if the culprits are the people referred to in the preceding paragraph, life imprisonment.

If violence or deprivations are practiced with the intent to cause death, the perpetrators will be punished as guilty of murder or intention to commit murder.

Article 312 bis

Whoever voluntarily causes a woman with child to miscarry, or hits a pregnant woman resulting in miscarriage without intention, will be punished from two years to five years imprisonment and a fine of 100,000 to 400,000 Ariary, if there are no illness or incapacity to work due the injuries and hits as referred to in article 309.

If this resulted in illness or incapacity to work for twenty days, or abortion, or if there is a premeditation or ambush, the penalty is five to ten years in prison and a fine of 200,000 Ariary at 1,000,000 MGA.

If the violence is followed by mutilation, amputation or deprivation of the use of a limb, or any other permanent disability, or the cause of death without intent, the punishment will be life imprisonment.

If in addition, the offender is the spouse of the victim, the penalty will be five to ten years in the case provided in clause 1, prison time as per the case provided in clause 2 and life imprisonment as per the case provided for in paragraph 3.

Art. 332 - (Act No. 2000-021 of 30.11 00)
Any act of sexual penetration, of whatever nature, committed on another person by violence, constraint, threat or shock is rape.
Rape is punishable by forced labor for a period of time if committed on a child below fifteen years, or on a woman in an apparent state of pregnancy or known to the offender.
In other cases, rape or attempted rape shall be punished from five to ten years of imprisonment.
Anyone who has committed rape, consumed or attempted with violence, against a child below the age of fifteen, or against a woman in an apparent state of pregnancy or known to the offender, will be punished by forced labor.
In other cases, the punishment will be two to five years imprisonment.

Art. 333 - (Ord 62-013 of 10.08.62) If the culprits are the ascendants of the person against whom the attack was committed, if they are of the class of those who have authority over her, if they are her teachers or hired servants, or hired servants of the above-mentioned persons, whether they are officials or ministers of a cult, or if the culprit, whoever he may be, has been aided in his crime by one or more persons, the penalty shall be that of forced labor for life, in the case provided for in the first paragraph of article 332, forced labor for a term, in the case provided for in the first paragraph of article 331 and in paragraph 3 of article 332, or five to ten years of imprisonment, in the cases provided for in paragraphs 3 of article 331, and paragraph 4 of article 332.

Ordinance against the Suppression of Family Abandonment, 1960 [76]

Article 1 - Will be punished by imprisonment from three months to one year, and a fine from 5,000 to 200,000 francs, or only one of these two sentences:

[...]

2 ° The husband who, without serious reason, voluntarily abandons his wife for more than two months, knowing her pregnant;

[...]

29. MALAWI

Prevention of Domestic Violence Act, 2006[77]

[76] Ordinance 1960 against the suppression of family abandonment, No. 60-025 (4 May 1960), available at http://madagascar-droits-homme.e-monsite.com/medias/files/ordonnance-n-60-025-du-4-mai-1960-portant-repression-de-l-abandon-de-famille.pdf (last visited December 30, 2018).
[77] Prevention of Domestic Violence Act (Chap 0705), No. 5 of 2006 (29 December 2006), available at http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Malawi/malawi_domesticviolence_2007_en.pdf (last visited December 30, 2018).

[…]

An Act to make provision for the prevention of domestic violence, for the protection of persons affected by domestic violence; and for matters connected therewith [29TH DECEMBER 2006]

PART I - PRELIMINARY

[Ch0705s1]1. Short title

This Act may be cited as the Prevention of Domestic Violence Act.

[Ch0705s2]2. Interpretation

In this Act, unless the context otherwise requires—

"applicant" means a person who applies, or on whose behalf an application is made, for an order pursuant to this Act;

"child" means a person under the age of eighteen years who ordinarily or periodically resides with the applicant, whether or not the child is a child of the applicant and the respondent or either of them, and includes an adopted child, a stepchild, or a child who is treated as a child of the family but does not include a person who is, or has been, married;

"court" means a court which, in accordance with section 45, has competent jurisdiction;

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

"domestic relationship", in relation to domestic violence, means the relationship between persons who are family members and share a household residence or are dependent on each other socially or financially, and includes the relationship where—

(a) the applicant and the respondent are husband and wife;

(b) a person has a child in common with the respondent and that person is being subjected or is likely to be subjected to domestic violence by the respondent;

(c) one is a parent and the other is his or her child or dependant; and

(d) the applicant and the respondent are or have been in a visiting relationship for a period exceeding twelve months;

"domestic violence" means any criminal offence arising out of physical, sexual, emotional or psychological, social, economic or financial abuse committed by a person against another person within adomestic relationship;

"economic abuse" means the denying of a person the liberty to undertake any lawful income generating activity or access economic resources, and includes refusal to provide basic household necessities, withholding that person's income or salary and denying that person the opportunity to seek employment;

"emergency monetary relief", in relation to an interim protection order, means relief provided to the applicant to compensate for loss suffered as a result of the domestic violence, and includes medical and dental expenses, accommodation and transport expenses, household necessities and loss of earnings;

"emotional or psychological abuse" means a pattern of behaviour of any kind, the purpose of which is to undermine the emotional or mental well being of a person, and includes—

(a) persistent intimidation by the use of abusive or threatening language;

(b) persistent following of a person from place to place;

(c) depriving a person of the use of his or her property;

(d) the watching or besetting of the place where a person resides, works, carries on business or happens to be;

(e) interfering with or damaging the property of a person;

(f) the forced confinement of a person;

(g) persistent telephoning of a person at his or her place of residence or work; and

(h) making unwelcome and repeated or intimidatory contact with a child, dependant or elderly relative of a person; "enforcement officer" means any officer designated as such by the Minister under section 31;

"financial abuse" means a pattern of behaviour of a kind, the purpose of which is to exercise coercive control over, or exploit or limit a person's access to financial resources so as to ensure financial dependence;

"household residence" means the dwelling-house that is or was last used habitually by persons within a domestic relationship as the only principal family residence, together with any land, buildings or improvements appurtenant thereto, and wholly or mainly used for the purposes of the household;

"interim order" means an interim occupation order, an interim protection order, or an interim tenancy order;

"occupation order" means an order made under section 11, and includes an interim occupation order;

"order" means an occupation order, a protection order, or a tenancy order, but does not include an interim order;

"parent" means a person who is a parent or grandparent in relation to a child, dependant, spouse or respondent, as the case may be, by blood, marriage or adoption;

"physical abuse" means any act or omission which causes or is intended to cause physical injury or reasonable apprehension of physical injury;

"prescribed person", in relation to a respondent, means a husband or wife, parent, child or dependant of the respondent;

"protection order" means an order made under section 5 and, includes an interim protection order;

"service provider" means any person or body of persons approved by the Minister by order published in the Gazette to provide assistance to victims of domestic violence, and includes the police, community policing forums, faith-based organizations, Government institutions, non-governmental, voluntary or charitable organizations;

"sexual abuse" includes sexual contact of any kind that is made by force or threat and the commission of, or an attempt to commit, any of the offences under Chapter XV of the Penal Code; Cap. 7:01

"social abuse" includes denying a person the freedom to associate freely with others with the aim of possessing that person so as to let that person become completely dependent on the abuser;

"tenancy order" means an order made under section 15, and includes an interim tenancy order;

"tenant", in relation to a dwelling-house, includes any person—

(a) whose tenancy has expired or has been determined; and

(b) who is for the time being deemed under or by virtue of any written law to continue to be the tenant of the dwelling-house, and the term "tenancy" has a corresponding meaning.

[Ch0705s3]3. Purpose of Act

The purpose of this Act is to ensure the commitment of the State to eliminate gender- based violence occurring within a domestic relationship, and to provide for effective legal remedies and other social services to persons affected by domestic violence.

[Ch0705s4]4. Persons who may apply for orders

(1) An application for a protection order under this Act may be made by—

(a) a husband or wife, as the case may be, being the person against whom domestic violence has been, or is likely to be, engaged in by the respondent;

(b) a person who has a child in common with the respondent and that person is being subjected to or is likely to be subjected to domestic violence by the respondent;

(c) a parent or guardian of the child or dependant, or a person with whom the child or dependant ordinarily or periodically resides, where domestic violence involves a child or dependant;

(d) a dependant, where the dependant is not mentally disabled;

(e) a parent or sibling, by blood or marriage of the applicant or respondent, not being a member of the household;

(f) a police officer;

(g) an enforcement officer;

(h) a service provider approved by the Minister by order published in the Gazette.

(2) An application for an occupation order may be made by persons described in subsection (1), except those described in paragraphs (b) and (c).

(3) An application for a tenancy order may be made by—

(a) the husband or wife of the respondent; or

(b) in the case of a child or dependent who is subjected to domestic violence, and the husband or wife is unwilling to make an application, by a parent or guardian of that child or dependant.

PART II - PROTECTION ORDERS

[Ch0705s5]5. Application for a protection order. An application for a protection order shall be in accordance with the form prescribed in Form 1 of the Schedule, and may pray for an order—Schedule

(a) prohibiting the respondent from—

(i) committing any further acts of domestic violence;

(ii) entering or remaining in the household residence of a prescribed person;

(iii) entering or remaining in any area specified in the order, being an area in which the household residence of a prescribed person is located;

(iv) entering the place of work, business or education of a prescribed person;

(v) entering and remaining in any place where a prescribed person happens to be;

(b) directing that the respondent—

(i) be of good behaviour;

(ii) returns to the applicant specified property that is in his or her possession or under his or her control;

(iii) pays compensation for monetary loss incurred by an applicant as a direct result of conduct that amounted to domestic violence;

(iv) pays monetary relief to the applicant for the benefit of the applicant and any child or dependant, where there is no existing order relating to maintenance until such time as an obligation for support is determined pursuant to any other written law;

(v) complies with any other condition which the court deems necessary for the effective protection of the applicant;

(vi) immediately vacates any place or residence for a specified period, whether or not the residence is jointly owned or leased by the respondent and the applicant, or solely owned or leased by the respondent or the applicant;

(vii) relinquishes to the police any firearm licence, firearm or any other weapon which he or she may have in his possession or control and which may or may not have been used in the course of domestic violence;

(viii) makes or continues to make payments in respect of rent or mortgage payments for premises occupied by the applicant for a reasonable period;

(ix) ensures that reasonable care is provided in respect of a child or dependant; or

(x) the applicant or both, receive professional counselling or therapy from any person or agency or from a programme approved by the Minister in writing;

(c) directing that the order be applied for the benefit of a child or dependant of the applicant or respondent;

(d) prohibiting the respondent from taking possession of damaging, converting 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;

(e) prohibiting the respondent from molesting a prescribed person by—

(i) watching or besetting the household residence, or place of work, business or education of the prescribed person;

(ii) following or stalking the prescribed person in any place;

(iii) making persistent telephone calls to a prescribed person;

(iv) using abusive language to or behaving towards a prescribed person in any other manner which is of such nature and degree as to cause annoyance to, or result in ill- treatment of the prescribed person; or

(v) causing or encouraging another person to engage in conduct referred to in paragraphs (i) to (iv).

[Ch0705s6] 6. Grant of a protection order on an ex parte application

(1) A protection order may be made on an ex parte application if the court is satisfied that the delay that would be caused by proceeding on notice would or might entail—

(a) risk to the personal safety of a prescribed person; or

(b) serious injury or harm or, undue hardship.

(2) Any protection order made on an ex parte application shall be an interim order.

(3) Without limiting the generality of the foregoing, the court may, in determining whether to issue an interim protection

order, have regard to—

(a) the perception of the applicant, or a child or any other person within the domestic relationship, of the nature and seriousness of the behaviour in respect of which the application is made; and

(b) the effect of the behaviour of the respondent on the applicant, or a child or any other person within the domestic relationship.

(4) Where a protection order is granted on an ex parte application, the respondent may apply immediately for it to be discharged.

(5) An interim protection order remains in force until—

(a) such time as the court grants a protection order under section 7; or

(b) the order is discharged pursuant to section 10.

[Ch0705s7]7. Grant of a protection order

(1) On hearing an application under section 5 the Court may make a protection order in accordance with the form prescribed in Form 2 of the Schedule if it is satisfied that—Schedule

(a) a case for domestic violence has been made out against the respondent; and

(b) having regard to all the circumstances, the order is necessary for the protection of the prescribed person, and the court may, if it thinks fit, attach a power of arrest to the protection order.

(2) Where the court makes an order which directs the payment of compensation under section 5 (b) (iii), such compensation shall include, but not limited to—

(a) loss of earning;

(b) medical and dental expenses;

(c) moving and accommodation expenses;

(d) reasonable legal costs, including the cost of an application pursuant to this Act.

(3) Where the Court makes an order which directs counselling under section 5 (b) (x) the order shall specify—
(a) that the Court receive written notification from the counsellor or therapist of sessions missed without reasonable excuse; and
(b) the date by which the counsellor or therapist shall submit are port to the Court in respect of the counselling or therapy, such report to include a prognosis for recovery.

(4) The court shall have jurisdiction to award compensation not exceeding K1,000,000 and the payment of such compensation shall be received by the Court on behalf of the applicant.

(5) Where the Court makes an order which—

(a) directs that the respondent vacate a household residence or any place; or

(b) directs the respondent to return to the applicant specified property that is in his or her possession or control,

the Court may, in that same order, if it thinks necessary and notwithstanding any other law, direct the police to remove the respondent either immediately or within a specified time from the said place or residence, or to accompany the applicant, as the case may be, either immediately or within a specified time to specified premises to supervise the removal of property

belonging to the applicant and to ensure the protection of that person.

[Ch0705s8]8. Court may make a direction for alternative dispute resolution

(1) Subject to subsection (3), at any time during the proceedings for an application for a protection order, but before the issuing of such order, the applicant or respondent may request the court to direct the suspension of the proceedings on condition that both the applicant and respondent, including any child or any other person within the domestic relationship, agree to undergo an alternative dispute resolution process with the assistance of a service provider.

(2) Where, at the time of making the protection order, the applicant or respondent has not made a request pursuant to this section, the court shall, if it considers that it is in the best interest of the parties, inform the parties of their right to make such a request.

(3) A request or a direction pursuant to this section shall not be made more than once in relation to the same protection order.

[Ch0705s9]9. Existence of other proceedings

A court shall not decline to make a protection order under section 6 or 7 on the grounds only of the existence of other proceedings, including proceedings relating to custody of, or access to, a child between or relating to the parties, whether or not those proceedings relate to any other person.

[Ch0705s10]10. Variation or discharge of a protection order

(1) The court may, on the application of any party of the proceedings, vary or discharge a protection order or, an interim protection order, as the case may be, by—

(a) varying or discharging any condition;

(b) imposing any new condition;

(c) making a direction pursuant to section 8; or

(d) varying or discharging a direction made pursuant to section 8.

(2) On the application of the applicant, the court may, if it thinks fit, vary a protection order by directing that the protection order also apply for the benefit of a particular person within the domestic relationship.

(3) A copy of an application made under section (1) shall be served personally on each person who was a party to the proceedings in which the protection order was made.

(4) In determining whether to discharge a protection order the Court shall have regard to the matters referred to in section 7.

PART III - OCCUPATION ORDERS

[Ch0705s11]11. Application for an occupation order

(1) An application may be made to the court for an occupation order granting the prescribed person or persons named in the order the right to live in the household residence, and every such application shall be made in accordance with the form prescribed in Form 5 of the Schedule. Schedule

(2) Subject to subsection (3) and section 19, the court may, on an application under subsection (1), make an occupation order in accordance with the form prescribed in Form 6 of the Schedule granting to the prescribed person or any person named in the order for such period or periods and on such terms and subject to such conditions as the court thinks fit, the right to occupy the household residence or any other premises forming part of the household residence.

(3) The court shall not make an order under subsection (2) unless it is satisfied that such an order—

(a) is necessary for the protection of a prescribed person; or

(b) is in the best interest of a child or dependant.

[Ch0705s12]12. Grant of an occupation order on ex parte application

(1) An occupation order may be made on an ex parte application if the court is satisfied that—

(a) the respondent has used violence, against or caused physical or emotional injury to a prescribed person; and

(b) the delay that would be caused by proceeding on notice could or might expose the prescribed person to physical or emotional injury.

(2) Any occupation order made on an ex parte application shall be an interim order.

(3) Where the court grants an occupation order on an ex parte application, the court shall, at the same time, make an interim protection order unless it considers that there are special reasons why such an interim order should not be made.

(4) An occupation order which is made on an ex parte application while the prescribed person concerned and the respondent are living together in the same household residence shall expire—

(a) on its discharge by the court;

(b) on the discharge of an interim protection order made pursuant to subsection (3); or

(c) in any other case, at the expiration of a period of fourteen days after the date on which the occupation order was made.

(5) Where an occupation order is made, on an ex parte application, the respondent may apply immediately for its variation or discharge.

[Ch0705s13]13. Effect of an occupation order

Where an occupation order is made the prescribed person to whom it relates shall be entitled, to the exclusion of the respondent, personally to occupy the household residence to which that order relates.

[Ch0705s14]14. Variation or discharge of occupation order

The court may, if it thinks fit on an application of either party in accordance with the form prescribed in Form 7 of the Schedule, make an order, in accordance with the form prescribed in Form 8 of the Schedule— Schedule

(a) extending or reducing any period specified by the court pursuant to section 11 (2); or

(b) varying or discharging any terms and conditions imposed by the Court pursuant to section 11 (2).

PART IV - TENANCY ORDERS

[Ch0705s15]15. Application for a tenancy order

(1) An application may be made to the court in accordance with the form prescribed in Form 9 of the Schedule for an order vesting in the applicant the tenancy of any dwelling-house which, at the time of the making of the order— Schedule

(a) the respondent is either the sole tenant or a tenant holding jointly or in common with the applicant; and

(b) is the household residence of the applicant or the respondent.

(2) Subject to section 19, the court may make an order in accordance with the form prescribed in Form 10 of the Schedule on an application under subsection (1) if the Court is satisfied that such an order—

(a) is necessary for the protection of the applicant; or

(b) is in the best interest of a child or a dependant.

[Ch0705s16]16. Grant of a tenancy order on an ex parte application

(1) A tenancy order may be made on an ex parte application if the Court is satisfied that—

(a) the respondent has used violence against or caused physical or emotional injury to the applicant, or any other prescribed person; and

(b) the delay that would be caused by proceeding on notice would or might expose the applicant or any other prescribed person as the case may be, to physical injury.

(2) Any tenancy order made on an ex parte application shall be an interim order.

(3) Where the court makes a tenancy order on an ex parte application, the court shall, at the same time, make an interim protection order unless the court considers that there are special reasons why such an order should not be made.

(4) A tenancy order which is made on an ex parte application while the applicant and the respondent are living together in the same household residence shall expire—

(a) on its discharge by the court;

(b) on the discharge of an interim protection order made under subsection (3);

(c) in any other case, at the expiration of a period of fourteen days after the date on which the tenancy order was made.

(5) Where a tenancy order is made on an ex parte application, the respondent may apply immediately for variation or discharge of that order.

[Ch0705s17]17. Effect of a tenancy order

(1) Where a tenancy order is made, the applicant shall, unless the tenancy is sooner determined, become the tenant of the dwelling-house upon and subject to the terms and conditions of the tenancy in force at the time of the making of that order, and the respondent shall cease to be the tenant.

(2) Every tenancy order shall have effect and may be enforced as if it were an order of the court for possession of land granted in favour of the applicant.

(3) Nothing in this Act or in any tenancy order shall—

(a) limit or affect the operation of any written law for the time being applicable to any tenancy to which a tenancy order applies, or to the dwelling-house held under the tenancy; or

(b) authorize the court to vary, except by vesting the tenancy pursuant to this section or revesting the tenancy pursuant to section 18, any express or implied term or condition of the tenancy.

[Ch0705s18]18. Power to discharge tenancy order and revesting tenancy

(1) The court may, if it thinks fit on the application of—

(a) the applicant or respondent; or

(b) the personal representative of either party, make an order (in this section referred to as a "revesting order") revesting the tenancy accordingly.

(2) Where are vesting order is made under subsection (1), the person in whose favour it is made shall, unless the tenancy is sooner determined, become the tenant of the dwelling-house upon and subject to the terms and conditions of the tenancy in force immediately before the date on which the revesting order was made.

PART V - PROVISIONS RELATING TO OCCUPATION ORDERS AND TENANCY ORDERS

[Ch0705s19]19. Procedure relating to occupation orders and tenancy orders

(1) Before making an occupation order (other than an interim occupation order) or a tenancy order (other than an interim tenancy order), the court shall direct that notice be given to any person having an interest in the property which would be affected by any such order.

(2) A person referred to in subsection (1) shall, upon being notified pursuant to that subsection, be entitled to appear and to be heard in the matter of the application for the occupation order or tenancy order, as the case may be, as a party to that application.

(3) Where an application is made for an occupation order, the court may treat that application as an application for a tenancy order or an occupation order or both, and may make a tenancy order, whether or not it makes an occupation order, if it is satisfied that—

(a) it has jurisdiction to make the tenancy order and that the making of such an order is appropriate; and

(b) subsection (1) has been complied with in respect of the making of a tenancy order.

(4) Where an application is made for a tenancy order, the court may treat that application as an application for an occupation order or a tenancy order or both, and may make an occupation order, whether or not it makes a tenancy order, if it is satisfied that—

(a) it has jurisdiction to make an occupation order and that the making of such an order is appropriate; and

(b) subsection (1) has been complied with in respect of the making of an occupation order.

[Ch0705s20]20. Ancillary orders respecting furniture, etc.

(1) On or after making an occupation order or a tenancy order, the court may, subject to subsection (2), make an order granting to the applicant the use, for such period and on such terms and subject to such conditions as the court thinks fit, of all or any of—

(a) the furniture;

(b) household appliances; and

(c) household effects, in the household residence or other premises to which the occupation order relates or in the dwelling-house to which the tenancy order relates.

(2) An order made under subsection (1) shall continue in force for a period of ninety days beginning on the date on which the order is made, unless the court otherwise directs, but so however that such order shall expire if an occupation order made in relation to the household residence or other premises or a tenancy order made in relation to the dwelling-house expires or is discharged.

PART VI - INTERIM ORDERS

[Ch0705s21]21. Interim orders

(1) Every interim order made under this Act on an ex parte application shall specify a date, which shall be as soon as reasonably practicable, but no later than twenty-one days there- after, for a hearing on whether an order should be made in substitution for the interim order.

(2) A copy of every such interim order made under this Act shall be served on the respondent and shall notify the respondent that unless the respondent attends on the specified date to show cause why an order should not be made in substitution for the interim order, the court may discharge the interim order and make an order in substitution therefor.

(3) At the hearing referred to in subsection (1) the court may—

(a) discharge the interim order;

(b) discharge the interim order and make an order in substitution therefor; or

(c) on good cause being shown, adjourn the hearing to such date and place as the court may specify; but so however that any such adjournment shall not exceed thirty days from the date of the application.

(4) Where a hearing is adjourned under subsection (3) (c), the court may, at the adjourned hearing, exercise either the power conferred by paragraph (a) or paragraph (b) of that subsection.

PART VII - PROCEDURES IN RESPECT OF APPLICATIONS FOR ORDERS

[Ch0705s22]22. Date of hearing

Where an application is made for any order, the Clerk of the Court or the Registrar shall fix a date for the hearing of the application which shall be no more than twenty-one days from the date on which the application is filed.

[Ch0705s23]23. Notice of proceedings

(1) A copy of the application for an order, together with a notice of the date on which, and the time and place at which, the application is to be heard, shall be served on the respondent.

(2) A notice of proceedings shall be issued in accordance with the form prescribed in Form 13 of the Schedule. Schedule

(3) Where an application for an order 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 or other person with whom the child or dependant normally resides or resides with on a regular basis.

(4) A notice of proceedings which is issued and served under this section is deemed to be a summons that is duly issued and served and compels the respondent to appear in court to answer the application as if it were a complaint. ‘

(5) A notice of proceedings issued under this section may be served by the applicant or his or her agent, and the court shall receive proof of such service by affidavit in accordance with the form prescribed in Form 14 of the Schedule. Schedule

(6) Where the hearing of an application for an order is adjourned because the application and the notice of 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.

[Ch0705s24]24. Absence of respondent

Where notice of proceedings has been served on the respondent in accordance with section 23 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; or

(b) where 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.

[Ch0705s25]25. Absence of applicant

Where, on the date of the hearing of an application for an order, the respondent appears in court, but neither the applicant nor the person on whose behalf the application is made appears either in person or is represented by his legal practitioner, 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 upon 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, so direct, but so however that the court may, on the application of a respondent, order the attendance for cross- examination of the deponent of any such affidavit.

[Ch0705s26]26. Explanation of orders

Where the court proposes to make an order or an interim 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 discharged.

[Ch0705s27]27. Service of orders

Where an order or interim order is made or varied by the court, the Clerk of the court shall arrange for the order or interim order to be drawn up on the relevant form prescribed in the Schedule; and the court shall cause a copy of the order or interim order to be served on— Schedule

(a) the respondent;

(b) any other person to whom the order or interim order applies, whether or not the person is a party to the proceedings;

(c) the police officer in-charge of the station located nearest to the area where the respondent or applicant resides, and if the order or interim order relates to real property, it shall also be lodged with the registrar of titles by the applicant as a lis pendens.

[Ch0705s28]28. Service other than personal service

(1) Where the court has not been able to serve an interim order or an order, as the case may be, upon the respondent personally, it may make an order for substituted service of the interim order or order, as the case may be.

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

(a) service by registered post to the last known address of the respondent;

(b) leaving the document at the last known address of the respondent;

(c) service by advertisement in two daily newspapers in circulation in Malawi, the cost of which shall be borne by the applicant; or

(d) such other manner as the court may direct.

[Ch0705s29]29. Respondent to have notice

Subject to sections 24 and 28, a respondent shall not be bound by an order or interim order—

(a) where he or she was not present at the time of the making of the order; or

(b) where the order has not been served on him or her personally.

PART VIII - ENFORCEMENT OF ORDERS

[Ch0705s30]30. Breach of orders

(1)Subject to subsection (2), any person—

(a) against whom an order has been made;

(b) has had notice of the order;

(c) and fails to comply with the order or any direction of the court in relation thereto,

is liable to a fine of up to K500,000;

(2) Where an order contains a direction of the court, pursuant to section 5 (b) (x), requiring the respondent, or the applicant, as the case may be, to seek counselling or therapy and the respondent, or the applicant, as the case may be, unreasonably refuses or neglects to comply with such a direction, the respondent, or the applicant, as the case may be, shall be liable to a fine of K50,000.

PART IX - DESIGNATION, DUTIES AND POWERS OF ENFORCEMENT OFFICERS

[Ch0705s31]31. Designation of enforcement officers

The Minister may, by notice published in the Gazette, designate public officers within the Ministry responsible for gender affairs as enforcement officers for purposes of this Act.

[Ch0705s32]32. Duties of enforcement officers

An enforcement officer shall have the following duties—

(a) to ensure that victims of domestic violence are accorded proper treatment and are provided with the necessary assistance;

(b) to ensure the proper administration and enforcement of the provisions of this Act;

(c) to advise the Minister on the effective implementation of this Act and other ancillary matters;

(d) to perform such other duties as are necessary for the effective carrying out of the purposes of this Act.

[Ch0705s33]33. Powers of enforcement officers

(1) Where an enforcement officer reasonably suspects or receives information that a person has been, or is likely to be, subjected to domestic violence, he or she shall, as soon as is practicable, cause—

(a) an investigation to be made into the matter;

(b) an entry to be made, at the nearest police station, in the book or such other record maintained for that purpose.

(2) Where, after investigation, the enforcement officer reasonably believes that it is necessary to take steps in order to protect the victim of domestic violence from any further acts of domestic violence, he or she shall—

(a) explain to the victim of domestic violence his or her right to protection against domestic violence;

(b) assist the victim of domestic violence to file a complaint regarding the domestic violence;

(c) arrange for the provision of medical assistance to the victim of domestic violence at the nearest hospital or health facility;

(d) arrange for alternative residence or a temporary safe place of shelter for the victim of domestic violence; and

(e) inform the victim of domestic violence, and where possible, the perpetrator of the domestic violence about the available alternative dispute resolution mechanisms, including counselling and reconciliation.

(3) An enforcement officer may, on behalf of a victim of domestic violence, file an application for an order under this Act and shall to that effect swear an affidavit supporting the facts on which the enforcement officer relies to make the application on behalf of the victim of domestic violence.

(4) An enforcement officer may solicit the services of any service provider to assist with any action to be taken under this Act.

PART X - DUTIES AND POWERS OF POLICE OFFICERS

[Ch0705s34]34. Duties of police officers

(1) Every police officer shall respond to every complaint or report alleging domestic violence whether or not the complainant is the victim.

(2) It shall be the duty of every police officer responding to a domestic violence complaint to complete a domestic violence report which shall form part of a national domestic violence register, and shall be maintained by the Commissioner of Police of each region.

(3) A domestic violence report shall be in the form prescribed in Form 15 of the Schedule, and shall include— Schedule

(a) the names of the parties;

(b) the relationship and sex of the parties;

(c) the date, place and time the alleged conduct occurred;

(d) information relating to the history of domestic violence between the parties;

(e) the date and time the complaint was received; and

(f) the type of abuse and the weapon used, if any.

[Ch0705s35]35. Issue of warrant

Where a court is satisfied, by information on oath, that—

(a) there are reasonable grounds to suspect that a person on 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 person first

mentioned in paragraph (a),

the court may issue a warrant in writing authorizing 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.

[Ch0705s36]36. Police powers of entry without warrant

(1) Where a police officer has reasonable cause to believe that a person is engaging in or attempting to engage in conduct which amounts to domestic violence and failure to act immediately may result in serious physical injury or death, he or she may, without warrant, enter the premises on which such domestic violence is, or is likely to be committed and to take such action as is necessary to prevent serious physical injury or death.

(2) Nothing in this section authorizes 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 under subsection (1), he or she shall, immediately thereafter, submit a written report to the Officer-in-Charge of Police of the area where the incident occurred, and the report shall contain the following information—

(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) shall be submitted by the Officer-in-Charge of Police to the Commissioner of Police of the region in which the incident occurred within seven days.

(5) Where a complaint is made against a police officer by a person resident in premises alleging that the officer's entry onto the premises under subsection (1) was unwarranted, the Commissioner of Police of the region in which the incident occurred shall immediately after the receipt of the complaint institute an investigation into the complaint and shall, within fourteen days of the complaint having been made, submit a report in relation thereto to the Inspector General of Police.

[Ch0705s37]37. Duty of police officers to assist victims

Where a police officer has entered premises pursuant to sections 35 or 36 (1), he or she shall—

(a) give assistance to a person who has suffered injury;

(b) ensure the welfare and safety of a child, dependant or other vulnerable persons who may be on the premises; and

(c) prevent any further breach of the law.

[Ch0705s38]38. Powers of arrest where order is in force

(1) Where an order is in force and a police officer believes on reasonable grounds that a person has committed a breach of the order, the police officer may detain and arrest that person without a warrant for the protection of a prescribed person.

(2) No person shall be arrested under this section unless the police officer believes that the arrest of the person is reasonably necessary for the protection of a prescribed person.

(3) For the purposes of subsection (1), the police officer shall take into account—

(a) the seriousness of the act which constituted the alleged breach;

(b) the time that has elapsed since the alleged breach was committed; (c) the restraining effect of other persons or circumstances on the respondent; and

(d) the need for a cooling-off period.

(4) Where an arrest is made under this section—

(a) the person arrested shall be entitled to make a telephone call to one person of his choice, other than the applicant or a prescribed person;

(b) it shall be the duty of the police officer who makes the arrest to ensure that the person arrested is informed, as soon as practicable after the arrest, of the right conferred by paragraph (a).

[Ch0705s39]39. Existing criminal law to apply

(1) Subject to subsection (2), where a person is arrested under section 35 or 36, he or she shall be charged in accordance with the relevant provisions of the criminal law for committing or attempting to commit any offence under that law, and shall be dealt with accordingly.

(2) Where an application for a protection order has been made, or where a person has been arrested pursuant to section 35 or 36 and charged with an offence, and after hearing all the evidence 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 either the order or the penalty, as the case may be, the court may, with the consent of the applicant or complainant, as the case may be, withhold the granting of a protection order or the imposition of any penalty as prescribed by law and require the respondent or defendant 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 pursuant to subsection (2), the court may prescribe such additional conditions as follows—

(a) that the parties receive professional counselling, including family counselling;

(b) that the parties report to an enforcement officer at certain fixed intervals; or

(c) that the matter be reviewed by the court within three months.

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

(a) the respondent or defendant has continued to engage in conduct amounting to domestic violence against the complainant;

(b) based on a report from an enforcement officer; a police officer or such other service provider, domestic violence is likely to be perpetrated against the applicant or complainant; or

(c) the applicant or complainant has become fearful of the respondent or defendant to the extent that he or she is no longer willing to continue the relationship.

[Ch0705s40]40. Refractory witnesses

(1) Where direct oral evidence of a fact would be admissible in any proceedings under this Act, a document containing a

statement made by the complainant which forms part of the record compiled by the police and tending to establish that fact, shall be admissible in circumstances where—

(a) the complainant refuses to be sworn as a witness; or

(b) having been sworn as a witness, the complainant gives oral evidence which is inconsistent or contradictory to the statement forming part of the police record.

(2) A statement admitted as evidence pursuant to subsection (1), shall be treated by the court as a statutory declaration made under the Oaths, Affirmations and Declarations Act, and the court may draw any reasonable inference from the form or content of that statement and determine the weight, if any, to be attached to the evidence of any fact stated therein. Cap. 4:07

[Ch0705s41]41. Granting of bail

(1) Notwithstanding the Bail (Guidelines) Act, where the Court is required to determine whether to grant bail in respect of an offence under this Act, the Court shall consider— Cap. 8:05

(a) the need to protect the applicant from domestic violence;

(b) the welfare of a child where the respondent or victim of the alleged offence has custody of that child;

(c) the welfare of any child 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) Notwithstanding the Bail (Guidelines) Act, the court may, in granting bail, order that the recognizance be subject to such of the following conditions as the court considers appropriate— Cap. 8:05

(a) that the respondent shall not harass or molest or cause another person to harass or molest the victim of the alleged offence;

(b) that the respondent shall not be on the premises in which the victim resides, works or carries on business;

(c) that the respondent shall not be in a locality in which are situated the premises in which the victim resides or works; and

(d) where the respondent continues to reside with the victim, that the respondent shall not enter or remain in the place or residence while under the influence of alcohol or drugs.

(3) Where a police officer believes on reasonable grounds that a person who has been admitted to bail subject to one or more conditions referred to in subsection (2), has failed to comply with a condition of the recognizance, the police officer may, notwithstanding anything in any other written law, arrest the person without a warrant.

PART XI - MISCELLANEOUS

[Ch0705s42]42. Duty to report domestic violence

Any person who—

(a) witnesses the commission of domestic violence; or

(b) has reason to believe that an act of domestic violence has been, is being or is likely to be committed,

may report to the police, or give information to an enforcement officer, who shall then report the matter to the police.

[Ch0705s43]43. Service providers to assist

Pursuant to section 33 (4), any service provider may, upon being aware of an incident of domestic violence or soon thereafter as is reasonably practicable—

(a) render such assistance to the victim of domestic violence as may be required in the circumstances including—

(i) making arrangements for the victim of domestic violence to find suitable temporary shelter and to obtain medical treatment, if so required;

(ii) ensuring that the victim of domestic violence has access to information about the range of service providers and the kind of support that may be provided by any service provider;

(a) inform the victim of domestic violence of the right to the available legal remedies, including the right to apply for an order under this Act.

[Ch0705s44]44. Protection of authorized persons

No civil, criminal, administrative or disciplinary proceedings shall be taken against a police officer, an enforcement officer, a service provider or any person authorized to perform any duty under this Act, in relation to any information given or any action done in good faith pursuant to this Act.

[Ch0705s45]45. Jurisdiction

Any court within the area in which—

(a) the applicant or the respondent ordinarily resides, carries on business or is employed; or

(b) the domestic violence occurs, has jurisdiction to grant an occupation order, a protection order, a tenancy order or any interim order, as the case may be, under this Act.

[Ch0705s46]46. Single act of condonation

A court shall not refuse to grant an order under this Act merely on the grounds only that—

(a) a single act of domestic violence has been committed by the respondent; or

(b) the applicant condoned acts of domestic violence committed by the respondent.

[Ch0705s47]47. Conduct of proceedings

(1) No person shall be present during the hearing of any proceedings under this Act (other than criminal proceedings) except—

(a) officers of the court;

(b) parties to the proceedings and their legal counsel;

(c) witnesses;

(d) any other person permitted by the presiding Judge or Magistrate to be present.

(2) A witness shall leave the courtroom if asked to do so by the presiding Judge or Magistrate.

(3) Nothing in this section shall limit any other power of the court to hear proceedings in camera or to exclude any person from the court.

[Ch0705s48]48. Evidence

In any proceedings under this Act (other than criminal proceedings) including proceedings by way of appeal, the court may receive such evidence as it thinks fit whether it is, or is not otherwise admissible in a court of law or not.

[Ch0705s49]49. Standard of proof

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

[Ch0705s50]50. Restriction of publication of report of proceedings

(1) Subject to subsection (4), no person shall publish any report of proceedings under this Act, other than a report of criminal proceedings, except with the leave of the court which heard the proceedings.

(2) Any person who contravenes or fails to comply with subsection (1) commits an offence and is liable to a fine of K1,000,000.

(3) Nothing in this section limits—

(a) the provisions of any other written law 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) Nothing in this section applies in respect of—

(a) the publication of a bona fide law report or any bona fide research relating to proceedings under this Act which does not mention the names or reveal the identities of the parties to the proceedings or any witnesses at such proceedings;

(b) the publication of any report in any publication that is of a bona fide professional or technical nature or is intended for circulation among members of the legal or medical professions, officers of the Public Service, psychologists, marriage counsellors, enforcement officers or any service provider carrying out functions pursuant to this Act; or

(c) statistical information relating to proceedings under this Act.

[Ch0705s51]51. Order by consent

In any proceedings under this Act a court may make any consent order by the consent of all the parties to such proceedings.

[Ch0705s52]52. Counselling

The court may, on making an order under this Act, recommend either or both parties to participate in counselling of such nature as the court may specify, including counselling by marriage advocate relations, religious leaders and chiefs.

[Ch0705s53]53. Appeals

(1) A person aggrieved by—

(a) the making of an order by 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 against the decision of the court.

(2) Except where the court which makes an order under this Act otherwise directs, the operation of such order shall not be suspended by reason only of an appeal having been lodged under this section, and every such order may be enforced in the same manner and in all respects as if no appeal under this section were pending.

[Ch0705s54]54. Protection of mortgage

(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 other person entitled to the benefit of any mortgage, security, charge or encumbrance affecting the property if such mortgage, security, charge or encumbrance was registered before the order was registered or if 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) Notwithstanding anything in any written law or in any instrument, no money payable under any mortgage, security, charge or encumbrance shall be called up or become due by reason of the making of an order under this Act.

[Ch0705s55]55. Rules of court

The Chief Justice may make rules for the purpose of regulating the practice and procedure of the court in proceedings under this Act, and providing for such matters as are necessary for giving full effect to the provisions of this Act and for the due administration thereof.

[Ch0705s56]56. Regulations

The Minister may make regulations for the effective carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, such regulations may provide for—

(a) the designation of enforcement officers;

(b) the approval of services or programmes for the purposes of this Act;

(c) the approval of persons or organizations that could provide services or programmes under this Act;

(d) the prescribing of qualifications and experience for persons who may provide services;

(e) the collection of data on incidences and causes of domestic violence for purposes of policy reform and programming;

(f) additions to, amendment or substitution of any forms; and

(g) any matter required to be prescribed under this Act.

[…]

30. MALAYSIA

Domestic Violence Act, 1994 (As amended) [78]

DOMESTIC VIOLENCE ACT 1994

An Act to provide for legal protection in situations of domestic violence and matters incidental thereto.

PART I
PRELIMINARY

Short title and application

1. (1) This Act may be cited as the Domestic Violence Act 1994.
(2) This Act shall apply to all persons in Malaysia.

Interpretation

2. In this Act, unless the context otherwise requires—
"alternative residence" means the premises or accommodation which the victim is or has been compelled to seek or move into as a result of domestic violence;

[78] Domestic Violence Act, Act No. 521 of 24 June 1994 (As amended by Act A1414 of 20 February 2012), available at http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act%20521%20-%20Domestic%20Violence%20Act%201994.pdf (last visited December 30, 2018).

"child" means a person below the age of eighteen years who is living as a member of the offender's family or of the family of the offender's spouse or former spouse, as the case may be;
"court" means—
(a) in respect of criminal proceedings involving allegations of domestic violence, the court competent to try the actual offence with which the accused is charged;
(b) in respect of civil proceedings for compensation under section 10, the court competent to hear such claims in tort;
"domestic violence" means the commission of one or more of the following acts:
(a) wilfully or knowingly placing, or attempting to place, the victim in fear of physical injury;
(b) causing physical injury to the victim by such act which is known or ought to have been known would result in physical injury;
(c) compelling the victim by force or threat to engage in any conduct or act, sexual or otherwise, from which the victim has a right to abstain;
(d) confining or detaining the victim against the victim's will;
(e) causing mischief or destruction or damage to property with intent to cause or knowing that it is likely to cause distress or annoyance to the victim;
(f) causing psychological abuse which includes emotional injury to the victim;
((g)) causing the victim to suffer delusions by using any intoxicating substance or any other substance without the victim's consent or if the consent is given, the consent was unlawfully obtained; or
(h) in the case where the victim is a child, causing the victim to suffer delusions by using any intoxicating substance or any other substance,
by a person, whether by himself or through a third party, against—
(i) his or her spouse;
(ii) his or her former spouse;
(iii) a child;
(iv) an incapacitated adult; or
(v) any other member of the family;
"enforcement officer" means a police officer or a social welfare officer;
"incapacitated adult" means a person who is wholly or partially incapacitated or infirm, by reason of permanent or temporary physical or mental disability or ill-health or old age, who is living as a member of the family of the person alleged to have committed the domestic violence, and includes any person who was confined or detained by the person alleged to have committed the domestic violence;
"interim protection order" means an order issued under section 4;
"Minister" means the Minister charged with the responsibility for social welfare;
"other member of the family" means—
(a) (i) an adult son or daughter; or
(ii) a father or mother, of the offender; or
(b) (i) a brother or sister; or
(ii) any other relative,
of the offender who in the opinion of the court should, in the circumstances of that family, be regarded as a member of the family;
"police officer" has the same meaning assigned to it in the Police Act 1967 [*Act 344*];
"protected person" means a person who is protected under a protection order;
"protection order" means an order issued under section 5;
"relative" means a person who is related through the full-blood or half-blood, or through marriage or adoption, including *de facto* adoption;
"safe place" means any home or institution maintained or managed by the Ministry or Department responsible for welfare services or by any other agency or voluntary organization approved by the Minister for the purposes of this Act;
"shared residence" means the premises at which the parties are, or have been, living together as members of the same household;
"shelter" means any home, institution or any other suitable place of which the occupier or owner is willing to receive a victim temporarily;
"social welfare officer" means a social welfare officer of the Ministry or Department responsible for welfare services and includes an assistant social welfare officer;
"spouse" includes a *de facto* spouse, that is to say, a person who has gone through a form of ceremony which is recognized as a marriage ceremony according to the religion or custom of the parties concerned, notwithstanding that such ceremony is not registered or not capable of being registered under any written law relating to the solemnization and registration of marriages;
"victim" means a victim of domestic violence.

Act to be read together with Penal Code, *etc.*

3. This Act shall be read together with the Penal Code [*Act 574*] or any other written law involving offences relating to domestic violence.

PART II
INTERIM PROTECTION ORDER AND PROTECTION ORDER

Interim protection order

4. (1) The court may, during the pendency of investigations relating to the commission of an offence involving domestic violence, issue an interim protection order prohibiting the person against whom the order is made from using domestic violence against his or her spouse or former spouse or a child or an incapacitated adult or any other member of the family, as the case may be, as specified in the order.

(2) An interim protection order shall be made by way of an application to the court.

(3) The court in making an interim protection order under subsection (1) may include a provision prohibiting the person against whom the order is made from inciting any other person to commit domestic violence against the spouse or former spouse or a child or an incapacitated adult or any other member of the family, as the case may be, of the person against whom the order is made.

(4) An interim protection order shall cease to have effect—

(a) upon the completion of the investigations; or

(b) when a criminal proceeding relating to the commission of an offence involving domestic violence is instituted against the person against whom the order is made.

Protection order

5. (1) The court may, in an application involving a complaint of domestic violence, issue any one or more of the following protection orders:

(a) a protection order restraining the person against whom the order is made from using domestic violence against the complainant;

(b) a protection order restraining the person against whom the order is made from using domestic violence against the child;

(c) a protection order restraining the person against whom the order is made from using domestic violence against the incapacitated adult.

(2) The Court in making a protection order under paragraph (1)*(a), (b)* or *(c)* may include a provision prohibiting the person against whom the order is made from inciting any other person to commit domestic violence against the protected person or persons.

Orders that may be included in protection order

6. (1) A protection order issued under section 5 may, where the court is satisfied on a balance of probabilities that it is necessary for the protection and personal safety of the complainant or the child or the incapacitated adult, as the case may be, provide for any one or more of the following orders:

(a) subject to subsection (4), the granting of the right of exclusive occupation to any protected person of the shared residence or a specified part of the shared residence by excluding the person against whom the order is made from the shared residence or specified part thereof, regardless of whether the shared residence is solely owned or leased by the person against whom the order is made or jointly owned or leased by the parties;

(b) prohibiting or restraining the person against whom the order is made from—

(i) entering any protected person's safe place, shelter, place of residence or shared residence or alternative residence, as the case may be;

(ii) entering any protected person's place of employment or school;

(iii) entering any other institution where any protected person is placed;

(iv) going near any protected person at a distance of at least fifty metres or at a distance the court thinks reasonable; or

(v) making personal contact with any protected person other than in the presence of an enforcement officer or such other person as may be specified or described in the order;

(c) requiring the person against whom the order is made to permit any protected person to enter the shared residence, or to enter the residence of the person against whom the order is made, accompanied by any enforcement officer for the purpose of collecting the protected person's or persons' personal belongings;

(d) requiring the person against whom the order is made to avoid making communication by any means with any protected person and specifying the limited circumstances in which such communication is permitted;

(e) requiring the person against whom the order is made to permit any protected person to have the continued use of a vehicle which has previously been ordinarily used by the protected person or persons;

(f) the giving of any such direction as is necessary and incidental for the proper carrying into effect of any order made under

any of the above-mentioned paragraphs, to have effect for such period, not exceeding twelve months from the date of the commencement of such order, as may be specified in the protection order.

(2) Any one or more of the orders under subsection (1) may be—

(a) made or made anew, upon the contravention of a protection order, in accordance with section 9; or

(b) extended for a further period, not exceeding twelve months from the date of the expiration of the original order, where the court is satisfied that, notwithstanding that there had been no actual contravention of the order, such extension is necessary for the protection and personal safety of the protected person or persons:

Provided that the extension of an order under this paragraph shall not be made more than once.

(3) Except so far as the exercise by the person against whom the order is made of a right to occupy the shared residence, or to enter the alternative residence, is suspended or restricted, or prohibited or restrained, by virtue of an order under paragraph (1)*(a)* or *(b)*, such order shall not affect any title or interest that the person against whom the order is made or any other person might have in the said premises.

(4) The court shall not make an order excluding the person against whom the order is made from the whole of a shared residence that is solely or jointly owned or leased by him unless it is satisfied that there is no other way to secure the personal safety of any protected person for the time being, and such order, where made, shall, in the case where the shared residence is solely owned or leased by the person against whom the order is made, or may, in the case where the shared residence is jointly owned or leased by the parties, be—

(a) revoked if a suitable alternative residence is found for the protected person or persons; or

(b) revoked or modified upon the court being otherwise satisfied that it is no longer necessary for securing the personal safety of the protected person or persons.

(5) In paragraph (4)*(b)*, "modified" means modifying an order excluding the person against whom the order is made from the whole of the shared residence into an order excluding him from such part of the shared residence as is specified in the order.

Powers of arrest

7. (1) Where the court is satisfied that the person against whom a protection order or interim protection order is made is likely to cause actual physical injury to the protected person or persons, the court shall attach a power of arrest to such protection order or interim protection order, as the case shall be.

(2) If a power of arrest is attached by virtue of subsection (1), a police officer shall arrest without warrant the person against whom the order is made when one or more of the following situations arise:

(a) when there is a report of domestic violence lodged by a person who is protected under the interim protection order or protection order to any police officer;

(b) when the police officer has reasonable cause to believe that the person against whom the order is made is in breach of—

(i) the order issued under subsection 4(1) or 5(1); or

(ii) any order made pursuant to paragraph 6(1)*(a)* or *(b)*; or

(c) when the person against whom the order is made enters into any place prohibited under the order.

(3) Where a power of arrest is attached to a protection order or interim protection order and the person against whom the order is made is arrested under subsection (2)—

(a) he shall be brought before a judge within twenty-four hours of his arrest; and

(b) he shall not be released within that period except on the direction of the judge, but nothing in this section shall authorize his continued detention under this subsection after the expiry of that period.

(4) In this section "judge" includes a Magistrate.

Contravention of protection order

8. (1) Any person who wilfully contravenes a protection order or any provision thereof shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) Any person who wilfully contravenes a protection order by using violence on a protected person shall, on conviction, be liable to a fine not exceeding four thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) Any person who is convicted for a second or subsequent violation of a protection order under subsection (2) shall be punished with imprisonment for a period of not less than seventy-two hours and not more than two years, and shall also be liable to a fine not exceeding five thousand ringgit.

(4) For the purposes of this section a "protection order" includes an interim protection order.

Making or renewing orders upon contravention of protection order

9. Where a person against whom a protection order has been made contravenes the protection order, the court may, in addition to any penalty provided for under section 8, make or make anew, as the case may be, any one or more of the orders

under subsection 6(1), to commence from such date as is specified in such new order.

PART III
COMPENSATION AND COUNSELLING

Compensation

10. (1) Where a victim of domestic violence suffers personal injuries or damage to property or financial loss as a result of the domestic violence, the court hearing a claim for compensation may award such compensation in respect of the injury or damage or loss as it deems just and reasonable.

(2) The court hearing a claim for such compensation may take into account—

(a) the pain and suffering of the victim, and the nature and extent of physical injury or psychological abuse which includes emotional injury suffered;

(b) the cost of medical treatment for such injuries;

(c) any loss of earnings arising therefrom;

(d) the amount or value of the property taken or destroyed or damaged;

(e) necessary and reasonable expenses incurred by or on behalf of the victim when the victim is compelled to separate or be separated from the defendant due to the domestic violence, such as—

(i) lodging expenses to be contributed to a safe place or shelter;

(ii) transport and moving expenses;

(iii) the expenses required in setting up a separate household which, subject to subsection (3), may include amounts representing such housing loan payments or rental payments or part thereof, in respect of the shared residence, or alternative residence, as the case may be, for such period as the court considers just and reasonably necessary.

(3) In considering any necessary and reasonable expenses that may be taken into account under subparagraph (2)*(e)*(iii), the court may also take into account—

(a) the financial position of the victim as well as that of the defendant;

(b) the relationship that exists between the parties and the reasonableness of requiring the defendant to make or contribute towards such payments;

(c) the possibility of other proceedings being taken between the parties and the matter being more appropriately dealt with under the relevant laws relating to the financial provision of spouses or former spouses and other dependants.

Counselling, *etc.*

11. (1) The court may, in an application in which a protection order is sought, instead of or in addition to issuing a protection order, make an order to refer the parties concerned to a conciliatory body.

(1A) The conciliatory body referred to in subsection (1) shall submit a report together with its recommendation to the court within one month from the date of referral.

(1B) The court may, after considering the report and recommendation submitted to it under subsection (1A), order that one or more parties be referred to rehabilitative therapy, psychotherapy or such other reconciliatory counselling as it deems appropriate.

(2) The court hearing a claim for compensation under section 10 may also make one or both of the orders under subsection (1) or (1B).

(3) When considering any question relating to the making of an order under subsection (1) or (1B) the court may, whenever it is practicable, take the advice of a social welfare officer or some other trained or experienced person.

(4) In this section "conciliatory body" includes bodies providing counselling services set up under the Department of Social Welfare and, in the case where the parties are Muslims, also includes those set up under the Islamic Religious Affairs Department concerned.

PART IV
PROCEDURE ON INTERIM PROTECTION ORDERS AND PROTECTION ORDERS

When interim protection order may be sought

12. An interim protection order may be sought pending investigations by the police following an information relating to the commission of an offence involving domestic violence.

***Ex-parte* application**

12A. An interim protection order sought under section 12 shall be made *ex-parte* by—

(a) the applicant;

(b) the applicant's counsel; or

(c) a social welfare officer on behalf of the applicant.

Setting aside an interim protection order

12B. The person against whom an interim protection order is made may apply to set aside the order within fourteen days from the date the order is served.

When protection order may be sought

13. A protection order may be sought during any criminal proceedings under the Penal Code where the accused is charged with an offence committed under circumstances that falls within the definition of "domestic violence",—
(a) as a condition of the accused's release on bail or at any other stage of the proceedings; or
(b) upon the compounding of such offence under section 260 of the Criminal Procedure Code [*Act 593*].

Filing in of application

14. Notwithstanding the provisions of any written law on the territorial jurisdiction of a court, an application for a protection order or an interim protection order involving a complaint of domestic violence may be filed in any district where—
Domestic Violence 19 *(a)* the complainant resides;
(b) the person against whom the protection is sought resides; *(c)* the alleged violence occurred; or
(d) the complainant is placed temporarily,
and the application shall be heard by the court as soon as practicable.

Application on behalf of child or incapacitated adult

15. In the case of a child, or an incapacitated adult who is incapable of filing in an application under section 14, such application may be filed by a guardian or relative or person responsible for the care of such child or incapacitated adult, as the case may be, or by an enforcement officer.

Record of applications and orders

16. The registry of the court shall maintain a record of all applications filed pursuant to this Act, and all protection orders and interim protection orders issued by the court under this Act. The record shall contain—
(a) the names, gender and relationship of the parties;
(b) the domestic violence alleged, whether it involved any weapon, or resulted in personal injuries and whether the injuries inflicted required medical treatment;
(c) the effective date and terms of each order issued.

Proof of service of protection order

17. (1) Within twenty-four hours of the issuance of a protection order or interim protection order, as the case may be, the court in which the order is issued shall forward a copy of the order to the officer in charge of the police district where the offender resides or any other police officer under his command.
(2) The officer in charge of the police district or any other police officer under his command referred to in subsection (1) shall file proof of service of a copy of the order with the court within seven days of service.

Substituted service

17A. (1) If the officer in charge of the police district or any other police officer under his command referred to in section 17 is not able to serve a copy of the protection order or the interim protection order on the offender personally after three attempts, the officer concerned shall immediately apply to the court in writing for a substituted service of the order.
(2) Upon receipt of the application under subsection (1), the court shall make an order for a substituted service of the protection order or interim protection order—

(a) by leaving a copy of the order at the last known address of the offender;
(b) by posting a copy of the order at the court's notice board; or
(c) by any other manner as the court may direct.

(3) The substituted service of a copy of the order made under subsection (2) shall be effected by the court and shall be deemed to be good and sufficient service of the order on the offender.
(4) The substituted service effected under subsection (3) shall be communicated to the applicant by the court as soon as practicable.

PART V
MISCELLANEOUS

Information on offences involving domestic violence

18. (1) Any person who has reason to believe that an offence involving domestic violence is being or has been committed may give information in respect thereof to an enforcement officer.
(2) No person who gives any such information in good faith shall incur any liability for defamation or otherwise in respect of the giving of such information.

Seizable offences

18A. Offences involving domestic violence shall be deemed to be seizable offences.

Duties of enforcement officers

19. (1) The duties of an enforcement officer shall include—

(a) assisting a victim of domestic violence to file an application for interim protection order regarding the domestic violence;

(b) providing or arranging transportation for the victim to an alternative residence or a safe place or shelter if such transportation is required;

(c) providing or arranging transportation for the victim to the nearest hospital or medical facility for treatment of injuries if such treatment is needed;

(d) explaining to the victim the rights to protection against domestic violence;

(e) accompanying the victim to the victim's residence or previous residence to collect personal belongings.

(2) An enforcement officer who is also a police officer shall have the following additional duties:

(a) exercising the powers of arrest under this Act or any other written law;

(b) removing or supervising the removal of a person excluded from a shared residence where the court has issued an order under paragraph 6(1)*(a).*

Regulations

20. (1) The Minister may make regulations for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for—

(a) the maintenance of a register or record by the courts on matters filed pursuant to this Act;

*(b)*the prescribed forms of any information, report, application, order or other document required pursuant to this Act;

(c) the procedure in respect of the filing in of any document mentioned in paragraph *(b)*;

(d) the making of searches and the giving of certified copies of any document mentioned in paragraph *(b)*;

(e) the fixing of fees that may be charged for the purposes of this Act;

(f) any other matter which under this Act is required or permitted to be prescribed.

Domestic Violence (Amendment Act), 2017 [79]

31. MALDIVES

Domestic Violence Act, 2012 [80]

[…]

Part 1

Introduction and Citation

1. (a) This Act shall determine provisions for the prohibition and prevention of domestic violence; measures taken against persons who commit acts of domestic violence; protection of and support for victims of domestic violence; the role of the relevant State authorities; and the collaboration between such State authorities, in the Republic of Maldives.

(b) For the purposes of this Act, domestic violence refers to commission of any act described as an act of violence under this Act, by the perpetrator against the victim, provided such persons are bound by a domestic relationship.

(c) This Act shall be cited as the "Domestic Violence Act".

Part 2

Purpose

2. The purpose of this Act is to achieve the following objectives:-

(a) to determine that every act of domestic violence, under any circumstance, in any form or manner, among persons is strictly unlawful;

(b) to provide adequate protection to victims of domestic violence, under the circumstance where such an act has occurred;

(c) to serve justice in a cost-effective, timely, and convenient manner to victims of domestic violence;

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[79] Domestic Violence (amendment) Act, Act A1538 (15 September 2017), amending the Domestic Violence Act of 1994, available at http://www.federalgazette.agc.gov.my/outputaktap/20170921_A1538_BI_WJW009193%20BI.pdf (last visited December 30, 2018).

[80] Domestic Violence Act, Act No. 3 (23 April 2012) available at http://maldives.unfpa.org/sites/default/files/pub-pdf/the_domestic_violence_act_2012_maldives_english_translation_unofficial.pdf (last visited December 30, 2018). Unofficial translation by UNFPA.

(d) to implement adequate programmes for victims of domestic violence and to ensure the recovery of such victims in order to resume their health and a normal life;
(e) to take all necessary measures to stop persons from committing acts of domestic violence and to support them in their rehabilitation;
(f) to facilitate enforcement of court orders and legitimate orders from other state institutions issued in order to stop acts of domestic violence;
(g) to create awareness of the characterizing features of domestic violence among the relevant entities of the State and to increase the required competency of such entities;
(h) recognising that health professionals and social workers are typically the first to come into contact with victims of domestic violence, to establish a duty of care on health professionals and social workers to provide appropriate support to suspected victims of domestic violence and to report the same to the Police or the Authority;
(i) to introduce and lay down civil liabilities on persons who commit acts of domestic violence by way of a separate piece of legislation, in addition to the criminal liabilities imposed on such persons under criminal law and this Act; and
(j) to comply with international standards for the prevention of domestic violence and to apply and enforce relevant principles of justice in accordance with such standards.

Part 3
Definitions

Domestic relationship
3. (a) "Domestic relationship" shall mean a relationship between persons in any of the following ways:
(1) Persons who are or were married to each other;
(2) Persons who share or have recently shared the same residence;
(3) Persons who are the parents of a child or are persons who have or had parental responsibility for that child;
(4) Persons who are family members related by consanguinity, affinity or marriage;
(5) Persons who are domestic child carers or domestic workers; or
(6) Persons who are in an intimate relationship.
(b) In determining the existence of a domestic relationship between two persons, the court shall take into consideration the following factors:
(1) the nature and type of relationship;
(2) the level of commitment involved in the relationship;
(3) the amount of time spent together;
(4) the extent to which personal matters are shared between the person;
(5) the type of place where such time is shared together; and
(6) the duration of the relationship.

Acts of domestic violence
4. (a) For the purposes of this Act, "domestic violence" shall mean any of the following acts by a perpetrator where such conduct harms, or may cause imminent harm to, the safety, health or wellbeing of the victim(s), and provided the victim(s) and perpetrator are in a domestic relationship:
(1) physical abuse;
(2) sexual abuse;
(3) verbal and psychological abuse;
(4) economic or financial abuse;
(5) Impregnating the spouse, without concern to her health condition and against any medical advice to refrain from impregnation for a specified period of time;
(6) Impregnating a women, who is trying to remove herself from a harmful marriage, against her will;
(7) Deliberately withholding the property of a person;
(8) intimidation;
(9) harassment;
(10) stalking;
(11) damage to property;
(12) entry into, and being present thereafter at the victim's residence without consent, where the parties do not share the same residence;
(13) any other act which may be described as controlling or abusive behaviour towards the victim;
(14) coercing, intimidating or forcing the victim to commit an act which such person would not have consented to or committed by their own volition;
(15) confining the victim to a place or restricting their movement against their will;
(16) attempting to commit any of the foregoing acts or causing apprehension of such acts; or

(17) causing a minor to witness or hear an act of domestic violence or presenting or placing a minor in such situation where such minor may witness or hear an act of domestic violence

(b) In defining "violence" for the purposes of this Act, a single instance of violence may be considered as an act of violence, or a series of acts that have been committed in a particular pattern over a given period of time which appear to have the characteristics of violence may be considered as an act of violence.

Victim

5. "Victim" means any person, who is in a domestic relationship with a perpetrator and who is or has been subjected or allegedly subjected to an act of domestic violence, including any child in the care of the victim.

Part 4

Status of the Law

The offence of domestic violence

6. Any act prescribed as an act of domestic violence under this Act shall carry both civil liability and be a criminal offence liable for criminal prosecution, which would be dealt with in accordance with the provisions of this Act.

Civil liability and criminal prosecution

7. (a) Criminal liability and conviction under another Act for acts of domestic violence under this Act shall not prevent the implementation of measures prescribed in this Act.

(b) The provisions of this Act shall fully apply and measures prescribed under this Act shall be fully implemented in respect of the perpetrator and the victim, regardless of and in addition to such perpetrator receiving criminal conviction and punishment under another Act for a criminal offense (which is classified in this Act as an offense of domestic violence), provided the perpetrator and the victim are bound by a domestic relationship.

Part 5

Reporting

Reporting domestic abuse

8. (a) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, must give information about it to the Police.

(b) Cases of alleged domestic violence pursuant to Section 8(a) may be reported by any of the following persons:

(1) a victim;
(2) a witness to the act of domestic violence;
(3) a family member of the victim;
(4) an acquaintance of the victim;
(5) Authority or Ministry;
(6) employee of a health or social service provider;
(7) a responsible officer of a Government institution working against domestic violence;
(8) an employee or member of a association or organization registered to work against domestic violence;
(9) the parent, guardian, relative or caretaker of a victim that is a child; and
(10) any other person who has information of occurrence of domestic violence.

(c) For the purposes of Section 8(a), acts of domestic violence may be reported in person verbally or in writing at the Police station. Or, it may be reported by calling the hotline or landline of such station by phone or by fax, or by any other means of communication.

(d) No liability shall be incurred by any person or authority described in Section 8(b) solely as a result of reporting the incidence under Section 8(a) in circumstances where there is reason to believe that an act of domestic violence has been, or is being committed or where the occurrence of such an act is suspected. Further, any such person who, in good faith, reports an incidence of domestic violence shall not be held liable in any legal action regardless of such act of domestic violence not being proven ultimately. And such person shall not be placed in a situation where they may have to bear any legal liabilities.

Part 6

Role of the Police, Health Professionals and Social Workers

Duty to report

9. A duty of care is hereby established on health professionals and social workers to report suspected cases of domestic violence to the Police or the Authority in order to protect the victim(s). Health professionals and social workers shall further provide full support during the investigative and court stages of such cases of domestic violence, in such a manner that it does not compromise the welfare of the victim but ensures protection of the interests of the victim.

10. In the event the Police receive a report of an occurrence of domestic violence, they shall without delay instigate the processes required to investigate the incidence and take action. And, the Police shall compile, with reference to this Section, detailed standards for handling of such reports and publish the same in the form of a regulation made pursuant to this Act within 6 (six) months of enactment of this Act.

Duty to Assist Victims of Domestic Violence

11. On receiving a report on domestic violence the Police shall visit the scene of the alleged domestic violence, provided that the following details are observed from the report:-

(a) Information, which provides that domestic violence is taking place or is suspected to have taken place;

(b) Information, which reveals that under the given circumstance, it is highly unlikely that the domestic violence has not taken place;

(c) Statement that provides that a protection order is in place and that breach of such an order is imminent; or

(d) Statement that provides that acts considered as acts of domestic violence have previously taken place in the same location.

Duty of Health Professionals

12. A health professional that that has been notified by the Police that an act of domestic violence may have been committed on a victim or who for any other reason otherwise suspects the same must carry-out the following:-

(a) Examine the suspected victim to the highest possible degree.

(b) Advise the victim of support options available.

(c) Assist the victim in seeking psychiatric or counselling support.

(d) In situations where the health professional suspects, during examination, that an act of domestic violence involving physical abuse or sexual abuse is likely to be committed on a victim, then the health professional must carry out the following:-

(1) Examine the suspected victim to the highest possible degree.

(2) Prepare a written report based on the examination of the victim.

(3) Submit the report prepared under Section 12(d)(2) to the Police and Authority

Duty of Social Workers

13. (a) A social worker that that has been notified by the Police or the Authority that an act of domestic violence may have been committed on a victim or who for any other reason otherwise suspects the same must carry-out the following:-

(1) The social worker must advise the victim of support options available, assist the victim to obtain psychiatric or counselling support and guide the victim on all matters in connection with the foregoing.

(2) In situations where the incidence was not reported by the Police, the social worker shall report the matter to the Police.

(3) Provide a social worker at the scene of domestic violence upon request by the Police. And in situations where a social worker is not available, a request to provide a person shall be made to the Authority. And, the Police must be notified of any such requests.

(b) The social worker shall advise the victim of domestic violence of their rights and remedies under this Act.

(c) The social worker shall assist victims by taking them to a shelter, or a house of a relative or friend trusted by the victim, and shall further liaise with the Police in ensuring that protection orders are implemented.

Duties of the Police

14. Any member of the Police that is present at the scene of an incident of domestic violence, or as soon thereafter as is reasonably possible, or when the incident of domestic violence is reported to him, shall perform the following duties:-

(a) Inform the Authority of the domestic violence complaint.

(b) Request the Authority or social service provider that a social worker be sent to the scene of the incident of domestic violence.

(c) The Police shall, upon receiving a report of a case of domestic violence, enter the residence or place of such incidence, even without a court order, and ascertain all relevant facts.

(d) Take the victim to the closest available health facility for the purpose of ascertaining whether the victim of domestic violence involving physical or psychological abuse requires any medical assistance, and ensure that the victim receives medical care. And, during escorting of the victim, the Police shall have the authority to prohibit any act which in the opinion of the Police may result in loss of evidence.

(e) Seek and meet all persons related to the case, obtain all relevant information from such persons, obtain witness statements from relevant witnesses, conclude the investigation of the case, and send the matter to the Prosecutor General for prosecution where it is believed that grounds for prosecution exists.

(f) If any of the witnesses or the victims consist of minors, then obtain their statements in suitable environment in the presence of a social worker.

(g) Gather the factual details of the act of domestic violence.

(h) Advise the victim of the domestic violence of their rights and remedies under this Act, including:

(1) the right to make an application to obtain he following court orders:

(aa) a protection order;

(bb) a custody order;

(cc) a residence order;

(dd)a compensation order.
(2) the right to lodge a criminal complaint, if applicable.
(i) Prepare the relevant report and dispatch it to the Authority and the court.
(j) Escort the victim to a protection shelter if circumstances require, at the expense of the Police.
(k) Provide protection to the persons who reported the incidence of domestic violence;
(l) Arrest the perpetrator who committed the act of domestic violence, if required.
(m) Disclose to the media details of the perpetrator and the acts of domestic violence committed by the perpetrator
(n) Ensure that a full investigation is carried out to assess whether the perpetrator may also be prosecuted under any criminal laws for the time being in force for the perpetrator's acts of domestic violence if the facts disclose the commission of a criminal offence under those provisions (for example (without limitation), assault and battery, grievous bodily harm, rape, other sexual offences, murder and manslaughter), and, if so, then to forthwith send the matter to the Prosecutor General for prosecution of the perpetrator for the same.

Advising victims of their rights
15. The Police shall fully advise the victims of domestic violence of their rights as stated below, using such language and in a manner which is comprehensible to such persons and, if it is reasonably necessary to do so, hand a notice to the victim with the same information, upon request:-
(a) contact details of the Police officer actively involved in the investigation;
(b) that the Police will bear the expenses of escorting the victim to a medical facility, provided such victim requires medical assistance as a result of the abuse.
(c) that the Police will bear the expenses of escorting of the victim to a protection shelter, where available, provided such victim needs to be taken to such shelter.
(d) that the victim can make an application to obtain a court order restraining the perpetrator from interacting with the victim;
(e) that such court order may prohibit the following acts:
(1) actually committing physical, sexual and psychological abuse of the victim;
(2) threatening physical, sexual and psychological abuse of the victim;
(3) causing damage or threatening to cause damage to the property of the victim;
(4) acts carried out with an intention to threaten, intimidate, humiliate or cause psychological distress to the victim or, threatening the commission of such acts;
(5) the perpetrator carrying out any of the acts prohibited under the protection order through an intermediary.
(f) advice of the temporary remedies that the Police can provide in the event the domestic violence has occurred at a time during the night, over the weekend or on a public holiday;
(g) that it is not mandatory to seek the assistance of a lawyer in obtaining the court order; and
(h) that the assistance of the court may be obtained in making an application for a court order.

Preparing a report on domestic violence
16. (a) In the event that a Police investigation into the occurrence of an incident of domestic violence has taken place, then a report on the same shall be prepared by the Police and dispatched to the Authority.
(b) The report referred to in Section 16(a) shall contain the following details in addition to any other details which the Police may wish to include:
(1) the relationship between the perpetrator and the victim;
(2) gender;
(3) level of educational qualification;
(4) employment details;
(5) time of complaint;
(6) date of complaint;
(7) investigator;
(8) whether or not domestic violence involves a minor or disabled person, and the details of such minor or disabled person, where applicable;
(9) details of the act;
(10) details of the measures taken to resolve the matter;
(11) the date and details of a protection order, where applicable;
(12) the date and details of a permanent protection order, where applicable; and
(13) any other details necessary to provide information in relation to how, under what circumstances and for what reasons the act of domestic violence took place.

Compiling an annual report

17. (a) Within 3 months of the end of the Gregorian year, an annual report shall be prepared by the Police on the previous year's reported cases and concluded cases of domestic violence, and dispatched to the Authority and the Court.
(b) The annual report referred to in 17(a) shall contain the details as follows:
(1) Number of reports filed.
(2) Number of cases filed by women.
(3) Number of cases filed by men.
(4) Number of reported cases, which has concluded its investigations.
(5) The manner in which the Police responded to resolve the issue when a report was filed and the time taken in general.
(6) Action taken by the Police to resolve a matter.
(7) Psychological, physical and financial harm caused.

Part 7

Protection Orders

18. (a) A protection order is a legal order made by the court to prohibit the commission or omission of certain acts by the person who committed the act of domestic violence, in order to protect the victim(s) from the recurrence of domestic violence.
(b) The court may issue a protection order, in order to prevent the occurrence of domestic violence or with the intention of protecting a person, under the circumstances where the court believes that there is apprehension of domestic violence.
(c) The fundamental objective of a protection order is to ensure the physical and psychological protection of the victims or potential victims of domestic violence and to ensure their health and rights are protected and preserved.

Making an application for a protection order

19. (a) A person may make an application for a protection order to court against another person provided such two persons are bound by a domestic relationship.
(b) Under the circumstance where the application for a protection order is being made by a minor, then such application shall be made by the minor's parent, guardian, relative or caretaker of the child concerned or by any other person under Section 8(b) of this Act. Or, the minor may make their own application for such order.
(c) Under the circumstance where the application is being made by a person with disabilities or a person with special needs, then such application shall be made by the person's parent, guardian or caretaker of the person concerned or by any other person under Section 8(b) of this Act.
(d) In the event a person is reluctant to make their own application for a protection order due to reasons mentioned in Section 23 and, where such person is not a minor, then the application may be made through a nominee of such person. Or, such person may make their own application, if capable.

Principles applicable to applications for orders made by minors

20. (a) Even though this Act requires a minor to make their application for a protection order through a minor's parent, guardian or caretaker of the child concerned or by any other person under Section 8(b) of this Act, such application shall not be construed in a way that would bar the court from hearing the testimony of such minor.
(b) In the event an application referred to in Section 20(a) has been made, the minor may be summoned to the court or a place determined by the court in order to hear such testimony of the minor in relation to the case, if so required by the court. However, the minor shall be accompanied by a Social Worker at court.
(c) The court shall have the right to take into consideration the testimony of the minor based on their age and maturity.

Application for orders made by emancipated minors

21. Despite the provisions on this Act, an emancipated minor (under the age of 18 and who is married) shall make his or her own application for the protection order without the intermediation of the emancipated minor's parent, guardian or caretaker of the child concerned or by any other person under Section 8(b) of this Act.

Application for order made by persons with disabilities

22. Persons who require special assistance under the following circumstances shall make their application for a protection order through the person's parent, guardian or caretaker of the person concerned or by any other person under Section 8(b) of this Act:
(a) by reason of a disability; or
(b) lack of mental capacity to make decisions related to personal welfare or, inability to judge the nature and importance of such matters; or
(c) lack of the ability to express or communicate matters despite such person's mental capacity to appreciate personal welfare matters and consequences of their actions.

Application for order made through a third party

23. (a) Under the following exceptional circumstances, persons may make an application for a protection order of the court through a third party under this special provision:

(1) Practical incapacity due to present circumstance; or
(2) Experiencing apprehension in making such application; or
(3) Making such an application in their own name may compromise the interests and wellbeing of such person due to their present circumstances.

(b) The third party referred to in Section 23(a) may include relatives and family of the victim, a friend of the victim or a Registered NGO.
(c) In the event an application for a protection order has been made pursuant to Section 23(a) by a person through a third party, the court shall accept the third person on behalf of such person and give the opportunity for the third party to advocate and represent such person in court.
(d) In the event an application for a protection order has been made pursuant to Section 23(a) by a person through a third party, the court shall establish the following:

(1) Such person genuinely wants to make an application for such an order.
(2) The application for the order has been made by the representative appointed by such person.
(3) The representative has been appointed by such person by exercising their free will.
(4) The representative has accepted the appointment.
(5) There are no conflicts of interests between the appointed representative and the person.

Jurisdiction

24. (a) The court shall have the jurisdiction to issue a protection order provided that the court has established the following:

(1) A person has committed or continues to commit an act referred to, for the purposes of this Act, as an act of domestic violence.
(2) Such an order is absolutely necessary to protect the wellbeing of the victim, their child or member of the family.

(b) The court may pass an order directing the officer-in-charge of the nearest Police station to the residence of the victim to assist in the implementation of the protection order.
(c) If the court considers that the circumstances of the case so warrant, and if either party to the proceedings so desires, then the court may conduct the proceedings under this Act in camera.
(d) Any order made under this Act shall be enforceable throughout the Republic of Maldives.

Other court proceedings not a bar to issuing a protection order

25. On-going divorce, child custody proceedings related to the victim or the perpetrator, or any other civil or criminal proceedings related to the victim or the perpetrator, for that reason alone, shall not be a bar to issuing a protection order.

Protection of persons other than the victim

26. (a) The victim and their children shall be protected by a protection order that has been issued by the court pursuant to an application made by the victim.
(b) In issuing a protection order, the court may order the court order to be implemented to the extent required for the continued protection of the victim and any other person bound by a domestic relationship with the victim.

Protection order issued against a third party

27. In the event the perpetrator has been using or encouraging a third party to commit the act of domestic violence instead of directly committing such acts, the court may issue a protection order against such third party.

General conditions of a protection order

28. The perpetrator shall abstain from the following acts irrespective of its express provision in the protection order:-
(a) Causing physical or sexual harm to the victim.
(b) Threatening physical or sexual harm to the victim.
(c) Causing damage to the property of the victim. Or threatening such damage.
(d) Any act which is carried out to cause apprehension or humiliation or psychological harm to the victim. Or threatening the commission of such acts.
(e) The perpetrator using a third person to commit an act which the perpetrator (of the court order) has been prohibited from committing against the victim.

Prohibiting interactions

29. (a) Under the circumstances where the perpetrator and the victim share the same household, except to that extent, the court may impose the following prohibitions on the perpetrator in respect of the victim:-

(1) Restricting the victim from entering and exiting their private dwelling, place of work, employment, teaching, learning or any other commonly visited place; or following the victim at the times they enter such place with the intent to distress or to ascertain their whereabouts.
(2) Stalking, stopping, bothering or verbally assaulting the victim.
(3) Entering or staying at the private dwelling of the victim or other place where such person is present, without the express permission of such person.
(4) Carrying out any of the following interactions with the victim using phones, letters, electronic mail, short message service (SMS) text messages or any other form, except to the extent required under those circumstances:
(aa) To the extent allowed in an agreement or order pertaining to visitation rights in respect of a child of the victim and, to the extent allowed under the special conditions of the protection order.
(bb) To the extent necessary in order to participate in compulsory family gatherings.

(b) In the event the protection order is issued against more than one person, then the above-mentioned conditions shall be applicable to the same extent, on each and every person against whom the protection order has been issued.

Further rules relating to the conditions prohibiting interactions

30. (a) The non-contact conditions under Section 29(a) shall be applicable in all instances, except where the victim and the perpetrator share the same household with the consent of the victim.
(b) Under the circumstance where the victim and the perpetrator share the same household with the consent of the victim, the non-contact conditions shall be suspended but only to that extent.
(c) In the event the permission granted by the victim to the perpetrator to share the same household has been revoked, the non-contact conditions that had been suspended pursuant to this Section shall come to an end, and such conditions shall thereafter come into force.
(d) For the purposes of this section, the non-contact conditions may be suspended once or more than once. Or revoked more than once.
(e) In the event the protection order applies to more than one person, the aforementioned sections shall apply to each such person to the extent applicable under the given circumstances.

Inclusion of Special conditions

31. (a) In issuing protection orders, the court may impose special conditions upon the perpetrator which the court deems is reasonably necessary to protect or provide for the safety of the victim or any child of such victim, including (without limitation):-
(1) a residence order;
(2) a custody order; and/or
(3) a compensation order.

(b) Under the circumstance where the court finds that there are special interests of the victim which needs to be protected, the court shall determine and impose special conditions pursuant to Section 31(a) to the extent necessary to protect such interests.
(c) In the event the court determines special conditions in a protection order pursuant to Section 31(a), such special conditions shall exist for the duration of the order, unless modified or withdrawn by the court.
(d) The victim shall not be evicted or excluded from the shared household or any part of it by the perpetrator save in accordance with the procedures established by law. However, persons who do not have a filial relationship with the victim or who are not under the legal guardianship of the victim shall be exempt from this Section.
(e) While passing a residence order, the court may:
(1) require the perpetrator to provide the court with a financial bond as security in order to discourage domestic violence. And such bond may be forfeited by the court in the event of a breach of the residence order by the perpetrator;
(2) pass an order directing the officer-in-charge of the nearest Police station to the residence of the victim to give protection to the victim or to assist the victim in making an application for a court order or in the implementation of such order;
(3) impose on the perpetrator obligations relating to the discharge of rent and other payments related to the residence of the victim, having regard to the financial needs and resources of the parties.

(f) Notwithstanding anything contained in any other law, the court may, at any stage of hearing the application for protection order, issue a custody order granting temporary custody of any children of the victim to the victim or the person making an application on her behalf provided that if the court is of the opinion that there is apprehension of circumstances that may be harmful to the children or to their interests. And such an order may specify the arrangements for visit of such children by the perpetrator. However, if the court is of the opinion that any visit of the perpetrator may be harmful to the interests of the children, then the court may prohibit the perpetrator from visiting the children.
(g) In addition to other reliefs as may be granted to the victim under this Act, the court may, on application being made by the victim, pass a compensation order.

(h) The court may, at any stage of the proceedings under this Act, may direct the Authority to make arrangements for the perpetrator or the victim to undergo counselling together or separately.

Duration of protection order

32. (a) A protection order, with the exception of those emergency orders issued under exceptional circumstances, shall remain as a legitimate order until it has been withdrawn by the court. As such, a protection order shall be issued in the first instance for a maximum period of one year.
(b) A protection order may be extended by a court ruling, upon application (by the victim or the perpetrator) for such extension. Such application shall be lodged with the court at least seven days prior to the expiration of the validity period of the previous court order.

Varying of protection order

33. Upon the request of the victim or the perpetrator, the court may vary the protection order in any of the following manner provided such request is acceptable to the court:
(a) Modify or remove a special condition.
(b) Add a special condition.
(c) Modify an order or remove the necessity to perform a certain act.
(d) Provide advice on a particular matter.

Duration and Setting aside the protection order

34. (a) Upon a request made by the victim or the perpetrator whilst the protection order is in effect, the court may set aside the protection order, by issuing another order, provided such request is acceptable to the court.
(b) A protection order shall be withdrawn by court provided that the court believes that the circumstances under which the order was issued has changed or has come to an end.

Criminal offences

35. (a) A perpetrator who commits any of the following acts is guilty of a criminal offence:
    (1) Breach of a protection order.
    (2) Non-compliance with any of the conditions of the protection order.
    (3) Breach of a residence order, a custody order and/or a compensation order.
    (4) Non-performance of a specific act (in the specified manner) ordered through a protection order.
(b) A perpetrator who commits an offence referred to in Section 35(a) shall be punished by up to a maximum term of 6 months imprisonment or fined with an amount not exceeding MRf. 15,000 (Fifteen thousand Rufiyaa).
(c) A perpetrator who commits an offence referred to in Section 35(a) for a second time shall be punished by up to a maximum term of 1 year imprisonment or fined with an amount not exceeding MRf. 30,000 (Thirty thousand Rufiyaa).
(d) A perpetrator who commits an offence referred to in Section 35(a) for a third time or more shall be punished by up to a maximum term of 3 year imprisonment or fined with an amount not exceeding MRf. 50,000 (Thirty thousand Rufiyaa) on each occasion.
(e) In addition to prosecution under Section 35(a) of this Act, a perpetrator may also be prosecuted under other criminal laws for the time being in force for his acts of domestic violence if the facts disclose the commission of a criminal offence under those provisions: for example (without limitation), assault and battery, grievous bodily harm, rape, other sexual offences, murder and manslaughter.
(f) Notwithstanding anything contained in criminal laws or procedures for the time being force, the offence under Section 35(a) shall be non-bailable.
(g) Investigation, prosecution and examination in a trial proceeding shall be conducted according to the stipulations of the prevailing criminal procedural law, unless otherwise stipulated in this Act.
(h) Notwithstanding anything contained in criminal laws or procedures, upon the sole testimony of the victim, the court may conclude that an offence under Section 35(a) of this Act has been committed by the perpetrator.

Power to arrest

36. (a) Under this Act, the Police shall have the following powers:-
    (1) Arrest without warrant any person at the scene on an incident of domestic violence whom the Police officer reasonably suspects of having committed an offence containing an element of domestic violence against a victim.
    (2) Arrest a perpetrator under the circumstance where the Police have reasonable grounds to believe based on the given evidence that breach of a protection order, which is still in effect, has occurred.
(b) In making arrests pursuant to this Act, the Police shall take into consideration the following:
    (1) The protection (of the victim) may be compromised if the Police fail to arrest the perpetrator at that given time.
    (2) The magnitude of the breach of the protection order.

(3) The time elapsed since the breach of the protection order.
(4) Reasonable belief that the perpetrator will continue to breach the protection order if the perpetrator is not arrested for such breach.

Part 8
Emergency orders

Filing an emergency protection order
37. (a) An emergency protection order (unlike a protection order where both parties are summoned and heard in court prior to granting such order under the usual rules) is an order granted without notice (to the perpetrator) based only upon the statements of the victim.
(b) The court may grant an emergency protection order under the special circumstances referred to in Section 39 of this Act.

38. (a) An emergency order is a temporary order. And such order shall remain effective for a period of 3 (three) months unless withdrawn.
(b) The protection order shall become a permanent order upon the expiry of the 3 month period referred to in Section 38(a) provided the protection order is not withdrawn within those 3 months, or where the perpetrator has not filed a defence in respect of the order.

Special circumstances for granting an emergency order
39. An emergency order shall be granted pursuant to Section 37 of this Act where the court finds that the following circumstances are present:
(a) The court believes that granting an order after hearing both parties may be of risk to the victim under the given circumstances.
(b) (The court) believes that the justice required by the victim may not be served under the given circumstances.
(c) (The court) believes that the risk faced by the victim may be increased. (d) The victim is a person who is in a difficult situation.

Considerations prior to granting an emergency order
40. Prior to granting an emergency order, the following matters shall be taken into consideration:
(a) The seriousness of the complaint filed by the victim and the seriousness of the issues contained in the complaint.
(b) The harshness or seriousness of the acts carried out by the perpetrator
(c) The extent to which the interests of the victim is compromised as a result of the acts of the perpetrator.

The rights of the perpetrator of the emergency order
41. (a) Under the circumstance where a special order has been granted, the perpetrator shall be afforded the following rights:
(1) Making a request to the court in order to be heard prior to the order becoming a permanent order.
(2) Making a request to the court in order to modify or withdraw a condition or another matter contained in the order.
(3) Making a request to withdraw the order.
(4) Notifying their objections to the order.
(b) Prior to issuing another order, court hearings shall be conducted by presenting both parties (or their representatives) in the case where the perpetrator has filed a request in court in respect of any of the matters mentioned in this Section. And a decision whether to maintain, modify or withdraw the temporary order shall be reached by the court.

Conducting court hearings
42. The court may conduct court hearings in the event the court believes that prior to making an emergency order permanent, justice would be best served by hearing the perpetrator or, by presenting the victim and perpetrator (or their representatives) in court and hearing the statements of both parties.

Stating the result of the order
43. In making any order pursuant to this Act, the court shall make known the following to the perpetrator, if present.
(a) The legal consequences of breaching the order.
(b) The rules for modifying or amending the order.

Dispatching a copy of the order
44. In the event, any order has been made pursuant to this Act, the registrar of the court, on behalf of the court, shall dispatch a copy of the order to the Police and the Authority.

Appeal

45. In the event a protection order has been issued pursuant this Act, or not issued, a person dissatisfied by such outcome shall have the right to appeal the case in High Court under the general principles of appeal.

Part 9
"Thafriq" or "Fasakh"

Thafriq

46. Thafriq refers to the special right of a woman under Islamic Shari'ah to demand the dissolution of a marriage where the court finds that any of the grounds stated under the Islamic Shari'ah for thafriq continue to exist.

Order for dissolution

47. Any marriage shall be dissolved under this Act pursuant to a thafriq order of the court. The legal principles applicable to a court judgment shall be applicable to such an order.

Circumstances under which "thafriq" is allowed

48. In the event a male perpetrator bound by marriage with a female victim has committed an act of domestic violence against the female victim, for the purposes of this Act, their marriage shall be dissolved at the request of the female victim where the court finds the existence of any of the following grounds which have been prescribed under Islamic Shari'ah as grounds under which "thafriq" is permissible:-

(a) The seriousness of the act of domestic violence has caused an impediment to the resumption of a peaceful life between the male perpetrator and the female victim.

(b) The protection and wellbeing of the female victim cannot be granted certainty due to the severity of such act of domestic violence.

(c) In spite of the implementation of other measures prescribed under this Act, the marital relationship between the two persons has irretrievably broken down as a result of the act of domestic violence that it is impossible to maintain the marital relationship any further.

Outcome of "thafriq"

49. (a) In the event the court has ordered for the dissolution of a marriage by thafriq, the marriage shall immediately come to an end. And, the principles of Islamic Shari'ah applicable upon the dissolution of a marriage shall also apply to the two persons, thereafter.

(b) For the purposes of Section 28 of the Family Law Act (Act Number 4/2000), the events specified in Section 48 of this Act shall hereby further be deemed to be events that Islamic law allow for a marriage to be dissolved by fasakh.

Part 10
Implementation of the Law

Highest authority

50. (a) The Minister shall be the highest authority responsible for the implementation and enforcement of the provisions in this Act (with the exception of those responsibilities allocated to the court and the Police under this Act) in respect of stopping domestic violence.

(b) The Minister shall have all powers, direct and incidental to the implementation of the provisions in the Act (with the exception of those responsibilities allocated to the court and the Police under this Act) necessary to stop domestic violence.

Decentralization

51. (a) In order to give legitimacy and facilitate the enforcement of this Act within the areas of jurisdiction of the Island Councils, Atoll Councils and City Councils, the Minister may determine that each such council (within their respective areas of representation) is the agent appointed for that area to enforce this Act.

(b) The Minister shall delegate any of powers or responsibilities pursuant to Section 51(a) in respect of enforcing this Act, to the Island Councils, Atoll Councils and City Councils after providing the required facilities for the enforcement of such powers and responsibilities and by establishing a mechanism for the council to adopt in combating domestic violence.

(c) The guidance and authority of the Minister shall apply to entities, which are working at the same level as the Island Councils, Atoll Councils and City Councils to prevent domestic violence, create of public awareness in order to prevent such domestic violence, protect victims of domestic violence.

(d) Any specific powers or responsibilities delegated to the Island Councils, Atoll Councils and City Councils under this Act, shall be clearly stated in writing.

(e) Details of the responsibilities delegated to the Island Councils, Atoll Councils and City Councils under this Act, shall be provided under a regulation made pursuant to this Act, publicly announced and published in the Gazette. Such task shall be the responsibility of the Minister.

Establishment of a Family Protection Agency

52. (a) A Family Protection Agency is hereby established under this Section of this Act in order to combat domestic violence; create public awareness on issues of domestic violence; provide the required services to the victims of such violence; co-ordinate the work of the relevant government institutions including the Police and the Health Sector, coordinate various local efforts made by individuals (to protect victims of domestic violence) by bringing such efforts under a national policy and implementing such policies and; to undertake a leading role in carrying out such work on a national scale.
(b) The Authority established pursuant to Section 52(a) shall be governed by a Board comprising 7 (seven) members appointed by the President. The Chief Executive Officer shall direct and oversee the work of the Authority, in consultation with the Board.
(c) The Authority shall be accountable to the Minister. And, the Authority shall be under the power of the Minister.
(d) The persons appointed to the Board shall be appointed by giving priority to gender balancing, and such persons shall have the educational and practical competency to contribute to the efforts being made to stop domestic violence, in a constructive manner. And any person on the Board shall not be a person who has been alleged or convicted of a criminal offence or domestic violence offence.
(e) The Authority shall have the power to carry out any responsibilities of the Authority under this Act either by itself, or by delegating such responsibilities under supervision to health care providers, social service providers, or non-profit organizations. However, under such circumstances, details of the applicable procedure shall be prescribed in a regulation made under this Act.
(f) In implementing and enforcing the responsibilities entrusted to the Authority under Section 53 of this Act, the Authority shall have the power to establish various services.

Responsibility of the Authority
53. The responsibilities of the Authority are as follows:
(a) to determine the national policy for combating domestic violence and enforcing such policy;
(b) to determine the programmes necessary to combat domestic violence, the objectives of such programmes and the standards for implementing such programmes;
(c) to establish multi-stakeholder mechanisms for implementing policies and programmes for combating violence;
(d) to obligate compliance with the objectives and principles referred to in Section 53(b) by Authority centres within the jurisdiction of the councils;
(e) to enter into agreements local and international parties and, organize and implement programmes with such parties in order to implement this Act and stop domestic violence;
(f) to establish shelters with adequate staff and facilities in order to prevent domestic violence and to provide temporary support services for victims of violence; to determine the services provided from such shelters; and to provide such services in a sustainable manner;
(g) to determine the standards and policies which need to be introduced in order to improve the responsiveness (in all required areas) to incidents of domestic violence and; take all necessary steps in relation to that;
(h) to conduct research and collect data on the extent of (spread and occurrence of) domestic violence in the country; the reasons and personal characteristics related to occurrence of such violence and; the measures which could be taken to stop such violence and publish the required information from such findings;
(i) to determine and enforce the standards that have to be maintained while responding to victims of domestic violence and, the types, nature, extent and standard of social services that has to be provided to such persons;
(j) to establish temporary shelters for the purpose of providing safe locations to the victims of domestic violence in order to help such persons resume a healthy living; provide assistance to other entities administering such shelters and; determine and monitor the standards, rules and objectives of such centres;
(k) to provide support for perpetrators through anger management therapy and counselling support in order to rehabilitate them as healthy individuals;
(l) to determine the entities providing services to victims of domestic violence; the standard of such entities; type, nature, extent and standard of social services;
(m) to determine the standards, policies and code of conduct to be complied with by employees of the Authority; investigating cases of breach of code of conduct, and advising the Minister in respect of the actions to be taken in such cases;
(n) to advise and provide information on domestic violence to law and policy makers;
(o) to determine the operational standards and policies for centres providing temporary protection to victims of domestic violence, and to determine the standard of service at such centres.

Employees
54. (a) The job designations, requirements, remuneration and other benefits shall be determined, and persons for such designations shall be appointed, in a manner determined by the Board of the Authority.
(b) The employees of the Authority shall not be considered as employees of the Civil Service. Nevertheless, the employees of the Authority shall receive the protection afforded under the Civil Service Act (Law Number 5/2007) to the extent applicable.

Inclusion in the budget
55. When the People's Majlis (Parliament) passes the following year's budget during the current year, through such budget, sufficient funds shall be remitted to the Authority and the Police for the purpose of combating domestic violence and providing support to victims.
(a) When the People's Majlis (Parliament) passes the following year's budget during the current year, sufficient funds shall be remitted to the Authority for the purpose of administering the Authority; enforcing this Act; and effectively carrying out the works of the Authority as required under this Act.
(b) In allocating funds pursuant to Section 55(b), the People's Majlis shall facilitate allocation of the funds requested by the Authority and the Police to the greatest extent possible.
(c) The Authority may seek the assistance of the Police in carrying out their work. And in the event such assistance has been requested, the Police shall provide such assistance.
(d) Whilst the Authority is carrying out its work within its mandate under this Act, no person shall restrict or obstruct such work.
(e) Not granting permission to enter a private dwelling without a court order shall not be considered as an obstruction to the work of the Authority, for the purposes of this Act.

General provisions
62. It shall also be a criminal offence to contravene this Act or any provisions, herein, in addition to those offences determined under this Act and for which penalties have been determined. The penalty for such offences shall be the imposition of a fine not exceeding MRf 10,000 (ten thousand).

Exemption from any legal action
63. Employees of the Authority shall be exempt from legal action for acts carried out, with good intent, to enforce the obligatory requirements under this Act or any regulation made pursuant to this Act. And the employee shall further not be subject any legal liabilities.

Legal representation
64. Any party to proceedings in terms of this Act may be represented by a lawyer. And, the State shall be responsible for the provision of lawyer, upon request, to those victims without the financial means.

Costs
65. The court may only make an order against the plaintiff to pay for the costs incurred as a result of filing of the domestic violence case, if it is satisfied that such case was filed frivolously, vexatiously and without reasonable cause or proof.

Making and implementing regulations
66. (a) With the exception of the work assigned to the Police and the court, regulations shall be made and implemented by the Authority in respect of all other work. The regulations related to the work assigned to the Police shall be made by the Police. The regulations related to the work assigned to the court shall be made by the court.
(b) Regulations made pursuant to Section 66(a) shall be made and announced publicly within 6 months of enactment of this Act.

Meanings
67. Unless otherwise prescribed in this Act, the following terms and phrases shall be given the meaning as follows:
(a) "Protection Order" means an order issued pursuant to Section 18 of this Act;
(b) "Registered NGO" means any voluntary association registered in accordance with the laws and with the Authority, with the objective of protecting the rights and interest of victims of domestic violence;
(c) "Reporting" means informing the Police or the Authority under this Act under the circumstance where an incidence of domestic violence is suspected, or is likely to be taking place or, is unlikely that such violence is not taking place.
(d) "Verbal and psychological abuse" means a pattern of degrading or humiliating conduct towards a victim. This includes the following:-

1. repeated insults, ridicule or name calling;
2. repeated threats to cause emotional pain;
3. the exhibition of acts of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of the victim's privacy, liberty, integrity or security;

(e) "Intimidation" means uttering or conveying a threat, or causing a victim to receive a threat, which induces fear;
(f) "Guardian" means the person responsible under law or Shariah for the care of their own child, person or a minor;
(g) "Child" or "children" means any person defined as a child under Law Number 9/91 (Law on Protecting the Rights of Children);

(h) “Court” means the Family Court under all circumstances, except in respect of criminal offences under Section 35 of this Act, which shall be adjudicated by the Criminal Court. Or the Magistrate Courts having similar jurisdiction as the said courts;
(i) “Family” refers to the following persons:

1. married persons;
2. children of the spouse (born from the current marriage or from a previous marriage);
3. blood relatives and relatives of the spouse; or
4. from the persons sharing the same household, the person who provides the financial assistance and their corresponding dependents, if there are persons who are being cared for and financially assisted by another person’s financial assistance;

(j) “Shared household” means a household where the victim lives or at any stage has lived in a domestic relationship. This includes households owned by the victim and the perpetrator, households tenanted either singly or jointly by the victim and the perpetrator, and households which may belong to the joint family of which the perpetrator is a member, irrespective of whether the perpetrator or the victim has any right, title or interest in the shared household;
(k) “Authority” means the Family Protection Agency established pursuant to Section 52 of this Act;
(l) “Minister” means the minister of the Government responsible for the Authority or under whom the mandate for the prevention of domestic violence on a national scale lies;
(m) “Economic abuse” includes the following:-

1. the unreasonable deprivation of economic or financial resources to which a victim is entitled under law or which the victim requires out of necessity, including household necessities for the victim, and payment of rent or mortgage bond repayments in respect of the shared household; or
2. the unreasonable disposal of household effects or other property in which the victim has an interest;

(n) “Ministry” means the ministry of the government responsible for combating domestic violence at a national level.
(o) “Damage to property” means the wilful damaging or destruction of property belonging to a victim or in which the victim has a vested interest;
(p) “Stalking” means repeatedly following the victim of domestic violence, going to places where the victim goes, harassing and bothering the victim;
(q) “Compensation” means the compensation provided by way of a court order issued pursuant to Section 31 (a) of this Act directing the perpetrator to pay compensation and damages for physical and emotion injuries caused by the acts of domestic violence committed by the perpetrator against the victim;
(r) “Residence Order” means a court order issued pursuant to Section 31 (a) of this Act:

1. court order restraining the perpetrator from dispossessing or in any other manner disturbing the possession of the victim from the shared household, whether or not the victim has a legal or equitable interest in the shared household;
2. court order directing the perpetrator to remove himself from the shared household;
3. court order restraining the perpetrator or any of his relatives from entering any portion of the shared household in which the victim resides;
4. court order restraining the perpetrator from alienating or disposing off the shared household or encumbering the same;
5. court order restraining the perpetrator from renouncing his rights in the shared household except with the leave of a judge of the court;

(s) “Domestic violence” means the acts mentioned in Section 4 (a) of this Act;
(t) “Perpetrator” means any person who is or has been in a domestic relationship with a victim and who has committed or allegedly committed an act of domestic violence against the victim;
(u) “Domestic relationship” shall have the meaning as defined in Section 3 (a) of this Act;
(v) “Harassment” means engaging in a pattern of conduct that induces the fear of harm to a victim, including:
1. stalking and loitering outside of or near the building or place where the victim resides, or works, teaches, studies or happens to be;
2. bothering the victim by making telephone calls or inducing another person to make telephone calls to the victim;
3. bothering the victim by repeatedly sending letters, telegrams, packages, facsimiles, short message service (SMS) text messages, electronic mail, or other messages or objects to the victim;
(w) “Health professional” means a doctor, nurse or health worker engaged in any medical facility on an inhabited island providing services to members of the public;
(x) “Medical facility” means such facility as may be notified by the Authority to be a designated medical facility for the purposes of this Act;
(y) “Programme” means ventures, projects, recovery phases and other work implemented to stop domestic violence;
(z) “Sexual abuse” means any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the victim;
(aa) “Physical abuse” means any act or threatened act of physical violence towards a victim;

(bb)"Chief Executive Officer" means the main administrative officer responsible for the implementation of the decisions of the Board of the Authority and the daily administration of the Authority;

Enactment
68. This Act shall be enacted from the date of publication in the government gazette upon ratification.

Sexual Offences Act, 2014 [81]

Sec. 20 . "Offence of marital rape:
(a) Even if this Act does not, as a general rule, consider the offence of rape as defined in section 14 of this Act as an offence committed between married persons, the sexual intercourse by a man with his wife, without her consent, shall be considered as marital rape in the following exceptional circumstance,
(1) A matter for the dissolution or thafriq of a marriage between the two persons is currently in court, and the hearings have concluded in the matter and is awaiting judgment; or
(2) A matter filed by the man seeking to divorce the wife, or a matter filed by the woman seeking to divorce the husband is currently in court, and the hearings have concluded in the matter and is awaiting judgment; or
(3) A man has sexual intercourse with his wife, knowing that he has a dangerous transmittable disease, with the intention to infect her;
(4) A married couple lives separately for the common good, even if they are not divorced."

Penal Code, 2014 [82]

Section 130 – Sexual Assault
(a) Offense Defined. A person commits an offense if he engages in sexual intercourse without consent.
[(b) Rebuttable Presumption. If the person engages in the sexual intercourse with his spouse, the trier of fact shall presume, subject to rebuttal, that consent existed.]
(c) Definition. "Sexual intercourse" has the meaning given in Section 411 (f) of this Code.
(d) Grading.
(1) Rape. The offense in Subsection (a) is a Class 2 felony if: (A) the victim is a minor and the defendant is 4 or more years older than the victim; or (B) the person uses force or threat of force to compel the victim to submit to intercourse.
(2) Aggravated Sexual Assault. The offense in Subsection (a) is a Class 3 felony if:
[…]
(C) the defendant holds a position of custodial authority in relation to the victim.
(3) Sexual Assault. Otherwise the offense in Subsection (a) is a Class 1 misdemeanor.

Section 131 – Criminal Sexual Contact
(a) Offense Defined. A person commits an offense if he causes sexual contact with another person without consent for the purpose of producing sexual arousal or gratification.
(b) Definition. "Sexual contact" means:
(1) touching another person's sex organs, anus or breast without a reason permitted in Islamic Sharia; or
(2) causing another person to touch the sex organs, anus or breast of any person, including himself without a reason permitted in Islamic Sharia; or
(3) causing any transfer or emission of semen upon any part of the body of the victim, without a reason permitted in Islamic Sharia.
(c) Grading.
(1) Aggravated Sexual Contact. The offense is a Class 4 felony if:
(A) the victim is less than [18] years old; or
(B) the person uses force or threat of force to compel the victim to submit to sexual contact.
(C) Causing the act or forcing the other person to commit the act.
(2) Criminal Sexual Contact. The offense is a Class 5 felony if:
[…]
(C) the defendant holds a position of custodial authority in relation to the victim.
(3) Misdemeanor Sexual Contact. Otherwise the offense is a Class 1 misdemeanor.

[81] Maldives Sexual Offences Act, May 2014.
[82] Penal Code, Law No. 6/2014, available at https://www.law.upenn.edu/live/files/4203-maldives-penal-code-2014 (last visited December 30, 2018).

Section 134- General Provisions Relating to Sexual Assault Offenses
(a) Consent by Minor Invalid; Exception for Marriage. Assent or acquiescence to sexual intercourse or sexual contact by a minor is invalid, except where such minor is legally married to the defendant and is more than [18] years old.
(b) Culpability as to Age. Unless expressly provided otherwise, if an offense in this Chapter requires that the victim be under the age of [18] the defendant need only be negligent as to such victim's age.
[…]

CHAPTER 410. Offences against the Family

[…]
Section 411 – Unlawful Sexual Intercourse
(a) Unlawful Intercourse. A person commits an offense if:
(1) he engages in sexual intercourse
(2) he engages in sexual intercourse with a person of the same sex.
(b) Grading.
[…]
(6) a Class 3 felony, if the person holds a special place in the family and has misused such position, even if the person is not prohibited by virtue of being a close relative, or being nursed by the same woman, or due to marriage,
[(c) Four Witnesses Rule. If the offense in Subsection (a) is proven with comparably persuasive evidence other than the testimony of four witnesses, such as DNA evidence or evidence of pregnancy, the offense is one grade lower than it would otherwise be.]
[(d) Additional Punishment Authorized. In addition to the punishment authorized under Chapter 90, to impose the penalty imposed under Islamic Sharia, an additional punishment of 100 lashes is authorized for the offense.]
(e) Exception. Where the offense prescribed under subsection (a) (1) is proved in accordance with subsection (c), the offense shall not be subject to the punishment prescribed under subsection (d) of this Section.
(f) Definitions.
(1) "unlawful sexual intercourse" means insertion even to a small degree, by a man of his penis into the vagina of a woman who is not his wife or a not a woman waiting his post-marital divorce period.
[…]
(3) "Lashes" means the symbolic punishment of striking an offender's back with a short length of rope in a manner not designed to cause bodily injury. A single person must inflict all of the lashes prescribed as punishment, and he may only drive the rope using his wrists; he may not use any other part of his arm or movement in his shoulders, hips, back, legs or torso for that purpose.][9]

Section 412 – Unlawful Sexual Contact
(a) Unlawful Intercourse. A person commits an offense if:
[…]
(5) if the person married or unmarried has sexual contact with a person prohibited for marriage by virtue of being a close relative, or being breast fed by the same mother, or due to marriage. The offense is a Class 5 felony.
(6) if the person holds a special place in the family and has misused such position to engage in sexual contact, even if the person is not prohibited by virtue of being a close relative, or being breast fed by the same mother, or due to marriage. The offense is a Class 4 felony.
(b) Offense Defined. A person engaging in sexual contact with a person of the same is committing an offense.
(c) Prohibition. "prohibited sexual contact" means indecent acts other than the offenses prescribed under Section 411 (a) of this Code, with a person of same sex, or with a person of the opposite sex other than with a person to whom he is married, or with an animal, for obtaining sexual gratification.

Section 413 – Incest
(a) Offense Defined. A person commits an offense if he willingly engages in sexual intercourse or sexual contact with a close relative.
(b) Grading.
(1) Aggravated Incest. The offense is a Class 4 felony if the person is a parent, grandparent, or great-grandparent of the close relative.
(2) Incest. Otherwise the offense under subsection (a) is a Class 5 felony.
[(3) Additional Punishment Authorized. In addition to the punishment authorized under Chapter 90, an additional punishment of 19 lashes, as defined in Section 411(f)(3), is authorized for the offense.]
[(4)"Lashes" means the symbolic punishment of striking an offender's back in a manner not designed to cause bodily injury with less than 40 lashes, using a rope (hanmushi or dhurra) in accordance with section 411(f)(3) of this Code.

(c) Sentencing Factor. If a person holds a position of special importance within a family, yet is not one of the persons mentioned in Section (b)(1), and abuses that position in order to commit an offense under this Section, then the baseline sentence shall be aggravated one level.
(d) "Close relative" means another to whom a person is related as:
(i) Mother or Father, grandparent, great-grandparent; or
(ii) child, grandchild, great-grandchild; or
(iii) sibling; or
(iv) aunt, great-aunt, uncle, great-uncle, nephew, niece; or
(v) father-in-law, mother-in-law, daughter-in-law, son-inlaw; or
(vi) a person who was nursed by the same woman; or
(vii) a person who by virtue of marriage has become a relation specified in Subsections (d)(2)(i) through (d)(2)(v).
[…]

Section 415 – Non-Support
(a) Offense Defined. A person commits an offense if, having the ability to provide support, he:
(1) fails to provide for the support of:
(i) his child who is less than 18 years old, or
(ii) his parents who are over the age of 50 or, incapacitated
(iii) his spouse who is incapacitated; and
(2) the act under subsection (a) (1) is conducted knowing the family member is in need of such support; or
(a) a support payment is required under a court or administrative order of support, and the required support payment has been unpaid longer than 6 months, and is more than [1500 MVR] in arrears.
(b)the required support payment has been unpaid;
(1) longer than 6 months; or (2) is more than MVR 1500/- in arrears.
(b) Incapacitation. For the purpose of this Section, incapacitation means physically or mentally unable to support oneself by working.
(c) Grading. The offense is a Class 5 felony.
Section 417 – Definitions
(a) "Close relative" has the meaning given in Section 410(d)(2).
(b) "Incompetent" has the meaning given in Section 27(d).
(c) "Sexual Contact" has the meaning given in Section 131(b).

32. MALTA

Gender-based Violence and Domestic Violence Act, 2018[83]

[…]

Act No. XIII of 2018

An ACT to make provisions for the substantive articles of the Council of Europe Convention on prevention and combating of violence against women and domestic violence to become, and be, enforceable as part of the Laws of Malta; to promote and protect the right of everyone, and particularly of persons who are at risk of domestic violence to live free from violence in both the public and private sphere; to repeal the Domestic Violence Act (Cap. 481) and the Council of Europe Convention on Prevention and Combating of Violence against Women and Domestic Violence (Ratification) Act (Cap. 532) and to make consequential and other amendments to various other laws.

[…]

Part I
Preliminary

1. Short title and commencement.
(1) The short title of this Act is the Gender-Based Violence and Domestic Violence Act, 2018.
(2) This Act shall come into force on such date as the Minister responsible for equality may by notice in the Gazette appoint,

[83] Gender-based Violence and Domestic Violence Act, Act No. XIII (30 April 2018), available at http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=29057&l=1 (last visited December 30, 2018).

and different dates may be so appointed for different purposes and for different articles of this Act.

2. Interpretation.
In this Act, unless the context otherwise requires:
"Commission" means the Commission established by article 6;
"Convention" means the Council of Europe Convention on Prevention and Combating of Violence against Women and Domestic Violence, concluded in Istanbul on the 11th May, 2011;
"domestic violence" means all acts or omissions including verbal, physical, sexual, psychological or economic violence causing physical and, or moral harm or suffering, including threats of such acts or omissions, coercion, or arbitrary deprivation of liberty, that occur within the family or domestic unit, whether or not the perpetrator shares or has shared the same residence with the victim, and shall include children who are witnesses of violence within the family or domestic unit;
"family or domestic unit" includes:
(a) current or former spouses, civil union partners or cohabitants;
(b) persons living in the same household as the offender or who had lived with the offender within a period of three years preceding the offence;
(c) persons whose marriage has been dissolved or declared null;
(d) an ascendant or descendant;
(e) other adults sharing the same household;
(f) persons in an informal relationship, who are or were
dating;
(g) persons who are, or have been, formally or informally engaged with a view to get married or enter into a civil union;
(h) persons who are related to each other either by consanguinity or affinity up to the third degree inclusively;
(i) persons having or having had a child in common;
"gender" means the socially constructed roles, expectations, activities, behaviours and attributes that society at any given time associates with a person being either a male, female, or any other gender identity, gender expression, and, or sex characteristics;
"gender-based violence" means all acts or omissions that are directed against a person because of their gender, that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;
"Minister" means the Minister responsible for equality;
"victim" means any natural person who is subjected to forms of violence covered by the scope of this Act and the family members of any person whose death was directly caused by the said violence and who have suffered harm as a result of that person's death as well as minors who are witnesses to the forms of violence covered by the scope of this Act.

3. Scope
(1) This Act shall apply to all forms of violence covered by the scope of the Convention.
(2) This Act shall apply in times of peace and in situations of armed conflict.

4. Non- Discrimination.
(1) The implementation of the provisions of this Act, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as age; association with a national minority; belief, creed or religion; colour, ethnic origin and, or race; disability; family responsibilities and, or pregnancy; family and, or civil status; gender expression and, or gender identity; genetic features; health status; language; migrant or refugee status; national or social origin; political or other opinion; property; sex or sex characteristics; sexual orientation or any other status.
(2) Special measures that are deemed necessary to prevent and protect persons who are particularly vulnerable to violence due to their gender shall not be considered discrimination under the terms of this Act.
5. State obligations and due diligence.
(1) The public administration shall not engage in any act of gender-based violence or domestic violence and shall ensure that government institutions and any others acting on behalf of the public administration act in conformity with this obligation.
(2) The public administration shall:
(a) create and adopt, within one year from the coming into force of this Act, an Action Plan which includes effective, measurable, comprehensive and coordinated policies encompassing all relevant measures to prevent and combat all forms of gender-based violence and domestic violence, in liaison with the Commission;
(b) ensure the implementation of the aforementioned Action Plan by way of effective co-operation among other relevant Ministries, Commissions, agencies, authorities, institutions, organisations, civil society and any relevant bodies;
(c) allocate appropriate financial and human resources for the adequate implementation of this Action Plan to prevent and combat all forms of gender-based violence and domestic violence, including those actions carried out by non- governmental organisations, agencies and civil society;

(d) review the Action Plan periodically and at least once every three years in liaison with the Commission; and
(e) publish a report, at least once every three years, detailing the progress and status of the Action Plan.

Part II

Commission on Gender-Based Violence and Domestic Violence

6. Establishment of the Commission.

(1) There shall be a Commission to be known as the Commission on Gender-Based Violence and Domestic Violence which shall be a coordinating body with the aim of offering a holistic response to gender-based violence and domestic violence by promoting the right of all persons to live free from violence in both the public and private sphere, and of implementing measures to prevent all forms of violence falling within the scope of this Act.
(2) The Commission shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of employing personnel, of acquiring, holding and disposing of property of any kind for the purposes of its functions under this Act or any other law, of suing and of being sued, and of doing all such things and entering into all such transactions as are conducive or incidental to the exercise or performance of its functions as herein contained.
(3) The legal and judicial representation of the Commission shall lie in its Commissioner or such other officer as the Minister may from time to time appoint by notice in the Gazette:
Provided that the Commission may appoint any one of its members or any other person to appear in its name and on its behalf in any judicial proceedings, and on any act, contract, agreement or document whatsoever.

7. Appointment and composition.

(1) The Commission shall be composed of a Commissioner who shall be called the Commissioner on Gender- Based Violence and Domestic Violence and not less than six but not more than twelve other members who are knowledgeable on issues of gender-based violence and domestic violence, and, or legal and administrative issues connected therewith.
(2) The members of the Commission shall be appointed by the Minister after consulting such public and private agencies or entities involved in the research, prevention and treatment of gender-based violence and domestic violence, as the Minister may deem appropriate.
(3) The Minister shall ensure that the Commission is composed of members which represent, as far as possible, a wide representation of civil society.
(4) The members of the Commission shall designate any one of its members as Deputy Commissioner and the member so designated shall have all the powers and perform all the functions of the Commissioner during his temporary absence or inability, or while the Commissioner is on vacation, or during any vacancy in the office of Commissioner. The name of the person designated as Deputy Commissioner shall be published in the Gazette.

8. Term of office.

Every member of the Commission shall hold office for a term of three years and may be reappointed at the end of his term of office only once.

9. Disqualification

A person shall not be qualified to hold office as a member of the Commission if that person:
(a) is a Minister or a Parliamentary Secretary;
(b) is a practicing Judge or Magistrate;
(c) is legally interdicted or incapacitated;
(d) has been convicted of an offence liable to a term of imprisonment for not less than six months;
(e) has been convicted of an offence relating to a breach of human rights or discrimination; or
(f) is subject to disqualification under article 320 of the Companies Act.

10. Termination and resignation.

(1) Subject to the provisions of this article, the office of a member of the Commission shall become vacant:
(a) upon the expiration of three years from the date of appointment or at such earlier time as may be specified in the instrument by which he was appointed; or
(b) upon resignation by a letter addressed to the Minister; or
(c) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such; or
(d) upon removal by the Commissioner upon a two- thirds vote taken by all members for failure to attend meetings as specified in article 12(2).
(2) A member of the Commission may, at any time, be removed by the Minister after consultation with the other members of the Commission and substituted by another member.

(3) If a member resigns or if the office of a member of the Commission is otherwise vacant, it shall be filled by the appointment of another member by the Minister in accordance with article 7(2). The term of appointment of such member shall be for the remaining period of the three year term of the member whose post has become vacant.

11. Conflict of interest.
Any member of the Commission who has any direct or indirect interest in any matter or situation being considered by the Commission, not being an interest which disqualifies such member from remaining a member, shall disclose the nature of his interest at the first meeting of the Commission after the relevant facts have come to his knowledge. Such disclosure shall then be recorded in the minutes of the meeting, and the member having an interest as aforesaid shall withdraw from any meetings at which such matter or situation is discussed.
12. Provisions with respect to proceedings of the Commission.
(1) The Commission shall meet within one month from its constitution, and meetings of the Commission shall be called by the Commissioner as often as may be necessary but not less than once every two months, either on his own initiative or at the request of any two of the other members thereafter.
(2) Attendance by all members shall be compulsory, with failure to attend without reasonable cause for three consecutive meetings resulting in an immediate and automatic motion for removal.
(3) The quorum for meetings of the Commission shall be half the number of its members, one of whom shall be the Commissioner or the Deputy Commissioner.
(4) Decisions of the Commission shall be taken by a simple majority of the votes of the members present and in the event of an equality of votes the Commissioner shall have a casting vote.
(5) Subject to the provisions of this Act, the Commission shall, in general, regulate its own proceedings.
(6) The Commission may appoint sub-committees or working groups from among its members as it deems appropriate in order to better discharge its functions.
(7) The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission or by any defect in the appointment of any member.
(8) The Commission may appoint any of its officers or employees to act as Secretary and to assist with taking of minutes of its meetings.
(9) The Commission may from time to time invite any person to attend one or more of its meetings, in particular to provide expert advice on specific issues.

13. Functions of the Commission.
The functions of the Commission shall be the following:
(a) to advise the Minister and any State institution on all issues relating to gender-based violence and domestic violence, as well as the measures deemed necessary to ensure conformity with their due diligence obligations as established in article 5 and the Convention;
(b) to monitor and oversee the effective implementation of the Action Plan developed by Government in accordance with article 5;
(c) to engage any relevant stakeholders, including civil society, in the effective implementation of the Action Plan mentioned in the preceding paragraph;
(d) to determine the appropriate financial and human resources required for the adequate implementation of the integrated policies, measures and programmes to prevent and combat all forms of gender-based violence and domestic violence covered by the scope of this Act;
(e) to support research in the field of gender-based violence and domestic violence in order to study its root causes and effects, incidences and conviction rates, as well as the efficacy of measures taken to implement the Convention;
(f) to monitor national standards for support services for victims and perpetrators of gender-based violence and domestic violence, including public or private shelter services or facilities;
(g) to monitor standards and protocols for professionals in the areas covered by the scope of this Act and organise specialised training for the said professionals, including, but not limited to, educators, members of the judiciary and law enforcement officers;
(h) to comprehensively collect and collate relevant disaggregated statistical data at regular intervals on cases of all forms of violence covered by the scope of this Act from the State, public sector, agencies and other relevant entities, as appropriate;
(i) to collaborate with the relevant national institutions to conduct population-based surveys at regular intervals to assess the prevalence of and trends in all forms of violence covered by the scope of this Act;
(j) to provide the group of experts, as referred to in article 66 of the Convention, with the information collected pursuant to this article in order to stimulate international co- operation and enable international benchmarking;
(k) to ensure that the information collected pursuant to this article is available to the public;
(l) to conduct, on a regular basis and at all levels, awareness-raising campaigns or programmes, including those in co-operation with national human rights institutions and equality bodies, civil society and non-governmental organisations to increase

awareness and understanding among the general public of the different manifestations of all forms of gender-based violence and domestic violence and the need to prevent and address such violence;
(m) to ensure the wide dissemination among the general public of information on measures available to prevent acts of violence covered by the scope of this Act, as well as any means of redress available;
(n) to collaborate with the educational authorities to educate students on the forms of violence covered by this Act and the preventive measures in their regard;
(o) to provide guidelines to the media in relation to the prevention of the forms of violence covered by the scope of this Act.

14. Auditing and accounts.
[…]

15. Cap.174. Exemption from income tax.
[…]

16. Cap. 123. Reports.
[…]

17. Persons to assist the Commission.
[…]

18. Funding.
[…]

Part III
Designated Agency

19. Designated agency.
(1) The Minister shall designate one or more public, civil society or other organisations, institutions or other bodies with which arrangements have been made as provided in sub-article (3) as the agency responsible for the provision of preventive, therapeutic and, or treatment programmes for victims and perpetrators of violence covered by the scope of this Act.
(2) The Minister shall assign those services to be provided by the designated organisation, institution or other body.
(3) The arrangements referred to in sub-article (1) shall lay down the services which the organisation, institution or other body will be expected to provide for the duration of the arrangements and which shall include the following:

(a) preventive, therapeutic and, or treatment programmes for victims and perpetrators of forms of violence covered by the scope of this Act;
(b) public help-line facilities for emergency access to specialised support services in those areas related to forms of violence covered by the scope of this Act;
(c) expertise for the assessment of the needs and risks of victims of violence covered by the scope of this Act, including the development of a care plan for each referral;
(d) sheltered accommodation for victims of violence covered by the scope of this Act, including in partnership with other organisations, institutions or other bodies providing similar accommodation;
(e) the compilation and dissemination to interested persons and bodies of documentation on the rights of victims of violence covered by the scope of this Act, and on the remedies and services available to them;
(f) the collation of data concerning domestic violence for use by the Courts, prosecutors, law enforcement officers, health care practitioners, social workers and other agencies and entities, in a manner that protects the identity of victims of violence covered by the scope of this Act.

(4) The arrangements referred to in sub-article (1) shall also provide for funding by the Minister of the services agreed upon with the organisation, institution or other body.
(5) The designated agency shall keep the funds referred to in sub-article (4) separately from the other funds of the agency, which shall keep proper books of account thereof audited annually by auditors appointed by it with the concurrence of the Minister and which shall moreover be subject to audit by the Auditor General.
(6) The designated agency shall, by not later than three months after the close of each financial year, transmit to the Minister:

(a) a copy of the annual accounts certified by the auditors; and
(b) a report on the operations of the agency during the year.

(7) The report referred to in sub-article (6)(b) shall be laid on the Table of the House by the Minister by not later than six weeks after its receipt, or where the House is during the period not in session by not later than the second week after the House resumes its sittings, and this report shall, within the period of eight weeks from the date on which a copy thereof is laid on the Table of the House, be discussed by the Social Affairs Committee of the House of Representatives or any other committee substituting the same.

(8) Any member, officer, employee or member of staff of a designated agency shall be deemed a public officer for the purposes of article 92 of the Criminal Code.
(9) The designated agency shall, where necessary and in the best interest of all parties involved, liaise with any other agency, institution, non-governmental organisation or any other body which is competent to deal with matters relevant to the scope of this Act.

20. Power to make regulations.
The Minister may make regulations to implement and give better effect to the provisions of this Act, and without prejudice to the generality of the foregoing, may prescribe anything which shall be done or may be prescribed and provide for any consequential thing, incidental to or connected to the provisions of this Act.

21. For the avoidance of any doubt, it is hereby declared that, by means of a Note Verbale presented on the 21st May of 2012, Malta reserved the right not to apply:
(a) article 30(2) of the Convention and to continue to apply its current legislation in so far as State compensation is concerned; and
(b) article 44(1)(e) of the Convention and to establish jurisdiction when the offence is committed by a person holding permanent residence in terms of article 7 of the Immigration Act.

22. (1) The Convention, as reproduced in the Schedule to this Act, shall be, and shall be enforceable as, part of the Laws of Malta.
(2) Where any ordinary law is inconsistent with rights set out in the Convention, the latter shall prevail, and such ordinary law shall, to the extent of the inconsistency, be void:
Provided that where any ordinary law confers a higher degree of protection and, or further rights than those set out in the Convention, that ordinary law shall apply.

23. The Domestic Violence Act and the Council of Europe Convention on Prevention and Combating of Violence against Women and Domestic Violence (Ratification) Act are hereby repealed, without prejudice to anything done or omitted to be done thereunder.

SCHEDULE [84]

Council of Europe Treaty Series - No. 210

Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, 11.V.2011

Part IV

Consequential Amendments

Amendments to the Criminal Code [85]

24. The Criminal Code shall be amended as follows:

(a) immediately after article 6 thereof there shall be added the following new article:

6A. Criminal actions to be resolved without unreasonable delay.
Criminal actions shall be resolved without any unreasonable delay having due regard to the need to protect the safety and well-being of the injured party.";

(b) immediately after article 15 thereof there shall be added the following new article:

15A. Compensation for victims of crime.
(1) In addition to any punishment to which the person convicted of an offence may be sentenced, the Court may order the offender to make restitution to the injured party of any property or proceeds stolen or knowingly received or obtained by fraud or other unlawful gain to the detriment of such party by or through the offence, or to pay to such party such sum of money as may be determined by the Court as compensation for any such loss as aforesaid or for any

[84] The entire Istanbul Convention's text is reproduced in the law. Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Istanbul, 12 April 2011, available at https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168046031c (last visited December 30, 2018).
[85] Criminal Code (Ch. 9), 10 June 1854 (consolidated version up to 2018), available at http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8574 (last visited December 30, 2018).

damages or other injury or harm, including moral harm and, or, psychological harm, caused to such party by or through the offence, and any such order may include both a direction to make restitution and, or, to pay as aforesaid. The order shall constitute an executive title for all intents and purposes of the Code of Organization and Civil Procedure.

(2) When issuing an order under sub-article (1), the Court may direct that such costs or damages are paid in instalments, in particular, having regard to any other obligations which the offender has towards the victim or any of the victim's dependants."; […]

(d) article 28H thereof shall be amended as follows:

(i) in sub-article (1) thereof, immediately after the words "or other injury or harm" there shall be added the words ", including moral and, or, psychological harm";

(ii) sub-articles (3), (4), (5), (6) and (7) thereof shall be renumbered as sub-articles (4), (5), (6), (7) and (8) respectively;

(iii) immediately after sub-article (2) thereof, there shall be added the following new sub-article:

"(3) When issuing an order under sub-article (1), the Court may direct that such costs or damages are paid in instalments, in particular, having regard to any other obligations which the offender has towards the victim or any of the victim's dependants."; and

(iv) in sub-article (6) thereof, as renumbered, for the words "in sub-article (4)" there shall be substituted the words "in sub-article (5)";

(e) article 85 thereof the shall be amended as follows:

(i) in the proviso to sub-article (1) thereof, for the words "a fine (*multa*)." there shall be substituted the words "a fine (*multa*):";

(ii) immediately after the proviso to sub-article (1) thereof, there shall be added the following new provision:

"Provided further that it shall be a defence for the person accused of this offence to prove that such disturbance was done as a temporary measure imposed by actual necessity either in lawful self-defence or in the lawful defence of another person.";

(f) the heading of Title VII of Part II of Book First thereof shall be substituted by the following: "OF CRIMES AFFECTING THE DIGNITY OF PERSONS"; […]

(h) article 198 thereof shall be substituted by the following:

198. Rape.

(1) Whosoever shall engage in non- consensual carnal connection, that is to say, vaginal or anal penetration of a sexual nature with any bodily part, and, or, any object, or oral penetration with any sexual organ of the body of another person shall, on conviction, be liable to imprisonment for a term from six to twelve years:

Provided that penetration with any bodily part and, or object shall be deemed to be complete by its commencement, and it shall not be necessary to prove any further acts.

(2) Whosoever by force, bribery, deceit, deprivation of liberty, improper pressure or any other unlawful conduct or by threats of such conduct, causes another person to engage in any of the non-consensual acts described in the preceding sub-article with any person shall, on conviction, be liable to imprisonment for a term from six to twelve years.

(3) The acts referred to in sub-article (1) shall be deemed to be non-consensual unless consent was given voluntarily, as the result of the person's free will, assessed in the context of the surrounding circumstances and the state of that person at the time, taking into account that person's emotional and psychological state, amongst other considerations.

(4) In addition to any punishment to which the person convicted of an offence under this article may be sentenced, the Court may order the offender to make restitution to the injured party of any property or proceeds stolen or knowingly received or obtained by fraud or other unlawful gain to the detriment of such party by or through the offence, or to pay to such party such sum of money as may be determined by the Court as compensation for any such loss as aforesaid or for any damages or other injury or harm, including moral and, or, psychological harm caused to such party by or through the offence, and any such order may include both a direction to make restitution and, in default, to pay as aforesaid. The order shall constitute an executive title for all intents and purposes of the Code of Organization and Civil Procedure.

(5) When issuing an order under sub-article (4), the Court may direct that such costs or damages are paid in instalments, in particular, having regard to any other obligations which the offender has towards the victim or any of the victim's dependants."; […]

(l) article 202 thereof shall be amended as follows:

(i) in paragraph (a) thereof, immediately after the words "or other remuneration" there shall be added the words ", or any person otherwise having abused of his authority over the injured party";

(ii) in paragraph (b) thereof, the words "on any person under eighteen years of age" shall be deleted;

(iii) in paragraph (e) thereof, immediately after the words "arms proper" there shall be added the words "or improper";

(iv) in paragraph (g) thereof, for the words "carnally known" there shall be substituted the word "violated";

(v) paragraph (h)(i) thereof shall be substituted by the following:

"(i) the current or former spouse, civil union partner or cohabitant; or";

(vi) in paragraph (h)(iii) thereof, for the words "a natural" there shall be substituted the word "an";

(vii) in paragraph (h)(v) thereof, for the word "one" there shall be substituted the word "three";
(viii) in paragraph (n) thereof, for the words "a similar nature." there shall be substituted the words "a similar nature:" and immediately thereafter there shall be added the following new provision:

"Provided that where an aggravation of punishment in respect of the circumstances mentioned in this article is already provided for under this Code or any other law, the higher punishment may be applied.";

(m) article 203 thereof shall be amended as follows:

(i) sub-article (1) thereof shall be substituted by the following:

"(1) Whosoever, by lewd acts, defiles a person who has not completed the age of sixteen years, shall, on conviction, be liable to imprisonment for a term from four to eight years:
Provided that the offence shall be punishable with imprisonment for a term from six to twelve years, in each of the following cases:
(a) if the offence is committed on a person who has not completed the age of twelve years, or with violence, be it physical or psychological;
(b) if the offence is committed on a person who has not completed the age of sixteen years by means of threats or deceit;
(c) if the offence is committed by any ascendant by consanguinity or affinity, or by the adoptive parents, or by the tutor, or by any other person charged, even though temporarily, with the care, education, instruction, control or custody of the person who has not completed the age of sixteen years;
(d) when the offender abuses of a recognised position of trust, authority, influence or during his duties as a professional in the possession of an official qualification and, or warrant to practice as counsellor, educator, family therapist, medical practitioner, nurse, pathologist, psychiatrist, psychologist, psychotherapist, social worker and, or youth worker over the person who has not completed the age of sixteen years and one of the circumstance referred to below occurs:

(i) the offender wilfully or recklessly endangered the life of the person who has not completed the age of sixteen years;
(ii) the offence involves violence or grievous bodily harm to such person;
(iii) the offence is committed with the involvement of a criminal organisation within the meaning of article 83A(1).";

(ii) the proviso to sub-article (3) thereof shall be substituted by the following:

"Provided that where the injured party withdraws his complaint, the Court may decide and direct the continuation of proceedings against the alleged perpetrator, giving particular consideration to the best interests of the complainant, any minors involved, and any other relevant third parties, and shall cause such request and decision to be registered in the records of the case:
Provided further that where the offence is not accompanied by any of the circumstances as to fact or person mentioned in sub-article (1)(a), (b) and (c), the complaint shall not be admissible after the lapse of one year from the day on which the act was committed or knowledge thereof was obtained by the person entitled to lodge the complaint in lieu of the injured party:
Provided further that proceedings shall be instituted *ex officio* when the act is committed with abuse of parental authority or of tutorship."; […]

(am) article 257D thereof shall be amended as follows:

(i) in sub-article (2) thereof, immediately after the words "for any damages or other injury or harm" there shall be added the words "including moral and psychological harm";
(ii) immediately after sub-article (2) thereof, as amended, there shall be added the following new sub- article:

"(3) When issuing an order under sub-article (1), the Court may direct that such costs or damages are paid in instalments, in particular having regard to any other obligations which the offender has towards the victim or any of the victim's dependants.";

(an) immediately after sub-article (2) of article 346 thereof there shall be added the following new sub-article:

"(3) In the carrying out of their duties, the Police shall take all measures necessary for the immediate protection of victims following an assessment as the case may be."; […]

(ar) article 412C thereof shall be substituted by the following:

412C. "Protection orders".
(1) Where a person (hereinafter in this article and in article 412D referred to as "the accused") has been charged or accused with an offence before the Court of Magistrates whether as a Court of inquiry or as a Court of criminal judicature, the Court may, either *ex officio* or at the request of any party to the proceedings, on reasonable grounds, for the purpose of providing for the safety of the injured person or of other individuals or for the keeping of the public

peace or for the purpose of protecting the injured person or other individuals from harassment or other conduct which will cause a fear of violence, issue a protection order against the accused.

(2) Where a protection order is requested by any party to the proceedings, such request shall be appointed for hearing to determine whether there is sufficient *prima facie* evidence for it to be issued by the Court within seven days from when such request is made.

(3) Before issuing a protection order, the Court shall take into account:

(a) the need to ensure that the injured person or other individual specified in the order is protected from injury or molestation; and

(b) the welfare of any children or any dependants who may be affected by the order; and

(c) the accommodation needs of all persons who may be affected by the order, in particular of the injured person, his children and his other dependants; and

(d) any hardship that may be caused to the accused or to any other person as a result of making the order; and

(e) the accused's willingness or otherwise to submit to such treatment as the Court may deem appropriate; and

(f) any other matter that, in the circumstances of the case, the Court considers relevant:

Provided that particular attention shall be given to the matters in paragraphs (a), (b) and (e).

(4) The Court shall always issue a protection order in those instances where, following a risk assessment of the injured party or any other relevant person, it becomes apparent that such person is at a very high risk.

(5) When issuing a protection order, the Court shall outline the formal requirements of such order, and, if applicable, delineate any prohibited areas and other prohibited conduct.

(6) When issuing a protection order under this article, the Court shall immediately communicate such order to the Commissioner of Police, who shall take all actions necessary to ensure monitoring of the conditions of such order, including, if appropriate, by electronic means.

(7) A protection order may impose any restrictions or prohibitions on the accused that appear to the Court necessary or desirable in the circumstances in order to give effect to any of the purposes mentioned in sub-article (1).

(8) Without limiting the nature of the orders which may be made under sub-article (1), a protection order may do all or any of the following:

(a) prohibit or restrict the accused from approaching or following the movements of the injured person or any other individual specified in the order; or

(b) prohibit or restrict access by the accused, to premises in which the injured person, or any other individual specified in the order, lives, works or frequents even if the accused has a legal interest in those premises; or

(c) prohibit the accused from contacting or molesting the injured person or any other individual specified in the order.

(9) A protection order shall remain in force for a period, not exceeding five years, specified by the Court, but can be revoked or extended for further periods.

(10) A party to the proceedings in which an order has been made under this article or any other individual mentioned in the order, may apply to the Court at any time for the extension, variation or revocation of the order and after all the parties have had an opportunity to be heard the Court shall, in determining whether to extend, vary or revoke an order, have regard to the matters specified in sub-article (3).

(11) If without reasonable excuse the accused contravenes any prohibition or restriction imposed upon him by an order under this article, he shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of seven thousand euro (€7,000) or to imprisonment not exceeding two years or to both such fine and imprisonment.

(12) The Court may also order that any arm proper or arm improper, as defined in article 64, be deposited with the Court's registrar.";

(as) immediately after article 540 thereof there shall be added the following new article:

540A. Temporary protection orders.

(1) Upon the receipt of any report, information or complaint requiring proceedings to be taken against a person from a person or persons indicated in paragraph (a) of article 12 of the Victims of Crime Act, a police officer, together with a social worker, shall immediately conduct an assessment of the risk of the injured person or of any other individual, as the case may be.

(2) Where, following such assessment, it becomes apparent that any person is at a serious risk of harm, the Executive Police shall immediately apply to a Magistrate requesting the issue of a temporary protection order stating the grounds for the request and giving the Magistrate all such information that will enable the Magistrate to decided upon the request.

(3) Before deciding whether to issue the temporary protection order, the Magistrate may require the police officer, the social worker, or the person making the report or complaint giving the information, to confirm on oath the information supplied by him and the temporary protection order shall be issued once the Magistrate is satisfied that sufficient grounds for the issuing of the order exist:

Provided that such a decision shall be taken within six hours of receipt of the application.

(4) In cases of utmost urgency, the request for the issue of the temporary protection order and the order may be communicated even by electronic means:
Provided that, as soon as practicable, the original temporary protection order shall be delivered for record purposes.
(5) Sub-articles (7), (8), (11) and (12) of article 412C shall apply *mutatis mutandis* to a temporary protection order issued under this article.
(6) A temporary protection order issued under this article shall remain in force until the alleged offender is arraigned, but can be revoked or extended for further periods on good cause being shown by the Executive Police or by the injured party.
(7) Upon determining that no criminal proceedings are warranted against the alleged offender, the Executive Police shall forthwith inform the Magistrate and request the revocation of the temporary protection order.
(8) The temporary protection order shall lapse upon the issue of a protection order under article 412C.
(9) For the purposes of this article, "temporary protection order" shall have the same meaning assigned to a "protection order" under article 412C.";

(at) article 543 thereof shall be amended as follows:

(i) in the first proviso to paragraph (e) thereof, for the words "Domestic Violence Act" there shall be substituted the words "Gender-Based Violence and Domestic Violence Act";
(ii) in the second proviso to paragraph (e) thereof, for the words "of any minors involved" there shall be substituted the words "of the complainant, any minors involved, and any other relevant third parties";
(iii) immediately after paragraph (e) thereof there shall be added the following new paragraph:
"(f) in the case of rape as defined in article 198 of this Code:
Provided that it shall be lawful, after proceedings have commenced before the court in virtue of this article for an offence mentioned in this paragraph, for an alleged victim to request the court to stay proceedings against the alleged perpetrator, however, if such request is made, the court may decide to continue the proceedings against the perpetrator, giving particular consideration to the best interests of the complainant, any minors involved, and any other relevant third parties."; […]

Amendments to the Civil Code.[86]

25. The Civil Code shall be amended as follows:

(a) in article 47 thereof, for the words "the paramount consideration shall be the welfare of the children." there shall be substituted the words "the paramount consideration shall be the welfare of the children:", and immediately thereafter there shall be added the following new provision:

"Provided that in cases where there is evidence of domestic violence, the Court may limit or deny access to the children if such access would put the children or the other parent at risk.";

(b) article 56A shall be substituted by the following:

56A. Exclusion of custody.
The Court may, for grave reasons, at any time during the cause for separation, and or, divorce, or when the parties are separated and, or divorced, upon the demand of one of the parties, or of its own motion declare that the other party is not fit to have the custody of the minor children of the parties, and where the Court issues such a declaration, the party so declared, upon the death of the other party, shall not be entitled to assume the custody of the minor children without the authorisation of the Court:
Provided that evidence of domestic violence shall constitute a grave reason for the purposes of this article.";

(c) article 57 thereof shall be amended as follows:

(i) in sub-article (1) thereof, for the words "according to law." there shall be substituted the words "according to law:", and immediately thereafter there shall be added the following new provision:
"Provided that this right may be suspended if the exercise thereof would put either the children or the other parent at a risk of harm.";
(ii) in sub-article (2) thereof, for the words "access to the children." there shall be substituted the words "access to the children:", and immediately thereafter there shall be added the following new provision:
"Provided that the right of access may be withdrawn by the Court when the spouse who is granted such right of access

[86] Civil Code (Ch. 16), 11th February1870 and 22 January 1874 (consolidated up to 2018), available at http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8580 (last visited December 30, 2018). Arts. 27- 36 of the Gender-Based Violence and Domestic Violence Act of 2018, also contain amendments to, inter alia, provisions of the Police Act, the Probation Act, the Restorative Justice Act, the Victims of Crimes Act, the Witness (Fess) Ordinance, the Criminal Injuries Compensation Scheme Regulations.

fails to exercise such right without reasonable cause.";
(iii) in sub-article (3) thereof, immediately after the words "of such minors" there shall be added the words "or to the welfare of anyone of the parents"; […]

(e) article 154 thereof shall be amended as follows:
(i) sub-article (2) thereof shall be renumbered as sub-article (4);
(ii) immediately after sub-article (1) thereof there shall be added the following new sub-articles:
"(2) If the interests of the child so require, the Court may order that only one of the parents shall exercise the rights of parental authority and the Court may also restrict the exercise of these rights and, in serious cases, exclude both parents from the exercise of these rights.
(3) The Court may also restrict the exercise of the aforementioned rights where one or both of the parents are charged with one or more of the offences listed in Title VII of Part II of Book First of the Criminal Code.";

(f) in sub-article (1) of article 1045 thereof, for the words "which the act may have caused." there shall be substituted the words "which the act may have caused:", and immediately thereafter there shall be added the following new provisions:
"Provided that in the case of damages arising from a criminal offence, the damage to be made good shall also include any moral and or psychological harm caused to the claimant:
Provided further that, notwithstanding any other provision of this Code or of any other law, when damages arise from a criminal offence committed against a minor, the period of prescription shall run from the day on which the victim attains the age of majority.'';

(g) immediately following sub-article (8) of article 37 there shall be added the following new sub-article:
"(9) The provisions of this article shall also apply in cases relating to maintenance, access, and, or care and custody of children, even when the parents are not married."; and

(h) in article 39, immediately following the words "by either spouse" there shall be inserted the words ", or a law suit for access, and, or, care and custody of children has been filed, even when the parents are not married,". […]

33. MARSHALL ISLANDS

Domestic Violence Prevention and Protection Act, 2011 [87]

TITLE 26 - FAMILY
CHAPTER 9.

DOMESTIC VIOLENCE

An Act to prevent domestic violence, protect complainants or survivors of domestic violence; to ensure investigation, prosecution and punishment of perpetrators of domestic violence; to provide treatment, rehabilitation of survivors and perpetrators, and other related matters.

PART I - PRELIMINARY MATTERS

§901. Short title.
This Chapter may be cited as the Domestic Violence Prevention and Protection Act, 2011.

§902. Purpose.
The purposes of this Chapter are:
(1) to prevent violence between family members and others who are in domestic relationships; (2) to recognize that domestic violence of any kind is not acceptable in the Republic;
(3) to ensure investigation, prosecution and punishment or persons who commit domestic violence;
(4) to provide support for complainants/survivors.

§903. Definition.
In this Chapter, unless the context otherwise requires:
(a) “assault” has the same meaning as an offence defined under the Criminal Code.
(b) “applicant” means:

[87] Domestic Violence Prevention and Protection Act, Title 26, Ch.9, P.L. 2011-60 (29 September 2011), available at https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_532838.pdf (last visited December 30, 2018).

(i) the person completing the application for a protection order on his or her behalf;
(ii) a person on whose behalf an application for a protection is made;
(iii) any other person who can apply for a protection order under section 912 of this Act (c) "care and custody" means a person who expressly or implicitly has, or under the circumstances should have had, physical custody or care of a child at the time;
(d) "child" means an individual or person under the age of 18;
(e) "complainant" means the person who is sought to be protected by a protection order, or temporary protection order under this Chapter;
(f) "court" means any Community Court, District Court and High Court of the Marshall Islands;
(g) "community court" means court which have local and community jurisdiction as described in Part V of the Judiciary Act 1983;
(h) "domestic violence" has the meaning given by section 904 of this Chapter;
(i) "economic abuse" includes:
(i) denying a spouse or partner access to joint finances;
(ii) failing to pay bills, provide food, or shelter or to provide for children's needs when finance is available;
(iii) prohibiting a spouse or partner from seeking of engaging in paid work or attending educational or training, or engage in other income generating activities.

(j) "partner" means a person to whom the person is not married by law or custom but with whom the person is living as a couple on a genuine domestic basic, or with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support or a domestic nature for the material benefit of the other, irrespective of whether or not they are living under the same roof.
(k) "protection order" means an order made under section 906 of this Chapter.
(l) "psychological abuse" means the perpetration of malicious and explicit nonphysical acts including but not limited to"
(i) intimidation;
(ii) harassment;
(iii) damage to property; or
(iv) threats of physical abuse or sexual abuse In relation to children, including, causing or allowing a child to see or hear physical, sexual or emotional abuse of a person with whom the child has a domestic relationship;
(m) "family member" means a partner, or a member of a person's family including spouse, child, parent, grandparent, sibling, uncle, aunt, brother-in-law or sister-in-law, or uncle-in-law or nephew, niece or cousin; any other person who is treated by the person as a family member or a member of a same household including by customary adoption;
(n) "respondent" means the person against whom a domestic violence prevention order is sought;
(o) "spouse of a person" means an individual who"
(i) is or has been married to the person under law or custom; or
(ii) is a biological parent of a child with the person (whether or not they are or have been married or are living or have lived together).
(p) "sexual assault" has the same meaning under the Criminal Code of the Republic of the Marshall Islands;
(q) "stalking" means the pursuit of somebody with the intend of intimidating "pursue" in relation to a person, includes:
(a) to repeatedly communicate with the person, whether directly or indirectly and whether in words or otherwise;
(b) to repeatedly follow the person;
(c) to prevent the person from doing an act that the person is lawfully entitled to do, or to hinder the person in doing such an act
(d) to compel the person to do an act that the person is lawfully entitled to abstain from doing.
(r) "temporary protection order" means an order issued by the Community Court under section 909 of this Chapter.

PART II - DOMESTIC VIOLENCE OFFENSE AND PENALTIES

§904. Domestic violence offenses.
(1) Any person who:
(a) assaults a family member;
(b) psychologically abuses or intimidates a family member;
(c) sexually assaults a family member;
(d) economically abuses a family member;
(e) continuously and unlawfully restrains the freedom of movement of a family member;
(f) stalks a family member;
(g) unlawfully behaves in an indecent manner to a family member;

(h) unlawfully damages or causes damage to a family member's property, commits an act of domestic violence.
(2) Any person who counsels or procures another to commit any of the acts under subsection (1) commits an act of domestic violence.
(3) Any person who threatens to commit any of the acts under subsection (1) commits an act of domestic violence.

§905. Domestic Violence Penalties.
(1) Any person who commits domestic violence pursuant to section 904 (1) is liable to 6 months imprisonment or a fine not exceeding $1,000 or both for the first offense, or liable to 2 years imprisonment or $2,000 fine for a second or subsequent offense. (2) Any person who counsels or procures another person to commit domestic violence pursuant to section 904 (2) is guilty of an offense and is liable to 6 months imprisonment or a fine not exceeding $1,000 or both.

PART III - DOMESTIC VIOLENCE PROTECTION ORDER

Division 1 - Power of court to grant protection order

§906. Power of court to grant a protection order.
(1) A court may on application made under section 912 grant a protection order against a respondent if the court is satisfied on the balance of probabilities that:
(a) the respondent has committed an act of domestic violence against the complainant; or
(b) the respondent is likely to commit an act of domestic violence against the complainant; or
(2) In deciding whether to grant a protection order, the court shall take into account the following:
(a) all measures necessary to ensure that the complainant and any children, as well as other family members are secured;
(b) the well-being and accommodation needs of the complainant and children, as well as other family members are secured;
(c) any other matter that the court consider relevant and significant.

§907. Condition of a protection order: General
(1) if a court grants a protection order, it must include that:
(a) the respondent must be of good behavior towards the complainant and any person named in the order; and
(b) the respondent must not commit an act of domestic violence.
(2) the court may impose other conditions on the respondent in accordance with section 908 if it considers necessary in the circumstances, and or desirable in the interests of the complainant or any other family member.

§908. Conditions of a protection order: Specific
A court may include all or any of the following specific conditions in a protection order:
(1) Conditions relating to individual protection and harmonious family relationships.
(a) prohibiting the respondent or complainant from approaching within a certain distance of each other;
(b) prohibiting the respondent or complainant from approaching within a certain distance of each other while under the influence of alcohol, other forms of drugs or nonprescription drugs;
(c) prohibiting the respondent or complainant from being in or within a specified distance of specified premises, even though the respondent has a legal or equitable interest in the premises;
(d) prohibiting the respondent or complainant from communicating with each other by any means including telephone or electronically;
(e) prohibiting the respondent or complainant from causing another person to engage in conduct referred to in paragraphs (a) to (e).
(2) Conditions relating to weapon:
(a) prohibiting the respondent from possessing any weapons;
(b) directing that the respondent dispose of any weapon or that it be forfeited to the police for disposal by a police officer in accordance with the order.
(3) Conditions relating to property:
(a) prohibiting the respondent from damaging or taking property of the complainant or property jointly owned by the complainant;
(b) directing the respondent:
(i) to return any specified personal property of the complainant; or

(ii) allow the complainant to recover, have access or to make use of any specified personal property.

(c) granting the complainant exclusive occupancy to a residence or specified part of a residence whether or not the resident is solely owned or leased by the respondent;

(d) order the complaint to return specified personal property to the respondent.

(4) Conditions relating to counseling and or mediation:

(a) order one or both parties to attend counseling; or

(b) order mediation; or

(c) recommends counseling and mediation; or treatment, rehabilitation and recovery.

Division 2 - Temporary Protection Order

§909. Temporary Protection Order.

(1) A Community, District or High Court may on application made under section 912 grant a temporary protection order if the court is satisfied that:

(a) the complainant or a child in their care and custody is in danger of an act of domestic violence; and

(b) because of distance, time or other circumstances of the case, it is not practicable to apply to a court.

(3)[88] A Court may grant a temporary protection order whether or not the respondent or complainant is in court. If the respondent or complainant is unable to attend or appear, the court may accept affidavit or hears ay evidence on behalf of the complainant.

(4) A temporary protection order made under this section shall remain in force for not more than 28 days, and may be renewed by application of the complainant or by consent of the parties for a further period of 28 days. A temporary protection order may stay in effect in accordance with section 910(2)(c).

§910. Further hearing by a Court.

(1) If a temporary protection order is granted by a Court in accordance with section 909(3), the court shall issue a summons for the respondent to appear at a specified date before expiration of the temporary protection order for a further hearing.

(2) At a further hearing, a Court may confirm:

(a) make the temporary protection order permanent;

(b) revoke the temporary protection order permanent;

(c) continue the hearing and order that the temporary protection order remain until completion of the next hearing.

(d) vary the temporary protection order.

Division 3 - Judicial Separation Orders and other Domestic Relation Orders.

§911. Judicial Separation Order.

(1) A court may on application by the applicant grant a judicial separation order, based on the circumstances of the case and, on any grounds on which a petition for divorce may have been presented under the provisions and procedures of the Domestic Relations Act, 26 MIRC Ch.1.

(2) Where the court grants a separation order in accordance with this section, it shall no longer be obligatory for the parties to cohabit with each other.

(3) On application for judicial separation order, the court may grant other orders regarding custody of and access to children, maintenance of the complaint, financial support for children, occupation of and distribution of real and personal property.

Division 4 - Application for Protection Orders.

§912. Who can apply for a Protection Order?

An application for a Protection Order may be made by:

(a) the complainant; or

(b) other family member or a friend of the complainant if, the complainant has given his or her oral or written consent for that friend to make the application;

(c) a qualified legal practitioner on behalf of the complainant; or

(d) any national or local police officer on behalf of the complainant; or

(e) any national or local government prosecutor; or

(f) any advocate or counselor or social worker from any crisis or rehabilitation center.

[88] Numbering as in original law.

§913. Application to a court for Protection Order.
(1) An application to a court for a protection order may be made orally, by telephone or by radio, in writing, by facsimile, telex or email, or any other mode as required by the court rules and procedures.
(2) If the application is made in a non-written form, the court must reduce the application to writing.
(3) An application for a temporary protection order shall be made as part of the application and must state the grounds for the application for the temporary protection order.
(4) In the case of temporary protection order, an application may be made ex parte.
(5) Where possible evidence supporting the application should be taken under oath.

Division 5 - Offense and restitution.

§914. Breach to protection order.
A person who breaches the protection order commits an offense and shall upon conviction be punishable by a term of imprisonment of 6 months or a fine of $1,000 or both.

§915. Restitution.
(1) A court may make an order that the respondent pay restitution to the complainant if he or she as a result of an act of domestic violence suffered:
(a) personal injury; or
(b) damage to property; or
(c) financial loss.
(2) The court may take into account the following, in making an order for restitution to a complainant:
(a) any pain and suffering;
(b) any physical or mental injury;
(c) cost of any medical treatment incurred;
(d) any loss of earnings;
(e) the value of any property that has been taken, destroyed or damaged;
(f) any necessary and reasonable expenses incurred as a result of separation which results from the act of the domestic violence, including:
(i) accommodation expenses; and
(ii) moving and transport expenses; and
(iii) expenses of setting up a separate household, including housing loan repayments or rent for as long as the court considers reasonably necessary.

PART 4 - PROCEDURAL MATTERS RELATING TO PROTECTION ORDER

Division 1. Application and service.

§916. Absent respondent.
(1) Subject to subsection (2), a court may proceed to hear and determine an application for a protection order if the respondent is not present.
(2) The court must be satisfied that:
(a) the respondent has been served with a summons to appear at the hearing;
(b) the respondent is required to appear at the hearing;
(c) having regard to the circumstances of the case, all reasonable efforts have been made to give the respondent notice of the hearing.

§917. Service of application and issue of summon or warrant.
On application made to a court under section 912 for a protection order, whether or not an application for temporary protection order is made the court shall issue a summon directing the respondent to appear at the time and place set out in the summon.

§918. Service of Protection Orders. (1) If a Protection Order or a Temporary Protection Order is made by a court, the court must:
(a) explain the order to the complainant and the respondent in the language that he or she understands;
(b) cause a copy of the order to be served personally on the complainant and on the respondent; and

(c) in the absence, cause a copy of the order to be given or forwarded to the police officer in charge to serve on the complainant or respondent, or to use alternative forms of service including radio.

Division 2. - Evidence and burden of proof.

§919. Evidence.
The Rules of Evidence contained in the Evidence Act, 28 MIRC Ch. 1, do not apply to an application for a protection order or temporary protection order.

§920. Spouse may give evidence.
If a person is charged with an offense under this Chapter, respondent's spouse is a competent but not a compellable witness in any legal proceedings in connection with the offense.

PART 5 – MISCELLANEOUS

§921. Variation and revocation of orders.
(1) A court may vary or revoke a protection order upon application by any person whom the order applies.
(2) Before the court varies or revokes a protection order, it must:
(a) in the case of protection order, have regard to conditions in section 907 and 908;
(b) in the case of temporary protection order, consider whether the complainant is in danger of person injury.

§922. Consent orders.
On application for protection order, a court may grant protection order with the consent of the complainant and the respondent.

§923. Collaborative Reporting.
(1) Notwithstanding any other law or procedures concerning confidentiality to the contrary, any person, who in their professional or official capacity, have reason to believe that an act of domestic violence has occurred to a person or a child, or there is evidence to believe that such person is at risk to domestic violence, shall immediately report the matter to a Police, or bring the matter before the court pursuant to section 912.

(2) For the purposes of this section, "person in their professional or official capacity" includes: (a) licensed or registered health or medical professionals including medical examiners or coroners, counselors, social workers or case managers;
(b) employee or officers of public or private schools;
(c) employee or officers of law enforcement agencies or institutions;
(d) employee or officers of any public or private agency providing recreational, sports activities or spiritual welfare including churches.

§924. No-drop policy.
(1) A police officer upon receiving reports of domestic violence cases shall immediately investigate and press charges if appropriate.
(2) A prosecutor shall proceed with the case in court, before proceeding however, the prosecutor must:
(a) believe that an act domestic violence has been committed;
(b)have sufficient evidence to proceed with the case.

§925. Emergency assistance.
(1) Nothing in this Chapter shall prohibit a local or national police officer from rendering assistance to any person who alleges that he or a minor child has been the victim or survivor of domestic violence.
(2) The local or national police officer responding to the request for assistance shall as soon as practicable and acting within the law take whatever steps are reasonably necessary to protect the complaint or survivor from harm, and may advice the complainant of the sources of shelter, medical care, counseling and other services.

§926. Domestic Violence Prevention and Protection Fund.
(1) A Domestic Violence Prevention and Protection Fund is hereby established. The Fund shall be a fund within the National Treasury and under the control and supervision of the Ministry of Finance, which shall provide for its administration in accordance with the Financial Management Act of 1990.

(2) All fines imposed and collected under this Chapter, and funds appropriated by the Nitijela for the purpose of the Fund, or any grants and gifts received for the purpose of the fund shall be deposited into the Fund.
(3) The Secretary of Internal Affairs shall make requests for withdrawn of funds to assist domestic violence center or safe house for women and children, community education program, counseling program, transportation services and call forwarding during the night or any other services in accordance with the purpose for which the fund in created.
(4) The fund shall be subject to audit by Auditor General as provided under Article VIII, section 15 of the Constitution.

§927. Central data collection, monitoring, reporting etc.
The Secretary of the Ministry of Internal Affairs shall be responsible for:
(a) collection and maintaining data of reported domestic violence cases;
(b) monitoring, evaluating and providing surveillance to domestic violence vases;
(c) reporting and providing necessary activities relating to domestic violence cases.

§928. Effective date.
This Chapter shall take effect on the date of certification in accordance with the Constitution and the Rules of Procedures of the Nitijela.

Criminal Code, 2004 (As amended)[89]

§152. Sexual Offenses.
(A) (1) Sexual assault in the first degree. A person commits the offense of sexual assault in the first degree if:
(a) The person knowingly subjects another person to an act of sexual penetration by strong compulsion;
(b) The person knowingly engages in sexual penetration with another person who is younger than sixteen (16) years of age; or
(A)(2) Subsection (1)(b) shall not be construed to prohibit medical practitioners duly licensed under the laws of the Republic, from performing any act within their respective practices.
(A)(3) Sexual assault in the first degree is a felony of the first degree and, any person found guilty thereof, shall be liable to a term of imprisonment not exceeding twenty-five (25) years.

34. MAURITIUS

Protection from Domestic Violence Act, 1997 [90]

[…]

1. Short title
This Act may be cited as the Protection from Domestic Violence Act.

2. Interpretation
In this Act—
"aggrieved spouse" means the spouse for whose benefit a domestic violence order is sought or is in force;
"child", in relation to a spouse, includes any biological, adopted, step or foster child below the age of 18 and any other minor in his or her care or custody;
"Court" means the District Court of the area where the person, for whose benefit an order under this Act is sought or is in force, lives;
"domestic violence" includes any of the following acts committed by a person against his spouse, a child of his spouse or another person living under the same roof—
(a) wilfully causing or attempting to cause physical injury;
(b) wilfully or knowingly placing or attempting to place the spouse or the other person in fear of physical injury to himself or to one of his children;
(c) intimidation, harassment, ill-treatment, brutality or cruelty;
(d) compelling the spouse or the other person by force or threat to engage in any conduct or act, sexual or otherwise, from which the spouse or the other person has the right to abstain;

[89] Criminal Code (Revised) 2004 (consolidated as at 2011), available at https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/74125/76208/F124708119/MHL74125.pdf (last visited December 30, 2018).
[90] Protection from Domestic Violence Act, Act No. 6 (15 August 1997), available at http://attorneygeneral.govmu.org/English/Documents/A-Z%20Acts/P/Page%201/PROTECTION%20FROM%20DOMESTIC%20VIOLENCE%20ACT.pdf (last visited December 30, 2008).

(e) confining or detaining the spouse or the other person, against his will;
(f) harming a child of the spouse;
(g) causing or attempting to cause damage to the spouse's or the other person's property;
(h) threatening to commit any act mentioned in paragraphs (a) to (g);

"domestic violence order" means any order issued under this Act;
"Enforcement Officer" means an officer of the Ministry responsible for the subject of family welfare, authorised by the Minister to act as such or a police officer;
"interim order" means a protection order, an occupation order or a tenancy order of an interim nature;
"Minister" means the Minister to whom responsibility for the subject of family welfare is assigned;
"occupation order" means an order issued under section 4;
"Permanent Secretary" means the Permanent Secretary of the Ministry responsible for the subject of family welfare, or any public officer designated by him to act on his behalf;
"property" includes any movable or immovable property of which a spouse has the sole or joint use or possession;
"protection order" means an order issued under section 3;
"residence" means the premises where the parties are or have been living together as members of the same household;
"respondent spouse" means a person against whom a domestic violence order is sought or is in force;
"spouse" means a person who—
(a) has been civilly or religiously married to a person of the opposite sex and is living or has lived with that person as husband and wife;
(b) whether living together or not, has the care and custody of a child;
"tenancy order" means an order issued under section 5.
[S. 2 amended by s. 3 of Act 11 of 2004 w.e.f. 19 June 2004; s. 2A of Act 23 of 2007 w.e.f. 15 September 2011.]

3. Protection order
(1) Any person who has been the victim of an act of domestic violence and who reasonably believes that his spouse is likely to commit any further act of domestic violence against him, may apply to the Court, in Form A of the Schedule, for a protection order restraining the respondent spouse from engaging in any conduct which may constitute an act of domestic violence and ordering him to be of good behaviour towards the applicant.
(2) On an application being made for a protection order, the Court shall cause notice of the application to be served on the respondent spouse requiring him to appear before the Court on such day as may be specified in the notice (not later than 14 days of the date of the application) to show cause why the order applied for should not be made.
(3) Subject to such Rules as may be made by the Chief Justice, an appli- cation for a protection order shall be heard in such manner as the Court thinks fit.
(4) In determining an application for a protection order, the Court shall have regard to the following—
(a) the need to ensure that the aggrieved spouse is protected from domestic violence;
(b) the welfare of any child affected, or likely to be affected, by the respondent spouse's conduct;
(c) the accommodation needs of the aggrieved spouse, his children as well as those of the respondent spouse and his children;
(d) any hardship that may be caused to the respondent spouse or to any of his children as a result of the making of the order; and
(e) any other matter which the Court may consider relevant.
(5) Where a protection order is made, the Court may further—
(a) prohibit the respondent spouse from—
(i) being on premises on which the aggrieved spouse resides or works;
(ii) being on premises specified in the order, being premises frequented by the aggrieved spouse;
(iii) approaching within a specified distance of the aggrieved spouse;
(iv) contacting, harassing, threatening or intimidating the aggrieved spouse;
(v) damaging property of the aggrieved spouse; or
(vi) causing or attempting to cause another person to engage in conduct referred to in paragraphs (d) and (e);
(b) specify the conditions on which the respondent spouse may—
(i) be on premises on which the aggrieved spouse resides or works or which he frequents; or
(ii) approach or contact the aggrieved spouse or his child;
(c) proprio motu, make an interim occupation or tenancy order for such time as it thinks fit, where it is satisfied that such an order, although not applied for, is essential for the effective protection of the aggrieved spouse.
(6) (a) A protection order shall be in Form C of the Schedule and shall remain in force for such period, not exceeding 24 months, as the Court may specify.
(b) Where a protection order contains a prohibition or condition of the kind specified in subsection (5), the Court may specify

different periods, being periods none of which exceeds 24 months, as the period for which each prohibition or condition is to remain in force.

(7) Where the Court is satisfied that there is a serious risk of harm being caused to the aggrieved spouse before the application may be heard and that the circumstances revealed in the application are such as to warrant the inter- vention of the Court even before the respondent spouse is heard, the Court may—

(a) issue an interim protection order in Form B of the Schedule, restraining the respondent spouse from engaging in any conduct which may constitute an act of domestic violence and ordering him to be of good behaviour towards his spouse; and

(b) order the Commissioner of Police to provide police protection to the aggrieved spouse until such time as the interim order is served on the respondent spouse or for such time as the particu- lar circumstances of the case may justify.

(8) Where an interim protection order is issued, the District Clerk shall immediately take steps to have a copy of the order served on the respondent spouse requiring him to appear before the Court on such day as may be specified in the order to show cause why it should not be confirmed, varied or discharged.

(9) An interim protection order shall, unless the Court directs otherwise, remain in force until such time as the Court makes a final pronouncement on the application for the protection order.

(10) (a) Where a protection order is in force, either party may apply to the Court for a variation or revocation of the order.

(b) The spouse applying for the variation or revocation shall cause a copy of the application to be served on the other spouse.

(c) In determining whether to vary or revoke a protection order, the Court shall have regard to the matters specified in subsection (4).

[S. 3 amended by s. 4 of Act 11 of 2004 w.e.f. 19 June 2004; s. 3 of Act 23 of 2007 w.e.f. 26 September 2011.]

3A. Protection order against a person living under same roof

(1) Any person who has been the victim of an act of domestic violence by a person, other than his spouse, living under the same roof, and who reasonably believes that that person is likely to commit any further act of domestic violence against him, may apply to the Court, in Form AA of the Schedule, for a protection order restraining that person from engaging in any conduct which may constitute an act of domestic violence and ordering him to be of good behaviour towards the applicant.

(2) Where an application for a protection order is made under subsection (1), the Court shall cause a notice of the application to be served on the respondent ordering him to appear before the Court on such day as may be specified in the notice, which shall not be later than 14 days from the date of the application, to show cause why the order applied for should not be made.

(3) Subject to such Rules as may be made by the Chief Justice, an application for a protection order shall be heard in such manner as the Court thinks fit.

(4) In determining an application for a protection order, the Court shall have regard to the following—

(a) the need to ensure that the applicant is protected from domestic violence;

(b) the welfare of any child affected, or likely to be affected, by the respondent's conduct;

(c) the accommodation needs of the applicant, his children, as well as those of the respondent and his children;

(d) any hardship that may be caused to the respondent or to any of his children as a result of the making of the order; and

(e) any other matter which the Court may consider relevant.

(5) Where a protection order is made, the Court may further—

(a) prohibit the respondent from—

(i) contacting, harassing, threatening or intimidating the applicant;

(ii) damaging property of the applicant; or

(iii) causing or attempting to cause another person to engage in any conduct referred to in paragraphs (i) and (ii);

(b) specify the conditions on which the respondent may—

(i) be on the premises on which the applicant resides or works or which he frequents; or

(ii) approach or contact the applicant or his child.

(6) (a) A protection order made under this section shall be in Form CA of the Schedule and shall remain in force for such period, not exceeding 24 months, as the Court may specify.

(b) Where a protection order contains a prohibition or condition of the kind specified in subsection (5), the Court may specify different periods, being periods none of which shall exceed 24 months, as the periods for which each prohibition or condition is to remain in force.

(7) Where the Court is satisfied that there is a serious risk of harm being caused to the applicant before the application may be heard and that the circumstances revealed in the application are such as to warrant the protec- tion of the Court even before the respondent is heard, the Court may—

(a) issue an interim protection order in Form BA of the Schedule, restraining the respondent from engaging in any conduct which may constitute an act of domestic violence and ordering him to be of good behaviour towards the applicant; and

(b) order the Commissioner of Police to provide police protection to the applicant until such time as the interim order is served on the respondent or for such time as the particular circumstances of the case may justify.

(8) Where an interim protection order is issued, the District Clerk shall immediately take steps to have a copy of the order

served on the respondent requiring him to appear before the Court on such day as may be specified in the order to show cause why it should not be confirmed, varied or discharged.
(9) An interim protection order shall, unless the Court directs otherwise, remain in force until such time as the Court makes a final pronouncement on the application for the protection order.
(10) (a) Where a protection order is in force, either party may apply to the Court for a variation or revocation of the order.
(b) The person applying for the variation or revocation of a protection order shall cause a copy of the application to be served on the other person concerned.
(c) In determining whether to vary or revoke a protection order, the Court shall have regard to the matters specified in subsection (4).
[S. 3A inserted by s. 5 of Act 11 of 2004 w.e.f. 19 June 2004; amended by s. 4 of Act 23 of 2007 w.e.f. 26 September 2011.]

3B. Counselling
The Court may, subject to the consent of both parties, order, in addition to any order made under section 3 or 3A, the parties to attend counselling sessions organised by the Ministry.
[S. 3B inserted by s. 5 of Act 11 of 2004 w.e.f. 19 June 2004.]

4. Occupation order
(1) Any person who has been the victim of an act of domestic violence and who reasonably believes that his spouse is likely to commit any further act of domestic violence against him, may apply to the Court in Form D of the Schedule, for an occupation order granting him the exclusive right to live in the residence belonging to him, the respondent spouse or both of them.
(2) On an application being made for an occupation order, the Court shall cause notice of the application to be served on the respondent spouse requiring him to appear before Court on such day as may be fixed by the Court (not later than 14 days of the date of the application) to show cause why the order applied for should not be made.
(3) Subject to such Rules as may be made by the Chief Justice, an application for an occupation order shall be heard in such manner as the Court thinks fit.
(4) The Court shall, on being satisfied that it is necessary for the protection of the aggrieved spouse or of his child and that it is in the best interest of the family, make an occupation order in Form F of the Schedule, for a period not exceeding 24 months.
(5) Where the Court is satisfied that there is a serious risk of harm being caused to the applicant before the application may be heard and that the circumstances revealed in the application are such as to warrant the protection of the Court even before the respondent spouse is heard, the Court may issue an interim occupation order in Form E of the Schedule granting the applicant the exclusive right to live in and occupy the residence.
(6) An interim occupation order shall, unless the Court directs otherwise, remain in force until such time as the Court makes a final pronouncement on the application for the protection order.
(7) Where an interim occupation order is issued, the District Clerk shall immediately take steps to have a copy of the order served on the respondent spouse requiring him to appear before the Court on such day as may be fixed by the Court to show cause why the said order should not be confirmed, varied or discharged.
(8) (a) Where an occupation order is in force, either party may apply to the Court for its variation or revocation.
(b) The spouse applying for such variation or revocation shall cause a copy of his application to be served on the other spouse.
(c) In determining whether to vary or revoke an occupation order, the Court shall have regard to the matters specified in subsection (4).
[S. 4 amended by s. 6 of Act 11 of 2004 w.e.f. 19 June 2004; s. 4A of Act 23 of 2007 w.e.f. 26 September 2011.]

5. Tenancy order
(1) Any spouse who has been the victim of an act of domestic violence and who reasonably believes that his spouse is likely to commit any further act of domestic violence against him may apply to the Court, in Form G of the Schedule, for a tenancy order so that the tenancy of the residence occupied by him should vest in him.
(2) On an application being made for a tenancy order, the Court shall cause notice thereof to be served on the respondent spouse requiring him to appear before the Court on such day as may be fixed by the Court (not later than 14 days of the date of the application) to show cause why the order applied for should not be made.
(3) Subject to such Rules as may be made by the Chief Justice, an application for a tenancy order shall be heard in such manner as the Court thinks fit.
(4) The Court shall not make a tenancy order in Form I of the Schedule unless it is satisfied that such an order is necessary for the protection of the aggrieved spouse, of his child or of both of them and that it is in the best interest of the family.
(5) Where the Court is satisfied that there is a serious risk of harm being caused to the applicant before the application may be heard and that the circumstances revealed in the application are such as to warrant the protection of the Court even before the respondent spouse is heard, the Court may issue an interim tenancy order in Form H of the Schedule granting the applicant the exclusive right to live in the residence.
(6) An interim tenancy order shall, unless the Court directs otherwise, remain in force until such time as the Court makes a

final pronouncement on the application for the tenancy order.
(7) Where an interim tenancy order is issued, the District Clerk shall immediately take steps to have a copy of the order served on the respondent spouse who shall be summoned to appear before Court on such day as may be fixed by the Court to show cause why the said order should not be con- firmed, varied or discharged.
(8) (a) Where a tenancy order is in force, either party may apply to the Court for a variation or revocation of same.
(b) The spouse moving for such variation or revocation shall cause a copy of the application to be served on the other spouse.
(c) In determining whether to vary or revoke a tenancy order, the Court shall have regard to the matters specified in subsection (4).
[S. 5 amended by s. 7 of Act 11 of 2004 w.e.f. 19 June 2004; s. 4B of Act 23 of 2007 w.e.f. 26 September 2011.]

6. Effect of tenancy order
(1) On the taking effect of a tenancy order, the aggrieved spouse shall, subject to subsection (2), be deemed to become the tenant of the dwelling house subject to the terms and conditions of the tenancy in force at the time of the making of that order.
(2) Except where the Court orders otherwise, the spouse who, before the tenancy order was, by the terms of the contract of tenancy, responsible for the payment of the rent, shall continue to be so responsible.

7. Permanent occupation and tenancy orders
(1) Before any permanent occupation or tenancy order is made, notice of the application shall be given to any person having an interest in the property which may be affected by the order and any such person shall be entitled to appear and be heard in the matter as if he were a party to the application.
(2) Where an application is made for an occupation or tenancy order, the Court may treat the application as one for occupation or tenancy, as appropriate, to ensure the right which the aggrieved spouse in fact needs for his protection.

8. Ancillary order for household effects
(1) On or after making an occupation or tenancy order, the Court may, subject to subsection (2)—
(a) make an order granting to the aggrieved spouse the use, for such period and on such terms and conditions as the Court thinks fit, of all or any furniture, appliances and other household effects in the residence to which the order relates; and
(b) where appropriate, order the aggrieved spouse, the respondent spouse or both of them, to contribute to the—
(i) loan or mortgage repayments;
(ii) repairs or maintenance, of the residence.
(2) An order made under this section—
(a) may, on the application of one of the parties, be varied or dis- charged;
(b) shall, unless the Court otherwise directs, be deemed to be made for a period corresponding to the occupation or tenancy order to which it is ancillary;
(c) shall, irrespective of the terms of the order, expire when the occupation or tenancy order expires or is discharged.
[S. 8 amended by s. 8 of Act 11 of 2004 w.e.f. 19 June 2004.]
8A. Report on compliance
The Court may, in addition to any order made under this Act and where it so deems appropriate, direct a probation officer to report to it on the compliance of such order, at such intervals as it thinks fit.
[S. 8A inserted by s. 9 of Act 11 of 2004 w.e.f. 19 June 2004.]

8B. Ancillary order for alimony
(1) Subject to subsections (2) and (3), the Court may, in addition to any order made under this Act and where it so deems appropriate, order a respondent spouse to pay to an aggrieved spouse and any child of the parties alimony on such terms and conditions as the Court thinks fit.
(2) An order made under this section—
(a) may, on the application of one of the parties, be varied or dis- charged;
(b) shall, unless the Court otherwise directs, be deemed to be made for a period corresponding to the order to which it is ancillary;
(c) shall, irrespective of the terms of the order, expire when the order to which it is ancillary expires or is discharged.
(3) No order for payment of alimony shall be made under subsection (1) where the respondent spouse is already paying alimony to the aggrieved spouse or the child of the parties by virtue of a judicial order.
[S. 8B inserted by s. 5 of Act 23 of 2007 w.e.f. 15 September 2011.]

9. Proceedings to be in camera
The hearing of any proceedings under this Act shall, subject to section 10 (10) of the Constitution, be held in camera.

10. Registry
(1) The Registry of the Court shall maintain a record of all applications filed pursuant to this Act and of all protection, occupation and tenancy orders issued by the Court.
(2) The record shall contain—
(a) the names, address, age, sex and relationship of the parties;
(b) the domestic violence alleged, whether it involved any weapon or resulted in personal injuries and whether the injuries inflicted required medical treatment;
(c) the effective date and terms of each order issued; and
(d) the address of the property concerned by the order and, where applicable, the name of the landlord.

11. Duties of Enforcement Officers
(1) Where an Enforcement Officer reasonably suspects that a person is the victim of an act of domestic violence, he shall, as soon as possible, cause an investigation to be made into the matter.
(2) Where it is reported to an Enforcement Officer that a person has been or is likely to be the victim of an act of domestic violence, he shall immediately cause an entry to be made in the Police Station Occurrence Book or such other record maintained for that purpose and shall, as soon as possible, cause an investigation to be made in the matter.
(3) Where, after investigation, the officer reasonably believes that action should be taken to protect the victim of an act of domestic violence from any further violence, he shall—
(a) explain to the aggrieved spouse his rights to protection against domestic violence;
(b) provide or arrange transport for the aggrieved spouse to an alternative residence or a safe place of shelter, if such transport is required;
(c) provide or arrange transport for the aggrieved spouse to the nearest hospital or medical facility for the treatment of injuries, if such treatment is needed;
(d) assist the aggrieved spouse in filing a complaint regarding the domestic violence; and
(e) accompany and assist the aggrieved spouse to his residence or previous residence for the collection of his personal belongings.
(4) An Enforcement Officer may, with the consent of an aggrieved spouse, file on his behalf an application for an interim or permanent protection, occupation or tenancy order and shall to that effect swear an affidavit reciting the facts on which he relies to make the application on behalf of the aggrieved spouse.

12. Protection from liability of informers
(1) Any person who has reason to believe that an act of domestic violence has been, is being or is likely to be committed, may so inform an Enforcement Officer.
(2) No liability, civil or criminal, shall be incurred by an informer for information given in good faith for the purpose of subsection (1).

13. Offences
(1) Any person who wilfully fails to comply with any interim order, protection order, occupation order, tenancy order or ancillary order made under this Act shall commit an offence and shall, on conviction, be liable—
(a) on a first conviction, to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 2 years;
(b) on a second or subsequent conviction, to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.
(2) Any person who commits an offence under subsection (1) may be arrested by the Police.
(3) (a) The Police shall act with diligence in any case where an offence under the Act is reported to it.
(b) Any police officer to whom an offence under this Act is reported shall report the matter forthwith—
(i) to the nearest hospital or other medical institution, where the complainant is in urgent need of medical assistance;
(ii) to the Permanent Secretary, where the complainant is in urgent need of counselling or any other form of psychological support.
(c) Where the matter has been reported to the Permanent Secretary under paragraph (b), he shall arrange for the complainant to consult a psychologist or other suitable person forthwith for counselling or such other support as may be required.
[S. 13 amended by s. 10 of Act 11 of 2004 w.e.f. 19 June 2004; repealed and replaced by s. 6 of Act 23 of 2007 w.e.f. 15 September 2011.]

13A. Order to attend counselling sessions following conviction
(1) (a) In exceptional cases, where a Court by or before which a person is convicted of an offence under section 13 is of opinion that, having regard to the circumstances, including the nature of the offence and the character, antecedents, mental and psychological condition, age, health and home surroundings of the offender, it is expedient to do so, the Court may, instead of

sentencing him, order him to attend counselling sessions organised by the Ministry.
(b) Where a Court is satisfied that the offender has failed to comply with an order made under paragraph (a), it may sentence him for his original offence, in accordance with section 13.
(2) The order to attend counselling sessions made under subsection (1) (a) shall be for such period, not exceeding 2 years, and on such terms and conditions as the Court thinks fit.
(3) The Court may require the Ministry to provide a report with a view to assisting the Court in determining the most suitable method of dealing with an offender.
(4) Before making an order under subsection (1), the Court shall explain to the offender, in a language he understands, the effect of the order and that, if he fails in any way to comply with the order, he shall be liable to be sentenced for the original offence.
(5) The Court shall not order an offender to attend counselling sessions unless he expresses his willingness to comply with the order and the victim has no objection thereto.
(6) The Permanent Secretary of the Ministry shall report any failure by an offender to comply with an order made under subsection (1) to the Court which made that order.
(7) On receipt of a report under subsection (5), the Court may—

(a) issue a summons to the offender requiring him to appear at a place and time specified in the summons;
(b) issue a warrant for the arrest of the offender.
[S. 13A inserted by s. 7 of Act 23 of 2007 w.e.f. 15 September 2011.]

14. —

15. Service of documents
Where it appears to the Court that it is not reasonably possible to serve a copy of an application under this Act personally, the Court may make an order for substituted service.

16. Appeals
(1) Subject to subsection (2), an appeal shall lie to the Judge in Chambers against any decision concerning a protection, occupation or tenancy order in the same way as an appeal lies from a decision of a District Court in the exercise of its civil jurisdiction.
(2) No appeal shall lie against any decision concerning interim protection orders, interim occupation orders or interim tenancy orders.
(3) An appeal against an order shall not have for effect to suspend its operation until the decision of the Judge in Chambers.

17. Costs
(1) Notwithstanding any other enactment, no costs shall be allowed in any proceedings under this Act, nor shall any aggrieved person appealing against any decision under section 16 (1) be required to furnish any recognisance to prosecute the appeal.
(2) Notwithstanding any other enactment, all civil, judicial and extra judicial acts, and all documents made use of or produced before the Court, in any matter arising out of or brought under this Act, shall be exempt from registration and stamp duties and from the payment of any fees.

18. Regulations
The Minister may make such regulations as he thinks fit for the purposes of this Act.

19. Rules
The Chief Justice may, after consultation with the Rules Committee set up under section 199 of the Courts Act and the Judges, make such rules as he thinks fit for the purposes of this Act.

The Protection from Domestic Violence (Amendment) Act, 2016 [91]

[…]

An Act To amend the Protection from Domestic Violence Act

ENACTED by the Parliament of Mauritius, as follows

[91] The Protection from Domestic Violence (Amendment) Act, Act No. 10 (16 June 2016), available at http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104148/126937/F1548989094/MUS104148.pdf (last visited December 30, 2018).

1. Short title
This Act may be cited as the Protection from Domestic Violence (Amendment) Act 2016.

2. Interpretation
In this Act –
— ”principal Act” means the Protection from Domestic Violence Act.

3. Section 2 of principal Act amended
Section 2 of the principal Act is amended —
(a) by deleting the definition of domestic violence and replacing it by the following definition —
—domestic violence includes any of the following acts committed by a person against his spouse, a child of his spouse or another person living under the same roof—
(a) willfully inflicting, or attempting to inflict, a wound or blow, or threatening to inflict a wound or blow;
(b) willfully or knowingly placing or attempting to place, or threatening to place, the spouse or the other person in fear of physical injury to himself or to one of his children;
(c) intimidating, harassing, stalking, ill-treating, insulting, brutality or cruelty;
(d) compelling the spouse or the other person by force or threat to engage in any conduct or act, sexual or otherwise, from which the spouse or the other person has the right to abstain;
(e) confining or detaining the spouse or the other person, against his will;
(f) harming, or threatening to harm, a child of the spouse;
(g) causing or attempting to cause, or threatening to cause, damage to the spouse’s or the other person’s property;
(h) depriving, without any reasonable excuse, the spouse of resources which the spouse is entitled to, or of payment for rent in respect of shared residence;
by deleting the definition of spouse and replacing it by the following definition —
—spouse means a person who —
(a) is or has been civilly or religiously married to a person of the opposite sex;
(b) is living or has lived with a person of the opposite sex as husband and wife; or
(c) whether living together or not with a person of the opposite sex, has a common child with that person;

4. Section 8A of principal Act repealed and replaced
Section 8A of the principal Act is repealed and replaced by the following section —

8A. Report on compliance
(1) Where a domestic violence order is issued by a Court, an Enforcement Officer may apply, in such form as may be prescribed, to the Court for a probation report of compliance to be made in relation to the order.
(2) The Court may, where it so deems appropriate, direct a probation officer to report to it on~ the compliance of such order at such intervals as it may determine.

5. Section 11 of principal Act amended
Section 11 of the principal Act is amended —
(a) by repealing subsection (1) and replacing it by the following subsection —
(1) Where an Enforcement Officer reasonably suspects that a person is, has been or is likely to be the victim of an act of domestic violence, he shall -
(a) as soon as possible, cause an investigation to be made into the matter; and
(b) where the act of domestic violence requires immediate action or further enquiry or amounts to an offence, forthwith report the matter to the nearest police station.
(b) by repealing subsection (2);
(c) in subsection (3), by deleting the words —aggrieved spouse|| wherever they appear and replacing them by the word —victim||;
(d) by repealing subsection (4) and replacing it by the following subsection —
(4) (a) Subject to paragraph (b), an Enforcement Officer may, with the consent of the victim of an act of domestic violence, make, on behalf of the victim, an application for a protection, occupation or tenancy order and shall, to that effect, swear art affidavit reciting the facts~ on which he relies to make the application on behalf of the victim.
(b) An Enforcement Officer may, without the consent of the victim of an act of domestic violence, make an application under paragraph (a) where the victim is unable to give his consent.

6. Section 11A inserted in principal Act

The principal Act is amended by inserting, after section 11, the following new section —

11A. Duties and powers of police officers

(1) The police shall act with diligence in any case where an offence under this Act is reported to it.

(2) Where a report is made to a police station—

(a) by a victim of an act of domestic violence, an Enforcement Officer or another person, that an act of domestic violence has been, is being or is likely to be committed against the victim; or

(b) by an aggrieved spouse, an Enforcement Officer or another person, that the respondent spouse has failed to comply with any domestic violence order, the officer in charge of the police station shall cause the circumstances of the offence to be enquired into.

(3) Where an offence is reported pursuant to subsection (2), a police officer not below the rank of Assistant Superintendent may, where -

(a) physical injury has ensued; or

(b) he has reason to suspect that person has failed to comply with any domestic violence order,

cause the person to be arrested and brought before a Magistrate at the earliest opportunity.

(4) (a) A police officer to whom an offence under this Act is reported shall, notwithstanding the enquiry to be made under subsection (2), report the matter forthwith —

(i) to the nearest hospital or other medical institution, where the victim of the offence is in urgent need of medical assistance;

(ii) to the Permanent Secretary, where the victim of the offence is in urgent need of counselling or any other form of psychological support.

(b) Where the matter is reported to the Permanent Secretary under paragraph (a), he shall forthwith arrange for the victim of the offence to consult a psychologist or other suitable person for counselling or such other support as may be required.

7. Section 13 of principal Act amended

Section 13 of the principal Act is amended —

(a) in subsection (1) —

(i) by repealing paragraphs (a) and (b). and replacing them by the following paragraphs —

(a) on a first conviction, to a fine not exceeding 50,000 rupees and to -

imprisonment for a term not exceeding one year;

(b) on a second conviction, to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years;

(ii) by adding the following new paragraph —

(c) on a third or subsequent conviction, to imprisonment for a term not

exceeding 5 years.

(b) by repealing subsections (2) and (3) and replacing them by the following

8. subsections-

(2) Any person who does an act of domestic violence shall commit an offence and shall, on conviction, be liable —

(a) on a first conviction, to a fine not exceeding 50,000 rupees;

(b) on a second conviction, to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years;

(c) on a third or subsequent conviction, to imprisonment for a term not exceeding 5 years.

(3) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under subsection (1).

(c) by adding the following new subsection —

(4) Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try an offence under this Act and may impose any penalty provided in this Act.

Section 18 of principal Act amended

Section 18 of the principal Act is amended —

(a) by numbering the existing provision as subsection (1);

(b) by adding the following new subsection —

(2) The Minister may, by regulations, amend the Schedule.

9. Schedule to principal Act amended

The Schedule to the principal Act is amended —

(a) in Form A, by adding the following new paragraph —

5. I further aver that this is/is not *(to delete as appropriate)* a fit and proper case for an ancillary order for alimony to be issued by the Court, under section 8B(1) of the Protection from Domestic Violence Act, with regard to me and the following child/children *(where appropriate)* —

(b) in Form D, by adding the following new paragraph —

6. I further aver that this is/is not *(to delete as appropriate)* a fit and proper case for an ancillary order for alimony to be issued by the Court, under section 8B(1) of the Protection from Domestic Violence Act, with regard to me and the following child/children *(where appropriate)* —

(c) in Form G, by adding the following new paragraph —

6. I further aver that this is/is not *(to delete as appropriate)* a fit and proper case for an ancillary order for alimony to be issued by the Court, under section 8B(1) of the Protection from Domestic Violence Act, with regard to me and the following child/children *(where appropriate)* —

Criminal Code, 1838 (As amended)[92]

Article 231 - Assault upon father or mother
In the cases provided for by sections 228 and 229, where the offender has committed the crime upon his father and mother, whether legitimate, natural or adoptive or upon his spouse or any person with whom he lives or has lived maritally or any minor child of such person, such offender shall suffer the severest punishment set forth in those sections according to the distinctions therein established.

Article 242 - Manslaughter in case of adultery
Manslaughter committed by any person on his spouse, as well as on his accomplice, at the very moment he finds them in the act of adultery is excusable.

Article 244 - Penalty in case of excusable offence
Where the fact of excuse is proved, if it relates to an offence deemed to be a crime, the punishment shall be reduced to imprisonment, and, if it relates to a misdemeanour, the punishment shall be reduced to imprisonment for a term not exceeding 6 months.

Article 249 - Rape, attempt upon chastity and illegal sexual intercourse
(1) Any person who is guilty of the crime of rape, shall be liable to penal servitude for a term which shall not be less than 5 years. [Amended 30/03]

[…]

(5) (a) Any person who has sexual intercourse with a specified person, even with consent, shall commit an offence and shall on conviction, be liable to penal servitude.
(b) Any person who commits an indecent act 'attentat à la pudeur', even without violence and with consent, upon a specified person shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding eight years.
(c) In this subsection, "specified person"–

(i) means any person who, in relation to the person charged, comes within the prohibited degrees set out in articles 151, 152 and 153 of the Code Napoléon;
(ii) includes –
(A) a stepchild or an adopted child, of whatever age, of the person charged;
(B) a child of whatever age whose custody or guardianship has been entrusted to the person charged by virtue of any other enactment or of an order of a Court;
(C) a child of whatever age or a mentally handicapped person, other than the spouse of, but living under the same roof as, the person charged or who is the child of the partner of the person charged.

(6) No prosecution shall be instituted under this section except on an information filed with the consent of the Director of Public Prosecutions. […]
[Amended 20/90; 26/91; 13/98]

[92] Criminal Code, Cap. 195 (29 December 1838, as amended up to 2006), available at http://www.wipo.int/edocs/lexdocs/laws/en/mu/mu008en.pdf (last visited December 30, 2018).

35. MEXICO

General Law on Women's Access to a Life Free of Violence, 2007 [93]

TITLE ONE
CHAPTER I - GENERAL DISPOSITION

Article 1. The present law aims to establish coordination between the Federation, the states and municipalities to prevent, punish and eradicate violence against women, as well as the principles and modalities to guarantee their access to a life free of violence that favors their development and well-being according to the principles of equality and non-discrimination, as well as to guarantee democracy, integral and sustainable development that strengthens the sovereignty and democratic regime established in the Political Constitution of the United States of Mexico.
The provisions of this law are of public order, social interest and general observance in the Mexican Republic.

Article 2. The Federation, the federated entities and the municipalities, within the scope of their respective competences, will issue the legal norms and will take the corresponding budgetary and administrative measures, to guarantee the right of women to a life free of violence, in accordance with the International Treaties on Human Rights of Women, ratified by the Mexican State.

Article 3. All the measures that derive from the present law, will guarantee the prevention, the attention, the sanction and the eradication of all types of violence against women during their life cycle and to promote their integral development and their full participation in all spheres of life.

Article 4. The guiding principles for the access of all women to a life free of violence that should be observed in the preparation and execution of federal and local public policies are:
I. Legal equality between women and men;
II. Respect for the human dignity of women;
III. Non-discrimination, and
IV. The freedom of women.

Article 5. For the purposes of this law, the following shall be understood as:
I. Law: The General Law on Women's Access to a Life Free of Violence;
II. Program: The Comprehensive Program to Prevent, Address, Punish, and Eradicate Violence against Women;
III. System: The National System of Prevention, Attention, Punishment and Eradication of Violence against Women;
IV. Violence against Women: Any action or omission, based on their gender, that causes them psychological, physical, patrimonial, economic, sexual harm or death both in the private and in the public sphere;
V. Modalities of Violence: The forms, manifestations or areas in which violence against women occurs;
VI. Victim: The woman of any age who is inflicted with any type of violence;
VII. Aggressor: The person who inflicts any type of violence against women;
VIII. Human Rights of Women: Refers to the rights that are an inalienable, integral and indivisible part of the universal human rights contained in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of Women Children, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem Do Pará) and other international instruments on the subject;
IX. Gender Perspective: It is a scientific, analytical and political vision on women and men. It aims to eliminate the causes of gender oppression such as inequality, injustice and the hierarchy of people based on gender. Promotes gender equality through equity, advancement, and well-being of women; it contributes to building a society where women and men have the same value, equal rights and opportunities to access economic resources and political and social representation in decision-making areas;
X. Empowerment of Women: It is a process through which women move from any situation of oppression, inequality, discrimination, exploitation or exclusion to a stage of consciousness, self-determination and autonomy, which manifests itself in the exercise of democratic power that emanates from the full enjoyment of their rights and freedoms, and
XI. Misogyny: They are behaviors of hatred towards women and manifests itself in violent and cruel acts against her because she is a woman.

Article 6. The types of Violence against Women are:

[93] General Law on Women's Access to a Life Free of Violence (Ley general de acceso de las mujeres a una vida libre de violencia), (1 February 2007, available at: http://www.dof.gob.mx/nota_detalle.php?codigo=4961209&fecha=01/02/2007 (last visited December 30, 2018). Unofficial translation by Compendium team.

I. Psychological violence. Any act or omission that harms psychological stability, which may consist of: negligence, abandonment, repeated neglect, jealousy, insults, humiliation, devaluation, marginalization, indifference, infidelity, destructive comparisons, rejection, restriction to self-determination and threats, which lead the victim to depression, isolation, devaluation of self-esteem and even suicide;
II. Physical violence. Any act that inflicts non-accidental damage, using physical force or some type of weapon or object that may or may not cause injuries whether internal, external, or both;
III. The patrimonial violence. It is any act or omission that affects the survival of the victim. It manifests itself in: the transformation, subtraction, destruction, retention or distraction of objects, personal documents, property and values, economic rights or economic resources destined to satisfy their needs and may include damage to the common or proper property of the victim;
IV. Economic violence. It is any act or omission of the aggressor that affects the victim's economic survival. It is manifested through limitations aimed at controlling the income of their economic perceptions, as well as the perception of a lower salary for equal work, within the same workplace;
V. Sexual violence. Any act that degrades or harms the body and / or sexuality of the victim and therefore violates their freedom, dignity, and physical integrity. It is an expression of abuse of power that implies male supremacy over women, by denigrating and conceiving it as an object, and
VI. Any other analogous forms that injure or are likely to damage the dignity, integrity or freedom of women.

TITLE II
MODALITIES OF VIOLENCE
CHAPTER I - OF VIOLENCE IN THE FAMILY SCOPE

Article 7. Family violence: It is the abusive act of power or intentional omission, aimed at dominating, submitting, controlling, or physically, verbally, psychologically, patrimonial, economically and sexually assaulting women, inside or outside the family home whose aggressor has or has had a kinship relationship by consanguinity or affinity, of marriage, cohabitation or maintains or has maintained a de facto relationship.

Article 8. The models of attention, prevention and sanction established by the Federation, the federated entities and the municipalities, are the set of measures and actions to protect victims of family violence, as part of the obligation of the State, to guarantee women their security and the full exercise of their human rights. For this, they should take into consideration:
I. Providing specialized and free psychological assistance, legal advice and treatment to the victims that favor their empowerment and repair the damage caused by said violence;
II. Provide integral, specialized and free reeducation services to the aggressor to eradicate violent behavior through an education that eliminates the stereotypes of male supremacy, and the misogynistic patterns that generated their violence;
III. Avoid that the attention received by the Victim and the Aggressor be provided by the same person and in the same place. Persons who have been sanctioned for exercising some type of violence may in no case provide care;
V. Avoid mediation or conciliation procedures, as they are not viable in a relationship of submission between the aggressor and the victim;
V. Favor the separation and distancing of the aggressor with respect to the victim, and
VI. Favor the installation and maintenance of shelters for the victims and their daughters and sons; the information about their location will be secret and specialized and free psychological and legal support will be provided. The people who work in the shelters must have the professional card corresponding to the specialty in which they work. In no case may people who have been punished for exercising some type of violence work in the shelters.

Article 9. In order to contribute to the eradication of violence against women within the family, the Legislative, Federal and Local Powers, in the respective scope of their competences, shall consider:
I. To typify the crime of family violence, including as elements of the type contained in the definition provided in article 7 of this law;
II. Establish family violence as a cause of divorce, loss of parental authority and restriction of visitation, as well as impediment to the custody of children;
III. Provide that when the loss of parental authority is due to family violence and/or breach of maintenance or child support obligations, it can not be recovered, and
IV. Include as part of the sentence, the aggressor's sentence to participate in comprehensive, specialized and free re-educational services.

[...]

CHAPTER IV - OF INSTITUTIONAL VIOLENCE

Article 18. Institutional Violence: These are the acts or omissions of public servants of any government order that discriminate or have the purpose of delaying, hindering, or preventing the enjoyment and exercise of women's human rights and their access to enjoy public policies aimed at preventing, attending, investigating, punishing and eradicating different types of violence.

Article 19. The three orders of government, through which the exercise of public power is manifested, have the obligation to organize the governmental apparatus in such a way that they are able to ensure, in the exercise of their functions, the right of women to a life free of violence.

Article 20. In order to fulfill its obligation to guarantee the right of women to a life free of violence, the three orders of government must prevent, attend to, investigate, punish and repair the damage inflicted on them.

CHAPTER V - OF FEMINICIDE VIOLENCE AND THE GENDER VIOLENCE ALERT AGAINST WOMEN

Article 21. Feminicide Violence: It is the extreme form of gender violence against women, product of the violation of their human rights, in the public and private spheres, conformed by the set of misogynistic conducts that may imply social and State impunity and it can culminate in homicide and other forms of violent death of women.

Article 22. Gender violence alert: It is the set of emergency governmental actions to confront and eradicate feminicide violence in a determined territory, whether it is exercised by individuals or by the community itself.

Article 23. The alert on gender-based violence against women shall have as its fundamental objective the guarantee of their safety, the cessation of violence against them and the elimination of inequalities caused by legislation that harms their human rights, so that must:

I. Establish an inter-institutional and multidisciplinary group with a gender perspective that provides the respective follow-up;
II. Implement preventive, security and justice actions to confront and abate feminicide violence;
III. Prepare special reports on the area and the behavior of indicators of violence against women;
IV. Assign the budgetary resources necessary to face the contingency of alert of gender violence against women, and
V. Public awareness of the reason for the alert of gender violence against women, and the territorial area covered by the measures to be implemented.

Article 24. The declaration of alert of gender-based violence against women shall be issued when:

I. The crimes against the life, liberty, integrity and security of women, disturb the social peace in a determined territory and society demands it;
II. There is a comparative grievance that impedes the full exercise of women's human rights, and
III. Human rights organizations at the national or federal level, civil society organizations and / or international organizations, so request it.

Article 25. The federal government will declare the alert of gender-based violence through its Ministry of the Interior and notify the declaration to the Executive Power of the federated entity in question.

Article 26. In the face of feminicide violence, the Mexican State shall compensate the damage according to the parameters established in the International Law of Human Rights and consider as reparation:

I. The right to unimpeded, prompt and impartial justice: Violations of women's rights must be investigated and those responsible punished;
II. Rehabilitation: The provision of specialized and free legal, medical and psychological services for the recovery of direct or indirect victims must be guaranteed;
III. Satisfaction: The measures that seek reparation must be aimed at the prevention of violations. Among the measures to be adopted are:
    a) The State's acceptance of its responsibility for the damage caused and its commitment to repair it;
    b) The investigation and punishment of acts of ominous or negligent authorities that led to the violation of the victims' human rights to impunity;
    c) The design and implementation of public policies that prevent the commission of crimes against women, and
    d) The verification of the facts and the publicity of the truth.

CHAPTER VI - OF PROTECTION ORDERS

Article 27. Protection orders: These are acts of protection and of urgent application based on the best interests of the victim and are fundamentally precautionary and injunctive. They must be granted by the competent authority, immediately after they are made aware of facts that are likely to constitute offenses that imply violence against women.

Article 28. The protection orders established by this law are very personal and non-transferable and may be:

I. Emergency;
II. Preventive, and
III. Civil

Emergency and preventive protection orders will have a temporality of no more than 72 hours and must be issued within 24 hours after the knowledge of the events that generate them.

Article 29. Emergency protection orders are the following:

I. Expulsion of the aggressor, from the conjugal domicile or where the victim lives, independently of the accreditation of ownership or possession of the property, even in the cases of lease thereof;
II. Prohibition to the supposed offender in charge of approaching the domicile, place of work, of studies, or the address of the ancestors and descendants or any other that frequent the victim;
III. Return of the victim to their home, once it is secured, and
IV. Prohibition of intimidating or annoying the victim in her social environment, as well as any member of her family.

Article 30. Preventive protection orders are the following:

I. Retention and confiscation of firearms owned by the aggressor or a private security institution, regardless of whether they are registered in accordance with the regulations on the matter.

The above applies to puncturing and sharp weapons that, regardless of their regular use, have been used to threaten or injure the victim;

II. Inventory of common property and real estate, including work tools of the victim;
III. Use and enjoyment of movable property found in the property that serves as the victim's domicile;
IV. Access to the common domicile, by police authorities or persons who assist the victim to take their personal belongings and those of their children
V. Immediate delivery of objects for personal use and identity documents of the victim and his/her children;
VI. Police aid for immediate reaction in favor of the victim, with express authorization to enter the home where the victim is located at the time of requesting the aid, and
VII. Provide comprehensive specialized free reeducation services, with a gender perspective to the aggressor in duly accredited public institutions.

Article 31. It shall be the responsibility of the federal, state and Federal District authorities, within the scope of their powers, to grant the emerging and preventive orders of this law, who shall take into consideration:

I. The existing risk or danger;
II. The safety of the victim, and
III. Any relevant element.

Article 32. Civil protection orders are the following:

I. Temporary suspension for the aggressor of the visitation regime and of living with his descendants;
II. Prohibition for the aggressor from selling or mortgaging his property if it is the conjugal residence; and in any case when it is the property of the conjugal society;
III. Exclusive possession by the victim over the property that served as domicile;
IV. Preventive seizure of the aggressor's property, which must be registered temporarily in the Public Registry of Property, in order to guarantee the maintenance obligations, and
V. Provisional and immediate food obligation.

They will be processed before the courts of the family or in the absence of these in the corresponding civil courts.

Article 33. It is up to the competent jurisdictional authorities to evaluate the orders and the pronouncement of similar measures in their resolutions or judgments. The aforementioned in connection with the trials or proceedings in civil, family or criminal matters that are being heard in the competent courts.

Article 34. Persons over 12 years of age may request the competent authorities to represent them in their requests and actions, in order that the corresponding authorities may informally give the granting of the orders; Those who are under 12 years old, can only request the orders through their legal representatives.

TITLE III

CHAPTER I - OF THE NATIONAL SYSTEM TO PREVENT, ATTEND, PUNISH AND ERADICATE VIOLENCE AGAINST WOMEN

Article 35. The Federation, the federative entities and the municipalities, will be coordinated for the integration and operation of the system, which is the conjunction of efforts, instruments, policies, services and inter-institutional actions for the prevention, attention, sanction and eradication of violence against women.
All the measures carried out by the State must be carried out without any discrimination. Therefore, it will consider the language, age, social status, sexual preference, or any other condition, so they can access public policies on the subject.

Article 36. The system will be formed by the holders of:
I. The Ministry of the Interior, who will preside it;
II. The Ministry of Social Development;
III. The Ministry of Public Security;
IV. The Attorney General's Office of the Republic;
V. The Ministry of Public Education;
VI. The Ministry of Health;
VII. The National Institute of Women, who will occupy the Executive Secretariat of the System;
VIII. The National Council to Prevent Discrimination;
IX. The National System for the Integral Development of the Family, and
X. The mechanisms for the advancement of women in the states.

Article 37. The Executive Secretariat of the System shall prepare the draft regulations for its operation and present it to its members for consideration and approval, as appropriate.

CHAPTER II - OF THE COMPREHENSIVE PROGRAM TO PREVENT, PUNISH AND ERADICATE VIOLENCE AGAINST WOMEN

Article 38. The Program will contain actions with a gender perspective to:
I. Promote and encourage knowledge and respect for women's human rights;
II. Transform sociocultural models of behavior of women and men, including the formulation of formal and non-formal education programs and actions, at all levels of education and instruction, in order to prevent, address, and eradicate the stereotyped behaviors that allow, encourage, and tolerate violence against women;
III. Educate and train in the topic of human rights the personnel in charge of law enforcement, police and other officials in charge of policies for the prevention, care, punishment and elimination of violence against women;
IV. Educate and train in the topic human rights of women the personnel in charge of the administration of justice, in order to equip them with instruments that allow them to judge with a gender perspective;
V. Provide specialized and free services for the care and protection of victims, through the authorities and public or private institutions;
VI. Encourage and support public and private education programs, aimed at raising awareness in society about the causes and consequences of violence against women;
VII. Design victim assistance and training programs that allow them to participate fully in all areas of life;
VIII. Ensure that the media do not encourage violence against women and that they favor the eradication of all types of violence, to strengthen respect for human rights and the dignity of women;
IX. Guarantee research and the development of statistical diagnoses on the causes, frequency and consequences of violence against women, in order to evaluate the effectiveness of the measures developed to prevent, address, punish and eradicate all types of violence;
X. Publish every six months the general and statistical information on cases of violence against women to integrate the National Bank of Data and Information on Cases of Violence against Women;
XI. Promote the priority inclusion in the National Development Plan of government measures and policies to eradicate violence against women;
XII. Promote the culture of reporting violence against women within the framework of the effectiveness of institutions to guarantee their safety and integrity, and
XIII. Design a comprehensive model of attention to human rights and citizenship of women that should implement the institutions, care centers and shelters that serve victims.

Article 39. The Federal Executive will propose in the Budget Project of Expenditures of the Federation to assign a budgetary item to guarantee the fulfillment of the objectives of the System and the Program foreseen in the present law.

CHAPTER III - OF THE DISTRIBUTION OF COMPETENCES IN MATTERS OF PREVENTION, SANCTION AND ERADICATION OF VIOLENCE AGAINST WOMEN

Article 40. The Federation, the federated entities and the municipalities, will contribute to the fulfillment of the objectives of this law in accordance with the competences foreseen in the present ordinance and other applicable legal instruments.

First Section. Of the Federation

Article 41. Faculties and obligations of the Federation:

I. Guarantee the full exercise of women's right to a life free of violence;
II. Formulate and conduct the comprehensive national policy from a gender perspective to prevent, address, sanction and eradicate violence against women;
III. Monitor the full compliance with this law and the applicable international instruments;
IV. Prepare, coordinate and apply the Program referred to in the law, with the help of the other authorities in charge of implementing this legal system;
V. Educate women on human rights in their mother tongue;
VI. Ensure the dissemination and promotion of the rights of indigenous women based on the recognition of the pluricultural composition of the nation;
VII. Monitor that the uses and customs of the whole society do not threaten the human rights of women;
VIII. Coordinate the creation of reeducation and social reintegration programs with a gender perspective for aggressors of women;
IX. Guarantee adequate coordination between the Federation, the states and the municipalities, in order to eradicate violence against women;
X. Carry out, through the National Institute for Women and with the support of local authorities, information campaigns, with emphasis on the doctrine of the comprehensive protection of women's human rights, in the knowledge of laws and measures and the programs that protect them, as well as the legal resources that assist them;
XI. Promote the formation and updating of interagency coordination agreements between the different levels of government, so that they serve as a channel to achieve comprehensive attention to the victims;
XII. Sign agreements on cooperation, coordination, and concertation in the matter;
XIII. Collaborate with public or private institutions dedicated to the care of victims;
XIV. Execute specific measures that serve as action tools for the prevention, care and eradication of violence against women in all areas, within a framework of integrality and promotion of human rights;
XV. Promote and conduct research with a gender perspective on the causes and consequences of violence against women;
XVI. Evaluate and consider the effectiveness of the actions of the Program, based on the results of the investigations provided in the previous section;
XVII. To render an annual report on the progress of the Program, before the Congress of the Union;
XVIII. Ensure that the media do not promote stereotyped images of women and men, and eliminate patterns of behavior that generate violence;
XIX. Develop all the necessary mechanisms for compliance with this law, and
XX. Any others conferred by this law or other applicable regulations.

Second Section. The Ministry of the Interior

Article 42. The Ministry of the Interior shall:

I. Preside over the System and declare the alert of gender violence against women;
II. Design a comprehensive policy with a gender perspective to promote a culture of respect for women's human rights;
III. Prepare the Program in coordination with the other authorities that make up the System;
IV. Formulate the basis for coordination between federal, local, and municipal authorities for the prevention, attention, sanction, and eradication of violence against women;
V. Coordinate and follow up on the actions of the three levels of government in matters of protection, attention, sanction, and eradication of violence against women;
VI. Coordinate and monitor the work of promotion and defense of women's human rights, carried out by agencies and entities of the Federal Public Administration;
VII. Establish, use, supervise, and maintain all instruments and actions aimed at improving the System and the Program;
VIII. Execute and monitor the actions of the Program, in order to evaluate its effectiveness and redesign the actions and measures to advance in the elimination of violence against women;
IX. Design, with a transversal vision, the integral policy oriented to the prevention, attention, sanction and eradication of violent crimes against women;
X. Monitor that the media favor the eradication of all types of violence and strengthen the dignity of women;
XI. Sanction according to the law the media that do not comply with the provisions of the previous section;

XII. Perform a National Diagnostic and other complementary studies on a regular basis with a gender perspective on all forms of violence against women and girls, in all areas, that provide objective information for the development of government policies on prevention, care, sanction and eradication of violence against women.
XIII. Disseminate, through various means, the results of the System and the Program to which this law refers;
XIV. Sign agreements on cooperation, coordination and concertation in the matter, and
XV. The rest provided for compliance with this law.

Section Three. From the Ministry of Social Development

Article 43. The Secretariat of Social Development shall:
I. Encourage social development from the perspective of comprehensive protection of women's human rights with a gender perspective, to guarantee them a life free of violence;
II. Assist in the promotion of the Human Rights of Women;
III. Formulate the social development policy of the state considering the advancement of women and their full participation in all areas of life;
IV. Carry out actions aimed at improving the conditions of women and their families who are in situations of exclusion and poverty;
V. Promote policies of equality of conditions and opportunities between women and men, to achieve the advancement of women for their empowerment and the elimination of gender gaps and disadvantages;
VI. Promote policies to prevent and address violence against women;
VII. Establish, use, supervise and maintain all instruments and actions aimed at improving the System and the Program;
VIII. Sign agreements on cooperation, coordination and concertation in the matter, and
IX. The rest provided for compliance with this law.

Fourth section. From the Ministry of Public Security

Article 44. Corresponds to the Ministry of Public Security:
I. Train the personnel of the different police agencies to deal with cases of violence against women;
II. Take measures and carry out the necessary actions, in coordination with the other authorities, to achieve the objectives set forth in this law;
III. Integrate the National Bank of Data and Information on Cases of Violence against Women;
IV. Design the integral policy for the prevention of violent crimes against women, in the public and private spheres;
V. Establish the actions and measures that must be taken for the reeducation and social reintegration of the aggressor;
VI. Execute and monitor the actions foreseen by the Program;
VII. Formulate actions and programs aimed at fostering a culture of respect for women's human rights;
VIII. Design, with a transversal vision, the integral policy with a gender perspective oriented towards prevention, attention, sanction and eradication of violent crimes against women;
IX. Establish, use, supervise and maintain all instruments and actions aimed at improving the System and the Program;
X. Sign agreements on cooperation, coordination and concertation in the matter, and
XI. The rest provided for compliance with this law.

Fifth Section. The Ministry of Public Education

Article 45. The Ministry of Public Education shall:
I. Define in educational policies the principles of equality, equity and non-discrimination between women and men and full respect for human rights;
II. To develop educational programs, at all levels of schooling, that foster the culture of a life free of violence against women, as well as respect for their dignity;
III. Guarantee actions and mechanisms that favor the advancement of women in all stages of the educational process;
IV. Guarantee the right of girls and women to education: to literacy and access, permanence and completion of studies at all levels. Through the obtaining of scholarships and other subsidies;
V. Develop multidisciplinary research aimed at creating models for the detection of violence against women in educational centers;
VI. Train teachers in the human rights of women and girls;
VII. Incorporate into the educational programs, at all levels of instruction, respect for women's human rights, as well as educational content tending to modify social and cultural models of behavior that imply prejudice and that are based on the idea of inferiority or superiority of one of the sexes and in stereotyped functions assigned to women and men;

VIII. Formulate and apply programs that allow the early detection of the problems of violence against women in educational centers, so that a first urgent response is given to the students who suffer some kind of violence;
IX. Establish as a requirement for hiring all staff not to have any history of violence against women;
X. Design and disseminate educational materials that promote the prevention and care of violence against women;
XI. Provide training actions to all the staff of the educational centers, on the human rights of girls and women and policies of prevention, attention, sanction and eradication of violence against women;
XII. Eliminate from the educational programs materials that advocate violence against women or contribute to the promotion of stereotypes that discriminate and promote inequality between women and men;
XIII. Establish, use, supervise and maintain all instruments and actions aimed at improving the System and the Program;
XIV. Design, with a transversal vision, the integral policy with a gender perspective oriented towards prevention, attention, sanction and eradication of violent crimes against women;
XV. Sign agreements on cooperation, coordination, and concertation in the matter, and
XVI. Any required action in compliance with this law.

Sixth Section. The Ministry of Health

Article 46. The Ministry of Health shall:
I. Within the framework of the integral health policy of women, design with a gender perspective, the policy of prevention, care and eradication of violence against women;
II. Provide comprehensive and interdisciplinary medical and psychological care with a gender perspective to the victims through the institutions of the health sector;
III. Create training programs for health sector personnel regarding violence against women and guarantee care for victims and the application of NOM 190-SSA1-1999: Provision of health services. Criteria for the medical care of family violence;
IV. Establish professional and effective programs and services, with a twenty-four-hour schedule in the public institutions related to the attention of violence against women;
V. Provide integral reeducation services to victims and aggressors, so that they can be able to participate fully in public, social and private life;
VI. Disseminate in the institutions of the health sector, material related to the prevention and care of violence against women;
VII. Referring victims to institutions that provide care and protection to women;
VIII. Improve the quality of care provided to women victims;
IX. Actively participate, in the execution of the Program, in the design of new models of prevention, attention and eradication of violence against women, in collaboration with the other authorities in charge of the application of this law;
X. Ensure that the human rights of women are respected in the provision of health sector services;
XI. Train personnel in the health sector, with the aim of detecting violence against women;
XII. Support the authorities in charge of conducting investigations on violence against women, providing the following information:
    a) Relating to the number of victims treated in hospital centers and services;
    b) The one referring to situations of violence suffered by women;
    c) The type of violence for which the victim was attended;
    d) The effects caused by violence on women, and
    e) The resources given in the care of the victims.
XIII. Sign agreements on cooperation, coordination and concertation in the matter, and
XIV. Any other action necessary to be in compliance with this law.

Seventh Section. The Office of the Attorney General of the Republic

Article 47. The Attorney General of the Republic:
I. Promote the training and specialization of Agents of the Federal Investigative Police, Agents of the Public Prosecutor's Office and of all personnel responsible for the procurement of justice in the area of women's human rights;
II. Provide victims with guidance and advice for their effective care and protection, in accordance with the Organic Law of the Attorney General of the Republic, its Regulations and other applicable ordinances;
III. To dictate the necessary measures so that the victim receives emergency medical attention;
IV. Provide the agencies responsible for making statistics the necessary references on the number of victims assisted;
V. Provide victims with comprehensive information about public or private institutions responsible for their care;
VI. Provide victims with objective information that allows them to recognize their situation;
VII. Promote a culture of respect for women's human rights and guarantee the safety of those who denounce;
VIII. Sign agreements on cooperation, coordination and concertation in the matter, and

IX. Any other action necessary to be in compliance with this law.

Section Eighth. From the National Institute of Women

Article 48. The National Institute of Women shall:

I. Act as the Executive Secretariat of the System, through its president;
II. Integrate the research promoted by the dependencies of the Federal Public Administration on the causes, characteristics and consequences of violence against women, as well as the evaluation of prevention, care and eradication measures, and the information derived from each of the institutions responsible for promoting women's human rights in the states or municipalities. The results of these investigations will be publicly disclosed to take the pertinent measures towards the eradication of violence;
III. Propose to the authorities in charge of the application of this law, the programs, measures and actions that they consider pertinent, in order to eradicate violence against women;
IV. Collaborate with the institutions of the System in the design and evaluation of the model of attention to victims in the shelters;
V. Promote the creation of care and protection units for victims of violence provided for in the law;
VI. Channel the victims to integral reeducation programs that allow them to participate actively in public, private and social life;
VII. Promote and monitor that the care offered in the various public or private institutions, be provided by specialists in the field, without prejudice or discrimination;
VIII. Disseminate the culture of respect for women's human rights and promote that the instances of law enforcement guarantee the physical integrity of those who denounce;
IX. Sign agreements on cooperation, coordination and concertation in the matter, and
X. Any other action necessary to be in compliance with the law.

Ninth Section. Of the Federated Entities

Article 49. The federated entities, in accordance with the provisions of this law and the applicable local regulations in the matter, shall:

I. Implement and articulate their public policies in accordance with the comprehensive national policy from a gender perspective to prevent, address, sanction and eradicate violence against women;
II. Exercise its regulatory powers for the application of this law;
III. Assist in the adoption and consolidation of the System;
IV. Participate in the preparation of the Program;
V. Strengthen public and private institutions that provide care to victims;
VI. Integrate the State System of Prevention, Eradication and Sanction of Violence against Women and incorporate its content into the System;
VII. Promote, in coordination with the Federation, programs and projects of attention, education, training, research and culture of the human rights of women and non-violence, in accordance with the Program;
VIII. Promote local programs for the advancement and development of women and improve their quality of life;
IX. Provide budgetary, human and material resources, in coordination with the authorities that integrate local systems, state programs and the Program;
X. Promote the creation of shelters for victims according to the model of care designed by the System;
XI. Promote information programs to the population on the subject;
XII. Promote comprehensive reeducation programs for aggressors;
XIII. Disseminate the contents of this law through all media;
XIV. Submit an annual report on the progress of local programs;
XV Promote research on the causes and consequences of violence against women;
XVI. Review and evaluate the effectiveness of actions, public policies, and state programs, based on the results of the investigations provided in the previous section;
XVII. Promote the participation of private organizations dedicated to the promotion and defense of women's human rights, in the execution of state programs;
XVIII. Receive from private organizations, proposals and recommendations on the prevention, care and sanction of violence against women, in order to improve the mechanisms for their eradication;
XIX Provide the entities responsible for making statistics, the information necessary for the preparation of these;
XX. Promote reforms, within the scope of its competence, for the fulfillment of the objectives of this law, as well as to establish as aggravating the crimes against life and integrity when these are committed against women, due to their gender condition;

XXI. Sign agreements on cooperation, coordination and concertation in the matter, and
XXII. The others applicable to the matter, granted by law or other legal regulations.
The federal authorities will take the necessary steps to encourage the local authorities to reform their legislation, to consider as aggravating the crimes against life and physical integrity committed against women.
Tenth Section. Of the Municipalities

Article 50. It corresponds to the municipalities, in accordance with this law and the local laws on the matter and according to the gender perspective, the following attributions:
I. Implement and coordinate, in accordance with national and state policy, the municipal policy aimed at eradicating violence against women;
II. Assist the Federation and the federal entities in the adoption and consolidation of the System;
III. Promote, in coordination with the federative entities, training courses for people who care for victims;
IV. Execute the necessary actions for the fulfillment of the Program;
V. Support the creation of comprehensive reeducation programs for aggressors;
VI. Promote educational programs on gender equality and equity to eliminate violence against women;
VII. Support the creation of safe shelters for victims;
VIII. Participate and assist in the prevention, care and eradication of violence against women;
IX. Carry out, in accordance with the System, information programs for the general population regarding violence against women;
X. Sign agreements on cooperation, coordination, and concertation in the matter, and
XI. Act upon other matters of violence against women granted to them by this law or other legal systems.

CHAPTER IV - ATTENTION TO VICTIMS

Article 51. The authorities in the scope of their respective competences must pay attention to the victims by:
I. Encouraging the adoption and application of actions and programs, through which the victims are given protection;
II. Promoting the attention to victims by the various institutions of the health sector, as well as care and service, both public and private;
III. Providing victims, medical, psychological and legal care, in a comprehensive, free and expedited manner;
IV. Providing a safe place for victims, and
V. Informing the competent authority of the cases of violence that occur in educational centers.

Article 52. The victims of any type of violence will have the following rights to:
I. Be treated with respect for their integrity and the full exercise of their rights;
II. Have immediate and effective protection by the authorities;
III. Receive truthful and sufficient information that allows them to decide on the options of care;
IV. Have free and expeditious legal advice;
V. Receive medical and psychological information;
VI. Have a shelter, while they need it;
VII. Be valued and educated free of stereotypes of behavior and social and cultural practices based on concepts of inferiority or subordination, and
VIII. In cases of family violence, women who have children may go to shelters with them.

Article 53. The aggressor must participate compulsorily in the integral reeducation programs, when it is determined by mandate of the competent authority.

CHAPTER V - OF SHELTERS FOR VICTIMS OF VIOLENCE

Article 54. The shelters shall, from a gender perspective:
I. Apply the Program;
II. Ensure the safety of the women who are in them;
III. Provide women with the necessary care for their physical and psychological recovery, allowing them to participate fully in public, social and private life;
IV. Provide information to victims about the institutions responsible for providing free legal advice;
V. Provide the victims with the necessary information that allows them to decide on the care options;
VI. Have the personnel duly trained and specialized in the matter, and
VII. All those inherent to the prevention, protection and attention of the people who are in them.

Article 55. The shelters must be safe places for the victims, so their location can not be provided to unauthorized persons to attend them.

Article 56. The shelters must provide the following specialized and free services to the victims and, where appropriate, to their daughters and sons:
I. Lodging;
II. Feeding;
III. Dress and shoes;
IV. Medical service;
V. Legal advice;
VI. Psychological Support;
VII. Comprehensive reeducation programs in order to be able to participate fully in public, social and private life;
VIII. Training, so that they can acquire knowledge for the performance of a work activity, and
IX. Job bank, in order that they may have a paid work activity if they request it.

Article 57. The stay of the victims in the shelters may not be longer than three months, unless their physical, psychological or risky situation persists.

Article 58. For the effects of the previous article, the medical, psychological and legal personnel of the refuge will evaluate the condition of the victims.

Article 59. In no case may victims be kept in shelters against their will.

[…]

36. MOLDOVA

Law on Preventing and Combating Family Violence, 2007 [94]

[…]

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AMENDED [95]

Preventing and combating domestic violence is part of the national family protection and support policy and is an important public health issue. To strengthen, protect and support the family in order to ensure respect for the fundamental principles of family law, recognizing that achieving gender equality between women and men is a key element in preventing violence against women, that domestic violence affects women in a way disproportionately, but also the fact that children and men can also be victims of violence,[96] Parliament adopts this organic law.

Chapter I
GENERAL PROVISIONS

Article 1. Object of the law
This law establishes the legal and organizational bases of prevention and combating domestic violence, authorities and institutions empowered with prevention and combating domestic violence, the mechanism for reporting and resolving cases of violence.

Article 2. Main notions for the purposes of this law, the following meanings mean:

[94] Law on Preventing and Combating Family Violence, Law No. 45 (1 March 2007), available at http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=327246 (last visited December 30, 2008). Unofficial translation by the World Bank.
[95] LP238 of 08.11.18, MO441-447 / 30.11.18 art.709 ; LP79 of 24.05.18, MO195-209 / 15.06.18 art.338 LP196 of 28.07.16, MO306-313 / 16.09.16 art.661 ; LP167 of 09.07.10, MO155-158 / 03.09.10 art.551 ; LP109 from 04.06.10, MO131-134 / 30.07.10 art.443
NOTE: In the text of the law, the term "Ministry of Labor, Social Protection and Family", at any grammatical form, shall be substituted with the phrase "Ministry of Health, Labor and Social Protection" in the corresponding grammar form by LP79 of 24.05.18, MO195-209 / 15.06.18 art.338. In the Law the phrases "Ministry of Social Protection, Family and Child "And" Ministry of Education and Youth "shall be replaced respectively by the words" Ministry of Labor, Social Protection and Family "and" Ministry of Education "and the term" Ministry of Local Public Administration "shall be excluded by LP109 from 04.06.10, MO131- 134 / 30.07.10 art.443.
[96]The preamble amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661.

[Article 2 concept in the wording LP196 from 7/28/16, MO306-313 / 09.16.16 art.661]
family violence - acts of physical, sexual, psychological, spiritual or economic violence, except for other persons' self-defense or defense actions, including the threat of such acts committed by a family member with respect to another member of the same family, which caused the victim material or moral damage;
physical violence - deliberate infliction of bodily integrity or health by hitting, pushing, tossing, pulling hair, stinging, cutting, burning, strangulation, biting, in any form and intensity, poisoning, intoxication, other actions of similar effect;
sexual violence - any sexual violence or any illegal sexual conduct within the family or in other interpersonal relationships, such as marital rape, the prohibition of the use of contraceptive methods, sexual harassment; any unwanted sexual conduct imposed; to practice prostitution; any unlawful sexual behavior in relation to a minor family member, including consolation, kissing, childcare, and other undesirable sexual touches; other actions having a similar effect;
psychological violence - the imposition of will or personal control, the provocation of states of tension and mental suffering through offense, mocking, swearing, insulting, nicking, blackmailing, demonstrative destruction of objects, verbal threats, ostentatious display of weapons, of domestic animals; neglect; involvement in personal life; acts of jealousy; imposing isolation by detention, including family housing; family, community, friends; prohibition of professional achievement, prohibition of attending the educational institution; dispossession of identity papers; intentional privacy of access to information; other actions having a similar effect;
spiritual violence - underestimating or diminishing the importance of satisfying the moral-spiritual needs by banning, limiting, ridiculing, penalizing the aspirations of family members by forbidding, limiting, ridiculing or punishing access to cultural, ethnic, linguistic or religious values; imposing an unacceptable personal value system; other actions having similar effects or similar repercussions;
economic violence - the deprivation of economic means, including lack of primary means of subsistence, such as food, medicines, necessities; abuse of various situations of superiority to evade the person's assets; prohibiting the right to possess, use and dispose of the common goods; inequitable control over common goods and resources; refusal to support the family; the imposition of heavy and harmful work to the detriment of health, including a minor family member; other actions having a similar effect; *moral injury* - causing physical and / or mental suffering, leading to humiliation, fear, defamation, inability to defend against violence, feelings of frustration, and other consequences of a similar nature; *[Art.2 no. In LP196 from 28.07.16, MO306-313 / 16.09.16 art.661]*
material damage - material damage, susceptible to evaluation or financial / pecuniary estimation, resulting from any act of domestic violence, concubinage, as well as the costs of investigating cases of domestic violence; aggressor - person committing acts of domestic violence in concubinage. In the case of complaints from several family members, with mutual accusations of committing acts of violence, the aggressor will be identified taking into account the following circumstances: which of the subjects involved has acted in his defense or other person; the likelihood of occurrence of critical situations for each person; how to act in the scene of violence and the severity of the injuries caused by each person; previous complaints of domestic violence, other circumstances that indicate to the initiator of the violence; *[Art.2 modified by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]*
Victim - person, adult or child, subjected to acts of domestic violence, in concubinage; *protection order* - a legal act by which the court applies measures to protect the victim; *crisis situation / critical situation* - totality of circumstances that present imminent danger to the physical and / or physical life and / or physical and / or physical integrity of the person, requiring emergency intervention with protective measures; *[Article 2, introduced by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661] Emergency Restraining]*
Order - Provisional measure for the protection of the victim of domestic violence, applied by the police, which takes place immediately of the aggressor in the family home and the establishment of prohibitions provided by law to prevent repetition / committing violent actions, thereby ensuring the safety of the victim and other family members in their home. *[Art.2 the notion introduced by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]*

Article 3. Subjects of domestic violence
(1) Subjects of domestic violence are the aggressor and the victim of the same family.
(2) Family members within the meaning of the present law are:
a) in the condition of cohabitation: persons in marriage, divorce, guardianship and trusteeship, their relatives, their affinities, spouses of relatives, persons in similar relations with spouses (concubinage) or between parents and children;
b) in the case of separate living: persons in marriage, in divorce, relatives, affinity, adoptive children, persons under guardianship, persons who are or have been in a similar relationship with the spouse.

Article 4 Legislative framework
(1) The legislation on the prevention and combating of domestic violence consists of the Constitution of the Republic of Moldova, in the present law[97] , other normative acts, international treaties to which the Republic of Moldova is a party.

[97] art. 3 in LP196 of 28.07.16, MO306-313 / 16.09.16 art.661.

(2) If the international treaty to which the Republic of Moldova is a party establishes rules other than this law, the rules of the international treaty shall apply.

Article 5. Basic Principles of Preventing and Combating Domestic Violence
The prevention and combating of domestic violence is based on the following principles:

a) legality;
b) equality and non-discrimination;[98]
c) confidentiality;
d) access to justice;
e) the victim's protection and security;
f) the cooperation of public administration authorities with civil society and with international organizations.

Article 6. Scope of the law:

the provisions of this law apply equally to citizens of the Republic of Moldova, foreign citizens and stateless persons living on its territory.

Chapter II
AUTHORITIES AND INSTITUTIONS ABILITY TO PREVENT AND FIGHT AGAINST FAMILY VIOLENCE

Article 7. Authorities and institutions responsible for preventing and combating violence in the family

(1) Authorities and institutions responsible for preventing and combating family violence:
a) specialized central bodies of State (Ministry of Health, Labor and Social Protection, Ministry of Education, Culture and Research, Ministry of Internal Affairs, Ministry of Justice);
[Article 7 (1) (a) amended by LP79 of 24.05.18, MO195-209 / 15.06.18 art.338]
[Art. 7, paragraph 1, letter a) amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
b) The specialized authorities of the second level local public administration and the deconcentrated structures:
- the social assistance and family protection departments / departments;
- the Directorates-General for Education, Youth and Sport,
- health care bodies;
- territorial police subdivisions;
(Article 7 (1), letter b) amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661)
c) local public administration of level one;
[Article 7 of. (1), c) in the wording LP196 from 7/28/16, MO306-313 / 16.09.16 art.661]
d) Centers / services for assistance and protection to victims of domestic violence and children their help centers and counseling centers for family aggressors;
[Art.7 (1), letter d) in the LP196 edition of 28.07.16, MO306-313 / 16.09.16 art.661]
e) other organizations with specialized activities in the field.

(2) The Ministry of Health, Labor and Social Protection shall be the central specialized body empowered to elaborate and promote policies for the prevention and combating of domestic violence and social assistance for victims and aggressors.
[Art.7 (2) amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
(3) In addition to the Ministry of Health, Labor and Social Protection, the Interministerial Coordinating Council in the field of preventing and combating domestic violence is set up, composed of one representative of the central authorities, according to par. (1), representatives of civil society and other interested parties. The inter-ministerial coordinating council is responsible for ensuring coordination and collaboration between ministries and other central administrative authorities with competencies in the field of preventing and combating domestic violence. The Regulation of the Interministerial Coordinating Council is approved by Government Decision.
[Article 7 (3) inserted by LP167 of 09.07.10, MO155-158 / 03.09.10 art.551]
(4) The local public authority empowered to implement policies for the prevention of domestic violence and social assistance of victims and aggressors is the district / rayon of social assistance and family protection, whereby a specialist in the field is appointed preventing and combating domestic violence.

[98] art.5 letter b) amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661.

[Article 7 (4) inserted by LP167 of 09.07.10, MO155-158 / 03.09.10 art.551]
(5) The other local public services shall designate persons with attributions related to the prevention and combating of domestic violence, responsible for the coordination of the specific activities within its institution and for the co-operation in carrying out joint activities at the level of the administrative territory, based on established procedures of co-operation in preventing and combating cases of domestic violence.
[Article 7 of. (5) introduced by LP167 from 09/07/10, MO155-158 / 09.03.10 art.551]

Article 8. Powers administration authorities, central and local government
(1) central specialized bodies of the State (Ministry of Health, Labor and Social Protection, Ministry of Education, Culture and Research, Ministry of Internal Affairs, Ministry of Justice) within the limits of their competence:
[Article 8 (1) amended by LP79 of 24.05.18, MO195-209 / 15.06.18 art.338]
[Article 8 (1) amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
a) ensures the development and promotion of the policy of family consolidation, prevention and combating domestic violence, providing protection and assistance to victims and aggressors;
[Art. 8 para. (1), letter a) amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
b) coordinates the activity of decentralized / deconcentrated structures in the field;
c) ensure access to information on the mechanism, measures to prevent and combat domestic violence and help to update the official website on domestic violence by transferring general information on the activities carried out and the implemented projects as well as the data collected statistics;
[Article 8 (1), letter c) in the LP196 edition of 28.07.16, MO306-313 / 16.09.16 art.661]
d) systematically collect statistical data on gender-disaggregated domains, provide support for research on domestic violence phenomena;
[Article 8 of. (1) d) in the wording LP196 from 7/28/16, MO306-313 / 09.16.16 art.661]
e) Strengthen the capacities of human resources for preventing and combating domestic violence, providing training and their continuous improvement;
[Art.8 (1), e) amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
f) cooperates with non-governmental organizations, with natural and legal persons involved in prevention activities and combating violence.

(1^1) The Ministry of Health, Labor and Social Protection, in its capacity of central specialized state body, empowered with functions of elaboration and promotion of policies for preventing and combating domestic violence, as well as social assistance of victims and aggressors, will ensure:
a) creating and maintaining the official website on preventing and combating domestic violence in order to provide people with access to information on the mechanism of family violence, the social services infrastructure for victims of domestic violence and for aggressors, and the results of studies, research in the field;
b) Establishing and maintaining free counseling for 24-hour, 7-day-a-week counseling on domestic violence prevention and on services available to victims of domestic violence. Service is anonymous and confidential;
c) organizing, together with development partners, studies and information campaigns to prevent and combat domestic violence;
d) to draw up an annual report on domestic violence and violence against women with the participation of all authorities and institutions empowered to prevent and combat domestic violence. The annual report is due to be submitted to the Government by 31 March and made public.
[*Article 8 of the. (1 [1]) introduced by LP196 from 7/28/16, MO306-313 / 09.16.16 art.661]*
(2) Local authorities: *[Article 8 of the. (2) letter) repealed by LP196 of 28.07.16, MO306-313 / 16.09.16 art. 661]* b) forming multidisciplinary teams in the field; c) establish and ensure, within the limits of the allocated and / or available financial resources, the financing of centers / services for assistance and protection of victims of domestic violence and their children and centers / services for assistance and counseling for family aggressors;
[Article 8 of the. (2) c) in the wording LP196 from 7/28/16, MO306-313 / 09.16.16 art.661]
c) [1] contributes to social inclusion of victims of domestic violence by creating opportunities for retraining and / or employment, ensure their access to social housing;
[Article 8 of the. (2) c [1]) introduced by LP196 from 7/28/16, MO306-313 / 16.09.16 art.661]
d) include programs for local development issues of prevention and fight against domestic violence; plans to organize surveys and information campaigns to combat domestic violence, support social services and other measures to assist victims of domestic violence, collaborates in the implementation of the system of recording cases of domestic violence;
[Article 8 of the. (2) d) in the wording LP196 from 7/28/16, MO306-313 / 09.16.16 art.661] e) Develop social partnerships with non-governmental organizations, including foundations, trade unions, employers, with religious worship organizations, with international bodies to help prevent and combat domestic violence;

[Article 8 (2), letter e) amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
(Article 8 (2), letter f) abrogated by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
*(*2 [1]) The local tutelage authority:
a) ensures the initial evaluation and the implementation of urgent measures to protect children in cases of domestic violence where there is an imminent danger to the life and health of the child;
b) provide, at local level, confidential reporting mechanisms for cases of domestic violence;
c) cooperate with the territorial guardianship authorities in order to ensure the protection of child victims of domestic violence.
(Article 8 (2 [1]) introduced by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661)
(3) Social Protection and Family Protection *Departments / Departments*, through the specialist in the field of preventing and combating domestic violence:
[Art.8 al. (3) amended by LP167 of 09.07.10, MO155-158 / 03.09 .10 art.551]
a) cooperate with the police in the activity of identifying persons prone to committing acts of domestic violence;
[Art.8 (3), letter a) amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
b) Updating the territorial database on the phenomenon of domestic violence ;
c) place, where appropriate, the victim in the rehabilitation center, providing appropriate assistance;
d) to address the consequences of acts of domestic violence, redirects the case to specialists in assistance / protection centers / services; *[8 The al. (3), d) in the wording of LP196 of 07/28/16, MO306-313 / 09.16.16 art.661]*
e) facilitate, at the request of the right to access the aggressor rehabilitation programs;
f) defends the legitimate rights and interests of victims, including minor victims;
g) develops, together with other competent authorities and in collaboration with non-governmental organizations in the field, information programs for the prevention of domestic violence;
h) determines the necessity to create centers / services for assistance and protection of victims of domestic violence and their children and centers / services for assistance and counseling of family aggressors, ensuring their methodological and informational support;
[Article 8 of. (3), point h) modified by LP196 from 7/28/16, MO306-313 / 16.09.16 art.661]
i) monitor and coordinate the professional activities of social workers in the municipalities to prevent violence in the family, victim support / counseling and re-socialization of aggressors;
j) submit to the Ministry of Health, Labor and Social Protection half-year reports on the activities carried out in the territory of the departments / departments, social assistants according to established partnerships;
k) monitor victims and provide assistance after leaving rehabilitation centers.
4) The General Directorates of Education, Youth and Sports shall:
a) ensure the information and training of the teachers in order to qualify the acts of domestic violence, the application of the methods and means of prevention of such acts and the notification of the competent authorities;
b) jointly with other competent authorities and in collaboration with non-governmental organizations in the field, develop educational programs for parents and children to prevent and combat domestic violence;
c) ensures the carrying out of counseling activities for the psychological and psychosocial rehabilitation of child victims of domestic violence;
d) communicate to the competent authorities, through the teachers, immediately the tutelage authorities and the police, the cases of domestic violence, including the cases of domestic violence against children, as a matter of urgency.
5) Medical institutions of all types and levels:
a) organize information campaigns;
b) communicate to the police and the guardianship authority, through the medical staff, the cases of domestic violence;
c) provide counseling and medical assistance to victims;
c [1]) resolves, within the limits of its competence, the victim's request for forensic examination of the severity of injury to bodily integrity or health; *[8 The al. (5), c [1]) introduced by LP196 of 07/28/16, MO306-313 / 16.09.16 art.661]*
d) initiates and performs programs and services for aggressors; ensures the realization of the programs for de-alcoholism, detoxification, psychotherapeutic treatment, as the case may be, with the support of expenses from the means of the abuser or, as the case may be, from the compulsory health insurance funds;
e) initiate sustainable partnerships with all programs aimed at maternal and child health;
f) concludes contracts for provision of medical services with rehabilitation centers / services for victims and aggressors.
6) The police, at the specialized unit:
[*Article 8 of the. (6) modified by LP196 of 07/28/16, MO306-313 / 09.16.16 art.661]*
a) identify, record and report cases of domestic violence;
b) ensures the nominal record of the aggressors;
c) to notify, in the case of child victims of domestic violence, the guardianship authorities;
d) examines requests and notifications received from citizens, medical institutions, forensic centers and other institutions on family conflicts, acts of violence, death threats or the imminent danger of their realization;

[Article 8 of. (6), d) modified by LP167 from 09/07/10, MO155-158 / 09.03.10 art.551]
e) visit families whose members are on record, perform activities prevention repeat acts of domestic violence;
f) to issue the Emergency Restriction Order with respect to the aggressor if, as a result of the risk assessment, there is a reasonable suspicion that domestic violence has been committed and / or an imminent danger of repetition / committing violent actions; *(Article 8 (6), letter f) in the editorial office LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]*
g) addresses the judicial authorities in order to obtain the order for protection in case of a crisis based on the request submitted by the victim or case referral; ensures the supervision of the execution of the protection order;
[Article 8 of the. (6), letter g) modified by LP196 of 07/28/16, MO306-313 / 16.09.16 art.661]
h) for committing the act of domestic violence, the victim explains her rights, and at its request, provides him with help to be placed in the rehabilitation center;
i) informs the victim about her right to receive free legal aid;
k) Maintain public order and security in the vicinity of the centers / services of assistance and protection victims of domestic violence and their children, under the law; *(Article 8 (6), letter k) in the LP196 edition of 28.07.16, MO306-313 / 16.09.16 art.661)*
l) monitor and work together with social workers on cases of domestic violence of the territory served, updates the database of information in the field;
m) co-operates with the competent authorities in the field, with the civil society in order to prevent and combat domestic violence.
(7) The authorities mentioned in art. 7 par. (4) and par. (5):
a) identify potential families affected by violence and provide evidence of domestic violence cases in the locality;
b) Identifies crisis situations and refers victims of domestic violence to specialized services;
c) ensures the exchange of information with other persons involved in the examination of the case;
d) informs the social worker about the case and the measures taken, and informs the local guardianship authority about the cases of violence against children;
e) provide police authorities with the necessary support in the process of criminal prosecution of cases of domestic violence;
f) to provide victims and aggressors with information about their rights and responsibilities, competent bodies with competence in the field, social services infrastructure;
g) provide, upon request, the findings of family violence cases with law enforcement bodies, victims, aggressors or their representatives;
h) carry out other actions, according to their competence, in order to prevent and combat acts of violence, to ensure the effective protection of the victims of domestic violence, to re-socialize the aggressors.
[*Article 8 of the. (7) introduced by LP196 from 7/28/16, MO306-313 / 16.09.16 art.661]*
(8) In order to ensure a holistic protection and assistance subjects of domestic violence, conduct of joint preventing and combating domestic violence, including the activities referred to in paragraph (7), the qualified specialists shall be designated, by order of the leader, in the multidisciplinary territorial team.
[Art.8 (8) introduced by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
(9) The member of the multidisciplinary territorial team:
a) is responsible for the results of the performed work;
b) ensures the confidentiality of information on the identity and privacy of the victim;
c) collaborate effectively with other team members;
d) participate in the meetings of the team;
e) performs the tasks within the terms provided by the legislation.

Article 9. Competence of the probation body
(1) The subjects of probation sanctioned by contravention or convicted for actions of domestic violence *(Art. 8 (9) introduced by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661)* may be compelled by the court to participate in probation programs.
(2) The probation activity is carried out by the probation bodies under the conditions of the law. *[Art.9 in LP196 from 28.07.16, MO306-313 / 16.09.16 art.661]*

Article 10. Centers / services for assistance and protection of victims of domestic violence and their children and centers/services for assistance and counseling for family aggressors
(1) Typology of centers / services:
a) for victims of domestic violence and their children: free phone support service; shelters (placement); day care centers / services;
b) for aggressors: centers / services of assistance and counseling for family aggressors.
(2) Support / protection and protection centers / services for victims of domestic violence and their children provide specialized support services such as shelter, legal, psychological, social, emergency and other assistance.

(3) Family aggressors' assistance and counseling centers / services provide specialized information services, individual / group counseling, legal counseling, referral and facilitating access to health services, employment and professionalism.
(4) The organization and operation of centers / services for the assistance and protection of victims of domestic violence and their children as well as centers / services for the assistance and counseling of family aggressors shall be carried out in accordance with the framework regulations and the minimum standards for approved by the Government.
(5) Centers / services may be created:
a) by the Government, upon proposal of the Ministry of Health, Labor and Social Protection;
b) by the local public administration authorities;
c) international organizations and non-profit organizations, informing the Ministry of Health, Labor and Social Protection;
d) by public administration authorities and non-commercial organizations, based on a joint activity agreement.
(6) In the case of limited resources, priority will be given to allocating funds to support centers / services to assist and protect the victims of domestic violence and their children.
[Art.10 in LP196 editing of 28.07.16, MO306-313 / 16.09.16 art.661]

Chapter III
THE MECHANISM FOR SOLVING VIOLENCE IN THE FAMILY

Article 11. Right to Victim Protection
(1) Victims are guaranteed the protection of legitimate rights and interests.
(2) Persons with responsibility, other persons who know the existence of a danger to the life and health of a potential victim must communicate this fact to the authorities having the functions of preventing and combating domestic violence.
(2 [1]) The victim is entitled to assistance for physical, psychological and social recovery through special medical, psychological, legal and social actions. The provision of protection and assistance services is not conditional upon the victim's desire to make statements and to participate in the prosecution of the aggressor. The right to privacy and the confidentiality of victim information are guaranteed. *[Art.11 (2 [1]) introduced by LP167 of 09.07.10, MO155-158 / 03.09.10 art.551]*
(3) Authorities with functions for preventing and combating domestic violence shall be obliged to react promptly to any referral and to inform the victims of their rights, of the authorities and institutions with functions for preventing and combating domestic violence; about the type of service and organizations that can be addressed for help; about the assistance available to them; where and how can I file a complaint; about the procedure following the filing of the complaint and their role after such procedures; how can I get protection; to what extent and under what conditions they have access to legal advice or assistance; if there is a danger to their life or health in the case of release of a detained or convicted person; if the protection order was canceled.
[Article 11 (3) in the Editorial BoardLP167 in 7.9.10, MO155-158 / 09.03.10 art.551]
(4) the victim of domestic violence perpetrator is entitled to compensation under the law, the moral and material damage caused by the violence, and the state - repair material and moral damages as a result of the lack of adequate assistance and protection. *[Art.11 al. (4)*
in the wording LP196 from 7/28/16, MO306-313 / 16.09.16 art.661]
(4[1]) A victim of domestic violence that has been caused serious bodily injury or health benefit from financial compensation from the State for damage caused by offense under the conditions established by the law. *[Art.11 al. (4 [1]) introduced by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]*
(5) The victim is entitled to free primary and qualified legal aid under the legislation on state guaranteed legal aid. *(Article 11 (5)) introduced byLP167 in 9.7.10, MO155-158 / 09.03.10 art.551]*
(6) The victim is taken care of medical institutions in accordance with the law on mandatory health insurance. The bodily examination of the victim and the completion of the forensic records of the seriousness of the injuries to the bodily integrity or health are done free of charge in the cases provided by the law.
[Art.11 al. (6) amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
[Article 11 (6) introduced byLP167 of 09.07.10, MO155-158 / 03.09.10 art.551]
(7) The private life and the identity of the victim are protected. The recording, storage and use of personal data about the victim is carried out in accordance with the provisions of the Personal Data Protection Act. *[Article 11 (7) introduced by LP167 of 09.07.10, MO155-158 / 03.09.10 art.551]*

Article 12. Recognition of cases of domestic violence
(1) The victim has the right to report any case of domestic violence and to request protection.
(2) The representatives of the authorities having the functions of preventing and combating domestic violence are forbidden to take actions aimed at discouraging the victim in denouncing the acts of violence to which he is subjected.
(3) Everyone who witnesses acts of domestic violence or who reasonably suspect that such acts or acts of violence are possible shall have the right to communicate this to the authorities having the functions of preventing and combating domestic violence.

(4) Professionals who by law are subject to confidentiality rules shall be obliged to report to the competent authorities any reasonable suspicion of committing the act of violence against children. Reporting of violence against adults is done with the consent of the victim. Victim's agreement is not necessary in cases of moderate or severe injury to bodily integrity or health in cases of use of the weapon in cases where victims are particularly vulnerable due to disability or reduced intellectual capacities.
(5) Police are obliged to respond immediately to communications about domestic violence cases and not to underestimate the importance of actions to counteract any form of domestic violence.
[*Art.12 in LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]*

Article 12[1]. Issue of the Emergency Restriction Order
(1) In case of establishment at the scene, as a result of the risk assessment, the circumstances that give rise to a reasonable suspicion that acts of domestic violence have been committed and / or an imminent repeat danger persists; or committing violent actions, the police body is obliged to immediately release the emergency order with regard to the aggressor in order to eliminate the crisis and, at the same time, undertake the necessary actions to establish the offense of domestic violence.
(2) The Emergency Restricted Order is issued for a period of up to 10 days and is immediately enforced, the aggressor and the victim (in the case of children - the legal representative of the victim) being informed of the restrictions applied, their rights and obligations and about the responsibility for non-fulfillment of the requirements of the Restraining Order.
(3) The supervision of the implementation of the measures established in the emergency restraint order shall be exercised by the employees of the station or the local police station in the manner stipulated by the law.
(4) The offender has the right to challenge the emergency restriction order in the court under the conditions of the administrative litigation. The filing of the application shall not suspend the action of the restriction order.
(5) The victim is entitled, during the period of action of the emergency order, to request, under the law, the issuance of the protection order. The action of the emergency restraint order in this case is lawfully extended and ceases with the implementation of the protection measures established by the court.
[Art.12 [one] introduced by LP196 from 7/28/16, MO306-313 / 09.16.16 art.661]

Article 13. Filing
(1) A claim regarding acts of domestic violence may be lodged:
a) the police; *[Article 13 (1) (a) in LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]*
b) in court;
c) to the body of social assistance and protection of family and child;
d) to the local public administration authority.

(2) The application shall be filed at the place:
a) of the victim's domicile;
b) Temporary residence of the victim if he / she left home to avoid the continuation of direct violence;
c) the residence of the aggressor;
d) where the victim sought assistance;
e) where the act of violence took place.
(2 [1]) The application for the issuing of the protection order is filed by the victim personally or by a representative. In case of impossibility for the victim to submit a request for health reasons, age, other justified reasons, at his / her request, the application for the issuing of the protection order may be filed in the victim's interests by the police body, the social assistance body or by the prosecutor. An application for the issuance of the protection order in the interests of the child or of a person in respect of whom a judicial protection measure is instituted may be filed by the local guardian or prosecutor and in the absence of a request from the victim or his legal representative.
[Art.13 al. (2 [1]) amended by LP238 of 08.11.18, MO441-447 / 30.11.18 art.709]
[Art. 13 (2 [1]) introduced by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]

(3) The filing of the application for the issuing of the protection ordinance in the court shall not be subject to a fee state. *[Article 13 (3) in LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]*

Article 14. Method of examination of the application
(1) The application submitted to the police body shall be examined in accordance with the procedure established by the legislation in force.
(2) The request or the request for the issuance of the protection order lodged in court shall be examined in accordance with the Code of Procedure *(Art.14(1), amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661)* civil procedure, the Code of Criminal Procedure.
[Art.14 al. (2) modified by LP196 of 07/28/16, MO306-313 / 09.16.16 art.661]

(3) The request submitted to any authority for preventing and combating domestic violence shall be forwarded to within one working day.

Article 15. Protection measures
(1) The court shall issue a protection order within 24 hours of receipt of the application, which may assist the victim and his / her children by applying the following measures to the aggressor:
[Art.15 al. (1) amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
a) Obligation to temporarily leave the common dwelling or to stay away from the victim's home, without deciding on ownership of goods;
b) an obligation to stay away from the victim's place of residence, excluding any visual contact with the victim or his / her children, with other persons dependent on it;
*[Art.15 al. (1), b) modified by LP196 of 07/28/16, MO306-313 / 16.09.16 art.661]*c) prohibit any contact, including by telephone, mail, or in any other manner, with the victim or her children, with other people dependent on her;
[Art.15 al. (1), c) in redcaţia LP196 from 7/28/16, MO306-313 / 16.09.16 art.661] d) prohibition to approach certain places: the victim's work place children's studies, other determined places that the protected person attends;
[Article 15 (1), letter d) in recitals LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
e) obliging, until the case has been resolved, to contribute to the maintenance of the children he / she has with the victim;
[Art.15 al. (1), letter f) repealed by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]
g) limiting the unilateral arrangement of common goods;
h) Obligation to participate in a special treatment or counseling program if such action is determined by the court to be necessary for the reduction of violence or its disappearance;
i) the establishment of a temporary regime for the visitation of its minor children;
j) prohibition of keeping and wearing a weapon.
(2) The protection order shall be immediately communicated to the territorial subdivision of the police in the area of the territorial-administrative unit in which the abuser is domiciled, who shall ensure that the aggressor is informed without delay of the measures applied. If the child protection order is issued, the territorial guardianship authority is also informed. *[Art.15 al. (2) introduced by LP196 of 28/07/16, MO306-313 / 16.09.16 art.661]*
(2 [1]) In cases where a protection order has been issued during the period of the order of restriction as a matter of urgency, the prohibitions established by the restriction order cease with the application of protective measures ordered by the protection order.
[Art.15 al. (2 [1]) introduced by LP196 of 28/07/16, MO306-313 / 16.09.16 art.661]
(3) The protection measures provided in para. (1) is applied for a period of up to 3 months may be revoked under the terms of this law and may be extended in the event of a repeated request or non-compliance with the conditions laid down in the protection order.
(4) The application of protection measures shall not prevent the commencement of divorce proceedings, the sharing of common property, the deprivation of parental rights *(Article 15 (3), amended by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661)*, the taking of the child without deduction from the parental rights and other actions provided by the legislation in force.
(4 [1]) During the action of the protection ordinance, the exercise of parental rights remains at the expense of the victim-victim. At the request of the aggressor parent, visiting the child may take place under a program approved by the territorial guardianship authority. *[Art.15 of. (4 [1]) introduced by LP196 from 7/28/16, MO306-313 / 16.09.16 art.661]*
(5) The surveillance performance measures in order to protect the competence of the police authority as provided by law. *[Art.15 (5) in the LP196 edition of 28.07.16, MO306-313 / 16.09.16 art.661]*
[*Art.15 al. (6) repealed by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]*
(7) The protection ordinance shall be done in accordance with the legislation in force.

Article 15 [1]. Revocation of protective measures
(1) At the justified request of the victim, the court may revoke the established protection measures in advance
(2) The revocation may be ordered if the following conditions are cumulatively met:
a) the aggressor has complied with the established prohibitions and obligations;
b) the aggressor followed / followed the counseling or treatment that had been established.
(3) The court will examine whether the will of the victim is freely expressed, ensuring that he has real access to assistance and protection.
(4) The request for revocation shall be settled with the summons of the parties and of the police representative who exercised supervision over the execution of the protection order whose revocation is requested.
[*Art.15 [1] introduced by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]*

Article 15[2]. Supervision of the Execution of the Emergency Restraint Order and of the Protection Order
(1) The supervision of the execution of measures to protect the victim of domestic violence, imposed by the Emergency Restraint Order and by the Protection Order, is the responsibility of the police.
(2) The police shall inform and explain to the abuser the victim's established protection measures.
(3) If the abuser must leave the family home, the police must ask him / her to hand over immediately all the keys to the dwelling, which are subsequently transmitted to the victim or taken over for temporary custody by the police. Leaving the dwelling, the abuser can take, under the supervision of the police, only strictly needed personal items (clothes, documents, hygiene items).
(4) If the aggressor refuses to voluntarily leave the dwelling, the police body has the right to take the necessary measures, according to the law, for the defeat of the resistance that is contrary to the legal requirements.
(5) During the period of action of victim protection measures, the police shall ensure that unannounced visits are made to the victim's home, as well as immediate intervention in any communication of the failure to observe or attempted violation by the abuser.
(6) The refusal or evasion of the offender from the fulfillment of the requirements of the emergency / protective order shall be the responsibility of the law.
[Art.15 [2] introduced by LP196 from 7/28/16, MO306-313 / 16.09.16 art.661]

Article 16. Financing
(1) The implementation of this law shall be funded from the state budget, the budgets of the administrative -territorials, within the limit of the financial means established annually, from other sources not prohibited by law.
(2) The financing of centers / services for assistance and protection of the victims of domestic violence and their children and centers / services for assistance and counseling for family aggressors is made from the allocations provided to the state budget, from donations, grants, from other sources, according to law. In the case of limited resources, priority will be given to allocating funds to support centers / services to assist and protect victims of domestic violence.
[*Article 16 (2) in the LP196 edition of 28.07.16, MO306-313 / 16.09.16 art.661]*

Article 17. penalties
[*Art.17 al. (1) repealed by LP196 of 28.07.16, MO306-313 / 16.09.16 art.661]*
(2) In case of committing the acts of domestic violence that constitute the constitutive elements of the offense, the liability under the law, regardless of the establishment of protection measures.
[Art.17 (2) in the LP196 edition of 28.07.16, MO306-313 / 16.09.16 art.661]
(3) The non-observance of the present law by the responsible persons and the professionals in this field is a violation of the discipline work and attracts disciplinary liability in accordance with the law.

Chapter IV
FINAL PROVISIONS

Article 18

(1) This Law shall enter into force six months after the date of its publication.
(2) The Government shall, within 3 months:
a) submit to the Parliament proposals for the bringing into force of the legislation in accordance with this Law;
b) shall bring its normative acts in accordance with this law.

[…]

Criminal Code, 2002 (As amended) [99]

Article 133 [1] . Family member
A family member is understood:
a) when living together: persons who are married, people who are divorced, people connected by guardianship and trusteeship, relatives, spouses of relatives, persons who are in relationships similar to marital relations (cohabitation) or similar to the relationship between parents and children;
(b) Separation: married persons, divorced persons, relatives and relatives, adopted children, persons under guardianship,

[99] Criminal Code, Code No. 985 (18 April 2002, as amended), available at http://lex.justice.md/ru/331268/ (last visited December 30, 2018). Unofficial translation by Compendium team.

persons who are or have been in relationships similar to marital relations (cohabitation). *[Art.133 [1] as amended by ZP196 of 07.28.16, MO306-313 / 16.09.16 Art.661]*

Article 172. Violent acts of a sexual nature
(1) Homosexuality or satisfaction of sexual passion in perverted forms with the use of physical or mental coercion against a person or by taking advantage of the inability to protect oneself or express one's will shall be punished with imprisonment from 3 to 5 years.
(2) The same actions:
[…]
b [2]) committed against a family member;
is punished with imprisonment term from 5 to 12 years.

Article 201[1]. Domestic violence
(1) An act or omission intentionally committed by one family member in relation to another family member, expressed in:
a) beatings, committing other violent acts involving minor bodily injuries or other minor harm to health;
b) isolation, intimidation in order to impose the will or personal control of the victim;
c) deprivation of economic means, including livelihood, neglect, causing minor bodily harm to the victim or other minor harm to health, is
punished by unpaid work in favor of society for 150 to 180 hours or imprisonment for up to 3 years.
(2) The acts provided for in paragraph (1):
a) committed against two or more family members;
b) committed in connection with the request or application of protective measures;
c) causing bodily injury of moderate severity or other moderate severity to health,
punishable by unpaid work in favor of the society for a period of 180 to 240 hours or imprisonment for a period of one to 6 years.
(3) The acts provided for in paragraphs (1) and (2):
a) entailing the infliction of grievous bodily harm or other grievous bodily harm;
b) entailing suicide or attempted murder;
shall be punished with imprisonment from 6 to 12 years.
(4) Acts referred to in paragraphs (1) or (2), which resulted in serious bodily injury or other serious injury to health, resulting in the death of the victim,
shall be punished with imprisonment from 12 to 15 years. *[Art. 201 1 as amended ZP196 by 28/07/16, MO306-313 / 09.16.16 st.661] [St.201 1 introduced ZP167 from 09.07.2010, MO155-158 / 03.09.2010 st.551]*

37. MONGOLIA

Law to Combat Domestic Violence, 2016

Criminal Code, 2015
Art. 11.7 (Domestic violence)

Criminal Investigation and Prosecution Law
Ch. 10, Arts. 76.1 and 76.2 (on protection orders)

Law on Protection of Victims and Witnesses, 2013
Art. 6

38. MONTENEGRO

Law on Domestic Violence Protection, 2010 (As amended) [100]

[100] Law on Domestic Violence Protection, Law No. 46/10 (6 August 2010, as amended on 8 August 2011), available at http://www.mpa.gov.me/ResourceManager/FileDownload.aspx?rid=256008&rType=2&file=Zakon%20o%20za%C5%A1titi%20od%20nasilja%20u%20porodici.doc&alphabet=cyr , (last visited December 30, 2018).

Penal Code, 2004 (As amended) [101]

Aggravated Homicide
Article 144
Punished by a prison term of not less than ten or over forty years shall be a person who:
[…]
7) takes life of a member of his own family or a family community who he has previously abused,
8) acts with wrongful intent to take life of several persons, where such acts do not constitute manslaughter, killing a child at birth, or taking life out of mercy.

Domestic Violence
Article 220
(1) Anyone who by use of violence or by an impudent or arrogant behaviour endangers peace, physical integrity or mental condition of a member of his family or family community shall be sentenced to a fine or imprisonment not exceeding one year.
(2) If for the commission of an act referred to in Paragraph 1 of this Article any weapons, dangerous tools or other means suitable for inflicting heavy bodily injuries or for seriously impairing health are used, the perpetrator shall be sentenced to imprisonment of three months to three years.
(3) If, due to acts referred to in Paragraphs 1 and 2 of this Article, a heavy bodily injury is inflicted or health is seriously impaired or if such acts have been done to a minor, the perpetrator shall be sentenced to imprisonment of one to five years.
(4) If by acts referred to in Paragraphs 1, 2 and 3 of this Article, a death of a member of a family or a family unit has been caused, the perpetrator shall be sentenced to imprisonment of three to twelve years.
(5) Anyone who violates the measures which were ordered on the basis of law by court or other state authority as protection against domestic violence shall be punished by a fine or a prison term up to six months.

Sex Act through Abuse of Position of Authority
Article 207
[…]
(2) A teacher, instructor, guardian, adoptive parent, parent, stepfather, stepmother, or another person who by virtue of his employment or his position of power incites to engage in a sex act or other act of equivalent nature a juvenile entrusted to him for study, education, support and care shall be punished by a prison term from one to ten years.

Articles 77 (a) (b) and 142 (31)
(on protection orders and special proceedings for domestic violence)

39. MOROCCO

Penal Code, 1962 (As amended)[102]

Article 88-1
In the event of a conviction for harassment, assault, sexual exploitation, ill-treatment or violence committed against women or minors, whatever the nature of the act or its perpetrator, the court may decide as follows:
1. Prohibit the convicted person from contacting or approaching the victim or communicating with him or her by any means, for a period not exceeding five years from the date of expiry of the sentence to which he or she was sentenced, or from the date of the judicial decision where the custodial sentence was suspended or if he or she was sentenced only to a fine or an alternative sentence.
Conciliation between spouses terminates the prohibition on contacting the victim;
2. The submission of the convicted person, during the period provided for in paragraph (1) above or during the execution of the custodial sentence, to appropriate psychological treatment.

The judicial decision imposing the sentence may order the provisional execution of this measure notwithstanding any appeal procedures.

[101] Penal Code, No. 70/2003 (17 December 2003, consolidated text), available at http://www.pravda.gov.me/ResourceManager/FileDownload.aspx?rid=256001&rType=2&file=Krivi%C4%8Dni%20zakonik%20Crne%20Gore.pdf (last visited December 30, 2018). Unofficial translation by Compendium team.
[102] Penal Code (26 November 1962, consolidated version 5 July 2018), available at http://adala.justice.gov.ma/production/legislation/fr/Nouveautes/code%20penal.pdf (last visited December 30, 2018). Unofficial translation by Compendium team.

The court may definitively prohibit, by means of a reasoned decision, the convicted person from contacting the victim or approaching the place where he or she is located or from communicating with him or her.

Article 88-2
the attending doctor shall draw up, at least every three months, a report on the progress of the condition of the person sentenced to treatment, which he shall send to the judge responsible for the enforcement of sentences, to ensure that his behavior improves and to prevent repetition of the same acts for which he has been convicted. Where the attending doctor is of the opinion that this measure should be terminated before the set date, he or she must inform the judge of the execution of sentences by means of a separate motivated report.
The victim must be informed of the result of the attending doctor's report by virtue of a decision of the judge responsible for the execution of sentences.

Article 88-3
In the event of proceedings for the offences referred to in article 88 (1) above, the prosecutor, the investigating judge, or the court, where applicable, or at the request of the victim, may prohibit the accused person from contacting the victim or approaching the place where he or she is located or from communicating with him or her by any means whatsoever. This measure remains in force until the court decides on the case.

Article 231-4
The penalty is life imprisonment when torture is committed against a minor under 18 years of age;
- when committed against a person whose vulnerable situation, due to age, illness, disability, physical or mental disability is apparent or known to the perpetrator of the torture;
- when committed on a pregnant woman whose pregnancy is apparent or known to the perpetrator of the torture;
- when it is preceded, accompanied or followed by sexual assault.
- The same penalty shall apply when torture is carried out routinely in a habitual manner.

Article 323-1
The penalty shall be imprisonment for a term of six months to two years and a fine of
fine from 2,000 to 20,000 dirhams or one of these two penalties for any violation of the prohibition order, any contact, approach, communication with the victim by any means, or the refusal to submit to appropriate psychological treatment pursuant to Articles 88-1 and 88-3 above

Article 323-2
Any violation of the protective measures referred to in article 82-5-2 of the Criminal Procedure Act shall be punishable by imprisonment for one to three months and a fine of 5,000 to 20,000 dirhams, or one of these two penalties.

Article 404
Anyone who intentionally strikes or injures a woman on the grounds of her sex, or a pregnant woman, when her pregnancy is apparent or known to the perpetrator, or in a situation of disability, or known for her low mental capacities, or one of the ascendants, a kafil, a spouse, a fiancé, a guardian or a person having authority over her or being under her care, or a divorced spouse, or in the presence of one of the children or one of the parents, is punished:
1° In the cases and according to the distinctions provided for in Articles 400 and 401, with double the penalties prescribed in these Articles;
(2) In the case provided for in section 402, paragraph 1, with ten to twenty years of imprisonment; in the case provided for in paragraph 2, from twenty to thirty-year imprisonment;
(3) In the case provided for in paragraph 1 of Article 403, imprisonment from twenty to thirty years, and in the case provided for in paragraph 2, with life imprisonment.

Article 425
Anyone who, in anonymous or signed writing, by using images, symbols or emblems, threatens to commit a crime against a persons or property, shall be punished by imprisonment for one to three years and a fine of 200 to 500 dirhams.

Article 426
If the threat provided for in the preceding article has been made with an order to deposit a sum of money in a specified place, or to fulfil any other condition, the penalty shall be imprisonment from two to five years and a fine of 250 to 1,000 dirhams.

Article 427

If the threat provided for in article 425 made on order or under condition, was verbal, the penalty shall be imprisonment from six months to two years and a fine from 200 to 250 dirhams.

Article 429

Any threat of damage to persons or property, other than those referred to in articles 425 to 427, by one of the means provided for in those articles and with or without conditions, shall be punishable by imprisonment for one to three months and a fine of 200 to 250 dirhams, or only one of these two penalties.

Article 429-1

The penalty provided for in articles 425, 426, 427 and 429 of this Code shall be doubled where the offender is a spouse who committed the offence against his or her spouse, a divorced spouse, a fiancé, an ascendant, a descendant, a brother, a kafil, a guardian or a person with authority, or custody over the victim, and in the event of a repeated offence or if the victim is a minor, disabled or known to have low mental capacity.

Article 431

Anyone who voluntarily refrains from giving assistance to a person in danger when he could provide it without risk to himself or to third parties, either by his personal action or by seeking help, shall be punished by imprisonment from three to two years and a fine of 2,000 to 10,000 dirhams.

The penalty is doubled when the perpetrator is a spouse, fiancé, divorced spouse, ascendant, descendant, brother, kafil, guardian or person with authority or custody over the victim or when the victim is a minor or a person with a disability or known to have low mental capacity and in the event of recidivism.

Article 436-1

If the abduction or sequestration is committed by a spouse, divorced spouse, fiancé, ascendant, descendant, brother, kafil, guardian or person having authority or custody over the victim, or if the victim has been subjected to any other violence of any kind, the penalty shall be increased to:
1- imprisonment from ten to twenty years, in the case provided for in the first paragraph of Article 436 of this Code;
2- imprisonment of twenty to thirty years, in the case provided for in the second paragraph of Article 436 of this Code.

[…]

Article 446

Doctors, surgeons or health officers, as well as pharmacists, midwives or any other persons entrusted, by state or profession or by permanent or temporary functions, with the secrets entrusted to them, who, except where the law obliges or authorizes them to report such secrets, have revealed them, shall be punished by imprisonment from one to six months and a fine of one thousand two hundred to twenty thousand dirhams.

However, the persons listed above shall not incur the penalties provided for in the preceding paragraph:

[…]

2° When they report to the competent judicial or administrative authorities criminal acts and acts of ill-treatment or deprivation perpetrated against children under eighteen years of age, or by one of the spouses against the other, or against a woman and of which they have become aware in the course of their profession or duties.

Such persons, who are summoned in court for cases relating to the offences referred to above, are required to provide their testimony which they may, if necessary, give in writing.

Article 447-1

Anyone who knowingly and by any means, including computer systems, intercepts, records, disseminates or distributes speech or information issued in a private or confidential environment without the consent of the perpetrators shall be liable to a fine of between 2,000 and 20,000 dirhams for a term of imprisonment of six months to three years.

Anyone who, knowingly and by any means, captures, records, disseminates or distributes a photograph of a person in a private place without his or her consent shall be liable to the same penalty.

Article 447-2-

Whoever, by any means, including computer systems, disseminates or distributes a montage consisting of words or photographs of a person, without his consent, or disseminates or distributes false allegations or false facts, with a view to violating the privacy of persons or defaming them, shall be punished by imprisonment of one to three years and a fine of 2,000 to 20,000 dirhams.

Article 447-3

The penalty shall be imprisonment for a term of one to five years and a fine of 5,000 to 50,000 dirhams, if the acts referred to in articles 447-1 and 447-2 have been committed in a state of recidivism and if the offence is committed by a spouse, divorced spouse, fiancé, ascendant, descendant, kafil, guardian or person with authority or custody over the victim, against a woman on account of her sex, or against a minor.

Article 480-1-

The expulsion from a conjugal home or the refusal to reintegrate the expelled spouse to the conjugal home in accordance with Article 53 of the Family Code shall be punished by imprisonment of one to three months and a fine of 2,000 to 5,000 dirhams. The penalty is doubled in the event of a repeated offence.

Article 481

In addition to the courts normally competent, the court of the residence of the person abandoned or receiving a pension or expelled from the matrimonial home may hear proceedings brought under the provisions of Articles 479, 480 and 480-1.

Proceedings may only be brought on the basis of a complaint from the person expelled from the matrimonial home, abandoned or receiving a pension, or from his legal representative, with production of the title invoked.

However, proceedings are exercised ex officio by the Public Prosecutor's Office when the offender happens to be the legal representative.

They are preceded by formal notice to the person convicted to pay the pension within thirty days.

This formal notice is issued on instructions from the public prosecutor's office by a judicial police officer in the form of an interpellation.

[…]

Article 503-1-1

Anyone who persists in sexual harassing others in the following cases is guilty of sexual harassment and is liable to a prison term of one month to six months and a fine of 2,000 to 10,000 dirhams or one of these penalties:

1. In public or other spaces, by acts, words, gestures of a sexual nature or for sexual purposes;
2. By written, telephone or electronic messages, recordings or images of a sexual nature or for sexual purposes.

[…]

Article 503-1-2-

The penalty is imprisonment from three to five years and a fine of 5,000 to 50,000 dirhams, if the sexual harassment is committed by an ascendant, a relative who is unable to marry the victim, a guardian, a person having authority over the victim, or his or her guardian, or a kafil, or if the victim is a minor.

Article 503-2-1

Without prejudice to more severe criminal provisions, anyone who coerces a person into marriage by using violence or threats shall be punished by imprisonment for a term of six months to one year and a fine of 10,000 to 30,000 dirhams, or only one of these two penalties.

The penalty is doubled if the coercion to marry, through the use of violence or threats, is committed against a woman because of her sex or against a woman who is a minor, disabled or known to have low mental capacity.

Proceedings may not be instituted on the basis of a complaint from the injured party.

The withdrawal of the complaint shall terminate the proceedings and the effects of the judicial decision which has acquired the force of res judicata, if it has been pronounced.

Article 526-1

One of the spouses shall be punished by imprisonment for a term of one to six months and a fine of 2,000 to 10,000 dirhams, or one of these two penalties, in the event of dissipation or transfer of his property in bad faith, with the intention of harming the other spouse or children or circumventing the provisions of the Family Code concerning alimony, housing, obligations as a result of the breakdown of the conjugal relationship or the distribution of property.

Proceedings may only be instituted on the basis of a complaint from the injured spouse.

The withdrawal of the complaint shall terminate the proceedings and the effects of the judicial decision which has acquired the force of res judicata, if it has been pronounced.

Law Addressing Violence Against Women, 2018 [103]

[…]

FIRST CHAPTER: DEFINITIONS

First Article

For the purposes of this Act, the following definitions shall apply:

- Violence against women: Any material or moral act or abstention based on discrimination on the grounds of sex resulting in physical, psychological, sexual or economic harm to the woman;

- Bodily violence: Any act or omission that harms or is likely to harm the physical integrity of a woman, regardless of the perpetrator, the means used to commit it or the place of its commission;

- Sexual violence: any word, act or exploitation likely to harm the physical integrity of women for sexual or commercial purposes, whatever the means used to that end;

- psychological violence: any verbal aggression, coercion, threat, neglect or deprivation either to violate a woman's dignity, freedom and tranquility, or to intimidate or terrorize her;

- Economic violence: any act or omission of an economic or financial nature that affects or is likely to affect women's social or economic rights.

SECTION VII – SEXUAL EXPLOITATION AND CORRUPTION OF YOUTH

Article 4 - The provisions of Articles 61 and 407 of the above-mentioned Penal Code are supplemented as follows:

Article 61- Personal security measures are: […]
(9) forfeiture of paternal power rights;
(10) prohibition of contact between the convicted person and the victim;
(11) submission of the convicted person to appropriate psychological treatment.

Article 407 – […] The penalty is doubled when the offence is committed against a minor or a woman on account of her sex or committed by a spouse against the other spouse or when the perpetrator is an ascendant, descendant, brother, kafil, divorced spouse, fiancé, guardian or person having authority over, or care of the victim.

CHAPTER III PROCEDURAL PROVISIONS

Article 6

The provisions of article 302 of Act No. 22-01 on criminal procedure promulgated by Dahir No. 1-02-255 of 25 rejeb 1423 (3 October 2002), as amended and supplemented, are amended and supplemented as follows:

Article 302-
In cases of violence or sexual assault against a woman or a minor, the court may hold an in camera hearing at the victim's request.
[…]

Article7

The provisions of article 7 of Act No. 22-01 on criminal procedure are supplemented as follows:

Article 7 - civil action […] offence.

[…] However, such associations, interested in cases of violence against women in accordance with their statutes, may only become parties with the written consent of the victim.

[…]

[103] Law Addressing Violence Against Women (Loi relative à la lutte contre les violences faites aux femmes), No. 103-13 (22 February 2018), available at http://adala.justice.gov.ma/production/legislation/fr/Nouveautes/lutte%20contre%20les%20violences%20faites%20aux%20femmes.pdf (last visited December 30, 2018). Unofficial translation by Compendium team.

Article 8

The provisions of Act No. 22-021 on criminal procedure mentioned above are supplemented by an article 82-5-2 as follows:

Article 82-5-2- In addition to the measures provided for in articles 82-4 and 82-5 above, the following protective measures shall be taken immediately in cases of violence against women:

- return the child in custody with the person in charge of his or her care to the accommodation designated by the court;
- warn, in the case of threats of violence, the person making the said threats not to act, with a commitment not to commit aggression;
- warn the aggressor that he is prohibited from disposing of the spouses' common property;
- place the victim in hospital for treatment;
- order that the woman victim of violence, who needs and wants to, be placed in care or social welfare institutions.

CHAPTER IV MECHANISMS FOR THE CARE OF WOMAN VICTIMS OF VIOLENCE

Article 9

For the care of women victims of violence, multi-party cells and commissions are established between departments in accordance with the provisions of this chapter.

Article 10

Units for the care of women victims of violence are established in the courts of first instance and courts of appeals, as well as in the central and decentralized services of the departments responsible for justice, health, youth and women, as well as the General Directorate of National Security and the High Command of the Royal Gendarmerie.
These units are responsible for welcoming, listening, supporting, guiding and accompanying women victims of violence.

The units set up at the level of the courts of first instance and courts of appeals are composed, in addition to officials of the administration, of the deputy public prosecutor, the juvenile judge and the social assistant.

A regulatory text determines the composition of the units created within the central and decentralized services of the departments responsible for justice, health, youth and women, as well as the General Directorate of National Security and the High Command of the Royal Gendarmerie. It also determines the representatives of the administration in the cells created at the level of the courts of first instance and courts of appeals.

The composition of these units shall take into account the principles of specialization and equality.

Article 11
National commission

A national commission for the care of women victims of violence is established. It shall be responsible for carrying out the tasks and duties provided for in Article 12 below.
The Head of Government appoints the President of the National Commission on the proposal of the Government Authority for Women.
The work of the National Commission may be attended by officials and representatives of national bodies and organizations concerned with women's issues, when the Commission deems it useful.
The National Commission shall meet, upon convocation by its President or by a majority of its members, at least once a year and whenever necessary.
The department in charge of women provides the secretariat of the Commission.
The composition and operating procedures of the National Commission shall be determined by regulation.

Article 12

The National Commission is responsible for the following tasks:
- Ensure communication and coordination, at the national level, between the interventions of government departments and central administrations concerned with violence against women;
- Formulate its opinion on the action plans of the regional and local commissions, referred to in articles 13 and 15 below, and monitor their implementation;
- Receive and review reports from regional and local commissions;
- Monitor and propose opportunities for the development of the work of the regional and local commissions;

- Contribute to the establishment of mechanisms to improve the functioning of the units referred to in Article 10 above, and of the regional and local commissions, and support their action at the central level;
- Strengthen and activate partnership and cooperation mechanisms between regional and local commissions, civil society associations and other stakeholders;
- Establish an annual report on the activity review.

Article 13 Regional commissions

A regional commission for the care of women victims of violence is established within the jurisdiction of each court of appeal. It is composed by:

- The King's Attorney General or his deputy, President;
- An investigating judge, an adviser and an adviser in charge of minors, appointed by the First President of the Court of Appeal;
- The Head of the Secretariat of the Public Prosecutor's Office or his representative;
- The Head of the Registry or his representative;
- The assistant or social assistant to the said court;
- The representatives of the administration;
- The representative of the regional council;
- A lawyer appointed by the President of the Bar Association within the jurisdiction of the Court of Appeal
- A judicial officer appointed by the president of the regional council of judicial officers.
- Any person known for his or her interest and expertise in women's issues, as well as representatives of bodies, institutions and associations whom the committee considers it useful to invite, may also attend the work of the committee.

Article 14

The regional commissions for the care of women victims of violence are responsible for the following tasks:
- Develop regional action plans within the framework of the competences entrusted to them;
- Ensure communication and coordination between the judiciary and other departments and administrations involved in cases involving the care of women victims of violence at the regional level;
- Communicate and coordinate with civil society associations working in this field;
- Work to unify the operating procedures of the cells and local commissions in order to guarantee the homogeneity and complementarity of services at the level of the judicial jurisdictions of the Court of Appeal, and at the level of the judicial jurisdictions of the Court of Appeal and the other departments and administrations concerned;
- Identify the constraints and obstacles related to operations to provide care for women victims of violence requiring intervention at the central level;
- Capitalize on the various expertise and successful experiences and disseminate them through the various local mechanisms;
- Prepare periodic reports and an annual report on the functioning and assessment of its work and the work of the local commissions, as well as that of the units for the care of women victims of violence.

The reports of the regional commissions, including the annual report, are addressed to the National Commission for the Care of Women Victims of Violence.

The regional commissions shall meet at least twice a year and whenever necessary, upon convocation by their chairpersons.

The regional commissions for the care of women victims of violence shall meet in the presence of at least half of their members. They shall take their decisions by a majority of the members present.

The secretariat of the Public Prosecutor's Office at the Court of Appeal provides the secretariat to the Regional Commission.

Article 15 Local commissions

A local commission for the care of women victims of violence is established within the jurisdiction of each court of first instance. It is composed by:
- the King's Prosecutor or his deputy, President;
- An investigating judge, a judge and the juvenile judge, appointed by the president of the court;
- The Head of the Secretariat of the Public Prosecutor's Office or his representative;
- The Head of the Registry or his representative;
- The social worker in the courtroom;
- The representatives of the administration;

The representative of the provincial council;
- A lawyer appointed by the President of the Bar Association within the jurisdiction of the Court of Appeal;
- A judicial officer appointed by the president of the regional council of judicial officers.

Any person known to be interested in women's issues, as well as representatives of bodies, institutions and associations whom the committee considers it useful to invite, may also attend the work of the commission.

Article 16
Power and responsibilities of local commissions

The local commissions for the care of women victims of violence are responsible for the following tasks:
- develop local action plans within the framework of their assigned responsibilities;
- ensure communication and coordination between the judiciary and other departments and administrations concerned with the issues of women victims of violence and associations working in this field;
- identify the constraints and obstacles related to the care operations for women victims of violence and propose, in a participatory manner, appropriate solutions within the remit and possibilities of each department;
- identify the constraints and obstacles related to operations to care for women victims of violence requiring intervention at regional or central level;
- prepare periodic reports.

The local commissions send their periodic reports on the functioning and assessment of their activities to the regional commissions.

The local commissions meet at least four times a year and whenever necessary, at the invitation of their presidents.

The local commissions for the care of women victims of violence meet in the presence of at least half of their members. They shall take their decisions by a majority of the members present.

The secretariat of the public prosecutor's office at the court provides the secretariat of the commission.

CHAPTER V MEASURES AND INITIATIVES TO PREVENT VIOLENCE

Article 17
Public authorities shall take all necessary measures to prevent violence against women. To this end, public authorities shall ensure the development and implementation of policies and programs aimed at raising awareness of the risks of violence against women, and improving women's image in society, and shall raise awareness of their rights.

CHAPTER VI ENTRY INTO FORCE

Article 18 -
This Law shall enter into force six (6) months after the date of its publication in the Official Gazette.

40. MOZAMBIQUE

Law on Domestic Violence Against Women, 2009 [104]

CHAPTER I
General provisions

Article 1
(Object)
1. The object of the present Law is the violence committed against women in the context of domestic and family relations that does not result in their death.
2. In cases where acts of violence result in death, the provisions of the Criminal Code shall apply.

Article 2
(Goal)
The purpose of this Law is to prevent, punish the offenders and provide women victims of domestic violence with the necessary protection, ensure and introduce measures that provide State's institutions with the instruments necessary to eliminate domestic violence.

[104] Law on Domestic Violence against Women (Lei sobre a violência doméstica praticada contra a mulher), Law No. 26/2009 (29 September 2009), available at http://www.wlsa.org.mz/wp-content/uploads/2014/11/Lei_VD_2009.pdf (last visited December 30, 2018). Unofficial translation by Compendium team.

Article 3
(Scope)
This Law aims to protect the physical, moral, psychological, patrimonial and sexual integrity of the woman against any form of violence by her spouse, ex-spouse, partner, ex-partner, boyfriend, ex-boyfriend and family.

Article 4
(Definitions)
The terms used in this Law are set out in the attached glossary, which form an integral part thereof.

Article 5
(Offenders)
1. Domestic violence against women can be practiced:
a) by the man with whom she is or was united by marriage;
b) by the man with whom she lives or lived in de facto union;
c) by the man with whom she has or has had romantic relations;
d) by any person united with her by family ties.

Article 6
(Precautionary Measures)
At the request of the Public Ministry or the victim, the judge may order the following measures:
a) seizure of the guns found in the possession of the aggressor;
b) suspension of parental authority, guardianship and curatorship of the aggressor in the domestic relations sphere;
c) prohibition of the aggressor from concluding contracts on common real state and movable assets, except with express judicial authorization;
d) restitution of assets subtracted by the aggressor to the victim, as a bona-fide depositary;
e) provision of economic security, through judicial deposit for material losses and damages resulting from the practice of domestic violence;
f) ensure the safe return of women who have been forced to leave their homes;
g) establish a provisional pension, which corresponds to the economic capacity of the aggressor and the needs of the recipient;
h) prohibit the aggressor from removing movable assets from the common residence to another place.

Chapter II
Sanctions

ARTICLE 7
(Sanctions)
The sanctions provided for in this Law shall apply to the crimes contained therein and, alternatively, sanctions provided for in the general criminal code.

ARTICLE 8
(Provision of community work)
1. The provision of community work consists in the provision of free services to the State, to other legal persons governed by public law, or to private entities whose purposes the court considers to be of public interest.
2. The work in favor of the community must be carried out on working days, in a minimum of two hours and a maximum of four hours a day.
3. Anyone who, if convicted by a final judgment, intentionally puts himself in a position to be unable to work or grossly infringes the obligations arising from the sentence to which he has been convicted, shall have his penalty prolonged by twice the time he has been serving.

ARTICLE 9
(Disobedience)
Any convicted person sanctioned with the penalty of community work who:
a) intentionally puts himself in conditions of not being able to work;
b) refuses, without just cause, to perform the work or grossly infringe the obligations arising from the sentence to which he was condemned
Commits the crime of qualified disobedience, provided for in the Criminal Code.

ARTICLE 10
(Provisional suspension of sentence)
1. Criminal enforcement may be provisionally suspended for a serious health, family or professional reason, duly justified.
2. The suspension period may not exceed 12 months.
3. At the end of the period referred to in the preceding paragraph, the sentence shall be enforced.

ARTICLE 11
(Special aggravating circumstances)
1. In addition to those provided for in the Criminal Code, special aggravating circumstances apply when:
a) the crime is practiced in the presence of the children or other minors;
b) there is a cycle of violence;
c) there is a history of violence;
d) the crime is practiced against a pregnant woman;
e) the woman has a disability;
f) the crime is practiced in public space;
g) there is the impossibility of the victim to request and obtain help at the time of aggression.
2. The penalties applied for crimes of domestic violence against women are increased by one third in its minimum and maximum limits.

ARTICLE 12
(Sanctions attenuation)
1. In addition to those provided for in the Criminal Code, the following circumstances are still considered as mitigating factors:
a) there have been demonstrative acts of repentance;
b) a period of time up to two years has elapsed on the practice of the fact, keeping the aggressor good conduct.

CHAPTER III
Crimes

ARTICLE 13
(Simple physical violence)
1. Anyone who voluntarily attacks the physical integrity of the woman, using or not using any instrument and causing any physical damage shall be punished with imprisonment of one to six months and a corresponding fine.
2. After evaluating the circumstances of the commission of the crime and the family situation of the convicted person, the court may substitute the penalty of imprisonment referred to in the previous number for the penalty of community work.

ARTICLE 14
(Severe physical violence)
Anyone who physically violates the woman, so as to:
a) seriously affect the possibility of using the body, the senses, speech and their procreation, manual or intellectual work, is punished with the sanction provided for in article 360 of the Criminal Code, which is increased by one third and a corresponding fine of not less than one year;
b) cause serious and irreparable damage to any organ or member of the body, shall be punished in the penalties provided for in article 360 of the Criminal Code and the minimum penalty shall be increased by one third;
c) cause her life-threatening illness or injury shall be punished by a penalty of two to eight years in prison.

ARTICLE 15
(Psychological violence)
1. Whosoever shall offend voluntarily and psychically by threats, verbal violence, defamation, libel or slander, the woman with whom he has or has had a lasting love relationship, kinship or consanguinity or a woman with whom he shares the same home shall be sentenced to six months to one year of imprisonment and corresponding fine.
2. If the threat has been made using dangerous instruments, the penalty is of one to two years of imprisonment and corresponding fine.

ARTICLE 16
(Moral Violence)
Anyone who, in writing, published design or any publication, impute an offense to the honor and character of the woman, shall be punished in accordance with article 7 of this Law.

ARTICLE l7

(Non-consensual sexual activity)
Anyone who performs non-consensual sexual activity with the spouse, girlfriend, wife with whom he has a lasting love relationship, ties of kinship or consanguinity or woman with whom he lives in the same space, shall be punished with a sentence of six months to two years' imprisonment and a fine.

ARTICLE 18
(Non-consensual sexual activity with transmission of diseases)
1. One who, conscious of his or her infectious state, performs consensual or non-consensual sexual activity with spouse, girlfriend, woman with whom he has or has had a lasting love relationship, kinship or inbreeding or woman with whom he lives on the same space transmitting illness sexual transmission, and sentenced to two to eight years in prison, with a minimum increased to three years.
2. If sexual activity results in the transmission of acquired immunodeficiency virus, the penalty is from eight to twelve years of prison.

ARTICLE 19
(Patrimonial Violence)
1. It is punishable by the penalty of community work between fifty and one hundred hours, the one who causes deterioration or loss of objects, animals or goods of the woman or the family.
2. A person who fails to provide alimony for which he is obliged for more than sixty days shall be punished by imprisonment for up to six months, thus depriving the beneficiaries of their livelihood and putting their health, education and housing at risk. The offender is also required to pay double the amount of the missing alimony.
3. Anyone who takes possession of the family assets of the woman after the death of the spouse or the man with whom she was living in a de facto union or in a similar situation, shall be punished with imprisonment up to six months and a corresponding fine.

ARTICLE 20
(Social Violence)
Anyone who prevents a woman with whom she has family or love relationship from moving or contacting other persons and keeping her or him in the home or other space shall be punished with imprisonment up to one year and a corresponding fine.

CHAPTER IV
Procedure

ARTICLE 21
(Public Crime)
The crime of domestic violence is public, with the specifics resulting from this Law.

ARTICLE 22
(Attendance)
1. The woman victim must be informed about her rights.
2. The woman victim of domestic violence must be provided urgent care by police, health and other entities, always protecting her privacy.
3. At the level of police care, a private and calm space must be guaranteed so that victims of violence present their complaints without intimidation and safeguarding dignity and intimacy.
4. At the level of medical care, the victim must be informed about the need, the type, the mode of execution of the examination and be clarified about the result.
5. The medical care and examinations for victims of domestic violence free silo.

ARTICLE 23
(Complaint)
1. Denunciation may also be made by family members, health workers, social security agents, members of civil society organizations or any person who is aware of the fact.
2. The complaint may be filed with the police or prosecutor's office, either verbally or in writing, and may be used by telephone or electronic means.
3. After reporting, the authorities indicated in the previous number must immediately proceed to the removal of the order and proceed with the proceeding.

ARTICLE 24
(Self-report)

The report must contain the following information:

a) the complete identification of the victim and the aggressor;
b) the family or romantic relationship situation;
c) a detailed description of the facts and reasons for the violence;
d) the background of domestic violence against women.

ARTICLE 25
(Clinical report)
Whenever cases of domestic violence are received, health units or legal medical services shall prepare a detailed report assessing the state of health of the victims, a description of the injuries caused, the treatment administered, the probable time for recovery (when it is the case), to indicate the possible sequels and instruments used in the aggression, which must be sent to the Public Prosecution Service or the police.

ARTICLE 26
(Discussion and trial hearing)
1. In cases in which there is no preparatory hearing, it must be sent to the competent judge who schedules the discussion hearing within seventy-two hours, from the moment the case is received.
2. At the discussion hearing, other persons who are important to the case may be present, besides the aggressor and the victim.

ARTICLE 27
(Notification)
The parties must be personally served to appear at the discussion and trial hearing.

ARTICLE 28
(Appearance)
1. The non-appearance of the aggressor to the hearing implies the judgment by default.
2. In the victim's absence, the judge must schedule a new trial date.

ARTICLE 29
(Representation)
The victim may be represented in court by a lawyer, legal assistant or legal expert, provided that the assistant is appointed in the general terms.

ARTICLE 30
(Indictment)
The Public Prosecutor's Office must present the charge orally during the trial hearing.

ARTICLE 31
(Evidences)
1. Evidence may be presented during the discussion and trial hearing.
2. Each party may submit a maximum of three witnesses.

ARTICLE 32
(Read the sentence)
The sentence should be read immediately after the trial hearing.

ARTICLE 33
(Form of process)
When the crime corresponds to a higher prison sentence, the proceeding follows the terms of the complaint process, referring to the competent court.

ARTICLE 34
(Appeal)
1. The cases judged under this Law follow the terms of the appeal of the summary proceeding.
2. The lodging of an appeal shall not depend on any prior declaration of the prosecution or defense.
3. The appeal does not suspend the case.

ARTICLE 35
(Urgent character of the process)
The processes related to domestic violence against women are urgent and priority over the others.

CHAPTER V
Final dispositions

ARTICLE 36
(Gender equality)
The provisions of this Law shall apply to men, under the same conditions and with the necessary adaptations.

ARTICLE 37
(Safeguarding the family)
The application of this Law should always take into account the safeguard of the family.

[…]

ATTACHMENT
GLOSSARY

For the purposes of this Law, the following definitions shall apply:

Violence: any conduct that includes retention, subtraction, partial destruction of objects, instruments of work, personal documents, property, values and rights or economic resources including recipients to meet their needs;

Violence against women: all acts perpetrated against women which cause, or are capable of causing physical, sexual, psychological or economic harm, including the threat of such acts, or the imposition of restrictions or arbitrary deprivation of fundamental freedoms in the private or public life;

Physical violence: any conduct that offends the integrity or bodily health, namely, slapping, pulling, pushing, punching, pinching, biting, scratching, punching, kicking, striking with weapons or objects;

Moral violence: any conduct that constitutes slander or libel;

Psychological violence: Any conduct that causes emotional damage and diminishes self-esteem or that harms and disrupts full development or that seeks to degrade or control their actions, behaviors, beliefs and decisions through threat, embarrassment, humiliation, manipulation, assault, insult, blackmail , ridicule and exploitation, or any other means that causes him or her harm to psychological health and self-determination.

Sexual violence: any conduct that constricts to practice, to maintain or to participate in unwanted sexual activity, through intimidation, threat, coercion or use of force; that induces her to commercialize or to use in any way her sexuality, which prevents her from using any contraceptive method or to force her into marriage, pregnancy, abortion or prostitution through coercion, blackmail, bribery or manipulation; or that limits or nullifies the exercise of their sexual reproductive rights;

Violence cycle: a repetitive sequence of stages characterized by the accumulation of tension, the explosion of violence, verbal, moral or physical, repeating the cycle with renewed accumulation of tension and the consequent explosion of violence with greater intensity and frequency, and that can end many sometimes with the death of one of the parties.

Criminal Code, 2014 [105]

ARTICLE 37
(Exhaustive enumeration of aggravating circumstances)
When a crime is committed, the following constitute aggravating circumstances,:

[…]
(aa) being the offended person's ascendant, descendant, spouse or person with whom he/she lives in a de facto union,

[105] Criminal Code (Lei da Revisão do Código Penal), Law No. 35/2014 (31 December 2014), available at http://www.wlsa.org.mz/wp-content/uploads/2014/11/Lei-35_2014Codigo_Penal.pdf (last visited December 30, 2018). Unofficial translation by Compendium team.

relative, or relative of second degree by civil law, adopter or adopted, master or pupil, tutor or guardian, employer or employee, or in any way being legitimately superior or inferior to the agent;

CHAPTER VII
Crimes against sexual freedom
SECTION I
Rape and sexual harassment

ARTICLE 218
(Violation)
The person who has intercourse with any individual, against her/his will, through physical violence, severe intimidation, or any fraud that does not constitute seduction, or when the victim is deprived of the use of reason or of her/his senses, commits the crime of rape and shall be punished with "prison maior" from two to eight years.

[…]

ARTICLE 222
(Special aggravation)
1. In the crimes covered by this section, penalties shall be replaced by those immediately higher, if:
a) the agent is an ascendant, adopter or sibling of the offended;
b) the agent is a tutor, guardian, master or teacher of that person, or by any other means has authority over that person; or is responsible for their education, direction or guard; or is a minister of any cult, or public servant whose functions depend on the business or intention of the offended person;
c) the agent is a domestic servant of the offended person or her/his family or, by reason of profession requiring title, has influence over the offended person;
d) the crime results in pregnancy;
e) the crime results in transmission of sexual disease or infection;
f) if the violation is committed with the threat of a firearm or weapon;
g) if the violation is committed by personnel belonging to the armed forces, paramilitaries, police or private security.
2. If the transmission of HIV and AIDS by the agent to the offended person is verified in the crimes dealt with in this section, the aggravated penalties under the terms of the previous paragraph shall be replaced by those immediately higher.

[…]

CHAPTER IX
Domestic violence

ARTICLE 245
(Simple physical violence)
1. One who voluntarily causes any physical harm to the spouse, ex-spouse, person with whom he/she lives as such, partners or former partners, boyfriends/girlfriends or ex-boyfriends/girlfriends and family members shall be punished with imprisonment from one to six months and corresponding fine.
2. When evaluating the circumstances of the commission of the crime and the family situation of the convicted person, the court may substitute the sentence of imprisonment referred to in the previous number by the penalty of article 90 of this Code.

ARTICLE 246
(Severe physical violence)
Anyone who physically violates any person provided for in article 245 and happens to:
a) seriously affect the person's possibility of using the body, the senses, the speech and their capacities of procreation, of performing manual or intellectual work, shall be punished according to article 171 of this Code, the minimum penalty shall be increased by one third, and the fine shall never be less than one year;
b) cause the person serious and irreparable damage to any organ or body member, shall be punished according to article 171 of this Code, and the minimum penalty shall be increased by one third;
c) cause the person life-threatening illness or injury, shall be punished with imprisonment from two to eight years.

ARTICLE 247
(Psychological violence)
1. One who offends voluntarily and psychically, by threats, words, insult, defamation or slander, the person with whom he/she has or has had a lasting relationship, ties of kinship or consanguinity, or with whom he/she lives under the same roof, is

sentenced to six months to one year of imprisonment and corresponding fine.
2. If the threat has been made using any dangerous instrument, the prison sentence is from one to two years and a corresponding fine.

ARTICLE 248
(Moral Violence)
Whoever in writing, published design or by any publication, attribute an offensive fact against the honor and character of the person referred to in article 245, shall be punished in accordance with n. 1 of the previous article.

ARTICLE 249
(Sexual intercourse with disease transmission)
1. One who, aware of his/her infectious condition, has sexual intercourse, with consent or not, with a woman or man with whom he/she has or has had a relationship, ties of kinship, or consanguinity, or with whom he/she cohabits, transmitting to him/her sexual disease or infection, shall be punished with "prison maior" from two to eight years, being the minimum sentence increased to three years.
2. If sexual intercourse results in the transmission of HIV, the penalty is from eight to twelve years of "prison maior".

ARTICLE 250
(Asset Violence)
1. The person who causes deterioration or loss of objects, animals or family assets, shall be punished with the penalty of community work, from fifty to one hundred hours.
2. The person who ceases paying child support to which he/she is obliged, for a period of more than sixty days, depriving the beneficiaries of their livelihood and health care, education and housing, shall be punished with imprisonment of up to six months.
3. The debtor referred to in the preceding paragraph is obliged to pay double the amount of the missing child support.
4. Whoever takes possession of the assets of the family after the death of the spouse, with whom he/she lived as such, is punished with imprisonment of up to six months and a corresponding fine.

ARTICLE 251
(Social Violence)
The one who prevents anyone with whom he/she has a family or intimate relationship from moving around or contacting other persons, while retaining the victim at home or any other place, is punished with the penalty of imprisonment up to one year and corresponding fine.

ARTICLE 252
(Disobedience)
All those sentenced to the penalty of community work that:
a) intentionally place themselves in a position where they can not to work;
b) refuse without just cause to perform the work or breach the duties resulting from the sentence
Commit the crime of qualified disobedience, provided for in article 413.

ARTICLE 253
(Provisional suspension of sentence)
Criminal sentence may be suspended, never for more than twelve months, due to serious health reasons, duly justified.

ARTICLE 254
(Special aggravating circumstances)
In addition to the circumstances set out in article 37 of this Code, the followings constitute special aggravating circumstances:
a) the offense is practiced in the presence of the couple's children or other minors;
b) the offense is followed by violence;
c) the offense is preceded by violent acts;
d) the offense is practiced against a pregnant woman;
e) the victim is a person with disability;
f) the offense is practiced in public space;
g) the victim is unable to seek and obtain help in the moment of the aggression.

ARTICLE 255

(Mitigation of sanctions)
In addition to those provided for in article 43, the following circumstances attenuates the sanctions:
a) demonstration of repentance;
b) good conduct by the aggressor for two years after the offense.

ARTICLE 256
(Special aggravation rule)
Penalties for domestic violence crimes are raised by one third in their minimum and maximum limits.

ARTICLE 257
(Public crime)
The offenses referred to in this chapter are of public nature without prejudice to the specificities resulting from this Code and other applicable legislation.

41. NAMIBIA

Combating of Domestic Violence Act, 2003 [106]

[…]

PART 1 - DEFINITIONS

General definitions 1.
In this Act, unless the context otherwise indicates -
"applicant," depending on the context, means -
Republic of Namibia 3 Annotated Statutes Combating of Domestic Violence Act 4 of 2003
(a) a person contemplated in section 4 who makes an application for a protection order;
(b) any person who, after an application for a protection order has been made under this Act, takes over or continues with any subsequent legal proceedings in connection with or relating to the protection order, as long as that person is the complainant or a person contemplated in section 4; or
(c) the complainant if he or she makes the application for a protection order;
"child" means a person who is under the age of 18 years "complainant," depending on the context, means a person towards or in connection with whom -
(a) domestic violence as contemplated in this Act is committed, being committed or alleged to have been committed; or
(b) a domestic violence offence is committed or is alleged to have been committed, irrespective of whether or not that person has actually laid a complaint or gives evidence in any relevant criminal proceedings;
"court" means a court established under the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), but, for the purposes of Part II, excludes a regional court;
"dependant" means a person who is legally entitled to be maintained by another person; "domestic relationship" has the meaning assigned to it in section 3;
"domestic violence" has the meaning assigned to it in section 2;
"domestic violence offence" means any of the offences referred to in section 21; "enquiry" means the enquiry held under section 12;
"family member" for the purposes of section 2, means any person other than the perpetrator, with whom a complainant is in a domestic relationship as contemplated in section 3(1)(e);
"Inspector-General" means the Inspector-General of Police appointed in terms of Article 116 of the Namibian Constitution;
"Minister" means the Minister responsible for justice;
"police officer" means a member of the Namibian Police Force as defined in section 1 of the Police Act, 1990 (Act No. 19 of 1990);
"prescribe" means prescribe by regulation made under this Act; "protection order" means an interim or final protection order granted under this Act;
"residence" in respect of a complainant means a place where the complainant normally resides and includes a residence which the complainant has vacated due to domestic violence;
"respondent" means a person against whom a protection order is sought or has been made;

[106] Combating of Domestic Violence Act, Act No. 4 (25 July 2003), available at https://laws.parliament.na/cms_documents/combating-of-domestic-violence-ff1d58b364.pdf (last visited December 30, 2018).

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"social worker" means a social worker as defined in the Social and Social Auxiliary Workers' Professions Act, 1993 (Act No. 22 of 1993); and
[The Social and Social Auxiliary Workers' Professions Act 22 of 1993 has been replaced by the Social Work and Psychology Act 6 of 2004.]
"weapon" includes an arm as defined in section 1 of the Arms and Ammunition Act, 1996, (Act No. 7 of 1996) or any other object designed or used to inflict or cause physical bodily harm.
[There is a superfluous comma before the bracketed text.]
Definition of domestic violence 2. (1) For the purposes of this Act, "domestic violence", within the context of a domestic relationship, means engaging in any of the following acts or courses of conduct -
(a) physical abuse, which includes -
(i) physical assault or any use of physical force against the complainant;
(ii) forcibly confining or detaining the complainant; or
(iii) physically depriving the complainant of access to food, water, clothing, shelter or rest;
(b) sexual abuse, which includes -
(i) forcing the complainant to engage in any sexual contact;
(ii) engaging in any sexual conduct that abuses, humiliates or degrades or otherwise violates the sexual integrity of the complainant;
(iii) exposing the complainant to sexual material which humiliates, degrades or violates the complainant's sexual integrity; or
(iv) engaging in such contact or conduct with another person with whom the complainant has emotional ties;
(c) economic abuse, which includes -
(i) the unreasonable deprivation of any economic or financial resources to which the complainant or dependant of the complainant is entitled under any law, requires out of necessity or has a reasonable expectation of use, including household necessities, and mortgage bond repayments or rent payments in respect of a shared household;
(ii) unreasonably disposing of moveable or immovable property in which the complainant or a family member or dependant of the complainant, has an interest or a reasonable expectation of use;
(iii) destroying or damaging, property in which the complainant, or a family member or a dependant of the complainant, has an interest or a reasonable expectation of use; or
(iv) hiding or hindering the use of property in which the complainant, or a family member or dependant of the complainant, has an interest or a reasonable expectation of use;
(d) intimidation, which means intentionally inducing fear in the complainant, or a family member or dependant of the complainant by -
(i) committing physical abuse against a family member or dependant of the complainant;
(ii) threatening to physically abuse the complainant, or a family member or dependant of the complainant;
(iii) exhibiting a weapon; or
(iv) any other menacing behaviour, including sending, delivering or causing to be delivered an item which implies menacing behaviour;
(e) harassment, which means repeatedly following, pursuing or accosting the complainant, or a family member or dependant of the complainant, or making persistent unwelcome communications, and includes but is not limited to -
(i) watching, or loitering outside or near the building or place where such person resides, works, carries on business, studies or happens to be;
(ii) repeatedly making telephone calls or inducing a third person to make telephone calls to such person, whether or not conversation ensues; or
(iii) repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects or messages to such person's residence, school or workplace;
(f) entering the residence or property of the complainant, without the express or implied consent of the complainant, where the persons in question do not share the same residence;
(g) emotional, verbal or psychological abuse, which means a pattern of degrading or humiliating conduct towards a complainant, or a family member or dependant of the complainant, including -
(i) repeated insults, ridicule or name calling;
(ii) causing emotional pain; or
(iii) the repeated exhibition of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of the complainant's, or the complainant's dependant or family member's privacy, liberty, integrity or security; or
(h) where applicable, threats or attempts to do any of the acts referred to in this subsection.
(2) For the purposes of subsection (1)(g), a person psychologically abuses a child if that person repeatedly -
(a) causes or allows that child to see or hear the physical, sexual, or psychological abuse of a person with whom that child

has a domestic relationship; or
(b) puts that child, or allows that child to be put, at risk of seeing or hearing the abuse referred to in paragraph (a);
but the person who suffers such abuse is not culpable in terms of this subsection.
(3) With the exception of harassment as described in subsection (1)(e) and emotional, verbal or psychological abuse as described in subsection (1)(g), any single act described in this section may amount to domestic violence.
(4) A number of acts that form part of a pattern of behaviour may amount to domestic violence, even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial.

Definition of domestic relationship
3. (1) For the purposes of this Act a person is in a "domestic relationship" with another person if, subject to subsection (2) -
(a) they are or were married to each other, including a marriage according to any law, custom or religion, or are or were engaged to be so married;
(b) they, being of different sexes, live or have lived together in a relationship in the nature of marriage, although they are not, or were not, married to each other;
(c) they have, have had or are expecting a child together, excluding situations -
(i) where the child is conceived as a result of rape; or
(ii) where the parties contributed gametes for artificial insemination, in vitro fertilisation or similar fertilization techniques, but have no other relationship;
(d) they are parent and biological or adoptive child;
(e) they -
(i) are or were otherwise family members related by consanguinity, affinity or adoption, or stand in the place of such family members by virtue of foster arrangements; or
(ii) would be family members related by affinity if the persons referred to in paragraph (b) were married to each other, and they have some connection of a domestic nature, including, but not limited to -
(aa) the sharing of a residence;
or (bb) one of them being financially or otherwise dependant on the other; or
(f) they, being of different sexes, are or were in an actual or a perceived intimate or romantic relationship.
(2) Subject to subsection (3), where a "domestic relationship" is based directly or indirectly on past marriage or engagement, past cohabitation or any other past intimate relationship, the "domestic relationship" continues for one year after the dissolution of the marriage or engagement, the cessation of cohabitation or the end of any other intimate relationship, but, where a child is born to any couple, their "domestic relationship" continues throughout the lifetime of that child or for one year after the death of the child.
(3) If, in an application for a protection order, a court is satisfied that good reasons exist not to restrict the continuation of a relationship to one year as provided for in subsection (2), the court may extend that period to exceed one year.
(4) For the purposes of subsection (1)(e), a customary union must be taken to give rise to a relationship of affinity as if it were a civil marriage.

PART II - PROTECTION ORDERS

Who may apply for protection order
4. (1) Any person who is in a domestic relationship may, in the manner provided for in section 6, apply for a protection order against another person in that domestic relationship.
(2) Notwithstanding any other law, an application may be brought on behalf of a complainant by any other person who has an interest in the well-being of the complainant, including but not limited to a family member, a police officer, a social worker, a health care provider, a teacher, traditional leader, religious leader or an employer.
(3) An application made under subsection (2), must be taken to have been made by the complainant
[There is no full stop at the end of this sentence in the Government Gazette; there are no additional words.]
(4) An application made under subsection (2) must be made with the written consent of the complainant, except in circumstances where the complainant is -
(a) a minor;
(b) mentally incapacitated;
(c) unconscious;
(d) regularly under the influence of alcohol or drugs; or
(e) at risk of serious physical harm, but, in the case of paragraph (d) or (e), the court must approve the making of the application.
(5) Notwithstanding any other law, a minor may apply for a protection order without the assistance of an adult person if the court is satisfied that the minor has sufficient understanding to make the proposed application, but the court must not

proceed with the application unless the court is satisfied that the alleged domestic violence consists of the conduct contemplated in section 2(1)(a), (b) or (d).
(6) A person on whose behalf an application for a protection order is made under this section must not be compelled to give testimony in any subsequent proceedings relating to the same matter.

Jurisdiction
5. (1) A court of a district where the -
(a) complainant permanently or temporarily resides, is employed or carries on business;
(b) respondent resides, is employed or carries on business; or
(c) cause of action arose,
has jurisdiction to grant a protection order under this Act.
(2) For the purposes of subsection (1)(a) or (b), no minimum period of residence is required.

Manner of application for a protection order
6. (1) A person who requires a protection order may, in the prescribed form and
manner, make an application to the court.
(2) An application referred to in subsection (1) must be accompanied by an affidavit deposed to by the applicant and which affidavit must state -
(a) the facts on which the application is based;
(b) the nature of the order applied for; and
(c) the police station where any breach of the protection order is most likely to be reported.
(3) An application made under subsection (1) may be accompanied by supporting affidavits deposed to by persons who have knowledge of the matter.
(4) The clerk of the court, or a prosecutor assigned to the court concerned, must inform an applicant who approaches him or her for the purpose of making an application of the relief available under this Part and must assist the applicant to prepare the application.
(5) If it is the wish of the complainant, his or her physical address may be omitted from the application, in which case the court may not make an order forbidding the respondent to enter the complainant's residence.
(6) The application prepared under subsection (1), and supporting affidavits, if any, must, in the prescribed form and manner and during the prescribed times, be lodged with the clerk of the court who must, as soon as is reasonably possible, submit the documents to the court.
(7) Any person who intentionally gives false information in respect of an application for a protection order commits an offence and is liable on conviction to a fine which does not exceed N$4000 or imprisonment for a period which does not exceed one year, or to both the fine and imprisonment.

Criteria for granting of and contents of protection order
7. (1) Subject to subsection (2), a court must grant a protection order if it is satisfied that there is evidence that the respondent is committing, or has committed domestic violence towards or in connection with the complainant.
(2) A court must not grant a protection order -
(a) solely in respect of behaviour which took place before the commencement of this Act; or
(b) subject to subsection (3), in respect of minor or trivial acts or incidents of domestic violence.
(3) Where an application for a protection order is based on behaviour which appears minor or trivial or unlikely to recur, the court must nevertheless consider whether the behaviour forms part of a pattern of behaviour which establishes a need for protection.
(4) In determining what to include in a protection order, a court must have regard to -
(a) the history of domestic violence by the respondent towards the complainant;
(b) the nature of the domestic violence;
(c) the existence of immediate danger to persons or property;
(d) the complainant's perception of the seriousness of the respondent's behaviour; and
(e) the need to preserve the health, safety and wellbeing of the complainant, any child or other person who is in the care of the complainant.
(5) For the purposes of subsection (1), a respondent who encourages another person to commit an act which would amount to domestic violence if engaged in by the respondent must be taken to have committed such an act personally.
Granting of interim protection orders 8. (1) The court must, as soon as is reasonably possible after receiving an application submitted to it under section 6(6), consider that application.
(2) In considering any application for a protection order and before making a decision on the application, the court may, subject to section 12(8) -
(a) require oral evidence or further evidence of any nature and that evidence forms part of the record of the proceedings;

and

(b) for the purposes of paragraph (a), summon any person to appear before the court.

(3) After considering an application as contemplated in subsection (1) the court -

(a) must, if it is satisfied that there is sufficient evidence as contemplated in section 7(1), grant, in the prescribed form and manner, an interim protection order
notwithstanding the fact that the respondent has not been given notice of the proceedings and an opportunity to be heard;

(b) may, if the circumstances so require, refer the matter for an enquiry, in which case, the court must give such directives as may be prescribed for the conducting of any subsequent proceedings;

(c) may, grant part of the relief applied for and refer any outstanding issues to an enquiry, in which case, paragraph (b) will apply; or

(d) may, if it considers that the application has no merit, dismiss the application.

(4) An interim protection order must -

(a) call upon the respondent to, on or before the return date, show cause why the interim protection order should not be confirmed; and

(b) contain any other prescribed information.

(5) The return date is 30 days from the date of the interim protection order but the court may extend this period if it is necessary to ensure that it is not less than 10 days after the service of an interim order as contemplated in section 9(1), and the interim protection order remains in force up the end of the extended return date.

(6) The clerk of the court must send a copy of the interim protection order to the station commander of the police station named in the application and that station commander must cause police protection, to the extent reasonably necessary and possible, to be provided to the complainant or any person in the care of the complainant who is at risk until such time as the interim protection order is made final and served on the respondent or discharged.

(7) If the interim protection order involves children, the clerk of the court must send a copy to the Permanent Secretary of the Ministry responsible for child welfare and such copies as may be prescribed to any other prescribed persons, to consider such action as may be provided for in legislation relating to the care and protection of children.

Service of interim protection order

9. (1) An interim protection order together with any other prescribed information must, within the prescribed period and in the prescribed form and manner, be served on the respondent.

(2) On receipt of a return of service of the protection order, the clerk of the court must, within the prescribed period and in the prescribed form and manner, serve a certified copy of the interim protection order on the applicant.

(3) An interim protection order has the same legal effect as a final protection order and, once it has been served on the respondent, it is enforceable under section 17.

Confirmation where respondent fails to oppose

10. If the respondent does not give notice of an intention to oppose the confirmation of the protection order on or before the return date contemplated in section 8, and the court is satisfied that proper service has been effected on the respondent, the court must confirm the interim protection order without holding the enquiry contemplated in section 12.

Effect of notice to oppose

11. (1) If the respondent gives notice of an intention to oppose the confirmation of the protection order on or before the return date, the clerk of court must set a date for an enquiry which date must not be more than 30 days from the date of receipt of the respondent's notice and he or she must, in the prescribed form and manner, notify the applicant and the respondent of the date for such enquiry.

(2) Notwithstanding subsection (1), the respondent may request the clerk of court to set an earlier date for the enquiry and the clerk of court may, where possible, allow the request as long as the clerk of court gives, in the prescribed manner, at least 24 hours notice of the date of the enquiry to the applicant.

(3) A notice of intent to oppose the confirmation of an interim protection is not a ground for a stay of such order, which remains in force until the court makes a decision on whether or not to confirm it.

Procedure for enquiry

12. (1) On the date set under section 11, the court must enquire into the matter of
confirmation of the interim protection order.

(2) An enquiry referred to in subsection (1) must be conducted in the manner prescribed under this Act.

(3) Any party to an enquiry may call any witness to support his or her case.

(4) The court may, at its own motion, cause to be summoned as a witness any person,
including the applicant or respondent, whose evidence may, in its opinion, be relevant in the matter.

(5) Any witness at an enquiry may be examined or cross-examined by the applicant, the respondent, or a representative of either the applicant or the respondent appointed in terms of subsection (7).
(6) The Civil Proceedings Evidence Act, 1965 (Act No. 25 of 1965) in so far as it relates to the admissibility and sufficiency of evidence, the competency, compellability and privileges of witnesses applies to an enquiry conducted under this Act.
(7) An applicant or a respondent may be represented at an enquiry by a legal practitioner or by any person duly authorised by such applicant or respondent, as the case may be.
(8) Except with the permission of the court, a person whose presence is not necessary must not be present at an enquiry, but both the applicant and the respondent are entitled to be accompanied by two persons of their choice to provide support.
(9) To the extent that subsection (8) provides for a limitation of the fundamental right to a public hearing, contemplated in Article 12(1)(a) of the Namibian Constitution, in that it authorizes the exclusion of the public from such a hearing, such limitation is enacted on the authority of the proviso to sub-article (1)(a) of that Article.
(10) The court must not grant a request for a postponement unless it is satisfied that the party making the request would be severely prejudiced if the postponement is not granted.
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(11) If a court postpones an enquiry it must extend any interim protection order which is in force accordingly.
(12) If a court postpones an enquiry in the absence of one of the parties, it must direct that notice of the new date for the enquiry be served in the prescribed manner on the party who is not present.
(13) If, on the date and at the time fixed for the enquiry, the respondent fails to appear in person at the court and the court is satisfied that notice of the enquiry was correctly served on the respondent as contemplated in section 9(1), the court may -
(a) proceed to hear and determine the matter in the absence of the respondent; or
(b) where the court is satisfied having regard to the material before it, that it is appropriate to do so, postpone the matter and, if necessary, order that the respondent be summoned to appear in court on the date on which the matter has been postponed to. (14) If at the time fixed for the enquiry, the respondent appears in court, but neither the applicant nor the complainant, as the case maybe, appears either in person or through the representative contemplated in subsection (7), the court may -

(a) if it is satisfied that the applicant or complainant no longer wishes to pursue the matter, dismiss the application; or
(b) after having received a reasonable excuse for such non-appearance, postpone the enquiry on reasonable terms; or
(c) if it is satisfied, having regard to the material before it, that it is appropriate for evidence to be given by affidavit, the court may, on the application of any other party, order the attendance for cross-examination of the person who made such affidavit.

(15) Unless an application has been dismissed as contemplated in subsection (14)(a), if the applicant fails to appear, either in person or, if applicable, through the representative contemplated in subsection (7), the court must direct the station commander of the police station named in the application to enquire into the reasons for such non- appearance, to ensure that no intimidation of the applicant has taken place, to provide appropriate police protection in the event of any intimidation, and to ascertain whether the applicant still wishes to proceed with the application.
(16) After holding the enquiry, the court may -

(a) confirm or discharge the interim order in its entirety;
(b) confirm specified provisions of the interim order;
(c) cancel or vary specified provisions of the interim order;
(d) discharge the interim order and substitute another order for the interim order;
(e) if the respondent is present at the enquiry, at the request of the applicant or at its own initiative, add provisions which were not contained in the interim order.

(17) A protection order granted at the conclusion of an enquiry is a final protection order.

Final protection orders
13. (1) A final protection order granted under section 10 or section 12 must be in the prescribed form and must be served on the respondent either in person at the conclusion of the enquiry or in the prescribed manner and within the prescribed period.
(2) Where an interim protection order is confirmed with or without modifications after an enquiry which the respondent fails to attend, the court must extend the interim protection order until such date as the final protection order is served on the respondent and the interim protection order has full force and effect until this date regardless of whether or not the respondent has been notified of the extension.
(3) The clerk of the court must send a copy of the final protection order to the station commander of the police station named in the application and that station commander has the duty to put all police personnel at that station on notice that the complainant and any other person protected by the order in question are at particular risk.
(4) If the final protection order involves children, the clerk of court must send a copy to the Permanent Secretary of the Ministry responsible for child welfare and such copies as may be prescribed to any prescribed persons, to consider such action as may be provided for in legislation relating to the care and protection of children.

Terms of protection order

14. (1) A protection order must include a provision restraining the respondent from subjecting the complainant to domestic violence.

(2) A protection order may, at the request of the applicant or on the court's own motion, include any of the following provisions -

(a) a provision directing the respondent to surrender any firearm or other specified weapon in the possession of the respondent, which may also include if appropriate -

(i) a provision suspending any firearm license in the name of the respondent for the duration of the protection order;

(ii) a provision authorising the police to search for and seize any weapon at any specified place where there is probable cause to believe that the weapon may be located;

(b) "no-contact" provisions which -

(i) forbid the respondent to be, except under conditions specified in the order, at or near specified places frequented by the complainant or by any child or other person in the care of the complainant, including but not limited to -

(aa) the residence, workplace or educational institution of the complainant, or any child or other person in the care of the complainant;

(bb) a shelter or other residence where the complainant is temporarily living; or

(cc) the residences of specified family members;

(ii) forbid the respondent from making, except under conditions specified in the order, any communication to the complainant, any child or other person in the care of the complainant or specified members of the complainant's family, including direct or indirect personal, written, telephonic or electronic contact, but a "no-contact" provision may be extended to a person other than the complainant or any child or other person in the care of the complainant, only where consent has been given by that person, and in the case of any other child, only where consent has been given by a parent of that child or by a person under whose care that child is;

(c) if an act of physical violence has been committed, a provision granting the complainant and dependants of the complainant exclusive occupation of a joint residence, regardless of whether the residence is owned or leased jointly by the parties or solely by either one of them, which may also include if appropriate -

(i) a provision directing that the contents of the joint residence (or certain specified contents) remain in the residence for the use of the person given possession;

(ii) a provision directing a police officer to remove the respondent from the residence;

(iii) a provision authorising the respondent to collect personal belongings from the residence under police supervision,

but, the court must take the following factors into consideration in respect of any order under this paragraph -

(aa) the length of time that the residence has been shared by the complainant and the respondent, but without prejudicing the complainant on the grounds that he or she has at any stage fled the common residence to assure his or her safety or the safety of any child or other person in the care of the complainant;

(bb) the accommodation needs of the complainant and any other occupants of the residence, considered in light of the need to secure the health, safety and wellbeing of the complainant or any child or other person in the care of the complainant; and

(cc) any undue hardship that may be caused to the respondent or to any other person as a result of such order;

(dd) in the case of communal land, the respective customary law or practice which governs the rights of ownership to or occupation of that communal land;

(d) a provision directing the respondent to -

(i) pay rent for the complainant by a specified date of each month in respect of a residence; or

(ii) otherwise make arrangements for any other accommodation or shelter; sufficient for the reasonable needs of the complainant and any dependant of the complainant if the respondent is legally liable to support the complainant and the dependant and the complainant does not wish to have exclusive occupation of the joint residence or the court determines that it is more just in the circumstances for the respondent to remain in the joint residence;

(e) a provision directing a police officer to accompany, within a specified time, the complainant or another person designated by the complainant, to the joint residence to supervise the removal of personal belongings of the complainant or any child or other person in the care of the complainant;

(f) a provision granting either party possession of specified personal property, including but not limited to means of transport, agricultural implements, livestock, furniture, chequebooks, credit cards, children's clothing and toys, identification documents, keys, personal documents or other necessary personal effects, but the order must not be made in respect of property which is not owned by either party or which is jointly owned by either party and another person;

(g) a provision restraining the complainant or the respondent or both from taking, converting, damaging or otherwise dealing in property in which the other party may have an interest or a reasonable expectation of use;

(h) a provision temporarily directing the respondent to make periodic payments in respect of the maintenance of the complainant, and of any child of the complainant, if the respondent is legally liable to support the complainant or the child, as an emergency measure where no such maintenance order is already in force;

(i) a provision granting temporary sole custody -

(i) of a child of the complainant to any appropriate custodian other than the respondent; or

(ii) of any child of the complainant or any child in the care of a complainant to the complainant or to another appropriate custodian;

if the court is satisfied that this is reasonably necessary for the safety of the child in question;

(j) a provision temporarily -

(i) forbidding all contact between the respondent and any child of the complainant;

(ii) specifying that contact between the respondent and a child of the complainant, must take place only in the presence and under the supervision of a social worker or a family member designated by the court for this purpose; or (iii) allowing such contact only under specified conditions designed to ensure the safety of the complainant, any child who may be affected, and any other family members, if the court is satisfied that this is reasonably necessary for the safety of the child in question;

(k) any other provisions that the court deems reasonably necessary to ensure the safety of the complainant or any child or other person who is affected.

Duration of final protection orders

15. Unless the court decides otherwise, a final protection order has the following durations:

(a) a provision granting the complainant exclusive occupation of a residence owned –

(i) by the complainant, remains in force for any period set by the court;

(ii) by the respondent, remains in force for any period set by the court up to a maximum of six months;

(iii) jointly by the complainant and the respondent, remains in force for any period set by the court up to a maximum of one year;

(b)a provision granting the complainant exclusive occupation of a leased residence remains in force for any period set by the court, but must not extend beyond the duration of the current lease period;

(c) a provision directing that the complainant enjoys possession of household effects must, if made in conjunction with an order granting the complainant exclusive occupation of a joint residence, remain in force for the same period as the provision in that order;

(d) a provision concerning temporary custody of a child and access to a child remains in force until it is superseded by another order of a relevant court;

(e) a provision concerning maintenance remains in force for any period set by the court up to a maximum of six months; and any other provision of a final protection order remains in force for three years.

Offences

16. (1) A person who, without lawful justification, breaches a protection order commits an offence and is liable on conviction to a fine which does not exceed N$8000 or to imprisonment for a period which does not exceed two years or to both the fine and imprisonment.

(2) In criminal proceedings relating to a protection order, a completed return of service constitutes sufficient evidence that the protection order was served on the respondent.

(3) A respondent who intentionally causes another person to engage in behaviour that would amount to a violation of a protection order if engaged in by the respondent is deemed to have breached such order.

(4) Except in the case of physical abuse as contemplated in section 2(1)(a), it is a defence to a charge for an offence referred to in subsection (1) or (3) to prove that the complainant voluntarily consented to the alleged breach of a protection order.

(5) A complainant who, with the intent to induce a police officer to perform any act or to exercise any power provided for in this Act in relation to the breach of a protection order, intentionally provides false information, or intentionally fails to provide information about consent given by him or her as contemplated in subsection (4), commits an offence and is liable, on conviction, to a fine which does not exceed N$4000 or to imprisonment for a period which does not exceed one year, or to both the fine and such imprisonment.

(6) Any person who, after having been summoned under section 8(2) or 12(4) or (13) fails, without a reasonable or lawful excuse, to so appear commits an offence and is liable on conviction to a fine which does not exceed N$4 000 or to imprisonment for a period which does not exceed one year or to both the fine and imprisonment.

(7) Subject to necessary changes, Part III of this Act, except for section 22(1), applies in respect of a criminal offence referred to in subsection (1).

Modification or cancellation of protection orders

17. (1) The following persons may, in writing, apply to the court which granted a protection order requesting the modification or cancellation of such protection order -

(a) the complainant;

(b) an applicant; or

(c) the respondent.
(2) Where a person referred to in subsection (1)(a) or (b) wants to cancel or modify a protection order he or she must, in the prescribed manner submit an application to that effect to the clerk of court and that application must be accompanied by an affidavit and any other prescribed information.
(3) If the application referred to in subsection (2), is for cancellation of a protection order, the court must, on receipt of that application, grant the application if it is satisfied on the evidence that the application is in accordance with the wishes of the complainant, made freely and voluntarily, and that cancellation will not endanger the complainant or any child or other person concerned in the matter.
(4) If the application referred to in subsection (2), is for modification of a protection order, the court must proceed as if the application for modification were an original application for a protection order and, subject to necessary changes, the procedure set out in sections 9, 10, 11 and 12 apply in respect of the application.
(5) Where the application referred to in subsection (2) is made by the respondent, the court may grant the application only after an enquiry held in accordance with the procedure set out in section 12 with at least 10 days prior notice to the applicant and, if the complainant was not the applicant, to the complainant.
(6) In an application made as contemplated in subsection (5) the court may, whether or not it appears that it is the wish of the complainant to oppose the modification or cancellation, grant the respondent's request only if it is satisfied on the basis of all the information before it, including the record pertaining to the original protection order, that such modification or cancellation will not endanger the complainant or any child or other person concerned in the matter.
(7) In any proceedings concerning a request for modification or cancellation of protection order under this section, the court on its own motion or at the request of either of the parties, may request an evaluation of the relevant circumstances by a social worker.
(8) Where only some of the terms of a protection order are modified or cancelled as contemplated in this section, the rest of the protection order remains in force.

Appeals
18. (1) Where a court has made or refused to make a protection order, or included or refused to include a particular provision in a protection order, the applicant or the respondent may appeal to the High Court, but, the appeal must be lodged within one month of the decision in question.
(2) An appeal lodged under this section must, subject to necessary changes, be conducted in accordance with and be governed by Chapter XI of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944).
(3) Where an appeal is lodged in terms of this section against a final protection order, the interim order remains in force until the conclusion of the appeal.

Pending proceedings
19. The fact that other civil or criminal proceedings are pending in relation to the actions which are the basis for an application for a protection order or for an allegation that a protection order has been breached, is not a bar to the grant of a protection order or to a criminal charge for breach of such an order.

Costs 20. (1) There is no charge to an applicant for the service of any notice or order
effected under this Act.
(2) Notwithstanding subsection (1), the court holding an enquiry may, having regard to the conduct of the parties involved in the enquiry so far as it may be relevant, make such order as the court may consider just relating to costs which have been incurred as a result of the enquiry.
(3) In making the order contemplated in subsection (2), the court must have regard to the conduct and means of the person against whom the order for costs is to be made.

PART III - CRIMINAL PROVISIONS

Domestic violence offences
21. (1) The offences listed in the First Schedule are domestic violence offences when they are committed or alleged to have been committed against a person, or in relation to a person, with whom the person charged with those offences has a domestic relationship.
(2) Any person found guilty of a domestic violence offence is liable on conviction to the penalties ordinarily applicable to the offence in question.

Complaints
22. (1) Without derogating from any other law, a charge in respect of a domestic violence offence may be laid by the complainant or by any person who has an interest in the well-being of the complainant, including but not limited to a family

member, a police officer, a social worker, a health care provider, a teacher or an employer.
(2) Subject to subsection (4) a person who, in good faith, gives any information regarding a domestic violence offence, or lays a charge in respect of such offence, does not incur any liability for defamation or otherwise in respect of the giving of such information or laying of such charge.
(3) A person who intentionally gives false information regarding a domestic violence offence, or lays a false charge in respect of such an offence, commits an offence and is liable on conviction to a fine which does not exceed N$4000 or to imprisonment for a period which does not exceed one year, or to both the fine and imprisonment.
(4) Subsection (2) does not prevent any person from instituting civil proceedings against a person who gives information or lays a charge in the circumstances contemplated in subsection (3).

Arrest and seizure of weapons
23. (1) If a police officer reasonably suspects that a domestic violence offence has been committed, the police officer may take one or more of the following actions with respect to the person suspected of committing that offence, having due regard to the wishes of the complainant -

(a) arrest the person without a warrant; or

(b) issue a formal warning, copies of which must, in the prescribed form and manner, be filed with the police and the Office of the Prosecutor-General.

(2) Any police officer who reasonably suspects that a domestic violence offence has been committed may -

(a) question any person present at the scene of the offence to determine whether there are weapons at the scene; and

(b) on observing or learning that a weapon is present at the scene, search any person, premises, vehicle or other place and seize any weapon that the officer reasonably believes would expose the complainant to a risk of serious bodily injury.

Rights of complainant where person is charged with domestic violence offence
24. It is the duty of the prosecutor in criminal proceedings where a person is charged with a domestic violence offence to consult with the complainant in order -
(a) to ensure that all relevant information has been obtained from the complainant which includes all information relevant to the question whether the accused should be released on bail and whether any conditions should be imposed if the accused is released on bail; and
(b) to provide such information to the complainant as will be necessary to lessen the impact of the trial on the complainant.

Complainant's submission in respect of sentence
25. (1) The court must, if reasonably possible and within reasonable time, notify the complainant or the complainant's next of kin, if the complainant is deceased, of the time and place of sentencing in a case of a domestic violence offence against the complainant.
(2) At the time of sentencing, the complainant, the complainant's next of kin, if the complainant is deceased, or a person designated by the complainant or the complainant's next of kin has the right to appear personally and has the right to reasonably express any views concerning the crime, the person responsible, the impact of the crime on the complainant, and the need for restitution and compensation.
(3) A complainant, or the complainant's next of kin, if the complainant is deceased, who is unwilling or unable to appear personally at sentencing has the right to inform the court of his or her views on an appropriate sentence by means of an affidavit.

PART IV - POLICE DUTIES

Inspector-General to issue directives
26. (1) The Inspector-General must issue directives on the duties of police officers
in respect of matters pertaining to domestic violence.
(2) Without derogating from the generality of subsection (1), directives issued under subsection (1) may include directives -

(a) on police protection to complainants of domestic violence and their children or other persons in their care regardless of the source of the request and including such protection to such persons where an applicant intends to make an application for a protection order until such time as the relevant court is open;

(b) to ensure that the necessary priority and prompt action are given to calls and cases alleging violence in domestic relationships or where a protection order has been or is being breached;

(c) to ensure that complainants of domestic violence and witnesses are interviewed in such a way that they are able to speak freely;

(d) on information to be given by police officers to complainants, alleged perpetrators and family members who are present at the scene of an alleged domestic violence offence with regard to assistance for medical treatment, the availability of shelters or other appropriate services, the availability of transport for such treatment or to such shelters, procedures to obtain protection orders and the contents of such orders, the laying of criminal charges or any other matter relevant to

domestic violence, and the way and the form in which such information is to be given.
(3) The Inspector-General must, at least once every year, submit a report to the Minister responsible for police on the directives issued in terms of subsection (1) and on the training provided to police officers to carry out the duties imposed on such police officers in terms of this Act, the regulations made under section 31 and the directives issued under subsection (1).

Records of domestic violence incidents
27. (1) Whenever a police officer intervenes, in any manner, in a case involving domestic violence or receives a report of an incident involving domestic violence he or she must, regardless of whether criminal charges are laid or pursued, complete the prescribed form, which form must include any prescribed information.
(2) A copy of any form completed in terms of this section must be retained at the police station in question, and the original forwarded to the Inspector-General.
(3) The Inspector-General must compile annual statistics from the information collected under this section and forward the statistics to the Minister responsible for police.

Annual reports to be tabled in National Assembly
28. On receipt of the report referred to in section 26(3) and the statistics compiled under 27(3), the Minister responsible for police must prepare a consolidated report which he or she must, at least once in every year, table in the National Assembly, but any information which might reveal the identity of the parties must not be disclosed in the consolidated report.

PART V - GENERAL

Record of proceedings to be kept
29. (1) The court must keep a record of the proceedings at enquiries and those records must be accessible to any person on conditions and payment of fees as may be prescribed.
(2) Any fees payable under this section must be prescribed by the Minister in consultation with the Minister responsible for finance.

Privacy
30.(1) Unless otherwise authorised by the court in the public interest and on such conditions as the court considers appropriate, a person must not publish any information concerning legal proceedings held under Part II which reveals or might reveal the identity of an applicant, a complainant or any child or other person involved in such proceedings.
(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine which does not exceed N$10 000 or to imprisonment for a period which does not exceed one year, or to both the fine and imprisonment.
(3) To the extent that this section provides for a limitation of the fundamental rights contemplated in Article 21(1)(a) of the Namibian Constitution, in that it authorizes the interference with a person's freedom of speech and expression, such limitation is enacted on authority of subarticle (2) of that Article.

Evidence of psychological effect of domestic violence
31. (1) Evidence of the psychological effects of domestic violence is admissible in any proceedings held under this Act or under any other law, in order to prove -
(a) that the act which forms the subject matter of a charge of a domestic violence offence or an application for a protection order has been committed;
(b) the extent of the harm suffered by the complainant, to enable the court to impose an appropriate sentence upon conviction of the perpetrator; or
(c) defences or grounds for mitigation of sentence in respect of the commission of a criminal act by a person who has suffered past domestic violence against the perpetrator of that violence.
(2) The court must determine the weight to be attached to the evidence referred to in subsection (1) after such evidence has been heard, with due consideration to -
(a) the qualifications and experience of the person who gives such evidence; and
(b) all the other evidence given in the case.

Regulations
32. (1) The Minister may make any regulations relating to -
(a) any prescribed forms referred to in this Act;
(b) prescribed methods of service referred to in Part II of this Act;
(c) the procedure for enquiries in terms of section 12;
(d) procedures for ensuring the speedy hearing, verdict and sentencing in respect of domestic violence offences;
(e) procedures for notification to the complainant of the time and place of sentencing, and for the submission of affidavits, as contemplated in section 25;

(f) any other matter which is permitted or required to be prescribed for under this Act; and
(g) any other matter aimed at furthering the objectives of this Act.
(2) A regulation made under this section may provide for a penalty for a contravention or failure to comply with it and in the case of a fine it must not exceed N$2000 or in the case of imprisonment the period must not exceed six months.

Amendments and savings
33. (1) The laws specified in the Second Schedule are amended to the extent indicated in that Schedule.
(2) Notwithstanding subsection (1), this Act applies only to acts committed or courses of conduct occurring after the commencement of this Act, and any proceedings commenced before the commencement of this Act must be dealt with according to the existing law.
Short title and commencement 34. (1) This Act is called the Combating of Domestic Violence Act, 2003 and it will come into operation on a date to be determined by the Minister by notice in the Gazette. (2) Different dates may be determined under subsection (1) for the commencement of different provisions of the Act.

FIRST SCHEDULE

OFFENCES
1. Common assault.
2. Assault with intent to do grievous bodily harm.
3. Any offence under section 1 of the Trespass Ordinance, 1962 (Ordinance No. 3 of 1962) where the necessary permission contemplated would be permission from the complainant.
4. Contravention of section 14 of the Combating of Immoral Practices Act, 1980 (Act No. 21 of 1980).
5. The offence under section 38(1)(i) of the Arms and Ammunition Act, 1996 (Act No. 7 of 1996) where the fire-arm is pointed at the victim or someone else in the presence of the complainant.
6. Crimen injuria.
7. Kidnapping.
8. Malicious injury to property –
   (a) owned by the complainant; or
   (b) jointly owned by the complainant and the alleged offender; or
   (c) in which the complainant has a substantial interest.
9. Murder.
10. Rape, including rape as defined in the Combating of Rape Act, 2000 (Act No. 8 of 2000).
11. Indecent assault.
12. Robbery where violence or threats of violence are used against the complainant or in the presence of the complainant.
13. Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule.

SECOND SCHEDULE
AMENDMENT OF THE CRIMINAL PROCEDURE ACT, 1977 (ACT NO. 51 OF 1977)
1. The Criminal Procedure Act, 1977 (Act No. 51 of 1977) is amended -
(a) in section 60A by the substitution for the word “rape” of the expression “rape or a domestic violence offence”;
(b) in section 62 by the addition of the following subsection:-
“(3) If an accused who is in custody on a charge of a domestic violence offence is released on bail, the court shall, notwithstanding the provisions of subsection (1), impose the following further conditions of bail, unless it finds special circumstances which would make any or all of these conditions inappropriate, which reasons must be entered in the record of the proceedings -
(a) an order prohibiting any direct or indirect contact with the victim during the pendency of the proceedings;
(b) an order prohibiting the possession of any firearm or other specified weapon; and
(c) where the accused is legally liable to maintain the complainant or any child or other dependant of the complainant, an order requiring that the accused support the complainant and child or other dependant at the same or greater level as prior to the arrest.”.
(c) in section 153 by the substitution for subsections (3A) and (3B) of the following subsections:-
“(3A) Notwithstanding the provisions of subsections (1), (2), (5) and (6) but subject to the provisions of subsection (3B), in criminal proceedings relating to a charge that the accused committed or attempted to commit -
(a) any sexual or indecent act towards or in connection with any complainant;
(b) any act for the purposes of procuring or furthering the commission of a sexual or indecent act towards or in connection with any complainant; or

(c) any domestic violence offence as defined in the Domestic Violence Act, 2003;

the court before which such proceedings are pending shall, to the extent authorised thereto by the provisos to Article 12(1)(a) and (c) of the Namibian Constitution, direct that any person whose presence is not necessary at such proceedings, shall not be present at those proceedings, unless the complainant in such proceedings, or, if he or she is a minor, his or her parent or guardian or a person in loco parentis, otherwise requests.

(3B) Any person whose presence is not necessary at criminal proceedings referred to in paragraphs (a), (b) and (c) of subsection (3A), shall not be present at such proceedings while the complainant in such proceedings is giving evidence, unless such complainant, or, if he or she is a minor, his or her parent or guardian or a person in loco parentis, otherwise requests.".

AMENDMENT OF THE ARMS AND AMMUNITION ACT, 1996 (ACT NO. 7 OF 1996)

The Arms and Ammunition Act, 1996 (Act No. 7 of 1996) is amended in Schedule I by the addition of the following:
"A domestic violence offence involving physical abuse as defined in the Domestic Violence Act, 2003".

Combating of Rape Act, 2000 [107]

Rape

2. (1) Any person (in this Act referred to as a perpetrator) who intentionally under coercive circumstances -

(a) commits or continues to commit a sexual act with another person; or

(b) causes another person to commit a sexual act with the perpetrator or with a third person,

shall be guilty of the offence of rape;

(2) For the purposes of subsection (1) "coercive circumstances" includes, but is not limited to -

(a) the application of physical force to the complainant or to a person other than the complainant;

(b) threats (whether verbally or through conduct) of the application of physical force to the complainant or to a person other than the complainant;

(c) threats (whether verbally or through conduct) to cause harm (other than bodily harm) to the complainant or to a person other than the complainant under circumstances where it is not reasonable for the complainant to disregard the threats;

(d) circumstances where the complainant is under the age of fourteen years and the perpetrator is more than three years older than the complainant;

(e) circumstances where the complainant is unlawfully detained;

(f) circumstances where the complainant is affected by -

(i) physical disability or helplessness, mental incapacity or other inability (whether permanent or temporary); or

(ii) intoxicating liquor or any drug or other substance which mentally incapacitates the complainant; or

(iii) sleep,

to such an extent that the complainant is rendered incapable of understanding the nature of the sexual act or is deprived of the opportunity to communicate unwillingness to submit to or to commit the sexual act;

(g) circumstances where the complainant submits to or commits the sexual act by reason of having been induced (whether verbally or through conduct) by the perpetrator, or by some other person to the knowledge of the perpetrator, to believe that the perpetrator or the person with whom the sexual act is being committed, is some other person;

(h) circumstances where as a result of the fraudulent misrepresentation of some fact by, or any fraudulent conduct on the part of, the perpetrator, or by or on the part of some other person to the knowledge or the perpetrator, the complainant is unaware that a sexual act is being committed with him or her;

(i) circumstances where the presence of more than one person is used to intimidate the complainant.

(3) No marriage or other relationship shall constitute a defence to a charge of rape under this Act.

42. NEPAL

Domestic Violence (Offence and Punishment) Act, 2009 [108]

[…]

[107] Combating of Rape Act, Act No. 8 (19 April 2000), available at http://www.lac.org.na/laws/pdf/comrape.pdf (last visited December 30, 2018).
[108] Domestic Violence (Offence and Punishment) Act, Act No. 1 (2066.1.14 / 27 April 2009), available at http://nepalpolicynet.com/images/documents/security/acts/Domestic%20Violence%20%28Offence%20and%20Punishment%29%20Act,%202066%20%282009%29.pdf (last visited December 30, 2018).

An Act relating to control the Domestic Violence

Preamble: Whereas, it is expedient to make provision to respect the right of every person to live in a secure and dignified life, to prevent and control violence occurring within the family and for matters connected therewith and incidental thereto making such violence punishable, and for providing protection to the victims of violence;

Now, therefore, be it enacted by the Constituent Assembly pursuant to Subarticle (1) of Article 81 of the Interim Constitution of Nepal, 2063 (2007).

1. Short Title and Commencement:

(1) This Act may be called the "Domestic Violence (Crime and Punishment) Act, 2066 (2009)".

(2) This Act shall come into force immediately.

2. Definitions: Unless the subject or context otherwise requires, in this Act,-
(a) "Domestic Violence" means any form of physical, mental, sexual and economic harm perpetrated by person to a person with whom he/she has a family relationship and this word also includes any acts of reprimand or emotional harm.
(b) "Domestic relationship" means a relationship between two or more persons who are living together in a shared household and are related by decent (consanguinity), marriage, adoption or are family members living together as a joint family; or a dependant domestic
help living in the same family.
(c) "Physical harm" means an act of committing or causing bodily harm or injury holding as a captive, inflicting physical pain or any other act connected therewith and incidental thereto except the act of breaking the limbs of body (Angabhanga).
(d) "Mental harm" means any act of threatening the Victim of physical torture, showing terror, reprimanding him/her, accusing him/her of false blame, forcefully evicting him/her from the house or otherwise causing injury or harm to the Victim emotionally and this expression also includes any discrimination carried out on the basis of thought, religion or culture and customs and traditions.
(e) "Sexual harm" means sexual misbehaviour, humiliation, discouragement or harm in self respect of any person; or any other act that hampers safe sexual health.
(f) "Economic harm" means deprivation from using jointly or privately owned properly or deprivation of or access to employment opportunities, economic resources or means.
(g) "Victim (Aggrieved person)" means any person who is, or has been, in a domestic relationship with the defendant and who alleges to have been subjected to an act of domestic violence by the perpetrator.
(h) "Perpetrator" means the person having family relations with the Victim and for whom the victim alleges to have been subjected to an act of domestic violence and this word also includes any person involved in the domestic violence or in the accomplice of the crime.
(i) "Police Office" means a Police Office closest to the residence of the Victim, the perpetrator or that office which is closest to the scene of crime and this word also includes the Children or Women Cell or Police Post or Police Sub-post under the District Police Office.
(j) "Court" means a court appointed by the Government of Nepal by a Notification in the Nepal Gazette.
(k) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules made under this Act.

3. Domestic Violence not to be committed: (1) No one shall commit; or aid or abet; or incite for the commission of for the act of domestic violence.
(2) A person who commits an act pursuant to Sub-section (1) shall be deemed to have committed an offence under this Act.

4. Filing of complaint: (1) A person who has knowledge of an act of domestic violence has been committed, or is being committed, or likely to be committed, may lodge a written or oral complaint setting out the details thereof, with the Police Office, National Women Commission or Local body.
(2) In case a complaint is received pursuant to Sub-section (1), in a written form, it shall be registered immediately and if it is received in an oral form it shall be registered upon setting out details in a written form and putting the signature of the complaint.
(3) In a case the complaint is filed before the National Women Commission, necessary action shall be taken in accordance with Prevailing National Women Commission law.
(4) In a case the complaint is filed before the Police Office, the Police Office shall produce the perpetrator within 24 hours of the complaint, excluding the time of travel and make arrest if he/she refuses to appear for the statement.

(5) In a case the complaint filed in the Local Body, the Local Body shall produce the perpetrator within 24 hours of the complaint, excluding the time of travel and requesting to arrest to the Police Office if he/she refuses to appear for the statement.
(6) If the Victim has been physically wounded or mentally tortured as a result of the act of domestic violence, he/she shall be immediately sent to the nearest hospital or health post for necessary check-up and an injury report shall be drawn up. If the medical report is caused to be prepared by the Local Body, a copy of it shall be sent to the Police Station.
(7) If it is found necessary, to provide protection to Victim and his/her dependants from the preliminary investigation on the complaint pursuant to Sub-section (1) of section 4, it shall be provided with immediately with the assistance of the Police Office.
(8) The police officer or local body upon recording the statements pursuant to Sub-sections (4) or (5) of Section 8 finds reason to believe that an act of domestic violence has been committed and the Victim so desires, may, within Thirty days from the date of registration of the complaint, conduct reconciliation between the parties.
(9) The assistance a psychologist, sociologist, social activist and a family member trusted by the Victim and any other witness as per necessity and availability may be taken while conducting reconciliation pursuant to Sub-section (8). In the course of such reconciliation psychological of and social effects on the Victim, as well as his/her right to privacy shall be taken into consideration.
(10) The Police Officer or Local Body Officer shall ensure the presence of the perpetrator on the due date during the investigating, prosecuting and decision making process of the complaint.
(11) If the perpetrator fails to appear pursuant to Sub-sections (4) and (5); or he/she cannot be made present; or the parties fail to settle their dispute through reconciliation, the Police Officer and Local body, with the consent of the complainant shall, within fifteen days after the expiry of Thirty days as per Sub-section (8) shall forward to the court, the complaint mentioning all details, along with evidence and other legal documents incidental thereto.
(12) It shall be the duty of the Police Office to provide assistance pursuant to Sub-sections (5) and (7).

5. Action to be taken by the Court: (1) Upon receiving a complaint pursuant to Sub-section (11) of Section 4, the Court shall proceed the case as per this Act, on the basis of such complaint.
(2) Notwithstanding anything contained in Section 4, the Victim may directly file his/her complaint to the Court.

6. Interim protection order may be granted: (1) If the Court has reason to believe, on the basis of preliminary investigation of the complaint that the Victim needs to be given immediate protection, it may, till the time the final decision on the complaint is made, pass the following orders against the perpetrator:
(a) To allow the Victim to continue to live in the shared house, to provide him/her with food, clothes, to not cause physical injury to him/her and to behave with him/ her in a civilized and dignified manner.
(b) To manage for necessary treatment or to give money for the treatment of the Victim if he/ she has suffered physical or mental injury.
(c) To make necessary arrangements for the separate stay of the perpetrator in a case that it's not conducive for them to live together, and make necessary arrangements for the maintenance of the Victim.
(d) To not insult, threaten or behave in an uncivilized manner; or not to cause to do these acts.
(e) To not harass the Victim by entering his/ her place of separate residence; or in public roads; or entering his/ her place of employment; or through the communication media or in any other manner.
(f) To carry out or cause to carry out necessary and relevant actions for the protection and welfare of the Victim.
(2) If it is found necessary to provide protection pursuant to Sub section (1) from the preliminary investigation of the complaint, the Court shall issue an appropriate order for the protection of the minor children or any other dependent of the Victim.

7. Proceedings to be held in camera: (1) If it is so request by the Victim, the court shall conduct in camera proceedings and hearings of the complaint relating to this Act.
(2) During in camera proceedings and hearings pursuant to sub section (1), the claimant, defendant, their legal practitioners and those who are so permitted by the Court, shall be allowed to enter into the court room.

8. Summary procedure to be Adopted: The procedure mentioned in the Summary Procedure Act, 2028 (1971) shall be followed in the process and disposal of a case filed pursuant to this Act.

9. Perpetrator to bear expenses of treatment: (1) The total costs of treatment of the victim of the domestic violence, who has sustained physical or mental injuries so as to require medical help in the hospital, shall be borne by the perpetrator.

(2) Notwithstanding anything contained in Sub-section (1), if the Court has reason to believe that the perpetrator is unable to pay such amount due to economic reasons, the court may order to the Service Center to provide treatment expenses to the Victim.

10. Compensation to be Provided: The Court may, depending on the nature of the act of domestic violence and degree, the pain suffered by the Victim, and also taking into account the economic and social status of the perpetrator and Victim, order the perpetrator to pay appropriate compensation to the Victim.

11. Service Centre: (1) The Government of Nepal, as per necessity, may establish Service Centers for the purpose of immediate protection of the Victim, and for the separate accommodation of the Victim during the course of treatment.
(2) For the purpose of Sub-section (1), an organization may establish and operate Service Centers upon receiving approval as prescribed.
(3) Service Centers operating pursuant to Sub-section (2) may be given financial and other aid from the Fund established under Section 12.
(4) The Service Centre shall provide, as per necessity, legal aid, psycho-consultation service, psychological Service and economic aid to the Victim.
(5) The provisions of management, operation and monitoring of Service Centre shall be as prescribed.

12. Service Fund: (1) The Government of Nepal shall establish a Service Fund for the operation of Service Centers established pursuant to Sub-section (1) of Section 11.
(2) The fund shall consist of the following amounts established pursuant to Sub-section (1):
(a) The amount received from the Government of Nepal,
(b) The amount received from any national or foreign organization, institution or individual,
(c) The amount received from any other source.
(3) The management and operation of the Service Fund shall be as prescribed.

13. Penalty: (1) A person who commits an act of domestic violence shall be punished with a fine of Three Thousand Rupees upto Twenty Five Thousand Rupees or Six months of imprisonment or both.
(2) A person who attempts to commit domestic violence or abets the crime or incites others to commit the crime shall be liable to half the punishment of the perpetrator.
(3) A person who has been punished once for the offence of domestic violence shall be liable to double the punishment upon every repetition of the offence.
(4) If a person holing a public post who commits the offence of domestic violence, he/she shall be liable to an additional ten percent punishment.
(5) A person who disobeys the Court orders made pursuant to Section 6 shall be punished with a fine of Two Thousand Rupees upto Fifteen Thousand Rupees or Four months of imprisonment or both.

14. Limitation: The complaint, for an offence committed pursuant to this Act, shall be filed within Ninety days of the commission of the crime.

15. No hindrance to file case pursuant to prevailing law: Nothing in this Act
shall prevent the investigation, trial and proceed in an offence which is punishable under this Act and prevailing law.

16. To be as mentioned in the prevailing law: This Act shall apply on matters mentioned herein and in other matters the prevailing laws shall apply.

17. Power to frame Rules: The Government of Nepal may frame necessary Rules to implement the objectives of this Act.

43. NETHERLANDS

Law on Temporary Restraining Orders, 2009 [109]

[…]

[109] Law on Temporary Restraining Orders (1 January 2009), available at http://wetten.overheid.nl/BWBR0024649/2017-03-01 (last visited December 30, 2018). Unofficial translation by Compendium team.

Article 1

For the purpose of this Act, the following definitions apply:

(a) "police officer" means a police officer as defined in Article 2(a) of the Police Act 2012, and a police officer as referred to in Article 2(c) of the same Act, in so far as he has been tasked with executing the police duty;

(b) "restraining order" means an order to immediately vacate a specific place or residence, and / or stay away from that place or residence and / or having no contact with the person(s) who live(s) at that place or residence other than incidentally;

(c) "respondent" means the person against whom the Restraining Order is made.

Article 2

(1) The mayor can make a restraining order against a person if facts or circumstances show that his or her presence in the residence seriously and immediately endangers the safety of one or more persons living with him (other than incidentally) in the residence. The restraining order shall apply for a period of ten days, subject to extension in accordance with Article 9. By or pursuant to measures introduced by local council, further rules may be set out about the nature of the facts and circumstances that may give rise to a restraining order.

(2) A restraining order may only be made against an adult.

(3) If the mayor intends to impose a restraining order on account of child abuse or a serious suspicion of the same, he will contact the Center for Domestic Violence and Child Abuse as referred to in Article 4.1.1 of the Social Support Act 2015 in order to discuss his intention to make a restraining order.

(4) The restraining order shall contain:

(a) a description of the place it applies to and the length of time it applies for;
(b) the facts and circumstances that led to the making of the restraining order, and
(c) the names and details of the persons to whom the restraining order applies.

(5) Further rules with regard to the restraining order may be set out by ministerial regulations.

(6) The respondent will indicate where or how he can be contacted. If the respondent cannot provide this information straight away, he will notify the mayor within 24 hours of the restraining order coming into effect.

(7) In case of the circumstances being so urgent as to prevent the restraining order from being put in writing, the restraining order may be made orally. The mayor will still be responsible for its prompt registration and publication. In case the place of residence of the respondent is unknown, publication may take place by filing the restraining order with the municipal secretary.

(8) The mayor will inform without delay the details of the restraining order and the consequences of non-compliance with the person(s) with whom the respondent shares a household. The mayor will also share the details of the restraining order with the authority tasked by the mayor to offer advice or assistance, and if the restraining order is made on account of child abuse or a serious suspicion thereof, with the Center for Domestic Violence and Child Abuse as referred to in Article 2(3).

(9) The mayor may withdraw the restraining order if the respondent has accepted an offer of assistance and this has been confirmed by the authority tasked by the mayor to offer advice or assistance as referred to in Article 2(8) above. The respondent's acceptance of assistance implies that the person(s) who live in the home or who reside there other than incidentally will not obstruct but rather cooperate with the assisting authority if requested to so.

Article 3

(1) The mayor has the power to grant powers and duties referred to in Article 2(1), (3), (7) and (8) and Article 5(1) of this Act to the Deputy Public Prosecutor. Article 10:9, first paragraph, of the General Administrative Law Act does not apply.

(2) The Deputy Public Prosecutor will immediately and without delay inform the mayor of any restraining order he has imposed.

Article 4

(1) In case the danger referred to in Article 2(1) arises, either the mayor or a police officer who intends to apply for a restraining order, is authorized to enter the house without the consent of the resident, insofar as this is reasonably required in order to fulfill his duties.

(2) The police officer has the power to claim the house key(s) from the respondent and is authorized to search the respondent's clothing for the same if necessary. The police officer will provide the respondent with a confirmation of receipt in exchange for the key(s).

(3) In order to ensure the respondent's compliance with the restraining order, police officers are authorized to enter any place to which the restraining order applies, unless they do not have the permission from the occupant to do so.

Artikel 5

(1) In case the respondent has no legal represention, and requests legal counsel, the mayor shall inform the legal aid board who in turn will ensure the respondent is appointed legal counsel.

(2) Articles 28, first paragraph, 37, 38, 43, 44 and 51 will apply *mutatis mutandis*.

Article 6

(1) If a request for a provisional order as referred to in Section 8:81 of the General Administrative Law Act is made against the restraining order:

(a)in deviation of section 8:83 (1) of that Act, the respondent will be heard by the interim judge within three days of the request;

(b) in deviation from section 8:84 (1) of this Act, the interim judge shall give judgment immediately after hearing the parties, unless there are special circumstances, in which case the interim judge shall give judgment within 24 hours of hearing the case.

(2) When considering the order, the judge will also take into consideration the facts and circumstances that occurred after the restraining order was imposed.

(3) Notwithstanding section 8:41(1) and 8:82(1) of the General Administrative Law Act, no court fees shall be levied by the court registrar.

Article 7

The judge shall allow minors, who are part of the respondent's household and who have reached the age of twelve, the opportunity to give their opinion, unless the prompt handling of the case opposes this. The judge also has the power to give minors who have not yet reached the age of twelve the opportunity to make their opinion known in a manner to be determined by him.

Article 8

(1) The registrar shall immediately send a copy of the judgment or the minutes of the oral judgment of the interim judge, and a copy of the judgment or the minutes of the court's oral judgment within two weeks of the date of the judgment free of charge to:

(a) the husband, civil partner, or other life companion or adult with whom the Respondent shares the household;

(b) the police of the municipality where the restraining order was made;

(c) in case minors are involved: the Center for Domestic Violence and Child Abuse, as referred to in Article 4.1.1 of the Social Support Act 2015.

(2) The registrar shall immediately orally inform the respondent, the respondent's legal counsel and the mayor of the restraining order. The mayor shall inform the persons referred to in 8(1)(a), insofar as they were not present at the session at which the decision was made, as well as the police, orally.

Article 9

(1) The mayor has the power to extend a restraining order up to a maximum of four weeks after the date it was made if the threat of danger, or serious suspicion thereof, continues. Articles 2, 4 and 6 to 8 apply *mutatis mutandis*.

(2) The appeal against the restraining order may also relate to a decision to extend the restraining order order as referred to in the first paragraph, insofar as the party involved disputes this decision.

(3) In the event of an appeal, the appellant will, if possible, submit a copy of the decision he / she disputes.

(4) The second and third paragraphs will apply *mutatis mutandis* to a request for provisional relief.

Article 10

(1) The order by which the restraining order comes into effect or is extended by application of Article 2(1) or 9(1), will be stored for five years at the municipal secretariat and subsequently destroyed. The documents received during this period concerning the restraining order will be added.

(2) The personal data included in the decisions or in the other documents referred to in the first paragraph above will be processed with a view to imposing, renewing and checking compliance with the restraining order.

Article 11

(1) The respondent who acts in violation of a restraining order issued pursuant to Article 2(1) or Article 9(1), shall be imprisoned for up to two years or receive a fine of the fourth category.

(2) The offenses made punishable in the paragraph above are criminal offences.

Article 12

[changes the Criminal Code]

Article 13

The Limitation Act does not apply to the terms as referred to in Articles 2(1) and 9(1).

[…]

Article 17

This Act may be cited as the Law on Temporary Restraining Orders.

[…]

Social Support Act, 2015[110]

[…]

Article 1.1.1.

For the purposes of this Act, the following definitions apply:

"provider" means a natural or legal person who is obliged to provide a (tailor-made) or individualized service by the municipal board;

"general provision" means a supply of services or activities that, without prior examination of the needs, personal characteristics and possibilities of the users, are accessible and that is aimed at social support;

"AMHK" means Advice and `Reporting Center for Domestic Violence and Child Abuse as referred to in Article 4.1.1;

"supervision": activities aimed at promoting self-reliance and participation by the client so that he is able to remain in his own living environment for as long as possible;

"protected living" means living in accommodation or an institution with accompanying supervision and guidance, aimed at promoting self-reliance and participation, the psychological and psychosocial functioning, stabilization of a psychiatric disorder, the prevention of neglect or social nuisance or the prevention of danger for the client or others, intended for persons with psychological or psychosocial problems who are unable to function in society;

[…]

"client" means a person who makes use of a general provision of social services or someone to whom tailored social services or a personal budget have been provided;

"client support" means independent support with information, advice and general support that contributes to strengthening self-reliance and participation and obtaining as comprehensive a service as possible in the field of social support, preventive care, care, youth care, education, welfare, living , work and income;

"college" means the municipal board

"file" means written or electronically recorded data relating to a report of domestic violence or child abuse or a suspicion thereof;

"usual help" help that can reasonably be expected from the spouse, parents, children living in or other housemates according to generally accepted social views;

[…]

"domestic violence" means physical, mental or sexual violence or threat by someone from the domestic circle;

"domestic circle" includes a family member, a roommate, the spouse or former spouse or a caregiver;

[…]

[110] Social Support Act 2015 (1 January 2015), available at http://wetten.overheid.nl/BWBR0035362/2016-08-01#Opschrift (last visited December 30, 2018). Unofficial translation by Compendium team.

"child abuse" means any form of threatening or violent physical, psychological or sexual interaction with a minor that actively or passively impose on parents or other persons in relation to whom the minor is in a dependency or lack of freedom, damage is caused or threatens to be caused to the minor in the form of physical or psychological injury;

"social support" includes:

1. promoting social cohesion, informal care and voluntary work, the accessibility of facilities, services and spaces for people with disabilities, the safety and quality of life in the municipality, and preventing and combating domestic violence;

2. to support self-reliance and the participation of people with a disability or with chronic psychological or psychosocial problems as much as possible in their own living environment;

3. providing protected housing and shelter;

"tailor-made service" means a supply of services, aids, home modifications and other measures that are tailored to the needs and personal circumstances and characteristics of a person:

-

1. for self-reliance, including short-term stay in an institution to relieve the informal caregiver, the necessary transport, as well as aids, home modifications and other measures;

2. for the purpose of participation, including the necessary transport, as well as aids and other measures;

3. for the benefit of protected living and shelter;

"informal care" means help for self-reliance, participation, sheltered housing, care, youth care, raising and growing up of juveniles and care and other services as referred to in the Healthcare Insurance Act, which arises directly from an existing social relationship and which is not granted in the context of an assisting profession;

"Our Minister" means our Minister of Health, Welfare and Sport;

"shelter" means accommodation and support for people who have left the home situation, whether or not related to risks to their safety as a result of domestic violence, and unable to maintain their own position in society;

"participation" means participation in society.

"social network" means people from the domestic circle or other persons with whom the client has a social relationship;

"supervisory official" means a person as referred to in Articles 4.3.1, 6.1 and 6.2;

"representative" means a person or legal entity representing a client who is deemed incapable of reasonably valuing his interests in this matter;

"confidential adviser" means an adviser as referred to in Article 2.6, paragraph 2, of the Youth Act;

"provision" means a general provision or tailor-made provision;

-

[…]

"self-reliance" being able to carry out the necessary general daily life activities and managing a structured household.

[…]

General Provisions

Article 1.2.1

A resident of the Netherlands is eligible for tailor-made social services, consisting of:

(a) […]
(b) […]
(c) In the event of a person leaving his or her home, regardless of whether the reason for leaving included fear for safety as a result of domestic violence, and he is unable to function in society with the help of other people within his or her social network, he may seek shelter which is to be provided by the municipality to which he or she applies.

[…]

Advice and reporting center for domestic violence and child abuse ('AMHK')

Article 4.1.1

1. The Commission is responsible for the organization of a counseling and reporting center for domestic violence and child abuse. Article 2.6.1 applies mutatis mutandis.

2. The AMHK will execute the following tasks:

(a) acting as a reporting center for cases or suspicions of domestic violence or child abuse;
(b) to investigate when it receives a report of domestic violence or child abuse or a suspicion thereof;
(c) assessing what steps need to be taken following a report of domestic violence or child abuse or a suspicion of it;
(d) to notify a body that can provide appropriate professional assistance in cases of domestic violence or child abuse, of a report of domestic violence or child abuse or a suspicion thereof, if the interest of the person concerned or the seriousness of the situation to which the report relates gives cause for this;
(e) to inform the police or the Child Care and Protection Board of a report of domestic violence or child abuse or a suspicion thereof, if the interest of the person concerned or the seriousness of the situation to which the report relates gives reason to do so;
(f) if the AMHK submits a request for investigation to the Child Care and Protection Board, to inform the Board of this, and
(g) to inform the person who has made a report of the steps taken in response to the report.

3. The AMHK provides advice to those who suspect domestic violence or child abuse on the steps that can be taken in connection with this and, if necessary, provides support.

4. The municipal board promotes good cooperation between the AMHK, the aid agencies, the police and the certified institutions and the Child Care and Protection Board in accordance with the Youth Act.

5. By or pursuant to an order made by the board, further rules can be laid down concerning the working methods of the AMHK in regard to the performance of its duties, as referred to in the second and third paragraph, about the expertise that an AMHK must have in order to carry out its tasks responsibly, and in relation to cooperation referred to in the fourth paragraph.

6. The announcement for a general administrative order to be adopted pursuant to paragraph 5 shall not be made until after the draft has been published in the Gazette and every opportunity has been given to submit reservations and comments to our ministers within four weeks after the day on which the announcement was made. Simultaneously with the announcement, the draft will be submitted to the two chambers of the States General.

[…]

Criminal Code, 1991[111]

Article 242

[111] Criminal Code, (1 December 1991) http://wetten.overheid.nl/BWBR0001854/2017-03-01#BoekTweede_TiteldeelXIV_Artikel242 (last visited December 30, 2018). Unofficial translation by Compendium team.

Any person who by an act of violence or any other act or by threat of violence or any other threat forces a person to submit to acts comprising or including sexual penetration of the body shall be guilty of rape and liable to a term of imprisonment not exceeding twelve years or a fine of the fifth category.

Article 304

The terms of imprisonment prescribed in sections 300-303 may be increased by one third:

(1) if the offender commits the serious offence against his mother, his legal father, his spouse, his partner, his child, a child over whom he exercises parental authority or a child whom he cares for or raises as part of his family;

[…]

Code of Criminal Procedure, 2015[112]

Article 509(hh)

(1) The public prosecutor may issue a criminal behavior order against a person if it seriously suspects the person has committed a criminal offence:

(a) as a result of which public order, taking into consideration the nature of the criminal offence and the relation to other criminal offences or the manner in which the offence has been committed, has been seriously disrupted; and there is a fear the person may repeat the offence; or

(b) in connection therewith exists a fear of the defendant displaying seriously harmful behavior towards a person or persons.

[…]

(2) The criminal behavior order may include an order for the defendant

(a) not to be present in a certain area;

(b) to refrain from contacting a specific person or persons;

(c) to report at specific times to the appropriate investigating officer;

(d) to seek assistance from a relevant authority

(3) The criminal behaviour order must be served on the defendant in writing. The order must state the date it was made and list the period during which the order shall be in force, as well as the reasons for making the order

(4) The criminal behaviour order shall remain in force for a period not exceeding 90 days, or if it is in force less than 90 days, until the date on which the order is said to expire. If the order is not appealed in time, the criminal behaviour order may be extended a maximum of three times with a maximum of 90 days each time. The applicant must issue legal proceedings if it seeks to extend the order. The judge has a discretion to amend the criminal behaviour order. The court may revoke the criminal behaviour order if it finds that the conditions set out in the first paragraph do not or no longer apply.

(5) The defendant may appeal against the criminal behaviour order and an extension of the same to the court. The court will consider and decide the appeal as soon as possible. The defendant may be represented by legal counsel.

(6) The public prosecutor may amend the criminal behaviour order or withdraw it if new facts or circumstances give him cause to do so.

(7)

[112] Criminal Code of Procedure, (17 December 2015), available at http://wetten.overheid.nl/BWBR0001903/2018-07-28#BoekVierde_TiteldeelII_AfdelingTweede (last visited December 30, 2018). Unofficial translation by Compendium team.

44. NEW ZEALAND

Domestic Violence Act, 1995 (As amended) [113]

[…]

This Act is administered by the Ministry of Justice.
An Act to provide greater protection from domestic violence.

1 Short Title and commencement
(1) This Act may be cited as the Domestic Violence Act 1995.
(2) Except as provided in subsection (3) and section 30, this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.
(3) Part 6 shall come into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions and for different purposes.

[…]

Part 1
Preliminary provisions

2 Interpretation
In this Act, unless the context otherwise requires,—
ancillary furniture order means an order made under section 63; and includes a temporary order made under that section
applicant means—
(a) a person who applies for an order under this Act on his or her own be- half:
(b) the person on whose behalf an application for an order is made pursuant to section 9 or section 11 or section 12 or section 73
application without notice means an application made without notice to the person or persons against whom the application is made
associated respondent means a person against whom a protection order applies by virtue of a direction made pursuant to section 17
child means a person who is under the age of 17 years; but does not include a person who is or has been married or in a civil union or a de facto relationship
child of the applicant's family means a child who ordinarily or periodically resides with the applicant (whether or not the child is a child of the applicant and the respondent or of either of them)
contact has the meaning given to it by section 8 of the Care of Children Act 2004
country includes any State, territory, province, or other part of a country
court means the Family Court or the District Court; and includes a Judge of any such court
day-to-day care has the meaning given to it by section 8 of the Care of Children Act 2004
domestic relationship means one of the relationships set out in section 4(1)
domestic violence has the meaning set out in section 3
dwellinghouse includes—
(a) any flat or town house, whether or not occupied pursuant to a licence to occupy within the meaning of section 121A of the Land Transfer Act 1952:
(b) any mobile home, caravan, or other means of shelter placed or erected upon any land and intended for occupation on that land
encourage includes to incite, counsel, or procure
family member, in relation to a person, means—
(a) any other person who is or has been related to the person by blood or by or through marriage, a civil union, or a de facto relationship, or by adoption:
(b) any other person who is a member of the person's whanau or other culturally recognised family group:
(c) [Repealed]
firearms licence means a firearms licence issued under section 24 of the Arms Act 1983
foreign protection order,—

[113] Domestic Violence Act 1995, Public Act 1995 No. 86, (15 December 1995, with amendments up to 2018), available at http://www.legislation.govt.nz/act/public/1995/0086/latest/DLM371926.html#DLM371930 (last visited December 30, 2018).

(a) means an order made by a court in a prescribed foreign country, being—
(i) an order to protect a person from behaviour by the person against whom the order is made, where, if the behaviour occurred in New Zealand, it would be behaviour in respect of which a protection order could be made under this Act; or
(ii) an order that varies, discharges, or is made in substitution for, such an order; but
(b) does not include—
(i) an order made ex parte; or
(ii) an order of an interim nature; or
(iii) an order made by a court in a prescribed foreign country that varies, discharges, or is made in substitution for, a New Zealand order that is registered or is otherwise enforceable in that country
furniture order means an order made under section 67; and includes a temporary order made under that section
lawyer has the meaning given to it by section 6 of the Lawyers and Conveyancers Act 2006
occupation order means an order made under section 53; and includes a temporary order made under that section
parenting order has the meaning given to it by section 8 of the Care of Children Act 2004
partner, in the phrase "spouse or partner" and in related contexts, means, in relation to a person,—
(a) the person's civil union partner; or
(b) the person's de facto partner; or
(c) any other person, in any case where those persons are the biological pa- rents of the same person
prescribed foreign country means—
(a) Australia; or
(b) any state or territory of Australia; or
(c) any other country outside New Zealand that is declared, by Order in Council made under section 105, to be a prescribed foreign country
property, in relation to a person, means property that—
(a) the person owns; or
(b) the person does not own but—
(i) uses or enjoys; or
(ii) is available for the person's use or enjoyment; or
(iii) is in the person's care or custody; or
(iv) is at the person's dwellinghouse
protected person, in relation to a protection order, means—
(a) the person for whose protection the order is made:
(b) any child of that person's family:
(c) any person for whose benefit the order applies pursuant to a direction made under section 16
protection order means an order made under section 14; and includes a temporary order made under that section
registered foreign protection order means a foreign protection order that is registered in a court pursuant to section 97
Registrar means the Registrar of a court; and includes a Deputy Registrar of a court
representative,—
(a) in relation to a minor aged 16 or under, means a guardian ad litem or next friend appointed, pursuant to rules of court, to take proceedings under this Act on behalf of that minor aged 16 or under:
(b) in relation to a person to whom section 11 applies, means a guardian ad litem appointed, pursuant to rules of court, to take proceedings under this Act on behalf of that person:
(c) in relation to a person to whom section 12 applies, means a guardian ad litem appointed, pursuant to that section, to take proceedings under this Act on behalf of that person
respondent means the person against whom an application has been made for an order under this Act; and includes a person (other than an associated respondent) against whom an order is made under this Act
Secretary means the chief executive of the Ministry of Justice
special condition, in relation to a protection order, means any condition of the order imposed pursuant to section 27
specified person means a person for whose benefit a protection order applies pursuant to a direction made under section 16
standard condition relating to weapons means the standard condition contained in section 21 temporary order means an order of limited duration that is made on an application without notice tenancy order means an order made under section 57; and includes a temporary order made under that section
tenant, in relation to any dwellinghouse, includes any person—
(a) whose tenancy of that dwellinghouse has expired or been determined; and
(b) who is for the time being deemed, pursuant to any enactment or rule of law, to continue to be the tenant of the dwellinghouse;—
and tenancy has a corresponding meaning
use domestic violence, in relation to any person, means to engage in behaviour that amounts to domestic violence against that person

weapon means any firearm, airgun, pistol, restricted weapon, ammunition, or explosive, as those terms are defined in the Arms Act 1983.

[…]

3 Meaning of domestic violence
(1) In this Act, domestic violence, in relation to any person, means violence against that person by any other person with whom that person is, or has been, in a domestic relationship.
(2) In this section, violence means—
(a) physical abuse:
(b) sexual abuse:
(c) psychological abuse, including, but not limited to,—
(i) intimidation:
(ii) harassment:
(iii) damage to property:
(iv) threats of physical abuse, sexual abuse, or psychological abuse: (iva) financial or economic abuse (for example, denying or limiting access to financial resources, or preventing or restricting employment opportunities or access to education):
(v) in relation to a child, abuse of the kind set out in subsection (3).
(3) Without limiting subsection (2)(c), a person psychologically abuses a child if that person—
(a) causes or allows the child to see or hear the physical, sexual, or psycho- logical abuse of a person with whom the child has a domestic relation- ship; or
(b) puts the child, or allows the child to be put, at real risk of seeing or hearing that abuse occurring;—
but the person who suffers that abuse is not regarded, for the purposes of this subsection, as having caused or allowed the child to see or hear the abuse, or, as the case may be, as having put the child, or allowed the child to be put, at risk of seeing or hearing the abuse.
(4) Without limiting subsection (2),—
(a) a single act may amount to abuse for the purposes of that subsection:
(b) a number of acts that form part of a pattern of behaviour may amount to abuse for that purpose, even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial.
(5) Behaviour may be psychological abuse for the purposes of subsection (2)(c) which does not involve actual or threatened physical or sexual abuse.

4 Meaning of domestic relationship
(1) For the purposes of this Act, a person is in a domestic relationship with another person if the person—
(a) is a spouse or partner of the other person; or
(b) is a family member of the other person; or
(c) ordinarily shares a household with the other person; or
(d) has a close personal relationship with the other person.
(2) For the purposes of subsection (1)(c), a person is not regarded as sharing a household with another person by
[…]
(4) Without limiting the matters to which a court may have regard in determining, for the purposes of subsection (1)(d), whether a person has a close personal relationship with another person, the court must have regard to—
(a) the nature and intensity of the relationship, and in particular—
(i) the amount of time the persons spend together:
(ii) the place or places where that time is ordinarily spent:
(iii) the manner in which that time is ordinarily spent;—
but it is not necessary for there to be a sexual relationship between the persons:
(b) the duration of the relationship.

5 Object
(1) The object of this Act is to reduce and prevent violence in domestic relationships by—
(a) recognising that domestic violence, in all its forms, is unacceptable behaviour; and
(b) ensuring that, where domestic violence occurs, there is effective legal protection for its victims.
(2) This Act aims to achieve its object by—
(a) empowering the court to make certain orders to protect victims of domestic violence:
(b) ensuring that access to the court is as speedy, inexpensive, and simple as is consistent with justice:
(c) providing, for persons who are victims of domestic violence, appropriate safety programmes:

(d) requiring respondents and associated respondents to attend non-violence programmes that have the primary objective of stopping or preventing domestic violence:
(e) providing more effective sanctions and enforcement in the event that a protection order is breached.
(3) Any court which, or any person who, exercises any power conferred by or under this Act must be guided in the exercise of that power by the object specified in subsection (1).

[…]

Part 2
Protection orders

Applications

7 Application for protection order

(1) A person who is or has been in a domestic relationship with another person may apply to the court for a protection order in respect of that other person.
(2) Where the person who is eligible to apply for a protection order is under 16 years of age, the application must be made by a representative in accordance with section 9(2).
(3) Where the person who is eligible to apply for a protection order is a person to whom section 11 applies, the application must be made by a representative in accordance with that section.
(4) Where the person who is eligible to apply for a protection order is aged 16 years or older but is unable, in the circumstances specified in section 12(1)(b), to make the application personally, an application may be made on that per- son's behalf by a representative appointed in accordance with section 12.

8 Contents of application

Any application for a protection order may seek—
(a) a direction under section 16 that the order apply for the benefit of a particular person with whom the applicant has a domestic relationship:
(b) a direction under section 17 that the order apply against a particular per- son, being a person whom the respondent has encouraged to engage in behaviour that, if engaged in by the respondent, would amount to domestic violence against the applicant, a child of the applicant's family, or a person referred to in paragraph (a).

9 Applications by minors

(1) Subject to subsections (2), (2A), and (4), a minor may make an application for a protection order under this Act.
(2) A minor under 16 years of age must make the application for a protection order by a representative pursuant to rules of court.
(2A) Subject to sections 11 and 12, a minor aged 16 years may make an application either on his or her own behalf under subsection (4), or by a representative pursuant to rules of court.
(3) Nothing in subsection (2) or subsection (2A) prevents a minor under the age of 17 on whose behalf an application for a protection order is made by a representative from being heard in the proceedings; and where the minor expresses views on the need for and outcome of the proceedings, the court must take ac- count of those views to the extent that it thinks fit, having regard to the age and maturity of the minor.
(4) Subject to sections 11 and 12, a minor—
(a) who is aged 17 years or over; and
(b) who wishes to apply for a protection order—
must make the application on his or her own behalf, without a next friend or guardian ad litem, and orders may be made on the application, and enforced, as if the minor were of full age.

10 Applications against minors

(1) No application for a protection order may be made against a minor under the age of 17 years, unless the minor is or has been married or in a civil union or de facto relationship.
(2) The court must not make a direction under section 17 that a protection order apply against a minor under the age of 17 years, unless the minor is or has been married or in a civil union or de facto relationship.
(3) For the avoidance of doubt, it is hereby declared that—
(a) an application for a protection order may be made against a minor who is or has been married, or in a civil union or de facto relationship, or who has attained the age of 17 years, and orders may be made on the application, and enforced; and
(b) the court may make a direction under section 17 that a protection order apply against such a minor,—
as if the minor were of full age.

11 Applications on behalf of persons lacking capacity

(1) This section applies to any person aged 16 years or over who—
(a) lacks, wholly or partly, the capacity to understand the nature, and to fore- see the consequences, of decisions in respect of matters relating to his or her personal care and welfare; or
(b) has the capacity to understand the nature, and to foresee the consequences, of decisions in respect of matters relating to his or her personal care and welfare, but wholly lacks the capacity to communicate decisions in respect of such matters.
(2) Where a person to whom this section applies is eligible to apply for a protection order, then, in any of the circumstances referred to in any of paragraphs (a) to (c), the application must be made, on that person's behalf, by a representative in accordance with rules of court:
(a) in any case where no one has power, under an appointment made under the Protection of Personal and Property Rights Act 1988, to make such an application on the first-mentioned person's behalf:
(b) even though a person has power, under such an appointment, to make such an application, in any case where the person so appointed has re- fused or failed to do so:
(c) in any case where the first-mentioned person is a minor who is not a child.
(3) Notwithstanding anything in the Protection of Personal and Property Rights Act 1988, an application must not be made under that Act for an order under section 10(1)(i) of that Act solely for the purpose of the commencement of proceedings under this Act.
Section 11(1): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

12 Applications on behalf of certain other persons
(1) This section applies where—
(a) a person aged 16 years or over (other than a person to whom section 11 applies) is eligible to apply for a protection order; and
(b) that person is unable, whether by reason of physical incapacity or fear of harm or other sufficient cause, to make the application personally; and
(c) it is desirable that the protection order be sought on an application with- out notice.
(2) Where this section applies, the court or a Registrar may, on an application with- out notice made by an adult person who is not under disability, appoint any adult person to be a representative of another person for the purpose of making and prosecuting, on behalf of that other person, an application for a protection order.
(3) Where an application for the appointment of a representative is made pursuant to subsection (2), the court or Registrar must make the appointment sought if the court or, as the case requires, the Registrar is satisfied,—
(a) that reasonable steps have been taken to ascertain the wishes of the per- son to whom the application relates in relation to the matter; and
(b) where the wishes of that person have been able to be ascertained,—
(i) that the person does not object to the appointment; or
(ii) that the person's objection is not freely made; and
(c) that it is in the best interests of the person to whom the application relates to make the appointment; and
(d) that the proposed appointee—
(i) consents in writing to the appointment; and
(ii) is not under disability; and
(e) that there is unlikely to be any conflict between the interests of the pro- posed appointee and the interests of the person in respect of whom the application is made.
(4) The fact that an application for a protection order is made, on a person's behalf, by a representative appointed pursuant to this section does not prevent the per- son on whose behalf the application is made from being heard in the proceedings.
(5) Without limiting subsection (3)(b), where—
(a) a representative appointed pursuant to this section applies, on another person's behalf, for a protection order; and
(b) at any time before the application is determined, the other person objects to the continuation of the proceedings,—
then, unless the court is satisfied that the objection is not freely made, no further steps may be taken in the proceedings.

13 Application without notice for protection order
(1) A protection order may be made on an application without notice if the court is satisfied that the delay that would be caused by proceeding on notice would or might entail—
(a) a risk of harm; or
(b) undue hardship—
to the applicant or a child of the applicant's family, or both.
(2) Without limiting the matters to which the court may have regard when deter- mining whether to grant a protection order on an application without notice, the court must have regard to—

(a) the perception of the applicant or a child of the applicant's family, or both, of the nature and seriousness of the respondent's behaviour; and
(b) the effect of that behaviour on the applicant or a child of the applicant's family, or both.
(3) A protection order made on an application without notice is a temporary order that, subject to sections 76 to 80, and unless it is sooner discharged, becomes final by operation of law 3 months after the date on which it is made.
(4) Where a protection order is made on an application without notice, the respondent may,—
(a) notify the court, in accordance with section 76, that he or she wishes to be heard on whether a final order should be substituted for the temporary protection order:
(b) apply pursuant to section 22 for the modification or discharge of the standard condition relating to weapons:
(c) apply pursuant to section 46 for a variation or discharge of any special conditions of the protection order:
(d) apply pursuant to section 47 for the protection order to be discharged:
(e) where a direction is made under section 51D, in respect of the respondent, notify the court, in accordance with section 51E, that he or she objects to the direction.
(5) Where a protection order is made on an application without notice and, pursuant to section 17, the court directs that the order applies against another per- son, that associated respondent may,—
(a) notify the court, in accordance with section 76 (as applied by section 79), that he or she wishes to be heard on whether a final order should be substituted for the temporary protection order, in so far as the order relates to him or her:
(b) apply pursuant to section 22 for the modification or discharge of the standard condition relating to weapons, in so far as the standard condition relates to him or her:
(c) apply pursuant to section 46 for a variation or discharge of any special condition of the protection order, in so far as the special condition relates to him or her:
(d) apply pursuant to section 47 for the protection order to be discharged, in so far as the order relates to him or her:
(e) where a direction is made under section 51D, in respect of the associated respondent, notify the court, in accordance with section 51E, that he or she objects to the direction.

Scope of protection orders
14 Power to make protection order
(1) The court may make a protection order if it is satisfied that—
(a) the respondent is using, or has used, domestic violence against the applicant, or a child of the applicant's family, or both; and
(b) the making of an order is necessary for the protection of the applicant, or a child of the applicant's family, or both.
(2) For the purposes of subsection (1)(a), a respondent who encourages another person to engage in behaviour that, if engaged in by the respondent, would amount to domestic violence against the applicant, or a child of the applicant's family, or both, is regarded as having engaged in that behaviour personally.
(3) Without limiting section 3(4)(b) or the matters that the court may consider in determining, for the purposes of subsection (1)(b) of this section, whether the making of an order is necessary for the protection of the applicant, or a child of the applicant's family, or both, where some or all of the behaviour in respect of which the application is made appears to be minor or trivial when viewed in isolation, or appears unlikely to recur, the court must nevertheless consider whether the behaviour forms part of a pattern of behaviour in respect of which the applicant, or a child of the applicant's family, or both, need protection.
(4) For the avoidance of doubt, an order may be made under subsection (1) where the need for protection arises from the risk of domestic violence of a different type from the behaviour found to have occurred for the purposes of paragraph (a) of that subsection.
(5) Without limiting the matters that the court may consider when determining whether to make a protection order, the court must have regard to—
(a) the perception of the applicant, or a child of the applicant's family, or both, of the nature and seriousness of the behaviour in respect of which the application is made; and
(b) the effect of that behaviour on the applicant, or a child of the applicant's family, or both.

15 Existence of other proceedings not to preclude granting of protection order
A court must not decline to make a protection order merely because of the existence of other proceedings (including, but not limited to, proceedings relating to the role of providing day-to-day care for, or contact with, or custody of a minor) between or relating to the parties, whether or not those proceedings also relate to any other person.

16 Protection of persons other than applicant
(1) Where the court makes a protection order, that order applies for the benefit of any child of the applicant's family.
(1A) A protection order continues to apply for the benefit of a child of the applicant's family until—
(a) the child ceases to be a child of the applicant's family; or

(b) the order sooner lapses or is discharged.
(1B) If a child of the applicant's family having attained the age of 17 years continues to ordinarily or periodically reside with the applicant (an adult child), a protection order continues to apply for the benefit of the adult child until—
(a) the adult child ceases to ordinarily or periodically reside with the applicant; or
(b) the order sooner lapses or is discharged.
(2) Subject to subsection (3), where the court makes a protection order, it may direct that the order also apply for the benefit of a particular person with whom the applicant has a domestic relationship.
(3) No direction may be made pursuant to subsection (2) in respect of a person un- less the court is satisfied that—
(a) the respondent is engaging, or has engaged, in behaviour that, if the respondent and the person were or, as the case may be, had been in a domestic relationship, would amount to domestic violence against the per- son; and
(b) the respondent's behaviour towards the person is due, in whole or in part, to the applicant's domestic relationship with the person; and
(c) the making of a direction under this section is necessary for the protection of the person; and
(d) where practicable, the person consents to the direction being made.
(4) Subsections (2) to (5) of section 14 apply, with the necessary modifications, in respect of an application for a direction pursuant to subsection (2) of this section.
(5) If the applicant dies at any time after a protection order is made for the protection of the applicant, then, notwithstanding the death of the applicant, the order (if it has not sooner lapsed or been discharged) continues to apply for the bene- fit of—
(a) a child who at the time of the applicant's death was a child of the applicant's family, until that child attains the age of 17 years; and
(b) a person in respect of whom a direction has been made under subsection (2), until the order lapses or is discharged.
(6) Subsections (1A), (1B), and (5) apply in respect of a protection order regard- less of whether the protection order is made before or after the commencement of those subsections.

17 Protection from respondent's associates
(1) Subject to subsection (2), where the court makes a protection order against the respondent, the court may also direct that the order apply against a person whom the respondent is encouraging, or has encouraged, to engage in behaviour against a protected person, where that behaviour, if engaged in by the respondent, would amount to domestic violence.
(2) No direction may be made under subsection (1) in respect of a person unless the court is satisfied that—
(a) the person is engaging, or has engaged, in behaviour against a protected person, where that behaviour, if engaged in by the respondent, would amount to domestic violence; and
(b) the making of a direction under this section is necessary for the protection of the protected person.
(3) A direction may be made pursuant to subsection (1) whether the behaviour against a protected person was engaged in before or after the person became a protected person.
(4) Subsections (2) to (5) of section 14 apply, with the necessary modifications, in respect of an application for a direction pursuant to subsection (1) of this section.

18 Mutual orders
Where the court grants an application for a protection order, it must not also make a protection order in favour of the respondent unless the respondent has made an application for a protection order and the court has determined that application in accordance with this Act.

Standard conditions of protection orders
19 Standard conditions of protection order
(1) It is a condition of every protection order that the respondent must not—
(a) physically or sexually abuse the protected person; or
(b) threaten to physically or sexually abuse the protected person; or
(c) damage, or threaten to damage, property of the protected person; or
(d) engage, or threaten to engage, in other behaviour, including intimidation or harassment, which amounts to psychological abuse of the protected person; or
(e) encourage any person to engage in behaviour against a protected person, where the behaviour, if engaged in by the respondent, would be prohibited by the order.
(2) Without limiting subsection (1), but subject to section 20, it is a condition of every protection order that at any time other than when the protected person and the respondent are, with the express consent of the protected person, living in the same dwellinghouse, the respondent must not,—
(a) watch, loiter near, or prevent or hinder access to or from, the protected person's place of residence, business, employment, educational institution, or any other place that the protected person visits often; or

(b) follow the protected person about or stop or accost the protected person in any place; or
(c) without the protected person's express consent, enter or remain on any land or building occupied by the protected person; or
(d) where the protected person is present on any land or building, enter or remain on that land or building in circumstances that constitute a trespass; or
(e) make any other contact with the protected person (whether by telephone, electronic message, correspondence, or otherwise), except such con- tact—
(i) as is reasonably necessary in any emergency; or
(ii) as is permitted under any order or written agreement relating to the role of providing day-to-day care for, or contact with, or custody of any minor; or
(iii) as is permitted under any special condition of the protection order; or
(iv) as is necessary for the purposes of attending a family group conference within the meaning of section 2 of the Oranga Tamariki Act 1989; or
(v) as is necessary for the purposes of attending a settlement conference convened under section 46Q of the Care of Children Act 2004.
(3) Where, pursuant to a direction made under section 17, a protection order applies against an associated respondent, the provisions of this section apply, with all necessary modifications, in respect of the associated respondent.
(4) References in subsection (2) of this section to the express consent of a protected person include the express consent of a person (other than the respondent or, as the case may be, the associated respondent) who is specified, in a special condition of the protection order imposed pursuant to section 27(3), as a person who is entitled to consent, on the protected person's behalf, in relation to the matter, and to withdraw such consent.

20 Further provisions relating to standard condition prohibiting contact
(1) The standard condition contained in section 19(2) (in this section referred to as the non-contact condition) has effect except while the protected person and the respondent are, with the express consent of the protected person, living in the same dwellinghouse.
(2) The non-contact condition is automatically suspended for any period during which the protected person and the respondent, with the express consent of the protected person, live in the same dwellinghouse.
(3) Where the non-contact condition is suspended in accordance with subsection (2), and the protected person subsequently withdraws his or her consent to the respondent living in the same dwellinghouse, then (unless the protection order has been sooner discharged) the non-contact condition automatically revives.
(4) The non-contact condition—
(a) may become suspended in accordance with subsection (2) on 1 or more occasions:
(b) may revive in accordance with subsection (3) on 1 or more occasions.
(5) Where, pursuant to a direction made under section 17, a protection order applies against an associated respondent, the provisions of this section apply, with all necessary modifications, in respect of the associated respondent.
(6) References in this section to the consent of a protected person, or to the withdrawal of a protected person's consent, include, as the case requires,—
(a) the consent of a person (other than the respondent or, as the case may be, the associated respondent) who is specified, in a special condition of the protection order imposed pursuant to section 27(3), as a person who is entitled to consent, on the protected person's behalf, in relation to the matter:
(b) the withdrawal of consent by such a person.

Standard condition relating to weapons
21 Standard condition relating to weapons
(1) Subject to section 22, it is a condition of every protection order—
(a) that the respondent must not possess, or have under his or her control, any weapon; and
(b) that the respondent must not hold a firearms licence; and
(c) that the respondent must,—
(i) as soon as practicable after the service on him or her of a copy of the protection order, but in any case no later than 24 hours after such service; and
(ii) on demand made, at any time, by any constable,— surrender to a constable—
(iii) any weapon in the respondent's possession or under the respondent's control, whether or not any such weapon is lawfully in the respondent's possession or under the respondent's control; and
(iv) any firearms licence held by the respondent.
(2) Subject to section 22, on the making of a protection order,—
(a) where the protection order is a temporary order, any firearms licence held by the respondent is deemed to be suspended:

(b) where the protection order is a final order, any firearms licence held by the respondent is deemed to be revoked.
(3) The respondent does not fail to comply with the standard condition contained in subsection (1) merely by having in his or her possession, or having under his or her control, any weapon or any firearms licence, where,—
(a) in the case of a weapon, the weapon was in his or her possession, or under his or her control, immediately before the making of the protection order; and
(b) in the case of a weapon or a firearms licence, the weapon or licence is in his or her possession, or under his or her control, during the period necessary to comply with the terms of that standard condition that relate to the surrender of the weapon or licence.
(4) Subject to section 22, where, pursuant to that section, a protection order is varied so as to include the standard condition relating to weapons,—
(a) the reference in subsection (1)(c)(i) to service of a copy of the protection order is to be read as a reference to service of a copy of the order by which the standard condition is so included:
(b) the references in subsections (2) and (3)(a) to the making of a protection order are to be read as references to the making of the order by which the standard condition is so included,—
and the provisions of this Act apply accordingly with all necessary modifications.
(5) Subject to section 22, where, pursuant to a direction made under section 17, a protection order applies against an associated respondent, the provisions of this section apply, with all necessary modifications, in respect of the associated respondent.

22 Court may dispense with, modify, discharge, or re-impose standard condition relating to weapons

[…]

23 Further provisions relating to powers conferred by section 22

[…]

24 Further provisions relating to effect of standard condition relating to weapons

[…]

25 Retention, return, and disposal of surrendered weapons and licenses

[…]

26 Arms Act 1983 not affected

[…]

Special conditions of protection orders
27 Court may impose special conditions
(1) Where the court makes a protection order, it may impose any conditions that are reasonably necessary, in the opinion of the court, to protect the protected person from further domestic violence by the respondent, or the associated respondent, or both.
(2) Without limiting subsection (1), a condition imposed under subsection (1) may relate to—
(a) the manner in which arrangements for access to a child are to be implemented:
(b) the manner and circumstances in which the respondent or the associated respondent, or both, may make contact with the protected person.
(3) Without limiting subsection (1), the court may impose, as a condition of a protection order, a condition specifying a person who, for the purposes of sections 19(2), 20, and 28, is entitled—
(a) to consent on behalf of the protected person; and
(b) to withdraw such consent.
(4) Where the court imposes a condition under this section, it may specify the period during which the condition is to have effect.
(5) In the absence of a direction under subsection (4), and subject to section 28, a special condition has effect for the duration of the protection order, unless sooner varied or discharged.

28 Further provisions relating to certain special conditions

(1) This section applies to any special condition of a protection order, where the special condition is inconsistent with the protected person and the respondent living in the same dwellinghouse.
(2) Subject to sections 27(4) and 46, a special condition to which this section applies has effect except while the protected person and the respondent are, with the express consent of the protected person, living in the same dwellinghouse.
(3) A special condition to which this section applies is automatically suspended for any period during which the protected person and the respondent, with the ex- press consent of the protected person, live in the same dwellinghouse.
(4) Where a special condition to which this section applies is suspended in accordance with subsection (3), and the protected person subsequently withdraws his or her consent to the respondent living in the same dwellinghouse, then (unless the protection order has been sooner discharged, and subject to sections 27(4) and 46) the special condition automatically revives.
(5) A special condition to which this section applies—
(a) may become suspended in accordance with subsection (3) on 1 or more occasions:
(b) may revive in accordance with subsection (4) on 1 or more occasions.
(6) Where, pursuant to a direction made under section 17, a protection order applies against an associated respondent, the provisions of this section apply, with all necessary modifications, in respect of the associated respondent.
(7) References in this section to the consent of a protected person, or to the withdrawal of a protected person's consent, include, as the case requires,—
(a) the consent of a person (other than the respondent or, as the case may be, the associated respondent) who is specified, in a special condition of the protection order imposed pursuant to section 27(3), as a person who is entitled to consent, on the protected person's behalf, in relation to the matter:
(b) the withdrawal of consent by such a person.

Interim care and contact orders
28B Interim orders in respect of child of applicant's family
(1) This section applies when—
(a) an application has been made to the Family Court for a protection order; and
(b) there is a child of the applicant's family.
(2) The Family Court may make 1 or more of the following orders if it considers the order or orders are necessary to protect the welfare and best interests of the child concerned:
(a) an interim order or orders about the role of providing day-to-day care for, or about contact with, a child of the applicant's family:
(b) any interim order or orders varying any order of the kind referred to in paragraph (a).
(3) An order must not be made under subsection (2) in respect of a child of the applicant's family of or over the age of 16 years unless there are special circum- stances.

28C Duration of interim order
An interim order made under section 28B ceases to have effect (if it has not ceased to have effect sooner) on the earlier of—
(a) the date that is 1 year after the day on which the order is made; or
(b) the date that the child attains the age of 16 years, unless the Family Court in special circumstances orders otherwise on or after making the order.

28D Application for parenting order under Care of Children Act 2004 must be made
(1) Where 1 or more interim orders have been made under section 28B, a party in whose favour an order has been made must as soon as possible (if that party has not already done so) make an application under the Care of Children Act 2004 for a parenting order.
(2) For the purposes of section 16(1) of the Legal Services Act 2000, proceedings that relate to, or arise out of, an application for a protection order under Part 2 of the Domestic Violence Act 1995 include proceedings commenced pursuant to an application referred to in subsection (1).

[…][114]

Duration, variation, and discharge of protection orders
45 Duration of protection order
(1) A temporary protection order continues in force until—
(a) the order becomes a final order in accordance with section 77(1); or
(b) the order lapses pursuant to section 77(4); or

[114] Programs repealed by this law, sections 29-44.

(c) the order is discharged pursuant to section 80.
(2) A final protection order continues in force until it is discharged pursuant to section 47.

46 Power to vary protection order
(1) The court may, if it thinks fit, on the application of the applicant or the respondent, vary a protection order—
(a) by varying or discharging any special condition of the protection order:
(b) by imposing any special condition:
(c) by varying or discharging a direction made pursuant to section 51D:
(d) by making a direction pursuant to section 51D.
(2) Where a protection order applies against an associated respondent, the court may, if it thinks fit, on the application of the applicant or the associated respondent, vary the protection order, in so far as it relates to the associated respondent,—
(a) by varying or discharging any special condition of the protection order:
(b) by imposing any special condition:
(c) by varying or discharging a direction made pursuant to section 51D:
(d) by making a direction pursuant to section 51D.
(3) The court may, if it thinks fit, on the application of the applicant, vary a protection order—
(a) by directing, pursuant to section 16(2), that the protection order also apply for the benefit of a particular person:
(b) by directing, pursuant to section 17, that the protection order apply against a particular person.
(4) The court may, if it thinks fit, on the application of a specified person (other than a child), vary a protection order—
(a) by varying or discharging any special condition of the protection order, in so far as the special condition relates to the specified person:
(b) by imposing a special condition that relates to that specified person.
(5) Where an application is made under this section in respect of a temporary protection order, the Registrar must assign a hearing date, which must be—
(a) as soon as practicable; and
(b) unless there are special circumstances, in no case later than 42 days after the application is made.

47 Power to discharge protection order
(1) The court may, if it thinks fit, on the application of the applicant or the respondent, discharge a protection order.
(2) On an application under subsection (1), the court may discharge a protection order even though the order—
(a) applies for the benefit of a specified person pursuant to a direction made under section 16(2); or
(b) applies against an associated respondent pursuant to a direction made under section 17.
(3) Where a protection order to which subsection (2) relates is discharged, the order ceases to have effect for the benefit of the specified person or, as the case requires, against the associated respondent, as if that person had applied for and been granted a discharge of the order pursuant to subsection (4).
(4) Where a protection order—
(a) applies for the benefit of a specified person pursuant to a direction made under section 16(2); or
(b) applies against an associated respondent pursuant to a direction made under section 17,—
the specified person or, as the case may be, the associated respondent may apply for the order to be discharged in so far as it relates to him or her.
(5) On an application under subsection (4), the court may, if it thinks fit, discharge a protection order in so far as it relates to that specified person or, as the case may be, that associated respondent.
(6) Where an application is made under this section in respect of a temporary protection order, the Registrar must assign a hearing date, which must be—
(a) as soon as practicable; and
(b) unless there are special circumstances, in no case later than 42 days after the application is made.
48 Variation or discharge on behalf of protected person
Sections 9, 11, and 12, so far as applicable and with the necessary modifications, apply in relation to—
(a) any application, on behalf of a protected person, for the variation or dis- charge of a protection order under this Act; and
(b) the defending, on behalf of a protected person, of any such application made by the respondent or the associated respondent—
as they apply in relation to the making of an application for a protection order.

Enforcement of protection orders
49 Offence to breach protection order
(1) Every person commits an offence who breaches a protection order by—
(a) doing any act in contravention of the protection order; or

(b) failing to comply with any condition of the protection order.
(2) It is a defence in a prosecution for an offence under subsection (1) if the defendant proves that he or she had a reasonable excuse for breaching the protection order.
(3) Every person who is convicted of an offence against this section is liable to imprisonment for a term not exceeding 3 years.
(4) To avoid doubt, a failure to comply with a direction made under section 51D is not a breach of a protection order under subsection (1)(b).

50 Power to arrest for breach of protection order
Where a protection order is in force, any constable may arrest, without warrant, any person who the constable has good cause to suspect has—
(a) contravened the protection order; or
(b) failed to comply with any condition of the protection order.

[…]

Part 2A
Programmes

51A Interpretation
In this Part, unless the context otherwise requires,—
approval means an approval of a service provider under section 51B that has not been suspended or cancelled
assessment, in relation to a respondent, means an assessment of the respondent undertaken by a service provider to determine—
(a) the extent to which the respondent poses a safety risk to any person or the public; and
(b) what, if any, non-violence programme is the most appropriate for the respondent to attend
non-violence programme means a programme that—
(a) is provided by a service provider; and
(b) is provided to a respondent; and
(c) has the primary objective of stopping or preventing domestic violence on the part of the respondent
programmes means—
(a) safety programmes; and
(b) non-violence programmes
respondent means the person against whom an application has been made for an order under this Act, and includes an associated respondent
safety programme means a programme that—
(a) is provided by a service provider; and
(b) is provided to a protected person; and
(c) has the primary objective of promoting (whether by education, information, support, or otherwise) the protection of the protected person from domestic violence
service provider means a person or an organisation that has been granted an approval to do either or both of the following:
(a) undertake assessments:
(b) provide programmes.

Approval of service providers
51B Service providers
(1) The Secretary may decide to grant, suspend, or cancel an approval of a person or an organisation as a service provider.
(2) A person or an organisation seeking an approval under subsection (1) must follow the process (if any) prescribed by regulations made under section 127(a)(i).
(3) In deciding whether to grant, suspend, or cancel an approval under subsection (1), the Secretary must apply the criteria (if any) prescribed by regulations made under section 127(a)(ii).
(4) The Secretary must publish on an Internet site maintained by or on behalf of the Ministry of Justice a list of service providers.

Safety programmes
51C Safety programmes for protected persons
(1) Where the court makes a protection order,—

(a) the applicant, or the applicant's representative, may request the Registrar to authorise the provision of a safety programme to all or any of the following persons:
(i) the applicant:
(ii) a child of the applicant's family:
(iii) a specified person; and
(b) a specified person (other than a child) may request the Registrar to authorise the provision of a safety programme to that specified person if no request has been made under paragraph (a)(iii).
(2) Where, at the time the protection order is made, the applicant has not made a request pursuant to this section, and the applicant is not legally represented, the Judge or the Registrar must cause the applicant to be informed of the applicant's right to make such a request.
(3) A request may be made under subsection (1) at any time while the protection order remains in force.
(4) Where a request is made to a Registrar under subsection (1), the Registrar must arrange for the matter to be referred to a service provider without delay.
(5) The number of safety programme sessions to be provided to a protected person by a service provider to whom a referral has been made under subsection (4) is to be determined by the Registrar following discussion with the service provider.
(6) Every lawyer acting for an applicant for a protection order must—
(a) ensure that the applicant is aware of the applicant's right to make a re- quest under this section; and
(b) where the applicant wishes to exercise that right, take such further steps as the lawyer considers necessary to enable the applicant to do so.

Non-violence programmes
51D Direction to attend assessment and non-violence programme
(1) On making a protection order, the court must direct the respondent to—
(a) undertake an assessment; and
(b) attend a non-violence programme.
(2) The court need not make a direction under subsection (1) if—
(a) there is no service provider available; or
(b) the court considers that there is any other good reason for not making a direction.

51E Direction to attend non-violence programme made on application without notice
(1) This section applies where the court makes a direction under section 51D on an application made without notice.
(2) Where this section applies,—
(a) the direction does not take effect until 10 working days after a copy of the direction is served on the respondent; and
(b) the respondent may, within those 10 working days, notify the court that he or she objects to the direction.
(3) Where the respondent notifies the court, in accordance with subsection (2)(b), that he or she objects to the direction,—
(a) the Registrar must, if the respondent wishes to be heard, assign a hearing date, which must be—
(i) as soon as practicable; and
(ii) unless there are special circumstances, in no case later than 42 days after receipt of the notice of objection; and
(b) the direction is suspended from the date on which the court receives the notice of objection until the court, after considering the respondent's objection, confirms (whether with or without variation) or discharges the direction.
(4) Nothing in this section or section 51F gives the court power to review any order or decision other than the direction to which the notice relates, but nothing in this section limits section 76 or 79.

51F Court may confirm or discharge direction after considering objection made under section 51E
(1) After considering an objection, made under section 51E, to a direction, the court may—
(a) confirm the direction; or
(b) vary the direction; or
(c) discharge the direction.
(2) Where, pursuant to subsection (1), the court confirms or varies a direction, then, if the respondent is before the court, the Judge must warn the respondent that non-compliance with the direction is an offence punishable by imprisonment.
(3) Failure to give the warning required by subsection (2) does not affect the validity of the direction confirmed or varied.

51G Referral of respondent to service provider
(1) After the court has made a direction under section 51D, the Registrar must, without delay,—

(a) arrange for the respondent to be referred to a service provider; and
(b) notify the service provider of the direction made under section 51D.
(2) This section is subject to section 51E.

51H Service provider to meet with respondent
As soon as possible after receiving a notification under section 51G, the service provider must arrange to meet with the respondent to—
(a) undertake an assessment of the respondent; and
(b) determine whether there is an appropriate non-violence programme for the respondent to attend.

51I Service provider to notify Registrar about safety concerns
(1) This section applies if a service provider has concerns about the safety of a protected person—
(a) after undertaking an assessment of the respondent; or
(b) during the provision of a non-violence programme to a respondent.
(2) The service provider must, without delay, notify the Registrar of those concerns.
(3) On receiving a notification under subsection (2), the Registrar must—
(a) forward a copy of the notification to a Judge; and
(b) arrange for the protected person to be advised of the service provider's concerns.
(4) On receiving a copy of a notification under subsection (3)(a), the Judge may make such orders or directions as the Judge thinks fit in the circumstances.

51J Referral to different service provider
(1) This section applies if a service provider, after undertaking an assessment of the respondent,—
(a) determines that there is an appropriate non-violence programme for the respondent to attend; but
(b) is not able to provide that programme to the respondent.
(2) The service provider must—
(a) notify the Registrar; and
(b) send to the Registrar the following information:
(i) the result of the assessment of the respondent undertaken by the service provider; and
(ii) any other information relating to the respondent that is held by the service provider.
(3) After receiving a notification under subsection (2)(a) and the information referred to in subsection (2)(b), the Registrar must make a new referral under section 51G to a service provider that is able to provide an appropriate programme to the respondent.

51K Judge may discharge direction to attend non-violence programme in certain cases
(1) This section applies if a service provider, after undertaking an assessment of a respondent, determines that—
(a) there is an appropriate non-violence programme for the respondent to at- tend but that—
(i) the respondent's attendance at the programme should be delayed to enable other matters to first be addressed; or
(ii) it would not be appropriate for the respondent to attend the programme; or
(b) there is not an appropriate non-violence programme for the respondent to attend.
(2) The service provider must notify the Registrar, and the Registrar must bring the matter to the attention of a Judge.
(3) When a matter is brought to the attention of a Judge under subsection (2), the Judge must—
(a) discharge the direction made under section 51D(1)(b); and
(b) make such other orders or directions as the Judge thinks fit in the circumstances.

51L Service provider and respondent to settle terms of attendance at non- violence programme
(1) Before providing a non-violence programme to a respondent, the service provider must settle in writing with the respondent the terms of attendance, which must include—
(a) the number of programme sessions that the respondent must attend; and
(b) the place, date, and time of the first programme session, and all subsequent sessions, that the respondent must attend.
(2) The service provider must provide to the Registrar a copy of the terms of attendance that the service provider has settled with the respondent.
(3) If a service provider is not able to settle with a respondent the terms of attendance, the service provider must notify the Registrar.
(4) On receipt of a notice under subsection (3), the Registrar must—
(a) settle the terms of attendance with the respondent and the service provider; or
(b) bring the matter to the attention of a Judge.

(5) When a matter is brought to the attention of a Judge under subsection (4)(b), the Judge may make such further directions as the Judge thinks fit in the circumstances.

51M Notice to be given to court if continued provision of non-violence programme inappropriate
(1) Subsection (2) applies if at any time during the provision of a non-violence programme the service provider considers that—
(a) it is no longer appropriate or practicable for the service provider to pro- vide the programme to the respondent; or
(b) the respondent is not participating fully in the programme, and that this is significantly affecting the respondent's ability to benefit fully from the programme.
(2) The service provider must—
(a) notify the Registrar; and
(b) send to the Registrar all information relating to the respondent that is held by the service provider.
(3) After receiving a notification under subsection (2)(a) and the information referred to in subsection (2)(b), the Registrar must—
(a) make a new referral under section 51G to a different service provider; or
(b) bring the matter to the attention of a Judge.
(4) When a matter is brought to the attention of a Judge under subsection (3)(b), the Judge may make such other orders or directions as the Judge thinks fit in the circumstances.

Non-compliance with direction to attend assessment and non-violence programme
51N Notice of non-compliance with direction
(1) This section applies if the court makes a direction under section 51D and the respondent fails to do either or both of the following:
(a) undertake an assessment with the service provider to whom notice of the direction has been given under section 51G:
(b) attend a non-violence programme in accordance with terms of attendance settled under section 51L.
(2) The service provider must give written notice to the Registrar of the respondent's failure.
(3) Notice under subsection (2) must be given within 7 days of the respondent's failure.

51O Powers of Registrar on receipt of notice under section 51N
(1) On receiving a notice under section 51N, the Registrar must, without delay,—
(a) exercise the powers under section 82, as if he or she were the court referred to in that section, to call the respondent before the court; or
(b) bring the matter to the attention of a Judge so that the Judge may consider whether to exercise the power conferred by section 51P in relation to the respondent.
(2) If the Registrar exercises the powers under section 82 in the manner allowed by subsection (1)(a), then, subject to any regulations made under this Act, section 82 applies so far as applicable and with the necessary modifications as if the respondent were a witness in proceedings.
Section 51O: inserted, on 1 October 2014, by section 13 of the Domestic Violence Amendment Act 2013 (2013 No 77).

51P Judge may call respondent before court
(1) If, under section 51O(1)(b), a Registrar brings a matter to the attention of a Judge, subsection (2) applies.
(2) A Judge may exercise the powers under section 82 to call the respondent be- fore the court.
(3) If a Judge exercises the powers under section 82, that section applies, so far as applicable and with all necessary modifications, as if the respondent were a witness in proceedings.

51Q Respondent called before court
(1) If a respondent appears before the court under section 51O(1)(a) or 51P(2), the court may, after hearing from the respondent, confirm, vary, or discharge the direction or change the terms of attendance.
(2) If the court confirms or varies a direction under subsection (1), the Judge must warn the respondent that non-compliance with the direction is an offence punishable by imprisonment.
(3) Failure to give the warning required by subsection (2) does not affect the validity of the direction confirmed or varied.

Completion of non-violence programme
51R Notice of completion and outcome of non-violence programme
(1) When a respondent has completed a non-violence programme, the service provider must, without delay, provide to the Registrar a report that—

(a) states whether, in the opinion of the service provider, the respondent has achieved the objectives of the non-violence programme; and
(b) advises of any concerns that the service provider has about the safety of any protected person.
(2) On receiving a report under subsection (1), the Registrar must—
(a) forward a copy of that report to a Judge; and
(b) arrange for the protected person to be notified—
(i) that the respondent has completed a non-violence programme; and
(ii) that a report has been provided by the service provider of that non-violence programme under subsection (1); and
(iii) of any concerns that the service provider has about the safety of the protected person advised in that report.
(3) On receiving a copy of a report under subsection (2)(a), the Judge may make such orders or directions as the Judge thinks fit in the circumstances.

Confidentiality of information
51S Confidentiality of information disclosed to service provider
(1) In this section, unless the context otherwise requires, information includes any statement or admission.
(2) Information received by a service provider in the course of providing a pro- gramme may not—
(a) be disclosed to any other person; or
(b) be admitted as evidence in any court or before any person acting judicially.
(3) However, nothing in subsection (2) prohibits the disclosure of information received by a service provider in the course of providing a programme if that disclosure is made—
(a) for the purpose of giving a notification to a Registrar under—
(i) section 51I(2):
(ii) section 51J(2):
(iii) section 51K(2):
(iv) section 51L(3):
(v) section 51M(2):
(b) for the purpose of a Registrar making a referral under—
(i) section 51J(3):
(ii) section 51M(3)(a):
(c) for the purpose of any proceedings under—
(i) section 51O:
(ii) section 51P:
(d) for the purposes of investigating or prosecuting—
(i) an offence against section 51T; or
(ii) an offence committed or alleged to have been committed during the provision of a programme:
(e) in circumstances in which the service provider believes, on reasonable grounds, that the disclosure is necessary to prevent or lessen a serious threat to public safety or the safety of any person:
(f) with the authority of the person who disclosed the information to the service provider.

Enforcement of directions
51T Offence to fail to comply with direction
A respondent who fails, without reasonable excuse, to comply with a direction made under section 51D commits an offence and is liable on conviction to—
(a) a fine not exceeding $5,000; or
(b) a term of imprisonment not exceeding 6 months.

Part 3
Orders relating to property

Occupation orders
52 Application for occupation order
Any person aged 16 years or over who is or has been in a domestic relationship with another person may apply for an order granting the applicant the right to live in a dwelling house which, at the time the order is made, either party to the proceedings owns or in which either has a legal interest (including, but not limited to, a tenancy).

53 Power to make occupation order
(1) Subject to section 74 of this Act and to subsection (2), on hearing an application for an occupation order, the court may, notwithstanding anything in the Property (Relationships) Act 1976, make an order granting to the applicant the right to personally occupy a specified dwellinghouse.

(2) The court may make an order under subsection (1) only if it is satisfied that the order—
(a) is necessary for the protection of the applicant; or
(b) is in the best interests of a child of the applicant's family.
(3) An order may be made under this section in respect of a dwellinghouse whether or not—
(a) the parties have ever lived in the same dwellinghouse, whether in the dwellinghouse to which the order relates or any other dwellinghouse; or
(b) either party lives in the dwellinghouse at the time the order is made.
(4) In determining whether to make an order under this section, the court must have regard to the reasonable accommodation needs of all persons who may be affected by the order.
(5) An order made under this section may be—
(a) for such period or periods; and
(b) on such terms and conditions relating to the occupation of the dwelling- house to which the order relates,—
as the court thinks fit.

54 Effect of occupation order
(1) The person in whose favour an occupation order is made is entitled, to the exclusion of the person against whom the order is made, to personally occupy the dwellinghouse to which the order relates, together with any land, buildings, or improvements appurtenant to that dwellinghouse which are used, or ordinarily would be used, for the purposes of a household.
(2) An occupation order is enforceable as if it were an order for the recovery of land made pursuant to section 79(2)(c) of the District Court Act 2016.

55 Power to vary or discharge occupation order
(1) On the application of either party, or of the personal representative of either party, the court may, if it thinks fit, make an order—
(a) extending or reducing any period specified by the court pursuant to section 53(5); or
(b) varying or discharging any terms and conditions imposed by the court pursuant to section 53(5); or
(c) discharging the occupation order.
(2) Where an application is made under this section in respect of a temporary occupation order, the Registrar must assign a hearing date, which must be—
(a) as soon as practicable; and
(b) unless there are special circumstances, in no case later than 42 days after the application is made.

Tenancy orders
56 Application for tenancy order
(1) Any person aged 16 years or over who is or has been in a domestic relationship with another person may apply to the court for an order vesting in the applicant the tenancy of any dwellinghouse of which, at the time the order is made, the other party to the proceedings is—
(a) the sole tenant; or
(b) a tenant holding jointly, or in common, with the applicant.
(2) In this section, dwellinghouse includes—
(a) any furniture or other household effects let with the dwellinghouse; and
(b) any land, outbuildings, or parts of buildings included in the tenancy.

57 Power to make tenancy order
(1) Subject to section 74 of this Act and to subsection (2), on hearing an application for a tenancy order, the court may, notwithstanding anything in the Property (Relationships) Act 1976, make an order vesting in the applicant the tenancy of a specified dwellinghouse.
(2) The court may make an order under subsection (1) only if it is satisfied that the order—
(a) is necessary for the protection of the applicant; or
(b) is in the best interests of a child of the applicant's family.
(3) In determining whether to make an order under this section, the court must have regard to the reasonable accommodation needs of all persons who may be affected by the order.

58 Effect of tenancy order
(1) Where a tenancy order takes effect, then, unless the tenancy is sooner lawfully determined,—
(a) the applicant becomes the tenant of the dwellinghouse upon and subject to the terms and conditions of the tenancy in force at the time the order is made; and

(b) the other party ceases to be a tenant.
(2) Every tenancy order has effect and may be enforced as if it were an order of the court for possession of the land granted in favour of the applicant.
(3) Nothing in this Act or in any tenancy order—
(a) limits or affects the operation of any enactment or rule of law for the time being applicable to—
(i) any tenancy to which section 56 applies; or
(ii) the dwellinghouse held under the tenancy; or
(b) authorises the court to vary any express or implied term or condition of the tenancy except by—
(i) vesting the tenancy pursuant to section 57; or
(ii) revesting the tenancy pursuant to section 59.

59 Power to discharge tenancy order and revest tenancy
(1) On the application of a party against whom a tenancy order is made, or that party's personal representative, the court may, if it thinks fit, make an order discharging the tenancy order and revesting the tenancy accordingly.
(2) Where an application is made under this section in respect of a temporary tenancy order, the Registrar must assign a hearing date, which must be—
(a) as soon as practicable; and
(b) unless there are special circumstances, in no case later than 42 days after the application is made.
(3) Where any revesting order made under subsection (1) takes effect, then, unless the tenancy is sooner lawfully determined, the person in whose favour it is made becomes the tenant of the dwellinghouse upon and subject to the terms and conditions of the tenancy in force at the time of the making of the revesting order.

General provisions relating to occupation orders and tenancy orders
60 Application without notice for occupation order or tenancy order
(1) An occupation order or a tenancy order may be made on an application without notice only if the court is satisfied that—
(a) the respondent has physically or sexually abused the applicant or a child of the applicant's family; and
(b) the delay that would be caused by proceeding on notice would or might expose the applicant or a child of the applicant's family to physical or sexual abuse.
(2) Any occupation order or tenancy order made on an application without notice is a temporary order that, subject to sections 76 to 80, and unless it is sooner discharged, becomes final by operation of law 3 months after the date on which it is made.
(2A) When a temporary order becomes a final order pursuant to subsection (2), the final order comes into effect immediately.
(3) An occupation order or a tenancy order may be made on an application without notice only where the court has made or, at the same time, makes a protection order, unless the court considers that there are special reasons for not making a protection order.
(4) Where an occupation order or a tenancy order is made on an application without notice while the applicant and the respondent are living in the same dwellinghouse, that occupation order or tenancy order expires,—
(a) on its discharge by the court; or
(b) on the discharge of a temporary protection order made in conjunction with that occupation order or tenancy order; or
(c) if no such protection order has been made and the court has not sooner discharged the occupation order or tenancy order, at the close of the seventh day after the date of the making of the occupation order or tenancy order.
(5) Where an occupation order or a tenancy order is made on an application without notice, the respondent may,—
(a) notify the court, in accordance with section 76, that he or she wishes to be heard on whether a final order should be substituted for the temporary order:
(b) in the case of an occupation order, apply pursuant to section 55 for the order to be varied or discharged:
(c) in the case of a tenancy order, apply pursuant to section 59 for the order to be discharged and the tenancy revested.

61 Procedure for occupation orders and tenancy orders
(1) Where an application is made for an occupation order, the court may treat that application as an application for a tenancy order or an occupation order or both, and may, if it is satisfied that—
(a) it has jurisdiction to make a tenancy order; and
(b) the making of a tenancy order is appropriate; and
(c) section 74 has been complied with in respect of the making of a tenancy order other than a temporary order,—
make a tenancy order (whether or not it makes an occupation order).

(2) Where an application is made for a tenancy order, the court may treat that application as an application for an occupation order or a tenancy order or both, and may, if it is satisfied that—
(a) it has jurisdiction to make an occupation order; and
(b) the making of an occupation order is appropriate; and
(c) section 74 has been complied with in respect of the making of an occupation order other than a temporary order,—
make an occupation order (whether or not it makes a tenancy order).

Ancillary furniture orders (62-70)

[…]

General provisions relating to property orders (71-75)

[…]

Part 4
Procedure

Temporary orders

76 Respondent to notify intention to appear
(1) Where the court makes a temporary order under this Act, the respondent is entitled to notify the court that he or she wishes to be heard on whether a final order should be substituted for the temporary order.
(2) The temporary order must contain a notice to the respondent that clearly states—
(a) the respondent's right under subsection (1); and
(b) that, subject to sections 51E, 78, and 79, if the respondent does not take any steps in the proceedings, the temporary order becomes final in accordance with section 77 by operation of law 3 months after the date on which it is made.
(3) Where the respondent notifies the court, in accordance with subsection (1), that he or she wishes to be heard, the Registrar must assign a hearing date, which must be—
(a) as soon as practicable; and
(b) unless there are special circumstances, in no case later than 42 days after the receipt of the respondent's notice.

77 Procedure where respondent does not require hearing
(1) Subject to sections 51E, 78, and 79 and to subsections (2) and (3), unless the respondent notifies the court in accordance with section 76(1) that he or she wishes to be heard, or the order is sooner discharged, a temporary order becomes final by operation of law 3 months after the date on which it is made.
(1A) When a temporary order becomes a final order pursuant to subsection (1), the final order comes into effect immediately.
(2) No temporary order becomes final pursuant to subsection (1) unless—
(a) the respondent has been served with a copy of the order not less than 10 clear days before the 3 month period specified in subsection (1) elapses; and
(b) the respondent has not notified the court, before that period elapses, that he or she wishes to be heard.
(3) Where, pursuant to subsection (2)(a), a temporary order does not become final, the court may from time to time extend the period within which the temporary order can be served. No such extensions may extend that period by more than 3 months in total, and the temporary order continues in force until the expiry of any such extensions.
(4) Where the period for service is extended pursuant to subsection (3), and, at the expiry of the period or periods, the temporary order has not been served, the order lapses.

78 Court may require hearing before order becomes final
(1) Where, on or after making a temporary order, the court considers that there is good reason why the order should not become final in accordance with section 77 without a hearing at which the applicant or the respondent, or both, are present or represented, the court, of its own motion, may direct that there be a hearing.
(2) A direction made under subsection (1) may—
(a) relate to the whole, or to specified parts, of the order made or sought; and
(b) be made even though the respondent does not wish to be heard.
(3) Where the direction under subsection (1) relates to specified parts of the order made or sought, the remaining parts of the order may become final in accordance with section 77.
(4) Where, pursuant to subsection (1), the court directs that there be a hearing, the Registrar must assign a hearing date, which must be as soon as practicable.

(5) Without limiting section 82, where the court makes a direction under subsection (1), it may issue a summons, in accordance with section 82(4), requiring the respondent to attend the court at a place and time specified in the summons.

79 Application of sections 76 to 78 to other affected persons
(1) The provisions of sections 76, 77, and 78, so far as applicable and with the necessary modifications, apply to an associated respondent as if the person were the respondent.
(2) Where, pursuant to section 76, the associated respondent notifies the court that he or she wishes to be heard, but the respondent does not do so, the temporary order becomes final in accordance with section 77(1) in so far as it relates to the respondent, even though a hearing is required on whether the order is to be- come final in respect of the associated respondent.
(3) No occupation order, tenancy order, ancillary furniture order, or furniture order that is a temporary order becomes final unless the court is satisfied that—
(a) notice has been given pursuant to section 74 to any person having an interest in the property affected by the order; and
(b) the person so notified takes no steps in the proceedings.

79A Review of contact arrangements
(1) When making a temporary protection order, the Family Court may direct the Registrar to convene a review before a Family Court Judge of the arrangements for contact between the respondent and a child of the applicant's family.
(2) On receiving a direction under subsection (1), the Registrar must—
(a) appoint a time and place for the holding of the review; and
(b) inform the applicant and respondent of the date, time, and place of the review, and invite them to attend.
(3) Only the following persons may attend the review:
(a) the applicant:
(b) the respondent:
(c) a lawyer representing the applicant:
(d) a lawyer representing the respondent:
(e) a lawyer appointed under section 81:
(f) any lawyer appointed under section 7(1) of the Care of Children Act 2004 to act for a child who in proceedings under this Act is a child of the applicant's family:
(g) any other persons whom the Family Court Judge permits to be present.
(4) If both the applicant and the respondent attend or are represented at the review, the Judge may—
(a) make an interim order relating to contact under section 28B:
(b) impose any condition under section 27 relating to the matter set out in subsection (2)(a) of that section:
(c) give any directions that the Judge considers necessary.
(5) The provisions of this section, so far as applicable and with the necessary modifications, apply to an associated respondent as if the person were a respondent.

80 Procedure where hearing required
(1) Where, pursuant to section 76 or section 79, the respondent or an associated respondent or any person to whom section 79(3) applies notifies the court that he or she wishes to be heard, or in any other case where a hearing is required or held, the court may at the hearing—
(a) discharge the temporary order; or
(b) make the temporary order a final order (whether with or without variation); or
(c) in a case to which section 78(3) or section 79(2) applies and where part of the temporary order has become final in accordance with section 77,—
(i) confirm the temporary order to the extent that it has not already become final:
(ii) confirm the temporary order to the extent that it has not already become final, but exercise, in relation to that part of the temporary
order so confirmed, any power conferred by this Act to vary or alter the terms and conditions of the order, or to impose new terms and conditions:
(iii) discharge the temporary order to the extent that it has not already become final; or
(d) on good cause being shown, adjourn the hearing to a fixed time and place.
(2) Where, pursuant to subsection (1)(a), the court discharges a temporary tenancy order, the discharge of that order has effect as if the order had been discharged under section 59, and the tenancy revests accordingly.
(3) Where, pursuant to subsection (1)(c), the court confirms part of a temporary order (whether with or without variation), that part of the temporary order be- comes final, but that confirmation does not affect the order to the extent that it has already become final.

(4) Where a hearing is adjourned under subsection (1)(d) to another day, the court must not, at the adjourned hearing, exercise that power to adjourn the hearing to a further date unless there are special reasons for doing so.
(5) Where a hearing is adjourned pursuant to subsection (1)(d) to a specified date, the temporary order continues in force until that date.

80A Temporary order discharged when made final order under section 80(1)
(1) When a temporary order becomes a final order pursuant to section 80(1)(b), the temporary order is automatically discharged.
(2) Where the part of a temporary order not already a final order is confirmed under section 80(1)(c)(i) or (ii), the temporary order is automatically discharged.

General provisions
81 Court may appoint lawyer
(1) In any proceedings under this Act (not being criminal proceedings), the court may appoint a lawyer—
(a) to assist the court; or
(b) to represent a child—
(i) in any proceedings on an application made, on behalf of that child, in accordance with section 9(2), for a protection order; or
(ii) in any proceedings relating to or arising out of a protection order made, under this Act, on any such application made on that child's behalf; or
(c) to represent any other person (being a person to whom section 11 applies)—
(i) in any proceedings on an application made, on behalf of that per- son, in accordance with section 11(2), for any order under this Act; or
(ii) in any proceedings relating to or arising out of an order made, under this Act, on any such application made on that person's behalf.
(2) A lawyer appointed under subsection (1)(c) may call any person as a witness in the proceedings, and may cross-examine witnesses called by any party to the proceedings or by the court.
(2A) The fees and expenses of a lawyer appointed under subsection (1)(a) or (b) must—
(a) be determined in accordance with regulations made under section 16D of the Family Court Act 1980 or, if no such regulations are made, by the Registrar of the court; and
(b) be paid in accordance with that determination out of public money appropriated by Parliament for the purpose.
(3) The fees and expenses of a lawyer appointed under subsection (1)(c) must—
(a) be determined in accordance with regulations made under this Act or, if no such regulations are made, by the Registrar of the court; and
(b) be paid in accordance with that determination out of public money appropriated by Parliament for the purpose.
(4) An invoice rendered by a lawyer appointed under this section for fees and expenses must be given to the Registrar of the court in which the proceedings were heard, and the Registrar may decide to adjust the amount of the invoice.
(5) If the lawyer is dissatisfied with the decision of the Registrar as to the amount of the invoice, the lawyer may, within 14 days after the date of the decision, apply to a Judge of the court to review the decision; and the Judge may make such order varying or confirming the decision as the Judge considers fair and reasonable.

82 Power of court to call witnesses
(1) In any proceedings before a court under this Act (not being criminal proceedings), the court may, of its own motion, call as a witness any person whose evidence may, in its opinion, be of assistance to the court.
(2) Without limiting subsection (1), the power conferred by that subsection includes power to call as a witness—
(a) any party to the proceedings:
(b) the spouse or partner of such party:
(c) an associated respondent:
(d) a specified person.
(3) Where the court calls a witness under this section,—
(a) the witness has the same privilege to refuse to answer any question as the witness would have if called by a party to the proceedings; and
(b) the witness may be examined and re-examined—
(i) by the court:
(ii) by or on behalf of any party to the proceedings:
(iii) by any lawyer appointed pursuant to section 81 in respect of the proceedings.

(4) Sections 159 and 161 to 165 of the Criminal Procedure Act 2011, so far as applicable and with the necessary modifications, apply to every person called as a witness by the court under this section as if that person had been called by a party to the proceedings.
(5) The expenses of any witness called by the court under this section are payable—
(a) in accordance with the scale of witnesses' expenses prescribed by regulations made under this Act; and
(b) in the first instance, out of public money appropriated by Parliament for the purpose.

83 Conduct of proceedings
(1) No person may be present during the hearing of any proceedings under this Act (other than criminal proceedings) except the following persons:
(a) officers of the court:
(b) the parties to the proceedings:
(c) any lawyer representing any party to the proceedings:
(d) any lawyer appointed pursuant to section 81 in respect of the proceedings:
(da) any lawyer appointed under section 7(1) of the Care of Children Act 2004 to act for a child who in proceedings under this Act is a child of the applicant's family:
(e) where, pursuant to any provision of this Act, any person is bringing or defending the proceedings on behalf of another person,—
(i) the person so bringing or defending the proceedings:
(ii) the person on whose behalf the proceedings are so brought or de- fended:
(f) witnesses:
(fa) accredited news media reporters:
(g) any person who is nominated by the applicant for a protection order or by a protected person in accordance with subsection (2):
(h) any other person whom the Judge permits to be present.
(2) For the purposes of any proceedings to which this section applies, any party to the proceedings (being an applicant for a protection order or a protected per- son) may nominate a reasonable number of persons (being members of his or her family, whanau, or family group, or any other person) to attend any hearing of those proceedings for the purpose of providing support to that person.
(3) Any witness and any accredited news media reporter must leave the courtroom if asked to do so by the Judge.
(4) No person present in the courtroom pursuant to subsection (1)(g) is entitled to be heard at the hearing, and the court may exclude any such person from the hearing at any time.
(5) Nothing in this section limits any other power of the court—
(a) to hear proceedings in private; or
(b) to permit a McKenzie friend to be present; or
(c) to exclude any person from the court.

[…]

85 Standard of proof
Every question of fact arising in any proceedings under this Act (other than criminal proceedings) must be decided on the balance of probabilities.

86 Orders by consent
Subject to section 18, in any proceedings before a court under this Act, the court may make any order under this Act by the consent of all of the parties to the proceedings.

87 Explanation of orders
(1) Where, in any proceedings under this Act (other than criminal proceedings), the respondent or associated respondent, as the case may be, is before the court, then on making an order (other than an order discharging an order made under this Act), the Judge must explain to that person—
(a) the effect of the order; and
(b) the consequences that may follow if the person fails to comply with the terms of the order; and
(c) the means by which the order can be varied or discharged.
(2) A Registrar may give the explanation required by subsection (1).
(3) Failure to give the explanation required by subsection (1) does not affect the validity of the order made.
(4) Where the court makes an order under this Act, the copy of the order that is given to or served on the respondent (and, where applicable, the associated respondent) must include a notice stating—

(a) the consequences that may follow if the person fails to comply with the terms of the order; and
(b) the means by which the order can be varied or discharged.
(5) Failure to include in a copy of an order made under this Act the notice required by subsection (4) does not affect the validity of the order made.

88 Copies of orders to be sent to Police
(1) On the making of a temporary order or a final order under this Act (including any order varying or discharging an order made under this Act or any order made in substitution for any such order), the Registrar of the court in which the order is made must ensure that a copy of the order is made available, without delay, to the District Commander at the appropriate Police District Headquarters.
(2) Where a copy of an order is made available to a District Commander in accordance with subsection (1), the District Commander must ensure that a copy of that order, or a copy of that copy, is made available, without delay, to the officer in charge of the Police station nearest to where the protected person or, as the case requires, each protected person, resides.
(3) For the purposes of this section, a copy of an order, or a copy of a copy of an order, may be made available in any of the following ways:
(a) by sending the copy by means of electronic transmission (whether by way of facsimile transmission, electronic mail, or other similar means of communication):
(b) by entering the copy on a database maintained in electronic form, where that database may be accessed by the person or persons to whom the copy is required to be made available:
(c) by making the copy available in such manner as is prescribed by regulations made under this Act:
(d) by making the copy available in such other manner as is appropriate in the circumstances.

89 Information on service of certain orders to be communicated to Police
Where any person serves a copy of a protection order, or a copy of any order varying a protection order, on any person (being the respondent or an associated respondent) to whom the standard condition relating to weapons applies, the person so serving the order must, without delay, give notice to the officer in charge of the Police station nearest to where the copy of the order was served, of—
(a) the place where the copy of the order was so served; and
(b) the date and time of service.

90 Police to consider exercise of powers under Arms Act 1983
(1) This section applies where a copy of an order, or a copy of a copy of an order, is made available to the officer in charge of a Police station in accordance with section 88(2), except where—
(a) the order discharges a protection order, and no other protection order is made in substitution for that protection order; or
(b) the order discharges an order made under Part 3, and no other order under that Part is made in substitution for that order; or
(c) the order varies an order made under Part 3.
(2) Where this section applies, the officer in charge of the Police station must immediately establish whether or not the respondent and any associated respondent named in the order hold a firearms licence.
(3) Where this section applies, and the officer in charge of the Police station knows that the respondent or any associated respondent, or both, hold a firearms licence (whether that knowledge arises from any inquiries carried out in accordance with subsection (2), or the terms of the protection order, or otherwise howsoever), then, except where the firearms licence is deemed to be revoked pursuant to section 21(2), the officer in charge must arrange for an appropriate person to consider immediately whether or not the powers conferred by sections 27(1) and 27A of the Arms Act 1983 (which relate to the revocation of a firearms licence) should be exercised in that case.
(4) Where this section applies, the officer in charge of the Police station must, in every case, arrange for an appropriate person to consider immediately whether or not the powers conferred by section 60A of the Arms Act 1983 (which relates to the seizure of a firearm in cases of domestic violence) should be exercised in that case.

Appeals
91 Appeals to High Court
(1AA) This subsection applies to a decision of a court, in proceedings under this Act, to—
(a) make or refuse to make an order; or
(b) dismiss the proceedings; or
(c) otherwise finally determine the proceedings.
(1) A party to proceedings in which there is made a decision to which subsection (1AA) applies, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision.

(2) The High Court Rules 2016 and sections 126 to 130 of the District Court Act 2016, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 124 of that Act.
(3) On the ex parte application of the appellant, the court appealed from may order that the appellant must not be required under section 126(1) of the District Court Act 2016 to give the Registrar of the High Court security for costs.
(3A) Subsection (3) overrides subsection (2).
(4) Subject to section 93, the decision of the High Court on an appeal to that court under this section is final.

92 Application of provisions relating to minors, etc
Sections 9, 11, and 12, so far as applicable and with the necessary modifications, apply in relation to—
(a) the making and prosecution of an appeal under section 91 or section 93; and
(b) the defending of any such appeal—
as they apply in relation to the making of an application for a protection order.

93 Appeals to Court of Appeal
(1) A party to any appeal under section 91 may, with the leave of the Court of Appeal, appeal to the Court of Appeal against any determination of the High Court on a question of law arising in that appeal.
(2) On an appeal to the Court of Appeal under this section, the Court of Appeal has the same power to adjudicate on the proceedings as the High Court had.
(3) The decision of the Court of Appeal on an appeal to that court under this section, and on an application to it under this section for leave to appeal, is final.

94 Appeals to be heard as soon as practicable
Every appeal under section 91 or section 93 must be heard as soon as practicable after the appeal is lodged.

95 Effect of appeal
Except where the court making the order appealed from otherwise directs,—
(a) the operation of an order made under this Act is not suspended by an appeal under section 91 or section 93; and
(b) every order made under this Act may be enforced in the same manner in all respects as if no such appeal were pending.

Part 5
Enforcement of protection orders overseas and foreign protection orders
Enforcement of New Zealand orders overseas
96 Enforcement of New Zealand orders overseas
(1) Subject to subsections (2) and (3), the Secretary may request the appropriate court or authority in a foreign country to make arrangements for the enforcement in that country of a protection order made by a New Zealand court.
(2) Where a person wishes a request to be transmitted to a foreign country pursuant to subsection (1), the person must make a request in writing in the first instance to the Registrar of the court in which the protection order was made.
(3) Where, on receiving a request made pursuant to subsection (2), the Registrar is satisfied that—
(a) the request is made by or on behalf of a protected person; and
(b) the request relates to a protection order made by a New Zealand court; and
(c) orders of that nature may be enforced in the foreign country to which the request relates; and
(d) there are reasonable grounds for believing that enforcement of the order in the foreign country is necessary for the protection of the protected person,—
the Registrar must send the request to the Secretary for transmission to the foreign country in accordance with subsection (1).
(4) Where, pursuant to this section, a Registrar or the Secretary receives a request for the transmission of a protection order to a foreign country, the Registrar or, as the case requires, the Secretary may require the person by or on whose be- half the request is made to supply to the Registrar or, as the case requires, the Secretary such information or evidence (including certified copies of the order) as may be necessary—
(a) to enable the Registrar to determine whether or not the request satisfies the requirements of subsection (3); and
(b) to secure enforcement of the order in the foreign country.
(5) Where, in relation to a request made under subsection (2), a Registrar or the Secretary imposes a requirement pursuant to subsection (4), the Registrar or, as
the case requires, the Secretary may refuse to take any action, or further action, in relation to that request until that requirement is complied with.
(6) Nothing in this section prevents—
(a) a protected person from applying to a court or other appropriate authority in a foreign country for enforcement, in that country, of a protection order; or

(b) the variation or discharge, pursuant to this Act, of a protection order that is enforced in a foreign country.
(7) In this section, the term enforcement includes registration and enforcement; and enforced has a corresponding meaning.

Enforcement of foreign protection orders
97 Registration of foreign protection orders
(1) A foreign protection order may be registered in a court in accordance with this section.
(2) Where the Secretary receives—
(a) a certified copy of a foreign protection order; and
(b) a certificate—
(i) that is signed by an officer of a court in the foreign country in which the order was made; and
(ii) that contains a statement that the order is, at the date of the certificate, enforceable in the foreign country; and
(c) written information tending to show that a person for whose protection the order was made—
(i) is present in New Zealand; or
(ii) is proceeding to New Zealand; or
(iii) is about to proceed to New Zealand,—
the Secretary must send the documents to a Registrar of a court for the purposes of registration.
(3) The Registrar of the court must register the foreign protection order by filing a certified copy of the order in the court.
(4) Where the Registrar of a court receives the documents described in subsection
(2) other than from the Secretary, the Registrar may register the order if he or she is satisfied that the nature of the documents is such that, if they had been transmitted to the Secretary, they would have been sent to the Registrar by the Secretary.

98 Copies of registered foreign protection orders to be sent to Police
Where a foreign protection order is registered pursuant to section 97, sections 88 to 90 apply—
(a) in relation to that order; and
(b) in relation to any variation of that order pursuant to section 99(c),—
as if the foreign protection order were a protection order made under this Act.

99 Effect of registration
Subject to section 101, upon registration pursuant to section 97, a foreign protection order—
(a) has effect; and
(b) may be enforced; and
(c) in the terms in which it has effect in New Zealand, may be varied,—
as if it were a protection order made under this Act on the date of registration.

100 Variation of registered foreign protection order
(1) Where, pursuant to section 99(c), a court makes an order varying a foreign protection order, the Registrar of the court—
(a) must, in the prescribed manner, notify the court or the appropriate authority in the country in which the order was made of the variation; and
(b) unless the Registrar is the Registrar of the court in which the foreign protection order is registered, must forward to the Registrar of that court a copy of the order varying the foreign protection order.
(2) The Registrar of the court in which the foreign protection order is registered, on receiving notice of the variation of that order, must note the court records accordingly.

101 Registered foreign protection orders not to be enforced in certain circumstances
[…]
102 Evidence taken overseas
[…]

103 Proof of documents
[…]

104 Depositions to be evidence
[…]

105 Prescribed foreign countries
[…]

106 Evidence of orders made in foreign country
Nothing in this Part precludes a court from receiving evidence of an order made in a foreign country (whether or not that country is a prescribed foreign country) with respect to the protection of any person from domestic violence.

Part 6
Non-publication of information relating to protected person on public registers

Interpretation
107 Interpretation
In this Part, unless the context otherwise requires,—
code of practice or code means a code of practice issued under section 122
direction means a direction made under section 109
Privacy Commissioner means the Privacy Commissioner appointed under the Privacy Act 1993
public register has the same meaning as in section 58 of the Privacy Act 1993
relevant information, in relation to any person, means information that discloses, or is likely to disclose, the whereabouts of that person.

Applications for directions
108 Protected person may apply for direction that identifying information on public register not be publicly available
(1) Where a protection order is in force, any protected person may at any time apply to the agency responsible for administering any public register for a direction that any relevant information—
(a) that relates to that protected person, or to any protected person who is a child of the applicant's family, or to both; and
(b) that is included, or is about to be included, on that public register— must not be made available to the public.
(2) Every application under subsection (1)—
(a) must be made in the prescribed manner (if any); and
(b) must be made in the prescribed form (if any); and
(c) must, so far as practicable, specify with due particularity the relevant in- formation in respect of which the direction is sought, so that the agency may locate that relevant information.
(3) An agency to which an application is made under subsection (1) must, without delay, and in no case after the expiry of the prescribed period after receiving the application,—
(a) decide, in accordance with section 109, whether the application is to be granted or declined; and
(b) notify the applicant of its decision in accordance with section 110.

109 Agency to determine application
Where an application is made under section 108(1) to an agency, the agency may make the direction sought if the agency is satisfied that—
(a) a protection order is in force in respect of the applicant; and
(b) making the direction would not unduly compromise the public register to which the application relates.

110 Agency to notify applicant of decision
(1) Where an agency makes a decision in respect of an application made under section 108(1), the agency must give written notice of its decision to the applicant.
(2) Where the application is declined, the notice under subsection (1) must—
(a) specify the reasons for the decision; and
(b) notify the applicant of that person's right to complain to the Privacy Commissioner pursuant to section 118, including the time within which that complaint must be made.
(3) Where an agency makes a direction in relation to a protection order, the agency must also give written notice of that direction to the Registrar of the court that made that protection order.

111 Information not to be disclosed pending determination of application or complaint
Where an application is made, pursuant to section 108(1), to an agency, then unless the application is sooner withdrawn, section 112 applies, as if the direction sought by the applicant had been made, from the expiry of the prescribed period after the date on which the application is received by the agency—
(a) until the expiry of the prescribed period after notice of the agency's decision on that application is communicated to the applicant; and

(b) where, before the expiry of the period referred to in paragraph (a), the Privacy Commissioner extends the period within which a complaint relating to that decision may be made under section 118, until the expiry of that period as so extended; and
(c) if a complaint relating to that decision is made under section 118, until the complaint is finally dealt with or is withdrawn, whichever occurs first.

Effect of direction
112 Effect of direction
(1) Notwithstanding any other enactment, but subject to section 116 and to any regulations made under this Act, where, in respect of any public register, an agency makes a direction in respect of any relevant information, and for as long as that direction remains in force,—
(a) that relevant information must not be included in—
(i) any copy (including a printout) of the whole or any part of the public register; or
(ii) any index to the register; or
(iii) any extract from, or certificate as to information recorded on, the register—
that is made available to the public after the direction is made; and
(b) that relevant information must not be made available for inspection by members of the public (other than the person to whom the relevant information relates) who wish to inspect the register or any index to the register; and
(c) no application made, by or in relation to the person to whom the relevant information relates, for the inclusion of any information on the public register, to the extent that the application contains relevant information relating to that person, must be made available for inspection by members of the public (other than the person to whom the relevant information relates);—
but that relevant information is, for all other purposes, deemed to be included on the public register.
(2) The references in paragraphs (a) to (c) of subsection (1) to relevant information relate only to such relevant information relating to the person to whom the direction relates as the agency concerned is reasonably able to identify, having regard to the information provided by the applicant for the direction in his or her application under section 108(1).

113 Direction not applicable to relevant information subsequently included in register
(1) Where, in relation to a public register, a direction applies in relation to relevant information, then—
(a) paragraphs (a) and (b) of subsection (1) of section 112 apply only in relation to relevant information included, or about to be included, on that public register at the date on which the direction is made; and
(b) paragraph (c) of that subsection applies only in relation to an application of the kind referred to in that paragraph, where the application has been made before the date on which the direction is made.
(2) One or more directions relating to the same public register may be in force, at the same time, in relation to the same person.

Duration of direction
114 Duration of direction
(1) Where—
(a) a direction is made in respect of a protection order; and
(b) at the time the direction is made, the protection order is a final order,—
then, unless the direction is sooner revoked or ceases to be in force pursuant to subsection (3), the direction expires at the end of the period of 5 years after the date on which the direction is made.
(2) Where—
(a) a direction is made in respect of a protection order; and
(b) at the time the direction is made, the protection order is a temporary order,—
the following provisions apply:
(c) subject to paragraph (d), the direction, unless sooner revoked, expires at the end of the period of 4 months after the date on which the direction is made:
(d) if, before the expiry of the period referred to in paragraph (c),—
(i) the applicant for the direction supplies, to the agency by which the direction is made, satisfactory evidence that the temporary protection order has become final by operation of law in accordance with section 77, or a copy of a copy of a final protection order made in substitution for the temporary protection order; or
(ii) pursuant to section 115, a Registrar notifies the agency that a final protection order has been made in substitution for the temporary protection order,—
then, unless the direction is sooner revoked or ceases to be in force pursuant to subsection (3), the direction continues in force and expires at the end of the period of 5 years after the date on which the direction is made.
(3) Where—

(a) a direction made by an agency is in force in respect of a final protection order; and
(b) either,—
(i) the person on whose application the direction was made notifies that agency that the protection order has been discharged; or
(ii) pursuant to section 115, a Registrar notifies the agency that the protection order has been discharged,—
the direction ceases to be in force on the expiry of the prescribed period after the date on which the agency receives that notification.
(4) Where, on the application of any person, an agency makes a direction, that agency must, on the application of that person, revoke that direction.
(5) The fact that a direction expires or is revoked or ceases to be in force pursuant to this section does not prevent the making of another direction in respect of the same relevant information.

115 Registrar to notify agency of making or discharge of protection order
Where, in accordance with section 110(3), an agency notifies a Registrar of a court that a direction has been made in relation to a protection order, then,—
(a) in the case of a temporary protection order, on the making of a final protection order in substitution for that temporary order; or
(b) on the discharge of that protection order (whether a temporary order or a final order),—
the Registrar of the court that made that substitute order or, as the case requires, discharged the order must, without delay, notify that fact to the agency.

Disclosure of relevant information with consent
116 Disclosure of relevant information with consent of protected person
(1) This section applies to any information the disclosure or making available of which would otherwise be prohibited by section 111 or section 112.
(2) Notwithstanding sections 111 and 112, but subject to subsection (3), where, in respect of any information to which this section applies, the person to whom the information relates—
(a) is requested, in writing, to authorise the agency concerned to disclose or make available some or all of that information; and
(b) gives such authority,—
the information may be disclosed or made available, but only in accordance with, and to the extent permitted by, that authority.
(3) Nothing in this section authorises any information to which this section applies to be disclosed or made available in circumstances in which that information could not, apart from this section, be lawfully disclosed or made available.

Other enactments not affected (117)

[…]

Complaints to Privacy Commissioner (118-120)

[…]

Regulations (121)

[…]

Codes of practice (122-124)

[…]

Part 6A
Police safety orders

124A Interpretation
In this Part, unless the context otherwise requires,—
constable has the meaning given to it by section 4 of the Policing Act 2008
District Court includes a Justice or Justices, or a Community Magistrate or Community Magistrates, presiding over the District Court; but does not include a Registrar

Police safety order or order means an on-the-spot order issued by a qualified constable under section 124B in the prescribed form
qualified constable means a constable who is of or above the level of position of sergeant
Registrar means any Registrar of the District Court; and includes a Deputy Registrar.

124B Qualified constable may issue Police safety order
(1) A qualified constable may issue an order against a person (person A) who is, or has been, in a domestic relationship with another person (person B) if the constable—
(a) does not arrest person A for an offence against any enactment involving the use of violence against person B; but
(b) has reasonable grounds to believe, having regard to the matters specified in subsection (2), that the issue of an order is necessary to ensure the safety of person B.
(2) When considering whether to issue an order against person A, the constable must have regard to the following matters:
(a) whether, in the circumstances, he or she considers it is likely that—
(i) person A has used, or is using, domestic violence against person B:
(ii) person A has used, or is using, domestic violence against any other person with whom he or she has a domestic relationship:
(b) whether there is a likelihood that person A will use, or again use, domes- tic violence against person B:
(c) the welfare of any children residing with person B:
(d) the hardship that may be caused if the order is issued:
(e) any other matter the constable considers relevant.
(3) A constable who is not a qualified constable may issue an order under this section only if he or she is specifically authorised by a qualified constable to issue that order.

124C Consent to issue of Police safety order not required
An order may be issued without the consent of the person for whose safety the order is proposed to be issued.

124D Police safety order not to be issued against child
An order may not be issued against a child.

124E Effect of Police safety order
(1) A person against whom an order is issued must immediately—
(a) surrender to a constable—
(i) any weapon in his or her possession or control; and
(ii) any firearms licence held by him or her:
(b) vacate any land or building occupied by a person at risk, whether or not he or she has a legal or equitable interest in the land or building.
(2) It is a condition of every order that the person against whom the order is issued must not—
(a) physically or sexually abuse a person at risk; or
(b) threaten to physically or sexually abuse a person at risk; or
(c) damage, or threaten to damage, property of a person at risk; or
(d) engage, or threaten to engage, in other behaviour, including intimidation or harassment, that amounts to psychological abuse of a person at risk; or
(e) encourage any person to engage in behaviour against a person at risk, where the behaviour, if engaged in by the person against whom the order is issued, would be prohibited by the order; or
(f) watch, loiter near, or prevent or hinder access to or from the place of residence, business, or employment of a person at risk, or an educational institution attended by a person at risk, or any other place that a person at risk visits often; or
(g) follow a person at risk about or stop or accost a person at risk in any place; or
(h) where a person at risk is present on any land or building, enter or remain on that land or building in circumstances that constitute a trespass; or
(i) make any other contact with a person at risk (whether by telephone, electronic message, correspondence, or otherwise), except such contact as is reasonably necessary in any emergency.
(3) In this section, person at risk means—
(a) the person named in the order for whose safety the order is issued; and
(b) any child residing with that person.

124F Suspension of firearms licence on issue of Police safety order
On the issue of an order, and for the period that the order is in force,—

(a) any firearms licence held by the person against whom the order is issued is deemed to be suspended; and
(b) the person against whom the order is issued is deemed, for all purposes, not to be the holder of a firearms licence.

124G Suspension of parenting orders, etc.
(1) This section applies where—
(a) an order is issued; and
(b) a child is residing with a person named in the order for whose protection the order is issued (a protected child); and
(c) a parenting order or day-to-day care or contact agreement is in force in respect of a protected child; and
(d) the person against whom the order is issued is a party to that parenting order or agreement.
(2) While an order continues in force against any person, the provisions of a pa- renting order or an agreement affording to that person the day-to-day care of, or contact with, a protected child are suspended.

124H Prompt service of Police safety order required
(1) An order issued under section 124B must be served by a constable as soon as practicable on the person against whom the order is issued.
(2) If an order issued under section 124B has not been served within 48 hours from the time of issue, the order lapses.

124I Detention by constable
(1) A constable who is proposing to issue a Police safety order under section 124B against any person may detain that person for a period, not exceeding 2 hours, that may be necessary to enable the constable to do 1 or more of the following:
(a) obtain authorisation under section 124B(3) to issue the order:
(b) issue the order:
(c) serve the order.
(2) If a person who is detained under subsection (1) fails or refuses to remain at the place where he or she is detained, that person—
(a) commits an offence and is liable on conviction to the penalty specified in subsection (4); and
(b) may be arrested without warrant.
(3) To avoid doubt, subsection (2) applies in respect of a person detained under subsection (1)(a) regardless of whether an order is issued.
(4) The maximum penalty for an offence against subsection (2)(a) is a fine not exceeding $500.
(5) In this section, detain includes move the person to a Police station.

124J Police safety order to be explained
(1) A constable who issues an order must, if and to the extent that it is reasonably practicable to do so in the circumstances, either at the time of issue or service of the order, explain to the person against whom the order is issued—
(a) the purpose, duration, and effect of the order; and
(b) the consequences that may follow if the person against whom the order is issued contravenes the order.
(2) A constable who issues an order must also, either before or after issue and service of the order, explain to the person for whose safety the order is issued the matters set out in subsection (1)(a) and (b).

124K Duration of Police safety order
(1) An order comes into force immediately on being served on the person against whom the order is issued.
(2) An order continues in force for the period specified in the order, but that period must not exceed 5 days.
(3) In considering the period to be specified in the order, the qualified constable must have regard to the matters set out in section 124B(2).

124L Contravention of Police safety order
(1) Subsection (2) applies where a person who has been served with an order refuses or fails to comply with—
(a) the order; or
(b) any condition of the order.
(2) If this subsection applies, a constable may take the person into custody by—
(a) using such force as is reasonably necessary; or
(b) executing a warrant to arrest issued in respect of that person under section 124O(1)(a).
(3) Where a person has been taken into custody under subsection (2), the constable may apply to the District Court, by making a complaint in the prescribed form, for a direction or an order under section 124N.
(4) A person who is taken into custody under subsection (2)(a) must be brought before the District Court within 24 hours.

124M Issue of summons where person cannot be brought before District Court within 24 hours
(1) If a person who is taken into custody under section 124L(2)(a) is not brought before the District Court within 24 hours, that person must, at or before the expiry of that period,—
(a) be released; and
(b) be served by a constable with a summons requiring him or her to appear before the District Court at the place and time specified in the summons.
(2) A summons served under subsection (1)(b) must be in the prescribed form.
(3) If a person who has been served with a summons under subsection (1)(b) does not attend personally at the place and time specified in the summons, the District Court or a Registrar may issue a warrant, in the prescribed form, to—
(a) arrest him or her; and
(b) bring him or her before the court.

124N Jurisdiction of District Court
(1) If the District Court presided over by 1 or more Justices, or 1 or more Community Magistrates, is satisfied that a person has refused or failed to comply with a Police safety order, the court may,—
(a) if the order has not expired, direct that another order, which is to continue in force for a period not exceeding 5 days specified by the court, be—
(i) issued against the person in substitution of the earlier order for the safety of the person named in the earlier order; and
(ii) served by a constable or officer of the court as soon as practicable; or
(b) if the order has expired, direct that another order, which is to continue in force for a period not exceeding 5 days specified by the court, be—
(i) issued against the person for the safety of the person named in the earlier order; and
(ii) served by a constable or officer of the court as soon as practicable; or
(c) if it considers it appropriate in the circumstances to do so,—
(i) adjourn the proceedings to a specified time and place to enable a District Court Judge to consider whether a temporary protection order should be issued under subsection (2)(b); and
(ii) make a direction of the kind specified in paragraph (a) or (b), as the case may require.
(2) If the District Court presided over by a District Court Judge is satisfied that a person has refused or failed to comply with a Police safety order, the Judge may—
(a) make a direction of the kind specified in subsection (1)(a) or (b); or
(b) issue, without application from any person, a temporary protection order under section 14 as if—
(i) every reference in that section to the respondent were a reference to the person who the Judge is satisfied has refused or failed to comply with the Police safety order (person R); and
(ii) every reference in that section to the applicant were a reference to the person named in the Police safety order for whose safety the order was issued (person S).
(3) A District Court Judge may issue a temporary protection order under subsection (2)(b) in the absence of person R, person S, or both.
(4) Subsection (2)(b) is subject to subsection (5).
(5) A District Court Judge may only issue an order of the kind referred to in sub- section (2)(b) if person S—
(a) does not object; and
(b) has not made an application for a protection order against person R that is currently pending determination by a court.
(6) Where the court makes a direction of the kind specified in subsection (1)(a) or (b), the court may direct that the person against whom the order is to be issued be detained in the custody of the court for a period, not exceeding 2 hours, that may be necessary to enable the order to be issued and served on that person.

124O Issue of warrant to arrest person who contravenes Police safety order or fails to attend adjourned proceedings
(1) Subsection (2) applies if—
(a) a person against whom a Police safety order is issued refuses or fails to comply with the order, or any condition of the order; or
(b) a person who the District Court is satisfied has refused or failed to com- ply with a Police safety order does not attend personally at the time and place to which proceedings have been adjourned under section 124N(1)(c)(i).
(2) The District Court or a Registrar may issue a warrant in the prescribed form.
(3) A warrant to arrest a person under this section—
(a) must be directed either—
(i) specifically to a constable; or
(ii) generally to every constable; but

(b) may be executed by any constable.
(4) For the purpose of executing a warrant issued under this section, the constable executing it may at any time enter on to any premises, by force if necessary, if the constable has reasonable grounds to believe that the person against whom it is issued is on those premises.
(5) The constable executing the warrant—
(a) must have the warrant with him or her; and
(b) must produce it on initial entry and, if requested, at any subsequent time; and
(c) if he or she is not in uniform, produce evidence that he or she is a con- stable.
(6) A person who is arrested under this section must, as soon as possible, be brought before the District Court to enable it to exercise its jurisdiction under section 124N.

124P Protection order to be issued and served
(1) Where the District Court makes a temporary protection order under section 124N(2)(b), the Registrar of that court must—
(a) immediately issue the order; and
(b) wherever practicable, serve a copy of the order on the person against whom the order is made before that person leaves the court.
(2) For the purpose of subsection (1), the court may direct that the person against whom the order is made be detained in the custody of the court for a period, not exceeding 2 hours, that may be necessary to enable the order to be issued and a copy served on that person.

124Q Protection order to be sent to Family Court
(1) Immediately after the issue of a protection order under section 124N, the District Court must send a copy of the order to the Family Court nearest to the residence of the person for whose safety the Police safety order and temporary protection order were issued.
(2) On receipt of a copy of an order under subsection (1), the Registrar of the Family Court must enter the order in the records of the Family Court.

124R Protection order treated as if made by Family Court
As soon as an order has been entered in the records of the Family Court under section 124Q(2), the order is to be treated as if it were a temporary protection order made by that court.

124S Police employees, etc, protected from proceedings
No action or proceedings may be brought against the Crown or any constable in respect of any thing done, or omitted to be done, for the purpose of carrying out the provisions of this Part, where the Crown or the constable acted in good faith and with reasonable care.

Part 7
Miscellaneous provisions (125-138)

[…]

Crimes Act, 1961 (As amended)[115]

Sec. 128 - Sexual violation defined
(1) Sexual violation is the act of a person who—
(a) rapes another person; or
(b) has unlawful sexual connection with another person.

[…]

(4) One person may be convicted of the sexual violation of another person at a time when they were married to each other.

[…]

[115] New Zealand Crimes Act 1961, (as at 28 September 2017) available at http://www.legislation.govt.nz/act/public/1961/0043/latest/whole.html#DLM329051 (last visited December 30, 2018)

45. NICARAGUA

Integral Law on Violence against Women and to Reform Law No. 641 "Penal Code", 2012 [116]

Law No. 779

The President of the Republic of Nicaragua

To its inhabitants, be aware:

That

The National Assembly

WHEREAS

I

The existing regulations to stop gender-based violence against women have not obtained the results sought for the effective protection of their life, liberty and personal integrity, for which the enactment of an autonomous law of a special nature is indispensable to comprehensively addresses this problem, typifying and sanctioning the different manifestations of violence against women.

II

The State of Nicaragua has signed and ratified several international instruments such as the "Convention for the Elimination of All Forms of Discrimination against Women," the "Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women," the "Convention on the Rights of the Child ", and the" International Convention on the Rights of Persons with Disabilities ", among others. These instruments oblige the State to establish special rules that ensure effective equality before the Law, to eliminate discrimination and explicitly prohibit violence against women in any of its manifestations.

III

The Political Constitution of the Republic of Nicaragua establishes the constitutional recognition of human rights, individual rights, the right to life, physical, mental and moral integrity, not to be subjected to torture, to honor, to dignity, to personal freedom, security, legal capacity; it also broadly recognizes the rights of detainees and defendants; however, it is necessary to establish minimum guarantees for the victims of crimes.

THEREFORE

in use of its powers,

HAS ADOPTED

The following:

COMPREHENSIVE LAW AGAINST VIOLENCE TOWARDS WOMEN AND REFORMS TO LAW No. 641, "PENAL CODE"

TITLE I
PROVISIONS AND GENERAL PRINCIPLES

Chapter I
Object, scope and policies

Article 1. Purpose of the Law

[116] Integral Law on Violence against Women and to Reform Law No. 641 "Penal Code"(Ley Integral Contra La Violencia Hacia Las Mujeres De Reformas A La Ley No. 641, Ley Del "Código Penal"), (February 22, 2012), available at Integral Law on Violence against Women and to Reform Law No. 641 "Penal Code", 2012 (last visited December 30, 2018).

The purpose of this Law is to act against violence against women, with the purpose of protecting the human rights of women and guaranteeing them a life free of violence, which improves their development and well-being according to the principles of equality and non-discrimination; establish comprehensive protection measures to prevent, punish and eradicate violence and provide assistance to women victims of violence, promoting changes in the sociocultural and patriarchal patterns that sustain power relations.

Art. 2. Scope of application of the Law

The present Law will be applied both in the public and in the private sphere to those who commit violence against women in an isolated manner or repeatedly. The effects of this Law will be applicable to whoever is or has been linked by relationship of consanguinity, affinity, subject to guardianship, spouse, ex-spouse, cohabitant in a stable union, ex-partner in stable union, boyfriends, ex-boyfriends, affective relationship, strangers, as well as any other interpersonal relationship that can generate this type of violence.

Violence in the public sphere: It is an act or omission, intentional or reckless, that takes place in the community, in the workplace or in an institution or any other place, and that is perpetrated against the rights of women by any person or by the State, authorities or public officials.

Violence in the private sphere: is the one that occurs within the family or in any other interpersonal relationship, whether the aggressor shares or has shared the same address as the woman.

Art. 3. Public policies of integral protection of the victim of violence

The State through the competent organ shall:

a) Guarantee to all women, the effective exercise of their rights, ensuring their rapid, transparent and effective access to the services established for that purpose.

b) Strengthen and promote dissemination and awareness campaigns on violence against women, informing about the rights, resources and public and private services to prevent, punish and eradicate it.

c) Improve public policies on prevention of violence against women and eradicate gender discrimination; develop, implement and monitor an action plan for the prevention, punishment, awareness and eradication of violence against women.

d) Guarantee economic, professional, technological, scientific and other resources to the State institutions to ensure the awareness, prevention and eradication of violence against women, as well as the appropriate sanction to those responsible for it and the implementation of socio-educational measures to avoid recidivism.

e) Generate and reinforce minimum standards for early detection and addressing violence, in accordance with the purpose of the Law, in information, care, emergency, protection, support, shelter and integral recovery services, as well as establishing a system for the most effective coordination of existing services at the municipal, departmental, regional and national levels.

f) Promote the collaboration and participation of entities, associations and organizations that act against violence against women from civil society.

g) Promote permanent training and specialization of justice operators, who intervene in the process of information, care and protection for victims.

h) Promote the permanent training and specialization of the officials of the Women's and Children's Commissariat, and of the Public Prosecution.

i) Establish and strengthen emergency and protective measures that guarantee the rights protected in this Law, as well as the personal, physical, emotional, labor and patrimonial protection of women victims of violence.

j) Open a free and accessible telephone line connected to the police agencies and the Public Prosecutor's Office, intended to provide information and advice on existing resources in terms of prevention of violence against women and assistance to those who suffer from it.

Chapter II
Principles, sources and rights

Art. 4. Guiding principles of the Law

The guiding principles contained in this article are established in order to guarantee the legal equality of persons, in accordance with the international instruments subscribed and ratified by the Republic of Nicaragua:

a) Principle of access to justice: State institutions, justice system operators and community authorities must guarantee women, without any distinction, effective access to the services and resources they grant, eliminating all types of barriers and obstacles of any kind that prevent this access.

b) Principle of speed: The procedure established by this Law must be processed quickly, promptly and without any delay, until a resolution is obtained within the established deadlines, failure to comply with the responsibilities of the officials leads to administrative measures and sanctions, as applicable.

c) Principle of concentration: Once the trial has begun, it must conclude on the same day when all the evidence provided by the parties is presented. If this is not possible, it will continue for the least number of consecutive days in accordance with the provisions of articles 288 and 289 of Law No. 406, "Criminal Procedure Code of the Republic of Nicaragua".

d) Principle of inter-institutional coordination: Ensure that the service providers of the Women's and Children's Commissariat, Public Prosecutor's Office, Public Defender's Office, Institute of Legal Medicine, Judicial Power, Women's Special Procurator's Office, Special Prosecutor's Office for Children, Ministry of Education, Ministry of Health, Ministry of Family, Adolescence and Childhood, Ministry of Women, National Penitentiary System and municipal authorities coordinate actions that require the protection of people affected by violence.

e) Principle of real equality: Any action of the justice system will seek to achieve equality of people without any distinction for reasons of gender, age, ethnicity and disability. Ensuring respect and protection of human rights, taking into account cultural, economic, physical and social differences that prevail among themselves, to resolve issues with equality criteria.

f) Holistic principle: The protection of women who experience violence requires medical, legal, psychological and social attention in a comprehensive and timely manner to detect, protect and restore rights.

g) Principle of due diligence of the State: The State has the obligation to act with due diligence to prevent, investigate, punish and eradicate violence against women, in order to guarantee the life, safety and protection of victims of violence.

h) Principle of the best interests of the child: The best interests of the boy, girl or adolescent are understood to be those that favor their full physical, psychological, moral, cultural and social development, in accordance with the evolution of their faculties that benefit them in the maximum degree and especially the recognition, validity, satisfaction and enjoyment of their rights, liberties and guarantees in an integrated manner.

i) Principle of non-discrimination: Is the elimination of all distinctions, exclusions or restrictions based on birth, nationality, political belief, race, age, sex, language, religion, opinion, origin, economic position, social status, disability, whose objective or result is to diminish or suppress the recognition, enjoyment or exercise of human rights and fundamental freedoms. Actions or omissions that have no intention of discriminating but have a discriminatory result are also discrimination.

j) Principle of no secondary victimization: The State must guarantee that the authorities that integrate the justice system and other institutions that attend, prevent, investigate and punish violence, must deploy special prevention measures to avoid situations of incomprehension, unnecessary reiterations and discomfort that can be applied to the victims.

k) Principle of non-violence: Violence against women constitutes a violation of fundamental freedoms, limiting all or part of the recognition, enjoyment and exercise of human rights.

l) Principle of full gender equality: Gender relations should be based on the full equality of men and women and should not be based on a relationship of power or domination, in which a man subordinates, submits or seeks to control the woman.

m) Principle of protection for victims: The victims of the punishable acts described here have the right to access the courts for free and must be treated promptly, without undue delay or useless formalities and obtain a resolution in the deadlines established by the Law, without detriment to the rights of the accused or accused persons.

n) Principle of publicity: The trial will be public, unless at the request of the victim of violence, the court decides that it is held totally or partially behind closed doors, the victim must be informed in advance and in a timely manner so to be able to make use of her rights.

ñ) Compensation principle: The administration of justice will guarantee the necessary mechanisms to ensure that the victim of violence has effective access to compensation and reparation for damage or other just and effective means of compensation as part of the restoration process of her well-being.

Art. 5. Sources of interpretation

Are sources of interpretation of this Law, the Political Constitution of the Republic of Nicaragua, international codes, laws and human rights instruments signed and ratified by the State of Nicaragua.

In particular, the following are sources of interpretation for this law:

a) The Convention on the Elimination of All Forms of Discrimination against Women; and
b) The Inter-American Convention to Prevent, Punish and Eradicate Violence against Woman.

Art. 6. Participation of society

Society through its organizations has the right and the duty to participate in a leading way to achieve the full and effective validity of this law.

Art. 7. Protected rights of women

All women have the right both in the public and private spheres to live a life free of violence, to enjoy their freedom and sexual and reproductive integrity, as well as the recognition, enjoyment, exercise and protection of all their human rights and freedoms enshrined in the Political Constitution of the Republic of Nicaragua, in the national legal system and international human rights instruments.

These rights include, among others:

a) The right to have one's life respected; and to live without violence and without discrimination;

b) The right to health and education;

c) The right to have physical, psychic, moral, sexual, patrimonial or economic integrity respected;

d) The right to freedom, to personal security, to intimacy;

e) The right to freedom of belief and thought;

f) The right not to be subjected to torture or cruel or degrading treatment;

g) The right to have inherent dignity as a person respected and family protected;

h) The right to equal protection before the law and from the law;

i) The right to receive suitable information and advice;

j) The right to a simple and expeditious appeal to the institutions of the justice system and other State institutions to protect against acts that violate rights; and

k) The right to have equality in the public service and to participate in public affairs including the decision making.

Art. 8. Forms of violence against women

Violence against women in any of its forms and scope must be considered as a manifestation of discrimination and inequality that women live in power relations, recognized by the State as problems of public health, citizen security and in particular:

a) Misogyny: behaviors of hatred towards a woman and they are manifested in violent and cruel acts against her because she is a woman.

b) Physical violence: Any action or omission that endangers or harms the physical integrity of the woman, resulting in physical injury.

c) Violence in the exercise of public function against women: carried out by authorities or public officials, professionals, personnel and agents belonging to any public body or institution, whose purpose is to delay, hinder, deny or prevent women from having access to justice and public policies.

d) Workplace violence against women: discriminates against women in public or private work environments and hinders their access to employment, hiring, dignified and equitable wages, promotion, stability or permanence, demanding requirements on status civil, maternity, surgical sterilization, age, physical appearance, pregnancy test or Human Immunodeficiency Virus HIV / AIDS or other evidence on the health status of women. Violence against women in the workplace also happens to violate the right to equal remuneration for the same task or function. Likewise, it includes psychological harassment in a systematic way on a female worker in order to achieve work exclusion.

e) Patrimonial and economic violence: Action or omission that involves damage, loss, theft, destruction, retention or distraction in objects, personal documents, values, economic rights or economic resources destined to satisfy their needs, a woman's assets and own or shared resources in the family or couple. In addition patrimonial and economic violence exists when goods and financial resources are controlled, thus maintaining the dominion over the woman, the refusal to provide the necessary resources in the home, ignorance of the economic value of the domestic work of the woman inside the home and the demand to leave or not start a paid job.

f) Psychological violence: Action or omission aimed at degrading or controlling the actions, behaviors, decisions and beliefs of women through intimidation, manipulation, coercion, destructive comparisons, temporary or permanent surveillance, insults, direct or indirect threats, humiliation, isolation or any other conduct that implies a damage to mental health, self-determination or personal development.

g) Sexual violence: Any action that forces a woman to maintain sexual, physical or verbal contact, or participate in other sexual interactions through the use of force, intimidation, coercion, blackmail, bribery, manipulation, threat or any other mechanism that suppresses or limits the will or sexual freedom, independently from the fact that the aggressor may have with the woman a conjugal, couple, affective or kinship relationship.

TITLE II
CRIMES AND PENALTIES

Unique Chapter
Crimes of violence against women and their penalties

Art. 9. Femicide

The crime of femicide is committed by a man who, in the context of unequal power relations between men and women, gives death to a woman either in the public or private sphere, in any of the following circumstances:

a) Having unsuccessfully tried to establish or reestablish a relationship of intimacy with the victim;

b) Maintain at the time when the act is perpetrated, or have maintained with the victim, family, conjugal, coexistence, intimacy or courtship, friendship, companionship, employment, educational or guardianship relationships;

c) As a result of the repeated manifestation of violence against the victim;

d) As a result of gang rituals, or groups, using or not using weapons of any kind;

e) By the contempt of the body of the victim for the satisfaction of sexual instincts, or the commission of acts of genital mutilation or any other type of mutilation;

f) By misogyny;

g) When the act is committed in the presence of the victim's children;

h) When any of the qualifying circumstances contemplated in the crime of murder in the Penal Code happen

When the act occurred in the public sphere, the penalty shall be fifteen to twenty years in prison. If it occurs in the private sphere, the penalty will be twenty to twenty-five years in prison. In both cases if two or more of the circumstances mentioned in the preceding paragraphs concur, the maximum penalty will be applied.

The penalties established in the previous numeral will be increased by one third when at least two of these circumstances of the murder are combined, up to a maximum of thirty years in prison.

Art. 10. Physical violence

If, as a consequence of physical violence perpetrated by a man in the context of unequal power relations between men and women, said violence causes the woman any of the physical injuries typified in this Law, the following penalty shall be applied:

a) If minor injuries are caused, he will be punished with a sentence of eight months to one year and four months in prison;

b) If serious injuries are caused, he will be punished with a penalty of two years and eight months to six years and eight months in prison;

c) If serious injury is caused, he will be punished with a penalty of seven years and six months to thirteen years and four months in prison.

Art. 11. Psychological violence

Anyone who by action or omission for the purpose of denigrating, controlling the actions, behaviors and beliefs of a woman who has been or is his spouse, ex-spouse, partner in a stable union, ex-partner in a stable union, boyfriend, ex-boyfriend, ascendant , descendant, collateral relative by consanguinity, affinity and any other interpersonal relationship; exerts direct or indirect threat, intimidation, manipulation, humiliation, isolation, offenses, vigilance, destructive comparisons, blackmail, harassment, hostility and any other analogous circumstance that may result in psychological health damage, devaluation of self-esteem or personal development, will be sanctioned as follows:

a) If damage is caused to psychological integrity that requires psychotherapeutic treatment, he will be punished with a sentence of eight months to one year and four months in prison;

b) If dysfunction is caused in any of the areas of personal, work, school, family or social functioning that requires specialized treatment in mental health, he will be punished with a penalty of two years and eight months to six years and eight months in prison;

c) If a mental illness is caused and the person, even with the specialized intervention, cannot recover his / her mental health in a permanent way, he will be sanctioned with a penalty of seven years and six months to thirteen years and four months of prison.

Art. 12. Patrimonial and economic violence

Patrimonial and economic violence is the action or omission exercised by a man against a woman, with which he is or has been bound by consanguinity, affinity, spouses, ex-spouses, partners in stable union, ex-partners in stable union, girlfriends, ex-girlfriends, affectionate relationships, and that results in any of the following behaviors:

a) Patrimony subtraction: Whoever subtracts some good or value of the possession or patrimony of a woman or subtracts goods, independently of its ownership, will be sanctioned with a penalty of two to five years of prison. All this provided that the value of the property or goods stolen is greater than the sum resulting from a monthly minimum wage in the industrial sector.

b) Property damage: Whoever destroys, makes useless, makes disappear or deteriorates in any way an asset or property regardless of the possession, domain or possession, will be sanctioned with a penalty of two to five years in prison. All this provided that the value of the good or goods is greater than the sum resulting from a monthly minimum wage of the industrial sector.

c) Limitation to the exercise of the right to property: Whoever prevents, limits or prohibits the use, enjoyment, administration, transformation or disposition of one or more assets that are part of the family assets or the assets of the woman, will be sanctioned with a penalty of one to three years in prison.

d) Subtraction of profits from family economic activities: Anyone who subtracts the profits derived from a family economic activity or disposes of them for their exclusive personal benefit and to the detriment of the rights of women, will be punished with a penalty of two to four years of prison.

e) Economic exploitation of women: Anyone who through violence, threats, intimidation or any type of coercion, is maintained by a woman, totally or partially, will be punished with a penalty of one to three years in prison.

f) Denial of the right to food and work: Anyone who refuses to provide the necessary resources in the home or forces a woman to leave or not start paid work will be punished with one to three years in prison.

Art. 13. Intimidation or threat against women

The man who through verbal expressions, writings, electronic messages or any other means intimidates or threatens a woman with whom he is or has been bound by relationship of consanguinity, affinity, subject to guardianship, spouses, ex-spouses, partners in stable union, ex-partners in stable union, boyfriends, ex-boyfriends, affectionate relationships; causing her serious and likely damage of a physical, psychological, sexual, labor or patrimonial nature, will be punished with imprisonment of six months to one year.

The penalty will be from six months to two years in prison, when one of the following circumstances occurs:

a) If the intimidation or threat is made in the domicile or residence of the woman, in the home of relatives, friends or any place where she has taken refuge;

b) If the act is committed in the presence of the victim's children;

c) If the perpetrator of the crime avails himself of the position as a public official or as a member of the police or the military;

d) If the act is committed with sharp weapons, blunt, fire or any object capable of causing damage to the physical integrity or to the health.

Art. 14. Kidnapping of sons or daughters

When the father or another family member exercises or has exercised violence against the woman and as a means of continuing violence towards the woman, removes their son or daughter from the authority of his mother who is legally in charge of the custody, from the guardian or from a person in charge of the upbringing while holding the children without their consent, will be sanctioned with a penalty of two to four years in prison.

Art. 15. Workplace violence

Anyone who prevents or limits the exercise of women's right to work, through the establishment of requirements related to sex, age, physical appearance, marital status, motherhood, submission to laboratory tests, Human Immunodeficiency Virus test (HIV / AIDS) or to other tests to rule out pregnancy status, hinder or condition the access, salary, promotion or stability in the employment of women, will be punished with a fine of one hundred to three hundred days.

If it is an employment policy of a public or private institution, whoever practices discrimination will be imposed the maximum penalty. All of this without prejudice to the co-responsibility established in article 125 of Law No. 641, "Penal Code."

Art. 16. Violence in the exercise of public function against women.

Anyone who, in the exercise of public office, regardless of his position, willfully, retards, hinders, denies due attention or prevents women from accessing the right to timely response from the institution to which she resorts for the purposes to present any procedure related to the rights guaranteed by this Law, will be sanctioned with a penalty of two hundred to five hundred days and will be disqualified in the exercise of the position for a period of three to six months. Without prejudice to the corresponding administrative responsibilities.

If the previous acts are committed due to imprudence, the penalty shall be one hundred to two hundred days of fines and disqualification from the charge for a maximum period of three months.

If, as a result of the aforementioned conducts, the life and integrity of the woman is put in jeopardy, the penalty shall be six months to one year in prison and special disqualification from exercising the position for the same period.

Art. 17. Failure to denounce

Persons who, according to the criminal procedure legislation, have an obligation to report public crimes, once they know that a woman, boy, girl or adolescent has been a victim of violence, must report the incident to the National Police or to the Public Prosecution Office within the term of forty-eight hours. Anyone who incurs this omission will be sanctioned with a fine of two hundred to five hundred days.

Art. 18. Obligation to denounce act of sexual harassment

Any hierarchical authority in centers of employment, education or any other nature, who has knowledge of acts of sexual harassment carried out by persons under its responsibility or direction and who does not report it to the National Police or the Public Prosecution Office, will be sanctioned with penalty of fifty to one hundred days fine.

TITLE III
MEASURES OF ATTENTION, PROTECTION, SANCTION, PRELIMINARY AND PRECAUTIONARY MEASURES

Chapter I
Measures of attention, protection and sanction

Art. 19. Measures of attention and prevention

The measures of attention and prevention that are established are the set of measures and actions to protect victims of violence, as part of the obligation of the State, to guarantee women their safety and the full exercise of their human rights.

These models must take into consideration:

a) Provide care services, legal advice and psychological treatment, specialized and free to victims to repair the damage caused by violence.

b) Provide integral, specialized and free reeducation services to the aggressor, to eradicate violent behavior, through an education that eliminates the stereotypes of male supremacy and the macho patterns that generated their violence.

c) Prevent that the care and attention received by the victim and the aggressor be provided by the same person and in the same place. In no case can care providers be the same as those people who have been sanctioned for exercising some type of violence.

d) Guarantee the separation and distance of the aggressor from the victim.

e) Enable and strengthen the installation and maintenance of shelters for the victims and their daughters and sons, said shelters to provide free specialized psychological and legal support.

Art. 20. Measures for the attention to the victims

The measures for the attention to the victims are the following:

a) Promote the existence of public and private services that provide comprehensive, interdisciplinary care for women victims of violence;

b) Ensure that public and private recruitment or referral services provide victims with a safe, dignified service in an environment of privacy and trust that takes into account the physical and emotional vulnerability of the victims;

c) Providing comprehensive health services for women, in particular to address the diseases caused by gender violence.

d) Detect, document and provide information to the competent authority on the physical and psychological findings, caused by violence in the victims, who go to the public health and justice services for the sanction and recovery of the damage.

e) Provide victims in the health, investigation, counseling or accompaniment services, information on the consequences of the acts of violence, said information to be sent without delay to the competent health or justice service.

Art. 21. Protection and sanction measures

For protection and sanction measures, the following must be done:

a) Comply with the obligation to inform the victim of the scope of the filing of the complaint; the staff who receives and investigates reports of violence against women, must take preventive measures and request protection measures in the shortest possible time, as established in this Law;

b) Ensure the execution of preliminary and precautionary measures issued by the competent authorities, while carrying out verification/controls on the aggressor, telephone reports for the victims, and verification/controls on the compulsory attendance of professional treatments;

c) Guarantee that the forensic national system complies with the standards that provide the technical and scientific elements, for the integral and interdisciplinary forensic expertise of the persons affected by gender violence;

d) Expand access to justice through free legal, medical and psychological assistance for women in situations of violence;

e) Train, from a gender perspective, the personnel and officials that make up the justice system;

f) Strengthen sensitization and training programs with a gender perspective aimed at justice operators that ensure quality care and eliminate institutional violence against women;

g) Incorporate into the citizen's security policies specific measures to prevent, investigate, sanction and eradicate femicide, understood as the most extreme form of gender-based violence against women;

h) Promote shelters, self-help groups and damage recovery aimed at protecting women in families, in the community; and

i) Adopt the necessary and effective measures to prevent, investigate, punish and eradicate all forms of trafficking, trafficking of women, girls and adolescents for sexual and labor exploitation.

Art. 22. Actions included in the programs

The programs to prevent, attend, punish and eradicate violence against women will contain the following actions:

a) Design assistance and training programs for victims that allow them to participate fully in all areas of life;

b) Guarantee research and the preparation of statistical diagnostics on causes, frequencies and consequences of violence against women, in order to define the measures to be implemented to prevent, address, punish and eradicate all types of violence;

c) Publish every six months the general and statistical information on cases of violence against women; and

d) Promote a culture of reporting violence against women within the framework of the effectiveness of institutions, to guarantee their safety and integrity.

The State institutions within the framework of their competence shall comply with the measures established in this Law, without prejudice to the participation of civil society in order to comply with them.

Chapter II
Nature and actions of preliminary and precautionary measures

Art. 23. Preventive nature

Preliminary and precautionary measures are preventive in nature, to protect the female victim who has been aggressed in her physical, psychological, sexual and patrimonial integrity, as well as any action that violates or threatens the rights contemplated in this Law, avoiding thus new acts of violence.

Art. 24. Precautionary measures

When faced with actions or omissions that may constitute crimes referred to in this Law, the National Police through the Women's and Children's Commissariat, the heads of district and municipal delegations or the Public Prosecutor's Office, may order and adopt the following precautionary measures:

a) Order the immediate abandonment of the home by the alleged aggressor, regardless of its ownership, since violence is a risk to the physical, mental, sexual and patrimonial integrity of a woman. The aggressor will not be able to remove the household goods or assets. He will only be authorized to take his personal goods, tools, work and study tools;

b) Prohibit or restrict the presence of the alleged aggressor in the house, work center, study places usually frequented by the woman or any place where she is, within a minimum radius of two hundred meters. When the alleged aggressor and the victim work or study in the same center, this measure will be ordered and adapted to guarantee the integrity of the woman;

c) Order the reinstatement of the woman to the address where she is prevented from entering or from where she was expelled with violence, intimidation or any means of coercion, regardless of the ownership of the real estate. In the same resolution the exit of the alleged aggressor will be ordered;

d) Guarantee the necessary medical, psychological and psychiatric attention to the victim;

e) Order the medical, psychological and social examination of children and adolescents who are direct and indirect victims of acts of violence and give them due attention;

f) Request the intervention of the Ministry of Family, Adolescence and Children in case of denunciation of a violation of children's rights. Likewise, the collaboration of specialized organizations that provide support, protection, advice, counseling and necessary follow-up may be requested;

g) Prohibit the alleged aggressor from carrying out acts of intimidation, persecution, harassment or disturbance against the woman, any member of the family group or persons related to the complainant, either by herself or through third parties, by any electronic means, written and visual audio;

h) Abduct and immediately retain firearms or sharp and blunt weapons that are in the hands of the alleged aggressor, regardless of whether or not he carries a permit; and of his profession or trade. In all cases the weapons retained must be remitted to the National Police and their destination determined in accordance with the provisions of Law No. 510, "Special Law for the Control and Regulation of Firearms, Ammunition, Explosives and Other Related Materials, "Law No. 228," Law of the National Police "and Law No. 406," Criminal Procedure Code of the Republic of Nicaragua "and Law No. 641," Penal Code";

i) Prohibit the alleged aggressor from introducing or maintaining weapons in the dwelling to intimidate, threaten or cause harm to any of the members of the family group.

j) To create an inventory of the personal property existing in the family home, in order to safeguard the patrimony of the woman and her children. This measure will be executed when the measure of literal a) and c) of this article is applied; and

k) Order that the woman can take with her, those goods that guarantee her well-being and the family group's well-being, if she decides, for security reasons, to leave the home she shares with the aggressor.

The above measures can only be adopted by observing criteria of proportionality, rationality, necessity and urgency.

Art. 25. Precautionary measures

The judge or the court at the request of the Public Prosecutor or the victim constituted as a private party, may order the following precautionary measures:

a) Order the alleged aggressor to undergo the psychological or psychiatric treatment that the judge deems necessary;

b) Impose to the alleged aggressor that he provide sufficient guarantees as determined by the judge to compensate the possible damages caused to the woman;

c) Provisionally grant the guardianship of children, adolescents or persons with disabilities to whomever he considers suitable for such a function, if it was entrusted to the alleged aggressor, in case they are involved at the time of the commission of any of the crimes contained in the present Law;

d) Impose on the alleged aggressor the obligation to provide the woman victim of violence, the necessary support to guarantee her subsistence, in the event that she does not have the financial means to do so and there is a dependency relationship with the alleged aggressor. The application of this measure will be of a provisional nature according to the time fixed for its validity in this Law;

e) Impose on the alleged aggressor the obligation to provide sons and daughters with food that guarantee their subsistence, until the competent authority dictates the way of assessing the food in harmony with the provisions of the Law on the matter;

f) Suspend the right of the alleged aggressor to visit his children and interfere in the exercise of guardianship, care, upbringing and education, when they have been victims of violence or when they find themselves under the tutelage of the mother who has been a victim of violence, whether they are in their home, shelter or any other place that provides security;

g) Issue a judicial order of protection and assistance addressed to the police authority. The victim will carry a copy of this order so that he can go to the nearest authority in case of threat of aggression outside or inside his home;

h) Guarantee the exercise of legal actions in matters of food prohibiting the aggressor from holding acts and contracts on movable and immovable property, as well as the displacement of the movable property of the common residence to any other place. The judge will make an inventory of said assets, both at the time of issuing these measures and when suspending them;

i) Prohibit the aggressor from approaching the protected person in any place where he is, as well as approaching his home, his place of work or any other that is frequented by her. The judge will set a minimum distance between the aggressor and the victim that cannot be exceeded under penalty of incurring criminal responsibility. The removal measure may be agreed independently of the fact that the person affected or those whom they intend to protect had previously left the place;

j) Prohibit the aggressor from communicating with the persons indicated, under penalty of incurring criminal responsibility;

k) Prevent the aggressor for carrying weapons;

l) Suspend the aggressor if he holds public office, when the fact for which he is being investigated has to do with the functions he performs; and

m) Order the prohibition to migrate for the alleged aggressor.

TITLE IV
PROCEDURE AND APPLICATION OF PRELIMINARY AND PRECAUTIONARY MEASURES

Chapter I
Duration of precautionary measures

Art. 26. Duration of precautionary measures

The preliminary measures shall be applied at the request of the victim or offended person or by any person or institution acting on their behalf, in a preventive manner for a maximum period of twenty days, which may be extended once only. The resolution that orders the measures or the extension of these must be dictated in a motivated manner.

Once the corresponding process has begun, be it in criminal or family proceedings, at the request of the judge, the judge will decide on the maintenance of all or some of the precautionary measures that apply, according to the nature of the proceeding under his jurisdiction.

In its resolution the judge ratifies precautionary measures and order precautionary measures, he will do so with due motivation, justifying that they are proportional and necessary, establishing the term, which may not be longer than one year.

The judge must examine the need for the maintenance of the measures every three months and when the circumstances cease or change substantially, he will replace them with other measures to be less burdensome. At any time, the extraordinary review of measures will proceed, at the request of one party.

Chapter II
Request, implementation and competence of precautionary measures

Art. 27. Of the request for precautionary measures

In the claim itself, the victim or offended, any person or institution acting on behalf of her, may request orally or in writing the application of precautionary measures before the competent authority, in both cases the authority that receives the request, will prepare a document that must contain:

a) Names, surnames and address of the victim;

b) Identification data of the alleged aggressor, and address if known;

c) List of the facts denounced and indicate the evidence that supports them;

d) Description of the applicable precautionary measures; and

e) Place to receive notifications.

Art. 28. Application of precautionary measures

Once the request has been presented, the competent authority will immediately order the application of any of the measures requested. However, without prejudice to what is requested by the party, the competent authority may order ex officio the application of other measures based on the protection of the physical, psychological, sexual and patrimonial integrity of the victim.

The resolution ordering the application of a precautionary measure must be notified and executed within the following twenty-four hours and no appeal will be made against it.

The resolution will be notified to the accused, in person, through the Police Station for Women and Children or the Directorate of Judicial Assistance of the National Police or the Public Prosecutor's Office. The notification may be made at the address or in any place where the alleged aggressor is located and at any time for the offenses established in this Law.

Art. 29. Body competent for the execution and surveillance of preliminary and precautionary measures

During the time of the execution of preliminary and precautionary measures, the authority that dictates them must follow up on them.

For the enforcement and implementation of precautionary measures issued by the judicial authority, it will be assisted by the Police Station for Women and Children or the Directorate of Judicial Assistance of the National Police.

In case of non-compliance with any of the measures established in this Law by the alleged aggressor, an investigation will be opened for the crime of disobedience or contempt of authority.

TITLE V
COMPETENT BODIES IN VIOLENCE AGAINST WOMEN

Chapter I
Creation and jurisdiction of the Specialized Bodies

Art. 30. Specialized bodies

District Courts Specialized in Violence, with a judge specialized in the subject will be created. There must be at least one District Court Specialized in Violence in each departmental capital and the Autonomous Regions of the Atlantic Coast, as well as in the municipalities where, due to their location, it is difficult to access the Courts located in the departmental capitals or regional

With each District Court Specialized in Violence, a multidisciplinary team will be put in place with at least a psychologist, and a social worker, in charge of offering specialized assistance to the victims and who will support the judiciary during the hearings in order to provide follow-up and control of the protection measures imposed by the court.

Art. 31. Competent jurisdictional bodies

The following judicial bodies will be competent to know and resolve cases as follows:

a) The Single Local Courts will hear in the first instance up to the order of referral in the judgment of the crimes indicated in the present Law. The trial and the proceedings will have to be sent to the District Court Specialized in Violence of the competent territorial jurisdiction.

b) The Local Criminal Courts of the municipalities will hear in the first instance up to the order of referral in the judgment of the crimes indicated in the present Law. The trial and the proceedings will have to be sent to the Special District Court in Violence of the corresponding territorial circumscription.

c) Judges or District Judges Specialized in Violence are competent to resolve in the first instance, the crimes indicated in this Law, whose penalty is less serious. In the case of the less serious crimes committed in the territory of their jurisdiction, said judges will judge from the preliminary and initial hearing until the hearing of the oral and public trial.

d) The Specialized Criminal Chamber of the Courts of Appeals will hear the Appeals, regarding the operative paragraphs and judgment of dismissal, based on the causes contemplated in article 155 of Law No. 406, "Code Criminal Procedure of the Republic of Nicaragua, "the Local Single Judges and Local Criminal Judges will have issued in cases of less serious crimes. They will also be competent to hear the resolutions issued by the District Judges Specialized in Violence in cases of less serious crimes.

e) The Criminal Chamber of the Supreme Court of Justice will hear, on appeal, the sentences for serious crimes known and resolved on appeal by the Specialized Criminal Chambers of the Courts of Appeal.

Art. 32. Objective Competence

In the terms related in this article, the District Courts Specialized in Violence, are competent to hear and resolve in the first instance the trials related to the offenses established in this Law and in addition, the following crimes:

a) Title I, Book II of Law No. 641, "Penal Code", and which are specifically contemplated in the following Chapters:

1. Chapter I, Crimes Against Life Art. 142. Induction or Assistance to Suicide

2. Chapter II, Abortion, Genetic Manipulations and Injuries to the Unborn
Art. 144. Abortion without consent
Art. 145. Reckless Abortion

3. Chapter III, Injuries and Collective Fights
Art. 155. Domestic or intrafamily violence

Art. 156. Induced contagion

b) Title II, Book II of Law No. 641, "Penal Code", and which are specifically contemplated in the following Chapters:

1. Chapter II, Crimes against Freedom and Sexual Integrity
Art. 167. Rape
Art. 168. Rape under fourteen years of age
Art. 169. Aggravated rape
Art. 170. Rape
Art. 171. Aggravated rape
Art. 172. Sexual abuse
Art. 173. Incest
Art. 174. Sexual Harassment
Art. 175. Sexual exploitation, pornography and sexual act with adolescents through payment
Art. 176. Specific aggravations in case of sexual exploitation, pornography and sexual act with adolescents by means of payment
Art. 177. Promotion of Tourism for the purpose of sexual exploitation
Art. 178. Procuring
Art. 179. Aggravated pimping
Art. 180. Ruffling
Art. 182. Trafficking in persons for the purpose of slavery, sexual exploitation or adoption.

2. Chapter III, Crimes Against the Freedom to Act
Art. 188. Insemination without Consent
Art. 189. Fraudulent insemination

c) Title V, Book II of Law No. 641, "Penal Code", and which are specifically contemplated in the following Chapters:

1. Chapter I, Offenses Against Civil Status
Art. 210. Illegal Marriage
Art. 211. Simulation of Marriage
Art. 212. Illegal Celebration of Marriage

2. Chapter III, Breach of Family Duties
Art. 217. Breach of the duties of feed

3. Chapter IV, Offenses against Mother, Father and Children, Tutorship and Guardianship
Art. 218. Subtraction of minor or incapacitated.

All of these whenever they were committed against women, girls, children or adolescents, disabled seniors who are or have been linked to the perpetrator by consanguinity, affinity, subject to guardianship, spouses, ex-spouses, partners in stable union, ex-partners in stable unions, boyfriends, ex-boyfriends, any relationship of affectivity, or that the author of the act is unknown.

The Local Criminal Courts and the Single Local Courts are competent to hear and decide, up to the order for referral to trial, of the trials for the crimes referred to in the previous paragraph.

Art. 33. Specialization of officials

All the institutions that make up the criminal justice system must ensure that the personnel that assist in the investigation and processing of the trials related to violence against women are specially trained in this matter through initial, continuing and specialized training programs that will be promoted in an institutional and inter-institutional way.

For this purpose, the Public Prosecutor's Office will have prosecutors specialized in this area and the Supreme Court of Justice will appoint a judge or magistrates specialized in Violence, in accordance with Law No. 501, "Judicial Career Law", and will provide that in each Criminal Chamber of the Court of Appeals, at least one magistrate or magistrate must be a specialist in this area.

In the Court of Appeals of the Department of Managua, the Criminal Chamber Specialized in Violence and Criminal Justice for Adolescents will be created, which will hear on appeal, the judgements issued by the District Courts Specialized in Violence, and the District Juvenile Courts of Adolescents . In the rest of the country's circumscriptions, this Specialized Criminal Chamber will be created according to the demand and capacity of the Judicial Power.

In the Autonomous Regions of the Atlantic Coast, specialized personnel from the region and appointed by the Supreme Court of Justice will be looked for.

Chapter II
Reserve or recusal

Art. 34. Causes of inhibition or recusal

The causes of inhibition and recusal for the judicial authorities in charge of the criminal justice specialized in violence against women, as well as the procedures and deadlines will be those established in Law No. 406, "Criminal Procedure Code of the Republic of Nicaragua."

When the reserves or recusals are declared, the Court of Appeals will refer the case to the respective Judge or Alternate Judge, so that it may continue its processing until the final judgement.

If the Judge or Alternate Judge refuses or is challenged, the case will be referred to the Court of Appeals, which will decide to assign the case to another Court Specialized in Violence Against Women, which is located in the headquarter closest to the court.

If the judge that is challenged or rejected is a member of a collegiate tribunal, the other members of said tribunal will resolve the issue. If all members are challenged or rejected, they will know refer to another chamber in the same hierarchy.

Art. 35. Capacity to recuse

The challenge will be filed at any time during the trial, verbally or in writing before the judge in charge of the case, magistrate or judge of the Criminal Chambers of the Courts of Appeal and the Supreme Court of Justice, offering the evidence that sustains it.

Art. 36. Effects of the recusal incident

The judge who is challenged does not lose his competence until the incident of challenge or recusal is resolved.

Chapter III
Police Stations for Women and Children

Art. 37. Strengthening of the Police Station for Women and Children

The Office of the Commissioner for Women and Children reports hierarchically to the Director or Director General of the National Police. The Women's and Children's Commissariats of the National Police that exist in the departmental, district and municipal delegations, will depend functionally on the Directorate for Women and Children.

The Directorate for Women and Children of the National Police is a special organ in charge of the investigation, prevention and treatment of criminal offenses referred to in this Law. The Chief or Head of the Municipal Delegations of the National Police, will carry out investigations of criminal offenses, as long as new Women's and Children's Commissariats are not established in said municipalities. Preventive work and specialized treatment for victims of violence will be carried out in coordination with State institutions applying the approved action protocols.

The Directorate for Women and Children of the National Police is the body empowered to decide the entry, stay, transfer and discharge of human resources that will work in this domain. In the same way, it will dispose about the use and management of the material and technical resources destined for the integral attention to the victims of the crime.

The State must guarantee sufficient resources for the operation of the Police Station and specialized training in the subject of violence against women.

The Directorate of Women and Children's Commissariat must guarantee the necessary technical resources and the permanence of its personnel twenty-four hours a day, every day of the week, avoiding that they are destined to other activities.

The Specialties of Judicial Assistance, Detectives, Intelligence and Public Security of the National Police will support and prioritize the Women and Children's Commissariats in the clarification of the crimes linked to violence against women and children.

For the integral operation of the Police Station for Women and Children, the State will allocate the necessary resources in the Budget of the National Police.

Art. 38. Strengthening of the Specialized Unit for Crimes Against Gender Violence

The Public Prosecutor, as a representative of society and the victims of crimes in criminal proceedings, will prosecute with a gender perspective. For this purpose, the Specialized Unit of Crimes against Gender Violence that is under the hierarchical dependence of the Attorney General of the Republic, will be the body in charge of the investigation and prosecution of the crimes foreseen and sanctioned in this Law.

This Specialized Unit with national competence, for the fulfillment of its purposes and attributions will provide, advisory, legal technical assistance, monitoring and accompaniment to the departmental, regional and municipal offices of the Public Prosecutor’s Office and will have specialized personnel required in each Department, Region or Municipality of the national territory.

For the purposes of prevention, care, protection, investigation and sanction of the crimes contained in this Law, the Specialized Unit of Crimes against Gender Violence of the Public Prosecutor's Office will coordinate with the related institutions.

For the integral operation of the Specialized Unit, the State will allocate the necessary resources in the Budget of the Public Prosecutor’s Office.

TITLE VI
CRIMINAL PROCEEDINGS IN THE CRIMES REGULATED BY THIS LAW

Chapter I – Form of proceedings

Art. 39. Form of Proceedings

The prosecution of the crimes established in this Law shall be governed by the principles, procedural frameworks and the procedures established in Law No. 406, "Criminal Procedure Code of the Republic of Nicaragua" in the forms and time periods indicated for serious crimes and less serious crimes as appropriate, as long as they do not contradict the provisions of this Law.

Art. 40. Exercise of criminal action

The Public Prosecutor must exercise criminal action in all the crimes indicated in this Law.

The victim may exercise the private accusation in accordance with the provisions of article 78 of Law No. 406, "Criminal Procedure Code of the Republic of Nicaragua" and article 564 of Law No. 641, "Penal Code". In this last case, the Public Prosecutor's Office must cooperate with the victim during all stages of the trial.

Art. 41. Victim under age

When the victim is a minor or disabled, the facts may be reported by their legal representatives, by the victim or by welfare, social and educational institutions or any authority or person who has knowledge of the facts.

Art. 42. Accompaniment to the victims in the trial

During the hearings in the trial, the victim may be accompanied by a psychologist, psychiatrist or any other person, in order to assist them in the event of a crisis due to their emotional vulnerability.

Art. 43. Data protection and limitations on advertising

In the proceedings and trials related to this Law, the privacy of the victims will be protected; in relation to personal data, those of descendants and those of any other person under guardianship. The media, in order to protect the identity of victims in sexual crimes and other aspects that may expose them to be subject to re-victimization, must act in accordance with the highest standards of professional journalistic ethics.

Art. 44. Judicial advance of proof

The Prosecutor or the private prosecuting attorney may request the advance of personal evidence, in the crimes indicated in this Law, when:

a) The victim or witness is at risk of being exposed to pressure by violence, threat, offer or promise of payment or other benefits of an analogous nature;

b) For reasons of rescheduling, suspension or interruption of the oral and public trial, the victim is unable to appear or prolong his/her stay in the location of the court to attend the new trial session, when the victim's home is far away from the location of the court, that there is little access or means of transport because they are limited and because they do not have sufficient economic resources to guarantee their stay and food.

This provision shall be applied in accordance with the procedure established in Article 202 of Law No. 406 "Criminal Procedure Code of the Republic of Nicaragua" and without prejudice to the cases set forth in the same article.

Art. 45. Body search

The corporal investigation and extraction of biological fluids in the crimes against life and in crimes against the sexual freedom and integrity of the victim should be carried out immediately, only in those cases that are pertinent due to the finding of evidence that could be analyzed and compared with biological fluids of the alleged perpetrator. The authorization of said act of investigation must be ordered by the judicial authority according to criteria of proportionality, as long as it does not endanger the health of the alleged perpetrator and when it is indispensable to identify the person responsible for the act.

Art. 46. Prohibition of mediation

The mediation will not be used in the crimes indicated in this law.

Art. 47. Right to exercise civil action

The victim of the crimes indicated in this Law who decides to bring a civil action in a criminal court pursuant to the provisions of Law No. 406, "Criminal Procedure Code of the Republic of Nicaragua", may do so directly, through a private attorney or request the Public Prosecutor's Office for legal advice or representation for the exercise of their right to restitution, compensation for damages.

Chapter II
Police proceedings and execution of punishment

Art. 48. Police report

The Women's and Children's Commissariats at the Departmental, District or Municipal Delegation will draw up the investigative file, which will be signed by the Chief of the Women's and Children's Commissariat, for subsequent referral to the corresponding authorities. In the municipalities where there are no police stations, the report will be signed by the Police Chief.

Art. 49. Arrest warrant

The Chiefs of the Police Station for Women and Children or, if applicable, the Chief of Police, under their personal responsibility, may issue an arrest warrant, stating the reasons that make it necessary, against whom the arrest warrant is commissioned, the type of offense sanctioned in the present Law, any order of prison, within twelve hours of having knowledge of the fact. However, these cases will not be considered as current and immediate prosecution of an offender for home search purposes.

In all other cases, an arrest warrant will be required to proceed with the arrest.

When a person is arrested, the police officers must inform the Public Prosecutor's Office within a period of no more than twelve hours of the proceedings and submit the accused to the competent judge within the constitutional term.

Art. 50. Execution of the Penalty

Those who are guilty of crimes of violence against women, girls, boys and adolescents, must participate obligatorily in programs of orientation, attention and prevention aimed at modifying their violent behaviors and avoiding recidivism. The condemnatory sentence will establish the modality and duration, according to the limits of the penalty imposed. The National Penitentiary System must have the adequate conditions for the development of the treatment and orientation programs foreseen in this Law.

TITLE VII
POLICIES OF PREVENTION, ATTENTION AND PROTECTION FOR WOMEN

Chapter I
Mechanisms for the implementation of measures for the prevention, care and protection of women

Art. 51. Creation of the National Inter-institutional Commission to Combat Violence Against Women

The National Inter-institutional Commission to Combat Violence against Women is hereby created, which will be made up of the heads of the following institutions: Supreme Court of Justice, Commission for Women's Affairs, Youth, Children and Family of the National Assembly, Special Prosecutor's Office of the Women of the Office of the Procurator for the Defense of Human Rights, Directorate of Women and Children's Commissariat of the National Police, Directorate of Judicial Assistance of the National Police, Public Prosecutor's Office, Public Defender's Office, Institute of Legal Medicine, Ministry of Education, Ministry of Health, Ministry of Family, Adolescence and Childhood, Ministry of Labor, Ministry of Women and National Penitentiary System.

The Commission will elect annually from its structure a coordinator and a secretary and will meet quarterly in an ordinary and extraordinary manner when it considers relevant.

When deemed necessary, the commission may invite representatives of civil society organizations or other public or private institutions working in defense of violence against women to participate in its sessions with voice but without vote.

At the departmental and municipal levels, inter-institutional coordination committees will be organized and will be formed by representatives of the institutions that make up the National Inter-institutional Commission to Combat Violence Against Women and municipal mayors. These commissions will choose a coordinator and a secretary, will meet once a month and extraordinarily when they determine it.

Art. 52. Functions of the National Inter-institutional Commission to Combat Violence Against Women

1. Coordination:

a) Promote and adopt measures for the budgetary allocation for programs for the prevention, care and punishment of violence against women in institutional budgets;

b) Manage the creation of the special fund of the State to repair damages to the victims of violence, in the services of recovery and restitution of rights;

c) Create, guide, promote and implement inter-institutional plans to implement measures to combat violence against women.

2. Monitoring and evaluation:

a) Create an observatory on violence against women, attached to the National Inter-institutional Commission to Combat Violence Against Women, which will include counseling, evaluation, institutional collaboration, preparation of reports, studies and proposals for action on violence towards women, with the participation of municipal bodies and women's organizations;

b) Design the statistical information system to monitor and follow-up the behavior of violence against women;

c) Propose complementary measures that are required to improve the system of prevention, attention, investigation, prosecution, punishment, reeducation, control and eradication of violence against women

Art. 53. Participation of non-governmental institutions

The Commission will meet at least once every six months with organizations that work on issues of violence against women, in order to listen to the suggestions, proposals or recommendations that they raise, in order to strengthen their work.

The Commission must provide information to the organizations on the plans to implement policies to combat violence against women and the statistical monitoring and evaluation reports.

Chapter II
Elaboration and objectives

Art. 54. Elaboration of the policy

The Institutional Commission must prepare, within a period of one hundred and eighty days after the entry into force of this Law, the policy of prevention, care and protection for women victims of violence.

Art. 55. Objectives

The objective of this policy is to guarantee measures to prevent, attend to, protect, guide, train and give due follow-up to women victims of violence.

Chapter III
Judge or technical judge and calculation of the statute of limitations for the exercise of criminal action

Art. 56. Judge or technical judge

Judgements for the crimes referred to in this Law will be carried out by a judge or technical judge.

Art. 57. Calculation of the statute of limitation

In the event that the criminal action is not timely exercised in crimes against violence against women, the statute of limitations for the criminal action shall begin as of the day on which the cohabitation, matrimonial relationship, stable union, and engagement for marriage cease. or any other interpersonal relationship between the victim and the aggressor.

TITLE VIII
REFORMS TO LAW No. 641, "PENAL CODE"

Single chapter
Additions and amendments to Law No. 641, "Penal Code"

Art. 58. Additions to articles 150, 151, 152, 169, 175 and 195 of Book Two of Law No. 641, "Penal Code", published in the Official Gazette No. 83, 84, 85, 86 and 87 corresponding to days 5, 6, 7, 8 and 9 of May 2008, respectively.

a) Addition to article 150 of Law No. 641, "Penal Code", a second paragraph, after modification will read as follows:

"Art. 150 Injuries
For the purposes of this Code, the concept of injury includes injuries, contusions, abrasions, fractures, dislocations, burns and any alteration in health and any other damage to the physical or mental integrity of persons, provided that they are produced by an external cause.

It includes psychic or psychological injuries, the damage to mental health due to the devaluation of self-esteem or affectations to personal development, as well as any damage to mental integrity or dysfunction in any of the areas of personal, work, school, family functioning or social, like all psychic illness, produced by action or omission. "

b) Addition to article 151 of Law No. 641, "Penal Code", a third paragraph, which after modification will read as follows:

"Art. 151 Minor injuries
Whoever causes another person an injury to their physical or mental integrity that objectively requires for their health besides the first medical assistance, medical treatment, will be punished with imprisonment of six months to a year.

If the injury also requires surgical intervention, the penalty will be imprisonment from six months to two years.

It is considered mild psychological injury, those that cause damage to psychological or psychological integrity that requires psychotherapeutic treatment, and that will be punished with a penalty of six months to one year in prison. "

c) Addition to article 152 of Law No. 641, "Penal Code", a fourth paragraph, which after modification will read as follows:

"Art. 152 Serious injuries
If the injury produces a persistent impairment on the health, physical or psychological integrity, on a sense, organ, member or function, if it could have endangered the life or left a visible and permanent scar on the face, it will be sanctioned with a prison of two to five years.

If the injury leaves a visible and permanent scar on any other part of the body, on a person who by profession, sex, trade or custom usually exposes it, it will be punished with one to three years in prison.

When the serious injury is produced using weapons, instruments, objects, means, methods or forms that are specifically dangerous for the life, physical or mental health of the injured person, imprisonment of three to six years will be imposed.

It is considered serious psychological injury if a dysfunction is caused in any of the areas of personal, work, school, family or social functioning that requires specialized treatment in mental health, and it will be punished with a penalty of two to five years in prison. "

d) Addition to article 169 of Law No. 641, "Penal Code", a literal "e", which once incorporated will be read as follows:

"Art. 169 Aggravated rape
The penalty of twelve to fifteen years of imprisonment will be imposed when:

a) The perpetrator commits the crime by prevailing in a relationship of superiority, authority, kinship, dependence or trust with the victim, or of permanently sharing the family home with her;
b) The rape is committed with the assistance of two or more persons;

c) When the victim is especially vulnerable due to illness or physical or mental disability to resist, or is a person pregnant or over sixty-five years of age;

d) Serious damage to the health of the victim; or

e) That the victim becomes pregnant as a result of the rape.

If there are two or more of the circumstances provided in this article, the maximum penalty shall be imposed."

e) Addition to article 175 of Law No. 641, "Penal Code", a fifth paragraph, which after modification will read as follows:

"Art. 175 Sexual exploitation, pornography and sexual intercourse with adolescents by payment

Anyone who induces, facilitates, promotes or uses for sexual or erotic purposes persons under sixteen years of age or disabled, making them witness or participating in a public or private behavior or spectacle, even if the victim consents to witnessing that behavior or participating in it, shall be punished from five to seven years of imprisonment and will be imposed from four to six years in prison, when the victim is over sixteen and less than eighteen years of age.

Anyone who promotes, finances, manufactures, reproduces, publishes, commercializes, imports, exports, distributes material for the purpose of sexual exploitation, by any means, direct, mechanical, digital, audio-visual, or with computer, electronic or other support, image, or voice of a person under the age of eighteen in sexual or erotic activity, real or simulated, explicit and

implicit or the representation of their genitals for sexual purposes, will be punished with a penalty of five to seven years in prison and a hundred Fifty to five hundred days of fine.

Anyone who, for purposes of sexual exploitation, possesses pornographic or erotic material in the terms expressed in the preceding paragraph shall be punished with one to two years in prison.

Anyone who carries out a sexual or erotic act with a person over fourteen years of age and under eighteen years of age of any sex, paying or promising to pay or give an economic or any other kind of advantage, will be punished by imprisonment for five to seven years.

For the purposes established in this Code and in the special laws, sexual exploitation shall be understood to mean any type of activity in which the body of a person under eighteen years of age or incapacitated is used, even with consent, to take advantage of or benefit of sexual, erotic, economic, commercial, public recognition, advertising or any other nature. "

f) Addition to article 195 of Law No. 641, "Penal Code", a second paragraph, which after modification will read as follows:

"Art. 195 Disclosure
Anyone who is legitimately in possession of a communication, private documents or recordings, and makes them public without proper authorization, even if they have been directed, will be punished with sixty to one hundred and eighty days fine.

If the recordings, images, communications or documents made public, have a sexual or erotic content, although they have been obtained with consent, the penalty will be two to four years in prison. In the case of documents published on the Internet, the competent judge, at the request of the Public Prosecutor's Office or whoever is exercising criminal action, shall order the immediate withdrawal of the documents disclosed. "

Art. 59. Amendments to articles 23, 78, 153, 155, 162, 182 and 183 of Law No. 641, "Penal Code".

a) Article 23 of Law No. 641, "Penal Code" is amended to read as follows:

"Art. 23 Omission and commission by omission
The crimes or faults can be carried out by action or omission. Those that consist in the production of a result, may be understood as made by omission only when the failure to avoid it infringes a special legal duty of the author and equals, in the strict sense of the Law, to cause the result.

In those omissions that, despite infringing on their author's special legal duty, do not amount to the active causation of the result, an attenuated penalty will be imposed whose maximum limit will be the minimum limit of the offense of result and whose minimum limit will be half of this."

b) Article 78 of Law No. 641, "Penal Code", is amended to read as follows:

"Art. 78 Rules for the application of penalties
The judges, judges and courts will determine the penalty within the maximum and minimum that the law indicates to the crime or lack thereof, taking into consideration the following rules:

a) If there are no aggravating and mitigating circumstances or when both concur, the personal circumstances of the offender and the greater or lesser seriousness of the fact will be taken into account.

b) If there are only aggravating circumstances, the average penalty will be applied up to its upper limit, unless the personal circumstances of the subject discourage it.

c) If there are one or more mitigating factors, the penalty will be imposed on its lower half.

d) If there are one or more highly qualified mitigating factors, understood as the reasons for incomplete justification of paragraph 1 of article 35 of this Code, an attenuated penalty may be imposed, whose maximum limit shall be the lower limit of the penalty provided for by law for the offense or offense in question, and whose minimum limit may be half or a quarter of it.

The judges and courts shall, under penalty of nullity, reason or motivate in the grounds of the judgment the application of the penalty. "

c) Article 153 of Law No. 641, "Penal Code" is amended to read as follows:

"Art. 153 Very serious injuries
Whoever causes another, by any means or procedure, the loss or uselessness of an organ or principal member or of a sense, impotence, sterility, a serious deformity or a serious somatic or psychic illness, shall be punished by imprisonment of five years. ten years.

It is considered a very serious psychological injury, if a psychological illness is caused that even with specialized intervention the person cannot permanently recover mental health, he will be sanctioned with a penalty of five to ten years in prison. "

d) Article 155 of Law No. 641, "Penal Code" is amended to read as follows:

"Art. 155 Domestic or intrafamily violence
Whoever exercises any type of force, violence or physical or psychological intimidation, to the detriment of whoever was their spouse or partner in a stable union or against the person who is or has been permanently bound by affective relationship, children , girls, adolescents, seniors, people with disabilities, on the daughters and children of the spouse, cohabiting or ancestors, descendant, collateral relatives by consanguinity, affinity, adoption, or subject to guardianship. In the case of children and adolescents, the right to disciplinary correction cannot be invoked.

Those responsible for this crime will be subject to the following penalties:

a) Minor injuries, the penalty will be one to two years in prison;

b) Serious injuries, the penalty will be three to seven years in prison;

c) Serious injuries, the penalty will be five to twelve years in prison. In addition to the above-mentioned prison sentences, those responsible for intrafamily violence will be subject to the special disqualification for the same period from the rights derived from the relationship between mother, father and children, or the person subject to guardianship. "

e) Article 162 of Law No. 641, "Penal Code" is amended to read as follows:

"Art. 162 Provocation, conspiracy and proposition
The provocation, the conspiracy and the proposal to commit the crimes of homicide, femicide, parricide, murder, genetic manipulation and cloning of cells, genetic manipulation for production of biological weapons, minor injuries, serious injuries and very serious injuries, foreseen in the previous chapters , they will be punished with a penalty whose maximum limit will be the lower limit of the penalty foreseen in the Law, for the crime in question and whose minimum limit will be half of that. "

f) Article 182 of Law No. 641, "Penal Code", is amended to read as follows:

"Art. 182 Trafficking in persons
Commits the crime of trafficking in persons, whoever finances, directs, organizes, promotes, facilitates, induces or by any means executes the proposal, recruitment, recruitment, hiring, transportation, transfer, retention, reception or reception of persons, with the purpose of subject them to: sexual exploitation, servile marriage, forced or simulated marriage, prostitution, labor exploitation, forced labor, slavery or practices similar to slavery, servitude, trafficking or extraction of organs, or illegitimate adoption, so that it is exercised within or outside the national territory, even with the consent of the victim, will be sanctioned with a penalty of seven to ten years in prison.

The penalty of ten to twelve years of imprisonment will be imposed when:

1. When the perpetrator commits the offense taking advantage of his position of power or using a situation of vulnerability of the victim, through threats, intimidation, use of force or other forms of coercion;

2. When the act is carried out by means of kidnapping, deception, blackmail or threat, offer of a gift or any kind of good or pecuniary value, to obtain the consent of a person;

3. When the perpetrator of the crime is an authority, official or public employee.

The penalty of twelve to fourteen years of imprisonment will be imposed when:

1. The victim is a person under eighteen years of age, or an incapacitated person or the act committed by relatives within the fourth degree of consanguinity or second of affinity, guardian or in charge of education, guardianship, spiritual guidance or permanently share in the home of the victim or mediate a relationship of trust.

2. The author acquires, possesses, offers, sells, delivers, transfers or accepts a child or adolescent in whom he or she does not mediate, payment or reward for the purposes of exploitation set forth in this article. "

g) Article 183 of Law No. 641, Penal Code, is amended to read as follows:

"Art. 183 Common provisions
When the perpetrator of aggravated rape, sexual abuse, sexual exploitation, sexual acts with adolescents through payment and pornography, promotion of tourism for the purpose of sexual exploitation, aggravated procuring, pimping or trafficking of persons be the father, mother or legal guardian In addition to the care of the victim, the penalty of special disqualification shall also be imposed for the term established for the imprisonment of the rights derived from the relationship between mother, father and children, or with the person subject to guardianship.

The provocation, the conspiracy and the proposal to commit the crimes of sexual exploitation, sexual acts with adolescents through payment and pornography, promotion of tourism for the purpose of sexual exploitation, procuring, pimping or trafficking in persons or sexual exploitation, provided in the previous chapters , they will be sanctioned with an attenuated penalty whose maximum limit will be the lower limit of the penalty provided in the Law for the crime in question and whose minimum limit will be half of that. "

Art. 60. Incorporation
The additions and reforms approved in Title VIII of this Law shall be incorporated into the text of each of the articles of Law No. 641, "Penal Code" to which they refer.

TITLE IX
REPEAL, TRANSITIONAL AND FINAL PROVISIONS

Unique Chapter
Derogatory, transitory and final provisions

Art. 61. Waivers
The following provisions are repealed:

a) The second paragraph of article 21 of Law No. 228, "Law of the National Police", published in the Official Gazette No. 162, of August 28, 1996; and

b) Article 63 of Decree No. 26-96, Regulation of Law No. 228, Law of the National Police, published in the Official Gazette No. 32, of February 14, 1997.

Art. 62. Transitory Measures

The crimes and misdemeanors committed prior to the entry into force of the present Law will be judged according to the Law No. 641, "Penal Code" in force, keeping the jurisdiction of the Courts according to the rules of objective and functional competence established therein.

Art. 63. Appendix of the Penal Code

The present Law will be Appendix No. 1 of Law No. 641, "Penal Code". The appendix must be included in the editions of the Penal Code, drawn up by publishing houses, printers or any other entity dedicated to the publication of legal texts, with the prior authorization of the competent authority.

Art. 64. Supervision

What is not provided for in this Law shall be regulated by the provisions of Law No. 641, "Penal Code" and Law No. 406, "Criminal Procedure Code of the Republic of Nicaragua."

Art. 65. Validity

The present Law will enter into force one hundred and twenty days after its publication in the Official Gazette.

[…]

Regulation to Law 779, Integral Law on Violence against Women and to Reform Law No. 641 "Penal Code"

Penal Code, 2008

Art. 111 (urgent protection measures for victims of intra-familial and domestic violence)

Family Code, 2014

Chapter II – Domestic or intra-familial violence

46. NIGERIA

Violence Against Persons (Prohibition) Act, 2015 [117]

[…]

PART I-OFFENCES

[…]

Prohibition of female circumcision or genital mutilation
6. (1) the circumcision or genital mutilation of the girl child or woman is hereby prohibited.
(2) A person who performs female circumcision or genital mutilation or engages another to carry out such circumcision or mutilation commits an offence and is liable on conviction to a term of imprisonment not exceeding 4 years or to a fine not exceeding N200,000.00 or both.
(3) A person who attempts to commit the offence provided for in subsection (2) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N100,000.00 or both.
(4) A person who incites, aids, abets, or counsels another person to commit the offence provided for in subsection (2) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding NJ 00,000.00 or both.

[…]

Forcefully ejection from home
9. (1) A person who forcefully evicts his or her spouse from his or her home or refuses him or her access commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N300,000.00 or both.
(2) A person who attempts to commit the offence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.
(3) A person who incites, aids, abets, or counsels another person to commit the offence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.
(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

[…]

[117] Violence Against Persons (Prohibition) Act (23 May 2015), available at http://lawnigeria.com/LawsoftheFederation/Violation-Against-Persons-%28Prohibition%29-Act%2C-2015.html (last visited December 30, 2018).

Damage to property with intent to cause Distress
11(1) A person who causes mischief or destruction or damage to property of another with intent to cause or knowing that it is likely to cause distress or annoyance to the victim, commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N300,000.00 or both.
(2) A person who attempts to commit the offence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.
(3) A person who incites, aids, abets, or counsels another person to commit the offence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.
(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

Forced financial dependence or economic abuse
12.(1) A person who causes forced financial dependence or economic abuse of another commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N500,000.00 or both.
(2) A person who attempts to commit the offence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding 1200,000.00 or both.
(3) A person who incites, aids, abets, or counsels another person to commit the offence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.
(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.

Forced isolation or separation from family and friends
13(1) A person who forcefully isolates or separates another from family and friends commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding NJ 00,000.00 or both.
(2) A person who attempts to commit the act of violence provided for in subsection(1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding N100,000.00 or both.
(3) A person who incites, aids, abets, or counsels another person to commit the offence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding N100,000.00 or both.
(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding NJ 00,000.00 or both.

Emotional, verbal and psychological abuse
14(1) A person who causes emotional, verbal and psychological abuse on another commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.
(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.
(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.
(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.

Harmful widowhood practices
15.(1) A person who subjects a widow to harmful traditional practices commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N500,000.00 or both.
(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.
(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.

Abandonment of children, spouse and other dependants without means of sustenance

16.(1) A person who abandons a wife or husband, children or other dependent without any means of sustenance commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 years or to a fine not exceeding N500,000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N200,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N200,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding NJ 00,000.00 or both.

Stalking

17.(1) A person who stalks another commits an offence and is liable on conviction to a of imprisonment not exceeding 2 years or to a fine not exceeding N500,000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to fine not exceeding N200,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection(1) of this section commits an offence and is liable on conviction to 0 term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000.00 or both.

Intimidation

18.(1) A person who intimidates another commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.

Spousal Battery

19.(1) A person who batters his or her spouse commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 years or to a fine not exceeding N200,000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

Harmful Traditional Practices

20.(1) A person who carries out harmful traditional practices on another commits an offence and is liable on conviction to a term of imprisonment not exceeding 4 years or to a fine not exceeding N500,000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N300.000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N300,000.00 or both.
(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 2 year or to a fine not exceeding N200,000.00 or both.

[…]

Incest [Schedule to the Act]
25. A person who knowingly and wilfully have carnal knowledge of another within the prohibited degrees of consanguinity and affinity contained in the Schedule to this Act with or without consent, commits incest and is liable on conviction to a minimum term of-
(a) 10 years imprisonment without an option of fine,
(b) where the two parties consent to commit incest, provided that the consent was not obtained by fraud or threat, 5 years imprisonment without an option of fine.

[…]

PART II -JURISDICTION OF THE COUT

Jurisdiction
27. Only the High Court of the Federal Capital Territory, Abuja empowered by an Act of Parliament shall have the jurisdiction to hear and grant any application brought under this Act

Application of Protection Order
28. (1) An application for a protection order may, be made before the High Court following a complaint of violence by the complainant and such order, if granted, shall be effective throughout the Federal Republic of Nigeria and no time limit or prescription shall apply in relation to a person seeking to apply for such protection order.
(2) Any complainant may, in the prescribed manner, apply to the Court for a protection order.
(3) If the complainant is not represented by counsel, the police officer with whom a complaint of violence has been lodged shall inform the complainant of the remedies he or she may be entitled to under this Act including the right to lodge a criminal complaint against the respondent if a criminal offence has been committed under this Act.
(4) Notwithstanding the provisions of any other law, the application may be brought on behalf of the complainant by any other person, including a police officer, a protection officer, an accredited service provider, a counsellor, health service provider, social worker or teacher who has interest in the well-being of the complainant.
Provided that the application shall be brought with the written consent of the complainant, except in circumstances where the complainant is -
(a) A minor;
(b) Mentally retarded;
(c) Unconscious; or
(d) A person who the court is satisfied is unable to provide the required consent.
(5) Notwithstanding the provisions of any other law, any minor, or any person on behalf of a minor, may apply to the Court for a protection order without the assistance of a parent guardian or any other person and supporting affidavit by persons who have knowledge of the matter concerned may accompany the application.
(6) The application and affidavits shall be filed in Court.

Consideration of Application
29.(1) The Court shall as soon as is reasonably possible, consider an application submitted to it under section 30 (6) of this Act and may, for that purpose, consider such additional evidence as it deems fit, including oral evidence or evidence by affidavit, which shall form part of the record of the proceedings.
(2) lf the Court is satisfied that there is prima facie evidence that the respondent is committing, has committed or that there is imminent likelihood that he may commit an act of domestic violence, the Court shall, notwithstanding the fact that the respondent has not been given notice of the proceedings contemplated in subsection (1) of this section, issue an interim protection order against the respondent, in the prescribed manner.
(3) An interim protection order shall be served on the respondent in the prescribed manner and must call on the respondent to show cause on the return date, specified in the order why a protection order should not be issued.

(4) A copy of the application referred to in section of this Act and the record of any evidence taken under subsection (1) of this section shall be served on the respondent together with the interim protection order.
(5) lf the Court does not issue an interim protection order under subsection (2) of this section, the Court shall direct the Registrar of the Court to cause certified copies of the application concerned and any supporting affidavit to be served on the respondent in the prescribed manner, together with a prescribed notice cal ling on the respondent to show cause on the return date, specified in the notice, why a protection order should not be issued.
(6) An interim protection order shall be served on the respondent in the prescribed manner and shall call on the respondent to show cause on the return date, specified in the order why a protection order, should not be issued.
(7) The return dates referred to in subsections (3) and (5) of this section may not be less than 5 days after service has been effected upon the respondent.

Issuing of Protection Orders
30. (1) If the respondent does not appear on a return date contemplated in section 29 (3) or (5) of this Act, and if the Court is satisfied that-
(a) proper service has been effected on the respondent, and
(b) the application contains a prima facie evidence that the respondent has committed, is committing or that there is an imminent likelihood that he may commit an act of domestic violence,
the court shall issue a protection order in the prescribed form.
(2) If the respondent appears on the return date in order to oppose the issuing of a protection order, the court shall proceed to hear the matter and consider -
(a) any evidence previously received under section 29 (1) of this Act; and
(b) such further affidavits or oral evidence as it may direct, which shall form part of the record of the proceedings.
(3) The Court may, on its own accord or on the request of the complainant, if it is of the opinion that it is just or desirable to do so, order that in the examination of witnesses, including the complainant, a respondent who is not represented by a legal practitioner-
(a) is not entitled to cross-examine directly a person who is in a domestic relationship with the respondent; and
(b) shall put any question to such a witness by stating the question to the Court, and the court is to repeat the question accurately to the witness.
(4) The Court shall, after a hearing as contemplated in subsection (2) of this section, issue a protection order in the prescribed form if it finds, on a balance of probabilities, that the respondent has committed, is committing or that there is an imminent likelihood that he may commit an act of domestic violence.
(5) Upon the issuing of a protection order, the Registrar of the Court shall, in the prescribed manner, cause-
(a) the original of such order to be served on the respondent; and
(b) a certified copy of such order, and the original warrant of arrest contemplated in section 33 (1) (a),
to be served on the complainant.
(6) The Registrar of the Court shall, in the prescribed manner, forward certified copies of any protection order and of the warrant of arrest contemplated in section 33 (1) (a) to the police station of the complainant's choice.
(7) Subject to the provisions of section 31 (7) of this Act, a protection order issued under this section remains in force until it is set aside, and the execution of such order shall not be automatically suspended upon the filing of an appeal.

Court’s Powers in Respect of Protection Orders
31 (1) The Court may, by means of a protection order referred to in section 48 or 29 of this Act, prohibit the respondent from-
(a) committing any act of domestic violence;
(b) enlisting the help of another person to commit any such act;
(c) entering a shared household provided that the court may impose this prohibition only if it appears to be in the best interests of the complainant;
(d) entering a specified part of such a shared household;
(e) entering the complainant's residence;
(f) entering the complainant's place of employment:
(g) preventing the complainant from entering or remaining in the shared household or a specified part of the shared household;
(h) alienating or disposing the shared household or encumbering same;
(i) renouncing his or her rights in the shared household except in favour of the complainant; or
(j) committing any other act as specified in the protection order.
(2) The Court may impose any additional condition, which it deems reasonably necessary to protect and provide for the safety, health or well-being of the complainant, including an order-
(a) to seize any arm or dangerous weapon in the possession or under the control of the respondent;

(b) that a police officer shall accompany the complainant to a specified place to assist with arrangements regarding the collection of personal property;
(c) directing the respondent to secure alternative accommodation for the complainant;
(d) order a temporal relocation to any safe place as may be deem fit in the interest of the complainant; or
(e) approve a mediation channel upon submission by the complainant.
(3) In ordering a prohibition under subsection 1 (c) of this section, the Court may impose on the respondent obligations as to the discharge of rent or mortgage payments having regard to the financial needs and resources of the complainant and the respondent.
(4) The Court may order the respondent to pay emergency monetary relief having regard to the financial needs and resources of the complainant and the respondent, and such order has the effect of a civil judgment of a court.
(5) The Court may issue any direction to ensure that the complainant's physical address is not disclosed in any manner, which may endanger the safety, health or well-being of the complainant.
(6) If the court is satisfied that it is in the best interests of any chi Id, it may-
(a) refuse the respondent contact with such child; or
(b) order contact with such child on such conditions as it may consider appropriate.
(7) The Court may not refuse to issue a protection order or impose any condition or make any order which it is competent to impose or make under this section, merely on the grounds that other legal remedies are available to the complainant.
(8) If the Court is of the opinion that any provision of a protection order deals with a matter that should, in the interests of justice, be dealt with further under any other relevant law, including the Matrimonial Causes Act, Cap. M7 Laws of the Federation, 2004, Child's Rights Act, the Court shall order that such a provision shall be in force for such limited period as the court determines, in order to afford the party concerned the opportunity to seek appropriate relief under such law.

Power of Police
32.(1) A police officer, at the scene of an incident of violence or as soon thereafter as reasonably possible or to whom a report of violence has been made, shall have the duty of -
(a) assisting a victim of violence to file a complaint regarding the violence;
(b) providing or arranging safe transport for the victim to an alternative residence, safe place or shelter where such is required;
(c) providing or arranging transportation for the victim to the nearest hospital or medical facility for treatment of injuries where such treatment is needed;
(d) explaining to the victim his or her rights to protection against violence and remedies available in terms of this Act;
(e) explaining to the victim that he or she has the right to lodge a criminal complaint in addition to any remedy provided under this Act; and
(f) accompanying the victim to victim's residence to collect personal belongings.
(2) A police officer may, without an order from the Court or a warrant of arrest, arrest any person whom-
(a) he or she suspects upon reasonable grounds to have committed any of the offences under Part 1 of this Act; and
(b) a complaint has been made for having committed any of the offences under Part l of this Act.
(3) A police officer in carrying out his or her duties under this Act shall have the power to -
(a) remove or supervise the removal of a person excluded from a shared residence where the court has issued such an order under this Act;
(b) remove or supervise the removal of any dangerous weapon used in order to commit an act of violence as contemplated in this Act;
(c) collect and store fingerprints including DNA of accused and convicted offenders; and
(d) perform any other act considered necessary in order to ensure the safety and well-being of the complainant.

Warrant of Arrest upon Issuing Protection Order
33. (1) Whenever a court issues a protection order, the court shall make an order-
(a) authorizing the issue of a warrant for the arrest of the respondent, in the prescribed form; and
(b) suspending the execution of such warrant subject to compliance with any prohibition, condition, obligation or order imposed under section 31 of this Act.
(2) The warrant referred to in subsection (1)(a) of this section remains in force unless the protection order is set aside, or it is cancelled after execution.
(3) The Registrar of the Court shall issue the complainant with a second or further warrant of arrest, if the complainant files an affidavit in the prescribed form in which it is stated that such warrant is required for her or his protection and that the existing warrant of arrest has been-
(a) executed or cancelled; or
(b) lost or destroyed.

(4) A complainant may hand the warrant of arrest together with an affidavit in the prescribed form, where it is stated that the respondent has contravened any prohibition, condition, obligation or order contained in a protection order, to any police officer.
(5) If it appears to the police officer concerned that, subject to subsection (5), there are reasonable grounds to suspect that the complainant may suffer imminent harm as a result of the alleged breach of the protection order by the respondent, the police officer shall forthwith arrest the respondent for allegedly committing the offence referred to in Part l of this Act.
(6) If the police officer concerned is of the opinion that there are insufficient grounds for arresting the respondent under subsection (5), he or she shall hand a written notice to the respondent which-
(a) specifies the name, the residential address and the occupation or status of the respondent;
(b) calls upon the respondent to appear before a court, and on the' date and at the time specified in the notice, on a charge of committing the offence referred to in section 31 (1); and
(c) contains a certificate signed by the police officer concerned to the effect that he or she handed the original notice to the respondent and that he or she explained the import thereof to the respondent.
(7) The police officer shall forward a duplicate original of a notice referred to in subsection (6) to the Registrar of the Court concerned, and the mere production in the Court of such a duplicate original shall be a prima facie proof that the original was handed to the respondent specified therein.
(8) In considering whether or not the complainant may suffer imminent harm, as contemplated in subsection (5), the police officer shall take into account the-
(a) risk to the safety, health or well-being of the complainant:
(b) seriousness of the conduct comprising an alleged breach of the protection order; and
(c) length of time since the alleged breach occurred.
(9) Whenever a warrant of arrest is handed to a police officer under subsection (4) (a) of his section, the police officer shall inform the complainant of his or her right to

Variation or Setting aside of Protection Order
34. (1) A complainant or a respondent may, upon written notice to the other party and the court concerned, apply for the variation or setting aside of a protection order referred to in section 30 in the prescribed manner.
(2) If the Court is satisfied that a good cause has been shown for the variation or setting aside of the protection order, it may issue an order to this effect, provided that the Court shall not grant such an application to the complainant unless it is satisfied that the application is made freely and voluntarily.
(3) The Registrar of the Court shall forward a notice as prescribed to the complainant and the respondent if the protection order is varied or set aside as contemplated in subsection (1) of this section.

Discharge
35. Where a protection order has been made, any of the following persons may apply to have it discharged-
(a) if the application for the order was made by a commissioner in respect of any dependent person by -
(i) the commissioner,
(ii) the person who brought the application, or
(iii) the respondent to that application;
(b) if the application for the order was made by a commissioner in any other case by virtue of section 28-
(i) the commissioner,
(ii) the person who was the applicant for the order, or
(iii) the respondent to that application;
(c) in any other case-
(i) the person who was the applicant for the order, or
(ii) the person who was the respondent to the application for the order and the Court, upon hearing any such application, shall make such order, as it considers appropriate in the circumstances.

Offences Relating to Protection Orders
36. (1) A respondent who contravened an interim protection order or a protection order, or while an interim protection order is in force, refuses to permit the applicant or any dependent person to enter and remain in the place to which the order relates or does any act for the purpose of preventing the applicant or such dependent person from so entering or remaining commits of an offence and is liable, on summary conviction, to a fine not exceeding N300,000.00 or to a term of imprisonment not exceeding 6 months both.
(2) The provisions of subsection (1) shall be without prejudice to any punishment or sanction as to contempt of court or any other liability, whether civil or criminal that may be incurred by the respondent concerned.

(3) A person who, in an affidavit referred to in this section, willfully makes a false statement in a material respect commits an offence and is liable on conviction to a fine of not exceeding N200,000.00 or, at the discretion of the Court, to a term of imprisonment not exceeding 6 months.

Application and Forms of Protection Order
37. The affidavit, application and forms of Protection Order referred to in this Part of the Act shall be in accordance with the Schedule to this Act.

Right of Victims
38 (1) In addition to the rights guaranteed under Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999, or any other international human rights instrument to which Nigeria is a party, every victim of violence, as defined in section 1 of this Act, is entitled to the following rights -
(a) to receive the necessary materials, comprehensive medical, psychological, social and legal assistance through governmental agencies 01 non-governmental agencies providing such assistance;
(b) to be informed of the availability of legal, health and social services and other relevant assistance and be readily afforded access to them;
(c) to rehabilitation and re-integration programme of the State to enable victims to acquire, where applicable and necessary, pre-requisite skills in any vocation of the victim's choice and also in necessary formal education or access to micro credit facilities;
(d) any rules and or regulations made by any institution or organization prohibiting or restraining the reporting of offences or complaint with the provisions of this Act, shall, to the extent of the inconsistencies be null and void: and
(e) no complainant of any offence under this Act shall be expelled, disengaged. suspended or punished in any form whatsoever by virtue of the action of compliance with the provisions of this Act.
(2) Any head of institution who violates the provisions of this subsection is guilty of an offence and is liable on conviction to a term of imprisonment for 6 months or a fine ofN200,000 or both.
(3) No person may be present during any proceedings under this Act except-
(a) officers of the Court:
(b) the parties to the proceedings;
(c) any person bringing an application on behalf of the complainant under section 28 (3):
(d) any legal practitioner representing any parry to the proceedings;
(e) accredited service provider;
(f) witnesses;
(g) not more than 3 persons for the purpose of providing support to the complainant;
(h) not more than 3 persons for the purpose of providing support to the respondent; and
(i) any other person whom the Court permits to be present provided that the court may, if it is satisfied that it is in the interests of justice, exclude any person from attending any part of the proceedings.
(4) Nothing in this section limits any other power of the Court to hear proceedings in camera or to exclude any person from attending such proceedings.

PART III - SERVICE PROVIDERS

Prohibition of Publication of certain Information
39.(1) No person shall publish in any manner any information which might, directly or indirectly, reveal the identity of any party to the proceedings.
(2) The Court if it is satisfied that it is in the interest of justice, may direct that any further information relating to proceedings held under this Act shall not be published provided that no direction under this subsection applies in respect of the publication of a bona fide law report which does not mention the names or reveal the identities of the parties to the proceedings or of any witness at such proceedings.
(3) A person who contravenes the provisions of this subsection commits an offence and is liable on conviction to a term imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

Registration and Powers of Service Providers
40(1) Subject to such rules as may be made, any voluntary association registered under the Companies and Allied Matters Act 1990 by the Corporate Affairs Commission or any other law for the time being in force with the objective of protecting the rights and interests of victims of violence by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.
(2) The appropriate Government Ministry shall-

(a) keep a register of all accredited service providers and circulate same to all police stations, protection officers and the courts; and
(b) draw up guidelines for the operation of the accredited service providers.
(3) A service provider so registered under subsection (1) shall have the power to-
(a) record the violence incidence report in the prescribed form if the aggrieved person so desires and forward a copy to the Magistrates and the Protection Officer having jurisdiction in the area where the violence took place;
(b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the locality of which the violence act took place; and
(c) ensure that the aggrieved person is provided shelter in a shelter home, if he or she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the Police station within the locality of which the violence act took place.
(4) No suit, prosecution or other legal proceeding shall lie against any service provider who is, or who is deemed to be acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of violence.

Protection Officers
41.(1) The appropriate Government Ministry shall appoint such number of protection officers in each Area Council as it may consider necessary, to assist the Court in the discharge of its duties under this Act to co-ordinate the activities of the police and the accredited service providers in his or her Area Council to ensure that the victims or survivors of violence-
(a) have easy access to accredited service providers:
(b) have easy access to transportation to an alternative residence or a safe shelter, the nearest hospital or medical facility for treatment, if the complainant so requires;
(c) are able to collect their belongings or properties from a shared household or her residence, if the complainant so requires;
(d) are able to access the court for orders under this Act; or
(e) have access to every possible assistance in the service of interim protection order on the respondent, and the enforcement of any order that may have been made by the court under this Act.
(2) The protection officer may, upon the failure of the respondent to make payment ordered by the Court under this Act, direct an employer or a debtor of the respondent or any bank in which the respondent operates any account, to directly pay to the complainant or deposit with Court a portion of the wages or salaries or debt due to or accrued to the credit of respondent or monies in any bank account operated by the respondent, which amount may be adjusted towards the emergency monetary relief payable by the respondent.

Coordinator for Prevention of Domestic Violence
42. The body vested with the enforcement of this Act shall appoint a person as the Coordinator for the prevention of domestic violence who shall submit annual report to the Federal Government on the implementation of this Act, a copy of which shall be deposited with the National Bureau for Statistics.

[...]

PART V -CONSEQUENTIAL AMENDMENT

General Savings and Repeal
45. (1) Any offence committed or proceedings instituted before the commencement of this Act under the provisions of the -
(a) Criminal Code, Cap. LFN, 2004
(b) Penal Code, Cap. LFN, 2004
(c) Criminal Procedure Code, Cap. LFN, 2004
(d) any other law or regulation relating to any act of violence defined by this Act shall as the case may require be enforced or continue to be enforced by the provisions of this Act.
(2) Any provision of the Act shall supersede any other provision on similar offences in the Criminal Code, Penal Code and Criminal Procedure Code.

PART VI - INTERPRETATION
Interpretation
46. In this Act-
"Abandonment of women, children and other persons" means deliberately leaving women, children and other persons. under the perpetrator's care, destitute and without any means of subsistence;

"accredited service provider" means governmental, non-governmental, faith based, voluntary and charitable associations or institutions providing shelter, homes, counseling, legal, financial, medical or other assistance to victims of domestic violence and are registered with the appropriate Government Ministry under the provisions of this Act;
"circumcision of a girl or woman" means cutting off all or part of the external sex organs of a girl or woman other than on medical ground;
"civil proceedings" means-
(a) proceedings for the making, variation or discharge of a protection order, safety order or interim protection order;
(b) proceedings by way of appeal or case stated which are related to proceedings to which paragraph (a) applies; or
(c) proceedings under this Act for compensation or award; "Court" means both the Magistrates Court and High Court;
“damage to property" means the wilful destruction or causing of mischief to any property belonging to a person or in, which a person has, a vested interest;
"dangerous weapon" means any instrument or machine directed toward a person with the intention of inflicting bodily harm on such person and includes a gun, knife, stick, whip or other household appliance capable of inflicting bodily harm on a person;
"domestic relationship" means a relationship between any person and a perpetrator of violence constituted in any of the following ways—
(a) they are or were married to each other, including marriages according to any law, custom or religion;
(b) they live or have lived together in a relationship in the nature of marriage, although they are not or were not married to each other;
(c) they are the parents of a child or children or are the persons who have or had a parental responsibility for that child or children:
(d) they are family members related by consanguinity, affinity or adoption;
(e) they are or were in an engagement, dating or customary relationship, including actual or perceived romantic, intimate or sexual relationship of any duration; or
(f) they share or recently shared the same residence.
"domestic violence" means any act perpetrated on any person in a domestic relationship where such act causes harm or may cause imminent harm to the safety, health or well being of any person;
"economic abuse" means -
(a) forced financial dependence;
(b) denial of inheritance or succession rights,
(c) the unreasonable deprivation of economic or financial resources to which any person is entitled or which any person requires out of necessity, including -
(i) household necessities,
(ii) mortgage bond repayments, or
(iii) payment of rent in respect of a shared residence; or
(d) the unreasonable disposal or destruction of household effects or other property in which any person has an interest;
"emergency monetary relief' means compensation for monetary losses suffered by any person arising from an act of violence and does not in any way constitute a maintenance order, including -
(a) loss of earnings;
(b) medical and dental expenses;
(c) relocation and accommodation expenses; (d) household necessities; or
(e) legal fees related to obtaining and serving the protection order.
"emotional, verbal and psychological abuse" means a pattern of degrading or humiliating conduct towards any person, including -
(a) repeated insults,
(b) ridicule or name calling;
(c) repeated threats to cause emotional pain; or
(d) the repeated exhibition of obsessive possessiveness, which is of such a nature as to constitute a serious invasion of such person's privacy, liberty, integrity or security;
“forced isolation from family and friends" includes preventing a person from leaving the home or from having contact with family, friends or the outside community;
"harassment" means engaging in a pattern of conduct that induces fear of harm or impairs the dignity of a person including –
(a) stalking:
(b) repeatedly making telephone calls or inducing another person to make telephone cal Is to a person, whether or not conversation ensues; and
(c) repeatedly sending, delivering or causing delivery of information such as letters, telegrams, packages, facsimiles, electronic mail, text messages or other objects to any person;

"harmful traditional practices" means all traditional behaviour, attitudes or practices, which negatively affect the fundamental rights of women, girls, or any person and includes harmful widowhood practices, denial of inheritance or succession rights, female genital mutilation or female circumcision, forced marriage and forced isolation from family and friends:
"incest" means an indecent act or an act which causes penetration with a person who is, to his or her knowledge, his or her daughter or son, granddaughter or son, sister or brother, mother or father, niece or nephew, aunt/uncle, grandmother or granduncle;
"indecent exposure" means the intentional exposure of the genital organs, or a substantial part thereof, with the intention of causing distress to the other party;
"intimidation" means the uttering or conveying of a threat or causing any person to receive a threat, which induces fear, anxiety or discomfort;
"perpetrator" means any person who has committed or allegedly committed an act of violence as defined under this Act;
"persons" in this Act is as defined in the Interpretation Act under section 18, Cap. 192, Laws of the Federation of Nigeria, 2004;
"physical abuse" means acts or threatened acts of physical aggression towards any person such as slapping, hitting, kicking and beating;
[…]
"protection officer" means an officer appointed under section 39 of this Act in relation to and for the purpose of this Act;
"protection Order" means an official legal document, signed by a Judge that restrains an individual or State acto-rs from further abusive behaviour towards a victim;
"sexual abuse" means any conduct which violates, humiliates or degrades the sexual integrity of any person;
"sexual assault" means the intentional and unlawful touching, striking or causing of bodily harm to an individual in a sexual manner without his or her consent;
"sexual exploitation" occurs where a perpetrator, for financial or other reward, favour or compensation invites, persuades, engages or induces the services of a victim, or offers or performs such services to any other person;
"sexual harassment" means unwanted conduct of a sexual nature or other conduct based on sex or gender which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment and this may include physical, verbal or non-verbal conduct;
"Sexual intimidation" means -
(a) any action or circumstances which amount to demand for sexual intercourse with either a male or a female under any guise, as a condition for passing examination, securing employment, business patronage, obtaining any favour in any form, as defined in this Act or any other enactment;
(b) the actual demand for sexual intercourse with either a male or female under any guise, as a condition for passing examination, securing employment, business patronage and or obtaining any favour m any form, as defined in this Act or any other enactment;
(c) acts of deprivation, withholding, replacing or short-changing of entitlements, privileges, rights, benefits, examination or test marks or scores, and any other form of disposition capable of coercing any person to submit to sexual intercourse for the purpose of receiving reprieve thereto; or
(d) any other action or inaction construed as sexual intimidation or harassment under any other enactment in force in Nigeria.
"spouse" means husband or wife as recognised under the Matrimonial Causes Act, Islamic and Customary Law;
"spousal battery" means the intentional and unlawful use of force or violence upon a person, including the unlawful touching, beating or striking of another person against his or her will with the intention of causing bodily harm to that person:
"stalking" means repeatedly -
(a) watching, or loitering outside of or near the building or place where such person resides, works, carries on business, studies or happens to be; or
b) following, pursuing or accosting any person in a manner which induces fear or anxiety;
"State actors" means group of persons; structured or organised institutions and agencies;
"substance attack" means the exposure of any person to any form of chemical, biological or any other harmful liquid with the intention to cause grievous bodily harm, which includes acid attack, hot water, or oil;
[…]
"victim" -
(a) means any person or persons, who, individually or collectively, have suffered harm, including-
(i) physical or mental injury,
(ii) emotional suffering,
(iii) economic loss, or
(iv) substantial impairment of their fundamental rights, through acts or omissions that are in violation of this Act or the criminal laws of the country; and
(b) includes the immediate family or dependants of the direct victim and any other person who has suffered harm in intervening to assist victims in distress;

"violence" means any act or attempted act, which causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm whether this occurs in private or public life, in peace time and in conflict situations:
"violence in the private sphere" means any act or attempted act perpetrated by a member of the family, relative, neighbour or member of a community, which causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm;
"violence in the public sphere" means any act or attempted act perpetrated by the State or non-State actors before, during and after elections, in conflict or war situations, which threatens peace, security and well-being of any person or the nation as a whole;
[…]
"vulnerable groups" means women, children, persons Jiving under extreme poverty, persons with disability, the sick and the elderly, ethnic and religious minority groups, refugees, internally displaced persons, migrants and persons in detention.
47. This Act applies only to the Federal Capital Territory, Abuja.
48. This Act may be cited as the Violence Against Persons (Prohibition) Act, 2015.

47. NORWAY

Criminal Code, 2005 (As amended)[118]

Arts. 283, 284 (on maltreatment and severe maltreatment in close relationships)

Criminal Procedure Act, 1981 (As amended) [119]

Section 222 (a) (on protection orders)

48. PAKISTAN

48.1. BALOCHISTAN PROVINCE

The Balochistan Domestic Violence (Prevention and Protection) Act, 2014 [120]

[…]

AN ACT to make provisions for protection against domestic violence.

Preamble.
WHEREAS the Constitution recognizes the fundamental rights of women and men to dignity of person;

AND WHEREAS it is expedient to institutionalize measures which prevent and protect women and children from domestic violence and for matters connected therewith or incidental thereto;

It is hereby enacted as follows: —

Short title, extent and commencement.

1. (1) This Act may be called the Balochistan Domestic Violence (Prevention and Protection) Act, 2014.
(2) It extends to the whole of Balochistan, except Tribal Areas.
(3) It shall come into force at once.

Definitions
2. In this Act, unless there is anything repugnant in the subject or context,—

[118] Criminal Code, Act No. 28 (May 20, 2005, consolidated version of 2017), available at http://www.wipo.int/wipolex/en/details.jsp?id=17417 (last visited December 30, 2018).
[119] Criminal Procedure Act (No. 25 of 22 May 1981), Part IV Coercive measures (July 1994 No. 50, amended by Act No. 9 of 1998), available at https://lovdata.no/dokument/NL/lov/1981-05-22-25/KAPITTEL_4-12#%C2%A7222a (last visited December 30, 2008).
[120] The Balochistan Domestic Violence (Prevention and Protection) Act, Act No. VII (12 February 2014), available at http://www.pabalochistan.gov.pk/uploads/acts/2014/Act072014.pdf (last visited December 30, 2018).

(a) "aggrieved person" means any woman, child, man or any vulnerable person who is or has been in a domestic relationship with the accused and who alleges to have been subjected to any act of domestic violence by the accused;

(b) "accused" means a person who is or has been in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act;

(c) "child" means any person under the age of eighteen years living in a domestic relationship with the accused and includes any adopted, step or foster child;

(d) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);

(e) “court” means the court of Sub Divisional Magistrate having the powers of first class Magistrate;

(f) "domestic relationship" means a relationship between persons who live, or have, at any point of time, lived together in a household when they are related by consanguinity, marriage, kinship, adoption, employment, domestic help or are family members living together as a joint family;

(a) “domestic violence” has the same meaning as assigned to it in section 4;

(b) “Family Conci1atory Committee” means the Coxnmi4 for conciliation, constituted. under the ‘ Balochistan ,Local Government Act, 2010 (Act No. V of 2010);

(c) “Government” means Government of Balochistan

(d) “harassment” means any course of conduct that evokes a fear of harm to the aggrieved person;

(e) “household” means ‘a household where the aggrieved person. lives or at any stage has lived in a domestic relationship either singly or along with the accused and includes such a household whether owned or tenanted either jointly by the aggrieved person and the accused or owned and tenanted by either of them, any such household in respect of which either the aggrieved person or the accused or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the accused is a member, irrespective of whether the accused or the aggrieved person has right, title, interest in such a shard household;

(f) “Local Government Act” means the Balochistan ‘ Local Government Act, 2010 (Act No. V of 2010);

(g) “monetary relief” means a monetary relief which a, court may order under section 9; .., ,.

(h) “notification” means a notification published in the Official Gazette;

(i) “prescribed” means prescribed by the rules made under this Act,

(j) “Protection Officer” means an officer appointed by the Government under section18,

(k) “Protection Committee” means a Committee constituted under section 14,

(l) “Protection order’ means an order granted in terms of section 8;

(m) “residence order” means an order granted in terms of section 8,

(n) “service provider” means any such government facility or registered voluntary organization established for the protection of aggrieved person m a household by any means including legal, medical, financial or any other assistance, and

(o) “vulnerable person” means a person who is vulnerable due to old age, mental illness or handicap or physical disability or other special reason or domestic help, or employment as a domestic servant.

(2). Words and phrases not defined in this Act shall have the meanings as described thereto in the Pakistan Penal Code, 1898 (Act XLV of 1898) and the code of Criminal Procedure, 1860, (Act V of 1860).

Duty of Government to ensure effective implementation of the Act.

3. The Government shall ensure that.-

(a) this Act and the contents thereof receive wide publicity through electronic and print media in Urdu and local languages;

(b) The government officers, the police and the members of the judicial service are given periodic sensitization and awareness training on the issues addressed by this Act; and

(c) effective measures are taken by the concerned Departments to address the issue of domestic violence and that the same are periodically revised.

Domestic Violence.

4. Domestic Violence includes but is not limited to, all intentional acts of gender based or other physical or psychological abuse committed by an accused against women, children or other vulnerable persons with whom the accused is or has been in a domestic relationship including but not limited to.-

(a) “assault” as defined in section 351 of the Pakistan Penal Code (Act XLV of 1860) hereinafter referred to in this section “as the said Code”;

(b) “attempt” as defined in section 511 of the said Code to commit any of the offences enumerated in this section;

(c) “criminal force” as defined in section 350 of the said Code;

(d) “criminal intimidation” as defined in section 503 of the said Code;

(e) “economic abuse” includes deprivation of economic or financial resources or prohibition or restriction to continued access to such resources which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including but not limited to household necessities for the aggrieved person and her children, any property jointly or separately owned by the aggrieved person, payment of rental related to the house hold, and maintenance;

(f) entry into aggrieved person’s residence without his or her consent, where the parties do not share the same residence;

(g) “harassment” as defined in section 2(1) clause (j) of this Act;

(a) “hurt as defined in section 332 of the said Code;

(b) “mischief” as defined in section 425 of the said Code against the property of the aggrieved person;

(c) “physical abuse” means any act or conduct which is of such a nature as to cause bodily pain, harm or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal force and criminal intimidation;

(k) “stalking” includes, but is not limited to-

(i) following, pursing or accosting the aggrieved person against his or her wishes; and

(ii) watching or loitering outsides or near the building or place where the aggrieved person resides or works for gains or carries on business or visits frequently;

(I) “ sexual abuse” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the aggrieved person;

(m) " verbal and emotional abuse" means any or persistent degrading or humiliating conduct of the accused towards the aggrieved person, including but not limited to-

(i) insults or ridicule;
(ii) threat to cause physical pain; and
(iii) threat of malicious prosecution;

(n) willful or negligent abandonment of the aggrieved person;

(o) "wrongful confinement" as defined in section 340 of the said Code; and

(p) Any other repressive or abusive behavior towards the aggrieved person where such a conduct harms or may cause imminent danger of harm to the safety, health or well-being of the aggrieved person.

Application to the Court.

5. (1) An aggrieved person or any other person authorized by the aggrieved person in writing in this behalf may present an application to the Court within whose jurisdiction offence was Committed for seeking any relief under this Act.

(2) The application under sub-section (1) shall be in such form and contain particulars as may be prescribed or as nearly as possible thereto.

(3) The court shall fix the first date of hearing, which shall not exceed three days from the date of the receipt of the application by the court.

(4) The application made under sub-section (1) shall be disposed Counseling. of within a period of thirty days and any adjournment given during the hearing of the application shall be granted for reasons to be recorded in writhing by the Court.

(5) For purpose of trial under this Act, the Court shall follow the procedure specified in Chapter XX of the Code.

Counseling.

6. (1) The court, at any stage of the proceedings under this Act, may direct the accused to undergo mandatory counseling with an appropriate service provider.

(2) Where the court has issued any direction under sub-section (1), it shall fix the next date of hearing of the case within a period not exceeding thirty days.

Right to reside in a household.

7. (1) Notwithstanding anything contained in any other law for the time being in force, the aggrieved person shall not be evicted from the household without consent, whether or not he or she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted from the household or any part of it by the accused save in accordance with law:

Provided that where the domestic relationship is based on employment or domestic help, the provisions of this section shall not apply

Passing of protection orders and residence orders

8. (1) The court on being satisfied that domestic violence has taken place may pass a protection order in favour of the aggrieved person and prohibit the accused from-

(a) committing any act of domestic violence;

(b) aiding or abetting in the commission of acts of domestic violence;

(c) entering the place of employment of the aggrieved person or, if the aggrieved person is a child, his or her educational institution or any other place frequented by the aggrieved person;

(d) attempting to communicate in any form, whatsoever with the aggrieved person, including personal, oral or written electronic or telephonic or mobile phone contact;

(e) causing violence to the dependants, other relatives or any person who gives the aggrieved person assistance against domestic violence; and

(f) committing any other act as specified in the protection order.

(2) In addition to the order under sub-section (1), or otherwise, the court on being satisfied that domestic violence has taken place may pass a residence order to -

(a) restrain the accused from dispossessing or in any other manner disturbing the possession of the aggrieved person from the household;
(b) restrain the accused or any of his relatives from entering the household; and
(c) direct the accused to secure alternative accommodation for the aggrieved person or if the circumstances so require to pay rent for the same.

(3) The court may impose any additional conditions or pass any other direction which it may deem reasonably necessary to protect and provide for the safety of the aggrieved person or any child of such aggrieved person.
(4) The court may require from the accused to execute a bond, with or without sureties, for preventing the commission of domestic violence.

(5) While making an order under sub-sections (1), (2) or (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist the aggrieved person or the person making an application on his or her behalf in the implementation of the order.

(6) While making an order under sub-section (2), the court may impose on the accused obligations relating to the discharge of rent or other payments, having regards to the financial needs and resources of the parties.

(7) The court may direct the officer in charge of the police station in whose jurisdiction the court has been approached to assist in the implementation of the protection order.

(8) The court may direct the accused to return to the possession of the aggrieved person any property or valuable security to which she is entitled to.

(9) The court shall in all cases where it has passed any order under this section, order that a copy of such order, shall be given to the parties to the application, the officer in charge of the police station in the jurisdiction of which the court has been approached as well as to the service provider located within the local limits of the jurisdiction of the court:

Provided that where the domestic relationship is based on employment or domestic help the provisions of this section shall not apply.

Monetary relief.

9. (1) The court may, at any stage of the trial on an application by the aggrieved person, direct the accused to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and such relief may include, but is not limited to-
(a) Loss of earning;

(b) medical expense;

(c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and

(d) the maintenance for the aggrieved person as well her children, if any , including an order under or in addition to an order of maintenance under family laws.

(2) The accused shall pay monetary relief to the person aggrieved within the period specified in the order made in terms of sub-section (1) and in accordance with terms thereof.
(3) The court may, upon failure on part of the accused to make payment in terms of the order under sub-section (2) direct an employer or debtor, of the accused, to directly pay the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the accused, which amount may be adjusted towards the monetary relief payable by the accused.
Custody orders

10. The court may, at any stage of the application for protection order or for any other relief under this Act grant temporary custody of an aggrieved person who is;

(a) a child to a person under the Guardians and Wards Acts 1890(VIII of 1890); and

(b) an adult to a service provider in accordance with the will of the aggrieved person to some other person:

Provided that in any case where a complaint of sexual abuse of a child has been made and the court is prima facie satisfied that such allegation is true, the court shall grant custody to the aggrieved person or the person making an application on his or her behalf and no order for arrangements for visitation by the accused shall be made.

Provided further that where the domestic relationship is based on employment or domestic help, the provisions of this section shall not apply.

Power to grant interim order

11. (1) In any proceeding before him under this Act, the court may pass such interim order as it deems just and proper.

(2) If the court is satisfied that an application prima facie discloses that the accused is committing, or has committed an act of domestic violence or that there is a likelihood that the accused may commit an act of domestic violence, it may issue order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under sections 8, 9 and 10 against the accused.
Duration and alteration of protection and residence orders.

12. (1) The protection order made under section 8 shall remain in force until the aggrieved person applies for discharge of such order.

(2) If the court on receipt of an application from the aggrieved person or the accused, is satisfied that there is a change in the circumstance requiring alteration, modification or revocation of any order made under this Act, it may, for reasons to be recorded in writing pass such order, as it may deem appropriate.

(3) The residence order shall remain in force until such time it is altered.

(4) Nothing contained in sub-section (1) or sub-section (2) shall prevent an aggrieved person from applying for an order under sections 8, 9 and 10 notwithstanding that an order under these sections has been previously refused, if sufficient cause is made out for the grant of such an order.

(5) Nothing contained in sub-sections (1) and (2) shall prevent aggrieved person from making a fresh application after the previous order has been discharged.

Penalty for Breach of protection order by the accused.
13. (1) A breach of protection order, or of the interim protection order, by the accused shall be an offence and shall be punished with imprisonment which may extend to one year but shall not be less than six months and with fine which may not be less than one hundred thousand rupees. The court shall order that the amount of fine shall be given to the aggrieved person.

(2) A person who is guilty of violation of protection order second or third time or more, he shall be punished with imprisonment which may extend to two years but shall not be less than one year and also be liable to fine which may not be less than two hundred thousand rupees. The court shall order that the amount of fine shall be given to the aggrieved person.

(3) Notwithstanding anything contained in the Code the offence under this section shall be cognizable, non-bailable and compoundable.

(4) Any person convicted by a court under sub-section (1) or subsection (2) may file an appeal to the court of Session within thirty days of the passing of the order of sentence and the court of sessions shall decide the appeal within sixty days.

Protection Committee.

14. (1) The Provincial Government shall, by notification constitute a Protection Committee in every Tehsil for the purposes of this Act.

(2) A Protection Committee shall comprise of a Tehsildar, a Head Mistress and two prominent women from the concerned Tehsil and the Protection Officer who shall also act as the Secretary of the Protection Committee.

Duties and functions of Protection Committee.

15. The Protection Committee may;

(a) inform the aggrieved person of her or his rights provided under this Act or any other law for the time being in force and the remedies and the help that may be provided;

(b) assist the aggrieved person in obtaining any medical treatment necessitated due to the domestic violence;

(c) if necessary, and with the consent of the aggrieved person, assist the aggrieved person in relocating to a safer place acceptable to the aggrieved person, which may include the house of any relative or family friend or other safe place, if any , established by a service provider;

(d) assist the aggrieved person in the preparation of and filing of any application or report under this Act, the Code or any other law for the time being in force;

(e) file an application for a protection order, if so desired by the aggrieved person;

(f) coordinate with Family Conciliatory Committee in performing its duties; and

(g) keep official record of the incidents of domestic violence in its area of jurisdiction, whether on the basis of information received or suo moto inquiry, irrespective of whether or not action is taken under this Act. Such record shall include:

i. the first information received about the incident of domestic violence;
ii. the assistance, if any, offered or provided by the Protection Committee to the aggrieved person;
iii. where applicable the reason for not taking action under this Act when an incident was brought to the notice of the Protection Committee;
iv. where applicable, the reason for the aggrieved person refusal to take assistance from the Protection Committee;
v. the names and contact details of the service provider, if any, from whom the aggrieved person sought help;
vi. maintenance of the record of applications, protection orders and the service providers operating in the area of jurisdiction; and
vii. perform any other duties that may be assigned to the Protection Committee under this Act or the rules made there under.

Powers, privileges and immunities of Protection Committee.

16. (1) Members of the Protection Committee shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860)

(2) The Protection Committee may file an application for obtaining a protection order under section 8, if so desired by the aggrieved person.
(3) The Protection Committee may procure the assistance of any person or authority; and any person or authority so required by the Protection Committee, shall be under legal obligation to provide the desired assistance to the Protection Committee.

(4) The Members of the Protection Committee shall attend the meetings of the committee. The quorum for the meeting of the Committee shall be two-third of its members

Delegation of Functions and powers.

17. The Protection Committee may delegate any of its functions and powers to any of its member or members.

Protection Officer.

18. (1) The Provincial Government shall, by notification in the official Gazette, appoint an officer not below the rank of grade 17, to act as Protection Officer in each Tehsil, for the purposes of this Act.

(2) The Protection Officer shall possess such qualifications and experience as may be prescribed.

(3) The terms and conditions of service of the protection Officer shall be such as may be prescribed.

Duties of Protection Officer.

19. It shall be the duty of the Protection Officer;

(a) to make a domestic incident report to the Protection Committee, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the Protection Committee within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;

(b) to make an application in such form and in such manner may be prescribed to the court, if the aggrieved person so desires, claiming relief for issuance of a protection order; Assistance of service provider. Powers of Service Provider. Procedure.

(c) to ensure that the aggrieved person is provide legal aid;

(d) to maintain a list of all service providers providing legal aid or counseling, shelter homes and medical facilities in a local area within the jurisdiction of the court;

(e) to make available a safe place of residence, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person a shelter home to the Protection Committee;

(f) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the Protection Committee having jurisdiction in the area where the domestic violence is alleged to have been taken place;

(g) to ensure that the order for monetary relief under section 10 is complied with and executed in accordance with the procedure prescribed; and

(h) to perform such other duties as may be prescribed.

Assistance of Service Provider.

20. (1) In any proceeding under this Act, the court may secure the services of a service provider.

(2) Service provider shall have all the privileges and immunities enjoyed by the Protection Committee.
Powers of Service Provider.

21. A service provider shall have the power to –

(a) record the domestic incident in a prescribed form if the aggrieved person so desires, and forward a copy thereof to the Protection Officer having jurisdiction in the area where the domestic violence took place;

(b) get the aggrieved person medically examined and forward a copy of the medical report to the protection Officer within the local limits of which the domestic violence took place;

(c) ensure that the aggrieved person is provided shelter in a safe place of residence, if she so requires and forward a report of the lodging of the aggrieved person in a safe place of residence to the protection Committee within the local limits of the place where the domestic violence took place; and

(d) provide the aggrieved person with any aid or assistance he may so require

Procedure.

22. Save as otherwise provided in this Act, all proceeding specially under sections 8, 9 and an offence under section 16 shall be governed by the Code

Protection of Actions taken in good faith.

23. No suit, prosecution or other legal proceedings shall lie against any Protection Committee, Protection Officer or service provider for anything which is in good faith done or purported to be done under this Act.

Act not in derogation of any other law.

24. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Penalty for filing a false Complaint.

25. Whoever gives an application to the court containing information about the commission of domestic violence which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

Revision.

26. Chapter XXXII of the Code shall apply to an order passed under sections 8,9 and 10.

Power to make rules.

27. (1) The Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely;

(a) the form in which an application by the aggrieved person under sub-section (1) of section 5 seeking relief under this Act, may be made and the particulars which such application shall contain under sub-section (2) of that section; and
(b) the form in which an affidavit may be filed by the aggrieved person under sub-section (2) of section 11.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Government may make rules for the appointment and functioning of the Protection Committees and Protection Officers.

Removal of difficulties.

28. If any difficulty arises in giving effect to any provision of this Act, the Government may make san order not inconsistent with the provisions of this Act to remove the difficulty.
[…]

48.2. PUNJAB PROVINCE

The Punjab Protection of Women Against Violence Act, 2016[121]

[…]

An Act to establish an effective system of protection, relief and rehabilitation of women against violence.

Since the Constitution of the Islamic Republic of Pakistan, while guaranteeing gender equality, enables the State to make any special provision for the protection of women, it is necessary to protect women against violence including domestic violence, to establish a protection system for effective service delivery to women victims and to create an enabling environment to encourage and facilitate women freely to play their desired role in the society, and to provide for ancillary matters;

Be it enacted by Provincial Assembly of the Punjab as follows:

1. Short title, extent and commencement.– (1) This Act may be cited as the Punjab Protection of Women against Violence Act 2016.

(2) It extends to the whole of the Punjab.

(3) It shall come into force on such date as the Government may, by notification, specify and different dates may be so specified for various areas in the Punjab.

2. Definitions.– (1) In this Act:

(a) "aggrieved person" means a female who has been subjected to violence by a defendant;

(b) "Committee" means a District Women Protection Committee established under the Act;

(c) “Code” means the Code of Criminal Procedure, 1898 (V of 1898);

(d) “Court” means the Family Court established under the Family Courts Act, 1964 (XXXV of 1964);

(e) “dependent child” means a male child who is below the age of twelve years of age and includes any adopted, step or foster child;

(f) “District Coordination Officer” means the District Coordination Officer of the district;

(g) “District Women Protection Officer” means the District Women Protection Officer appointed under the Act;

(h) “domestic violence” means the violence committed by the defendant with whom the aggrieved is living or has lived in a house when they are related to each other by consanguinity, marriage or adoption;

(i) “Government” means Government of the Punjab;
(j) “house” includes a place where the aggrieved person lives in a domestic relationship irrespective of right to ownership or possession of the aggrieved person, defendant or joint family;

(k) “prescribed” means prescribed by rules made under the Act;

(l) “Protection Centre” means a Violence against Women Centre established under the Act;

(m) “protection system” means the protection system constituted under the Act and includes a Committee, a Protection Centre and a shelter home established under the Act;

(n) "defendant" means a person against whom relief has been sought by the aggrieved person;

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[121] The Punjab Protection of Women Against Violence Act, No. 16 (29 February 2016), available at http://punjablaws.gov.pk/laws/2634.html (last visited December 30, 2018).

(o) “resident” means a woman residing in a shelter home or a dependent child of such woman residing with her in the shelter home or a child residing in a shelter home;

(p) “rules” means the rules made under the Act;

(q) “shelter home” means a premises established or licensed by the Government under the Act to provide board and lodging and rehabilitation services to the aggrieved persons, other women and their children;

(r) “violence” means any offence committed against the human body of the aggrieved person including abetment of an offence, domestic violence, sexual violence, psychological abuse, economic abuse, stalking or a cybercrime;

Explanations.- In this clause:

(1) “economic abuse” means denial of food, clothing and shelter in a domestic relationship to the aggrieved person by the defendant in accordance with the defendant’s income or taking away the income of the aggrieved person without her consent by the defendant; and

(2) “psychological violence includes psychological deterioration of aggrieved person which may result in anorexia, suicide attempt or clinically proven depression resulting from defendant’s oppressive behaviour or limiting freedom of movement of the aggrieved person and that condition is certified by a panel of psychologists appointed by District Women Protection Committee; and

(s) “Women Protection Officer” means a Women Protection Officer appointed under the Act.

(2) A word or expression not defined in the Act shall have the same meaning as assigned to it in the Code or the Pakistan Penal Code, 1860 (XLV of 1860).

3. Measures for the implementation of the Act.– (1) The Government shall:

(a) institute a universal toll free dial-in-number for the aggrieved persons;

(b) establish Protection Centres and shelter homes under a phased programme;

(c) appoint necessary staff at a Protection Centre for mediation and reconciliation between the parties, rescue, medical examination, medical and psychological treatment and legal help of the aggrieved persons and proper investigation of offences committed against aggrieved persons;

(d) arrange for wide publicity of this Act and the protection system in Urdu and, if necessary, in local languages;

(e) institute a mechanism for the periodic sensitization and awareness of the concerned public servants about the issues involving women and the requirements of protection and relief of the aggrieved persons; and

(f) take other necessary measures to accomplish the objective of the Act.

(2) The Government shall establish a data-base and software for timely service delivery and monitoring and evaluation mechanism in the prescribed manner with a view to achieving the objectives of the Act and, where necessary, shall introduce necessary reforms for the purpose.

4. Complaint to Court.– (1) An aggrieved person, or a person authorized by the aggrieved person or the Women Protection Officer may submit a complaint for obtaining a protection, residence or monetary order in favour of the aggrieved person in the Court within whose jurisdiction:

(p) the aggrieved person resides or carries on business;

(b) the defendant resides or carries on business; or

(c) the aggrieved person and the defendant last resided together.

(2) The Court shall proceed with the complaint under this Act and the Court shall fix the first date of hearing which shall not be beyond seven days from the date of the receipt of the complaint by the Court.

(3) On receipt of the complaint, the Court shall issue a notice to the defendant calling upon him to show cause within seven days of the receipt of notice as to why any order under the Act may not be made and if the defendant fails to file a reply within the specified time, the Court, subject to service of the notice on the defendant, shall assume that the defendant has no plausible defense and proceed to pass any order under this Act.

(4) The Court shall finally decide the complaint within ninety days from the date of the receipt of the complaint, as nearly as possible, under Chapter XXII of the Code relating to the summary trials.

5. Right to reside in house.– Notwithstanding anything contained in any other law, the aggrieved person, who is the victim of domestic violence:

(a) shall not be evicted, save in accordance with law, from the house without her consent or if wrongfully evicted, the Court shall restore the position maintaining before the eviction of the aggrieved person if the aggrieved person has right, title or beneficial interest in the house; or

(q) may choose to reside in the house, or in an alternative accommodation to be arranged by the defendant as per his financial resources, or in a shelter home.

6. Interim order.– (1) Pending proceedings under this Act, the Court may, at any stage of the complaint, pass such interim order as it deems just and proper.

(2) If the Court is satisfied that the complaint prima facie shows that the defendant has committed an act of violence or is likely to commit an act of violence, it may issue an order on the basis of an affidavit of the aggrieved person or any other material before the Court.

7. Protection order.– (1) If the Court is satisfied that any violence has been committed or is likely to be committed, the Court may pass a protection order in favour of the aggrieved person and direct the defendant:

(a) not to have any communication with the aggrieved person, with or without exceptions;

(b) stay away from the aggrieved person, with or without exceptions;

(c) stay at such distance from the aggrieved person as may, keeping in view the peculiar facts and circumstances of the case, be determined by the Court;

(d) wear ankle or wrist bracelet GPS tracker for any act of grave violence or likely grave violence which may endanger the life, dignity or reputation of the aggrieved person;

(e) move out of the house in case of an act of grave violence if the life, dignity or reputation of the aggrieved person is in danger;

(f) surrender any weapon or firearm which the defendant lawfully possesses or prohibit the defendant from purchasing a firearm or obtaining license of a firearm;

(g) refrain from aiding or abetting an act of violence;

(h) refrain from entering the place of employment of the aggrieved person or any other place frequently visited by the aggrieved person;

(i) refrain from causing violence to a dependent, other relative or any person who provides assistance to the aggrieved person against violence; or

(j) refrain from committing such other acts as may be specified in the protection order.

(2) The Court may issue one or more directions contained in subsection (1) even if the aggrieved person has not prayed for such direction and may, keeping in view the peculiar facts and circumstances of the case, specify the period for which the protection order shall remain operative.

(3) The Court may impose any additional conditions or pass any other direction which it may deem reasonably necessary to protect and provide for the safety of the aggrieved person or any dependent child of the aggrieved person.

(4) The Court may require the defendant to execute a bond, with or without sureties, for preventing the commission of violence.

(5) While making an order under this section or section 8, the Court may, pass an order directing the Women Protection Officer to provide protection to the aggrieved person or to assist the aggrieved person or the person making a complaint on behalf of the aggrieved person.

(6) The Court may direct the police to assist the Women Protection Officer in the implementation of the protection or residence order.

8. Residence order.– (1) The Court, in case of domestic violence, may in addition to any order under section 7, pass a residence order directing that:

(a) the aggrieved person shall not be evicted, save in accordance with law, from the house;

(b) the aggrieved person has the right to stay in the house;

(r) the aggrieved person may be relocated from the house to the shelter home for purposes of relief, protection and rehabilitation;

(s) the defendant shall deliver the possession of any property or documents to the aggrieved person to which the aggrieved person is entitled;

(t) the defendant or any relative of the defendant is restrained from entering the shelter home or place of employment or any other place frequently visited by the aggrieved person; or

(f) shall arrange an alternative accommodation for the aggrieved person or to pay rent for the alternative accommodation.

(2) The Court may, keeping in view the peculiar facts and circumstances of the case, issue one or more directions contained in subsection (1) even if the aggrieved person has not prayed for such direction and may specify the period for which the residence order shall remain in force.

(3) The Court shall have due regard to the financial needs and resources of the parties before passing any order having financial implications.

9. Monetary order.– (1) The Court may, at any stage of the trial of a case, pass an order directing the defendant to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and such relief may include:

(a) such compensation, as the Court may determine, to the aggrieved person for suffering as a consequence of economic abuse;

(b) loss of earning;

(c) medical expense;

(d) loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person to which the aggrieved person is entitled;

(e) payment of reasonable rent and meals for shelter provided to the aggrieved person and dependent children in a shelter home if the defendant is mandated by the law to provide shelter to the aggrieved person and dependent children; and

(u) reasonable maintenance for the aggrieved person and her dependent children, if any, in addition to an order of maintenance under family laws.

(2) The Court shall have due regard to the financial needs and resources of the parties before passing any order under subsection (1).

(3) The defendant shall pay monetary relief to the aggrieved person within the period specified in the order made under subsection (1).

(4) If the defendant fails to make payment within the period mentioned in the order, the Court shall direct the employer or debtor of the defendant, directly to pay the aggrieved person or to deposit with the Court a portion of the wages or debt due to or accrued to the credit of the defendant.

(5) The amount paid or deposited under subsection (4) shall be adjusted by the employer or debtor towards payment to the defendant.

(6) The Court may direct that the monetary relief payable or paid on account of shelter being provided in the shelter home shall be credited to the protection system.

10. Duration and alteration of orders.– (1) The interim order, protection order or residence order shall remain in force during the period specified by the Court.

(2) The Court may, keeping in view the circumstances and for reasons to be recorded in writing, alter or discharge any order made under this Act.

(3) The Court shall, on an application of the aggrieved person, discharge any order passed under the Act.

(4) Nothing in this section shall prevent an aggrieved person from making a fresh application after the previous interim, protection or residence order has been discharged.

11. District Women Protection Committee.– (1) The Government shall, by notification, constitute a District Women Protection Committee for each district.

(2) The Committee shall be headed by the District Coordination Officer of the district and shall, subject to subsection (3), consist of the following members:

(d) Executive District Officer (Health);

(e) Executive District Officer (Community Development);

(f) a representative of the head of District Police;

(g) District Officer Social Welfare;

(h) District Public Prosecutor; and

(i) District Women Protection Officer (Secretary).

(3) The Government shall nominate four non-official members of each District Women Protection Committee from amongst civil society and philanthropists who are residents of the district.

(4) A member, including a co-opted member of the Committee, shall not be entitled to any remuneration or fee or any other charges or facilities for services rendered under the Act.

(5) The Government shall nominate the Vice Chairperson of the Committee from amongst the non-official members.

(6) The Committee shall hold at least one meeting in every three months and shall regulate its procedure.

(7) The Government may, at any time, remove a non-official member on charges of misconduct, disinterest, exploitation or misuse of powers, or any other act which is detrimental to the objectives of the Act.

12. Functions of the Committee.– (1) The Committee shall:

(a) supervise the working of the Protection Centre, shelter home and toll free helpline and take necessary steps to improve the services;

(b) ensure uninterrupted functioning of the toll free dial-in-number of the Protection Centre and high quality response and services at the Protection Centre and, for the purpose, shall arrange training for the concerned employees;

(c) develop liaison with other departments and agencies in the district enabling the Protection Centre and shelter home best to perform the task of protection of women;

(d) try mediation and reconciliation between the parties for resolution of disputes under this Act;

(e) ensure that the cases of violence registered in any of police station of the district are referred to the Protection Centre for medical examination, collection of forensics and investigation and until the Protection Centre is established in the district, shall make standing arrangements for shifting of the aggrieved person, with her consent, to the nearest Protection Centre;

(f) approve annual plan of action for the Protection Centre and shelter home;

(g) discuss problems being faced by the Protection Centre and shelter home and find possible solution of the problems;

(h) monitor and evaluate working of the Protection Centre and shelter home;
(i) enlist women volunteers and women volunteer organizations in the district and assign roles under this Act to such volunteers and organizations;

(j) suggest measures for better protection of women or improvement in the protection system to the Government;

(k) ensure minimum standards, code of conduct and standard operating procedures to be followed by the employees of the protection system;

(l) approve annual report about physical targets, activities and gaps of the protection system in the district for submission to the Government; and

(m) perform such other functions as may be assigned to it by the Government and as are ancillary to any of the above functions or necessary to accomplish the objectives of the Act.

(2) The Committee may accept donations such as land, vehicles, equipment or money for the facilitation of the functioning of the protection system and all such donations shall be used, maintained and disposed of by the Committee in the prescribed manner.

(3) The Government may delegate any of the functions of the Committee to the District Coordination Officer subject to such terms and conditions as the Government may determine.

13. Protection Centres and shelter homes.– (1) The Government shall establish Protection Centres through a phased programme for protection of the aggrieved persons.

(2) A Protection Centre shall:

(a) be a converging point for all essential services to ensure justice delivery including police reporting, registration of criminal cases, medical examination, collection of forensic and other evidence;

(b) register the cases of violence and facilitate medical examination, collection of forensic and other evidence and proper prosecution of the cases;

(c) provide first aid relief to an aggrieved person;

(d) collect and assist to collect evidence within twenty four hours to facilitate investigation and effective prosecution;

(e) provide immediate protection to an aggrieved person;

(f) establish an effective system for the receipt and disposal of the complaints within the time mentioned in the operating procedures;

(g) maintain an effective system of mediation and reconciliation for resolution of disputes under this Act;

(h) register information against the perpetrators of violence;

(i) initiate cases of state-inflicted violence, if any, against women;

(j) maintain audio-visual record of all actions carried out under the Act;

(k) provide or arrange to provide legal aid to an aggrieved person;

(l) provide psychological counseling to an aggrieved person;

(m) mediate between an aggrieved person and the defendant for resolution of disputes under the Act; and

(n) act as a community centre to guide women in all Government related inquiries.

(3) The Government shall, through a phased programme, establish a shelter home in each district or for a local area within a district, for board and lodging of the aggrieved persons and needy women and provision of social and rehabilitative services to the residents.

(4) A shelter home shall:

(a) provide shelter and other allied facilities to an aggrieved person or other needy women along with dependent children;

(b) provide, with the consent of the resident, rehabilitation services to reintegrate residents with their families and society where necessary;

(a) refer the case of a resident to the appropriate authority or body for redressal of her grievance and regularly monitor provision of services to the residents;

(b) arrange for technical and vocational training of the residents;

(c) provide legal, medical, emotional support, guidance and psychological counseling to the residents;

(d) repatriate or rehabilitate the residents in the shortest possible time;

(e) maintain discipline and regulate visitation and timings; and

(f) perform any other prescribed function or a function assigned to it by the Committee for purposes of protection of women, children and vulnerable persons.

(5) Subject to general or special direction of the Committee, a male child who is not a dependent child shall not be admitted in the shelter home and instead may be referred to the Child Protection and Welfare Bureau for provision of shelter, board and lodging, education and training.

14. Women Protection Officer.– (1) The Government shall, by notification, appoint a District Women Protection Officer for a district and Women Protection Officers.

(2) Subject to general supervision of the Committee, a District Women Protection Officer shall:

(a) supervise and coordinate the protection system in the district;

(b) maintain liaison, supervise, plan, implement, monitor and periodically evaluate the protection system in the district;

(c) be responsible for training of the staff, reporting and documentation of the protection system in the district;

(d) provide counselling services to the aggrieved persons in the Protection Centre and shelter home;

(e) approve a rescue operation for rescuing an aggrieved person;

(f) file a habeas corpus case on the basis of any credible information of wrongful confinement of an aggrieved person;

(g) set specific, measureable, achievable and relevant targets for the protection system to be achieved in the specified time;

(h) ensure achievement of targets and submit compliance report in every meeting of the Committee; and

(g) prepare an annual report about targets, activities and gaps of the protection system.

(3) Subject to the supervision of the District Women Protection Officer, a Women Protection Officer shall:

(a) assist the District Women Protection Officer in the performance of her functions;

(b) respond to the calls or queries of women on internet or toll free dial-innumber of the Protection Centre;

(c) rescue an aggrieved person and, subject to this Act, admit her and her dependent children or other family members, if necessary, in the shelter home;

(d) direct the defendant to immediately move out of the house for a period not exceeding forty eight hours in order to protect life, dignity or reputation of the aggrieved person;

(e) approve admission of a woman or any other person in the shelter home in accordance with the provision of this Act and the rules governing the shelter home;

(f)provide counseling services on phone or, where necessary, by visiting an aggrieved person; and

(j) supervise working of officials of the shelter home.

(4) The District Women Protection Officer may perform any function of a Women Protection Officer and, in the absence of the District Women Protection Officer owing to any cause, the senior-most Women Protection Officer shall perform the functions of the District Women Protection Officer.

15. Power to enter.– (1) The District Women Protection Officer or a Women Protection Officer, at any time, enter in any place or house for the purpose of rescuing an aggrieved person but such officer or official shall not rescue the aggrieved person without her consent.

(2) The District Women Protection Officer or a Women Protection Officer shall give reasonable notice to the incharge of the place or house before entering and the incharge shall allow free access and afford all reasonable facilities to meet a woman residing or kept in the place or house.

(3) If access to such place or house cannot be obtained under sub-section (2), it shall be lawful for the District Women Protection Officer or a Women Protection Officer to enter such place or house in collaboration with district authorities including police and to meet an aggrieved person residing or kept in the place or house, and in order to effect an entrance into such place or house, to force her entry into the house or place.

(4) If the District Women Protection Officer or a Women Protection Officer who enters a place or house under this Act is detained in the house or place, she may force her exit from any house or place.

(5) Notwithstanding anything contained in this section, the powers of entry in a house or place of abode of a woman shall only be exercised by a female officer of the protection system.

16. Assistance on request.– (1) The District Women Protection Officer or a Women Protection Officer shall provide all reasonable assistance to an aggrieved person or to any other woman who needs such assistance in accordance with the provisions of this Act.

(2) The District Women Protection Officer or a Women Protection Officer may provide or offer to provide assistance under the Act on the request of the aggrieved person or on information or complaint received from any corner in collaboration with district authorities including police.

(3) Nothing in this Act shall be construed to provide assistance to an aggrieved person when the woman or aggrieved person has voluntarily refused to accept such assistance.

17. Assistance to officers.– (1) For protection of an aggrieved person, the designated police officer, agency or local government shall be bound to assist the District Women Protection Officer or the Women Protection Officer in the performance of their functions under the Act.

(2) In the performance of their functions under the Act, the District Women Protection Committee may call for any information from any agency of the Government or a local government in the district and such agency or local government shall be bound to provide the requisite information.

18. Penalty for obstructing a Protection Officer.– Any person, who obstructs the District Woman Protection Officer or a Woman Protection Officer in the performance of the duties under this Act, shall be liable to imprisonment for a term which may extend to six months or fine which may extend five hundred thousand rupees or both.

19. Penalty for filing false complaint.– A person, who gives false information about the commission of violence which that person knows or has reason to believe to be false, shall be liable to punishment of imprisonment for a term which may extend to three months or fine which may extend to one hundred thousand rupees but which shall not be less than fifty thousand rupees or both.

20. Penalty for breach of orders.– (1) A defendant, who commits breach of an interim order, protection order, residence order or monetary order, or illegally interferes with the working of the GPS tracker, shall be punished with imprisonment for a term which may extend to one year or fine which may extend to two hundred thousand rupees but which shall not be less than fifty thousand rupees or both.

(2) A defendant, who violates the interim order, protection order, residence order or monetary order more than once, shall be liable to punishment which may extend to two years but which shall not be less than one year and to fine which may extend to five hundred thousand rupees but which shall not be less than one hundred thousand rupees.

21. Cognizance and summary trial.– (1) The Court shall not take cognizance of an offence under this Act except on a complaint of the District Women Protection Officer or a Woman Protection Officer acting on behalf of the District Women Protection Officer.

(2) The Court shall conduct the trial of an offence under this Act in accordance with the provisions of Chapter XXII of the Code relating to the summary trials.

22. Appeal.– (1) A person aggrieved from an interim order, protection order, residence order, monetary order or sentence of the Court may, within thirty days of the communication of the order or sentence, prefer an appeal to the court of sessions which shall decide the appeal within sixty days from the date of receipt of the appeal.

(2) The decision of the court of sessions on an appeal under subsection (1) shall be final and shall not be called in question in any other court or forum except as provided under this Act.

23. Right to information.– (1) Subject to subsection (2), the Government shall, within seven days of acquiring any information pertaining to violence against the aggrieved person shall publish the details of the case and the steps taken for the protection of the aggrieved person, on its website accessible to the public free of cost.
(2) The Government may, for reasons to be recorded in writing, not publish any information, wholly or partially:
(a) to ensure the safety, security, privacy and dignity of a woman or an aggrieved person;
(b) to protect national security or to maintain public order;
(c) to prevent any prejudice to the investigation of a case; or
(d) to protect the identity of an officer or official where such protection is necessary for the safety and security of such officer or official.
24. Certain persons to be public servants.– Every person engaged in, or employed for, the administration of this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

25. Performance audit.– (1) The Government shall conduct or cause to be conducted the performance audit of the protection system of a district on periodic basis under the Act.

(2) The performance audit shall include the details of quality of services provided by the protection system, the targets to achieve the purposes of the Act and the identification of weaknesses and recommendations for future improvements.

26. Act not in derogation of other laws.– Save as otherwise provided in the Act, the provisions of the Act are in addition to and not in derogation of any other law.

27. Training.– The Government shall, at regular intervals, arrange training of the District Women Protection Officers, Women Protection Officers and other employees of the protection system for achieving the purpose of the Act.
28. Annual report.– (1) The Government shall, within three months of the close of a financial year, submit to Provincial Assembly of the Punjab an annual report relating to the affairs and efficacy of the protection system.

(2) The annual report shall consist of:
(a) details of the services provided by the protection system along with a comprehensive statement of the rescue operations of the protection system during the preceding financial year;
(b) reasons for delay, if any, in reaching the aggrieved person in need of help of the protection system and proposed solutions;
(c) performance audit report, if any, of one or more protection system;
(d) suggestions and recommendations for further reforms of the protection system for purposes of improving the service delivery; and
(e) other matters considered appropriate by the Government or as may be prescribed.
29. Rules.– (1) The Government shall, after previous publication and by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the powers conferred under subsection (1), the Government shall, within one hundred and twenty days of the commencement of the Act, make the rules relating to:
(a) establishment of monitoring and evaluation mechanism of the protection system;
(b) universal toll free dial-in-number of the protection system;
(c) regulation of meetings of the Committees;
(d) women volunteers and women volunteer organizations;
(e) use, maintenance and disposal of land, vehicle, equipment and other items or money donated to a Protection Centre or shelter home;
(f) details of medical, legal and psychological assistance, and shelter facilities;
(g) repatriation or rehabilitation of residents;
(h) maintenance of records and publication of information under the Act; and
(i) regulation of affairs of the of Protection Centres and shelter homes.
30. Immunity.– No suit, prosecution or other legal proceedings shall lie against the Government, any officer of the Government, a Committee, convener or any member of a Committee, District Women Protection Officer, Women Protection Officer or official of a protection system for anything which is done in good faith under this Act or the rules.

31. Power to remove difficulties.– The Government may, within two years of the commencement of this Act and by notification, make such provisions, not inconsistent with this Act, as may appear necessary for removing any difficulty or giving effect to the provisions of the Act.

48.3. SINDH PROVINCE

The Domestic Violence (Prevention and Protection) Act, 2013[122]

[…]

AN ACT to make provisions for protection against domestic violence. WHEREAS it is expedient to institutionalize measures which prevent and protect women, children and any vulnerable person from domestic violence and for matters connected therewith or incidental thereto; It is hereby enacted as follows:

Short title, extent and commencement

It is hereby enacted as follows:

1. (1) This Act may be called the Domestic Violence (Prevention and Protection) Act, 2013.

(2) It extends to the whole of the Province of Sindh.

(3) It shall come into force at once.

Definitions

2.(1) In this Act, unless there is anything repugnant in the subject or context,-

(a) "aggrieved person" means any woman, child or any vulnerable person who is or has been in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

(b) "child" means any person under the age of eighteen years living in a domestic relationship with the respondent and includes any adopted, step or foster child;

(c) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);

(d) "court" means the court of Judicial Magistrate of first class;

(e) "domestic relationship" means a relationship between persons who live, or have at any point of time lived together in a household when they are related by Consanguinity, marriage, kinship, adoption, or are family members living together;

(f) "domestic violence" has the same meaning as assigned to it in section 5;

(g) "Government" means the Government of Sindh;

(h) "household" means a household where the aggrieved person lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent or owned and tenanted by either of them, any such household in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes

[122] The Domestic Violence (Prevention and Protection) Act, No. 20 (12 March 2013), available at http://www.af.org.pk/Acts_Fed_Provincial/Sindh_Acts_since_2002/Sindh%20%202013/The%20Domestic%20Violence%20(Prevention%20and%20Protection)%20Act,%202013.pdf (last visited December 30, 2018).

such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has right, title, interest in such a shared household;

(i) "informer" means a person who has credible information that an offence is being committed under this Act and who has no interest adverse to the aggrieved person or to the accused;

(j) "monetary relief' means a monetary relief which a court may order under section 12;

(k) "notification" means a notification published in the Official Gazette;

(l) "prescribed" means prescribed by the rules made under this Act;

(m) "Protection Committee" means a Committee constituted under section 17;

(n) "Protection Officer" means an officer appointed by Government under section 21;

(o) "Protection order" means an order passed in terms of section 11;

(p) "respondent" means a person who is or has been in a domestic relationship with the aggrieved person and against whom relief has been sought under this Act;

(q) "residence order" means an order granted in terms of section 11;

(r) "service provider" means any such government facility or registered voluntary organization established for the protection of aggrieved person providing legal, medical, financial or any other assistance;

(s) "vulnerable person" means a person who is vulnerable due to old age, mental illness or handicap or physical disability

(2) Words and phrases not defined in this Act shall have the same meaning as assigned to them in the Pakistan Penal Code, 1898 (Act XLV of 1898) and the Code of Criminal Procedure, 1860, (Act V of 1860).

Government to ensure effective implementation of the Act.

3. Government shall ensure that –

(a) this Act and the contents thereof receive wide publicity through electronic and print media in Urdu and local languages;

(b) the Government officers, the police and the members of the judicial service are given periodic sensitization and awareness training on the issues addressed by this Act; and

(c) effective protocols are formulated by the concerned Ministries and Departments dealing with health, education, employment, law and social welfare to address the issue of domestic violence and that the same are periodically revised.

Constitution of Commission

4. (1) Government shall constitute a Commission which shall consist of a Chairperson and such number of members as may be prescribed.

(2) The Commission shall –

(a) review from time to time the existing provisions of the law on domestic violence and suggest amendments therein, if any;

(b) call for specific studies or investigation into specific incidence of domestic violence;

(c) look into complaints and take suomoto notice of matters relating to domestic violence and the non-implementation of the law; and

(d) participate and advise on the planning process for securing a safe environment free of domestic violence.

Domestic Violence

5. Domestic Violence includes but is not limited to, all acts of gender based and other physical or psychological abuse committed by a respondent against women, children or other vulnerable persons, with whom the respondent is or has been in a domestic relationship including but not limited to –

(a) "abet" as defined in Pakistan Penal Code (Act XLV of 1860) hereinafter referred to in this section as the said Code;

(b) "assault" as defined in section 351 of the said Code;

(c) "attempt" as defined in section 511 of the said Code to commit any of the offenses enumerated in this section;

(d) "criminal force" as defined in section 350 of the said Code;

(e) "criminal intimidation" as defined in section 503 of the said Code;

(f) "Emotional, psychological and verbal abuse" means a pattern of degrading or humiliating conduct towards the victim, including but not limited to –

(i) obsessive possessiveness or jealousy constituting serious invasion of the victim's privacy, liberty, integrity and security;

(ii) insults or ridicule;

(iii) threat to cause physical pain;

(iv) threat of malicious prosecution;

(v) blaming a spouse of immorality;

(vi) threats of divorce;

(vii) baselessly blaming or imputing insanity, or citing barrenness of a spouse with the intention to marry again;

(viii) bringing false allegation upon the character of a female member by any member of the shared household; and

(ix) willful or negligent abandonment of the aggrieved person;

(g) "harassment" as defined in section 509 of the said Code;

(h) "hurt" as defined in sections 332, 333, 335, 336A, 337, 337B, 337C, 337E, 337J, 337K, 337L of the said Code;

(i) "mischief" as defined in section 425 of the said Code against the property of the aggrieved person;

(j) "physical abuse" means any hurt caused by any act or 5 conduct as defined in section 5(f) of this Act;

(k) “stalking” includes, but is not limited to –

(i) accosting the aggrieved person against his or her wishes; and

(ii) watching or loitering outside or near the building or place where the-aggrieved person resides or works or visits frequently;

(l) “sexual abuse” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the aggrieved person which may include –

(i) compelling the wife to cohabit with anybody other than the husband;

(ii) any kind of sexual abuse including sexual harassment of a member of the family;

(m) “trespass” means entry into aggrieved person’s residence either temporary or permanent without his or her consent, and includes workplace or frequently other place where the parties do not share the same residence;

(n) “wrongful confinement” as defined in section 340 of the said Code; and

(o) ”economic abuse” includes deprivation of economic or financial resources or prohibition or restriction to continue access to such resources which the aggrieved person is ordinarily entitled to.

Punishment

6. (1) The offences under section 5 (a), (b), (c), (d), (e), (g), (h) (i) and (n) shall be punishable as provided under the Pakistan Penal Code, 1860.

(2) The offences under section 5(f) shall be punishable with imprisonment of minimum six months or with fine to be paid as compensation to the aggrieved person which shall not be less than ten thousand rupees or with both.

(3) Whosoever stalks a person under section 5(k) shall be punished with simple imprisonment of not less than one yearor with fine to be paid as compensation to the aggrieved party which shall not be less than twenty thousand rupees or with both.

(4) The offences under section 5(l) shall be punishable with imprisonment of either description not less than two years or with compensation to the aggrieved party which shall not be less than fifty thousand rupees or with both.

(5) The offences under section 5(m) shall be punishable with Punishment. imprisonment for either description for a term not less than one month or with fine or with both.

(6) Any person who commits the offences under section 5(o) shall be liable to pay compensation under section 12(1)(a).

Petition to the Court

7. (1) An aggrieved person or other person authorized by the aggrieved person in this behalf or informer may present a petition to the Court within whose jurisdiction –

(i) the aggrieved person resides or carries on business; and

(ii) the last place where the respondent and aggrieved person last resided together.

(2) The court shall fix the first date of hearing, which shall not exceed seven days from the date of the receipt of the petition by the court.

(3) On receipt of petition from an aggrieved party, the court shall, with or without issuing an interim order, issue a notice upon the person complained against calling upon him to show cause within seven days of receipt of notice as to why a protection order shall not be made against him for committing an act or acts of domestic violence as alleged in the petition.

(4) The petition made under sub-section (1) shall be disposed of within a period of ninety days and any adjournment given during the hearing of the petition shall be granted for reasons to be recorded in writing by the Court.

Counseling

8. (1) The court, at any stage of the proceedings under this Act, may direct the respondent or as the case may be, aggrieved person to undergo mandatory counseling with an appropriate service provider.

(2) Where the court has issued any direction under sub-section (1), it shall fix the next date of hearing of the case within a period not exceeding thirty days.

Right to reside in a household

9. (1) Notwithstanding anything contained in any other law for the time being in force, the aggrieved person shall not be evicted from the household without consent, whether or not he or she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted from the household or any part of it by the respondent save in accordance with law.

Power to grant interim order

10. (1) In any proceeding under this Act, the court may pass such interim order at any time and stage of the petition as it deems just and proper.

(2) If the court is satisfied that a petition prima facie discloses that the respondent has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, it may issue order on the basis of an affidavit of the aggrieved person or any other evidence or material, before the court as prescribed under sections 11, 12 and 13 against the respondent.

Passing of protection orders and residence orders

11. (1) The court on being satisfied that domestic violence has prima facie taken place may pass a protection order in favour of the aggrieved person and prohibit the respondent from –

(a) committing any act of domestic violence;

(b) aiding or abetting in the commission of acts of domestic violence;

(c) entering the place of employment of the aggrieved person or, if the aggrieved person is a child, his or her educational institution or any other place frequented by the aggrieved person;

(d) attempting to communicate in any form, whatsoever with the aggrieved person, including personal, oral or written, electronic or telephonic or mobile phone contact;

(e) causing violence to the dependants, other relatives or any person who gives the aggrieved person assistance against domestic violence; and

(f) committing any other act as specified in the protection order;

(2) In addition to the order under sub-section (1), or otherwise, the court on being satisfied that domestic violence has taken place may pass a residence order to –

(a) restrain the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the household;

(b) restrain the respondent or any of his relatives from entering the household; and

(c) direct the respondent to secure alternative accommodation for the aggrieved person or if the circumstances so require to pay rent for the same.

(3) The court may impose any additional conditions or pass any other direction which it may deem reasonably necessary to protect and provide for the safety of the aggrieved person or any child of such aggrieved person.

(4) The court may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.

(5) While making an order under sub-sections (1), (2) or (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist the aggrieved person or the person making an application on his or her behalf in the implementation of the order.

(6) While making an order under sub-section (2), the court may impose on the respondent obligations relating to the discharge of rent or other payments, having regard to the financial needs and resources of the parties.

(7) The court may direct the officer in charge of the police station in whose jurisdiction the court has been approached to assist in the implementation of the protection order.

(8) The court may direct the respondent to return the possession to the aggrieved person of any property, valuables or documents to which the aggrieved person is entitled.

(9) The court shall in all cases where it has passed any order under this section, order that a copy of such order, shall be given to the parties to the application, the officer in charge of the police station in the jurisdiction of which the court has been approached as well as to the service provider located within the local limits of the jurisdiction of the court.

Monetary relief

12. (1) The court may, at any stage of the trial of a petition filed by the aggrieved person, pass interim order directing the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and such relief may include, but is not limited to –

(a) compensation to the aggrieved person for suffering as a consequence of economic abuse to be determined by the court;

(b) loss of earning;

(c) medical expense;

(d) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and

(e) the maintenance for the aggrieved person as well her children, if any, including an order under or in addition to an order of maintenance under family laws.

(2)The respondent shall pay monetary relief to the person aggrieved within the period specified in the order made in terms of sub-section (1) and in accordance with terms thereof.

(3) The court may, upon failure on part of the respondent to make payment in terms of the order under sub-section (2) direct an employer or debtor, of the respondent, to directly pay the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

Custody orders

13. The court may, at any stage of the petition for protection order or for any other relief under this Act grant temporary custody of an aggrieved person who is –

(a) a child to a person under the Guardians and Wards Act 1890 (VIII of 1890); and

(b) an adult to a service provider or some other person in accordance with the will of the aggrieved person: Provided that in any case where a complaint of sexual abuse of a child has been made and the court is prima facie satisfied that such allegation is true, the court shall grant custody of the aggrieved child to the nonrespondent parent or guardian or the person making an application on his or her behalf.

Duration and alteration of interim, protection and residence orders

14. (1) The interim order made under section 10 and the protection order made under section 11 shall remain in force until theaggrieved person applies for discharge of such order.

(2) If the court on receipt of an application at any stage from the aggrieved person or the respondent is satisfied that there is a change in the circumstances requiring alteration, modification or recalling of any order made under this Act, it may, for reasons to be recorded in writing pass such order, as it may deem appropriate.

(3)The residence order shall remain in force until such time it is altered.

(4)Nothing contained in sub-sections (1) and (2) shall prevent an aggrieved person from making a fresh application after the previous order has been discharged.

Penalty for breach of an interim or protection order by the respondent

15. (1) A breach of protection order, or of the interim protection order, by the respondent shall be an offence and shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to twenty thousand rupees, or with both.

(2) Notwithstanding anything contained in the Code the offence under this section shall be cognizable, bailable and compoundable.

Appeal

16. Any person convicted by a court under sub-section (1) of section 15, may file an appeal to the court of Sessions within thirty days of the passing of the order of sentence and the court of sessions shall decide the appeal within sixty days.

Protection Committee

17. (1) Government shall, by notification in the official Gazette, constitute Protection Committees for the purposes of this Act.

(2) A Protection Committee shall comprise a Social Welfare Officer who shall be the convener, medical practitioner, a psychologist, psycho-social worker and an official appointed by the court, a female police officer not below the rank of Sub-

Inspector and two women members from civil society and the Protection Officer who shall also act as the Secretary of the Protection Committee.

Duties and functions of Protection Committee

18. The Protection Committee may –

(a) inform the aggrieved person of her or his rights provided under this Act or any other law for the time being in force and the remedies and the help that may be provided;

(b) assist the aggrieved person in obtaining any medical treatment necessitated due to the domestic violence;

(c) if necessary, and with the consent of the aggrieved person, assist the aggrieved person in relocating to a safer place acceptable to the aggrieved person, which may include the house of any relative or family friend or other safe place or if any, established by a service provider;

(d) assist the aggrieved person in the preparation of and filing of any petition or report under this Act, the Code or any other law for the time being in force;

(e) keep official record of the incidents of domestic violence in its area of jurisdiction, whether on the basis of information received or suomoto inquiry, irrespective of whether or not action is taken under this Act. Such record shall include –

(i) the first information received about the incident of domestic violence;

(ii) the assistance, if any, offered or provided by the Protection Committee to the aggrieved person;

(iii) where applicable the reason for not taking action under this Act when an incident was brought to the notice of the Protection Committee;

(iv) where applicable, the reason for the aggrieved person's refusal to take assistance from the Protection Committee;

(v) the names and contact details of the service provider, if any, from whom the aggrieved person sought help;

(vi) maintenance of the record of applications, protection orders and the service providers operating in the area of jurisdiction; and

(vii) perform any other duties that may be assigned to the Protection Committee under this Act or the rules made there under.

Powers, privileges and immunities of Protection Committee

19.(1) Members of the Protection Committee shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

(2) The Protection Committee may file an application for obtaining a protection order under section 11, if so desired by the aggrieved person.

(3) The Protection Committee may procure the assistance of any person or authority, and any person or authority so requested by the Protection Committee, shall be under legal obligation to provide the desired assistance to the Protection Committee.

Delegation of functions and powers

20.The Protection Committee may delegate any of its functions and powers to any of its member or members.

Protection Officer

21.(1) Government shall, by notification in the official Gazette, appoint a gazetted officer to act as Protection Officer, for the purposes of this Act.

(2) The Protection Officer shall possess such qualifications and experience as may be prescribed under the rules.

Duties of Protection Officer

22. It shall be the duty of the Protection Officer –

(a) to make a domestic incident report to the Protection Committee, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the Protection Committee within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;

(b) to make an application in such form and in such manner as may be prescribed to the court, if the aggrieved person so desires, claiming relief for issuance of a protection order;

(c) to ensure that the aggrieved person is provided legal aid;

(d) to maintain a list of all service providers providing legal aid or counseling, shelter homes and medical facilities in a local area within the jurisdiction of the court;

(e) to make available a safe place of residence, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the Protection Committee;

(f) to get the aggrieved person medically examined, if he or she has sustained bodily injuries and forward a copy of the medical report to the Protection Committee having jurisdiction in the area where the domestic violence is alleged to have been taken place;

(g) to ensure that the order for monetary relief under section 12 is complied with and executed in accordance with the procedure prescribed; and

(h) to perform such other duties as may be prescribed.

Assistance of service provider

23.(1) In any proceeding under this Act, the court may secure the services of a service provider.

(2) Service provider shall have all the privileges and immunities enjoyed by the Protection Committee.

Powers of service provider

24. A service provider shall have the power to –

(a) record the domestic incident in a prescribed form if the aggrieved person so desires, and forward a copy thereof to the Protection Officer having jurisdiction in the area where the domestic violence took place;

(b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer within the local limits of which the domestic violence took place;

(c) ensure that the aggrieved person is provided shelter in a safe place of residence, if he or she so requires and forward a report of the lodging of the aggrieved person in a safe place of residence to the Protection Committee within the local limits of the place where the domestic violence took place; and

(d) provide the aggrieved person with any aid or assistance if he or she may so require.

Procedure

25. Save as otherwise provided in this Act, all proceedings taken and offences committed under the provisions of this Act, shall be governed by the Code.

Protection of actions taken in good faith

26. No suit, prosecution or other legal proceedings shall lie against any Protection Committee, Protection Officer or service provider for anything which is done in good faith or purported to be done under this Act.

Act not in derogation of any other law

27. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Revision

28. Chapter XXXII of the Code shall apply to an order passed under sections 10, 11, 12 and 13.

Power to make rules

29. Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

Removal of difficulties

30. If any difficulty arises in giving effect to any provision of this Act, Government may make an order not inconsistent with the provisions of this Act to remove the said difficulty.

49. PALAU

Family Protection Act, 2012[123]

AN ACT

To offer protection and create effective remedies to deter acts of family violence, expand and strengthen the ability of police officers to assist family violence victims, enforce the law effectively against family abusers, and establish family violence as a serious crime which will not be excused or tolerated, by bringing to bear strong law enforcement and appropriate legal penalties for acts of family violence and abuse, and for other related purposes.

[…]

Section 1. Short Title. This Act shall be known and may be cited as the APalau Family Protection Act.

[123] Family Protection Act, RPPL 8-51 (13 November 2012), available at http://www.paclii.org/cgi-bin/sinodisp/pw/legis/num_act/pfpar8512012310/pfpar8512012310.html?stem=&synonyms=&query=palau%20family%20protection%20act#disp2 (last visited December 30, 2018).

Section 2. Legislative Findings. The Olbiil Era Kelulau finds and declares that: family violence, is a serious crime against society; the number of people in Palau who are regularly abused by family members is unacceptably high; a significant number of women who are assaulted are pregnant; victims of family violence comes from all social and economic backgrounds and ethnic groups; spousal abuse is often accompanied by child abuse; and that children, even when they are not themselves physically assaulted, can suffer deep and lasting emotional effects from exposure to abuse and violence within a family. Furthermore, family violence is not limited to just the better known physical violence, but can also be emotional, psychological, and spiritual. It is therefore the intent of the Olbiil Era Kelulau to ensure the victims of family violence receive the maximum protection under the law.
The Olbiil Era Kelulau further finds and declares that, even though many of the existing criminal statutes are applicable to acts of family violence, this Family Protection Act will beneficially re-focus law enforcement specifically on family violence and help to improve the Republic=s ability to respond to the needs of family violence victims.

Section 3. Amendment. Title 21 of the Palau National Code, entitled, A Domestic Relations shall be amended to add a new Chapter, which shall state as follows:

CHAPTER 8
OFFENSES AGAINST THE FAMILY AND AGAINST INCOMPETENTS
PART I - GENERAL OFFENSES

800. Definitions

[…]

In this part, unless a different meaning plainly is required:
A Bodily injury means physical pain, illness, or any impairment of physical condition.
A Dating relationship means a romantic, courtship, or engagement relationship, often but not necessarily characterized by actions of an intimate or sexual nature, but does not include a casual acquaintanceship or ordinary fraternization between persons in a business or social context.
A Incompetent person means a person who because of disease, disorder or defect is unable to care for himself or herself.
A Minor means a person less than eighteen years of age.
A Serious bodily injury means bodily injury that creates a substantial risk of death or that causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
A Substantial bodily injury means bodily injury which causes:
(1) A major avulsion, laceration, or penetration of the skin;
(2) A burn of at least second degree severity;
(3) A bone fracture;
(4) A serious concussion; or
(5) A tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs.

801. Endangering the welfare of a minor in the first degree.
(a) Except as provided in subsection (b) below, a person commits the offense of endangering the welfare of a minor in the first degree if, having care or custody of a minor, the person:
(1) Intentionally or knowingly allows another person to inflict serious or substantial bodily injury on the minor; or
(2) Intentionally or knowingly causes or permits the minor to inject, ingest, inhale, or otherwise introduce into the minor=s body any controlled substance listed in 34 PNC Chapter 31 that has not been prescribed by a physician for the minor.
(b) It shall be a defense to prosecution under 21 PNC sections 801(a)(1) if, at the time the person allowed another to inflict serious or substantial bodily injury on a minor, the person reasonably believed the person would incur serious or substantial bodily injury in acting to prevent the infliction of serious or substantial bodily injury on the minor.
(c) Endangering the welfare of a minor in the first degree is a felony and upon conviction thereof shall be imprisoned for a period of not more than five years, or fined up to ten-thousand dollars (S10,000), or both.

802. Endangering the welfare of a minor in the second degree.
(a) Except as provided in 21 PNC section 801(b) above, a person commits the offense of endangering the welfare of a minor in the second degree if, having care or custody of a minor, the person:
(1) Recklessly allows another person to inflict serious or substantial bodily injury on the minor; or

(2) Recklessly causes or permits the minor to inject, ingest, inhale, or otherwise introduce into the minor=s body any controlled substance listed in 34 PNC Chapter 31 that has not been prescribed by a physician for the minor.
(b) A person commits the offense of endangering the welfare of a minor in the second degree if, being a parent, guardian, or other person whether or not charged with the care or custody of a minor, the person knowingly endangers the minor=s physical or mental welfare by violating or interfering with any legal duty of care or protection owed such minor.
(c) Endangering the welfare of a minor in the second degree is a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined up to one-thousand dollars ($1,000), or both.

803. Endangering the welfare of an incompetent person.
(a) A person commits the offense of endangering the welfare of an incompetent person if he or she knowingly acts in a manner likely to be injurious to the physical or mental welfare of a person who is unable to care for himself or herself because of physical or mental disease, disorder, or defect
(b) Endangering the welfare of an incompetent person is a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined up to one-thousand dollars ($1,000), or both.

804. Custodial interference in the first degree.
(1) A person commits the offense of custodial interference in the first degree if:
(a) The person:
(I) Intentionally or knowingly violates a court order issued pursuant to 21 PNC section 302, or intentionally or knowingly takes, entices, conceals, or detains the minor from any other person who has a right to custody pursuant to a court order, judgment, or decree; and
(ii) Removes the minor from the Republic of Palau;
(b) The person intentionally or knowingly takes, entices, conceals, or detains a minor less than twelve years old from that minor=s lawful custodian, knowing that the person had no right to do so; or
(c) The person, in the absence of a court order determining custody or visitation rights, intentionally or knowingly takes, detains, conceals, or entices away a minor with the intent to deprive another person or a public agency of their right to custody, and removes the minor from the Republic of Palau.
(2) It is an affirmative defense to a prosecution under this section that the person had Agood cause@ for the violation of a court order for the taking, detaining, concealing, or enticing away of the minor, or for removing the minor from the Republic of Palau; provided that the person asserting the affirmative defense filed a report with the clerk of the court detailing the whereabouts of the minor, the person who took, enticed, detained, concealed, or removed the minor or child, and the circumstances of the event as soon as the filing of the report was practicable; and provided further that the person asserting the affirmative defense also filed a request for a custody order as soon as the filing of the request was practicable.
As used in this section, A good cause means a good faith and reasonable belief that the taking, detaining, concealing, enticing away, or removing of the minor is necessary to protect the minor from immediate bodily injury.
(3) The identity and address of the person reporting under subsection (2) above shall remain confidential unless the information is released pursuant to a court order.
(4) Custodial interference in the first degree is a felony and upon conviction thereof shall be imprisoned for a period of not more than five years, or fined up to ten-- thousand dollars ($10,000), or both.

805. Custodial interference in the second degree.
(1) A person commits the offense of custodial interference in the second degree if:
(a) The person intentionally or knowingly takes, entices, conceals, or detains a minor knowing that the person has no right to do so; or
(b) The person intentionally or knowingly takes, entices, conceals, or detains from lawful custody any incompetent person, or other person entrusted by authority of law to the custody of another person or an institution.
(2) For purposes of this section, an An incompetent person means a person who because of disease, disorder or defect is unable to care for himself or herself.
(3) Custodial interference in the second degree is a misdemeanor, if the minor or incompetent person is taken, enticed, concealed, or detained within the Republic of Palau, and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined up to one-thousand dollars ($1,000), or both. If the minor or incompetent person is taken, enticed, concealed, or detained outside of the Republic of Palau under this section, custodial interference in the second degree is a felony and upon conviction thereof shall be imprisoned for a period of not more than five years, or fined up to ten-thousand dollars ($10,000), or both.

806. Abuse of family or household members; penalty.
(a) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member or to refuse compliance with the lawful order of a police officer under subsection (d) of this section. The police, in investigating any

complaint of abuse of a family or household member, upon request, may transport the abused person to a hospital or safe shelter.
For the purposes of this section, A family or household member means spouses, former spouses, persons in a dating relationship, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.
(b) Any police officer, with or without a warrant:
(1) may arrest a person if the officer has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member and that the person arrested is guilty thereof; or
(2) shall arrest a person if the officer has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member and that the person arrested is guilty thereof, and the officer has reasonable grounds to believe the physical abuse is occurring, or has occurred, in the presence of or within five hundred feet of a minor child or children.
(c) A police officer who has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member shall prepare a written report.
(d) Any police officer, with or without a warrant, may take the following course of action where the officer has reasonable grounds to believe that there was physical abuse or harm inflicted by one person upon a family or household member, regardless of whether the physical abuse or harm occurred in the officer=s presence:
(1) The police officer may make reasonable inquiry of the family or household member upon whom the officer believes physical abuse or harm has been inflicted and other witnesses as there may be;
(2) Where the police officer has reasonable grounds to believe that there is probable danger of further physical abuse or harm being inflicted by one person upon a family or household member, the police officer lawfully may order the person to leave the premises for a period of separation of twenty-four hours, during which time the person shall not initiate any contact, either by telephone or in person, with the family or household member; provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects;
(3) Where the police officer makes the finding referred to in paragraph (2) above and the incident occurs after 12:00 P.M. on any Friday, or on any Saturday, Sunday, or legal holiday, the order to leave the premises and to initiate no further contact shall commence immediately and be in full force, but the twenty-four hour period shall be enlarged and extended until 4:30 P.M. on the first day following the weekend or legal holiday;
(4) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A copy of the warning citation shall be retained by the police officer and attached to a written report that shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person; and
(5) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of the period of separation, or if the person so ordered initiates any contact with the abused person, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member.
(e) Abuse of a family or household member and refusal to comply with the lawful order of a police officer under subsection (d) above are misdemeanors and the person shall be sentenced as follows:
(1) For the first offense the person shall serve a minimum jail sentence of forty-eight hours; and
(2) For a second offense that occurs within one year of the first conviction, the person shall serve a minimum jail sentence of thirty days.
Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to 18 PNC Chapter 6. The court may stay the imposition of the sentence if special circumstances exist. The court shall make findings as to the special circumstances on the record.
(f) Whenever a court sentences a person pursuant to subsection (e), it also shall require that the offender undergo any available domestic violence intervention programs ordered by the court. However, the court may suspend any portion of a jail sentence, except for the mandatory sentences under subsection (e)(1) and (2) above, upon the condition that the defendant remain arrest-free and conviction-free or complete court-ordered intervention.
(g) For a third or any subsequent offense that occurs within two years of a second or subsequent, conviction, the offense shall be a felony and upon conviction thereof shall be imprisoned for a period of not more than five years, or fined up to ten-thousand dollars ($10,000), or both.
(h) Where the physical abuse consists of intentionally or knowingly impeding the normal breathing or circulation of the blood of the family or household member by applying pressure on the throat or the neck, abuse of a family or household member is a felony and upon conviction thereof shall be imprisoned for a period of not more than five years, or fined up to ten-thousand dollars (S10,000), or both.
(I) Any police officer who arrests a person pursuant to this section shall not be subject to any civil or criminal liability; provided that the police officer acts in good faith, upon reasonable belief, and does not exercise unreasonable force in effecting the arrest.

(j) This section shall not preclude the physically abused or harmed family or household member from pursuing any other remedy under law or in equity.
(k) When a person is ordered by the court to undergo any domestic violence intervention, that person shall provide adequate proof of compliance with the court's order. The court shall order a subsequent hearing at which the person is required to make an appearance, on a date certain, to determine whether the person has completed the ordered domestic violence intervention. The court may waive the subsequent hearing and appearance where a court officer has established that the person has completed the intervention ordered by the court.

807. Harassment by stalking.
(a) A person commits the offense of harassment by stalking if, with intent to harass, annoy, or alarm another person, or in reckless disregard of the risk thereof, that person engages in a course of conduct involving pursuit, surveillance, or nonconsensual contact upon the other person on more than one occasion without legitimate purpose.
(b) A person convicted under this section may be required to undergo a counseling program as ordered by the court.
(c) For purposes of this section, A non consensual contact means any contact that occurs without that individual=s consent or in disregard of that person's express desire that the contact be avoided or discontinued. Nonconsensual contact includes direct personal visual or oral contact and contact via telephone, facsimile, or any form of electronic communication, defined as any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system, including electronic mail transmission.
(d) Harassment by stalking is a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined up to one-thousand dollars ($1,000), or both. For a second offense that occurs within one year of the first conviction, the person shall serve a minimum jail sentence of not less than thirty days.
(e) For a third or any subsequent offense that occurs within five years of a second or subsequent conviction, the offense shall be a felony and upon conviction thereof shall be imprisoned for a period of not more than five years, or fined up to ten-thousand dollars (S10,000), or both.

808. Customary or traditional reconciliation; no bar to criminal prosecution.
Nothing in this chapter shall preclude customary or traditional reconciliation. However, resolution of the matter through customary or traditional reconciliation shall not preclude or interfere with the institution of criminal charges and prosecution for violation of any offense under this Chapter. The Office of the Attorney General, or any other agency charged with the duty of law enforcement, shall institute a no drop policy in the filing and prosecution of cases involving domestic abuse.

PART II - DOMESTIC ABUSE RESTRAINING ORDERS AND PROTECTIVE ORDERS

[…]

820. Definitions.
As used in this part:
A Dating relationship means a romantic, courtship, or engagement relationship, often but not necessarily characterized by actions of an intimate or sexual nature, but does not include a casual acquaintanceship or ordinary fraternization between persons in a business or social context.

A Domestic abuse means:
(1) Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or malicious property damage between family or household members; or
(2) Any act that would constitute an offense under 21 PNC section 806, or under l7 PNC Chapter 28 committed against a minor family or household member by an adult family or household member.
A Extreme psychological abuse means an intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer extreme emotional distress.
A Family or household member means spouses, former spouses, persons who have a child in common, parents, children, persons related by consanguinity, persons jointly residing or formerly residing in the same dwelling unit, and persons who have or have had a dating relationship.
An Incapacitated person means a person who, for reasons other than being a minor, is unable to receive and evaluate information or make or communicate decisions to such an extent that the individual lacks the ability to meet essential requirements for physical health, safety, or self-care even with appropriate and reasonably available technological assistance.
A Law enforcement officer means any public servant, whether employed by the Republic of Palau or political subdivisions thereof, or any state thereof, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.

A Malicious property damage means an intentional or knowing damage to the property of another, without his or her consent, with intent to thereby cause emotional distress.

821. Court jurisdiction.
An application for relief under this chapter may be filed in any court in the Republic of Palau. Actions under this chapter shall be given docket priorities by the court.

822. Order for protection.
(a) There shall exist an action known as a petition for an order for protection in cases of domestic abuse.
(b) A petition for relief under this chapter may be made by:
(1) Any family or household member on the member=s own behalf or on behalf of a family or household member who is a minor or who is an incapacitated person or who is physically unable to go to the appropriate place to complete or file the petition; or
(2) Any agency of the Republic of Palau on behalf of a person who is a minor or who is an incapacitated person or a person who is physically unable to go to the appropriate place to complete or file the petition on behalf of that person.
(c) A petition for relief shall be in writing upon forms provided by the court and shall allege, under penalty of perjury, that: a past act or acts of abuse may have occurred; threats of abuse make it probable that acts of abuse may be imminent; or extreme psychological abuse or malicious property damage is imminent; and be accompanied by an affidavit made under oath or a statement made under penalty of perjury stating the specific facts and circumstances from which relief is sought.
(d) The court shall designate an employee or appropriate non judicial agency to assist the person in completing the petition.
(e) The clerk of the court shall accept a petition for an order for protection without assessment of a filing fee.

823. Temporary restraining order.
(a) Upon petition to any court, an ex parte temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other. The order may be granted to any person who, at the time the order is granted, is a family or household member as defined in 21 PNC section 820 or who filed a petition on behalf of a family or household member. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:
(1) Contacting, threatening, or physically abusing the protected party;
(2) Contacting, threatening, or physically abusing any person residing at the protected party=s residence; or
(3) Entering or visiting the protected party's residence.
The ex parte temporary restraining order may also enjoin or restrain both of the parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.
(b) For any person who is alleged to be a family or household member by virtue of a dating relationship, the court may consider the following factors in determining whether a dating relationship exists:
(1) The length of the relationship;
(2) The nature of the relationship; and
(3) The frequency of the interaction between the parties.
(c) The court may issue the ex parte temporary restraining order orally, if the person being restrained is present in court. The order shall state that there is probable cause to believe that a past act or acts of abuse have occurred, or that threats of abuse make it probable that acts of abuse may be imminent. The order further shall state that the temporary restraining order is necessary for the purposes of: preventing acts of abuse or preventing a recurrence of actual domestic abuse and ensuring a period of separation of the parties involved. The order shall also describe in reasonable detail the act or acts sought to be restrained. Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order; may also restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing the applicant=s family or household members; and may enjoin or restrain both parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court. The order shall not only be binding upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:
(1) Contacting, threatening, or physically abusing the protected party;
(2) Contacting, threatening, or physically abusing any person residing at the protected party=s residence;
(3) Entering or visiting the protected party's residence; or
(4) Taking, concealing, removing, threatening harm, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.
(d) If a divorce or a child custody proceeding is pending, a petition for a temporary restraining order may be filed in that same proceeding to the extent practicable. Any decree or order issued in a divorce or child custody proceeding subsequent to the

petition being filed or an order being issued pursuant to this section, in the discretion of the court hearing the divorce or child custody proceeding, may supersede in whole or part the orders issued pursuant to this section. The factual findings and rulings made in connection with the granting or denying of a temporary restraining order may not have binding effect in any other court proceeding, including child custody determinations under 21 PNC section 302, and the court in such proceedings may give de novo consideration to the facts and circumstances alleged in making later determinations affecting the parties, including determination of custody and visitation.
(e) When a temporary restraining order is granted and the respondent or person to be restrained knows of the order, a knowing or intentional violation of the restraining order is a misdemeanor. A person convicted under this section shall be referred to the Ministry of Health for behavioral health assessment and mandatory counseling, or referred to any other domestic violence intervention programs as ordered by the court. The court additionally shall sentence a person convicted under this section as follows:
(1) For a first conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of forty-eight hours and be fined not less than one hundred fifty dollars ($150) nor more than five hundred dollars ($500); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine; and
(2) For the second conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of thirty days, and be fined not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine.
(3) For the third and any subsequent conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of six months and be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine.
Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to 18 PNC Chapter 6. The court may stay the imposition of the sentence if special circumstances exist. The court shall make findings as to the special circumstances on the record.
The court may suspend any jail sentence, except for the mandatory sentences under paragraphs (1), (2) and (3), upon condition that the defendant remain alcohol and drug-free, conviction-free, or complete court-ordered assessments or intervention. Nothing in this section shall be construed as limiting the discretion of the judge to impose additional sanctions authorized in sentencing for a misdemeanor.
(f) Any fines collected pursuant to subsection (e) shall be deposited into a separate account within the National Treasury solely for use in creating and facilitating domestic violence intervention programs.

824. Period of order; hearing.
(a) A temporary restraining order granted pursuant to this chapter shall remain in effect at the discretion of the court, for a period not to exceed one hundred eighty days from the date the order is granted or until the effective date, as defined in 21 PNC section 826, of a protective order issued by the court, whichever occurs first.
(b) On the earliest date that the business of the court will permit, but no later than fifteen days from the date the temporary restraining order is granted, the court, after giving due notice to all parties, shall hold a hearing on the application requiring cause to be shown why the order should not continue. In the event that service has not been effected, the court may set a new date for the hearing; provided that the date shall not exceed ninety days from the date the temporary restraining order was granted. All parties shall be present at the hearing and may be represented by counsel.
The protective order may include all orders stated in the temporary restraining order and may provide further relief, as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention.

825. Protective order; additional orders.
(a) If, after hearing all relevant evidence, the court finds that the respondent has failed to show cause why the order should not be continued and that a protective order is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for a further fixed reasonable period as the court deems appropriate.
The protective order may include all orders stated in the temporary restraining order and may provide for further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services.
(b) A protective order may be extended for such further fixed reasonable period as the court deems appropriate. Upon application by a person or agency capable of petitioning under 21 PNC section 822, the court shall hold a hearing to determine

whether the protective order should be extended. In making a determination, the court shall consider evidence of abuse and threats of abuse that occurred prior to the initial restraining order and whether good cause exists to extend the protective order.
The extended protective order may include all orders stated in the preceding restraining order and may provide such further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services. The court may terminate the extended protective order at any time with the mutual consent of the parties.

826. Effective date.
The temporary restraining order shall be effective as of the date of signing and filing; provided that if a temporary restraining order is granted orally in the presence of all the parties and the court determines that each of the parties understands the order and its conditions, if any, then the order shall be effective as of the date it is orally stated on the record by the court until further order of the court. Protective orders orally stated by the court on the record shall be effective as of the date of the hearing if the respondent attends the hearing or, if the respondent was served but failed to appear, then upon service of the protective order upon the respondent until further order of the court; provided that all oral protective orders shall be reduced to writing and issued forthwith. The judiciary shall provide forms that will enable the court to issue all temporary restraining orders forthwith.

827. Notice of order.
(a) Any order issued under this chapter shall either be personally served upon the respondent, or served by certified mail, unless the respondent was present at the hearing in which case the respondent shall be deemed to have notice of the order. A filed copy of each order issued under this chapter shall be delivered to the Bureau of Public Safety.
(b) Except as otherwise provided in this chapter or in the order, a law enforcement officer may use a reliable copy, facsimile telecommunication, or other reliable reproduction of an order issued pursuant to this chapter in lieu of the original order for purposes of this section. Any such copy, facsimile telecommunication, or other reproduction shall be a complete reproduction of the entire original order and may only be transmitted from law enforcement officer to law enforcement officer until served.

828. Assistance of police in service or execution.

When an order is issued under this chapter upon request of the petitioner, the court may order the police to serve the order and related documents upon respondent and to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence.

829. Right to apply for relief.
(a) A person's right to apply for relief shall not be affected by the person's leaving the residence or household to avoid abuse.
(b) The court shall not require security or bond of any party unless it is deemed necessary in exceptional cases.

830. Modification of order.
Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection. The court may deny, without hearing, a motion to dismiss or to modify the terms of an existing order for protection if the motion, on its face, does not allege facts sufficient to establish a material change in the circumstances of the parties since the issuance or last modification of the order.

831. Copy to law enforcement agency.
(a) Any order for protection granted pursuant to this chapter shall be transmitted by the clerk of the court within twenty-four hours to the police unit nearest the petitioner's residence.
(b) Each police department shall make available to other law enforcement officers, through a system for verification, information as to the existence and status of any order for protection issued pursuant to this chapter.

832. Violation of an order for protection.
(a) Whenever an order for protection is granted pursuant to this chapter, a respondent or person to be restrained who knowingly or intentionally violates the order for protection is guilty of a misdemeanor. A person convicted under this section shall be referred to the Ministry of Health for behavioral health assessment and mandatory counseling, or referred to any other domestic violence intervention programs as ordered by the court. The court additionally shall sentence a person convicted under this section as follows:
(1) For a first conviction for violation of the order for protection:

(A) That is in the nature of non-domestic abuse, the person may be sentenced to a jail sentence of forty-eight hours and be fined not more than one hundred fifty dollars ($150); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;
(B) That is in the nature of domestic abuse, the person shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours and be fined not less than one hundred fifty dollars ($150) nor more than five hundred dollars ($500); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;
(2) For a second conviction for violation of the order for protection:
(A) That is in the nature of non-domestic abuse, and occurs after a first conviction for violation of the same order that was in the nature of non-domestic abuse, the person shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours and be fined not more than two hundred fifty dollars ($250); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;
(B) That is in the nature of domestic abuse, and occurs after a first conviction for violation of the same order that was in the nature of domestic abuse, the person shall be sentenced to a mandatory minimum jail sentence of not less than thirty days and be fined not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;
(C) That is in the nature of non-domestic abuse, and occurs after a first conviction for violation of the same order that was in the nature of domestic abuse, the person shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours and be fined not more than two hundred fifty dollars ($250); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;
(D) That is in the nature of domestic abuse, and occurs after a first conviction for violation of the same order that is in the nature of non-domestic abuse, the person shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours and be fined not more than one hundred fifty dollars ($150); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;
(3) For any subsequent violation that occurs after a second conviction for violation of the same order for protection, the person shall be sentenced to a mandatory minimum jail sentence of not less than sixty days and be fined not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine.
Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to 18 PNC Chapter 6. The court may stay the imposition of the sentence if special circumstances exist. The court shall make findings as to the special circumstances on the record.
The court may suspend any jail sentence, except for the mandatory sentences under sub-paragraphs (1)(B) and (2)(A) to (D), upon condition that the defendant remain alcohol and drug-free, conviction-free, or complete court-ordered assessments or intervention. Nothing in this section shall be construed as limiting the discretion of the judge to impose additional sanctions authorized in sentencing for a misdemeanor offense. All remedies for the enforcement of judgments shall apply to this chapter.
(b) Any fines collected pursuant to subsection (a) shall be deposited into a separate account within the National Treasury solely for use in creating and facilitating domestic violence intervention programs.

Section 4. Severability clause.
If any provision of this Act, or the application thereof to any person, thing or circumstance, is held invalid, the invalidity shall not affect the provisions or application of this Act that can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Section 5. Amendment.
Chapter 28 of Title 17 of the Palau National Code is hereby amended to state as follows:

Sex Crimes

[…]

2800. Definitions of terms in this chapter.
In this chapter, unless a different meaning plainly is required:
A Bodily injury means physical pain, illness, or any impairment of physical condition.
A Compulsion means absence of consent, or a threat, express or implied, that places a person in fear of public humiliation, property damage, or financial loss.

A Dangerous instrument means any firearm, whether loaded or not, and whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury.
A Deviate sexual intercourse means any act of sexual gratification between a person and an animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other.
An Incompetent person means a person who because of disease, disorder or defect is unable to care for himself or herself.
A Law enforcement officer means any public servant, whether employed by the Republic of Palau or political subdivisions thereof, or any state thereof, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.
A Married includes persons legally married or solemnized in accordance with recognized custom, and a male and female living together as husband and wife regardless of their legal status, but does not include spouses living apart.
A Mentally defective means a person suffering from a disease, disorder, or defect that renders the person incapable of appraising the nature of the person's conduct.
A Mentally incapacitated means a person rendered temporarily incapable of appraising or controlling the person's conduct as a result of the influence of a substance administered to the person without the person's consent.
A Person means a human being who has been born and is alive.
A Physically helpless means a person who is unconscious or for any other reason physically unable to communicate unwillingness to an act.
A Relative means parent, ancestor, brother, sister, uncle, aunt, or legal guardian.
A Restrain means to restrict a person=s movement in such a manner as to interfere substantially with the person's liberty,
(1) By means of force, threat, or deception; or
(2) If the person is under the age of eighteen or incompetent, without the consent of the relative, person, or institution having lawful custody of the person.
A Serious bodily injury means bodily injury that creates a substantial risk of death or that causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
A Sexual contact means any touching, other than acts of Asexual penetration, of the sexual or other intimate parts of a person not married to the actor, or of the sexual or other intimate parts of the actor by the person, whether directly or through the clothing or other material intended to cover the sexual or other intimate parts.
A Sexual penetration means:
(1) Vaginal intercourse, anal intercourse, fellatio, deviate sexual intercourse, or any intrusion of any part of a person's body or of any object into the genital or anal opening of another person=s body; it occurs upon any penetration, however slight, but emission is not required. As used in this definition, A genital opening includes the anterior surface of the vulva or labia majora; or
(2) Cunnilingus or anilingus, whether or not actual penetration has occurred. For purposes of this chapter, each act of sexual penetration shall constitute a separate offense.
A Strong compulsion means the use of or attempt to use one or more of the following to overcome a person:
(1) A threat, express or implied, that places a person in fear of bodily injury to the individual or another person, or in fear that the person or another person will be kidnapped;
(2) A dangerous instrument; or
(3) Physical force.
A Substantial bodily injury means bodily injury which causes:
(1) A major avulsion, laceration, or penetration of the skin;
(2) A burn of at least second degree severity;
(3) A bone fracture;
(4) A serious concussion; or
(5) A tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs.

2801. Incest.
(a)A person commits the offense of incest if the person commits an act of sexual penetration with another who is within the degrees of consanguinity or affinity within which marriage is prohibited by law or custom.
(b) Incest is a strict liability offense.
(c) Incest is a felony and upon conviction thereof shall be imprisoned for a period of not more than twenty-five years, or fined up to fifty thousand dollars ($50,000), or both.

[…]

2806. Continuous sexual assault of a minor under the age of fifteen years.
(a) A person commits the offense of continuous sexual assault of a minor under the age of fifteen years if the person:

(1) Either resides in the same home with a minor under the age of fifteen years or has recurring access to the minor; and
(2) Engages in three or more acts of sexual penetration or sexual contact with the minor over a period of time, while the minor is under the age of fifteen years.
(b) No other felony sex offense involving the same victim may be charged in the same proceeding with a charge under this section, unless the other charged offense occurred outside the period of the offense charged under this section, or the other offense is charged in the alternative. A defendant may be charged with only one count under this section, unless more than one victim is involved, in which case a separate count may be charged for each victim.
(c) Continuous sexual assault of a minor under the age of fifteen years is a felony and upon conviction thereof shall be imprisoned for a period of not more than twenty-five years, or fined up to fifty thousand dollars ($50,000), or both.

Section 6. Amendment. Title 35 of the Palau National Code, as amended by RPPL No. 8-33, is hereby further amended to read as follows:

[…]

Section 7. Effective Date. This Act shall take effect upon its approval by the President of the Republic of Palau or upon its becoming law without such approval, except as otherwise provided by law.

50. PANAMA

Domestic Violence and Violence Against Children and Adolescents, 2001[124]

Reforms and adds articles to the Criminal and Judicial Code, on domestic violence and mistreatment of children and adolescents, repeals articles of Law 27 of 1995 and establishes other provisions.

THE LEGISLATIVE ASSEMBLY DECREES:
CHAPTER I
OBJECTIVE, DEFINITIONS AND SCOPE

Article 1. The provisions of this Law are intended to protect children, adolescents, and all persons associated with the situations described in Article 3 of this Law, from the various manifestations of domestic violence and mistreatment, in accordance with the guiding principles of the Political Constitution, the Family Code and the international treaties and agreements of which the Republic of Panama is a signatory.

Article 2. For the purposes of this Law, the following terms are defined as follows:

1. Aggressor. Whoever performs any omission or action described in the definition of violence, to the detriment of the people who are protected by this Law.
2. Cohabiting. Hold a consensual relationship similar to that of spouses.
3. Abuse. Action and speech offenses, serious or intolerable, that undermine the obligations of affection and respect that should govern relations between people.
4. Protection measure. Mandate issued in writing by the competent authority, in which measures are dictated so that an aggressor refrains from incurring or performing certain acts or conducts constituting domestic violence.
5. Relationship of partnership. It is the relationship between spouses, ex-spouses, people who cohabit or have cohabited, who support or have maintained an intimate consensual relationship and those who have procreated a son or daughter between them.
6. Survivor victim. Person who suffers or has suffered physical, verbal, psycho-emotional, sexual or patrimonial mistreatment.
7. Violence. Any action, omission or negligent treatment committed by a person that harms the physical, psychological, sexual, patrimonial or liberty of the persons who are subject of this Law.
8. Domestic violence. Behavior pattern in which physical force, sexual or psychological violence, intimidation or persecution against a person by their spouse, ex-spouse, or relatives with whom they cohabit or have cohabited, live or have lived under the same roof or hold or have sustained a legally recognized relationship, or with whom holds a consensual relationship, or with a person with whom a child has been procreated, to cause physical harm to the person or others, causing emotional harm.

[124] Domestic Violence and Violence Against Children and Adolescents, Law No. 38/2001 (10 July 2001), available at https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/PAN/INT_CAT_ADR_PAN_25561_S.PDF (last visited December 30, 2018). Unofficial translation by Compendium team.

9. Physical violence. Use of force or coercion, on the part of the aggressor, against the surviving victim to get her to do something that she does not want or stop doing something that she wants, above her rights.
10. Patrimonial violence. Action or deliberate omission that involves damage, loss, transformation, theft, destruction, retention or distraction of objects, work instruments, personal documents, property, rights to other economic resources destined to satisfy the basic needs of the persons included in article 3 of the present Law. The unjustified limitation to access and management of common property will also be considered as patrimonial violence.
11. Sexual violence. Action that forces a person, through the use of force, intimidation, coercion, blackmail, bribery, manipulation, threat, use of substances or drugs or any other mechanism that affects their volition, to participate in sexual interactions that by themselves do not necessarily constitute crimes against modesty and sexual freedom. Likewise, it is considered sexual violence that the aggressor obliges the aggrieved person to perform some of these acts with third parties, or to witness them.
12. Psychological violence. Any act of omission performed by one person against another, intended to coerce, degrade or control the actions, behavior, beliefs, feelings or decisions of the persons to whom this Law is applicable. It is manifested through intimidation, manipulation, direct threat or indirect, permanent surveillance, harassment or disparagement of personal value, destruction of objects valued by the person, deprivation of access to food, humiliation, isolation or any other conduct that entails harm to psychological health, self-determination or personal development.

Article 3. The measures and precepts enshrined in this Law are applicable to:
1. Married couples.
2. De facto unions.
3. Relationships of less than five years whose intention of permanence can be accredited.
4. Relationship by consanguinity, affinity or adoption.
5. Non-common minor children living or not in the family.
6. People who have procreated a son or a daughter together.

Likewise, shall be applied to the situations indicated in the previous numerals, even when they have ended at the time of the aggression.

CHAPTER II
PROTECTION MEASURES

Article 4. Without prejudice to the initiation or continuation of the respective civil, criminal, family or administrative proceeding, the authority, when it becomes aware of the fact, is immediately empowered, according to its competence, to apply, in favor of the persons who are surviving victims of domestic violence, the following protection measures:
1. Order the provisional arrest of the aggressor, for a term not exceeding twenty-four hours.
2. Order the alleged aggressor to vacate the dwelling house that he shares with the surviving victim, regardless of who owns the dwelling.
3. Proceed with the search for the purpose of immediately rescuing or succoring the alleged survivor of the act of violence, in accordance with constitutional and legal guarantees.
4. Authorize the surviving victim, if so requested, to provisionally settle in a different domicile from the common one to protect her from future aggressions, respecting the confidentiality of the domicile.
5. Prohibit the introduction or maintenance of weapons in the common home, as well as seizing them in order to ensure that they are not used to intimidate, threaten or cause harm.
6. Prohibit the alleged aggressor from approaching the common domicile or the one where the surviving victim is located, in addition to the place of work, study or other habitually frequented by it.
7. Reintegrate the aggressed person who has had to leave the common domicile, if so requested and, consequently, immediately apply the measure established in number 1 of this article.
8. Suspend the alleged aggressor, the guardianship and upbringing of their minor children, taking into account the gravity of the acts of violence and / or the damage or direct or indirect danger to which the minors are subjected. The competent authority may give as a first option the protective guardianship of the child or adolescent, to the non-aggressor parent.
9. Suspend the regulation of visits to the alleged aggressor, taking into account the seriousness of the acts of violence and / or the direct or indirect harm or danger to which the minors are subject.
10. Send notifications to the immigration and boarding authorities, in which the impediment to leaving the country is ordered to the sons and daughters who are minors.
11. Lift the inventory of movable assets of the residential nucleus, to ensure the common heritage.
12. Grant in exclusive use to the aggrieved person, the personal property necessary for the proper functioning of the family unit.

13. Immediately notify the competent authority so that it fixes provisionally the alimony in favor of the surviving victim, in the cases that merit, depending on the protection measures applied.
14. Order the alleged aggressor, in case there are serious indications of liability against him, to cover the cost of repair of the goods or medical attention. Said cost will be discounted, in case of civil conviction.

When the violence is repeated, the competent authority will order special protection for the surviving victim, which will be under the competence of the National Police authorities. This special protection may be effective where the surviving victim requests it.

Article 5. When the official who is aware of the act of violence considers that a protection measure that is not within his competence must be applied, he will send an authenticated copy of the file to the competent official with the corresponding request to apply the suggested measure to another that it is considered to be relevant, within seventy-two hours.
Once the file is returned to the official who requested the measure, the latter will proceed in the appropriate jurisdiction.

Article 6. The protection measures shall have a maximum duration of six months, without prejudice to the fact that they may be extended for the duration of the process, in accordance with the evaluation made by the authority that is aware of the case.
Failure to comply with any of the measures of protection by the aggressor will result in the authority applying a sanction for contempt (disrespect).

CHAPTER III
COMPETENCIES

Article 7. The protection measures listed in Article 4 of this Law can be applied by the administrative police officers, the traditional authorities in the indigenous zones, the agents of the Public Prosecutor's Office and the authorities of the Judicial Organ, each in accordance with their competence.

Article 8. The indigenous authorities established and recognized in their Organic Laws, which administer justice in accordance with the customs and traditions of the indigenous peoples, may apply the protection measures established in their respective domestic systems and, in a supplementary manner, those established in Article 4 of this Law, in accordance with its competence.

Article 9. In the acts of violence that are presented in their jurisdictions, the clerks and night judges must, provisionally, take cognizance of the fact, apply the pertinent protection measures and remit the file initiated, in which they will indicate the adopted measures, to the competent authority within seventy-two hours, counted from the moment in which the aforementioned measure is applied.
It is understood that said authorities may not decide the merits of the case or promote or accept agreements or withdrawals.

Article 10. Protective measures may be applied ex officio or at the request of an interested party, verbally or in writing, once the authority becomes aware of the act of violence or at any time it deems it necessary.

Article 11. Recourse against the protection measures can be made in accordance with the law and the competence of the relevant authorities.

CHAPTER IV
CRIMINAL AND PROCEDURAL PROVISIONS

Article 12. Item e) is added to paragraph 2 of article 46 of the Criminal Code, as follows:

> Article 46. The penalties that this Code establishes are:
> [...]
> 2. Accessories:
> [...]
> e) Supervised community service.

Article 13. Chapter V of Title V of the Criminal Code is as follows:

> Chapter V
> Of Domestic Violence and the Abuse of Children and Adolescents

Article 215 A. Any person who physically, sexually, patrimonial or psychologically attacks or harasses another will be punished with imprisonment from1 to 3 years or with a curative security measure, consisting of a multidisciplinary therapeutic treatment program with specialized care, approved by the court of the case.

The psychological aggression must be checked by the forensic psychiatrist or by a forensic psychologist.

For the purposes of this Chapter, the norms contemplated in the types described are applicable to:
1. Married couples.
2. De facto unions.
3. Relationships of less than five years whose intention of permanence can be accredited.
4. Relationship by consanguinity, affinity or adoption.
5. Non-common minor children living or not in the family.
6. People who have procreated a son or a daughter together.

Likewise, they will be applied to the situations indicated in the previous numbers, even when they have ended at the time of the aggression.

Article 215 B. If the conduct described in the previous article produces the permanent weakening of a sense or of an organ, a visible and permanent sign in the face, or if inferred on a pregnant woman causing the premature delivery of the baby, the penalty will be 2 to 4 years in prison.

If the behavior described in the previous article produces incurable bodily or psychic harm, the loss of a sense, of an organ or limb, impotence or loss of ability to procreate, permanent alteration of the vision, permanent deformation of the face or body or permanent incapacity to work, the penalty will be 3 to 5 years in prison.

Article 215 C. In the cases of primary aggressor, the judge of the case may sanction with a curative security measure, consisting of a multidisciplinary therapeutic treatment program, according to article 115 of the Criminal Code, duly monitored by the Department of Correction of the Ministry of Government and Justice, or with community service supervised by the competent authority within the district where he resides. In case of breach of the curative security measure or supervised community service, the judge must replace it with the corresponding prison sentence.

Article 215 D. A person who mistreats a child or adolescent under 18 years of age shall be punished with imprisonment of 2 to 6 years or with a curative security measure, or both.
The following behaviors typify child abuse:
1. Causing, allowing, or permitting physical, mental or emotional harm, including physical injury caused by corporal punishment.
2. Use them, or induce them to be used, for profit, in begging, pornography, propaganda or advertising not appropriate for their age.
3. Employing them in jobs that are prohibited or contrary to morality, or that endanger their life or health.
4. Impose negligent treatment and ill-treatment that may affect their physical and mental health.

Article 215 E. The public servant or individual who has knowledge of the execution of any of the facts set forth in this Title, and does not make it known to the authorities, shall be punished with a 50 to 150 days fine. When the commission of the crime is not proven, the public servant or individual will be exempt from any legal responsibility on the basis of the complaint.

Article 14. The title of Chapter I of Title VI of the Criminal Code is as follows:

Rape, Misconduct and Sexual Harassment

[…]

Article 17. For the offenses described in articles 215 A and 215 D of the Criminal Code, the judge of the case may, at the time of imposing the sanction of imprisonment to the aggressor, order that the sanction should be performed during weekends, in order to preserve the aggressor's source of income.

Article 18. Article 1984 A of the Judicial Code is as follows:

Article 1984 A. In cases of domestic violence, the person concerned should be discharged when he / she has reached the age of majority, provided that the following conditions are met:
1. That the defendant is not a recidivist in this crime or other intentional crimes foreseen in the Panamanian criminal law.
2. That the accused present a certificate of good conduct and evaluation by two (2) psychiatrists or mental health doctors, appointed by the Public Ministry.
3. That the accused be treated by a multidisciplinary mental health team, when the judge of the case deems it necessary, under the supervision of the latter.
In the case of property violence, even if the affected person is a minor, the withdrawal will be accepted when the damage has been compensated.

Article 19. Before subjecting a child or adolescent to any kind of procedure, the authority shall provide for a psychological and / or psychiatric evaluation by a professional working for the Public Prosecutor's Office, in order to ensure that the procedure will not cause any socio-emotional harm.

Article 20. The court of the case shall take the necessary measures so that the surviving victim of any of the crimes contemplated in this Act receives the treatment that allows them physical and psychological recovery, as well as social reintegration, which must be supported by the aggressor.

Article 21. The Office of the Public Prosecutor may, at the request of the surviving victim or its legal representative, order that the victim receives therapeutic treatment during the investigation.

CHAPTER V
PUBLIC POLICIES

Article 22. The Ministry of Youth, Women, Children and Family shall be responsible for the follow-up, coordination, promotion and evaluation of progress in the implementation of this Law. Accordingly, it will submit annual reports to the Executive Body and to the Committee on Women's Affairs, Rights of the Child, Youth and Family of the Legislative Assembly.

Article 23. The Ministry of Government and Justice, together with the Ministry of Youth, Women, Children and Family, shall coordinate, promote, develop and supervise outreach programs, through the use of mass media, aimed at preventing and eradicating violence; in addition, it shall promote and encourage programs for the dissemination of this Law. Likewise, it will formulate and execute training programs for the personnel of the National Police in order to guarantee their effective and timely intervention in the cases of violence described in this Law.

Article 24. The Ministry of Health will strengthen and train the staff of health centers, regional and national hospitals, in the prevention and care of cases of violence foreseen by this Law.

Article 25. All health centers, emergency rooms, medical centers, hospitals, and clinics, public or private, must repond to the cases of violence regulated by this Law.

Those working in these institutions will not be able to deny medical care to survivors of violence, without prejudice to the fact that they can subsequently be referred to other centers for their continued care, provided that their transfer does not imply risks to their health and integrity.

Article 26. The Executive Body, through the Ministry of Health and with the advice of the Public Ministry, will regulate and design the forms to record the aggressions caused by the different types of violence indicated by this Law.

Article 27. Health personnel and administrative staff working in the different health institutions of the country shall document, through forms distributed by the Ministry of Health, the medical history, clinical findings, diagnosis and provisional incapacity of the patient who declares to be a survivor victim of domestic violence or child / adolescent abuse.
The form in question, duly stamped and signed, will be sent to the Institute of Legal Medicine within forty-eight hours following the patient's reception, so that the Institute evaluates the medical report contained therein and continues with the procedures that are carried out for this purpose. In case of children and adolescents, it will be sent to the corresponding Child and Adolescent Court.
The certificate issued by the appropriate doctor that treats the surviving victim must indicate the corresponding total physical and physical disability.

Article 28. The Ministry of Education shall incorporate content aimed at promoting values based on the principles of tolerance, respect for differences and diversity, as well as gender equality and equity in curricula at all levels of education. In addition, it will promote programs aimed at the peaceful resolution of conflicts, in order to prevent domestic violence and abuse of children and adolescents.

Article 29. The Ministry of Government and Justice and the municipalities of the Republic will train the night judges and the clerks regarding the correct application of this Law, so that each of these officials, during the exercise of their attributions, have the necessary knowledge and sensibility to deal with the issues of domestic violence and child abuse.

Article 30. In all cases, the authority shall keep a record of the facts of domestic violence and abuse of children and adolescents, which shall include the generalities of the parties involved and a description of the events that will be sent to the National Commission of Criminal Statistics (CONADEC) of the Ministry of Government and Justice, with the objective of creating a database of the persons involved in the facts regulated by this Law.
The surviving victim shall have the right to be provided, at no cost, with a certified copy of said registration.

Article 31. The civil society will actively intervene in the dissemination, training, coordination and execution of this Law, together with the various State bodies responsible for developing public policies on this matter.

Article 32. Private entities or independent professionals, as well as non-governmental organizations that provide care for survivors of violence or abused children and adolescents who qualify as subjects of free processional sponsorship, may deduct from their income statements the cost of this services.
To that end, the corresponding account must be duly documented and approved by the judge of the case.
In the case of the private sector, the bills presented as cost of care to these surviving victims will be subject to payment execution.

CHAPTER VI
FINAL PROVISIONS

[…]

Law to Criminalize Femicide and Violence Against Women, 2013 [125]

[…]

CHAPTER I
GENERAL DISPOSITION

Article 1. This Law aims to guarantee the right of women of any age to a life free of violence, protect the rights of women victims of violence in a context of unequal power relations, as well as prevent and punish all forms of violence against women, in compliance with the obligations contracted by the State.

Article 2. This Law shall apply when the conducts described in it are directed against a woman of any age, by the mere fact of being a woman, in a context of unequal power relations, in the public or private sphere and in any other type of relationship, be it labor, teaching, academic, community or of any kind.

This Law must be interpreted according to the principles contained in the Political Constitution of the Republic, laws and international treaties or conventions on human rights ratified by the Republic of Panama, such as the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, or Convention of Belém do Pará.

Article 3. Violence against women shall be understood as any action, omission or discriminatory practice based on belonging to the female gender in the public or private sphere, which puts women at a disadvantage with respect to men, causes them death, damage or physical, sexual, psychological, economic or patrimonial suffering, as well as threats of such acts, coercion or arbitrary deprivation of liberty, which includes those perpetrated by the State or its agents.

[125] Law to Criminalize Femicide and Violence Against Women, Law n. 82/2013 (21 October 2013), available at https://oig.cepal.org/sites/default/files/2013_pan_ley82.pdf (last visited, December 30, 2018). Unofficial translation by Compendium team.

Article 4. For the purposes of this Law, the following terms shall be understood as:
1. Sexual stalking. Pursue, peek, observe secretly, wait cautiously for a woman, for sexual or other purposes.

2. Sexual harassment. Any act or conduct of an unwanted sexual nature that interferes with work, studies or the social environment, which is established as a condition of employment, that creates an intimidating environment, or that causes the victim harmful effects on their physical or psychological well-being.

3. Private sphere. The one where the interpersonal, domestic, family, couple or trust relationships take place, within which acts of violence against a woman are committed.

4. Public domain. The one where interpersonal relationships take place in the social, labor, community, educational, religious or any other type of relationship that is not included in the private sphere.

5. Amicus Curiae: Friend of the court or tribunal. It consists of presentations that can be made by third parties, unrelated to a judicial dispute and that without being part of the process have a justified interest in the final resolution of the litigation, in order to express their opinions on the matter, through contributions of importance for the support of the judicial process.

6. Psychic damage: Deterioration, dysfunction, alteration, disorder or illness of psychogenic or psycho-organic origin that, as a result of a traumatic experience or harmful event, affects the affective and / or intellective and / or volitional spheres and limits the capacity for individual, labor, social and / or recreational enjoyment.

7. Femicide. Causing death to a woman based on her gender, because of discrimination or any other form of violence.

8. Harassment. Act or omission, not necessarily with sexual motivations, with abuse of power, which damages the tranquility, self-esteem, health, integrity, freedom and safety of the victim, prevents their development and undermines equity. It can consist of a single harmful event or a series of events whose sum produces harm and includes: the refusal to give the same employment opportunities to women, not applying the same selection criteria, not respecting their permanence or general working conditions, the disqualification of work done, threats, intimidation, humiliation, exploitation and all kinds of discrimination based on them being women.

9. Judicial mistreatment. Inequality of treatment by judicial authorities, based on sexual stereotypes, which puts women at a disadvantage. It includes the lack of knowledge and non-application of international conventions for the protection of human rights, failure to give due importance to crimes of violence against women, failure to take into account the syndrome of affective dependence that women may suffer in the assessment of the case, limit the victims in their story during the hearing and not assess the risk or danger to the victim or threats or violence in the relationship when granting bail release.

10. Couple's Relationship. The interpersonal relationship, between men and women, whether or not they cohabit or cohabitate, that sustain or have sustained an intimate or loving relationship, or that they have procreated with each other, regardless of whether they are or have been spouses.

11. Reparation to the victim. Set of measures to approximate the situation of the victim to the state in which it would be if the crime had not occurred.

12. Representative of Collective or diffuse Interests: The associations or organizations recognized by the State, whose interests are related to the defense of women's rights, which allow them to intervene in criminal proceedings for the crimes of violence against women.

13. Revictimization: Submission of the victim to a new violation of their legitimate rights, as a result of the management of the social and governmental institutions involved in the prevention, detection, attention and sanction of violence against women.

14. Violence against reproductive freedom. That which violates the right of women to decide freely and responsibly the number of pregnancies or the interval between births, in accordance with the provisions of the law.

15. Teaching and educational violence. Any behavior on the part of the teaching staff that affects the self-esteem of the students with acts of discrimination based on their sex, limitations and / or physical characteristics. It includes discrimination against teachers because of their status as women, sexual harassment or instigation of teachers and students.

16. Violence in public and private health services. Unequal treatment against women by health personnel. It includes refusing to provide medical care to a woman, which by law has this right, not providing comprehensive emergency care in cases of violence against women, negligence in registering on suspicion forms, violating confidentiality, not taking in account the risks faced by the affected and not complying with the obligation to report.

17. Violence in the community sphere. […]

18. Physical violence. Action of aggression in which direct corporal force is intentionally used, or by means of any object, weapon or substance that causes or may cause harm, physical suffering, injury, disability or illness to a woman.

19. Institutional violence. That exercised by personnel at the service of the State, professionals, staff and agents belonging to any State Organ or Institution, at the national, local or regional level, with the purpose of delaying, hindering or preventing women from having access to public policies and the resources for its performance, and exercise the rights provided in this Law or any other.

20. Labor and salary violence. […]

21. Media violence. The publication or dissemination of stereotyped messages and images through any mass media, that directly or indirectly promote the exploitation of women or their images, insult, defame, dishonor, humiliate or threaten the dignity of women, as well as the use of women in pornographic messages and images, legitimizing inequality of treatment or constructing socio-cultural patterns that reproduce inequality or generate violence against women.

22. Obstetric violence. […]

23. Patrimonial and economic violence. Action or omission, in the context of unequal power relations between men and women, that affects the use, enjoyment, administration, availability or accessibility of a woman to material goods, causing damage, loss, transformation, theft, destruction, retention or destruction of objects, work instruments, personal documents, property, rights or other economic resources, as well as the unjustified limitation to access and management of common economic resources or assets.

24. Political violence. […]

25. Psychological violence. Any act or omission that may consist of negligence, abandonment, neglect, jealousy, insults, humiliation, devaluation, marginalization, indifference, destructive comparisons, rejection, restriction to self-determination and / or threats.

26. Sexual violence. Action of physical or psychological violence against a woman, whatever her relationship with the aggressor, with the intention of violating the sexual freedom and integrity of women, including rape, sexual humiliation, forcing them to witness pornographic material, forcing them to support or witness sexual relations with third parties, record or disseminate without consent images by any means, forced prostitution, and the denial of the right to make use of family planning methods, both natural and artificial, or to adopt protection measures against sexually transmitted infections, including HIV, even in marriage or in any relationship.

27. Symbolic violence. […]

CHAPTER II
GUIDING PRINCIPLES

Article 5. Responsibility. The State is responsible for respecting the rights of women and for contributing to the elimination of violence against women, included in the international instruments ratified by the Republic of Panama, such as the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, the Belém do Pará Convention, the Convention on the Elimination of All Forms of Discrimination against Women and other human rights conventions.

Article 6. Integrality. Attention to women victims of violence, which includes indirect victims, must include information, prevention, orientation, protection, sanction, reparation and biopsychosocial stabilization.

Article 7. Autonomy. The State recognizes and protects the independence of women to make their own decisions without interference.

Article 8. Coordination. Public or private entities and media will carry out coordinated and articulated actions in order to provide prevention, attention and comprehensive responses in all forms of violence against women.

Article 9. Differentiated attention. The State will guarantee high-priority attention to the needs and specific circumstances of women in situations of vulnerability or at risk, in order to guarantee their effective access to the rights set forth in this Law.

Article 10. Equality in income. It implies that there is equal remuneration and assessment for work, without distinction of gender, including domestic work.

Article 11. Equality of respect. It implies the recognition of women as persons and that they shall be given equal respect, just like men.

Article 12. Non-discrimination. Promote equality and equity in the participation of women with respect to men, in work, politics and the right to association, creating the necessary conditions for the elimination of political environments hostile to women. In the labor field, it is prohibited to request pregnancy test to access paid employment. The merits of women to occupy a position should be evaluated on equal terms to men's, without discrimination for the mere fact of being a woman.

CHAPTER III
RIGHTS OF WOMEN VICTIMS OF VIOLENCE

Article 13. Women have the right to a dignified life free of physical, sexual, psychological and patrimonial violence, the right to privacy, not to be subjected to torture or cruel and degrading treatment, or any form of discrimination. They also have the right to real and effective equality, to freedom and autonomy, to the free development of the personality, to physical, mental, sexual and reproductive health, and to personal security, in addition to the rights recognized in the law or in the treaties and international agreements ratified by the Republic of Panama.

Article 14. Women, especially those who are victims of forms of violence as provided for in this Law, have the right to:
1. Receive comprehensive care by public and private health services, with sufficient, accessible and quality coverage.

2. Access information on the place of provision of care services, emergency, support and comprehensive recovery, for her and for her family.

3. Receive guidance, legal advice and free, immediate and specialized technical-legal assistance, from the moment in which the constitutive act of violence is brought to the attention of the authority. It is up to the State to guarantee this right. This right is extended to their families.

4. Receive compensation when care, support and full recovery generate costs. The court in charge of the criminal case will order that the aggressor cover the costs of the care and assistance described in the preceding paragraphs, if there is a conviction against him. In these cases, the victim will not be required to guarantee any kind of security.

5. Receive clear, complete, truthful and timely information regarding their rights in general and the mechanisms and procedures established in this Law and other concordant norms, taking into account the ethnic, cultural and generational diversity.

6. Give informed consent for medical-legal examinations in cases of sexual violence and choose the gender of the doctor for the practice of these examinations, within the possibilities offered by the service. The entities providing health services will promote the availability of doctors of both genders for the care of victims of violence.

7. Receive immediate, comprehensive assistance and multidisciplinary, medical, psychological, psychiatric and forensic specialized care in the terms and conditions established in the legal system for the victims, their children, as well as support for training and employment and assistance of an interpreter in case they do not speak Spanish.

8. Access to truth, justice, reparation and guarantees of non-repetition in the face of acts constituting violence, to be heard personally by the judicial authority and by the competent administrative authority.

9. Obtain stabilization of their situation in accordance with the terms provided in this Law.

10. Decide if they can be confronted with the aggressor in any of the "attention spaces" and in the administrative, judicial or other procedures.

11. To receive, in the case of women with disabilities, deprived of liberty or belonging to any other group of people in a situation of special vulnerability, a dignified and equal treatment with all the members of the family, to have adequate spaces and conditions of equity, opportunities and autonomy so that they can exercise their rights, as well as to guarantee their participation in matters related to their family and social environment.

12. Receive compensation for the damage, which must include, in addition to financial compensation, measures aimed at providing the victim with medical, psychological, moral and social reparation.

13. Receive a safe, dignified and free shelter including for other family members who may be at risk.

14. Receive humane treatment and respect for their integrity and the full exercise of their rights, avoiding revictimization.

15. Be valued and educated free of stereotypes of behavior and sociocultural practices based on concepts of inferiority or subordination.

16. Decide on their reproductive life according to the law, as well as the number of pregnancies and when to have them.

17. Obtain protection of their privacy, guaranteeing the confidentiality of the proceedings, except for the requests of the judicial authorities.

18. Participate in the process and receive information about the status of the case.

19. Have efficient mechanisms to denounce officials for failure to comply with established deadlines and other irregularities.

CHAPTER IV
OBLIGATIONS OF THE STATE

Article 15. For the purposes of this Law, the State shall have the following obligations:
1. Strengthen and institutionalize the bodies responsible for dealing with violence against women and ensure the sustainability of the National Committee Against Violence Against Women.

2. Assign a budget item for the National Committee Against Violence Against Women in the budget of the National Institute for Women to guarantee compliance with the objectives of the public awareness and prevention policies provided for in this Law.

3. Coordinate and / or execute ongoing training programs, with a periodicity of not less than one year, for governmental and non-governmental offices, with special emphasis on the personnel operating in justice, health personnel and police authorities, who guarantee adequate prevention, protection and attention to women victims of violence.

4. Implement in all areas the recommendations of international organizations on the human rights of women and promote the removal of sociocultural patterns that entail and sustain gender inequality and power relations over women.

5. Establish Protocols of Procedures with scope to all State institutions that are involved with the human rights of women, specifically indicating the procedure to be followed, the competencies of each according to their area of attention.

6. Promote actions to develop in the governmental and non-governmental institutions plans for the prevention, detection and care of situations of sexual harassment, harassment based on gender, or any other form of violence against women, including the establishment of a procedure for complaints for reporting, investigation and punishment of aggressors in all government institutions.

7. Establish gender or women's protection units, or strengthen existing ones, in all state institutions and ministries, equipped with the necessary budget for the development and execution of programs for prevention, training, detection and attention to situations of any form of violence against women.

8. Guarantee free and expeditious access to justice for women victims of violence.

9. Encourage cooperation and participation of civil society, as well as their advice through writings on amicus curiae, committing private entities and non-state public actors in the prevention of violence against women.

10. Guarantee the existence and availability of economic resources that allow compliance with the objectives of this Law.

11. Carry out all the necessary actions to make effective the principles and rights recognized by the Inter-American Convention to Prevent, Punish and Eradicate Violence against Women, the Convention of Belém do Pará, and the Convention on the Elimination of All Forms of Discrimination against Women and other normative instruments.

CHAPTER V
NATIONAL COMMITTEE AGAINST VIOLENCE AGAINST WOMEN

Article 16. The National Committee on Violence against Women is hereby created, hereinafter CONVIMU, attached to the National Institute for Women, which will preside over it as the governing body for policies related to the prevention and eradication of violence against women, responsible for inter-institutional coordination, promotion and monitoring of awareness campaigns and generation of discussion spaces, for the coordination and promotion of public policies to prevent violence against women and femicide, which are considered of national urgency and of social interest, in congruence with the international conventions on this matter ratified by the Republic of Panama.

Article 17. The purpose of CONVIMU shall be the combination of efforts, instruments, policies, services and inter-institutional actions for the prevention, care, sanction and eradication of violence against women, with functions of Advisory, Monitoring and Supervision of Public Policies in Matter of Violence Against Women.

Article 18. The CONVIMU will be integrated by the holders or representatives of:
1. The National Institute for Women
2. The National Council for Women
3. The Judicial Body, Access to Justice and Gender Unit.
4. The Public Ministry.
5. The Institute of Legal Medicine and Forensic Sciences
6. The Ministry of Government.
7. The Ministry of Social Development.
8. The Ministry of Health.
9. The Ministry of Education.
10. The Ministry of Labor and Labor Development.
11. The Ministry of Public Security.
12. The Ombudsman's Office.
13. The University of Panama, Institute for Women.
14. The Association of Municipalities of Panama.
15. Women's organizations of Civil Society that are active with a proven track record in the defense against violence and promotion of women's human rights, that express their interest in writing to the National Institute of Women, upon convocation and filling the requirements as determined by this Law and its regulations.

Article 19. The Executive Secretariat of CONVIMU shall prepare the draft regulations for its internal functioning and present it to its members for consideration and approval, within three months following the effective date of this Act.

Article 20. CONVIMU will have the following responsibilities:
1. Prepare and follow up the Comprehensive Plan to prevent and eradicate violence against women.
2. Promote knowledge and respect for women's human rights, with the aim of transforming the sociocultural models of behavior of women and men, including the formulation of formal and non-formal education and instruction actions, with the aim of prevent and eradicate stereotyped behaviors that allow and encourage violence against women.

3. Contribute to design a basic training module on human rights and women's citizenship that should be implemented by institutions and centers for shelter, care and protection of victims.

4. To provide technical support to the National Institute for Women, in its role as an advisory body, when required to monitor compliance with this Law and applicable international instruments, following up inter-institutional coordination and ensuring that the measures established by this Law to prevent and eradicate violence against women are fully and effectively enforced.

5. Promote the culture of reporting violence against women within the framework of the effectiveness of institutions, to guarantee their safety and integrity.

6. Ensure that the media do not promote violence against women and that they contribute to the eradication of all types of violence, to strengthen respect for human rights and the dignity of women, and to denounce the violation of any provision of this Law by means of communication.

7. Ensure that non-profit organizations and civic and social associations adhere to their constitutional statutes so that the entry and equal participation of women and men at all levels of management are allowed and denounce any discrimination against women by these.

8. Present an annual report to the three organs of the State, on the situation of violence against women, its manifestations, the magnitude, the advances and setbacks, its consequences and impact.

CHAPTER VI
PUBLIC POLICIES OF AWARENESS, PREVENTION AND ATTENTION

Article 21. The policies of awareness, prevention and attention are the set of guidelines of public nature that must be executed by competent bodies and agencies, in order to guide actions aimed at ensuring the rights and guarantees enshrined in this Act.

Article 22. The awareness and prevention measures established in this Law are binding for all public administration, justice and traditional authorities' bodies, within their respective areas of competence. To this end, the State will develop public policies aimed to:
1. Sensitize, qualify and train people who are dedicated to raising awareness, preventing and treating the victim of any form of violence against women, as well as the attention given to the aggressors.
2. Support and guide women, families and environments in situations of risk of violence in this law.
3. Advise social media for an adequate approach to the issue and dissemination of women's rights.
4. Develop educational social campaigns for the prevention of violence, knowledge of benefits, services, the rights of victims, and respect for values in all instances of socialization.
5. Promote and facilitate information about citizenship, community organizations and local networks.
6. Monitor and evaluate the effectiveness and compliance of the functions assigned by this Law to each institution.
The state entities, within the scope of their respective competences, will regulate the legal norms and will take the corresponding budgetary and administrative measures to guarantee the right of women to a life free of violence, in accordance with this Law and other laws and international treaties. on the protection of human rights.
This provision must be fulfilled within 2 months following the entry into force of this Law.

Article 23. The institutions shall coordinate among themselves, according to their competence in matters of prevention, attention and eradication of violence against women, in order to comply with the obligations established in Chapters IV and V of this Law, in addition to the provided in other laws.

Article 24. The municipalities and the county authorities will have the following attributions, in accordance with the mandates of the international conventions, in addition to those attributed to them by the Law:
1. Include the issue of violence against women and training in international conventions to protect the rights of women that are the Law of the Republic, in training programs and municipal and regional development. These issues must be included in the continuous and permanent training of the personnel working in the offices, the traditional authorities and the persons who serve victims, with a periodicity of not less than one year, as well as in the dissemination and information programs that contribute to eradicate violence against women in all its forms, guarantee respect for the dignity of women and promote equality between men and women. To this end, the modules to be used with CONVIMU will be validated in the different national indigenous languages and communication systems.
2. Manage and support the creation of educational programs on equality between the sexes directed to local, district and community authorities.
3. Manage and support the creation of safe reception centers for victims.
4. Sign agreements of cooperation and coordination on the subject with organizations of the civil society, international organisms and others.
5. Promote the creation of local networks against domestic and sexual violence and other types of violence against women aimed at the prevention and protection of women victims of violence, in coordination with the National Institute for Women.

6. Manage and create self-help community groups for women victims, supported and accompanied by people from non-governmental organizations and institutions working on the issue, such as non-hierarchical and confidential spaces of support, exchange, reflection and information.
7. Promote training programs for community leaders on women's human rights, sensitization and training on issues of masculinity and violence against women, as well as existing legislation, their responsibilities, resources and available services, including the obligations of the Public Ministry and Judicial Body, with basic elements of assistance and support for victims.
8. Inform that every person can report any act of violence against a woman, even if he/she is a minor, and even if the victim is not a family member or acquaintance.
9. Establish as a requisite that the officials and personnel that attend or interview victims or complainants who appear before the offices and other county authorities, do not have a history of violence against women.
10. Apply protection measures when authorized to do so, in order to guarantee the protection of victims.'
All police authorities should consult the aggressor registry upon receiving a report to verify if the person reported is a repeat offender.

Article 25. The Ministry of Social Development shall have the following obligations:
1. To implement and endorse, in coordination with the National Institute for Women and all State institutions, the promotion and application of public policies aimed at the social, cultural, political and economic development of women, especially those in a situation of vulnerability, in order to guarantee the full exercise of their rights and a life free of violence
2. Mainstreaming socio-educational, promotion and defense of the rights of victims of gender-based violence into poverty and social protection programs to impact on the lives of women and their families and society, prioritizing to women in situations of vulnerability.
3. Guarantee resources to the National Institute for Women for the creation and integral functioning of shelters and / or reception centers by province, for women victims of violence. This attention must be focused on immediate integration into their family, social and work environment.
4. Establish, in coordination with the Ministry of Government, recommendations and observations on the contents and programs transmitted in social media to prevent the use of women as a sexual object, sexist language and any other content that encourages forms of violence against women.

Article 26. The National Institute for Women, in addition to those established in the Act that creates it, will have the following attributions:
1. Promote, guide, coordinate, execute and implement the policies and programs contemplated in this Law and in others that are within its competence to be implemented in the different State bodies at the national level, in the different municipal institutions, in universities, trade unions, business and religious sphere, with organizations for the defense of women's rights and others of civil society with experience in the field.
2. Coordinate with the organs of the State, the municipalities and traditional authorities the design of the training plans for their officials or collaborators, as well as with the other entities that intervene in the prevention of the facts established by this Law.
3. Advise on the scope and impact of violence in the lives of women, the family, the community and society, in coordination with the competent authorities, the Network of Government Mechanisms for Equal Opportunities for Women and Local Networks of Prevention of Violence Against Women and citizen coexistence.
4. Establish guidelines for programs, projects and actions with the participation of specialized agencies and local networks for the prevention of violence against women and citizen coexistence, with the advice of the National Council for Women.
5. Ensure that all institutions proceed with the establishment, periodic updating, maintenance, extension, improvement and technical sustainability of the systems for registering cases, complaints, sanctions and care related to violence against women, disaggregated by sex, provenance, ethnicity, age and other variables that allow for official data, which will be reported both to the National Institute of Statistics and Census, and to the National Institute for Women.
6. Facilitate the reporting of violence against women, through the use of information and communication technology tools to obtain information, advice and follow-up on the prevention of violence against women and assistance to those who suffer it.
7. Act as a specialized advisory body in legal proceedings for violence against women at the request of the competent authorities.

Article 27. The Ministry of Health will develop the following actions in order to raise awareness, prevent and address violence against women:
1. Po provide, in coordination with the National Institute for Women, mandatory and ongoing training and awareness-raising for all health personnel on the problem of violence against women.
2. Design specific interdisciplinary protocols, in coordination with CONVIMU, and coordinate the preparation of the single form that should be used by all instances in the critical path, to avoid revictimization.
3. Early detection and attention to all types and modalities of violence against women, primarily in the areas of primary health care, emergencies, medical clinic, obstetrics, gynecology, traumatology, pediatrics and mental health, specifying the procedure

to be followed. continue to care for women victims of violence, safeguarding the privacy of the person assisted and promoting a non-sexist medical practice. Said procedure must ensure the obtaining and preservation of probative elements.
4. Provide, through the application of inter-institutional protocols, multidisciplinary treatment of women victims of violence, ensuring specialized assistance for children and close family circle, whether or not witnessing violence and in the reeducation of aggressors.
5. Systematize institutional statistics of public and private health service provision units on suspicion forms and other data collection instruments for violence against women to ensure that they are sent to the competent authorities and the National Institute of Health. Statistics and Census.
6. Define violence against women as a public health problem and incorporate it into the national and priority action plans of the health sector, allocating the necessary human, material and financial resources for its adequate approach.
7. In the case of conscientious objection, ensure the presence of a professional in the public health institutions of remote places, which may interrupt a pregnancy when necessary and when the woman has the right to it according to the cases allowed by law, with her consent.
8. Promote respect for the decisions of women on the exercise of their sexual rights and reproductive rights provided by law.
9. Give priority attention to women victims of violence.
10. Promote the duty to report that health personnel have, exploring the risks faced by the patient, keeping confidentiality, ensuring the correct filling of the forms of suspicion and ensuring respect and care for the dignity of women victims of violence.
11. Define actions and allocate resources to immediately initiate the retroviral treatment against HIV / AIDS to all victims of rape who arrive at health care centers and to make emergency contraception available to them, with the informed consent of the victim.

Article 28. The Ministry of Education will have the following obligations:
1. Ensure that official and private educational institutions incorporate, in all levels of education and at the level of graduate and postgraduate, training to the teaching staff, students and administrative staff in respect of rights, freedoms, sexual health and reproductive health, self-esteem, autonomy and equality between men and women as part of the educational curriculum.
2. Give specific guidance to the affected person and / or their guardian, according to the circumstances, about detecting the existence of any type of violence against women, as well as informing about their rights, resources, services and available supports.
3. Eliminate sexist content in all educational texts and teaching materials that encourage the construction of discriminatory and justifying social representations of sexual hierarchies.
4. Sensitize and train parents on the consequences of violence against women and its impact on the personal and academic development of students and the educational community.
5. Sign cooperation and coordination agreements in the matter with the National Institute for Women, civil society organizations or other governmental entities, to design and disseminate educational materials that promote the prevention and care of violence against women.
6. Develop protocols for psycho-pedagogical offices to care for girls, boys, adolescents and their mothers, fathers and relatives in order to offer safe and confidential spaces of relief, support and guidance. These protocols must contain, at least, the following components:
a. Interview in a sensitive and supportive way about the occurrence of violence against women in the private sphere.
b. Exploration of the risks that are faced, when considering the possibility of violence.
c. Confidentiality.
d. Accurate information and list of resources, services and supports available.
e. Obligation to report if there is a crime.
f. Direction of the affected people towards a specialized attention space.

Article 29. The Ministry of Labor and Labor Development shall have the following obligations:
1. Develop awareness programs, training and incentives for companies and unions to eliminate workplace violence against women and promote equality of rights, opportunities and treatment in the workplace to ensure respect for the principle of non-discrimination in:
a. Access to work, in terms of selection and hiring, which includes not requiring a pregnancy test to have access to a job position.
b. The professional career, in terms of promotion and training.
c. The permanence in the job.
d. The right to equal remuneration for equal work.
e. The right to work in an environment free of harassment, sexual harassment or favoritism.
2. Promote through specific programs the obligation to establish an agile and effective grievance procedure, as well as the prevention of sexual harassment against women in companies and unions.
3. Promote policies aimed at training and promoting labor inclusion of women victims of violence.

4. Promote respect for the labor rights of women who are victims of violence, particularly when they have to leave their work place, in order to comply with professional, administrative or judicial decisions.
5. To elaborate a model of procedure of complaints against all types of labor violence, that serves as base to be adapted and used obligatorily by the private companies.
6. To fine anyone who fails to comply with the provisions of this Law in matters of discrimination or violence in employment.

Article 30. The Ministry of Government shall have the following obligations:
1. Sensitize all hierarchical levels in the subject of violence against women within the framework of respect for human rights.
2. Include in the training programs, specific content on women's human rights and non-violence.
3. Promote policies to facilitate women's access to administrative police justice, through the creation, operation and strengthening of information centers, legal advice and free legal representation.
4. Promote agreements with professional associations, academic institutions and civil society organizations to provide specialized and free legal assistance.
5. Guarantee access to specific care services for women deprived of their liberty.
6. Establish as a requirement to grant legal status to non-profit organizations and civic and social associations that their constitutional statutes allow the entry and equal participation of women and men at all levels of management, without any type of discrimination against the female sex.
7. Fine to the media that incur discrimination or violence against women, determining the amount of the fine in proportion to the seriousness of the fault.

Article 31. The Ministry of Public Security shall have the following obligations:
1. Promote in the police and security forces, the development of interdisciplinary services that provide support to women who suffer violence to optimize their care, referral to other services and compliance with judicial provisions.
2. Update the protocols for the police forces and monitor their compliance, in order to provide the appropriate responses to avoid revictimization and facilitate the due attention, assistance and police protection to the women who come to lodge complaints in the police headquarters.
3. Create a specialized police force that intervenes in the care of violence against women in coordination with government institutions.
4. Create and implement a computerized register of aggressors and disaggregated statistics, which should be consulted by the institutions directly involved in the detection, care, investigation and prosecution of violence against women.
5. To sensitize and train police forces on the subject of violence against women within the framework of respect for human rights.
6. Include in the training programs and at all hierarchical levels of the police forces, subjects and / or specific contents on the human rights of women and especially against violence in women.
7. Guarantee the protection of women victims of violence by ensuring the presence of specialized police in the treatment of this problem and their specific training in risk assessment instruments and indicators.
8. Ensure that in each police area or barracks there is a unit with training in violence against women, which will interview the victims or complainants who come forward.
9. Establish a specialized unit in violence against women in the Police of each province and several in the metropolitan area of Panama, to provide training, information and support to the community, to the other members of the Institution and to the Public Ministry, in coordination with the National Institute for Women. This Unit must supervise the compliance of the protocol of police action by all the Police Personnel and the registration of cases in the forms of attention.

Article 32. The Public Ministry shall have the following obligations:
1. Strengthen the implementation of the Secretariat of Human Rights, Access to Justice and Gender in support of women victims of violence.
2. Provide victims with guidance and advice for their effective care and protection.
3. Dictate the necessary measures so that the victim receives emergency medical attention.
4. Provide the bodies responsible for carrying out statistics by gender, the necessary references on the number of victims assisted.
5. Provide victims with comprehensive information about public or private institutions responsible for their care.
6. Provide victims with objective information that allows them to recognize their situation.
7. Promote a culture of respect for women's human rights and guarantee the safety of those who denounce.
8. Sign cooperation agreements, coordination and agreement in this matter with other governmental institutions or private or international organizations on the subject of women's human rights.
9. Promote the training of all personnel responsible for the procurement of justice in the area of women's human rights.

10. Consult the aggressor registry before deciding on the application or not of a protection measure to accurately assess the risk posed to the victim.
11. Interview the victim separately from the aggressor.

Article 33. The Judicial Organ establishes the following obligations:
1. The Unit for Access to Justice and Gender shall keep a computerized record of aggressors, based on convictions for acts of violence provided for in this Act, specifying, as a minimum, the age, marital status, profession or occupation of the woman that suffered violence, as well as the aggressor, link with the aggressor, nature of the facts, measures adopted and their results and the sanctions imposed to the aggressor.
The courts that intervene in the cases of violence foreseen in this Law shall submit annually the pertinent information for said registry.

2. Judges may admit amicus curiae and / or representatives of collective or diffuse interests, organizations or public or private entities dedicated to the protection of women's rights.

3. Strengthen the Office for the Protection of Victims, in order to provide legal advice and free legal sponsorship to women victims of violence, regardless of their socioeconomic status.

Article 34. The National Journalism Council shall have the following obligations:
1. Promote the dissemination of messages and permanent awareness campaigns aimed at the population in general and women in particular, about the most relevant problems of women and their right to live a life free of violence.
2. Promote in the mass media the respect for the human rights of women and the treatment of violence against women.
3. Provide training to professional media personnel on the subject of violence against women.
4. Promote the elimination of sexism in information.
5. Promote, as a topic of social and business responsibility, the diffusion of advertising campaigns to prevent and eradicate violence against women.
6. Sensitize managers, technicians and professional associations of communication to promote a respectful image of women.
7. Highlight the systematic dissemination of the achievements of women in different spheres.

Article 35. Non-governmental organizations, with representation at the national level in the fight against violence towards women,
may participate with representation or amicus curiae briefs in cases related to the issue and may enter into agreements with governmental institutions about women’s human rights.

CHAPTER VII
CRIMINAL PROVISIONS

Article 36. Article 42-A is added to the Criminal Code, as follows:

> Article 42-A. Cultural or religious customs or traditions may not be invoked to prevent criminal investigation or as exemptions from guilt to perpetrate, inflict, consent, promote, instigate and tolerate the crime of violence against women or any other person.

Article 37. Number 1 of article 50 of the Criminal Code is as follows:

> Article 50. The penalties established by this Code are:
> 1. Main:
> a. Prison.
> b. Arrest on weekends.
> c. Days-fine.
> d. Multidisciplinary therapeutic treatment.
>
> [...]

Article 39. Article 62-A is added to the Criminal Code, as follows:

> Article 62-A. Multidisciplinary therapeutic treatment consists of an intervention program for pre-treatment diagnostic evaluation, psychoeducational intervention and evaluation of effectiveness and program follow-up, structured according to punishable behavior, carried out by qualified, certified and accredited professionals in behavioral sciences and psychology and clinic psychiatry, with the collaboration of social work and mental health nursing, aimed at modifying the attitudes, beliefs and behaviors of the aggressor.

Article 40. Sections 2 and 8 of article 132 of the Criminal Code are repealed.

Article 41. Article 132-A is added to the Criminal Code, as follows:

Article 132-A. Whoever causes the death of a woman, in any of the following circumstances, will be sanctioned with a penalty of twenty-five to thirty years of imprisonment:

1. When there is a couple relationship, or if he has tried unsuccessfully to establish, or re-establish, a relationship of this nature, or of affective intimacy, or there are family ties with the victim.
2. When there is a relationship of trust with the victim, or an employment, educational or any other type of relationship that implies subordination or superiority.
3. When the act is committed in the presence of the victim's sons or daughters.
4. When the author has taken advantage of any condition of risk or physical or mental vulnerability of the victim.
5. As a result of group rites or revenge.
6. For the disdain or abuse of the body of the victim, for the satisfaction of sexual instincts or the commission of acts of genital mutilation or any other type of mutilation.
7. When the body of the victim is exposed, deposited or thrown in a public or private place, or when the victim has been kept incommunicado, whatever the time, prior to her death.
8. To cover up a violation.
9. When the victim was pregnant.
10. By any means generated by reason of her condition as a woman or in a context of unequal power relations.

Article 42. Article 135 of the Criminal Code is as follows:

Article 135. Whoever induces or helps another to commit suicide will incur a prison term of one to five years, if the suicide is fulfilled.

The penalty will of twelve to fifteen years of prison and multidisciplinary therapeutic treatment in a state or private health center that has specialized care when a woman is induced to commit suicide through abuse.

Article 43. The final paragraph of Article 137 of the Criminal Code is as follows:

[...]

When the injury occurs as a result of the use of a firearm in a public place or in the usual transit of people or near residential areas, for inconsequential reasons, or in order to facilitate another punishable act, as a result of acts of domestic violence or violence against women, when it is committed against a public servant in the exercise of their functions or because of their functions, or when the injury was caused in order to extract a vital organ from the victim, the prison will be twelve to fifteen years.

Article 44. Article 138-A is added to the Criminal Code, as follows:

Article 138-A. Whoever incurs psychological violence through the use of threats, intimidation, blackmail, persecution or harassment against a woman or oblige her to do or stop doing, tolerate exploitation, threats, demands of obedience or submission, humiliation or vexation, isolation or any other similar behaviors will be punished with imprisonment of five to eight years.

If the behaviors described in the previous paragraph cause psychological harm, the penalty will be increased from one third to one half of the maximum penalty.

[...]

Article 46. The first paragraph of article 200 of the Criminal Code is as follows:

Article 200. Anyone who harasses or physically, psychologically or economically attacks another member of the family shall be punished with five to eight years imprisonment and multidisciplinary therapeutic treatment in a public or private health center with specialized care, provided that the conduct does not constitute crimes sanctioned with a greater penalty.

[...]

Article 47. Article 214-A of the Criminal Code is added, as follows:

Article 214-A. Anyone who commits economic violence against a woman, committing any of the following conducts will be punished with a penalty of five to eight years of prison:

1. Diminishing, limiting or restricting the free disposition of assets or patrimonial rights.
2. Oblige a woman to sign documents that affect, limit, restrict her assets or put them at risk, or that exempt them from financial responsibility.

3. Destroy or hide proof of ownership or personal identification documents or assets, personal objects or work tools that are essential to perform their economic activities.

Article 48. The denomination of Chapter VIII of Title XII of the Second Book of the Criminal Code is as follows.
Chapter VIII
Breach of Protection Measures and Sanctions

Article 49. Article 397-A is added to the Criminal Code, as follows:
Article 397-A. Anyone who fails to comply with protective measures ordered in favor of a woman in a criminal proceeding will be punished by imprisonment from six months to one year.

CHAPTER VIII
PROCEDURAL PROVISIONS

Article 50. Number 2 of article 333 of the Criminal Procedure Code is as follows:
Article 333. Special measures to protect the victim of domestic violence and other crimes.
[...]
2. Order that the alleged aggressor for domestic violence use any security instrument with receiver in the victim, while the process lasts, urging him not to approach the victim less than two hundred meters. In the event that this order is breached, the arrest of the alleged aggressor will be ordered for the duration of the process. Before the imposition of this measure, the victim will always be informed of the risk involved in approaching less than two hundred meters from the alleged aggressor.
[...]

Article 51. The public official or personnel at the service of the State that knows about a crime and chooses not to report it, will be subject to a disciplinary process.

In the case that the crime was reported, but it was not committed, the official will be exempt of any legal responsibility for the complaint referred to in this Article, except when it constitutes the offenses of slander and libel.

Article 52. With the mere denunciation of an act of violence against a woman or of several that may constitute an offense, the competent authority may dictate the protection measures according to the case.

Article 53. In cases of sexual violence, the complaint may be made by the woman who has suffered it or by a third party. When the complaint is made by a third party, the woman will be subpoenaed to ratify it. The competent judicial authority will take the necessary measures to maintain the confidentiality of the case and will continue the investigation formally.

Article 54. In all instances of the process, the presence of a companion will be allowed, provided that the victim of violence requests it. In order to protect the victim, the necessary measures of protection provided for in the law must be requested from the beginning of the judicial investigation, as well as free legal assistance to the victim and her family members through public defender services, to guarantee the effective exercise of his / her rights.

Article 55. The Institute of Forensic Medicine and Forensic Sciences, in accordance with the functions prescribed by law and in the practice of scientific and / or technical expertise required by the competent authority, shall seek prompt attention and guidance from the parties and the application of procedural protocols for the correct approach and integral valuation of the cases, and will include in its training programs specific contents on the human rights of women and the non-violence against them.

Article 56. The State, in accordance with international conventions on human rights ratified by the Republic of Panama, will be jointly and severally liable for the action or omission incurred by personnel in the service of the State that hinder, delay or deny compliance with the sanctions provided for in this Act, and may exercise against it the action of repetition if convicted, without prejudice to administrative or civil responsibilities.

CHAPTER IX
CREATION OF SPECIALIZED PROSECUTOR'S OFFICES AND COURTS

Article 57. The Public Ministry shall create specialized prosecutor's offices for the investigation of the crimes of Violence against Women, which shall operate twenty-four hours a day in each Judicial District.

The State shall provide the Public Ministry and the Institute of Legal Medicine and Forensic Sciences with the budgetary, physical, material, scientific and human resources required for the operation of these specialized prosecutor's offices.

Article 58. The Judicial Body will create specialized courts that will be exclusively aware of the crimes of Violence against Women established in this Law, which will operate twenty-four hours a day in each Judicial District, in accordance with the rules of competencies. These courts will be established progressively throughout the Republic.
The State will provide the Judicial Branch with the budgetary resources required for the operation of these specialized courts.

Article 59. The competent judge will follow up on the fulfillment of the penalty of multidisciplinary therapeutic treatment specialized in violence against women.

Article 60. The multidisciplinary therapeutic treatment referred to in the previous article will be under the responsibility of the Ministry of Health and the Social Security Fund which, together with the National Institute for Women, the University of Panama and the National System of Gender Training, will capacitate mental health professionals (psychiatry, psychology, social work) to evaluate and provide individual and group therapeutic treatment, following up with aggressors or offenders until its conclusion.

The follow-up will consist of the submission of periodic reports to the competent judge, who will not end the process until having received final certification of the conclusion of the treatment by the team in charge.

CHAPTER X
ATTENTION TO WOMEN VICTIMS OF VIOLENCE DURING THE PROCESS

Article 61. At least one integral care center will be built by province, with multiple services, for women victims of violence, with properly trained and sensitized personnel, subject to the responsibility of the National Institute for Women in coordination with the Public Ministry and other public institutions and private entities, who will manage and contribute within their assigned budgets.

Article 62. At least one shelter and / or reception center for women survivors of violence per province will be built. The hostels will have trained and specialized personnel in the field. In the province of Panama, shelters will be built in Panama Centro, San Miguelito, Panama East and Panama West to a minimum of four shelters.

The location cannot be disclosed to unauthorized people. It is up to the shelters to ensure the safety of the women and their children and other persons in the family circle who are temporarily in them. The shelters will work in coordination with the comprehensive care centers.

Article 63. In the care measures, women in special risk situations will be taken into account. A center for urgent cases of violence against women and guidance in general will be established through a three-digit telephone line, which operates around the clock.

When the situation requires it, the transport service of the victims and their children will be included in a reserved location to guarantee their protection and safety.

Article 64. Comprehensive care centers shall provide the necessary follow-up to the victims for their physical and psychological recovery through comprehensive programs, with the purpose that they may participate fully in public, social and private life. This attention will be extended to the sons and daughters who accompany it and must include information on the institutions responsible for providing free legal advice and representation.

Article 65. The State shall provide immediate medical or economic assistance to the victims, partially or totally or in a supplementary manner, of the special reparations fund created by Law 31 of 1998, on the protection of victims of crime. The payment will be ordered in the shortest possible time.

Article 66. Private companies are obliged, as part of their corporate social responsibility, to provide their collaborators who face situations of violence against women the necessary times for the procedures that guarantee their integral attention.

[…]

Article 70. If it is found that any means of communication has incurred in discrimination or violence against women, it will be sanctioned by the Ministry of Government with a fine of one thousand balboas (B / 1,000.00) to three thousand balboas (B /. 3,000.00), depending on the severity of the violation.

CHAPTER XI
REPAIRING THE DAMAGE CAUSED TO THE VICTIM

Article 71. Reparation to the victim will be proportional to the damage caused. The reparation must be determined by the judicial authority that knows the specific case. When the victim has died, the right to reparation extends to his/her successors, in accordance with the provisions of the law.

The affected party may claim civil reparation for, according to the common rules that govern the matter. In cases of conviction for the crimes provided for in this Act, the court shall order, in the same judgment, that the victim be compensated for costs, if any, of:
1. Medical or psychological treatment.
2. Physical and occupational therapy and rehabilitation.
3. Transportation and costs of necessary temporary housing and child care.
4. Fees of the legal representative.
5. Loss of profits.
6. Moral damage.
7. Psychic damage.
8. Any other loss suffered by the victim.

CHAPTER XII
BUDGET ASSIGNMENTS

[…]

CHAPTER XIII
FINAL PROVISIONS

Article 73 (transitory). While the prosecutors' offices and the specialized courts are created, the Public Prosecutor's Office and the Judicial Organ will determine which units, structures and courts will prosecute the crimes established in this Law.

Article 74 (transitory). The State and the provincial, municipal and traditional governments, as well as the public institutions responsible for the implementation of this Law, will have the obligation to disseminate the content of its provisions widely and in a didactic manner at all levels of the population.

Article 75. This Act is of social interest. All the measures that derive from it will guarantee the prevention, attention, sanction and eradication of all types of violence against women during their life cycle and will promote their integral development and full participation in all spheres.

Article 76. This Law shall be regulated by the Executive Body, within sixty calendar days, counted from its entry into force, for which it shall appoint an inter-institutional commission.

Article 77. This Law adds numbers 1 of Article 50, Articles 54 and 135, the final paragraph of Article 137, Article 178 and the first paragraph of Article 200, the denomination of Chapter VIII of Title XII of Book Two of the Sole text of the Criminal Code and numbers 2 of article 333 of the Criminal Procedure Code, adds articles 42-A, 62-A, 132-A, 138-A, 214-A and 397-A and repeals the numbers 2 and 8 of article 132 of the Single Text of the Criminal Code.

[…]

Criminal Code, 2007[126]

[126] Criminal Code, Law 14 of 2007 (consolidated version, 2015), available at http://www.oas.org/juridico/pdfs/mesicic5_pan_res_ane_act_corr_2.pdf (last visited December 30, 2018). Unofficial translation by Compendium team.

Article 91. It is an aggravating or mitigating circumstance, depending on the nature, the motives and the effects of the crime when the victim is a close relative of the offender.
For the purposes of criminal law, close relatives are: the spouse, partner or companion, persons within the fourth degree of consanguinity or second of affinity, and also the family relation acquired through adoption.

Article 174. Those who, through violence or intimidation and by using their genital organs, have sexual intercourse with a person of either sex, shall be punished with imprisonment from five to ten years.

This sanction will also be imposed on anyone who has a carnal contact under the same conditions. The same penalty shall be imposed on anyone who, without the consent of the affected person, practices acts of oral sex on the same, or introduces for sexual purposes, any object or any non-genital part of his or her body, in the anus or vagina.

The penalty will be eight to twelve years in prison, in any of the following circumstances:

1. When the violation causes the victim impairment of his/her psychological capacity.
2. When the event causes the victim physical damage that causes incapacity for over thirty days.
3. If the victim becomes pregnant.
4. If the act was perpetrated by a close relative or guardian.
5. When the author is a minister of religion, educator or is charged, by any title, with guardianship, upbringing or temporary care.
6. If the act was committed with abuse of authority or trust.
7. When it is committed with the assistance of two or more persons or observers.
8. When sexual contact is done using degrading or humiliating means.

The penalty will be ten to fifteen years, if the violation is committed, by knowing their situation, against a sick person, a carrier of an incurable sexually transmitted disease or of immunodeficiency virus.

Article 200. Whoever harasses or physically, psychologically or economically attacks another member of the family will be punished with five to eight years' imprisonment and multidisciplinary therapeutic treatment in a public or private health center with specialized attention, provided that the conduct does not constitute crimes sanctioned by a more severe penalty.

In any of these cases, the competent authority will apply the corresponding protection measures in favor of the victims.

This penalty will be applied to physical injuries that produce a disability not exceeding thirty days. For the purposes of this article, the behaviors described are applicable in case of:
1. Married couples.
2. De facto unions.
3. Relationships of less than five years whose intention of permanence can be accredited.
4. Close relationship.
5. People who have procreated a son or a daughter together.
6. Non-common minor children living or not in the family.

Likewise, shall be applied to the situations indicated in the above numbers, even when they have ended at the time of the aggression. In case of non-compliance with the security measure imposed, the Compliance Judge must replace it with the corresponding prison sentence.

Article 201. The penalty referred to in the previous article shall be from six to nine years in prison, if the physical injuries caused determine an incapacity exceeding thirty but not more than sixty days.

If such injuries produce some of the effects set forth in article 137 of this Code, the sanction established in the aforementioned article shall apply for acts of domestic violence.

51. PAPUA NEW GUINEA

Family Protection Act, 2013 [127]

[…]

An Act
Entitled
Family Protection Act 2013,

Being an Act to-
(a) provide for an offence of domestic violence; and
(b) establish a regime for family protection orders in cases of domestic violence; and
(c) preserve and promote harmonious family relationships; and
(d) prevent and deter domestic violence at all levels of society in the country, and for related purposes.

MADE by the National Parliament.

PART I.- PRELIMINARY

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS
(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3C (qualified rights) of the Constitution namely-

(a) the right to liberty of the person conferred by Section 42; and
(b) the right to the freedom of expression and publication conferred by Section 46; and
(c) the right to peaceful assembly and to associate and to form or belong to, or not to belong to, political parties, industrial organizations or other associations conferred by Section 47; and
(d) the right to freedom of choice of employment in any calling for which a person has the qualification (if any) lawfully required conferred by Section 48; and
(e) the right to reasonable privacy in respect of his or her private and family life, his or her communications with other person and his or her personal papers and effects conferred by Section 49; and
(f) the right to vote and stand for public office conferred by Section 50; and
(g) the right to reasonable access of official documents conferred by Section 51; and
(h) the right to freedom of movement conferred by Section 52,

is a law that is made for the purposes of complying with Section 38 of the Constitution, taking into account the National Goals and Directive Principles on integral human development and equality and participation called for in the Preamble to the Constitution, and for the purpose of giving effect to the public interest in public welfare, and to the protection of families as the core of the society and to promote harmonious family relationships.

2. INTERPRETATION.
In this Act, unless the contrary intention appears-
"child" means an individual under the age of 18 who is–
(a) a biological, adopted, step or foster child of the person; or
(b) in the care or custody of the person;
"communication" means written, oral, sign or electronic forms of communication;
"complainant" means the alleged victim of domestic violence;
"court", unless otherwise indicated, means the District Court;
"defendant" means a person against whom a family protection order is sought under this Act;
"domestic violence" means a person against whom a family protection order is sought under this Act;
"domestic violence offence" means an offence under Section 6;
"family member" means each of the following:
(a) the spouse of the person; or
(b) a child of the person or a child of the person's spouse; or

[127] Family Protection Act, NO. 29/2013 (18 September 2013), available at: http://cfcpng.org/wp-content/uploads/2014/06/FAMILY-PROTECTION-ACT-2013.pdf (last visited December 30, 2018).

(c) a parent of the person or a parent of the person's spouse; or
(d) a grandparent; or
(e) a brother or sister of the person or a brother or sister of the person's spouse; or
(f) any other person who is treated by the spouse as a family member.

"family protection order" means a protection order or an interim protection order issued under Part III,
"interim protection order" means an order made under Section 12;
"Minister" means the Minister responsible for national justice administration;
"property of a person" means property that:
(a) the person owns; or
(b) the person does not own, but-
(i) Is used and enjoyed by the person; or
(ii) is available for the person's use or enjoyment; or
(iii) is in the person's care or custody;

"protection order" means an order made under Section 16;
"spouse of a person" means an individual of the opposite sex to the person who:
(a) is or has been married to the person; or
(b) although not married to the person, is living with the person in a marriage-like relationship or has lived with the person in such a relationship; or
(c) is a biological parent of a child with the person (whether or not they are or have been married or are living or have lived together); and
"well-being" includes adequate food, shelter and access to fresh water.

3. OBJECTIVES OF THE ACT.
The objectives of this Act are–
(a) to promote safe, stable and strong families; and
(b) to prevent and deter domestic violence at all levels of society; and
(c) to recognize that domestic violence of any kind is not an acceptable behavior;
and
(d) to ensure that there is effective legal protection for the victims of domestic violence; and
(e) to provide for the punishment of persons who commit acts of domestic violence or who breach family protection orders.

4. UNDERLYING PRINCIPLES.
To achieve the objectives of the Act, all persons exercising functions, powers and duties under the Act, will recognize and take into account the following underlying principles:
(a) that freedom from violence is every person's right; and
(b) that violence is often a learned behavior which can be unlearned; and
(c) that violence in marriage is not a private matter, but a social problem of public concern; and
(d) that stopping domestic violence will strengthen marriages and improve family life; and
(e) that stopping domestic violence will help create a more peaceful society; and
(f) that it is the responsibility of every person to take a strong stand against domestic violence for the benefit of the whole society.

PART II- DOMESTIC VIOLENCE OFFENCE.

5. MEANING OF DOMESTIC VIOLENCE.
(1) A person commits an act of domestic violence if he or she does any of the following acts against a family member:
(a) assaults the family member (whether or not there is evidence of a physical injury);or
(b) psychologically abuses, harasses or intimidates the family member, or
(c) sexually abuses the family member; or
(d) stalks the family member so as to cause him or her apprehension or fear; or
(e) behaves in an indecent or offensive manner to the family member; or
(f) damages or causes damage to the family member's property; or
(g) threatens to do any of the acts in Paragraphs (a), (c) or (f).

(2) Without limiting Paragraph (1) (d), a person may stalk another person by–
(a) following the person; or
(b) watching the person; or

(c) loitering outside the premises where the person lives, works or frequents for the purposes of any social or leisure activity; or
(d) making persistent telephone calls, sending persistent text messages or other forms of communications to the person or to the premises where the person lives or works.

(3) For avoidance of doubt–
(a) a single act may amount to an act of domestic violence; and
(b) a number of acts that form part of a pattern of behavior may amount to domestic violence even though some or all of those acts when viewed in isolation may appear to be minor or trivial.

6. DOMESTIC VIOLENCE OFFENCE.
(1) A person who commits an act of domestic violence is guilty of an offence.

Penalty: A fine not exceeding K 5,000.00 or imprisonment for a term not exceeding two years or both.

(2) It is not a defence to an offence under Subsection (1) that the defendant has paid an amount of money or given other valuable consideration, in accordance with his or her custom, to the complainant.

PART III.- FAMILY PROTECTION ORDERS.

Division 1.- Applications.

7. APPLICATION FOR A FAMILY PROTECTION ORDER.
(1) An application for a family protection order may be made by:
(a) the complainant; or
(b) any person on behalf of the complainant if the complainant has given his or her written consent for that person to make the application; or
(c) a qualified legal practitioner on behalf of the complainant if the complainant has given his or her written consent for that practitioner to make the application; or
(d) a police officer on behalf of the complainant if the complainant has given his or her written consent for that officer to make the application.

(2) Subject to Subsection (3), an application for a family protection order must be made in the prescribed form.

(3) A failure to comply with Subsection (2) does not invalidate the application.

(4) An application to a court for a family protection order may be made–
(a) orally; or
(b) in writing.

(5) If the application is made orally, the court must reduce the application into writing as soon as practicable in the prescribed form.

Division 2.-Conditions.

8. CONDITIONS RELATING TO GOOD BEHAVIOUR.
A court may include all or any of the following conditions in a protection order;
(a) the defendant must be of good behavior towards the complainant or any other family member named in the order; or
(b) the defendant must not commit acts of domestic violence.

9. CONDITIONS RELATING TO INDIVIDUAL PROTECTION.
A court may include all or any of the following conditions in a protection order:
(a) prohibiting the defendant or complainant from approaching each other; or
(b) prohibiting the defendant or complainant from communicating with each other; or
(c) prohibiting the defendant or complainant from being in or near specified premises, including premises where the other lives, works or frequents, even though he or she has a legal or equitable interest in the premises; or

(d) prohibiting the defendant or complainant from causing another person to engage in conduct referred to in Paragraphs (a) to (c).

10. CONDITIONS RELATING TO PROPERTY.
A court may include all or any of the following conditions in a protection order–
(a) prohibiting the defendant from damaging the property of the complainant; or
(b) directing the defendant-
(i) to return any specified personal property of the complainant; or
(ii) to allow the complainant to recover, have access to, or make use of, any specified personal property; or
(c) granting the complainant exclusive occupancy to a residence or specified part of a residence whether or not the residence is solely owned or leased by the defendant; or
(d) prohibiting the defendant or complainant from causing another person to engage in conduct referred to in Paragraph (a).

11. CONDITIONS RELATING TO COUNSELLING AND MEDIATION.
A court may direct either or both the defendant and the complainant to participate in–
(a) counselling; or
(b) mediation; or
(c) both counselling and mediation.

Division 3- Interim Protection Orders.

12. COURT MAY MAKE INTERIM PROTECTION ORDER.
(1) In this division "court" includes the Village Court.
(2) A court may make an interim protection order if the court believes on reasonable grounds that the complainant is in danger of any form of domestic violence.
(3) The court may impose conditions in an interim protection order in the same way that it may impose conditions in a protection order issued under Division 2 of this Part.
(4) A court may make an interim protection order whether or not the defendant or complainant is in court.
(5) In avoidance of doubt, a court may make an interim protection order even though an application was also made under Section 7 for a protection order.
(6) A court may include the name of a family member in an interim protection order made for the benefit of the complainant if the court believes on reasonable grounds that the family member is in danger of any form of domestic violence.

13. FORM OF AN INTERIM PROTECTION ORDER.
(1) Subject to Subsection (2), an interim protection order is to be made in the prescribed form.

(2) A failure to comply with Subsection (1) does not affect the validity of the interim protection order.

14. COMMENCEMENT AND DURATION OF INTERIM PROTECTION ORDERS.
(1) An interim protection order or a renewed interim protection order commences at the time it is served on the defendant.

(2) An interim protection order remains in force for not more than 30 days, and may be renewed only once for a further 30 days.

(3) An interim protection order remains in force for 30 days unless–
(a) it is revoked; or
(b) it is renewed; or
(c) it is replaced by a protection order.

15. EVIDENCE.
(1) A court may make an interim protection order on such evidence as the court considers sufficient and appropriate having regard to the interim nature of the order.

(2) Without limiting Subsection (1), if the complainant is unable to attend the court because of his or her injuries, the court may accept affidavit evidence on behalf of the complainant.

16. COURT MAY MAKE PROTECTION ORDER.
(1) Following an application made under Section 7, a court may make a protection order against a defendant if the court believes on reasonable grounds that–
(a) the defendant has committed an act of domestic violence against the complainant; or
(b) the defendant is likely to commit an act of domestic violence against the complainant.

(2) In deciding whether to make a protection order, the court must take into account the following:
(a) the need to ensure that the complainant is protected from domestic violence; and
(b) the safety and well-being of the complainant; and
(c) the safety and well-being of other family members; and
(d) any other matter the court considers relevant.

(3) The court may include the name of a family member in a protection order made for the benefit of the complainant, if the court believes on reasonable grounds that the defendant has committed, or is likely to commit, an act of domestic violence against that family member.

17. ABSENT DEFENDANT.
(1) Subject to Subsection (2), a court may proceed to hear and determine an application for a protection order if the defendant is not present.

(2) The court must be satisfied on reasonable grounds that–
(a) the defendant has been served with a summons to appear at the hearing; or
(b) the defendant was required by conditions of bail to appear at the hearing; or
(c) having regard to the circumstances of the case, all reasonable efforts have been made to give the defendant notice of the hearing.

18. FORM OF PROTECTION ORDER.
(1) Subject to Subsection (2), a protection order is to be made in the prescribed form.

(2) A failure to comply with Subsection (1) does not affect the validity of the protection order.

19. COMMENCEMENT AND DURATION OF PROTECTION ORDER.
(1) A protection order or an extension to an existing protection order commences at the time it is served on the defendant.

(2) A protection order continues in force for the period specified in the order, unless it is revoked or the period of the order is varied.

(3) The period specified in a protection order must not exceed two years and is to be for such period as the court considers necessary to protect a person.

(4) Where a period is not specified in an order, the order remains in force for six months.

Division 5.-Offence and Compensation.

20. OFFENCE TO BREACH FAMILY PROTECTION ORDER.
(1) A person who breaches a condition or conditions of a family protection order or an interim protection order is guilty of an offence.
Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding three years or both.

(2) It is not a defense to an offence under Subsection (1) that the defendant has paid an amount of money or given other valuable consideration in accordance with his or her custom to the complainant.

(3) It is a defense to an offence under Subsection (1) that the defendant establishes a reasonable excuse.

21. COMPENSATION.
In addition to any order for protection, a court may order the defendant to pay compensation in accordance with custom or otherwise to the complainant if the complainant as a result of an act of domestic violence suffered-
(a) personal injury; or

(b) damage to property; or
(c) financial loss.

PART IV.- MISCELLANEOUS.

22. POWER OF COURT TO MAKE ORDER ON OWN INITIATIVE.
(1) A court may, on its own initiative, make a family protection order against a person if-
(a) the person pleads guilty to, or is found guilty of, an offence under Section 6 or an offence under any other law that involves conduct that amounts to domestic violence; and
(b) the court is satisfied that the order could be made against the person under this Act.

(2) If a family protection order is already in force, the court may vary the order.

23. SPOUSE MAY GIVE EVIDENCE.
If a person is charged with an offence under this Act-
(a) the person's spouse is a competent and compellable witness in any legal proceedings in connection with the offence; and
(b) the person's spouse may be called to give evidence without the consent of the person.

24. VARIATION AND REVOCATION OF ORDERS.
(1) An application to vary or revoke a family protection order may be made by any person to whom the order applies.
(2) An application under Subsection (1) must be made to the court that made the order.

25. NO APPLICATION FEES.
Notwithstanding the provisions of any other law, policy, practice or procedure, no fees or charges are payable to a court in relation to the making of an application for a family protection order.

26. REGULATIONS.
The Head of State, acting with, and in accordance with the advice of the National Executive Council, may make regulations not inconsistent with this Act prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

[…]

Criminal Code Act, 1974 [128]

347. DEFINITION OF RAPE.

(1) A person who sexually penetrates a person without his consent is guilty of a crime of rape.
Penalty: Subject to Subsection (2), imprisonment for 15 years.
(2) Where an offence under Subsection (1) is committed in circumstances of aggravation, the accused is liable, subject to Section 19, to imprisonment for life.

347A. MEANING OF CONSENT.

(1) For the purposes of this Part, "consent" means free and voluntary agreement.

(2) Circumstances in which a person does not consent to an act include, but not limited to, the following: –

[…]
(i) the accused induces the person to engage in the activity by abusing a position of trust, power or authority; or

[…]

[128] Criminal Code Act of 1974(commencement date 1 November 1975), available at https://www.ffa.int/system/files/Criminal_Code_Act_1974.pdf (last visited December 30, 2018).

52. PARAGUAY

Law Against Domestic Violence, 2000 [129]

CHAPTER I
GENERAL PROVISIONS

Article 1 - Scope and protected goods.
This law establishes the rules of protection for any person who suffers injuries, physical, psychological or sexual abuse by any of the members of the family group, including the one originated by kinship, marriage or de facto union, even where the cohabitation has ceased; likewise, in case of non-cohabiting partners and children, whether or not the latter are common.
Any affected person may report these facts to the Justice of the Peace of the place, orally or in writing, in order to obtain protection measures for their personal safety or that of their family. The complaints will be free of charge. In cases in which the affected person was not in a position to make the complaint on his / her own, the relatives or those who have knowledge of the fact may do so. In cases where the complaint is made before the National Police or in the health centers, it will be sent to the Justice of the Peace immediately.

Article 2 - Urgent protection measures.
Ascertained the likelihood of the facts reported, the Magistrate will order a special protection procedure in favor of the victim, and in the same act may adopt the following protection measures, according to the circumstances of the case and what is requested by the victim:
a) order the exclusion of the accused from the home where the family group lives;
b) prohibit the defendant's access to housing or places that entail danger to the victim;
c) in case of leaving the victim's home, arrange the delivery of personal objects and those of the minor children, depending on the case, as well as the furniture of indispensable use;
d) order the reinstatement of the victim who has left the home for reasons of personal security; excluding in this case the author of the offense;
e) prohibit the introduction or maintenance of weapons, psychotropic and / or toxic substances in the home, when they are used to intimidate, threaten or cause harm to members of the family group; and
f) any other that protects the victim, at the discretion of the Court.

In all cases, the measures ordered shall remain in force until the Judge who issued them orders their removal, either ex officio or at the request of a party, because the causes that gave rise to them have ceased, or the proceedings have ended.

Together with the implementation of the protection measures ordered, the Judge will arrange for the delivery of a copy of the background information on the case to the accused and will set a date and time for the hearing contemplated in Article 4 of this Law.

Article 3 - Additional assistance to victims.
Victims of domestic violence have the right to urgent and personalized attention from the Public Health and National Police institutions. In this sense, the following is established:

Public Health institutions must:
a) urgently assist the injured person and grant the treatment by qualified professionals, arrange all relevant examinations, and refer the patient to specialized institutions, if necessary; and
b) deliver a copy of the diagnosis to the patient and to the corresponding Justice of the Peace, within twenty-four hours.

The National Police must:
a) assist the victim who is in danger, even when the victim inside her / his home, whenever her / his relatives or those who have knowledge require it;
b) arrest the accused in case of finding him in flagrant undertaking of punishable acts, in accordance with the provisions of Article 239 of the Criminal Procedure Code;
c) send a copy of the minutes to the competent Magistrate's Court within twenty-four hours; and
d) comply with the protection measures ordered by the Justice of the Peace, whose execution was in his charge.

[129] Law Against Domestic Violence (Ley Contra la violencia doméstica), Law No. 1600 (6 October 2000), available at http://www.bacn.gov.py/leyes-paraguayas/1689/ley-n-1600-contra-la-violencia-domestica (last visited December 30, 2018). Unofficial translation by Compendium team.

Article 4 - Hearing.
Once the measures indicated in Article 2 have been ordered and all the proceedings and background of the case have been duly notified, the Justice of the Peace shall order a hearing within three days of receiving the complaint, so that the parties may appear to substantiate the special protection procedure.

In case of unjustified absence of the accused to the first subpoena, the accused will be escorted by law enforcement. The victim is not obliged to appear personally. The parties must offer and complete their evidence at the same hearing.

At the beginning of the hearing, the Justice of the Peace will inform the parties about their rights.

Article 5 - Of the resolution.
Once the proceedings mentioned in Article 4 have been completed, the Justice of Peace will issue a decision, which may ratify, modify, adopt new measures, or annul those previously established. In the first cases, the Justice must establish the duration of the measures. The resolution will be read to the parties at the same hearing.

If necessary, the resolution will include the adoption of permanent measures aimed at protecting the family group or any of its members and may provide assistance to reeducation or therapeutic treatment programs.

Article 6 - Of the appeal.
The appeal shall be well-founded, and raised within two days after the hearing, before the Justice of the Peace, who shall remit the proceedings without further proceedings to the corresponding Civil and Commercial Court of First Instance.

The appeal will be granted without suspensive effect when the action is made.

Article 7 - Resolution.
The Judge in Civil and Commercial matters will summon the other party in two days to hear this, and will issue a ruling within three days, which will be enforceable.

Article 8 - Supplementary procedure.
The Civil Procedure Code will be applied supplementary, provided that the actions established in this law are not deprived of efficiency, speed and procedural economy.

Article 9 - Obligations of the State.
The Secretariat of Women of the Presidency of the Republic will be responsible for monitoring and evaluating the application of this Law, by:
a) intervening in public policies for the prevention of domestic violence;
b) coordinating joint actions of the Health Services, National Police, Judiciary and Public Ministry, as well as the specialized intergovernmental and non-governmental organizations, to provide adequate preventive and supportive care to women and other members of the family group, victims of domestic violence;
c) disclosing and promoting the knowledge of this law; and
d) Keeping a record of data on domestic violence, with all the pertinent information, periodically requesting the Peace Courts of the different circumscriptions the necessary data for the updating of said registry.

Article 10 - The special protection procedure established in this Law shall be carried out without adversely affecting the application of the criminal sanctions applicable to the defendant in case of perpetration of punishable acts typified in the Penal Code.

Article 11 - Communicate to the Executive Power.
Approved the Bill by the Honorable Chamber of Senators, on 4 July 2000, and by the Honorable Chamber of Deputies, on 22 September 2000, being sanctioned on the same day, in accordance with the provisions of Article 207, 3, of the National Constitution.

53. PERU

Act to Prevent, Punish and Eradicate Violence Against Women and Members of the Family Group, 2015[130]

[…]

TITLE I
SUBSTANTIVE PROVISIONS FOR THE PREVENTION, SANCTION AND ERADICATION OF VIOLENCE AGAINST WOMEN AND MEMBERS OF THE FAMILY GROUP

CHAPTER I
GENERAL PROVISIONS

Article 1. Object of the Law
The purpose of this Law is to prevent, eradicate and punish all forms of violence produced in the public or private sphere against women because of their status as such, and against members of the family group; especially when they are in a situation of vulnerability, by age or physical situation such as girls, boys, adolescents, older adults and people with disabilities.

For this purpose, it establishes mechanisms, measures and integral policies of prevention, attention and protection of the victims as well as reparation of the damage caused; and provides for the prosecution, punishment and reeducation of sentenced aggressors in order to guarantee women and the family group a life free of violence by ensuring the full exercise of their rights.

Article 2. Guiding principles
In the interpretation and application of this Law, and in general, in any measure that the State adopts through its public powers and institutions, as well as in the action of society, the following principles are preferably considered:

1. Principle of equality and non-discrimination: Equality between women and men is guaranteed. Prohibit all forms of discrimination. Understand discrimination, any kind of distinction, exclusion or restriction, based on gender, whose purpose or result is to undermine or cancel the recognition, enjoyment or exercise of the rights of the people.

2. Principle of the best interests of the child: In all measures concerning children adopted by public or private social welfare institutions, courts, administrative authorities or legislative bodies, the best interests of the child must be taken into consideration.

3. Principle of due diligence: The State adopts without delay, all policies aimed at preventing, punishing and eradicating all forms of violence against women and members of the family group. The corresponding sanctions must be imposed on the authorities that break this principle.

4. Principle of immediate and timely intervention: The operators of justice and the National Police of Peru, in the face of an act or threat of violence, must act in a timely manner, without delay for procedural, formal or other nature, providing for the exercise of the protective measures provided for in the law and other regulations, in order to effectively assist the victim.

5. Principle of simplicity and orality: All processes for violence against women and members of the family group are developed considering the minimum formalism, in friendly spaces for presumed victims, favoring that they trust the system and collaborate with it for adequate sanction to the aggressor and the restitution of the violated rights.

6. Principle of reasonableness and proportionality: The prosecutor or judge in charge of any process of violence, should weigh the proportionality between the possible damage caused and the measures of protection and rehabilitation to be adopted. For it must make a judgment of reasonableness according to the circumstances of the case, issuing decisions that allow effective protection to the life, health and dignity of the victims. The adoption of these measures is appropriate to the phases of the cycle of violence and the different typologies that presents violence against women and members of the family group.

Article 3. Approaches
Operators, when applying this Law, shall consider the following approaches:

[130] Act to Prevent, Punish and Eradicate Violence Against Women and Members of the Family Group (Ley para prevenir, sancionar y erradicar la violencia contra las mujeres y los integrantes del grupo familiar), Law No. 30364 (6 November 2015), available at https://busquedas.elperuano.pe/normaslegales/ley-para-prevenir-sancionar-y-erradicar-la-violencia-contra-ley-n-30364-1314999-1/ (last visited, December 30, 2018). Unofficial translation by Compendium team.

1. Gender approach. Recognizes the existence of asymmetrical circumstances in the relationship between men and women, built on the basis of differences in gender that constitute one of the causes of violence against women. This approach should guide the design of strategies of intervention aimed at achieving equality of opportunities between men and women.

2. Comprehensive approach. Recognizes that violence against women brings together multiple causes and factors that are present in different areas, at the individual, family, community and structural levels. Therefore, it is necessary to establish interventions at different levels and different disciplines.

3. Intercultural approach. Recognizes the need for dialogue between different cultures that are integrated into Peruvian society, in a way that allows recovery, from the diverse cultural contexts, of all those expressions that are based on respect for another person. This approach does not admit discriminatory cultural practices that tolerate the violence or hinder the enjoyment of equality rights between people of different genders.

4. Human rights approach. Recognizes that the main objective of any intervention within the framework of this Law must be the realization of human rights, identifying the holders of rights and what they are entitled to according to their particular needs; Identifying, also, the obligors or holders of duties and the obligations that correspond to them. Efforts are being made to strengthen the capacity of rights holders to claim these rights and the holders of duties to fulfill their obligations.

5.Approach of intersectionality. Recognizes that women's experience of violence is influenced by factors and identities such as their ethnicity, color, religion; political or other opinion; national or social origin, heritage; marital status, sexual orientation, seropositive status, immigrant or refugee status, age or disability; and, where appropriate, includes measures aimed at specific groups of women.

6.Generational approach. Recognizes that it is necessary to identify the power relations between different ages of life and their links to improve living conditions or common development. It considers that childhood, youth, adulthood and old age must have a connection, because together they are paying to a common history and must be strengthened generationally. Presents long-term contributions considering the different generations and placing the importance of building co-responsibilities among them.

Article 4. Scope of application of the Law
The provisions of this Law apply to all types of violence against women because of their status as such and against members of the family group.

CHAPTER II
DEFINITION AND TYPES OF VIOLENCE AGAINST WOMEN AND MEMBERS FROM THE FAMILY GROUP

Article 5. Definition of violence against women.
Violence against women is any action or conduct that causes them death, physical, sexual or psychological damage or suffering because of their condition, both in the public and private spheres. Violence against women is understood as:

a. The one that takes place within the family or domestic unit, or in any other interpersonal relationship, whether the aggressor shares or has shared the same address as the woman. It includes, among others, rape, physical or psychological abuse and sexual abuse.

b. The one that takes place in the community, is perpetrated by any person and includes, among others, rape, sexual abuse, torture, trafficking of persons, forced prostitution, kidnapping and sexual harassment in the workplace, as well as in educational institutions, health centers or any other place.

c. The one which is perpetrated or tolerated by agents of the State, wherever it occurs.

Article 6. Definition of violence against members of the family group.
Violence against any member of the family group is any action or conduct that causes death, damage or physical, sexual or psychological suffering and that occurs in the context of a relationship of responsibility, trust or power, from one member to another of the family group. Special consideration is given to girls, boys, adolescents, seniors and people with disabilities.

Article 7. Subjects of protection of the Law.
Are subjects of protection of the Law:

a. Women throughout their life cycle: girl, adolescent, young, adult and older adult.
b. The members of the family group. Understand as such, the spouses, ex-spouses, cohabitants, ex-survivors; stepparents, stepmothers; ascendants and descendants; the collateral relatives of the spouses and cohabitants up to the fourth degree of consanguinity and second degree of affinity; and to those who, without having any of the aforementioned conditions, live in the same home, provided that contractual or labor relations do not exist; and those who have procreated children in common, regardless of whether they live together or not, at the time of violence.

Article 8. Types of violence.
The types of violence against women and members of the family group are:
a) Physical violence. It is the action or behavior, which causes damage to bodily integrity or health. This includes abuse due to negligence, neglect or deprivation of basic needs, which have caused physical damage or that may cause it, regardless of the time required for recovery.

b) Psychological violence. It is the action or conduct, tending to control or isolate the person against their will, to humiliate or shame and that can cause psychological damages. Psychological damage is the affectation or alteration of some of the mental functions or capacities of the person, produced by a fact or a set of situations of violence, which determines a temporary or permanent, reversible or irreversible impairment of the previous integral functioning.

c) Sexual violence. Actions of a sexual nature that are committed against a person without their consent or under duress. They include acts that do not involve penetration or any physical contact. Likewise, they are considered as exposure to pornographic material and that violate the right of people to decide voluntarily about their sexual or reproductive life, through threats, coercion, use of force or intimidation.

d) Economic or patrimonial violence. Is the action or omission that is aimed at causing a loss in economic resources or assets of any person, through:
1. the disturbance of the possession or ownership of their property;
2. the loss, theft, destruction, retention or misappropriation of objects, work tools, personal documents, assets, values and patrimonial rights;
3. the limitation of economic resources destined to satisfy their needs or deprivation of the indispensable means to live a dignified life; as well as the evasion of the fulfillment of their alimentary obligations;
4. the limitation or control of their income, as well as the perception of a lower salary for the same task, within the same place of work.

CHAPTER III
RIGHTS OF WOMEN AND OF THE FAMILY GROUP

Article 9. Right to a life free of violence.
Women and members of the family group have the right to a life free of violence, to be valued and educated, to be free from all forms of discrimination, stigmatization and stereotyped patterns of behavior, social and cultural practices based on concepts of inferiority and subordination.

Article 10. Right to integral assistance and protection.
The entities that make up the National System for the Prevention, Punishment and Eradication of Violence against Women and Members of the Family Group allocate specialized human, logistical and budgetary resources in order to detect violence, care for victims, protect and restore their rights.
The rights considered in this article are:
a. Access to information. Victims of violence against women and members of the family group have the right to receive full information and advice appropriate to their personal situation, through the services, agencies or offices of the State at its three levels of government and according to their particular needs. It is the duty of the National Police of Peru, the Public Prosecutor's Office, the Judiciary and all justice operators to report, under responsibility, with professionalism, impartiality and in strict respect of the right of privacy and confidentiality of the victim, about their rights and the complaint mechanisms. In all the institutions of the justice system and in the National Police of Peru, information on the rights of victims of violence and the care services provided for free by the State must be displayed in a visible place, in Spanish or in the local language. For this purpose, it is mandatory to provide an information booklet to the victim in her own language. The Ministry of the Interior verifies compliance with this obligation.

b. Legal assistance and public defense. The State must provide legal assistance, immediately, free of charge, specialized and in its own language, to all victims of violence, and must provide them with public defense services to guarantee the effective

exercise of their rights. It is the victim's right that his / her declaration be received by specialized personnel and in an adequate environment that safeguards their dignity and privacy. The defense of the victims of violence against women and members of the family group, in those places where the Ministry of Women and Vulnerable Populations cannot provide the service, is provided by the Victim Assistance Units and Witnesses of the Public Prosecutor's Office, and the Ministry of Justice and Human Rights. The Ministry of Justice and Human Rights and the Ministry of Women and Vulnerable Populations promote the involvement of the bar associations in the matter.

c. Promotion, prevention and health care. The promotion, prevention, attention and integral recovery of the physical and mental health of victims of violence against women and members of the family group is free in any health establishment in the State and includes medical care; diagnostic help exams (laboratory, imaging and others); hospitalization, medication, psychological and psychiatric treatment; and any other activity necessary or required for the restoration of their health. The Ministry of Health is in charge of the free provision of health services for the integral recovery of the physical and mental health of the victims. Regarding the medical and psychological care provided, the Ministry of Health must safeguard the adequate obtaining, conservation of the documentation of evidence of the acts of violence. This obligation extends to all public and private services that serve victims of violence, who, in addition, must issue the corresponding certificates of qualification of the physical and psychological damage of the victim according to the medical-legal parameters of the Institute of Legal Medicine and Sciences of the Public Ministry.

d. Social care. The State attends to victims of violence against women and members of the family group in social programs, guaranteeing the confidentiality of cases and providing them with dignified treatment, provided that the criteria and rules established in current regulations are met.

Article 11. Labor rights
The worker who is a victim of the violence referred to in this Law has the following rights:

a. Not to be dismissed for reasons related to such acts of violence.

b. To change workplace, if possible, and without detriment to their remunerative and category rights. The same applies to the work schedule, where relevant.

c. To the justification of absences and delays to the workplace resulting from such acts of violence. These absences cannot exceed five working days in a period of thirty calendar days or more than fifteen working days in a period of one hundred and eighty calendar days. For this purpose, a justification is considered to be the report filed with the police unit or before the Public Prosecutor's Office.

d. To the suspension of the employment relationship. The judge in charge of the process may, at the request of the victim and depending on the seriousness of the situation, grant up to a maximum of five consecutive months of suspension of the employment relationship without remuneration. The reinstatement of the worker to their work center must take place in the same conditions existing at the time of the suspension of the employment relationship.

Article 12. Rights in the field of education
The victim of the violence referred to in this Law has, among others, the following rights:
a. To change place and study schedule without affecting their rights.

b. To the justification of absences and delays derived from acts of violence. These absences or delays cannot exceed five days in a period of thirty calendar days or more than fifteen days in a period of one hundred and eighty calendar days.

c. Specialized attention in the educational field regarding the consequences of violence, so that the educational service responds to their needs without detriment to its quality. It is the obligation of the State to formulate specific measures to favor the permanence of the victims in the educational environment and, if appropriate, encourage their reintegration.

TITLE II
PROCEDURES OF GUARDIANSHIP ON CASES OF VIOLENCE AGAINST WOMEN AND MEMBERS OF THE FAMILY GROUP

CHAPTER I
SPECIAL PROCESS

Article 13. Applicable rule.

Reports of acts of violence against women and members of the family group are regulated by the rules provided for in this Law and, in a supplementary manner, by the Criminal Procedure Code, promulgated by Legislative Decree 957, and Law 27337, Code of Children and Adolescents.

Article 14. Jurisdiction of family courts.

The family courts or those who fulfill their functions are competent to hear complaints about acts of violence against women or against members of the family group.

Article 15. Complaint.

The complaint can be presented in writing or orally. When dealing with a verbal complaint, a report is drawn up with no other requirement than to provide a succinct account of the facts. The complaint may be filed by the injured party or by any other person on his/her behalf, without the need to representation. It can also be filed by the Ombudsman's Office. No attorney's signature, fee or any other formality is required. Without prejudice to the above, health and education professionals must report cases of violence against women or members of the family group they know in the performance of their activity. When the National Police of Peru knows of cases of violence against women or members of the family group, in any of its police stations of the national scope, it must bring the facts to the attention of the family courts or those that perform their functions within the twenty-four hours of being aware the fact, submitting the report that summarizes the act.

Article 16. Trial hearing.

Within a maximum period of seventy-two hours following the filing of the complaint, the family court or its equivalent proceeds to evaluate the case and resolves, in an oral hearing, the issuance of the required protective measures that may be necessary. Likewise, ex officio or at the request of the victim, in the oral hearing, it pronounces on precautionary measures that safeguard pretensions of alimony, visitation regimes, possession, suspension or extinction of parental authority, liquidation of patrimonial regime and other related aspects that are necessary to guarantee the welfare of the victims. Once the proceedings have been analyzed, the family court or its equivalent proceeds to refer the case to the criminal prosecutor's office for the initiation of criminal proceedings in accordance with the rules of the Code of Criminal Procedure, promulgated by Legislative Decree 957.

Article 17. Flagrancy.

In case of flagrante delicto, linked to acts of violence against women and members of the family group, the National Police of Peru proceeds to the immediate arrest of the aggressor, even breaking into his home or the place where the events are taking place. In these cases, the Police drafts a record in which the delivery of the detainee and the other circumstances of the intervention are recorded, having to immediately communicate the facts to the criminal prosecutor for the corresponding investigations and to the family court or its equivalent so that pronounce on protective measures and other measures for the welfare of the victims. Once the actions foreseen in article 16 have been carried out, the family court or its equivalent communicates the acts to the corresponding criminal prosecutor's office.

Article 18. Action of justice operators.

In the actions of justice operators, caused by acts that constitute violence against women and members of the family group, the double victimization of aggrieved persons through reiterative declarations and humiliating content shall be avoided. The operators of the justice system must follow concrete guidelines of action that avoid discriminatory procedures towards the victimized people.

Article 19. Declaration of the victim and single interview

When the victim is a girl, child, adolescent or woman, their declaration must be made in a single interview, which has the quality of pre-constituted evidence. The declaration of the victim of legal age, at the discretion of the prosecutor, can be made under the same technique.

The judge can only practice an extension declaration of the victim in cases that require clarification, supplement or specify a point about his statement.

Article 20. Sentencing.

The sentence that ends the process for crimes related to acts of violence against women and members of the family group may be acquittal or condemnatory. In the first case, the judge indicates the term to the protective measures ordered by the family court or equivalent. The precautionary measures that safeguard the civil claims that have been decided in that instance cease in their effects, unless they have been confirmed in a specialized instance.

In the case of a conviction, in addition to what is established in article 394 of the Code of Criminal Procedure, promulgated by Legislative Decree 957, and when appropriate, it contains:

1. The continuity or modification of the protective measures ordered by the family court or equivalent.
2. The therapeutic treatment in favor of the victim.
3. Specialized treatment for the convicted.

4. The continuity or modification of the precautionary measures that safeguard civil claims of tenure, visitation, suspension, extinction or loss of parental authority, alimony, among others.
5. The measures that the local governments and communities of the habitual domicile of the victim and the aggressor must adopt, to guarantee compliance with the protection measures, unless they have been confirmed in a specialized instance.
6. The registration of the sentence in the Single Registry of Victims and Aggressors for Violence against Women and Members of the Family Group, under the responsibility of the Public Ministry.
7. Any other measure in favor of the victims or their relatives.
In the event that the parties to the process use a language other than Spanish, the sentence shall be translated. In cases where translation is not possible, the judge guarantees the presence of a person who can inform them of its content.

Article 21. Functional responsibility
Whoever omits, refuses or delays any act in his / her charge, in the proceedings originated by acts of violence against women or against members of the family group commits an offense sanctioned in articles 377 or 378 of the Criminal Code, as the case may be.

CHAPTER II
PROTECTIVE MEASURES

Article 22. Protective measures
Among the protective measures that can be issued in the proceedings for acts of violence against women and members of the family group are, among others, the following:
1. Removal of the aggressor from the home.
2. Impediment of proximity to the victim in any form, at a distance determined by the judicial authority.
3. Prohibition of communication with the victim via epistolary, telephone, electronic; also, via chat, social networks, institutional network, intranet or other networks or forms of communication.
4. Prohibition of the right of possession and carrying of weapons to the aggressor, having to notify the National Superintendence of Control of Security Services, Weapons, Ammunition and Explosives for Civil Use to proceed to revoke the possession and use license, and for the weapons that are in possession of persons in respect of which the measure of protection has been issued to be confiscated.
5. Inventory of assets.
6. Any other required for the protection of the personal integrity and life of victims or relatives.

Article 23. Validity and implementation of protection measures
The validity of the measures issued by the family court or its equivalent extends until the sentence issued in the criminal court or until the decision by which it is decided not to file a criminal complaint for a refusal, unless these pronouncements are challenged.
The National Police of Peru is responsible for executing the protection measures issued, for which it must have a graphic and georeferenced map of all victims that have been notified about the protective measures applied to them; and, likewise, to enable a communication channel to effectively attend to their requests for safekeeping, being able to coordinate with the vigilance services in order to provide a timely response.

Article 24. Non-compliance with protective measures
Anyone who disobeys, fails to comply with or resists a measure of protection issued in proceedings originated by acts of violence against women or against members of the family group commits a crime of resistance or disobedience to the authority provided for in the Criminal Code.

Article 25. Protection of victims in investigation proceedings
In the course of processes for violence against women and members of the family group, confrontation and conciliation between the victim and the aggressor is prohibited. The reconstruction of the facts must be practiced without the presence of the victim, unless the victim over fourteen years of age requests it, without prejudice to the provisions of article 194, paragraph 3, of the Code of Criminal Procedure, promulgated by Legislative Decree 957.

Article 26. Content of medical certificates and reports
The certificates of physical and mental health issued by physicians of public health establishments of different sectors and institutions of the State and levels of government, have probative value about the state of physical and mental health in the processes of violence against women and the members of the family group. Equally valuable are certificates issued by parish health centers and private establishments whose operation is authorized by the Ministry of Health. The corresponding certificates of qualification of the physical and psychological damage of the victim must be in accordance with the medical-legal

parameters of the Institute of Legal Medicine and Forensic Sciences of the Public Prosecutor's Office. The medical certificates contain detailed information on the results of the physical and psychological evaluations to which the victim has been subjected. If it is the case, the certificates of the physical evaluations must necessarily include the qualification of days of optional care as well as the qualification of days of incapacity.
Within the framework of the care provided by all public and private health care centers, they must safeguard the adequate collection, preservation and documentation of evidence of acts of violence. The psychological reports of the Women's Emergency Centers and other specialized state services have probative value of mental health status in the processes of violence against women and members of the family group. In the public sector, the issuance of certificates and the medical consultation that originates them, as well as complementary examinations or tests to issue diagnoses are free.
For the purposes of this Law, it is not necessary to hold a special expert ratification hearing; therefore, the presence of professionals is not required to ratify the certificates and evaluations they have issued to grant them probative value.

TITLE III
PREVENTION OF VIOLENCE, ATTENTION AND RECOVERY OF VICTIMS AND REEDUCATION OF AGRESSORS

CHAPTER I
PREVENTION OF VIOLENCE, ATTENTION AND RECOVERY OF VICTIMS

Article 27. Promotion, prevention and recovery services for victims of violence
The protection of women and members of the family group against acts of violence is a matter of public interest. The State is responsible for promoting the prevention of such acts and the recovery of the victims. It is the State's policy to create care and prevention services against violence.

The creation and management of temporary shelter homes, programs aimed at men to prevent violent behavior and other protection services in favor of victims of violence against women and members of the family group will be in charge of the local and regional governments and the Ministry of Women and Vulnerable Populations. It is the function of said Sector to promote, coordinate and articulate the implementation of said services in each locality.

Article 28. Assessment of the risk of victims of intimate partner violence
In cases of intimate partner violence, the National Police of Peru and the Public Prosecutor's Office apply the risk assessment form in women victims of intimate partner violence as a measure to prevent femicide. The file serves as an input for the pronouncement on protection measures and must be updated when circumstances warrant. In the case of other members of the family group, a risk assessment form is applied to identify vulnerabilities and specific protection needs.
When the National Police of Peru knows the cases through its police stations, it must include among its actions the risk assessment form and send it to the family court or equivalent, according to the process regulated in this Law.

Article 29. Implementation and registration of temporary shelters
It is a permanent policy of the State to create temporary shelters. The Ministry of Women and Vulnerable Populations implements and manages the registry of temporary shelter homes that meets quality standards in the provision of services. The information in this registry is confidential and will be used for the processes of articulation, protection and technical assistance. Local, provincial and district governments, and regional governments and private institutions that manage temporary shelters will provide information and access to the Ministry of Women and Vulnerable Populations for the fulfillment of their monitoring and evaluation functions. The Ministry of Women and Vulnerable Populations approves the minimum requirements to create and operate temporary refuge homes, as well as the minimum standards of quality of service provision.

CHAPTER II
RIEDUCATION OF PERPETRATORS

Article 30. Reeducation of perpetrators
It is a policy of the State to create treatment services that contribute to the reeducation of aggressors who have committed acts of violence against women and members of the family group in order for the aggressor to stop all types of violence against them.

Article 31. Prison treatment for the social reintegration of aggressors deprived of liberty
The National Penitentiary Institute incorporates the axis of prevention of violence against women and members of the family group within the different prison treatment programs aimed at the prison population. The person sentenced to effective imprisonment for crimes related to violence against women and members of the family group, after evaluation, must follow a reeducation treatment of a multidisciplinary and differentiated nature, taking into account the approaches included in this Law in order to facilitate their social reintegration. The fulfillment of the treatment is a mandatory requirement for the granting of

penitentiary benefits, pardons and commutation of the sentence, according to the current legal framework, which cannot be granted without the corresponding psychological and social report. pronounce on the evolution of differentiated treatment. The Ministry of Women and Vulnerable Populations provides technical assistance for the design of the reeducation program.

Article 32. Treatment for aggressors in a free environment
In the proceedings for crimes related to acts of violence against women and members of the family group, the judge may impose psychosocial, psychiatric or self-help treatment to the aggressor, through assistance and therapies specialized in violence against women and members of the family group, using the various programs developed by the institutions for the protection of the family. This measure can be applied since the beginning of the procedure.
It is the obligation of local governments to implement, in coordination with the Ministry of Women and Vulnerable Populations, attention and intervention services for males and aggressors. In the trials for crimes related to acts of violence against women and members of the family group, the criminal courts must decide in the condemnatory sentence about the specialized treatment for the aggressor that does not comply with the effective prison sentence. The submission to a treatment service for reeducation of aggressors in public or private institutions is considered as a rule of conduct, without prejudice to the corresponding penal sanction.

TITLE IV
NATIONAL SYSTEM FOR THE PREVENTION, SANCTION AND ERADICATION OF VIOLENCE AGAINST WOMEN AND MEMBERS OF THE FAMILY GROUP

Article 33. Creation, purpose and competence of the system
Create the National System for the Prevention, Punishment and Eradication of Violence against Women and Members of the Family Group, in order to coordinate, plan, organize and execute articulated, integrated and complementary actions for the State's action in the prevention, attention, protection and reparation of the victim, the sanction and reeducation of the aggressor, in order to achieve the eradication of violence against women and members of the family group. It is a functional system.

Article 34. Members of the system
The National System for the Prevention, Punishment and Eradication of Violence against Women and the members of the Family Group are integrated by the entities that make up the high-level multisectoral commission, which has a technical secretariat, and regional, provincial and district agreement to eradicate violence against women and members of the family group.

Article 35. High Level Multisectoral Commission
The High Level Multisectoral Commission is established with the aim of directing the National System for the Prevention, Punishment and Eradication of Violence against Women and Members of the Family Group and formulating the guidelines and the evaluation of the provisions of this regulation. The Commission is chaired by the owner or representative of the senior management of the Ministry of Women and Vulnerable Populations and integrated by the holders or representatives of the top management of the institutions that are determined in the regulations of this Law.
The Ministry of Women and Vulnerable Populations is the governing body in matters of prevention, protection and attention to violence against women and members of the family group and is responsible for coordinating and monitoring the effective implementation and compliance of the present Law.
The General Directorate against Gender Violence of the mentioned ministry is constituted as the technical secretariat of the Commission, which summons specialists from different sectors and representatives of civil society with the purpose of constituting a national working group. The regulation of this Law regulates the functioning of the Commission.

Article 36. Functions of the Multisectoral Commission
The functions of the Multisectoral Commission are the following:
1. Approve and disseminate the basic protocol for joint action and the guidelines for intersectoral intervention articulated in prevention, care, protection, punishment and reeducation to eradicate violence against women and members of the family group, taking into account the reports issued by the National Observatory of Violence against Women and Members of the Family Group.
2. Follow up and monitor national plans that address violence against women and members of the family group, taking into account the reports issued by the National Observatory of Violence against Women and Members of the Family Group.
3. Coordinate with the Ministry of Economy and Finance for the allocation of resources to the sectors involved in the application of this Law, prior inter-sector budgetary planning.
4. Guarantee the organic and administrative adaptation of the entities responsible for the implementation of the guidelines issued by the Commission for the best application of this Law.
5. Promote the creation of regional observatories of violence against women and members of the family group.

6. Promote the creation of regional, provincial and district bodies responsible for combating violence against women and members of the family group.

Article 37. Regional conciliation authority
The regional coordination body is responsible for preparing, implementing, monitoring and evaluating public policies in charge of combating violence against women and members of the family group at a regional level, and promoting compliance with this regulation. Its composition is determined in the regulations of this Law.

Article 38. Provincial conciliation authority
The provincial coordination body is responsible for preparing, implementing, monitoring and evaluating the public policies in charge of combating violence against women and members of the family group at the provincial level, and promoting compliance with this regulation. Its composition is determined in the regulations of this Law.

Article 39. District Court of Arbitration
The district court of arbitration is responsible for preparing, implementing, monitoring and evaluating public policies in charge of combating violence against women and members of the family group at the district level, and promoting compliance with this standard. Its composition is determined in the regulations of this Law.

Article 40. Instruments and mechanisms for the articulation of the system
Instruments and mechanisms of articulation of the system:
a. The Joint Action Base Protocol.
b. The Single Registry of Victims and Aggressors.
c. The National Observatory of Violence against Women and Members of the Family Group.
d. The Center for Higher Studies against Violence against Women and the Members of the Family Group.

Article 41. Base Protocol for Joint Action
The Base Protocol of Joint Action in prevention, care, protection, early detection and continued intervention, sanction and reeducation in the face of violence against women and members of the family group contains the guidelines for intersectoral articulation and procedures to ensure global and integral action of the different administrations and services involved. It constitutes an instrument of obligatory compliance under responsibility.

The Protocol must consider in a special way the situation of women who, because of their status as such and crossing other variables, are more exposed to violence or greater difficulties in accessing the services provided for in this Law, such as those belonging to indigenous, Andean and Amazonian populations, people of African descent, those in situations of social exclusion and women with disabilities, among others. A similar consideration should include the protocol regarding members of the family group from the human, generational and intercultural rights approach.

Article 42. Unique Registry of Victims and Aggressors
In order to implement an intersectoral system for registering cases of violence against women and members of the family group, called the Single Registry of Victims and Aggressors, the Public Prosecutor's Office, in coordination with the National Police of Peru, the Judiciary and the Ministry of Women and Vulnerable Populations, is responsible for the registration of these cases, which includes all the data of the victim and the aggressor, the classification, the causes and consequences of violence, the existence of previous complaints and other necessary information.

Article 43. National Observatory of Violence against Women and Members of the Family Group
The National Observatory of Violence against Women and Members of the Family Group, under the Ministry of Women and Vulnerable Populations, aims to monitor, collect, produce and systematize data and information by following public policies and international commitments assumed by the State in this matter. Its mission is to develop a permanent information system that provides inputs for the design, implementation and management of public policies aimed at the prevention and eradication of violence against women and members of the family group.

The Observatory prepares reports, studies and proposals for the effectiveness of the National System for the Prevention, Punishment and Eradication of Violence against Women and Members of the Family Group.

Article 44. Center for Higher Studies
The Center for Higher Studies against Violence against Women and Members of the Family Group, under the direction of the Ministry of Women and Vulnerable Populations, aims to contribute to the articulated and multidisciplinary intervention through

a continuous integral system of specialization and improvement of the operators in their role in the comprehensive fight against violence against women and members of the family group, for timely and effective care, including the evaluation of its impact.

The Center for Higher Studies has close coordination with the Judicial Academy, the School of Public Prosecutions, the Judicial Investigation Center of the Judiciary, the Center for Constitutional Studies of the Constitutional Court, the Center for Studies in Justice and Human Rights of the Ministry of Justice and Human Rights, universities and research centers to influence the prioritization of training and research activities on violence against women and members of the family group. All the actions carried out and promoted by the Center for Higher Studies must incorporate the approaches of gender, integrality, interculturality, human rights, intersectionality, generational and disability that underlie this Law.

Article 45. Sectoral responsibilities
The sectors and institutions involved, and regional and local governments, in addition to adopting mechanisms of training, capacitation and permanent specialization, in accordance with their organic laws and other applicable regulations, are responsible for:
1. The Ministry of Women and Vulnerable Populations
a) Promote and coordinate actions for multisectoral and intergovernmental coordination.
b) Technically advise the different public entities to develop actions to eradicate violence against women and members of the family group according to their competences and functions.
c) Promote policies, programs and projects of prevention, care and treatment at the subnational levels of government such as temporary shelters, counseling services, mutual aid groups, Residential Care Centers, Women's Emergency Centers, Children's and Adolescents' Advocates and aggressor treatment services, among others.
d) Supervise the implementation of the policy of prevention, protection and attention to violence against women and members of the family group.
e) Promote dissemination campaigns on the problem of violence against women and members of the family group and disseminate the scope of this Law.
f) Promote the study and research on the causes of violence against women and members of the family group and take measures for their correction.
g) Promote the active participation of organizations dedicated to the protection of the rights of women, girls, boys and adolescents, seniors and people with disabilities, among others, and of the private sector, with special emphasis on the business sector, in programs of prevention, attention and recovery of violence against women and members of the family group.
h) Provision of the necessary measures in order to implement prevention and care actions for victims of violence in rural areas of the country and with respect to the most vulnerable victims.
2. The Ministry of Education
a) Supervise compliance with the public policy guidelines against violence against women and members of the family group, within the scope of their competence.
b) Strengthen in all educational modalities and levels the teaching of ethical values oriented to the respect of the dignity of the person within the framework of the right to live free of violence, eliminating the stereotypes that exacerbate, tolerate or legitimize violence, inferiority or subordination in the family group, especially those that affect women.
c) Supervise that all educational materials eliminate sexist or discriminatory stereotypes and, on the contrary, promote the equality of men and women.
d) Promote and strengthen parent school programs; and preparation for life and healthy coexistence in the family group; establishing mechanisms for the detection and referral to the institutions of the System, of cases of violence against women and members of the family group.
e) Implement in the educational institutions of the Regular Basic Education (EBR) and the Alternative Basic Education (EBA), contents of the National Curricular Design (DCN) on the respect of the right to a life free of violence, with active methodologies and systems of evaluation that are adapted to the diverse cultural, ethnic and linguistic contexts.
f) Implement capacity building programs in initial and ongoing teacher training in the areas of struggle to eradicate violence against women and members of the family group, incorporating into the guides, teacher training modules and programs, and topics as types of violence, socialization of gender and violence, identification of risk factors related to violence and mechanisms to strengthen support networks for prevention.
g) Disseminate the problem of sexual harassment among the teaching and administrative staff, as well as the protocols of the sector.
h) Incorporate in the guides directed to the school population, contents on prevention of sexual harassment and abuse in girls and boys.
i) Implement creative strategies and impact on the fight against violence against women and members of the family group, in non-formal educational spaces such as markets, recreational spaces, bus terminals, waiting rooms of public and private institutions among others.
3. The Ministry of Health

a) Promote and strengthen programs for the promotion, protection, recovery and rehabilitation of health, contributing to achieve the welfare and development of the person, in conditions of full accessibility and respect for fundamental rights, in accordance with sectoral policies.
b) Guarantee quality care for cases of violence against women and members of the family group, including their affiliation in the Comprehensive Health Insurance for comprehensive and free care and recovery of their physical and mental health, including care, examinations, hospitalization, medication, psychological or psychiatric treatment and any other activity necessary for the restoration of health.
c) Develop awareness and training programs for health personnel in order to improve and promote adequate care for victims of violence referred to in the law.
4. The Ministry of the Interior
a) Establish, through its line organs, support and control, the guidelines and technical guidelines for the proper execution, supervision and control of provisions for prevention, care and protection against violence against women and members of the family group , in compliance with the functions of the internal sector, with special participation of the Executive Directorate for Citizen Security of the National Police of Peru as the technical body specialized in receiving complaints and investigating cases of violence against women and members of the group family.
b) Promote, in the National Police of Peru, the creation of a functional specialty in the field of violence against women and members of the family group. The Executive Directorate for Citizen Security is the specialized body responsible for the organization, specialization and performance evaluation.
c) Implement, in coordination with the Ministry of Women and Vulnerable Populations, the Modules of Attention to Women Victims of Family and Sexual Violence, foreseen in Supreme Decree 012-2013-IN as a national policy of the Peruvian State.
d) Guarantee the permanence of specialized and sensitized personnel in the services of police stations and competent areas.
e) Provide timely attention to the implementation and enforcement of protection measures granted by the Public Prosecutor's Office to persons affected by violence against women and members of the family group.
f) Issue standard forms to facilitate complaints and regulate the necessary police procedures to ensure the diligent remission of the actions taken in the complaints received to the courts of family or equivalent within the period established in this Law.
g) Prepare primers and other mass dissemination tools for the adequate attention of victims of violence against women and members of the family group in police stations and agencies.
5. The Ministry of Justice and Human Rights
a) Systematize and disseminate the legal system of the State in the fight to eradicate violence against women and members of the family group.
b) Provide the public defense service to victims of violence against women and members of the family group.
c) Provide, through the National Penitentiary Institute, differentiated prison treatment for persons sentenced for acts of violence against women and members of the family group.
6. The Ministry of Labor and Employment Promotion
a) Prioritize, within the framework of the programs, strategies and action plans for the promotion of employment and employability, the care of victims of violence for their incorporation into the labor market for others or through the development of productive self-employment and other forms of entrepreneurship.
b) Coordinate with the relevant authorities in order to guarantee compliance with the provisions of this Law regarding the labor rights of the victim of violence.
7. The Ministry of Transport and Communications
Ensure strict compliance with the obligations of the media established in this Law.
8. The Ministry of Economy and Finance
Assign the necessary resources for compliance with this Law.
9. The Ministry of Development and Social Inclusion
a) Incorporate, in the programs assigned to the Ministry of Development and Social Inclusion, persons affected by violence against women and members of the family group, provided that the criteria and rules established in current regulations are met.
b) Make information available to society regarding the execution of social programs that have benefited people affected by violence against women and members of the family group.
10. The Ministry of Defense
Incorporate into the educational guidelines of the Armed Forces specific content against violence against women and members of the family group in accordance with the approaches foreseen in this Law, as well as in its academic bodies and attached public bodies.
11. The Ministry of Foreign Affairs
Formulate, coordinate, execute and evaluate the policy of protection and assistance of nationals abroad for cases of violence against women and members of the family group.
12. The Judicial Power

Administer justice, respecting the rights to due process and economy and procedural speed in cases of violence against women and members of the family group. All the actions before the Judicial Power regarding violence against women and members of the family group are free for the victims.
13. The Public Ministry
Prepare, through the Institute of Legal Medicine and Forensic Sciences, guidelines and protocols for scientific-forensic activity and in judicial processes, being responsible for their dissemination in order to standardize attention and assessment criteria.
14. Regional and local governments
a) Formulate policies, regulate, direct, execute, promote, supervise and control regional, local plans, policies and programs and community, to raise awareness, prevent, detect and address all forms of violence against women and members of the family group.
b) Those established in this Law.
15. National Superintendence of Control of Security Services, Weapons, Ammunition and Explosives for Civil Use (SUCAMEC)
a) Request an affidavit of no record of family violence in applications for weapons licenses.
b) Seize weapons that are in the possession of persons in respect of whom the suspension of the right to possession and possession of weapons has been dictated.
c) Leave the license of possession and use of weapons without effect due to a supervening record of family violence.
d) Send semiannual information to the Ministry of Women and Vulnerable Populations, corresponding to the number of canceled licenses and weapons seized for acts of violence against women and members of the family group.

Article 46. General Obligations of the Media
The media, in the dissemination of information related to violence against women, shall guarantee, with the corresponding informative objectivity, the defense of human rights, the freedom and dignity of women victims of violence and their children. In particular, they take special care in the graphic treatment of information.

The public and private broadcasting services allow the use of the educational band of 10% of its programming so that, in the family protection hours, the public institutions articulated in the National System for the Prevention, Punishment and Eradication of Violence against Women and members of the Family Group develop content related to awareness, prevention, care, protection, punishment and reeducation for the eradication of violence against women and members of the family group.

Article 47. Intervention of indigenous or native peoples
The intervention of indigenous or native peoples in cases of violence against women and members of the family group is subject to the provisions of article 149 of the Political Constitution.

FINAL SUPPLEMENTARY PROVISIONS

FIRST. Regulation
The regulations of this Law are issued by the Executive Branch within a period not exceeding ninety calendar days from the date of entry into force. For this purpose, a commission is formed by the Ministry of Justice and Human Rights, the Ministry of Women and Vulnerable Populations, the Ministry of the Interior, the Judicial Power and the Public Ministry.

SECOND. Normative prevalence
The provisions of this Law prevail over other general or special rules that are opposed to them. The rights that this Law recognizes for victims of violence against women and against members of the family group are inalienable.

THIRD. Implementation of the National Observatory of Violence against Women and Member of the Family Group and the Center for Higher Studies
The implementation of the National Observatory on Violence against Women and Members of the Family Group and the Center for Higher Studies against Violence against Women and Members of the Family Group, referred to in articles 43 and 44 of this Law, it will be subject to the budgetary availability that the Ministry of Women and Vulnerable Populations has for that purpose.

TRANSITORY COMPLEMENTARY PROVISIONS

FIRST. Processes in course
The processes that are in course will continue to be governed by the rules with which they began until their conclusion.

SECOND. Special Commission

Create the Special Commission for the design, conduct, coordination, supervision and evaluation of the process of adaptation of the National System for the Prevention, Punishment and Eradication of Violence against Women and Members of the Family Group to the present Law.

THIRD. Members of the Special Commission
The Commission indicated in the second transitory supplementary provision is composed of six members:
- The head of the Ministry of Women and Vulnerable Populations or its representative, who will preside over it.
- The head of the Ministry of Justice and Human Rights or its representative.
- The head of the Ministry of Economy and Finance or its representative.
- The head of the Ministry of the Interior or its representative.
- The holder of the Judicial Power or its representative.
- The head of the Public Ministry or his representative.

FOURTH. Powers of the Special Commission
The powers of the Special Commission are the following:
1. Formulate the policies and objectives for the progressive adaptation of the Law.
2. Design the proposal of the Adjustment Plan of the Justice System to the National System for the Prevention, Punishment and Eradication of Violence against Women and Member of the Family Group.
3. Prepare the preliminary draft regulations that are necessary for the transfer of the budgetary resources that may be necessary.
4. Establish, in coordination with the related entities, the annual programs of adaptation, provision of material and human resources that allow the execution of the Plan of Adaptation of the Justice System to the Law.
5. Agree, supervise and monitor and evaluate the execution of plans and programs to adapt the Law.
6. Prepare semi-annual reports, which are sent to the High Level Multisectoral Commission.

FIFTH. Deadline
The deadline for the formulation of the Plan for the Adjustment of the Justice System by the Commission is sixty working days counted from the installation thereof. Also, the deadline for the aforementioned commission to complete its functions is one hundred and eighty business days from the installation thereof.

COMPLEMENTARY AMENDMENT PROVISIONS

FIRST. Modification of articles 45, 121-A, 121 B, 122, 377 and 378 of the Criminal Code
Amend articles 45, 121-A, 121-B, 122, 377 and 378 of the Criminal Code in the following terms:
"Article 45. Budgets to support and determine the penalty
The judge, at the time of substantiating and determining the penalty, takes into account:
a. The social deficiencies suffered by the agent or the abuse of his position, economic position, training, power, occupation, profession or the role he occupies in society.
b. Your culture and your customs.
c. The interests of the victim, of his family or of the people that depend on him, as well as the affectation of his rights and considering especially his situation of vulnerability.

Article 121-A. Aggravated forms Serious injuries when the victim is a minor, a senior citizen or a person with a disability
In the cases provided for in the first part of article 121, when the victim is a minor, over sixty-five years old or suffers physical or mental disability and the agent takes advantage of this condition, a penalty of imprisonment of not less than six is applied nor more than twelve years. When the victim dies as a result of the injury and the agent could foresee that result, the penalty will be no less than twelve nor more than fifteen years.

Article 121-B.- Aggravated forms. Serious injuries due to violence against women and their family environment
In the cases provided for in the first part of article 121, custodial sentences of not less than six nor more than twelve years are applied when the victim:
1. Is a woman and is injured by her condition as such in any of the contexts provided for in the first paragraph of Article 108-B.
2. Is an ascendant, descendant, natural or adoptive, spouse or partner of the agent.
3. Depends or is subordinate.
When the victim dies as a result of the injury and the agent could foresee that result, the penalty will be no less than twelve nor more than fifteen years.

Article 122. Minor injuries

1. The one that causes other injuries in the body or in health that require more than ten and less than thirty days of assistance or rest, or moderate level of psychic damage, according to medical prescription, will be punished with a prison sentence not less than two nor more than five years.
2. The penalty shall be imprisonment of not less than six nor more than twelve years if the victim dies as a result of the injury provided in paragraph 1 and the agent could foresee that result.
3. The penalty shall be imprisonment of not less than three nor more than six years if the victim:
a. Is a member of the National Police of Peru or the Armed Forces, a magistrate of the Judiciary, of the Public Prosecutor's Office or of the Constitutional Court or authority elected by popular mandate or official or public servant and is injured in the exercise of his official duties or as a consequence of them.
b. Is under age, over sixty-five years old or suffers from physical or mental disability and the agent takes advantage of that condition.
c. Is a woman and is injured by her condition as such, in any of the contexts provided for in the first paragraph of Article 108-B.
d. Is an ascendant, descendant, natural or adoptive, spouse or partner of the agent.
e. It depends or is subordinated in any way to the agent.
4. The penalty of deprivation of liberty shall be not less than eight nor more than fourteen years if the victim dies as a result of the injury referred to in paragraph 3 and the agent could foresee that result.
5. The judge imposes the disqualification corresponding to the cases foreseen in paragraph 3.

The public official who, illegally, omits, refuses or delays any act of his office shall be punished with imprisonment not exceeding two years and thirty to sixty days-fine.

When the omission, refusal or delay of functional acts is referred to a request for personal guarantees or family violence case, the penalty shall be imprisonment of not less than two nor more than five years.

Article 378. Denial or deficient police support
The policeman who refuses, omits or delays, without just cause, the provision of assistance legally required by the competent civil authority, shall be punished with imprisonment of not more than two years.
If the provision of assistance is required by an individual in a situation of danger, the penalty shall be not less than two nor more than four years.
The penalty provided in the second paragraph will be imposed, if the assistance provision is related to a request for personal guarantees or a case of family violence. "

SECOND. Incorporation of articles 46-E and 124-B into the Criminal Code
Incorporate articles 46-E and 124-B into the Criminal Code in the following terms:
"Article 46-E. Aggravated circumstance qualified for kinship abuse
The penalty is increased by up to one third over the legal maximum set for the crime when the agent has taken advantage of his or her status as ascendant or descendant, natural or adoptive, stepparent or stepmother, spouse or partner of the victim. In this case, the penalty of deprivation of liberty cannot exceed thirty-five years, unless the crime is punishable by an indeterminate prison sentence, in which case the latter is applied.
The aggravation provided in the first paragraph is inapplicable when established as such in the criminal law.
Article 124-B. Determination of psychological injury
The level of psychological injury is determined by assessment carried out in accordance with the specialized official technical instrument that guides the expert's work, with the following equivalence:
a. Lack of minor injuries: mild level of psychic damage.
b. Minor injuries: moderate level of psychic damage.
c. Serious injuries: serious or very serious level of psychic damage ".

THIRD. Modification of article 242 of the Criminal Procedure Code
Modify article 242 of the Code of Criminal Procedure, promulgated by Legislative Decree 957, which is drafted in the following terms:
"Article 242. Assumptions of Advance Evidence. - 1. During the Preparatory Investigation, at the request of the Prosecutor or the other parties to the proceedings, the Preparatory Investigation Judge may be asked to act on an anticipated trial, in the following cases:
[...]
b) Confrontation among the people who have declared, for the same reasons of the previous paragraph, so long as the requirements established in article 182 are met.
c) Acknowledgments, inspections or reconstructions, which due to their nature and characteristics must be considered acts

definitive and irreproducible, and it is not possible to postpone its realization until the realization of the trial.
d) Declaration of children and adolescents in their capacity as aggrieved for crimes included in articles 153 and 153-A of Chapter I: Violation of personal liberty, and in those included in Chapter IX: Violation of sexual freedom, Chapter X: Proxenetism and Chapter XI:
Offenses to the public modesty, corresponding to Title IV: Crimes against freedom, of the Criminal Code.
The statements of the children and adolescents will be made with the intervention of psychologists specialized in Gesell chambers or interview rooms implemented by the Public Ministry.
The statements and interviews will be filmed and recorded in order to avoid revictimization of the victim.
2. The same test actions may be carried out during the intermediate stage ".

FOURTH. Modification of article 667 of the Civil Code
Modify article 667 of the Civil Code, approved by Legislative Decree 295, which is drafted in the following terms:
"Exclusion of the succession due to unworthiness Article 667. - They are excluded from the succession of a certain person, for unworthiness, as heirs or legatees:
1. The authors and accomplices of intentional homicide or of their attempt, committed against the life of the deceased, of his ascendants, descendants or spouse. This cause of indignity does not disappear for the pardon nor for the prescription of the punishment.
2. Those who have been convicted of an intentional crime committed in tort of the deceased or of any of the persons referred to in the preceding paragraph.
3. Those who have denounced the deceased for a crime that the law punishes with custodial sentence.
4. Those who have used fraud or violence to prevent the deceased from granting a will or to force him to do so, or to revoke the grant in whole or in part.
5. Those who destroy, hide, falsify or alter the will of the person whose succession is being treated and who knowingly make use of a forged testament.
6. Those who have been sanctioned with a final judgment on more than one occasion in a process of family violence against the perpetrator.
7. It is unworthy to succeed the child, the parent who would not have voluntarily recognized him during the minority or who has not provided him with food and assistance according to his financial possibilities, even if he has reached the age of majority, if he were unable to procure their own economic resources. It is also unworthy of happening to the deceased the relative with a hereditary vocation or the spouse who has not given him assistance and food when by law he was obliged to do so and had raised himself as such in the judicial process. "

SUPPLEMENTARY REPEALING PROVISIONS

FIRST Repeal of articles 122-A and 122-B of the Criminal Code
Articles 122-A and 122-B of the Criminal Code are repealed.
SECOND. Repeal of Law 26260, Law of Protection against Family Violence
Repeal Law 26260, Law of Protection against Family Violence, and other laws and provisions that are contrary to this Law. Contact the President of the Republic for its promulgation.
In Lima, on the sixth day of the month of November of two thousand fifteen.

Criminal Code, 1991 (As amended) [131]

Article 107 – Parricide
The person who, knowingly kills his/her ascendant, descendant, natural or adopted, or a person with whom he/she is or used to be in a conjugal or cohabitation relationship, shall be punished with imprisonment of not less than fifteen years.
The penalty of deprivation of liberty shall be not less than twenty-five years, when any of the aggravating circumstances provided for in numerals 1, 2, 3 and 4 of article 108 occur.
In the event that the agent has children with the victim, it will also be punished with the penalty of disqualification provided for in subsection 5 of article 36 ° 61.

Article 170 – Sexual violation

[131] Criminal Code, Legislative Decree 635 of 1991 (consolidated up to May 2016), available at http://spij.minjus.gob.pe/content/publicaciones_oficiales/img/CODIGOPENAL.pdf (last visited December 30, 2018). Unofficial translation by Compendium team.

Whoever, with violence or serious threat, coerces another person to have sexual intercourse by vaginal, anal or oral way or performs other analogous acts by introducing objects or parts of the body through one of the first two routes, will be punished with imprisonment from no less than six years to no more than eight years.

The penalty shall be not less than twelve nor more than eighteen years and disqualification according to the following:
[…]

1. If, for the execution of the offense, it was taken advantage of any position that gives particular authority over the victim, or a relationship of kinship for being ascendant, spouse, cohabiting partner, descendant or brother, by nature or adoption or related to the victim, a relationship arising from a contract for the rental of services, an employment relationship or if the victim provides services as a domestic worker.

Supreme Decree Approving Regulation of Law No. 30364 to Prevent, Punish and Eradicate Violence Against Women and Members of The Family Group, 2016 [132]

Article 37 – Protection measures
37.1 The Family Court issues the most appropriate protection measure for the welfare and safety of the victim, taking into account the particular circumstances of the case, the results of the risk assessment form, the pre-existence of complaints about similar events, the relationship of the victim with the denounced person, the age difference or dependency relationship between the victim and the denounced person, and the economic and social situation of the victim, among other aspects that reveal vulnerability.
37.2 Protective measures shall be diligent and effective, otherwise they will generate functional responsibility.
37.3 In addition to the protection measures indicated in the Law, the Family Court may rule:
1. Prohibition of access to places of work or study of the victim or other place that he/she frequents, or of approaching at a distance of 300 meters.
2. Prohibition to dispose, alienate, grant in pledge or mortgage, or change ownership of movable or common property.
3. Prohibition of the aggressor to transporting children or persons in care of the family group.
4. Re-educative or therapeutic treatment for the aggressor.
5. Any other protection measure required for the protection of the integrity and life of victims or their relatives.
37.4 The issuance of the measures does not prevent the adoption of administrative measures in the established sectoral procedures.

54. PHILIPPINES

Anti-Violence Against Women and Their Children Act, 2004 [133]

[…]

AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES

[…]

SECTION 1. Short Title.- This Act shall be known as the "Anti-Violence Against Women and Their Children Act of 2004".

SECTION 2. Declaration of Policy.- It is hereby declared that the State values the dignity of women and children and guarantees full respect for human rights. The State also recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security.

Towards this end, the State shall exert efforts to address violence committed against women and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the Universal Declaration of Human Rights, the convention on the Elimination of all forms of discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party.

[132] Supreme Decree Approving Regulation of Law No. 30364 to prevent, punish and eradicate violence against women and members of the family group, No. 009/2016, available at https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-aprueba-el-reglamento-de-la-ley-n-30364-decreto-supremo-n-009-2016-mimp-1409577-10/ (last visited December 30, 2018). Unofficial translation by Compendium team.
[133] Anti-Violence Against Women and Their Children Act, No. 9262 (8 March 2004), available at https://www.lawphil.net/statutes/repacts/ra2004/ra_9262_2004.html (last visited December 30, 2018).

SECTION 3. Definition of Terms.- As used in this Act,

(a) "Violence against women and their children" refers to any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. It includes, but is not limited to, the following acts:

A. "Physical Violence" refers to acts that include bodily or physical harm;

B. "Sexual violence" refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:

a) rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;

b) acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;

c) Prostituting the woman or child.

C. "Psychological violence" refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and mental infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.

D. "Economic abuse" refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following:

1. withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;

2. deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community or property owned in common;

3. destroying household property;

4. controlling the victims' own money or properties or solely controlling the conjugal money or properties.

(b) "Battery" refers to an act of inflicting physical harm upon the woman or her child resulting to the physical and psychological or emotional distress.

(c) "Battered Woman Syndrome" refers to a scientifically defined pattern of psychological and behavioral symptoms found in women living in battering relationships as a result of cumulative abuse.

(d) "Stalking" refers to an intentional act committed by a person who, knowingly and without lawful justification follows the woman or her child or places the woman or her child under surveillance directly or indirectly or a combination thereof.

(e) "Dating relationship" refers to a situation wherein the parties live as husband and wife without the benefit of marriage or are romantically involved over time and on a continuing basis during the course of the relationship. A casual acquaintance or ordinary socialization between two individuals in a business or social context is not a dating relationship.

(f) "Sexual relations" refers to a single sexual act which may or may not result in the bearing of a common child.

(g) "Safe place or shelter" refers to any home or institution maintained or managed by the Department of Social Welfare and Development (DSWD) or by any other agency or voluntary organization accredited by the DSWD for the purposes of this Act or any other suitable place the resident of which is willing temporarily to receive the victim.

(h) "Children" refers to those below eighteen (18) years of age or older but are incapable of taking care of themselves as defined under Republic Act No. 7610. As used in this Act, it includes the biological children of the victim and other children under her care.

SECTION 4. Construction.- This Act shall be liberally construed to promote the protection and safety of victims of violence against women and their children.

SECTION 5. Acts of Violence Against Women and Their Children.- The crime of violence against women and their children is committed through any of the following acts:

(a) Causing physical harm to the woman or her child;

(b) Threatening to cause the woman or her child physical harm;

(c) Attempting to cause the woman or her child physical harm;

(d) Placing the woman or her child in fear of imminent physical harm;

(e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman's or her child's movement or conduct:

(1) Threatening to deprive or actually depriving the woman or her child of custody to her/his family;

(2) Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;

(3) Depriving or threatening to deprive the woman or her child of a legal right;

(4) Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim's own mon4ey or properties, or solely controlling the conjugal or common money, or properties;

(f) Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling her actions or decisions;

(g) Causing or attempting to cause the woman or her child to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the woman or her child or her/his immediate family;

(h) Engaging in purposeful, knowing, or reckless conduct, personally or through another, that alarms or causes substantial emotional or psychological distress to the woman or her child. This shall include, but not be limited to, the following acts:

(1) Stalking or following the woman or her child in public or private places;

(2) Peering in the window or lingering outside the residence of the woman or her child;

(3) Entering or remaining in the dwelling or on the property of the woman or her child against her/his will;

(4) Destroying the property and personal belongings or inflicting harm to animals or pets of the woman or her child; and

(5) Engaging in any form of harassment or violence;

(i) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children of access to the woman's child/children.

SECTION 6. Penalties.- The crime of violence against women and their children, under Section 5 hereof shall be punished according to the following rules:

(a) Acts falling under Section 5(a) constituting attempted, frustrated or consummated parricide or murder or homicide shall be punished in accordance with the provisions of the Revised Penal Code.

If these acts resulted in mutilation, it shall be punishable in accordance with the Revised Penal Code; those constituting serious physical injuries shall have the penalty of prison mayor; those constituting less serious physical injuries shall be punished by prision correccional; and those constituting slight physical injuries shall be punished by arresto mayor.

Acts falling under Section 5(b) shall be punished by imprisonment of two degrees lower than the prescribed penalty for the consummated crime as specified in the preceding paragraph but shall in no case be lower than arresto mayor.

(b) Acts falling under Section 5(c) and 5(d) shall be punished by arresto mayor;

(c) Acts falling under Section 5(e) shall be punished by prision correccional;

(d) Acts falling under Section 5(f) shall be punished by arresto mayor;

(e) Acts falling under Section 5(g) shall be punished by prision mayor;

(f) Acts falling under Section 5(h) and Section 5(i) shall be punished by prision mayor.

If the acts are committed while the woman or child is pregnant or committed in the presence of her child, the penalty to be applied shall be the maximum period of penalty prescribed in the section.

In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (300,000.00); (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court.

SECTION 7. Venue.- The Regional Trial Court designated as a Family Court shall have original and exclusive jurisdiction over cases of violence against women and their children under this law. In the absence of such court in the place where the offense was committed, the case shall be filed in the Regional Trial Court where the crime or any of its elements was committed at the option of the compliant.

SECTION 8. Protection Orders.- A protection order is an order issued under this act for the purpose of preventing further acts of violence against a woman or her child specified in Section 5 of this Act and granting other necessary relief. The relief granted under a protection order serve the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over her life. The provisions of the protection order shall be enforced by law enforcement agencies. The protection orders that may be issued under this Act are the barangay protection order (BPO), temporary protection order (TPO) and permanent protection order (PPO). The protection orders that may be issued under this Act shall include any, some or all of the following reliefs:

(a) Prohibition of the respondent from threatening to commit or committing, personally or through another, any of the acts mentioned in Section 5 of this Act;

(b) Prohibition of the respondent from harassing, annoying, telephoning, contacting or otherwise communicating with the petitioner, directly or indirectly;

(c) Removal and exclusion of the respondent from the residence of the petitioner, regardless of ownership of the residence, either temporarily for the purpose of protecting the petitioner, or permanently where no property rights are violated, and if respondent must remove personal effects from the residence, the court shall direct a law enforcement agent to accompany the respondent has gathered his things and escort respondent from the residence;

(d) Directing the respondent to stay away from petitioner and designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment, or any specified place frequented by the petitioner and any designated family or household member;

(e) Directing lawful possession and use by petitioner of an automobile and other essential personal effects, regardless of ownership, and directing the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to the possession of the automobile and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(f) Granting a temporary or permanent custody of a child/children to the petitioner;

(g) Directing the respondent to provide support to the woman and/or her child if entitled to legal support. Notwithstanding other laws to the contrary, the court shall order an appropriate percentage of the income or salary of the respondent to be withheld regularly by the respondent's employer for the same to be automatically remitted directly to the woman. Failure to remit and/or withhold or any delay in the remittance of support to the woman and/or her child without justifiable cause shall render the respondent or his employer liable for indirect contempt of court;

(h) Prohibition of the respondent from any use or possession of any firearm or deadly weapon and order him to surrender the same to the court for appropriate disposition by the court, including revocation of license and disqualification to apply for any license to use or possess a firearm. If the offender is a law enforcement agent, the court shall order the offender to surrender his firearm and shall direct the appropriate authority to investigate on the offender and take appropriate action on matter;

(i) Restitution for actual damages caused by the violence inflicted, including, but not limited to, property damage, medical expenses, childcare expenses and loss of income;

(j) Directing the DSWD or any appropriate agency to provide petitioner may need; and

(k) Provision of such other forms of relief as the court deems necessary to protect and provide for the safety of the petitioner and any designated family or household member, provided petitioner and any designated family or household member consents to such relief.

Any of the reliefs provided under this section shall be granted even in the absence of a decree of legal separation or annulment or declaration of absolute nullity of marriage.

The issuance of a BPO or the pendency of an application for BPO shall not preclude a petitioner from applying for, or the court from granting a TPO or PPO.

SECTION 9. Who may file Petition for Protection Orders. – A petition for protection order may be filed by any of the following:

(a) the offended party;

(b) parents or guardians of the offended party;

(c) ascendants, descendants or collateral relatives within the fourth civil degree of consanguinity or affinity;

(d) officers or social workers of the DSWD or social workers of local government units (LGUs);

(e) police officers, preferably those in charge of women and children's desks;

(f) Punong Barangay or Barangay Kagawad;

(g) lawyer, counselor, therapist or healthcare provider of the petitioner;

(h) At least two (2) concerned responsible citizens of the city or municipality where the violence against women and their children occurred and who has personal knowledge of the offense committed.

SECTION 10. Where to Apply for a Protection Order. – Applications for BPOs shall follow the rules on venue under Section 409 of the Local Government Code of 1991 and its implementing rules and regulations. An application for a TPO or PPO may be filed in the regional trial court, metropolitan trial court, municipal trial court, municipal circuit trial court with territorial

jurisdiction over the place of residence of the petitioner: Provided, however, That if a family court exists in the place of residence of the petitioner, the application shall be filed with that court.

SECTION 11. How to Apply for a Protection Order. – The application for a protection order must be in writing, signed and verified under oath by the applicant. It may be filed as an independent action or as incidental relief in any civil or criminal case the subject matter or issues thereof partakes of a violence as described in this Act. A standard protection order application form, written in English with translation to the major local languages, shall be made available to facilitate applications for protections order, and shall contain, among other, the following information:

(a) names and addresses of petitioner and respondent;

(b) description of relationships between petitioner and respondent;

(c) a statement of the circumstances of the abuse;

(d) description of the reliefs requested by petitioner as specified in Section 8 herein;

(e) request for counsel and reasons for such;

(f) request for waiver of application fees until hearing; and

(g) an attestation that there is no pending application for a protection order in another court.

If the applicants is not the victim, the application must be accompanied by an affidavit of the applicant attesting to (a) the circumstances of the abuse suffered by the victim and (b) the circumstances of consent given by the victim for the filling of the application. When disclosure of the address of the victim will pose danger to her life, it shall be so stated in the application. In such a case, the applicant shall attest that the victim is residing in the municipality or city over which court has territorial jurisdiction, and shall provide a mailing address for purpose of service processing.

An application for protection order filed with a court shall be considered an application for both a TPO and PPO.

Barangay officials and court personnel shall assist applicants in the preparation of the application. Law enforcement agents shall also extend assistance in the application for protection orders in cases brought to their attention.

SECTION 12. Enforceability of Protection Orders. – All TPOs and PPOs issued under this Act shall be enforceable anywhere in the Philippines and a violation thereof shall be punishable with a fine ranging from Five Thousand Pesos (P5,000.00) to Fifty Thousand Pesos (P50,000.00) and/or imprisonment of six (6) months.

SECTION 13. Legal Representation of Petitioners for Protection Order. – If the woman or her child requests in the applications for a protection order for the appointment of counsel because of lack of economic means to hire a counsel de parte, the court shall immediately direct the Public Attorney's Office (PAO) to represent the petitioner in the hearing on the application. If the PAO determines that the applicant can afford to hire the services of a counsel de parte, it shall facilitate the legal representation of the petitioner by a counsel de parte. The lack of access to family or conjugal resources by the applicant, such as when the same are controlled by the perpetrator, shall qualify the petitioner to legal representation by the PAO.

However, a private counsel offering free legal service is not barred from representing the petitioner.

SECTION 14. Barangay Protection Orders (BPOs); Who May Issue and How. - Barangay Protection Orders (BPOs) refer to the protection order issued by the Punong Barangay ordering the perpetrator to desist from committing acts under Section 5 (a) and (b) of this Act. A Punong Barangay who receives applications for a BPO shall issue the protection order to the applicant on the date of filing after ex parte determination of the basis of the application. If the Punong Barangay is unavailable to act on the application for a BPO, the application shall be acted upon by any available Barangay Kagawad. If the BPO is issued by a Barangay Kagawad the order must be accompanied by an attestation by the Barangay Kagawad that the Punong Barangay was unavailable at the time for the issuance of the BPO. BPOs shall be effective for fifteen (15) days. Immediately after the issuance of an ex parte BPO, the Punong Barangay or Barangay Kagawad shall personally serve a copy of the same on the respondent, or direct any barangay official to effect is personal service.

The parties may be accompanied by a non-lawyer advocate in any proceeding before the Punong Barangay.

SECTION 15. Temporary Protection Orders. – Temporary Protection Orders (TPOs) refers to the protection order issued by the court on the date of filing of the application after ex parte determination that such order should be issued. A court may grant in a TPO any, some or all of the reliefs mentioned in this Act and shall be effective for thirty (30) days. The court shall schedule

a hearing on the issuance of a PPO prior to or on the date of the expiration of the TPO. The court shall order the immediate personal service of the TPO on the respondent by the court sheriff who may obtain the assistance of law enforcement agents for the service. The TPO shall include notice of the date of the hearing on the merits of the issuance of a PPO.

SECTION 16. Permanent Protection Orders. – Permanent Protection Order (PPO) refers to protection order issued by the court after notice and hearing.

Respondents non-appearance despite proper notice, or his lack of a lawyer, or the non-availability of his lawyer shall not be a ground for rescheduling or postponing the hearing on the merits of the issuance of a PPO. If the respondents appears without counsel on the date of the hearing on the PPO, the court shall appoint a lawyer for the respondent and immediately proceed with the hearing. In case the respondent fails to appear despite proper notice, the court shall allow ex parte presentation of the evidence by the applicant and render judgment on the basis of the evidence presented. The court shall allow the introduction of any history of abusive conduct of a respondent even if the same was not directed against the applicant or the person for whom the applicant is made.

The court shall, to the extent possible, conduct the hearing on the merits of the issuance of a PPO in one (1) day. Where the court is unable to conduct the hearing within one (1) day and the TPO issued is due to expire, the court shall continuously extend or renew the TPO for a period of thirty (30) days at each particular time until final judgment is issued. The extended or renewed TPO may be modified by the court as may be necessary or applicable to address the needs of the applicant.

The court may grant any, some or all of the reliefs specified in Section 8 hereof in a PPO. A PPO shall be effective until revoked by a court upon application of the person in whose favor the order was issued. The court shall ensure immediate personal service of the PPO on respondent.

The court shall not deny the issuance of protection order on the basis of the lapse of time between the act of violence and the filing of the application.

Regardless of the conviction or acquittal of the respondent, the Court must determine whether or not the PPO shall become final. Even in a dismissal, a PPO shall be granted as long as there is no clear showing that the act from which the order might arise did not exist.

SECTION 17. Notice of Sanction in Protection Orders. – The following statement must be printed in bold-faced type or in capital letters on the protection order issued by the Punong Barangay or court:

"VIOLATION OF THIS ORDER IS PUNISHABLE BY LAW."

SECTION 18. Mandatory Period For Acting on Applications For Protection Orders – Failure to act on an application for a protection order within the reglementary period specified in the previous section without justifiable cause shall render the official or judge administratively liable.

SECTION 19. Legal Separation Cases. – In cases of legal separation, where violence as specified in this Act is alleged, Article 58 of the Family Code shall not apply. The court shall proceed on the main case and other incidents of the case as soon as possible. The hearing on any application for a protection order filed by the petitioner must be conducted within the mandatory period specified in this Act.

SECTION 20. Priority of Application for a Protection Order. – Ex parte and adversarial hearings to determine the basis of applications for a protection order under this Act shall have priority over all other proceedings. Barangay officials and the courts shall schedule and conduct hearings on applications for a protection order under this Act above all other business and, if necessary, suspend other proceedings in order to hear applications for a protection order.

SECTION 21. Violation of Protection Orders. – A complaint for a violation of a BPO issued under this Act must be filed directly with any municipal trial court, metropolitan trial court, or municipal circuit trial court that has territorial jurisdiction over the barangay that issued the BPO. Violation of a BPO shall be punishable by imprisonment of thirty (30) days without prejudice to any other criminal or civil action that the offended party may file for any of the acts committed.

A judgement of violation of a BPO ma be appealed according to the Rules of Court. During trial and upon judgment, the trial court may motu proprio issue a protection order as it deems necessary without need of an application.

Violation of any provision of a TPO or PPO issued under this Act shall constitute contempt of court punishable under Rule 71 of the Rules of Court, without prejudice to any other criminal or civil action that the offended party may file for any of the acts committed.

SECTION 22. Applicability of Protection Orders to Criminal Cases. – The foregoing provisions on protection orders shall be applicable in impliedly instituted with the criminal actions involving violence against women and their children.

SECTION 23. Bond to Keep the Peace. – The Court may order any person against whom a protection order is issued to give a bond to keep the peace, to present two sufficient sureties who shall undertake that such person will not commit the violence sought to be prevented.

Should the respondent fail to give the bond as required, he shall be detained for a period which shall in no case exceed six (6) months, if he shall have been prosecuted for acts punishable under Section 5(a) to 5(f) and not exceeding thirty (30) days, if for acts punishable under Section 5(g) to 5(I).

The protection orders referred to in this section are the TPOs and the PPOs issued only by the courts.

SECTION 24. Prescriptive Period. – Acts falling under Sections 5(a) to 5(f) shall prescribe in twenty (20) years. Acts falling under Sections 5(g) to 5(I) shall prescribe in ten (10) years.

SECTION 25. Public Crime. – Violence against women and their children shall be considered a public offense which may be prosecuted upon the filing of a complaint by any citizen having personal knowledge of the circumstances involving the commission of the crime.

SECTION 26. Battered Woman Syndrome as a Defense. – Victim-survivors who are found by the courts to be suffering from battered woman syndrome do not incur any criminal and civil liability notwithstanding the absence of any of the elements for justifying circumstances of self-defense under the Revised Penal Code.

In the determination of the state of mind of the woman who was suffering from battered woman syndrome at the time of the commission of the crime, the courts shall be assisted by expert psychiatrists/ psychologists.

SECTION 27. Prohibited Defense. – Being under the influence of alcohol, any illicit drug, or any other mind-altering substance shall not be a defense under this Act.

SECTION 28. Custody of children. – The woman victim of violence shall be entitled to the custody and support of her child/children. Children below seven (7) years old older but with mental or physical disabilities shall automatically be given to the mother, with right to support, unless the court finds compelling reasons to order otherwise.

A victim who is suffering from battered woman syndrome shall not be disqualified from having custody of her children. In no case shall custody of minor children be given to the perpetrator of a woman who is suffering from Battered woman syndrome.

SECTION 29. Duties of Prosecutors/Court Personnel. – Prosecutors and court personnel should observe the following duties when dealing with victims under this Act:

a) communicate with the victim in a language understood by the woman or her child; and

b) inform the victim of her/his rights including legal remedies available and procedure, and privileges for indigent litigants.

SECTION 30. Duties of Barangay Officials and Law Enforcers. – Barangay officials and law enforcers shall have the following duties:

(a) respond immediately to a call for help or request for assistance or protection of the victim by entering the necessary whether or not a protection order has been issued and ensure the safety of the victim/s;

(b) confiscate any deadly weapon in the possession of the perpetrator or within plain view;

(c) transport or escort the victim/s to a safe place of their choice or to a clinic or hospital;

(d) assist the victim in removing personal belongs from the house;

(e) assist the barangay officials and other government officers and employees who respond to a call for help;

(f) ensure the enforcement of the Protection Orders issued by the Punong Barangy or the courts;

(g) arrest the suspected perpetrator wiithout a warrant when any of the acts of violence defined by this Act is occurring, or when he/she has personal knowledge that any act of abuse has just been committed, and there is imminent danger to the life or limb of the victim as defined in this Act; and

(h) immediately report the call for assessment or assistance of the DSWD, social Welfare Department of LGUs or accredited non-government organizations (NGOs).

Any barangay official or law enforcer who fails to report the incident shall be liable for a fine not exceeding Ten Thousand Pesos (P10,000.00) or whenever applicable criminal, civil or administrative liability.

SECTION 31. Healthcare Provider Response to Abuse – Any healthcare provider, including, but not limited to, an attending physician, nurse, clinician, barangay health worker, therapist or counselor who suspects abuse or has been informed by the victim of violence shall:

(a) properly document any of the victim's physical, emotional or psychological injuries;

(b) properly record any of victim's suspicions, observations and circumstances of the examination or visit;

(c) automatically provide the victim free of charge a medical certificate concerning the examination or visit;

(d) safeguard the records and make them available to the victim upon request at actual cost; and

(e) provide the victim immediate and adequate notice of rights and remedies provided under this Act, and services available to them.

SECTION 32. Duties of Other Government Agencies and LGUs – Other government agencies and LGUs shall establish programs such as, but not limited to, education and information campaign and seminars or symposia on the nature, causes, incidence and consequences of such violence particularly towards educating the public on its social impacts.

It shall be the duty of the concerned government agencies and LGU's to ensure the sustained education and training of their officers and personnel on the prevention of violence against women and their children under the Act.

SECTION 33. Prohibited Acts. – A Punong Barangay, Barangay Kagawad or the court hearing an application for a protection order shall not order, direct, force or in any way unduly influence he applicant for a protection order to compromise or abandon any of the reliefs sought in the application for protection under this Act. Section 7 of the Family Courts Act of 1997 and Sections 410, 411, 412 and 413 of the Local Government Code of 1991 shall not apply in proceedings where relief is sought under this Act.

Failure to comply with this Section shall render the official or judge administratively liable.

SECTION 34. Persons Intervening Exempt from Liability. – In every case of violence against women and their children as herein defined, any person, private individual or police authority or barangay official who, acting in accordance with law, responds or intervenes without using violence or restraint greater than necessary to ensure the safety of the victim, shall not be liable for any criminal, civil or administrative liability resulting therefrom.

SECTION 35. Rights of Victims. – In addition to their rights under existing laws, victims of violence against women and their children shall have the following rights:

(a) to be treated with respect and dignity;

(b) to avail of legal assistance form the PAO of the Department of Justice (DOJ) or any public legal assistance office;

(c) To be entitled to support services form the DSWD and LGUs'

(d) To be entitled to all legal remedies and support as provided for under the Family Code; and

(e) To be informed of their rights and the services available to them including their right to apply for a protection order.

SECTION 36. Damages. – Any victim of violence under this Act shall be entitled to actual, compensatory, moral and exemplary damages.

SECTION 37. Hold Departure Order. – The court shall expedite the process of issuance of a hold departure order in cases prosecuted under this Act.

SECTION 38. Exemption from Payment of Docket Fee and Other Expenses. – If the victim is an indigent or there is an immediate necessity due to imminent danger or threat of danger to act on an application for a protection order, the court shall accept the application without payment of the filing fee and other fees and of transcript of stenographic notes.

SECTION 39. Inter-Agency Council on Violence Against Women and Their Children (IAC-VAWC). In pursuance of the abovementioned policy, there is hereby established an Inter-Agency Council on Violence Against Women and their children, hereinafter known as the Council, which shall be composed of the following agencies:

(a) Department of Social Welfare and Development (DSWD);

(b) National Commission on the Role of Filipino Women (NCRFW);

(c) Civil Service Commission (CSC);

(d) Commission on Human rights (CHR)

(e) Council for the Welfare of Children (CWC);

(f) Department of Justice (DOJ);

(g) Department of the Interior and Local Government (DILG);

(h) Philippine National Police (PNP);

(i) Department of Health (DOH);

(j) Department of Education (DepEd);

(k) Department of Labor and Employment (DOLE); and

(l) National Bureau of Investigation (NBI).

These agencies are tasked to formulate programs and projects to eliminate VAW based on their mandates as well as develop capability programs for their employees to become more sensitive to the needs of their clients. The Council will also serve as the monitoring body as regards to VAW initiatives.

The Council members may designate their duly authorized representative who shall have a rank not lower than an assistant secretary or its equivalent. These representatives shall attend Council meetings in their behalf, and shall receive emoluments as may be determined by the Council in accordance with existing budget and accounting rules and regulations.

SECTION 40. Mandatory Programs and Services for Victims. – The DSWD, and LGU's shall provide the victims temporary shelters, provide counseling, psycho-social services and /or, recovery, rehabilitation programs and livelihood assistance.

The DOH shall provide medical assistance to victims.

SECTION 41. Counseling and Treatment of Offenders. – The DSWD shall provide rehabilitative counseling and treatment to perpetrators towards learning constructive ways of coping with anger and emotional outbursts and reforming their ways. When necessary, the offender shall be ordered by the Court to submit to psychiatric treatment or confinement.

SECTION 42. Training of Persons Involved in Responding to Violence Against Women and their Children Cases. – All agencies involved in responding to violence against women and their children cases shall be required to undergo education and training to acquaint them with:

a. the nature, extend and causes of violence against women and their children;

b. the legal rights of, and remedies available to, victims of violence against women and their children;

c. the services and facilities available to victims or survivors;

d. the legal duties imposed on police officers to make arrest and to offer protection and assistance; and

e. techniques for handling incidents of violence against women and their children that minimize the likelihood of injury to the officer and promote the safety of the victim or survivor.

The PNP, in coordination with LGU's shall establish an education and training program for police officers and barangay officials to enable them to properly handle cases of violence against women and their children.

SECTION 43. Entitled to Leave. – Victims under this Act shall be entitled to take a paid leave of absence up to ten (10) days in addition to other paid leaves under the Labor Code and Civil Service Rules and Regulations, extendible when the necessity arises as specified in the protection order.

Any employer who shall prejudice the right of the person under this section shall be penalized in accordance with the provisions of the Labor Code and Civil Service Rules and Regulations. Likewise, an employer who shall prejudice any person for assisting a co-employee who is a victim under this Act shall likewise be liable for discrimination.

SECTION 44. Confidentiality. – All records pertaining to cases of violence against women and their children including those in the barangay shall be confidential and all public officers and employees and public or private clinics to hospitals shall respect the right to privacy of the victim. Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, business address, employer, or other identifying information of a victim or an immediate family member, without the latter's consent, shall be liable to the contempt power of the court.

Any person who violates this provision shall suffer the penalty of one (1) year imprisonment and a fine of not more than Five Hundred Thousand pesos (P500,000.00).

SECTION 45. Funding – The amount necessary to implement the provisions of this Act shall be included in the annual General Appropriations Act (GAA).

The Gender and Development (GAD) Budget of the mandated agencies and LGU's shall be used to implement services for victim of violence against women and their children.

SECTION 46. Implementing Rules and Regulations. – Within six (6) months from the approval of this Act, the DOJ, the NCRFW, the DSWD, the DILG, the DOH, and the PNP, and three (3) representatives from NGOs to be identified by the NCRFW, shall promulgate the Implementing Rules and Regulations (IRR) of this Act.

SECTION 47. Suppletory Application – For purposes of this Act, the Revised Penal Code and other applicable laws, shall have suppletory application.

SECTION 48. Separability Clause. – If any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions shall not be affected.

SECTION 49. Repealing Clause – All laws, Presidential decrees, executive orders and rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 50. Effectivity – This Act shall take effect fifteen (15) days from the date of its complete publication in at least two (2) newspapers of general circulation.

[…]

The Revised Penal Code, 1930 [134]

Art. 246. Parricide. — Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of reclusion perpetua [life imprisonment] to death.

Art. 247. Death or physical injuries inflicted under exceptional circumstances. — Any legally married person who having surprised his spouse in the act of committing sexual intercourse with another person, shall kill any of them or both of them in the act or immediately thereafter, or shall inflict upon them any serious physical injury, shall suffer the penalty of destierro [exile].
If he shall inflict upon them physical injuries of any other kind, he shall be exempt from punishment.

[134] The Revised Penal Code, Law No. 3815 (8 December 1930), available at http://www.wipo.int/wipolex/en/text.jsp?file_id=225305 (last visited December 30, 2018).

These rules shall be applicable, under the same circumstances, to parents with respect to their daughters under eighteen years of age, and their seducer, while the daughters are living with their parents.
Any person who shall promote or facilitate the prostitution of his wife or daughter, or shall otherwise have consented to the Infidelity of the other spouse shall not be entitled to the benefits of this article.

Art. 250. Penalty for frustrated parricide, murder or homicide. — The courts, in view of the facts of the case, may impose upon the person guilty of the frustrated crime of parricide, murder or homicide, defined and penalized in the preceding articles, a penalty lower by one degree than that which should be imposed under the provision of Article 50.
The courts, considering the facts of the case, may likewise reduce by one degree the penalty which under Article 51 should be imposed for an attempt to commit any of such crimes.

Magna Carta of Women, 2009 [135]

Section 4. Definitions. - For purposes of this Act, the following terms shall mean:

(k) "Violence Against Women" refers to any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life. It shall be understood to encompass, but not limited to, the following:

(1) Physical, sexual, psychological, and economic violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, and other traditional practices harmful to women, non-spousal violence, and violence related to exploitation;

(2) Physical, sexual, and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment, and intimidation at work, in educational institutions and elsewhere, trafficking in women, and prostitution; and

(3) Physical, sexual, and psychological violence perpetrated or condoned by the State, wherever it occurs.

It also includes acts of violence against women as defused in Republic Acts No. 9208 and 9262.

Section 9. Protection from Violence. - The State shall ensure that all women shall be protected from all forms of violence as provided for in existing laws. Agencies of government shall give priority to the defense and protection of women against gender-based offenses and help women attain justice and healing.

Towards this end, measures to prosecute and reform offenders shall likewise be pursued.

(a) Within the next five (5) years, there shall be an incremental increase in the recruitment and training of women in the police force, forensics and medico-legal, legal services, and social work services availed of by women who are victims of gender-related offenses until fifty percent (50%) of the personnel thereof shall be women.

(b) Women shall have the right to protection and security in situations of armed conflict and militarization. Towards this end, they shall be protected from all forms of gender-based violence, particularly rape and other forms of sexual abuse, and all forms of violence in situations of armed conflict. The State shall observe international standards for the protection of civilian population in circumstances of emergency and armed conflict. It shall not force women, especially indigenous peoples, to abandon their lands, territories, and means of subsistence, or relocate them in special centers for military purposes under any discriminatory condition.

(c) All government personnel involved in the protection and defense of women against gender-based violence shall undergo a mandatory training on human rights and gender sensitivity pursuant to this Act.

[135] Magna Carta of Women, 14 August 2009, available at https://www.lawphil.net/statutes/repacts/ra2009/ra_9710_2009.html (last visited December 30, 2018).

(d) All local government units shall establish a Violence Against Women's Desk in every barangay to ensure that violence against women cases are fully addressed in a gender-responsive manner.

Section 17. Women's Right to Health. - (a) Comprehensive Health Services. - The State shall, at all times, provide for a comprehensive, culture-sensitive, and gender-responsive health services and programs covering all stages of a woman's life cycle and which addresses the major causes of women's mortality and morbidity: Provided, That in the provision for comprehensive health services, due respect shall be accorded to women's religious convictions, the rights of the spouses to found a family in accordance with their religious convictions, and the demands of responsible parenthood, and the right of women to protection from hazardous drugs, devices, interventions, and substances.

Access to the following services shall be ensured:

> […]
>
> (8) In cases of violence against women and children, women and children victims and survivors shall be provided with comprehensive health services that include psychosocial, therapeutic, medical, and legal interventions and assistance towards healing, recovery, and empowerment;
>
> […]

Section 33. Protection of Senior Citizens. - The State shall protect women senior citizens from neglect, abandonment, domestic violence, abuse, exploitation, and discrimination. Towards this end, the State shall ensure special protective mechanisms and support services against violence, sexual abuse, exploitation, and discrimination of older women.

Section 41. Penalties. - Upon finding of the CHR that a department, agency, or instrumentality of government, government-owned and -controlled corporation, or local government unit has violated any provision of this Act and its implementing rules and regulations, the sanctions under administrative law, civil service, or other appropriate laws shall be recommended to the Civil Service Commission and/or the Department of the Interior and Local Government. The person directly responsible for the violation as well as the head of the agency or local chief executive shall be held liable under this Act.

If the violation is committed by a private entity or individual, the person directly responsible for the violation shall be liable to pay damages.

Filing a complaint under this Act shall not preclude the offended party from pursuing other remedies available under the law and to invoke any of the provisions of existing laws especially those recently enacted laws protecting women and children, including the Women in Development and Nation Building Act (Republic Act No. 7192), the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act (Republic Act No. 7610), the Anti-Sexual Harassment Act of 1995 (Republic Act No. 7877), the Anti-Rape Law of 1997 (Republic Act No. 8353), the Rape Victim Assistance and Protection Act of 1998 (Republic Act No. 8505), the Anti-Trafficking in Persons Act of 2003 (Republic Act No. 9208) and the Anti- Violence Against Women and Their Children Act of 2004 (Republic Act No. 9262). If violence has been proven to be perpetrated by agents of the State including, but not limited to, extrajudicial killings, enforced disappearances, torture, and internal displacements, such shall be considered aggravating offenses with corresponding penalties depending on the severity of the offenses.

55. PORTUGAL

Law for the prevention of domestic violence, protection and the assistance of victims, 2009 [136]

[…]

[136] Law for the prevention of domestic violence, protection and the assistance of victims (Ley *Estabelece o regime jurídico aplicável à prevenção da violência doméstica, à proteção e à assistência das suas vítimas)* Law n º 112/2009 (16 September 2009), available at https://dre.pt/web/guest/legislacao-consolidada/-/lc/107055783/201811112122/exportPdf/maximized/1/cacheLevelPage?rp=diplomasModificantes (last visited December 30, 2018). Unofficial translation by Compendium team.

Establishes the legal regime applicable to the prevention of domestic violence, protection and the assistance of victims. Repeals Law No. 107/99 of 3 August, and Decree-Law No. 323/2000, of 19 December.

The Assembly of the Republic hereby decrees, in accordance with article 161 (c) of the Constitution, the following:

Chapter I
General provisions
Article 1
Object
This law establishes the legal regime applicable to the prevention of domestic violence, protection and assistance of victims of domestic violence.

Article 2
Definitions
For the purposes of this law, the following definitions should be considered:
A) ' victim ' means a natural person who has suffered damage, in particular an attack on his or her physical or mental integrity, an emotional or moral damage, or a material loss, directly caused by action or omission, in the context of the crime of domestic violence provided for in article 152 of the Penal code;
(b) ' particularly vulnerable victim ' means a victim whose fragility results, in particular, of his or her young or advanced age, health status or from the fact that the type, degree and duration of victimization has resulted in harm with serious consequences to their psychological balance or to the conditions of their social integration;
(c) ' Victim support technician ' means a person duly empowered who, within the scope of his duties, provides direct assistance to victims;
(d) 'National network to support victims of domestic violence ' all bodies devoted to support victims, including the body of the public administration responsible for the area of citizenship and Gender Equality, the Institute for Social Security , I. P. (ISS, I. P.), shelter houses, service structures, emergency reception responses, specific responses at Public administration bodies and the free telephone service with national information coverage for victims of domestic violence;
(e) ' Victim support organizations ' means civil society, non-governmental organizations (non-governmental organizations, non-governmental organizations of women, private institutions of social solidarity, foundations or other associations, non-profits), legally established, whose activity develops in cooperation with the State mission and other public bodies;
f) ' Program for perpetrators of crimes in the context of domestic violence ' means a structured intervention for perpetrators of crimes in the context of domestic violence, which promotes change in their criminal behavior, contributing to the prevention of recurrence, which is proposed and implemented by social reintegration services or by other competent authorities.

Chapter II
Objectives

Article 3
Objectives
This law establishes a set of measures which have the purpose of:
(a) Developing awareness-raising policies in the areas of education, information, health, security, justice and social support, providing the public institutions with the appropriate tools to achieve these activities;
(b) Defending the rights of victims by ensuring their rapid and effective protection;
(c) Creating protections measures to prevent, avoid and punish domestic violence;
(d) Developing an integrated response by the emergency social services and services for victims' support, ensuring rapid and effective access to such services;
(e) Protecting the rights of workers who are victims of domestic violence;
(f) Ensuring the economic rights of the victim of domestic violence in order to facilitate their autonomy;
(g) Creating public policies to ensure the protection of the rights of the victim of domestic violence;
(h) Ensuring a rapid and effective police and judicial protection for victims of domestic violence;
(i) Ensuring the implementation of coercive measures and adequate criminal reactions which are appropriate for the perpetrators of domestic violence, promoting the application of complementary preventive and treatment measures;
(j) Encouraging the creation and development of civil society associations and organizations which have as a objective to act against domestic violence, promoting their cooperation with public authorities;
(l) Ensuring the provision of adequate health care for victims of domestic violence.
(m) Providing for a retrospective analysis of situations of homicide occurring in the context of domestic violence and which have already been the subject of a judicial decision, through trial or archived, with the objective of drawing conclusions and

allowing for the implementation of new preventive methodologies for procedures of public administration services, with impact in the protection of victims.

Changes:
Amended by article 2 of Law No. 129/2015-Diary of the Republic N. º 172/2015, Series I of 2015-09-03, in force from 2015-10-03

Article 4
National Plan against Domestic violence
1. The Government is responsible for drafting and approving a national Plan against Domestic Violence (PNCVD), the application of which must be pursued in coordination with other sectoral policies and civil society.
2- The implementation, monitoring and execution of the measures contained in the PNCVD compete to the body of the public administration responsible for the area of citizenship and gender equality.

Article 4a
Retrospective analysis of homicide situations in domestic violence
1- The Public administration services with intervention in the protection of victims of domestic violence carry out a retrospective analysis of the situations of homicide occurring in the context of domestic violence and which have already been the subject of judicial decision, by trial or archived, in order to draw conclusions that would allow the implementation of new preventive methodologies at the level of the procedures.
2-For the purposes of the preceding paragraph, a retrospective analysis team of homicide in domestic violence consists of:
a) A representative appointed by the Ministry of Justice;
b) A representative appointed by the Ministry of Health;
c) A representative appointed by the Ministry of Solidarity, Employment and Social security;
(d) A representative of the General Secretariat Of the Ministry of Internal Affairs (Sgmai);
(e) A representative of the public administration body responsible for the area of citizenship and gender equality;
(f) A representative of the Public Prosecutor's Office;
(g) A representative of the territorially competent security force in the area where the crime has been comitted.
3- In addition to the elements referred to in the preceding paragraph, one or more representatives of local entities, including civil society organisations, who have intervened in the case, may also be part of the team.
4- The analysis provided for in paragraph 1 shall consist solely of the analysis of the following elements:
a) documentation contained in the judicial process;
b) Technical documentation of the entities represented in the team;
c) Statements provided by the technicians who accompanied the case;
d) Other documentation of a technical nature deemed relevant.
5- For the purposes of this article, public or private entities with intervention in this field shall provide all documentation and provide other relevant information requested for that purpose.
6- Whenever justified, the retrospective domestic Violence Homicide Analysis Team produces recommendations with the objective of implementing new preventive methodologies at the level of procedures.
7- The elements of the retrospective Homicide Analysis team on domestic violence are subject to the duty of confidentiality.
8- The representatives of the entities that are part of the retrospective analysis team of homicide in domestic violence do not have, for the exercise of these functions, the right to receive any type of remuneration or allowance.
9- The procedure provided for in this article shall be regulated by a decree approved by the members of the government responsible for the areas of internal administration, Citizenship and gender equality, health, justice and social Security.

Changes:
Amended by article 2 of Law No. 129/2015-Diary of the Republic N. º 172/2015, Series I of 2015-09-03, in force from 2015-10-03

Chapter III
Principles

Article 5
Principle of equality
All victims, regardless of ancestry, nationality, social condition, gender, ethnicity, language, age, religion, disability, political or ideological convictions, sexual orientation, culture and educational level enjoy fundamental rights, which are inherent to the dignity of the human person, and are guaranteed equal opportunities for living without violence and preserving their physical and mental health.

Article 6
Principle of respect and recognition
1-The victim is assured, in all phases and instances of intervention, treatment with respect for his/her personal dignity.
2-The State shall ensure that the victims who are particularly vulnerable will have the possibility of benefiting from specific treatment, as adapted as possible to their situation.

Article 7
Principle of the respect for the victim's will
The intervention is limited to the full respect of the victim's will, without prejudice of other provisions applicable under criminal law and criminal procedural law.

Article 8
Principle of confidentiality
Without prejudice to the provisions of the Code of Criminal Procedure, the services of technical support to the victim ensure the proper respect for their private life, guaranteeing the confidentiality of the information they provide.

Article 9
Principle of consent
1- Without prejudice for the provisions of the Code of Criminal Procedure, any assistance to the victim should be preceded by the victim's informed consent.
2-The intervention for specific support, under the terms of this law, to the young victims of domestic violence, aged 16 years or older, depends solely on his consent.
3-The intervention for specific support, under the terms of this law, to the child or young victim of domestic violence, under the age of 16 years, depends on the consent of the legal representative, or, in their absence, or if they are the offender, the entity designated by the law, combined with the consent of the child or youth aged 12 years or older.
4-The consent of the child or youth aged 12 to 16 years is sufficient to legitimize the intervention of specific support under this law, if circumstances prevent the reception, in good time, of a declaration with the consent of a legal representative, or in his absence, or if they are the offender, the entity designated by law.
5-The child or young person victim of domestic violence, under the age of 12, has the right to decide, according to his/her age and degree of maturity, on the specific support under this law.
6-The victim may, at any time, revoke freely his/her consent.
7-The provisions of this article shall not prejudice the urgency procedures laid down by articles 91 and 92 of the Protection Children and youth in danger law, approved by Law No. 147/99, of 1 September.

Article 10
Protection of the victim who lacks the ability to provide his/her consent
1-Outside the scope of the criminal procedure, any intervention to support the victim who lacks the ability to provide his/her consent may only be made for their direct benefit.
2- When, under the law, the adult suffers from mental disturbance, sickness or a similar reason, and lacks the ability to consent to an intervention, this intervention may not be carried out without the authorization of its representative, or, in its absence or if they are the offender, an authority, person or body designated under the law.
3-The victim concerned shall, to the extent of their ability, participate in the authorization procedure.

Article 11
Principle of information
The State shall ensure that the victim is provided with adequate information for the protection of their rights, in particular on support services and legal measures available, ensuring that it is provided with the information in good time and in the language that the victim understands.

Article 12
Principle of equitable access to healthcare
The state, considering health needs, ensures appropriate measures to ensure that the victim has equitable access to appropriate quality healthcare.

Article 13
Professional obligations and rules of conduct

Any technical assistance or support to the victim should be developed in compliance with professional standards and obligations, as well as the rules of conduct applicable to each specific case.

Chapter IV
Victim status

Section I
Attribution, rights and termination of victim status

Article 14
Attribution of victim status
1- The judicial authorities or the competent criminal police organs assign the status of victim to the person against whom the violence is committed, for all legal purposes, when the commitment of crime of domestic violence is reported, as long as there is no strong evidence that the it is unfounded.
2-whenever there are minor children, the offender's visitation regime must be assessed and may be suspended or conditioned under the applicable law.
3-In the same act is delivered to the victim proof of such statute, comprising the rights and duties set forth in this law, in addition to the copy of the Respective News Auto, or the filing of a complaint.
4-In situations exceptional and duly substantiated, the status of a victim may be attributed by the body of the public administration responsible for the area of citizenship and gender equality, for the purposes provided for in this law, with Exception Relating to police and judicial procedures.
5-The victim and the competent authorities are obliged to a special duty of cooperation and must act under the dictates of good faith.

Article 15
Right to Information
1. The victim shall be granted access to the following information from his first contact with the law enforcement authorities:
(a) The type of services or organisations to which it may address to obtain support;
(b) The type of support you may receive;
c) where and how you can file a complaint;
(d) which procedures are in the process of denunciation and their role in the context thereof;
e) How and in what terms can you receive Protection;
(f) To what extent and under what conditions you have access to:
i) legal advice; Or
ii) Legal aid; Or
iii) Other forms of counselling;
(g) What are the requirements governing their right to compensation;
h) What special defense mechanisms you can use, being resident in another state.
2. Where the victim requests it from the competent authority, and without prejudice to the regime of the secret of Justice, information on:
(a) The follow-up to the complaint;
(b) The relevant elements which allow it, after the prosecution or the Instructory decision, to be informed of the state of the proceedings and the procedural situation of the defendant, by facts relating to him, except in cases Exceptional Which may impair the good progress of the records;
c) The judgment of the court.
3-appropriate mechanisms should be promoted to provide the victim with information on the release of a detained agent, who is arrested preventively or convicted of the crime of domestic violence in the context of the criminal proceedings.
4-The victim should also be informed, where this does not disturb the normal development of the criminal Procedure, on the name of the investigating officer, as well as the possibility of contacting him/her to obtain information on the state of the Criminal proceedings.
5-The victim should be assured of the right to opt-out of receiving the information referred to in the preceding paragraphs, except where the communication is mandatory in accordance with the applicable criminal procedure.

Article 16
Right to be heard and present evidence
1-The victim who is constituted assistant collaborates with the Public Prosecutor's Office in accordance with the status of the assistant in criminal proceedings.
2-The authorities shall only inquire the victim to the extent necessary for the purposes of the criminal proceedings.

Article 17
Communication guarantees
1-The necessary measures shall be taken, under conditions comparable to those applicable to the offender, in order to minimise as much as possible the communication problems, either in relation to the comprehension or in relation to the victim's intervention as a subject Procedural in the various Acts Procedural proceedings of the criminal procedure concerned.
2-The legal provisions in force relating to the nomination of an interpreter shall apply in the situations referred to in the preceding paragraph.

Article 18
Victim-specific assistance
The State shall ensure, free of charge in the cases established by law, that the victim has access to legal consultation and advice on his/her role during the proceedings and, if necessary, subsequent legal aid when he is subject in criminal proceedings.

Article 19
Victim's expenses resulting from his participation in the criminal proceedings
The possible reimbursement of the victim who intervenes as a subject in the criminal proceedings for the expenses incurred as a result of his legitimate participation in the criminal proceedings shall be proportionate in accordance with the terms laid down in the law.

Article 20
Right to protection
1. An adequate level of protection is ensured for the victim and, where appropriate, his or her family or persons in a similar situation, in particular as regards the safety and safeguarding of private life, when the competent authorities consider that there is a serious threat of retaliations, revictimization situations or strong indications that their privacy may be disturbed.
2- The contact between victims and defendants in all places where joint proceedings take place, in particular in the buildings of the courts, should be avoided, without prejudice to the application of the procedural rules laid down by the Code of Criminal Procedure.
3- Particularly vulnerable victims must be entitled to benefit, by judicial decision, of conditions of testimony, by any compatible means, to protect them from the effects of the testimony provided at a public hearing.
4-The judge or, during the investigation phase, the Public Prosecutor's Office shall determine, when essential to the protection of the victim and subsequently to their consent, that psychosocial support and protection by teleassistance should be ensured, for a period no longer than six months, extendable if the protection of the victim so justifies it.
5- The Public administration body responsible for the area of citizenship and gender Equality may resort to partnership mechanisms to install, secure and maintain technical teleassistance systems.
6-The provisions of the preceding paragraphs shall not prejudice the application of the other remedies contained in the Special Witness protection statute, in particular as regards the protection of the victim's relatives.

Article 21
Right to compensation and restitution of goods
1 - The victim is recognized, within the criminal procedure, the right to obtain a decision to be compensated by the offender within a reasonable period of time.
2 - For the purposes of this law, there is always the possibility of application of Article 8a of the Code of Criminal Procedure, except where the victim expressly opposes it.
3- Except for the need imposed by the criminal procedure, the returnable objects belonging to the victim and seized in the criminal proceedings are immediately examined and returned.
4- Regardless of the progress of the proceeding, the victim is recognized the right to remove from the residence all their personal belongings and, when possible, her own movable property, as well as the goods belonging to minor children and to any adult who is dependent of the victim due to severe, permanent and incapacitating impairment mental or physical, and the list of the goods must be made available in the process as well as the victim should be accompanied, when necessary, by police authority.

Article 22
Conditions for prevention of secondary victimization
1-The victim is entitled to be heard in an informal and reserved environment, and the appropriate conditions should be created to prevent secondary victimization and to avoid pressure.

2-The victim still has the right, whenever possible, and urgently, to receive adequate psychological and psychiatric care by multidisciplinary teams of professionals authorized to conduct screening and therapy on the effects associated with the crime of domestic violence.

Article 23
Victim residing in another State
1-The victim who is not a resident in Portugal benefits from the measures appropriate to eliminating the difficulties which might arise due to his/her residence status, especially regarding the criminal procedure.
2-The non-resident victim in Portugal also benefits from the possibility of providing declarations for future memory immediately after the action has been committed, as well as the hearing through videoconferencing and teleconference.
3-The victim of a crime committed outside of Portugal is also assured that the possibility of filing a complaint with the national authorities, if they have not been able file the complaint in the state/place where the crime was perpetrated, in which case the national authorities shall promptly transmit it to the competent authorities of the territory where the crime was committed.
4-In the event that the victim resides or travels to another Member State of the European Union, he/she may request the issuing of a European protection decision with respect to measures of coercion, injunctions or rules of conduct in the context of the provisional suspension of the proceedings during the the investigation phase, or in the context of main or secondary penalties in which protection measures are enacted, under the corresponding legal regime.

Article 24
Termination of victim status
1-The status of victim will cease either by express will of the victim or by verification of the existence of strong evidence of an unfounded complaint.
2-The status of the victim shall also cease with the filing of the investigation, the order of non-pronunciation or after the transit in judgment of the decision ending the cause, unless, at the request of the victim within the public prosecutor or the competent court, depending on the cases, there's need for protection.
3-The cessation of the status of the victim shall not affect, where the circumstances of the case are deemed justified by the corresponding services, the continuation of the modalities of social support which have been established.
4-The termination of the status of the victim, when it occurs, will, in no case, prejudice the applicable rules of criminal proceedings.

Section II
Police protection and judicial guardianship

Article 25
Access to justice
1-The victim is guaranteed rapid legal consultation by a lawyer, as well as fast and subsequent judicial assistance, with an urgent nature, with consideration for economic insufficiency, according to the law.
2-When the same situation gives rise to several cases, the appointment of the same lawyer or defender to the victim shall be ensured, when possible.

Article 26
Technical Advice and consultancy
The support office for judicial magistrates and prosecutors provided by in the Law of organization of the judiciary system should, whenever possible, include technical advice and information in the area of domestic violence.

Article 27
Offices for aid and information to the victim within the criminal police organs
1-The victims' service offices within the criminal police departments shall ensure prevention, care and monitoring of situations of domestic violence.
2- Each security force and service will constitute its network of service offices for the victims, provided with adequate conditions, namely privacy.
3-The provisions of the preceding paragraphs shall also be fulfilled, when possible, within the research and prosecution departments (DIAP).

Article 27a
Intervention of criminal police organs
1. In compliance with the provisions applicable to situations of domestic violence, security forces and services shall adopt the procedures necessary to ensure the monitoring and police protection of the victims.

2-The police protection of a victim of domestic violence, in the judicial or outside of it, shall be based on the provision of self-protection guidelines or an individualized security plan, drawn up by the locally competent police authority, depending on the level of risk of revictimization.

Article 28
Procedural celerity
1- Cases of crime of domestic violence have an urgent nature, even if there are no detained suspects.
2- The mechanism provided for in Article 103 (2) of the Code of Criminal Procedure is applicable to the urgent nature of the cases related to crime of domestic violence.

Article 29
Denunciation of the crime
1- A criminal complaint is made, in general, when possible, in specific forms, including templates of crime notice forms (*autos de noticia*), developed in the context of prevention, criminal investigation and support for victims.
2- The existence of specific forms within the electronic complaint system is also ensured, which guarantees access to the public website with specific information on domestic violence.
3- The complaint is immediately processed by the entity that receives it and, when made to an entity different from the Public Prosecutor's Office, it is immediately transmitted, accompanied by a risk assessment of the victim's done by the criminal police organs.

Article 29a
Victim protection measures
1. Without prejudice to the precautionary and police measures already adopted, as soon as the Public Prosecutor is aware of the complaint, if there's no decision to call upon himself the competencies, he determines to the criminal police body, by the most expedite way, should carry out procedural acts and urgent collection of evidence enabling, in the shortest possible period of time, without exceeding 72 hours, taking of protective measures towards the victim and the coercion measures concerning the defendant.
2- Simultaneously to the complaint, the victim is always referred to local support structures, for development of a security plan, if it has not been prepared by the criminal police body, and for the purposes of receiving other legally expected support.

Article 30
Detention
1-In the event of a flagrant offence for a crime of domestic violence, the detention carried out remains until the detainee is presented to the hearing, in summary form, or the first judicial interrogation for possible application of a measure of coercion or without prejudice to the provisions of article 143 (3), article 261 (1), article 382 (4) and article 385 (3) of the Code of Criminal Procedure.
2-In addition to the provisions of article 257 (1) of the Code of Criminal Procedure, detention outside the flagrant offence of the crime provided for in the preceding paragraph may be affected by a warrant by the judge or the public prosecutor, if there is a danger of continuation of the activity criminal offence or if it is essential to protect the victim.
3-In addition to the situations referred by in article 257 (2) of the Code of Criminal Procedure, the law enforcement authorities may also order detention outside the flagrant offence of the crime provided for in paragraph 1, on their own initiative, when:
(a) any of the requirements laid down in the preceding paragraph are verified; And
(b) It is not possible, given the urgency and danger situation in the delay, to await the intervention of the judicial authority.

Article 31
Urgent coercion measures
(Entry into Force: 2017-06-23)
1-After the formal qualification of someone as a suspect for the practice of the crime of domestic violence, the court shall, within a maximum period of 48 hours, apply, with respect for general and specific assumptions of the enforcement of the coercive measures provided for in the Code of Criminal Procedure, measurements including the following:
a) Prohibition of acquiring, using or obligation to deliver, immediately, weapons or other objects and utensils which they have, capable of facilitating the continuation of criminal activity;
b) Have the obligation to, with prior consent, be trained within the programmes for defendants in crimes in the context of domestic violence;
c) Not to remain in the residence where the crime has been committed or where the victim resides;
d) Not to contact the victim, certain persons or to appear in certain places or certain environments.
2-The provisions of points (c) and (d) of the preceding paragraph retain their relevance even in cases where the victim has abandoned the residence due to the practice or threat of committing the crime of domestic violence.

3-The measures provided for in this article are always cumulative with any other measure of coercion provided for in the Code of Criminal Procedure.
4- The measure of coercion involving the restriction of contact between parents are immediately communicated to the representative of the Public prosecutor who carries out duties in the competent court, for the purpose of initiating, with urgency, the regulation, or amending the regulation of the exercise of parental responsibilities.

Article 32
Recourse to videoconferencing or teleconference
1- The statements and declarations of the victims, when they involve the presence of the defendant, are provided through videoconferencing or teleconference, if the court, namely at the request of the victim or the public prosecutor, understands it as necessary to guarantee the provision of declarations or statements without embarrassment, and may, for this purpose, request advice from health professionals, support technicians to the victim or other professionals accompanying the evolution of the situation.
2-The victim is accompanied, when requesting, in the provision of declarations or testimony, by the support technician to the victim, or by another professional who has been providing them with psychological or psychiatric support.

Article 33
Declarations for future memory
1-The judge, at the request of the victim or the public prosecutor, may inquire the victim during the investigation so that the testimony may, if necessary, be taken into account in the judgment.
2-The prosecutor, the defendant, the defender and the lawyers constituted in the process are notified of the time and place of the provision of the testimony so that they may be present, and the attendance of the Prosecutor and the defender is mandatory.
3-The taking of declarations is carried out in an informal and confidential environment, in order to ensure, in particular, the spontaneity and sincerity of the replies, and the victim should be assisted during the procedures by a victim support technician or another professional who provides psychological or psychiatric support, previously authorized by the court.
4-The inquiry is made by the judge, and then the public prosecutor, the lawyers constituted and the defender, in this order, formulate additional questions.
5-The provisions of articles 352, 356, 363 and 364 of the Code of Criminal Procedure shall be correspondingly applicable.
6-The provisions of the preceding paragraphs are correspondingly applicable to declarations by the assistant and the civil parties, as well as experts and technical consultants and face-to-face inquiries.
7-The taking of declarations in accordance with the preceding paragraphs shall not prejudice the provision of testimony at a hearing, whenever it is possible and does not jeopardizes the physical or mental health of the person who should provide it.

Article 34
Taking of statements
If, for the reasons referred to by the previous article, the victim is unable to attend the hearing, the court may order, either officiously or on request, to receive statements in the place where they live, on the day and time that they will communicate.

Article 34a
Risk assessment of the victim in the trial phase
In the dispatch that designates the day for the hearing, the court requests an updated risk assessment regarding the victim.

Article 34b
Suspension of execution of prison sentence
1-The suspension of the execution of the sentence of imprisonment of someone convicted for the practice of domestic violence crime provided for in Article 152 of the Penal code is always conditional on the fulfilment of duties or observance of rules of conduct, or the monitoring of the evidence regime , in any case including rules of conduct that protect the victim, namely the distance from the victim, his/her residence or workplace and the prohibition of contacts, by any means.
2-The provisions of the preceding paragraph on protective measures shall apply to minors in the cases referred to in Article 152 (2) of the Penal code.

Article 35
Remote control technical means
1. The court, with a view to the application of the measures and penalties provided for in articles 52 and 152 of the Penal code and article 31 of this Law, shall, where this is indispensable to the victim, determine that compliance with those measures is supervised by technical means of remote control.

2-Remote control shall be carried out, in respect of the personal dignity of the defendant, by positional telematics monitoring, or other suitable technology, in accordance with the appropriate technological systems.
3-Remote control is for social reintegration services and is implemented in close liaison with victim support services, without prejudice to the use of supplementary teleassistance schemes referred to in article 20 (5).
4-For the purposes of paragraph 1, the judge shall request prior information from the services responsible for remote control about the personal, family, labor and social situation of the defendant or the agent.
5. The rules laid down in Articles 55 to 57 of the Penal Code and articles 212 and 282 of the Code of Criminal Procedure shall apply to the repeal, alteration and termination of removal measures supervised by technical means of remote control.

Article 36
Consent
1-The use of technical means of remote control depends on the consent of the defendant or the agent and, in cases where its use covers the participation of the victim, also depends on the consent of the person.
2-The use of technical means of remote control also depends on the consent of the persons who are to provide it, in particular those who live with the defendant or the agent and those who may be affected by the compulsory permanence of the defendant or the agent in Particular location.
3-The consent of the defendant or the agent shall be provided personally before the judge, in the presence of the defender, and reduced to self.
4- Where the use of the technical means of distance control is required by the defendant or the agent, the consent shall be deemed to have been provided by a simple declaration in the application.
5- The victims and persons referred to in paragraph 2 shall provide their consent to the services responsible for the implementation of the technical means of remote control by simple written declaration, which subsequently send it to the judge.
6-The consents provided for in this article can be revoked at all times.
7-The provisions of the preceding paragraphs shall not apply where the judge, on a reasoned basis, determines that the use of technical means of remote control is essential for the protection of the rights of the victim.

Article 37
Mandatory communication and data processing
1-Decisions to allocate the status of victims, final orders delivered in investigations and final decisions carried on trial in proceedings for the crime of domestic violence are communicated to the General Secretariat of the Ministry of Administration (SGMAI) for the purpose of registration and processing of data.
2- The communications provided for in the preceding paragraph shall be transmitted without reference to personal data, with the exception of the single process-crime identifier (NUIPC).
3. The SGMAI shall, on the processing of the data communicated to it under paragraph 1, report, without any personal data, to the body of the public administration responsible for the area of citizenship and gender equality the resulting assessment, with a semiannual periodicity.
4-The provisions of paragraph 1 shall not prejudice the rules for processing of data for statistical purposes, in the area of justice, in the field of domestic violence, in accordance with the applicable legislation.

Article 37a
Domestic Violence database
1-The Domestic Violence Database (DVB) is created, being the respective treatment of the responsibility of the SGMAI.
2- The processing of data carried out under the DVB relates to the occurrences known by the security forces (National Republican Guard-GNR and the Public Security Police-PSP), their risk assessments, and the decisions communicated in accordance with previous article, for the following exclusive purposes:
a) To contribute to the knowledge of the phenomenon and the development of the criminal policy and the internal security policy on domestic violence, providing information without any identification of personal data;
b) To contribute to the prevention and criminal investigation of the phenomenon, in pursuing the attributions and competences of the Public Prosecutor's Office and security forces.
3-The access to the database by the SGMAI is allowed to two types of users:
a) The employees of SGMAI accredited to use the database for the purpose of extracting data, which do not access personal data.
b) The employees of the SGMAI accredited to use the database in order to ensure the coherence and reliability of the information, accessing, in respect of personal data, only to the NUIPC.
4-The elements of the security forces (GNR and PSP), accredited for this purpose, access the records contained in the DVB for the purposes of criminal investigation and the improvement of domestic violence policing practices.

5-The public prosecutor, as the holder of the criminal action, accesses the records of the DVB through accredited elements, with the purpose of assisting the activity of prevention and criminal investigation of the phenomenon of domestic violence.
6-The workers or elements of the Public Prosecutor's Office of security forces with access to the domestic violence database are subject to the duty of confidentiality.
7-The domestic violence database is notified to the National Data Protection Commission pursuant to Law No. 67/98 of October 26.

Article 37b
Mandatory communication of judicial decisions
(Entry into Force: 2017-06-23)
1- Final decisions carried out in the case of applying restrictive measures of contact between parents in proceedings for the crime of domestic violence are communicated, for the appropriate purposes, to the family and minors' section of the Court of the District of the minor's residence.
2-Outside the areas covered by the jurisdiction of the family and minor sections related to civil guardianships and promotion and protection, the communications referred to by the preceding paragraph shall be addressed to the civil sections of the local court/instance and, if there's none, to the generic competency sections of the local court/instance.

Article 38
Measures to support the re-insertion of the agent
1-The State shall promote the creation of the necessary conditions for psychological and psychiatric support to the agents convicted of the practice of domestic violence crimes, as well as to those who have been subject of a decision of provisional suspension of the proceedings, as long as their consent is obtained.
2-Programs for perpetrators of crimes are defined and implemented in the context of domestic violence, in particular with a view to suspending the execution of the prison sentence.

Article 39
Restorative meetings
Revoked

Article 40
Financial support
The victim of domestic violence benefits from state financial support in accordance with the applicable law.

Section III
Social guardianship

Article 41
Cooperation of employers
Where possible, and when the size and nature of the employer so permits, the employer shall prioritize:
(a) The request from a full-time worker who is the victim of domestic violence to change to part-time work when this is available in a certain department or service;
b) The request from a part-time worker who is the victim of domestic violence to change to a full-time job or increase his/her working time.

Article 42
Transfer at the request of the worker
1-In accordance with the Labor Code, the worker victim of domestic violence is entitled to be transferred, temporarily or definitively, at his request, to another establishment of the undertaking, the following conditions have been verified:
A) Delivery of notice;
(b) Need to departure from their family residence at the time of the transfer.
2- In the situation provided for in the preceding paragraph, the employer may only postpone the transfer on the basis of imperative requirements linked to the employer's operational needs and only until there is a compatible job available.
3-In the case referred to in the preceding paragraph, the worker is entitled to suspend the contract immediately until the transfer occurs.
4- The confidentiality of the situation which motivates the contractual changes of the preceding paragraph is guaranteed, if requested by the person concerned.
5- The provisions of the preceding paragraphs shall apply, with adaptations, to workers exercising public functions, irrespective of the type of the legal relationship of public employment under which they exercise their functions.

6- The effects provided for in article 277 of the General Law on public administration, approved by Law No. 35/2014, of 20 June, are applicable, with the necessary adaptations, in a situation of suspension referred to in paragraph 3, to workers exercising public functions.

Article 43
Absences
The absences by the victim are considered justified, when they are motivated by inability to conduct work due to the crime of domestic violence, according to the applicable legal regime.

Article 44
Collective Working Regulatory Instruments
The Collective Working Regulatory Instruments, should establish whenever possible, for part-time admission and for geographical mobilit, preferences in favor of workers benefiting from victim status.

Article 45
Lease support
The victim has the right to be supported regarding their lease, the attribution of social housing or a comparable specific modality, in terms defined by in the law or in protocols with entities for that purpose.

Article 46
Social Insertion Income
1-The victim has, in accordance with the law, the right to the social income of insertion, and the respective application will be urgent.
2-For the purposes of determining the amount of the social income of insertion to be attributed to persons given the status of victims of domestic violence and are in the process of becoming autonomous, no other income sources from work of other household elements should be considered.

Article 47
Family allowance
The transfer of the perception of the family allowance is done at the request of the victim regarding the minor children that are with the victim.

Article 48
Access to employment and vocational training
1. The victim of domestic violence should be prioritized in access to job vacancies, integration into vocational training programs or any other active employment measure.
2-The victim is also given priority in attending employment centers and employment and vocational training centers of the Institute for Employment and Vocational Training, I. P. (IEFP, I. P.), which must be carried out under privacy conditions.

Article 49
Clinical Treatment
The National Health Service ensures the provision of direct assistance to the victim by specialized technicians and promotes the existence of clinical care and treatment offices in order to prevent the phenomenon of domestic violence.

Article 50
Exemption from moderating fees
The victim is exempt from the payment of the moderating fees under the National Health Service.

Article 51
Restitution of benefits
1- The economic and social benefits inherent in the status of victims which have been wrongly paid must be refunded.
2- The economic and social benefits whose attribution has been based on false declarations of those who have benefited from the victim's status or the omission of legally required information shall be deemed unduly paid.

Article 52
False statements
Without prejudice of criminal liability, providing false declarations under the victim’s status determines the cessation of the economic and social benefits provided for by law.

Chapter V
National Network

Article 53
National network to support victims of domestic violence
1-The national network for the support of victims of domestic violence comprises the body of the public administration responsible for the area of citizenship and gender equality, the ISS, I. P., shelter houses, emergency reception responses and the structures of Service.
2- The specific responses referred to by article 62 are part of the National support network.
3- In the context of the network, a permanent telephone service, free of charge and with national coverage, of information to victims of domestic violence is also ensured.
4- (revoked.)
5- (revoked.)
6- (revoked.)
7- (revoked.)
8- In the framework of the national network to support victims of domestic violence, the relevance of victim support organizations is recognized by the State and its role is encouraged by the latter, notably in the implementation of support policies.

Article 53a
Articulation within the network and with other stakeholders
1. Any modalities of public support for the establishment or operation of shelter houses, service structures and emergency reception responses require the technical supervision of the public administration body responsible for the area of Citizenship and gender equality, pursuant to article 58 (j), and the responsibility of the ISS, I. P., its supervision, in accordance with its tasks, as well as the technical support and monitoring of those social responses subject to an agreement Cooperation.
2- In cases where the victims are elderly or dependent, without family support, the ISS, I. P., or other competent body, shall develop a priority referral for reception within the network of social services, considering the required articulation with the national support network for victims of domestic violence.
3- Security forces and services act in close cooperation with the national network to support victims of domestic violence.
4- In situations where victims of domestic violence are children or young people of lower age, the National Commission for the Protection of children and young people at risk and the committees for the Protection of children and young people should establish protection procedures including their legal duties, considering the possible cooperation with the bodies and entities of the national network to support victims of domestic violence.
5- All the actors of the network and all entities cooperating with them must articulate themselves to develop, at each moment, the measures that are more appropriate for the protection of victims.

Article 54
Free of charge
1- Services provided through the national network to support victims of domestic violence are free of charge.
2- For people with proven insufficient economic means, the legal support provided to victims is free.

Article 55
Participation of local authorities
1 -In the context of its competences and attributions, local authorities may hold structures integrated in the national network to support victims of domestic violence, collaborate in the dissemination of other structures in operation in their territorial areas and assign equipment to create responses within the national network.
2- If the property of the equipment belongs to the local authorities, the maintenance of the facilities is ensured by the latter, and can in the remaining cases, and whenever possible, contribute to the good state of preservation thereof.

Article 56
Financing
1- In the field of investment for construction and response equipment in the area of domestic violence, the public support of the central administration falls within specific investment programs for social equipment.
2- The financial support referred to in the preceding paragraph may be ensured by funding coming from community funds in accordance with the applicable regulations.
3- Financial support for the functioning of social responses in the area of domestic violence is governed by the cooperation regime, in accordance with the legislation in force.

Article 57
Collaboration with foreign entities
In the context of the national network to support victims of domestic violence, cooperation agreements with similar foreign entities can be established for the safety of the users.

Article 58
Committee on Citizenship and Gender equality
The Committee on Citizenship and Gender Equality is responsible for the development of policy Protection and promotion of the rights of victims of domestic violence, including:
(a) To participate in legislative amendments within the scope of their mandate;
b) To promote protocols with agencies and services with intervention in this area and non-governmental organizations or other private entities;
c) To promote specialized training for multidisciplinary teams that compose the national network;
D) Collaborate in the insertion of specific contents in the curriculum and training plans of all professionals who, directly or Indirectly, come into contact the phenomenon of domestic violence;
e) To request and coordinate the audits and studies of diagnosis and evaluation of the shortcomings, measures and social responses;
f) To streamline, coordinate and monitor the development of the diagnosis of the victims' situation;
g) Coordinate the action of all public and private entities, structures and intervention programmes regarding the victims, in order to reinforce strategies for cooperation and rationalization of resources;
h) Cooperate with the National Commission of Protection of the Children and youth at risk the development of policies, strategies and actions concerning the promotion and protection of children and young people who are victims of domestic violence;
i) Certify entities whose activity in the area of domestic violence indicates, by their relevance, integration into the national network to support victims of domestic violence;
(j) Ensure technical supervision regarding specific responses for care and reception of victims, by verifying the conformity of the procedures adopted with the national, community and European technical guidelines on the matter as well as its articulation with public policies, and the monitoring of the work of the teams regarding intervention models and practices, which must meet the orientations originated by social security services, and the training, information and updating of technical-scientific competences of the people who integrate them;
k) Organize and coordinate the recording of domestic violence data, disaggregated by age, nationality and sex, for the purpose of collecting and analyzing information elements relating to occurrences reported to security forces and judicial decisions, whenever, under the law, they must be communicated;
l) Issuing the opinions provided by law.

Article 58a
Competences of the Social Security Institute, I. P.
The ISS, I. P., is the competent body, in matters of public policies to combat domestic violence and the protection and promotion of victims ' rights, to namely:
(a) Develop cooperation with the private institutions of social solidarity or equivalent, within the framework of their cooperation agreements concluded for social responses to support victims of domestic violence;
(b) To ensure oversight, technical support and monitoring of social responses in accordance with article 53a (1);
(c) Ensure proper articulation and coordination with other bodies and structures, in particular within the national network, in order to protect victims and promote their social integration;
(d) To promote emergency response procedures, notably in the context of the National Social Emergency hotline, to victims of domestic violence;
e) To participate in the legislative amendments which respect their scope of action;
f) To participate in the implementation and execution of the national Plan against Domestic violence;
g) To participate in the definition of the national strategy for combating domestic violence;
(h) To ensure the collection and processing of statistical data relating to domestic violence in the context of its competences.

Article 59
Territorial coverage of the national network
1-It is the responsibility of the State to promote the creation, installation, expansion and support for the operation of shelter houses and other structures that are part of the national network.
2-The network of shelter houses and the other structures belonging to the national network shall ensure the balanced coverage of the national territory and the population and should cover all districts.

3- In the metropolitan areas of Lisbon and Oporto, the network referred to in the preceding paragraphs shall include at least two shelter houses.

Article 60
Shelter Houses
1- Shelter houses are residential units intended for temporary reception to victims, accompanied or not by minor children.
2 - The State is responsible for granting priority support to households of women victims of domestic violence and to ensure their anonymity.

Article 61
Service structures
1 - The service structures are composed of one or more technical teams of public entities dependent on the central or local government, entities that have concluded cooperation protocols and other support organizations to the victim to ensure, in an integrated manner, with continuity, the care, support and personalized referral of victims, for their protection.
2 - The cooperation protocols referred to by the preceding paragraph shall be in agreement between the public administration bodies responsible for the areas of citizenship and gender equality and social security, ensuring compliance with the parameters of this law and the PNCVD.
3 - The teams referred to in paragraph 1 have a multidisciplinary nature, preferentially including support technicians to the victim.

Article 61a
Emergency host responses
Emergency reception responses are aimed at the urgent reception of victims accompanied or not by children, for the period necessary to assess their situation, ensuring the protection of their physical and psychological integrity.

Article 62
Specific responses from public administration bodies
Public administration bodies, notably in the context of the National Health Service, security forces and services, IEFP, I. P., Social security services and immigrant support services, should promote specific service to victims of domestic violence under their respective competences.

Article 63
Objectives of the Shelter houses
The objectives of the Shelter houses are:
(a) Temporarily receive victims, accompanied or not by minor children;
(b) In cases where this is justified, to enhance, during the stay in the shelter, personal, professional and social skills of the victims, in order to likely avoid possible situations of social exclusion and with the aim of facilitating their effective social reinsertion.

Article 64
Operation of Shelter Houses
1- Shelter houses are organized in units that favor a relationship between the affective family, personalized daily life and community integration.
2- For the purposes of the preceding paragraph, the shelter houses shall be governed by the terms described in this law, its rules of procedure and the rules applicable to entities with similar legal nature, with cooperation agreements concluded, provided that they do not contradict the rules contained in this law.
3 - The internal operating regulations, to be approved by the members of the government responsible for the areas of citizenship and gender equality and of solidarity and social security, or by whom they designate, shall be made known to the victims at the time of admission and shall be subscribed using the corresponding term of acceptance.
4 - The shelter houses have, for technical guidance, at least one person licensed in the social or behavioral areas, preferably psychologist and or social service worker, which acts in conjunction with the technical team.
5 - In view of the nature and purposes pursued by the shelter houses, the territorially competent police authorities shall provide all necessary support for the protection workers and victims, ensuring adequate vigilance with them.

Article 65
Organization and management of shelter houses
1- Shelter houses may operate with equipment belonging to public or private non-profit entities.
2- Shelter houses must coordinate with the other structures which are part of the national network.

3 - In the case of non-profit private entities, the State supports its function by establishing cooperation agreements.

Article 66
Staff
1-The shelter houses have a technical team, preferably including a support technician/case worker to the victim, who is responsible for diagnosing the situation of the victims received by the institution, including risk assessment and their needs, as well as support in definition and implementation of projects to promote their rights and autonomy.
2-The team must be multidisciplinary, including the areas of law, psychology and social service.

Article 67
Technical Team Training
The public administration body responsible for the area of citizenship and gender equality ensures, without prejudice to the participation of other entities, the specific training of the technical staff of the Shelter houses and the service centers.

Article 68
Host
1- The admission of the victims in shelter houses is indicated by the technical team of the entities that are part of the national network and, in an emergency, also by indication of the criminal police organs following the request of the victim, in accordance with the risk level assessment.
2- The reception is ensured by the institution that best can guarantee the needs for victim's support according to the analysis of the competent technical team.
3- The reception in the shelter houses will be of short duration, since the return of the victim to life to their community of origin or another community of their choice, is expected within no more than six months.
4- The permanence for more than six months may be authorized exceptionally, with a justification from the technical team accompanied by the report assessing the situation of the victim.
5- The provisions of this article shall not prejudice the reception of children and youth, decided by the competent court, in accordance with articles 49 to 54 of the Law of Protection of Children and Youth in danger.

Article 69
Immediate causes of cessation of hosting
Immediate causes of cessation of hosting are, among others:
(a) The termination of the period provided for in n. os 3 and 4 of the previous article;
b) The manifestation of the victim's will;
(c) The failure to comply with the operating rules of the shelter.

Article 70
Rights and duties of the victim and minor children in reception
1-The victim and the minor children received in shelter houses have the following rights:
a) Accommodation and food within standards of dignity;
b) Space of privacy and a degree of autonomy in the conduct of their personal life, appropriate to their age and situation.
2- The victim and minor children received have a special duty to fulfil the respective operating rules.

Article 71
Complaint
1-The persons responsible for the shelter shall report to the competent Public prosecutor's Office the situations of victims that they are aware of, for the purpose of establishing the Respective Criminal procedure.
2- When the guardians of the shelter houses find grounds for suspicion of minor children also being victims of domestic violence, they must immediately report such circumstance to the public prosecutor, respecting the confidentiality of the information.

Article 72
Domicile of the victim welcomed at home of shelter
The victim received at the shelter is considered to be domiciled at the service center that processed their admission.

Article 73
Medical Assistance

By means of a declaration issued by the managing body of the shelter where the victim is received, the health services included in the National Health Service of this area are to provide all the necessary assistance to the victim and their children, guaranteeing confidentiality of the data.

Changes
Amended by article 2 of Law No. 129/2015-Diary of the Republic N. º 172/2015

Article 74
Access to educational establishments
1. School transfer, without the observance of the *numerus clausus*, is guaranteed to the minor children of the victims who are welcomed in the housing, for school facilities closer to the respective Shelter House.
2- This transfer operates on the basis of a statement issued by the service center that processed the admission of the victim.
3- The school facility referred to in paragraph 1 shall be obliged to ensure confidentiality with regard to the information which may be accessed by reason of the transfer process.

Changes
Amended by article 2 of Law No. 129/2015-Diary of the Republic N. º 172/2015

Article 75
(revoked)
Revoked by article 5 of Law No. 129/2015-Diary of the Republic N. º 172/2015

Article 76
Support Groups
In view of the autonomy of the victims, the community support groups aimed at promoting the self and the empowerment of victims are certified by the public administration body responsible for the area of citizenship and gender equality, whenever they require it, for the purposes of integrating the national network in support of victims of domestic violence.

Chapter VI
Education for citizenship

Article 77
Education
The state is responsible for defining, in the objectives and curriculum guidelines for preschool education, primary and secondary education cycles, guiding principles for crime prevention and program for domestic violence, according to physical, emotional, psychological and social development of children attending those educational facilities, with the aim, in particular, of providing them with the basic knowledge of:

a) The phenomenon of violence and its diversity of manifestations, origins and consequences;
b) The respect to which they have the right to, their intimacy and the reserve of their private life;
c) Parental behaviors and inter in family life;
d) Symbolic violence and its structural and institutional character;
e) Power relations that mark the personal interactions, groups and social;
f) The relationship between children, adolescents, young people and adults.

Article 78
Awareness and information
The State ensures the promotion of domestic violence prevention policies by:
a) Preparation of scripts and educational products for awareness raising and information in schools, which include the themes of education for gender equality, non-violence and peace, for the emotions, as well for the relationship between gender and multiculturalism and the resolution of conflicts through communication;
b) Creation and dissemination of informative and pedagogical materials directed to the student population;
c) Conducting competitions in schools to select best pedagogic materials produced in order to conduct temporary exhibitions;
d) Dynamization of awareness raising in schools, in partnership with the remaining actors of the educational community, by the military and agents of the security forces involved in proximity policing, community and victim support programmes;
e) Development of guidelines and products to raise awareness of families about the need for engage in educational strategies as an alternative to violence;
f) Awareness raising for the elimination of all sexist and discriminatory references of school materials;

g) Dynamization of awareness raising among public administration bodies and public companies in order to modify the conducts that favor, stimulate and perpetuate domestic violence;
h) Promoting national and local campaigns in the media;
i) Disclosure of informative material about the revealing evidence of violence among health professionals, designed to preparing them to detect such cases;
j) Promoting the expansion of the knowledge base and exchange, with national and foreign entities, information, identification and dissemination of good practices for the prevention of domestic violence.

Article 79
Training
1- To the extent that it's needed, specific training should be promoted in the area of domestic violence to pre-school teachers, basic and secondary education, so that they acquire knowledge and techniques which will enable them to educate children with respect for their fundamental rights and freedoms, equality between men and women, the principle of tolerance and the peaceful prevention and resolution of conflicts, in the context of family and social life, as well as preventing forms of violence.
2- Health professionals whose performance is relevant in the matter, should be given training on domestic violence, which includes preparation for detection of cases of violence and, where there are revealing indications of the crime, promote complaint.
3 – The activities of the Center for Judicial Studies and Training include contents on the crime of domestic violence, its causes and consequences.
4- Criminal police and legal medicine technicians receive a specific formative component in the area of domestic violence in order to prevent forms of secondary victimization, in particular in the context of the collection of the means of evidence.

Article 80
Protocols
1- Educational facilities and entities specially devoted to the monitoring of situations resulting from the crime of domestic violence may conclude cooperation protocols.
2 - The municipalities which have, or wish to have, Projects Against violence, including spaces for information on the issue of domestic violence, are supported by protocols, with an aim to conducting campaigns and awareness raising in local communities and the expansion of the national coverage of the victim's support network.
3- The State promotes, with the health professional orders, the conclusion of the protocols necessary for the regular dissemination of informative material on domestic violence in offices and pharmacies.
4- Protocols may be concluded between the public administration body responsible for the area of citizenship and gender equality and the various public administration bodies involved in the protection and assistance to the victim with a view to defining the administrative procedures for data communication and the integrated development of the victim's network policies and awareness raising on domestic violence.
5- The Public administration body responsible for the area of citizenship and gender Equality may also conclude protocols with non-governmental organizations with a view to coordinating procedures for the protection and victim assistance.

Article 80a
Budget
1. Each entity shall enter into its budget the expenses arising from the implementation of this law.
2-The amount of the sums referred to in the preceding paragraph and its implementation, as well as the estimate of the amount corresponding to exemptions granted to persons with a victim's status of domestic violence, is provided knowledge to the member of the government responsible for the area of equality until the end of the first quarter of the next year.

Changes
Added by article 253 of Law No. 42/2016-Diary of the Republic N. º 248/2016

Chapter VII
Final provisions

Article 81
Transitional provisions
1- Until its revision, the regulatory Decree No 1/2006, of 25 January remains in force, with the necessary adaptations.
2- (*revoked*).

Changes
Amended by article 5 of Law No. 129/2015-Diary of the Republic N. º 172/2015

Article 82
Revocation clause
The Law No. 107/99 of 3 August, and the Decree-Law No. 323/2000, of 19 December are revoked.

Article 83
Regulation
1-The regulations necessary for the implementation of this law are approved by the government within 180 days.
2-The template/form establishing the attribution of victim status as provided for in article 14 (1) shall be approved by a joint ordinance of the members of the government responsible for the areas of citizenship and Gender equality, internal administration and justice.
3-The characteristics of the technological systems of distance control provided for in article 35 shall be approved by the Ordinance of the member of the government responsible for the area of justice.
4-The conditions for the initial use of technical means of teleassistance, provided for in N. os Article 20 (4) and (5), and the means of distance control provided for in article 35 of this law, shall be defined by a joint ordinance of the members of the government responsible for the areas of citizenship and gender equality and justice.
5-The requirements and experience necessary for the qualifications of the victim support technicians referred to by article 2(c) shall be defined by an order of the members of the government responsible for the areas of citizenship and gender equality, justice, training Solidarity and social security.

Changes
Amended by article 2 of Law No. 129/2015-Diary of the Republic N. º 172/2015

Article 84
Entry into force
This law shall enter into force 30 days after its publication.

[…]

56. PUERTO RICO

Domestic Abuse Prevention and Intervention Act, 1989 (As amended) [137]

[…]

To establish a body of measures addressed to prevent and fight domestic abuse in Puerto Rico; characterize the crimes of Abuse, Aggravated Abuse; Abuse Through Threat; Abuse Through Restriction of Liberty; and Conjugal Sexual Assault, and fix penalties; empower the Courts to issue Orders for Protection for the victims of domestic abuse and establish a speedy and expeditious procedure for the handling and adjudication of said orders; establish measures addressed to the prevention of domestic abuse and direct the Women's Affairs Commission to divulge, and orient the community on the scope of this Act, and to appropriate funds.

STATEMENT OF MOTIVES

Domestic abuse is a type of antisocial behavior that is a serious problem in Puerto Rican families. It is the physical and emotional mistreatment which a person suffers at the hands of a spouse or former spouse, or at the hands of a person with whom there has been an intimate relationship. Although men as well as Women may be victims of conjugal abuse, studies show that Women are usually the victims of the aggressive and violent conduct that we call conjugal abuse. The National Crime Survey Bureau of Justice Statistics conducted a study from 1978 to 1982 and found that around 2.1 million women in the United States were victims of conjugal abuse at least once in an average period of twelve (12) months. (Special Report of August 1986, pages 1-5.) The investigators figure that 60% of all married women in Puerto Rico are victims of conjugal abuse. Although the great majority of the incidents of domestic abuse are not reported to the law enforcement agencies, police statistics in Puerto Rico reveal an alarming trend. In 1983, eighty one percent (81%) of the murders or homicides of women were perpetrated by a family member or friend, which dropped to 58% in 1984, but in 1985, it rose to 64%. The police do not

[137] Domestic Abuse Prevention and Intervention Act, Act No. 54 (15 August 1989, with incorporated amendments up to Act No. 23 of May 20, 2013), available at https://www2.pr.gov/ogp/Bvirtual/leyesreferencia/PDF/Y%20-%20Ingl%C3%A9s/54-1989.pdf (last visited December 30, 2018).

have this data for subsequent years, but it is a fact that incidents of domestic abuse are seen in an increasingly-aggressive pattern that is rising both in frequency as in intensity, and which is often passed from one generation to another. Investigators hold that children who are victims of domestic abuse or come from homes where there are incidents of domestic abuse, carry within them the scars and patterns of violence throughout their lives. To tolerate domestic abuse today, contributes to the breaking up of families, fosters crime, and weakens the values of human conviviality.

Domestic abuse is one of the most complex criminal acts of our society. In an awareness of its difficulties and effects, for the past six years, the Legislature has been evaluating several legislative measures to attend to this problem and seek viable options to eradicate this criminal behavior, which are not necessarily limited to establishing specific sanctions against the offender. Throughout these years, many reports, statistics, true cases, psychological evaluations of persons affected by domestic abuse, and the recommendations of professionals have been studied, which have led us to the adoption of integral legislation that comprises certain measures for its prevention through education, orientation and protection.

There is no doubt that to deal effectively with this problem, the desire of the public sector, the private sector, the police, the courts, the assistance professionals and the community in general to work together, is required. It is indispensable that we attack this problem by fixing our attention on its Violent and criminal nature and that we design measures addressed to the aggressors, and measures to protect the victims.

The unique nature of this Act rests on the power granted to the Trial Court Judges and the Municipal Judges to issue affirmative measures for the protection of the victims through orders addressed to the aggressors to abstain from engaging in certain types of conduct towards the victim. Therefore, this Act specifies and establishes a simple and expeditious process to obtain civil remedies through Orders for Protection. This procedure is rooted in the Legislature's interest in attending to the needs of the victims of domestic abuse. Its purpose is to expedite the process for the immediate attention and solution of the controversies that are generated in the homes where violence prevails, and to attend to the clamor for protection that the victims of domestic abuse address to the State. It also includes self-help elements focused on encouraging the victims of domestic abuse to seek immediate, provisional legal remedies, motu propio, which will contribute to the development of self-esteem and self-determination of the persons who are in a situation involving abuse.

This Act also describes the crime of abuse in different modes, and imposes penalties for its commission, which are greater in cases of recidivism, and under aggravating circumstances. It also establishes measures for police intervention, such as mandatory arrest, the responsibility of providing assistance to the victim, and compiling information on domestic abuse. Thus, this Act compiles in an integrated manner the various measures to deal with the fundamental areas that require an immediate solution to execute the public policy of fighting crime and offering options of hope to the Puerto Rican family.

Be it enacted by the Legislature of Puerto Rico:

CHAPTER I. — GENERAL PROVISIONS

Section 1.1. — Title. (8 L.P.R.A. § 601 note)

This Act shall be known as the “Domestic Abuse Prevention and Intervention Act”.

Section 1.2. — Public Policy. (8 L.P.R.A. § 601)

The Government of the Commonwealth of Puerto Rico recognizes that domestic violence is one of the most serious and complex problems in our society. Domestic violence lacerates the integrity and dignity of all victims, regardless of the sex, civil status, sexual orientation, gender identity, or immigrant status of the persons involved in the relationship. Upon developing the public policy on this matter, we must aspire to overcome the difficulties that domestic violence presents to every victim, especially to women and children, when preserving their physical and emotional integrity, assuring their safety, and saving their lives.

Domestic violence is one of the clearest manifestations of the effects inequality has on relationships between men and women. The inequality that causes domestic violence manifests itself in consensual intimate relationships, regardless of the sex, civil status, sexual orientation, gender identity, or the immigrant status of the persons involved in the relationship. Discriminatory ideas, attitudes, and conduct also permeate those social institutions called upon to resolve and prevent the problem of domestic violence and its consequences. The efforts of these institutions to identify, understand, and handle abuse have been limited, and are often inadequate.

The Government of the Commonwealth of Puerto Rico reaffirms its constitutional commitment to protect the life, security, and dignity of men and women, regardless of sex, civil status, sexual orientation, gender identity, or immigrant status. It also

recognizes that domestic violence violates the integrity of a person, his/her family, and members thereof, and constitutes a serious threat to the stability and preservation of the civilized coexistence of our People.

As public policy, the Government of the Commonwealth of Puerto Rico assertively repudiates domestic violence as it contravenes the values of peace, dignity, and respect that the People wish to keep for individuals, families, and the general community. This public policy promotes the development, establishment, and strengthening of effective measures to offer protection and assistance to victims, options for the rehabilitation of the offenders, and strategies for the prevention of domestic abuse.

Section 1.3. — Definitions. (8 L.P.R.A. § 601)

For the purposes of this Act the following terms and phrases shall have the meaning expressed below:

(a) Law enforcement officer. Shall mean any member or officer of the Puerto Rico Police Corps or any Municipal Guard duly trained and accredited by the Commonwealth Police Department.
(b) Shelter. Means any institution whose main function is to provide protection, safety, support services and temporary housing to surviving victims of domestic violence and their daughters and sons. This definition shall not apply to the term "lodged" as used in subsection (a) of Section 3.2 of this Act. For the purposes of said subsection, the term sheltered shall be understood to have its common and ordinary meaning.
(c) Sheltered. Means that surviving victim of domestic violence who temporarily resides in a shelter as defined in this section.
(d) Cohabitation. Shall mean maintaining a consensual intimate relationship similarly situated to a spouse regarding cohabitation, regardless of the sex, civil status, sexual orientation, gender identity, or the immigrant status of the persons involved in the relationship.
(e) Employee (male or female). Means any person who provides a service to any person, partnership or corporation that employs one or more persons under any express or implicit, oral or written service contract, including among these those men or women whose work is of an accidental nature.
(f) Grave emotional harm. Shall mean and arises when as a result of domestic abuse, there is evidence that a person recurrently shows one or several of the following characteristics: paralyzing fear; feelings of despair or helplessness; feelings of frustration and failure; feelings of insecurity, ineffectiveness, isolation, weakened self-esteem, or other similar conduct, resulting from repeated acts of commission or omission.
(g) Intimidation. Shall mean any act or expression which, when used recurrently, has the effect of exerting moral pressure on a person's animus who, in fear of suffering emotional or physical injury of his/herself, his/her property, or another person's self, is forced to perform an act against his/her will.
(h) Order for protection. Shall mean every order issued in writing under the seal of the court, which dictates the measures addressed to an abusing party to abstain from committing or performing certain acts or conduct which constitute domestic abuse.
(i) Employer. Means any natural or juridical person who employs one or several male or female employees, laborers, workers and the male or female chief, officer, manager, official, agent, administrator, superintendent, foreman or forewoman, steward, agent or representative of said natural or juridical person.
(j) Persecution. Shall mean keeping a person under constant or frequent surveillance by their presence in places that are immediate or relatively near to the home, residence, school, work or vehicle in which the person is, to cause fear or dread in the animus of a prudent and reasonable person.
(k) Respondent. Shall mean any person against whom an order for protection is filed.
(l) Petitioner. Shall mean any person who applies to a court for an order for protection.
(m) Marital relationship. Shall mean the relationship between spouses, former spouses, persons who are cohabiting or have cohabited, persons who have or have had a consensual relationship, and persons who share a child in common, regardless of the sex, civil status, sexual orientation, gender identity, or the immigrant status of the persons involved in the relationship.
(n) Sexual relations. Shall mean any sexual penetration, whether vaginal, anal, oral-genital, digital or instrumental.
(o) Court. Shall mean the trial court of the General Court of Justice, and the offices of the municipal judges.
(p) Domestic abuse. Shall mean a constant pattern of conduct involving physical force or psychological abuse, intimidation or persecution against a person by his/her spouse, former spouse, a person with whom he/she cohabits or has cohabited, with whom he/she has or has had a consensual relationship, or a person with whom he/she shares a child in common, regardless of the sex, civil status, sexual orientation, gender identity, or the immigrant status of the persons involved in the relationship, to physically harm them, their property, or another person, or to cause him/her serious emotional harm.
(q) Psychological abuse. Shall mean a constant pattern of conduct performed to the dishonor, discredit or scorn of personal worth, unreasonable limitation to access and handling of common property, blackmail, constant vigilance, isolation, deprivation of access to adequate food or rest, threats of deprivation of custody of sons or daughters, or destruction of objects held in esteem by the person, except those that privately belong to the offender.

CHAPTER II. — ORDERS FOR PROTECTION AND PROCEDURAL PHASES

Section 2.1. — Restraining orders. (8 L.P.R.A. § 621)

Any person who has been the victim of domestic abuse or conduct which constitutes said offense as classified in this Act or in the Penal Code of the Commonwealth of Puerto Rico or in any other special law, within the context of an intimate relationship, as defined in subsection (m) of Section 1.3 of this Act, may resort to the court and request a restraining order motu proprio, through legal counsel, or through a law enforcement officer without the need of having made previous reports or complaints. When the court so deems or has issued a restraining or anti-stalking order, the court shall immediately order the defendant to surrender to the Puerto Rico Police for custody, any firearm belonging to the defendant for which a license to bear or own or carry firearms, or for targetshooting or hunting or of any other kind, as the case may be. The order to surrender any firearm, as well as the suspension of any kind of firearm license, shall take effect compulsorily. Likewise, when such an order is issued by a court, the same shall have the effect of suspending the license
to own or bear any firearm of any kind, such as, but not limited to, those used for target-shooting or hunting or otherwise, even when said firearm is part of the gear used by the accused in his/her profession. Said restriction shall apply at the very least for the same period of time the order is in effect. Any infringement of the terms of the restraining order which results in a conviction shall entail the permanent revocation of any kind of license to own a firearm which the defendant may hold, at which time, any firearms belonging to him/her shall be seized. The objective of this statute is to eliminate the possibility for the accused to be able to use any firearm to inflict bodily harm or to threaten or intimidate the petitioner or the members of his/her family unit.

(a) Adjudicate provisional custody of the petitioner's minor [children].
(b) Suspend any filial relations with the minor children of the respondent party when the petitioner is sheltered. To make such a determination the court shall have to consider the following elements:

(1) The capacity of the shelter for providing security for the persons involved in the filial relations process.
(2) That the shelter possesses the resources needed to transport the minors to the place where the filial relations are to take place.
(3) The distance between the shelter and the place where the filial relations are to take place.
(4) The danger which the respondent party represents, if any, to those persons involved in the filial relations process: children of either sex, shelter personnel and the mother.
(5) The presence of a resource approved by the petitioner as intermediary in the filial relations process.
(6) That the respondent has not incurred conduct constituting domestic violence in the presence of the minors as established in Section 3 of this Act;
(7) That no protective order has been issued in favor of the minors against the respondent party.
(8) The duration of the pattern of domestic violence.
(9) The time transpired from the last contact with the minors and whoever is petitioning for filial relations.
(10) The quality of the relationship of the minors with the respondent.
(11) Whether the respondent party has failed to comply with any protective order.
(12) Whether the respondent party has incurred threatening conduct against the shelter personnel.
(13) Whether the respondent party has verbally, physically or emotionally attacked the minors.
(14) Whether the respondent party has affected the emotional health of the minors. Should any of the elements described in this subsection fail to concur, the court, looking after the welfare of the minor, shall make any other determination based on Sections 50, 51 and 52 of the Comprehensive Child Welfare and Protection Act [Current Act 246-2011, “Child Safety, Well-being, and Protection Act”].

(c) Order the respondent to leave the dwelling which he/she shares with the petitioner regardless of any right claimed thereon.
(d) Order the respondent to abstain from molesting, harassing, pursuing, intimidating, threatening or interfering in any way with the exercise of provisional custody over the minor children that have been adjudicated to one of them.
(e) Order the respondent to abstain from entering any place in which the petitioner is when, at the discretion of the court, said limitation is needed to prevent the respondent from molesting, intimidating, threatening or in any other way interfering with the petitioner or with the minor children whose provisional custody has been adjudicated to him/her.
(f) Order the respondent to pay support for the minor children when their custody has been awarded to the petitioner, or for the minors and to the petitioner, when there is a legal obligation to do so.
(g) Restrain the respondent from concealing or removing the minor [children] of the parties from the jurisdiction.

(h) Forbid the respondent from disposing in any way of [separate] property of the petitioner, or the property of the legal conjugal partnership, or community property, if any. Provided, That when the administration of a business, trade or industry is involved, the respondent must submit a monthly financial statement of the administrative matters to the court.
(i) Order whatever provisional measures are needed regarding the possession and use of the residence of the parties, and on the personal property listed and comprised in subsections (1), (2), (3), (4), (4)(a), (5), and (6) of Article 249 of the Code of Civil Procedure [32 L.P.R.A. § 1130], which establishes those properties that are exempted from attachment.
(j) Order the respondent to pay financial compensation from privative property for damages caused by conduct constituting domestic abuse. Said compensation can include, but shall not be limited to compensation for moving expenses, expenses for the repair of property, legal expenses, medical, psychiatric, psychological, counselling, guidance, lodging, housing and other similar expenses, without prejudice to other civil actions to which the petitioner is entitled. (l) Issue any order needed to enforce the purposes and public policy of this Act.

Section 2.1A. — Prohibition against the issuance of mutual restraining orders. (8 L.P.R.A. § 621a)

The court shall not issue mutual restraining orders to the parties, unless each of the parties:
(a) Has filed an independent petition requesting a protection order against the other party;
(b) has been notified of the petition filed by the other party;
(c) proves in an evidentiary hearing that the other party incurred conduct which constitutes domestic violence, and
(d) proves that the domestic violence did not occur within a self-defense context.

Section 2.2. — Jurisdiction. (8 L.P.R.A. § 622)

Any Judge of the Court of First Instance or a Municipal Judge, may issue an Order for Protection pursuant to this Act. Every Order for Protection may be reviewed by any Part of a higher court, and in those instances that it is pertinent, in the Family Relations Parts.

Section 2.3. — Procedure. (8 L.P.R.A. § 623)

Any person may request the civil remedies established in this Act for him/herself or on behalf on any other person when said person suffers from a mental or physical disability, in case of an emergency or when the person is unable to request said remedies personally.
An employer may request a protective order in favor of female or male employees or visitors and of any other person found at his/her workplace if one of his/her female or male employees is or has been the victims of domestic violence or of conduct constituting a crime as typified in this Act; and if the acts of conduct constituting domestic violence have occurred at his/her workplace.

Before initiating this procedure, the employer must give notice about his/her intention of requesting the protective order to the female or male employee who is or has been the victim of domestic violence or of conduct constituting a crime as typified in this Act.
The right to request the remedies herein established shall not be affected because the petitioning party has abandoned his/her residence to avoid domestic violence.
(a) Initiation of action. The procedure to obtain an order for protection can be initiated:
(1) By filing a verbal or written petition; or
(2) Within any case pending between the parties; or
(3) By request of the Prosecuting Attorney in a penal procedure, or as a condition for probation or parole.
To help those persons who are interested in obtaining an order for protection under this Act, the Court Administration shall have simple forms to request and further said order, available in the Office of the Clerk of the Courts of Puerto Rico and in the offices of the municipal judges. It shall also provide them with help and orientation to complete and present them.

Section 2.4. — Service. (8 L.P.R.A. § 624)

(a) Once a petition for an Order for Protection has been filed according to the provisions of this Act, the Court will issue a summons to the parties under admonishment of contempt, for an appearance within a term that shall not exceed five (5) days.
(b) The service of the summons and a copy of the petition, shall be done in accordance With the Rules of Civil Procedure of Puerto Rico and shall be served by a marshal of the Court or by any other Law Enforcement Officer as soon as possible, and shall have preference over any other type of summons, except those of a similar nature. The Court shall keep a file for each case, in which every summons issued under the law shall be registered.

(c) Nonappearance of any person duly summoned under the scope of this Act shall be punishable as contempt of the Court which issued the summons.
(d) When the petition is filed, service thereof shall be performed as established in the Rules of Civil Procedure of Puerto Rico.
(e) By request of the petitioner, the Court may direct that service of the summons be made by any person over 18 years of age who is not a party to the case.

Section 2.5. — Ex Parte Orders. (8 L.P.R.A. § 625)

Notwithstanding what is established in other legal provisions, the Court may issue an Order for Protection ex parte if it is determined that:

(a) Diligent attempts have been made to serve the respondent with a copy of the summons issued by the Court and of the petition that has been filed before the Court, which have been unsuccessful, or
(b) There is a probability that giving prior notice to the respondent will provoke the irreparable harm which the Order for Protection is intended to prevent, or
(c) When the petitioner shows that there is a substantial probability of immediate risk of abuse. Whenever the court issues an ex parte order for protection, it shall do so provisionally, it shall immediately serve the respondent with a copy thereof or in any other manner, and shall give the party an opportunity to object to it. To such effect, it shall docket a hearing to be conducted within twenty (20) days following the issue of said ex parte order, unless the respondent requests a postponement to such effect. During said hearing, the court may render the order ineffective, or extend its effects for the term it deems necessary.

Section 2.6. — Contents of the Order for Protection. (8 L.P.R.A. § 626)

(a) Every restraining order shall specifically state the determinations of the court, the remedies prescribed, and the term of its effectiveness.
(b) Every restraining order shall establish the date and time of issue and specifically notify all the parties that any violation thereof shall constitute contempt of court, which could result in imprisonment, a fine, or both.
(c) Any ex-parte restraining order shall include the date and time of issue, as well as the effective term thereof. It shall also indicate the date, time, and place that the hearing for the extension or annulment thereof shall be held and the grounds for issuing said ex-parte order.
(d) The Court shall issue the number of copies of the Restraining Order that the victim requests, up to a maximum of five (5) copies.
(e) Together with the restraining order, the Court shall include recommended guidelines on the precautionary measures to be taken by the victim of domestic violence to increase the effectiveness thereof. These guidelines shall include the following recommendations, among others:

1. The victim shall be advised to notify and furnish a copy of the Restraining Order, as well as a photograph of the aggressor or the person against whom the order is issued, to the following:
    a. the State and Municipal Police Stations closest to his/herhome;
    b. the controlled-access entrances to the community or development where he/she lives, so that the aggressor or person against whom the order is issued may be identified;
    c. his/her closest neighbors; d. at his/her workplace, so that security personnel therein are aware of the order issued; e. at the children's school, so that the father/mother against whom the order has been issued is not called for an appointment at the same time as the victim.
2. Furthermore, the petitioner shall be advised that, at all times, he/she must:
    a. keep a copy of the restraining order with him/her;
    b. immediately notify the Police of any violation to the restraining order;
    c. never allow the aggressor or person against whom the restraining order is issued into his/her home;
    d. never agree to meet with the aggressor or person against whom a restraining order has been issued, or any person that the victim knows has a connection with such aggressor, at any private or public place;
    e. never accept telephone calls or answer messages sent via instant messenger or social networks on the Internet or any other communications media sent by the aggressor or person against whom the restraining order is issued,or from any other person that the victim knows has a connection therewith.
    f. take precautions when walking outside and try never to be alone in public places or in parking lots when returning to his/her motor vehicle;
    g. if the victim sees the party or the person against whom the restraining order has been issued, the former shall go to the nearest police station or any other safe place and notify the Police.

Given that this is a voluntary provision, failure to comply with this measure shall not constitute a violation of any Act whatsoever or a transfer of responsibility to the victim. In addition to the provisions set forth herein, the Court may include any other deemed pertinent.

Section 2.7. — Notice to Parties and Law Enforcement Agencies. (8 L.P.R.A. § 627)

(a) A copy of every Order for Protection shall be filed in the Office of the Clerk of the Court that issues it. The Clerk of the Court shall provide a copy thereof by petition of the parties or of any interested person.
(b) Any order issued under this Act shall be served personally to the respondent, whether through a marshal of the Court, a Law Enforcement Officer, any person over 18 years of age who is not a party to the case, or according to the procedure established in the Rules of Civil Procedure.
(c) The Office of the Clerk of Court shall send copies of the orders issued under this Act to the Police branch in charge of keeping a record of protection orders thus issued. Likewise, the Office of the Clerk of Court shall send a copy of said orders to be entered in the Domestic Abuse and Stalking Restraining Orders Electronic File, in accordance with the procedures established in Act No. 420-2000, known as the 'Restraining Orders Electronic File Act'. Pursuant to Act No. 420- 2000, the Police shall include all the information contained in the restraining order, as well as any procedural incidents regarding the notice to the parties and agencies involved.
(d) The Police of Puerto Rico shall provide adequate protection to the party in whose behalf an order for protection is issued.
(e) The Office of the Secretary of the Court shall send to the Child Support Administration of the Department of the Family, copies of the protection orders providing for a minor's support payment, in conformity with the provisions of subsection (e) of Section 2.1 of this Act.

Section 2.8. — Noncompliance with Orders for Protection. (8 L.P.R.A. § 628)

Any knowingly committed violation of an order for protection issued pursuant to this Act shall be punished as a felony in the third degree in its lesser half. Notwithstanding the provisions of Rule 11 of the Rules of Criminal Procedure, as amended, even though an order to those effects has not been issued, every law enforcement officer must make an arrest if presented with an order for protection issued pursuant to this Act or a similar Act against the person to be arrested, or if the officer determines that such an order exists after having communicated with the pertinent authorities and has reasonable grounds for believing that the provisions thereof have been violated.

CHAPTER III. — DELINQUENT CONDUCT; PENALTIES, AND OTHER MEASURES

Section 3.1. — Abuse. (8 L.P.R.A. § 631)

Any person who employs physical force or psychological abuse, intimidation, or persecution against his/her spouse, former spouse, or the person with whom he/she cohabits or has cohabited, or the person with whom he/she shares a child in common, regardless of the sex, civil status, sexual orientation, gender identity, or the immigrant status of the persons involved in the relationship, in order to cause physical harm to the person, the property held in esteem by him/her, except that which is privately owned by the offender, or to another person, or to cause serious emotional harm, shall be guilty of a fourth-degree felony in the upper end of the range. The court may impose the penalty of restitution besides the established penalty of imprisonment.

Section 3.2. — Aggravated Abuse. (8 L.P.R.A. § 632)

The penalty corresponding to a third-degree felony in the lower end of the range shall be imposed if abuse, as classified in this Act, has been committed against the spouse, former spouse, or the person with whom he/she cohabits or has cohabited, or with whom he/she has or has previously had a consensual relationship, or with whom he/she shares a child in common, regardless of the sex, civil status, sexual orientation, gender identity, or immigrant status of the persons involved in the relationship, upon the existence of one or more of the following circumstances:
(a) When entering the residence of the person or the place in which he/she is sheltered and the abuse is committed therein, in the case of spouses or cohabiters who are separated, or when there is a restraining order directing one of the persons to vacate the residence, regardless of the sex, civil status, sexual orientation, gender identity, or the immigrant status of the persons involved in the relationship; or
(b) when grave bodily harm is inflicted on the person; or
(c) when it is committed with a lethal weapon under circumstances that do not indicate the intention of killing or maiming; or
(d) when committed in the presence of minors; or

(e) when it is committed after an order for protection or resolution has been issued against the person charged, in aid of the victim of abuse;
(f) the person is induced, incited or forced to be drugged with controlled substances, or with any other substance or means that alters the will of the person, or to become intoxicated with alcoholic beverages; or
(g) when child abuse as defined in Act No. 177 of August 1, 2003 [Current Act 246-2011, "Child Safety, Well-being, and Protection Act"], is committed and simultaneously incurred.
(h) If the victim is forced or induced by means of physical force or psychological abuse to participate or become involved in unwanted sexual relations with third parties.
(i) When committed against a pregnant woman.
(j) When committed against a person under sixteen (16) years of age and the aggressor is eighteen (18) years of age or older.
The court may impose the penalty of restitution besides the established penalty of imprisonment.

Section 3.3. — Abuse by Threat. (8 L.P.R.A. § 633)

Any person who threatens to cause harm to his/her spouse, former spouse, or the person with whom he/she cohabits or has cohabited, or with whom he/she has or has had a consensual relationship, or with whom he/she shares a child in common, regardless of the sex, civil status, sexual orientation, gender identity, or the immigrant status of the persons involved in the relationship, or to destroy property cherished by the victim, except that which is exclusively owned by the offender or another person, shall be guilty of a fourth-degree felony in the upper end of the range. The court may impose the penalty of restitution besides the established penalty of imprisonment.

Section 3.4. — Abuse by Restriction of freedom. (8 L.P.R.A. § 634)

Any person who uses violence or intimidation against his/her spouse, former spouse, or the person with whom he/she cohabits or has cohabited, or with whom he/she has or has had a consensual relationship, or with whom he/she shares a child in common, regardless of the sex, civil status, sexual orientation, gender identity, or the immigrant status of the persons involved in the relationship, or who uses the pretext of suffering from, or that one of the aforementioned persons suffers from a mental disease or defect to restrict the victim of liberty with his/her knowledge, shall be guilty of a third-degree felony in the lower end of the range. The court may impose the penalty of restitution besides the established penalty of imprisonment.

Section 3.5. — Conjugal Sexual assault. (8 L.P.R.A. § 635)

As set forth below imprisonment shall be imposed on any person that commits a nonconsensual sexual act against a current spouse or former spouse, or the person with whom he/she cohabits or has cohabited, or with whom he/she has or has had a consensual relationship, or with whom he/she shares a child in common, regardless of the sex, civil status, sexual orientation, gender identity, or immigrant status under any of the following circumstances:
(a) If the person has been compelled to engage in sexual conduct through the use of force, violence, intimidation or threat of grave or immediate bodily harm; or
(b) if the person's capacity to resist has been substantially annulled or reduced, without the person's knowledge or the person's consent through the use of hypnotic methods, narcotics, depressants, stimulants or similar means or substances; or
(c) if due to an illness or temporary or permanent mental disability, the person were unable to understand the nature of the act at the time it is carried out; or
(d) if the person is forced or induced by the use of abuse, physical or psychological violence to participate or become involved in an undesired sexual relation with third parties. The penalty to be imposed for this crime in all its modalities shall correspond to a felony in the second degree. The court may impose the penalty of restitution besides the established penalty of imprisonment in any of the modalities indicated above.

Section 3.6. — Deviation from Procedure. (8 L.P.R.A. § 636)

After trial and upon conviction, or if the accused pleads guilty to any of the offenses classified in this Act, the court may, motu proprio or at the request of the prosecutor or the defense, suspend all procedures and release the convict on probation; provided, that he/she enrolls in a diversion program for persons who exhibit abusive behavior in an intimate relationship, as defined in subsection (m) of Section 1.3 of this Act. Prior to making any determination to that respect, the Court shall hear the Prosecution.

The diversion alternative shall only be available under the following circumstances:

(a) If it involves a person who has not been previously convicted and imprisoned as the result of a final and binding judgment or is benefitting from a diversion program under this Act or a suspended sentence for committing offenses established in this Act or similar offenses established in the laws of the Commonwealth of Puerto Rico or the United States against his/her spouse, former spouse, person with whom he/she cohabits or has cohabited, person with whom he/she has or has had a consensual relationship, or person with whom he/she shares a child in common, regardless of the sex, civil status, sexual orientation, gender identity, or the immigrant status of the persons involved in the relationship.
(b) If it is a person who has not violated an order for protection issued by any court pursuant to this Act or any other similar provision.
(c) An agreement is made between the Prosecuting Attorney's Office, the accused and the agency, body, public or private institution to which the accused shall be referred.
(d) If as part the agreement and the participation in the re-education program, the person renders a statement accepting the commission of the crime charged and acknowledging his/her behavior.
The court shall take into consideration the opinion of the victim as to whether or not this benefit should be granted, and shall impose the terms and conditions it deems reasonable, as well as the duration of the probation requested, upon prior agreement with the entity that shall render the services, which term shall never be less than one (1) year nor more than three (3) years.

If the person benefitted by the probation established in this section fails to meet the conditions thereof, the court, after holding a hearing, may revoke the probation and pronounce judgment. If the person benefitted by the probation established in this section does not violate any of the conditions thereof, the court, after holding a hearing, may revoke the probation and pronounce judgment. If the person benefited by the probation established in this section does not violate any of the conditions thereof, the court, upon previous recommendation of the competent personnel in charge of the program to which the accused was referred in the exercise of its discretion, and after holding a hearing, may hand down a suspended imposition of sentence to him/her. A suspended imposition of sentence pursuant to this section shall be conducted without the pronouncing of judgment by the court, but the case file shall be kept in the court, confidentially, inaccessible to the public, and separate from other cases for the purpose of being used by the courts to determine, in subsequent proceedings, if the person qualifies for the benefits of this section, and to be considered a recidivist, if such person subsequently commits any of the offenses classified in this Act. In such cases, it shall be the responsibility of the prosecuting attorney to always make an allegation of recidivism. A suspended imposition of sentence shall not be considered a conviction for purposes of disqualification or incompetence imposed by law on convicts for the commission of a crime, and the exonerated person shall be entitled, after a suspended imposition of sentence, to have the Superintendent of the Puerto Rico Police Department return any file of fingerprints and photographs in the custody of such Department taken in connection with the violation of the crimes that caused charges to be filed. A suspended imposition of sentence under this section may only be granted once to any person.

Section 3.7. — Special Provisions on Bail, Parole, Permits to Prisoners to Leave Institutions and Others. (8 L.P.R.A. § 637)

A. Bail. — When a person is accused for violating the provisions of this Act, or when at the time of the alleged violation the person was subject to the terms of an Order for Protection issued pursuant to this Act or any other similar one, or who had previously been convicted of or had pleaded guilty for a violation of the provisions of this Act or a violation of any other similar legal provision, prior to setting the bail, in addition to the provisions of the Rules of Criminal Procedure, as amended, the court, on imposing the bail, shall take into consideration whether the person has a record of having violated an order of a court or government agency.
B. Conditions for Freedom on Bail. The court may impose on the accused conditions for bail and shall take into consideration if the person has a record of domestic violence or a record for the commission of violent acts and if the person represents a potential threat for the Victim of the crime or any other person. In addition to the conditions established in the Rules of Criminal Procedure, as amended, the court may impose the following conditions:
(1) Avoid all direct or indirect contact with the victim of the alleged acts that constitute the crimes typified in this Act, with the person's family, except the children procreated by the accused and the victim, unless the court believes that it is necessary in the best interests of the children, to prevent paternal or maternal-filial contact. In making the decision to regulate or forbid the accused to contact the children, the court shall take the following factors into consideration:

(a) if the accused represents a danger for the well-being of the minors.
(b) if the record of the accused shows a dangerous conduct that could be in detriment to the well-being of the minors.
(c) if in the record of the accused there is evidence of physical and emotional abuse of the minors.
(d) the opinion manifested by the minors When they have so requested it directly or through an adult or assistant professional; Provided, that the judge may hear the minors in private to protect their physical and/or emotional integrity.

(2) Avoid all contact with the persons that shelter the victim.
(3) Abandon the residence he shares with the victim of the alleged crime.
(4) Abstain from intimidating or pressuring the victim or the witnesses, personally, by telephone, or any other means or through the intervention of third parties, to prevent their testifying or to have them withdraw the criminal charges filed against him/her.
(5) Comply with the orders on custody, child support, paternal filial relationships, community property, and any other related orders, issued pursuant to this Act or any other similar one.

C. Permits to Confined Persons to Leave the Institutions and Parole —

In addition to what is established in Act No. 116 of July 22, 1974 as amended, and any other Act or regulations to such effects, the Corrections Administrator or the Parole Board, on making determinations for the granting of permits to leave the penal institutions or the public or private treatment centers, or on granting Parole to confined persons convicted for a Violation of the provisions of this Act, shall take into consideration the following circumstances:
(1) If the person has a record of domestic Violence, or a record of commission of other violent acts, (2) If the person has a record of having violated orders of a court or a government agency,
(3) If the person represents a potential threat to any other person,
(4) The opinion of the injured party, or of the persons who testified in the case, and any other circumstance it deems pertinent.

D. Executive Mercy or Pardon —
On considering the petition for Executive Mercy or Pardon of a person convicted for any crime that constitutes domestic violence, the Parole Board shall notify the injured party and the persons who testified in the case, to give them the opportunity to be heard.
E. Prior to freeing any person under the provisions of this Section 3.7, the court, the Parole Board, the Corrections Administration and/ or the Executive shall notify the same to the victim or injured party with sufficient time so that such person can take the necessary measures to ensure his safety.

Section 3.8. — Arrest. (8 L.P.R.A. § 638)

Notwithstanding the provisions of Rule 11 of the Rules of Criminal Procedure, as amended every law enforcement officer shall make an arrest, even though there is no order to such effects, if he has grounds to believe that the person to be arrested has committed, even though not in his presence, or that is committing in his presence, a Violation to the criminal provisions of this Act.

Section 3.9. — Signing and Swearing of Charges. (8 L.P.R.A. § 639)

Notwithstanding the provisions of Rule 5 of the Rules of Criminal Procedure, as amended, the prosecuting attorneys and the members of the Puerto Rico Police shall sign and swear all charges for violation to the provisions of this Act when the acts that constitute the crime are known to them through information and belief. In no case in which the abovementioned circumstances concur, shall the person who is the victim of the alleged facts that constitute the crime be required to sign the accusation.

Section 3.10. — Assistance to the Victim of Abuse. (8 L.P.R.A. § 640)

Whenever a law enforcement officer intervenes with a person claiming to be a victim of abuse, regardless of his/her sex, civil status, sexual orientation, gender identity, or immigrant status, such officer shall take every measure he/she deems necessary to protect the victim from further abuse. Law enforcement officers shall take the following steps, among others:
(a) If the person indicates that he/she has suffered injuries, blows or wounds that require medical assistance, although not visible, he shall give the person the needed first aid treatment, shall volunteer to make arrangements for the person to receive adequate medical treatment and shall provide transportation to a medical services center where the person can be treated.
(b) If the person expresses concern for his/her safety, he/she shall make the arrangements needed to transport the person to a safe place.
(c) When the victim of Abuse requests it, the law enforcement officer shall protect him/her by accompanying and providing assistance at all times while he/she takes his/her personal belongings from his/ her residence or from any other place where the same may be.
(d) Advise the victim of abuse on the importance of preserving the evidence.

(e) Provide the victim with information as to her/his rights, and of the government and private services available for victims of Abuse, including, but not limited to the remedies provided under the Victims and Witnesses Protection and Assistance Act, number 77 of July 9, 1986, and Act No. 91 of July 13, 1988. He shall also give the victim a copy of the Guide for Victims of Domestic Abuse.

Section 3.11. — Preparing of Reports. (8 L.P.R.A. § 641)

Whenever a law enforcement officer intervenes in an incident of domestic abuse, a written report on the same shall be prepared. Said report shall contain the allegations of the persons involved and of the witnesses, the type of investigation conducted and how the incident was resolved. The law enforcement officer shall include any statement of the victim in said report, with regard to the frequency and severity of previous incidents of domestic abuse and on the number of times the person has resorted to the Police or any private or public entity or specific person to seek help. This report shall be prepared for every intervention even though no criminal charges are filed against the alleged aggressor. These reports shall be kept separate from reports or incidents of other nature. The Police Superintendent shall establish a system to compile information that allows that a copy to be kept of each intervention report in the police station where it was originated and that will expedite the centralized compiling thereof in the Statistics Division of the Puerto Rico Police. The Statistics Division of the Puerto Rico Police shall receive a monthly copy of every intervention report prepared pursuant to this section, shall compile the information contained therein, and shall prepare an annual public statistical report on the incidents of domestic abuse in Puerto Rico. A copy of this report shall be remitted to the Office of the Women's Advocate, as well as to the Legislature, which shall distribute it to all the offices of the different committees.

The Courts Administration shall provide information on the restraining orders requested and issued, to the Statistics Division of the Police as well as useful information, so that it the report may contain, among others, the following information:
(1) Population group mostly affected by domestic abuse.
(2) Ages of said groups, divided by number of incidences.
(3) Number of persons who requested restraining order.
(4) Number of persons who withdrew said request for restraining orders.
(5) Number of persons who obtained restraining orders.
(6) Number of persons who did not obtain restraining orders.
(7) Number of situation in which dual or reciprocal restraining orders were issued.
(8) Number of situations in which there are minors, and child support orders were issued. The Police Superintendent shall establish rules to guarantee confidentiality regarding the identity of the persons involved in incidents of domestic abuse.

Section 4.1. — Functions of the Women's Affairs Commission. (8 L.P.R.A. § 651)

The Women’s Advocate Office, created by Act No. 20 of April 11, 2001, and in harmony with the public policy enunciated in this Act, shall be responsible for, and in harmony with the public policy stated in this Act, shall be responsible for: `

(a) Promoting and developing educational programs for the prevention of domestic abuse.
(b) Studying, investigating and publishing reports on the domestic abuse problem in Puerto Rico, its manifestations, scope, consequences and the options for confronting and eradicating it.
(c) Identifying groups and sectors in which domestic abuse is manifested, educating them and making them aware of the skills they need to combat it.
(d) Creating an awareness among assistance professionals regarding the needs of victims of abuse and their families.
(e) Developing strategies to encourage changes in the policies and procedures in government agencies in order to improve their response to the needs of the victims of abuse.
(f) Establishing and encouraging the establishment of programs of information, support and counseling services for abuse victims. (g) Encouraging the establishment of shelters for abuse victims.
(h) Encouraging programs of services for boys and girls who come from homes where there is abuse, in coordination with the Department of Social Services.
(i) Providing training and orientation services for assistance professionals on the treatment and counselling of abuse victims.
(j) Evaluating the progress in the implementation of this Act and submit annual reports to the Governor and the Legislature.
(k) Analizing and carrying out studies on the needs for intervention, education and retraining programs for persons who engage in conduct that constitutes abuse, for their rehabilitation.
(l) Formulating guidelines on the minimum requirements that must be met by the deviation services contemplated by Section 3.6 of this Act, which must be taken into consideration by the courts in determining deviations.

Section 4.2. — Confidentiality of Communications. (8 L.P.R.A. § 652)

The Women's Advocate Office shall take steps to guarantee the confidentiality of the communications and information it receives from its clients during the course of rendering services to prevent domestic violence and intervene with its victims. All communications between the persons attended to in the Women's Advocate Office and its personnel shall be privileged and shall be protected by the confidentiality privilege established in the Rules of Evidence of Puerto Rico. Likewise, all communications between a victim of domestic violence and any other public entity or body, which renders services to victims of domestic abuse, shall enjoy the same privilege and confidentiality, in harmony with Rule 26-A of the Rules of Evidence of Puerto Rico and the Bill of Rights of Victims and Witnesses of Crime.

Section 4.3. — Substitute Address Register. (8 L.P.R.A. § 652a)

The Criminal Justice Information System shall incorporate the creation of a Substitute Address Register for Victims of Domestic Violence for the purpose of establishing strategies and protecting the victims, by enabling government agencies and instrumentalities to respond to requests for public records without disclosing the location or address of domestic violence victims so as to protect them from their aggressors.
This substitute address shall be used as the home, work or school address, as the case may be, of the participant in the Register or his/her children, to receive mail as established by maximum size and weight, according to the regulations adopted to such purposes. The substitute address designated for a Register participant shall have no relation whatsoever with the actual home address of the domestic violence victim.
The organization of the Substitute Address Register for Victims of Domestic Violence shall provide this protection to any person residing in Puerto Rico regardless of his/her address of origin or immigrant status. Furthermore, such protection shall be likewise extended to any victim of domestic violence who has established his/her residency in Puerto Rico or who, for such reason, has moved to another jurisdiction. For purposes of this protection, the words 'residence,' 'residential,' and 'resides' are to be understood within their common and ordinary meaning. In addition to the substitute address, all other addresses of the participating victim shall be subject to confidentiality of communications established by this Act."

Section 4.4.—Collaboration of Government Agencies. (8 L.P.R.A. § 653)

The departments, offices, bureaus, commissions, boards, administrations, councils, public corporations and their subsidiaries, and all other agencies and instrumentalities of the Commonwealth of Puerto Rico are hereby authorized to provide to the Criminal Justice Information System, support services and resources as necessary to carry out and comply with the duties and functions assigned thereto by this Act. Furthermore, such government entities are hereby authorized to provide any necessary support to the Criminal Justice Information System. Such authority shall be exercised subject to the legal provisions that govern said public agencies.

CHAPTER V. — SUPPLEMENTARY PROVISIONS

Section 5.1. — Independence from Civil Actions. (8 L.P.R.A. § 661)

It shall not be required nor shall it be necessary for persons protected by this act to file criminal charges in order to request and that an Order for Protection be issued.

Section 5.2. — Constitutional Safeguard. (8 L.P.R.A. § 662)

If any of the provisions of this Act is declared unconstitutional, said declaration of unconstitutionality will not affect the remaining provisions of the Act.

Section 5.3. — Rules for Civil and Penal Actions. (8 L.P.R.A. § 663)

Except as otherwise provided in this Act, the civil provisions established herein shall be governed by the Rules of Civil Procedure of 2009, as amended. Likewise, penal actions initiated under the provisions of this Act that typify crimes, shall be governed by the Rules of Criminal Procedure, amended, except as otherwise provided by this Act.

Section 5.4. — Forms. (8 L.P.R.A. § 664)

The forms that must be provided by the Office of the Clerks of the court of justice to the persons who requested protective orders shall be designed so that the information, circumstances and data contained in the forms identified as I, II, III and IV

may be substantially consigned or stated. However, the Office of Court Administration may modify them when deemed convenient to achieve the purposes of this Act. The forms that are hereby incorporated into this Act are the following:

[…]

Section 5.5. — Appropriation of Funds. (8 L.P.R.A. § 601 note)

The sum of two hundred fifty thousand (250,000) dollars is hereby appropriated for fiscal year 1989-90 from unencumbered funds in the Commonwealth Treasury, to the agencies and to comply with the ends indicated below:
(a) Women's Affairs Commission to comply with the functions delegated by this Act. $235,000
(b) Office of the Courts Administration for the production and distribution of the forms required by this Act. $15,000 The funds needed by the abovementioned agencies during subsequent years to comply with the functions assigned by this Act shall be consigned in the item corresponding to each one of them in the General Budget Joint Resolution of the Commonwealth of Puerto Rico. The funds appropriated by this Act to the Women's Affairs Commission may be matched with any other funds from the Commonwealth of Puerto Rico, its agencies and municipalities, or from the Government of the United States, as well as with donations from private persons and entities.

Section 5.6. — Effectiveness.

This Act shall take effect ninety (90) days after its approval.

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