

-Unofficial translation-
Act
on Protection of Domestic Violence Victims
2007

BHUMIBOL ADULYADEJ, REX.
Enacted on the 25th Day of July 2007
Being the 62nd Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have the law on protection of domestic violence victims;

Be it, therefore, enacted by and with advice and consent of the National Legislative Assembly as follows:

Article 1 This Act is called the "Act on Protection of Domestic Violence Victims B.E. 2550".

Article 2 This Act shall come into force after ninety days after the date of its publication in the Government Gazette.

Article 3 In this Act:

“Domestic violence” means any conduct performed with the intention to inflict harm on a family member’s physical, mental or health condition, or with the intention that is likely to cause harm on a family member’s physical, mental or health condition, or any use of coercion or unethical domination which compels a family member to commit, omit or accept any unlawful act, except for an act committed through negligence.

“Family member” means a spouse, former spouse, person who lives and cohabits, or used to live and cohabit together as husband and wife without registering marriage, legitimate child, adopted child, family member, including any dependent person who has to live in the same household.

“Court” means the Juvenile and Family Court according to the laws on Establishment of Juvenile and Family Court and the Juvenile and Family Procedure Code.

“Financial relieve assistance“ means an initial amount of compensation money for any damage caused to the money or assets of the family member, who is a domestic violence victim, as a result of a domestic violence. It also includes lost incomes, medical expenses, expenses for acquiring a new accommodation and other necessary expenses.

“Psychologist” means the psychologist according to the Criminal Procedure Code.

“Social worker” means the social worker according to the Criminal Procedure Code.

“Competent official” means the person appointed by the Minister to perform in accordance with this Act; and the administrative official or the police officer according to the Criminal Procedure Code.

“Investigation officer” means the competent official who is assigned by the Minister to become an investigation officer according to the Criminal Procedure Code. In case there is no competent official who is assigned by the Minister, an investigation officer according to the Criminal Procedure Code shall be the investigation officer according to this Act.

“Minister” means the Minister in charge of the enforcement of this Act.

Article 4 Any person who has committed a domestic violence act shall be deemed to have committed a domestic violence offence, and shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding six thousand Baht, or both.

The offence under paragraph one is compoundable, but shall not nullify an offence according to the Criminal Code or other laws. In the case where an offence under paragraph one is also a bodily assault offence according to Article 295 of the Criminal Code, such offence shall be compoundable.

Article 5 A victim of domestic violence or a person encountering an act of domestic violence has the duty to notify a competent official for further actions as stipulated under this Act.

Persons notifying a competent official in good faith according to paragraph one shall receive protection and shall not be held liable for any civil, criminal or administrative action arising therefrom.

Article 6 The method of notifying a competent official in accordance with Article 5 may be done verbally, in writings, by telephone, by electronic methods or other methods.

When a competent official has encountered a domestic violence act, or received notification according to Article 5, he or she has the power to enter the home or place, where such domestic violence has occurred, for the purpose of interviewing the victim or the perpetrator of such domestic violence, or other persons who are presented at that place concerning the notified act; and the power to arrange for the domestic violence victim to receive medical examinations and treatments from a physician and to request for counseling services from a psychiatrist, psychologist or social worker. In the case where a domestic violence victim wants prosecution, the competent official shall arrange for that person to make a complaint in accordance with the Criminal Procedure Code. But if that person is not able or does not have an opportunity to make a complaint by him/herself, the competent official may make a compliant on his/ her behalf.

The criteria and methods for procedures under paragraph two shall follow the regulations announced by the Minister.

Article 7 If no notification is made to a competent official in accordance with Article 5, or no complaint is made in accordance with Article 6 within a period of three months from the time that the domestic violence victim is able or has the opportunity to make a notification or a complaint, the case shall be deemed to have expired its prescription. But such expiration shall not nullify the rights of the domestic violence victim or interested persons to request for safety protection in accordance

with the laws on Establishment of Juvenile and Family Court and the Juvenile and Family Procedure Code.

Article 8 After a complaint has been made within the prescription period according to Article 7, the investigation officer shall investigate the case without delay; and send the domestic violence perpetrator and investigation file including opinions to a public prosecutor for filing the case at the court within forty eight hours after apprehension of the domestic violence perpetrator. But if filing at the court cannot be done within such period due to a compelling reason, a request can be made to the court for an extension period not exceeding six days per time, but not exceeding three times. The provisions under the laws on Establishment of District Court and the Criminal Procedure Code for District Court shall be applied *mutatis mutandis*.

In the case where an offence under Article 4 paragraph one is a divisible offence, which also violates other laws, the prosecution shall be carried out for the offence under Article 4 paragraph one together with the offences according to such other laws. But if the offence according to another law is liable to a heavier penalty term, the prosecution shall be carried out in the court that has the trial power over such offence. All the provisions under this Act shall be applied *mutatis mutandis*.

In questioning a domestic violence victim, the investigator shall arrange for a psychiatrist, psychologist, social worker or person requested by the domestic violence victim to be presented during the questioning to give their advices.

In an urgent case where exists a compelling reason for not being able to wait for a psychiatrist, psychologist, social worker or person requested by the domestic violence victim; the investigation officer shall conduct the questioning without the presence of such persons, but he/she must record the cause of not being able to wait for such persons in the investigation file.

The criteria and methods for the investigator's procedures under paragraph two shall follow the regulations announced by the Minister.

Article 9 After a notification has been made in accordance with Article 5 or a complaint has been made in accordance with Article 6, it is forbidden for any person to advertise or disseminate by any means to the public any photograph, content or data which may likely cause damage for the domestic violence perpetrator or victim in the case under this Act.

Any person who violates provisions under paragraph one shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding sixty thousand Baht, or both.

Article 10 In carrying out proceedings in accordance with Article 8, the competent official, who has a comparative status not lower than the position of senior administrative official or senior police officer according to the Criminal Procedure Code and assigned by the Minister, has the power to issue an order specifying temporary relieve measures or methods for a domestic violence victim, either with or without such person's request. The competent official has the power to issue any order as deemed necessary and appropriate, including the order sending a domestic violence perpetrator to receive medical examinations and treatment from a physician, the order requiring a domestic violence perpetrator to repay the initial financial relieve assistance amount as appropriate for his/her financial status, the order forbidding a domestic violence perpetrator from entering his/her family's residence or coming closer to any family member, as well as specifying childcare arrangements.

After having issued the order specifying one or more relieve measures or methods according to paragraph one, the competent official shall present the relieve measures or methods to the court within forty eight hours after having issued the order specifying such relieve measures or methods. If the court agrees with the order specifying such relieve measures or methods, the order shall continue to be in effect.

In the case where the court wholly disagrees or partly disagrees with the order specifying relieve measures or methods, or where facts or circumstances have changed, the court shall immediately conduct an examination and issue an order if there are sufficient facts or circumstances for considering an issuance of court order. The court may add, alter or revoke any order specifying relieve measures or methods. The court may also issue any order, as well as imposing additional conditions.

Concerned persons regarding the order of a competent official or the court under this Article can submit an appeal in writing for the court to review the order within thirty days as from the notification date of the order. The judgment or court order shall be deemed final.

Any person who violates or does not comply with the order issued by the competent official or the court shall be liable to a term of imprisonment not exceeding three months or a fine not exceeding three thousand Baht, or both.

Article 11 During an investigation or court trial, the court has the power to issue an order specifying relieve measures or methods in accordance with Article 10, or any order as deemed appropriate.

In the case where occurrences or circumstances concerning the domestic violence perpetrator or victim have changed, the court has the power to add, alter or revoke any order specifying relieve measures or methods. The court may also issue any order, as well as imposing additional conditions.

Any person who violates or does not comply with the order issued by the court shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding six thousand Baht, or both.

Article 12 In the case where the court passes a judgment determining that a domestic violence perpetrator is guilty according to Article 4, instead of punishing the offender, the court has the power to specify methods of rehabilitation, treatment, probation to be used for the offender, or to impose conditions requiring the offender to repay the financial relieve assistance amount, to undertake public work, to refrain from actions which cause domestic violence, or placing the offender under bond of performance according to the methods and duration specified by the court.

In the case where there is a settlement, withdrawal of complaint or withdrawal of charge of an offence under Article 4, the investigation officer or the court, as the case may be, shall arrange to have an initial settlement record made prior to such settlement, withdrawal of complaint or withdrawal of charge, and the methods under paragraph one shall apply mutatis mutandis, as the imposed conditions for compliance with such settlement record. Opinions from the victim and family members may also be heard for consideration. Permission for a settlement, withdrawal of complaint or withdrawal of charge of an offence under Article 4 shall be granted only after the accused has fully complied with such settlement record and conditions. If the accused violates or does not comply with such conditions, the investigation officer or the court has the power to resume the prosecution.

The criteria and procedures under paragraph one and paragraph two shall follow the regulations announced in the Government Gazette by the Chief Judge of

the Central Juvenile and Family Court or the regulations announced by the Minister, as the case may be.

Article 13 The Ministry of Social Development and Human Security shall set up working systems to support the operations and enforcements of provisions under Article 10, Article 11 and Article 12, by issuing ministerial Regulations.

Article 14 For the trial proceedings, submission and admissibility of evidences that are not specifically stipulated in this Act, the laws on Establishment of Juvenile and Family Court and the Juvenile and Family Procedure Code shall be applied *mutatis mutandis*.

Article 15 At any stage of proceedings for domestic violence cases, the court shall try to attain a settlement between the litigants, with an aim towards achieving peaceful cohabitations within the family, taking into consideration the following principals:

- (1) Rights protection for domestic violence victims.
- (2) Preservation and protection of marriage status as the center between a man and a woman who voluntarily live and cohabit together as husband and wife. If the marriage status cannot be maintained, a divorced shall be fairly made with the least damage, taking into consideration their children's safety and future.
- (3) Protection and assistance for the family, especially while that family has to be responsible in providing care for a juvenile family member.
- (4) Assistance measures for husband, wife and family member to live together in harmony, and measures for relationship improvement between the husband and wife and their children.

Article 16 For the benefit of attaining settlement in a domestic violence case, the competent official or the court, as the case may be, may appoint mediator comprising a person or group of persons, who are the litigants' father, mother, guardian, relative or other person deemed appropriate by the competent official or the court to provide counseling or assistance in reconciling the litigants for a settlement. The competent official or the court, as the case may be, may assign a social worker, a social welfare agency or any person to assist in reconciling the litigants for a settlement.

After the mediator or the assigned person under paragraph one has performed the reconciliation in accordance with the order of the competent official or the court, he/she shall also report results of the reconciliation to the competent official or the court, as the case may be. In the case where the reconciliation is successful, such person may either arrange to have a settlement agreement made, or request for the litigants to make a settlement agreement in the presence of the competent official or the court.

When the competent official or the court is of the opinion that such settlement agreement is not in violation of the laws and public order and good morals, the competent official or the court shall proceed to make such settlement agreement effective.

Article 17 The Ministry of Social Development and Human Security shall prepare annual report showing the number of domestic violence cases, the number of

orders specifying relieve measures or methods, the number of violations against order specifying relieve measures or methods that were issued by competent officials or the court and the number of settled cases, and report to the Cabinet and the Parliament once a year.

Article 18 The Minister of the Ministry of Social Development and Human Security shall be responsible for the enforcement of this Act, and has the power to appoint competent officials and issue ministerial regulations and regulations to enable the implementation of this Act.

Ministerial regulations and regulations shall be enforced from the time of its publication in the Government Gazette.

Counter-signed
General Surayuth Julanonth
Prime Minister

Remarks :- Domestic violence is a complicate problem as it involves closely related persons and requires delicate problem solving methods. It contains special compositions, which are different from normal cases of bodily assault committed by one person against another. The enforcement of measures under the criminal code against domestic violence cases is not appropriate, because the aim of criminal code leans more towards punishing offenders than correcting and rehabilitating offenders or protecting domestic violence victims. So, having a law protecting domestic violence victims is more appropriate than using criminal procedures. As a result, the formats, method and procedures can be more suitably specified than the use of criminal proceedings, giving offenders a chance to behave one self and refraining from repeating the offence, as well as preserving good relationships within the family. Children, juveniles and family members also have the rights to receive protection from the state against violence and unfair practices. It is therefore deemed necessary to promulgate this Act.

(10-09-2007 edited)