

Domestic Violence Victim Protection Act, B.E. 2550 (2007)

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 25th Day of July B.E. 2550;

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 a law on domestic violence victim protection;

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

Section 1

This Act is called the "Domestic Violence Victim Protection Act, B.E. 2550 (2007)".

Section 2

This Act shall come into force after the expiration of ninety days as from the date of its publication in the Government Gazette.

Section 3

In this Act:

"Domestic violence" means any act committed with an intention to cause bodily, mentally or healthily harm of, or an act committed intentionally in a manner that may cause bodily, mentally or healthily harm of, a family member or any coercion or undue influence conducted with a view to make a family member to do something, refrain from doing something or accept any act illegally, but not including an act committed through negligence;

"Family member" means a spouse or ex-spouse, a person who cohabits or used to cohabit as husband and wife without marriage registration, legitimate child, adopted child, member of family, including the persons who live mutually in the same household;

"Court" means the Juvenile and Family Court under the law establishing the Juvenile and Family Court and Juvenile and Family Court procedure;

"Financial assistance" means compensation to be paid for the loss of money or property of the domestic violence victim arising from that domestic violence, including the lost earnings, medical expenses, expenses to be paid for finding new accommodation and other necessary expenses;

"Psychologist" means the psychologist under the Criminal Procedure Code;

"Social worker" means the social worker under the Criminal Procedure Code;

"Competent official" means a person appointed by the Minister for execution of this Act, including the administrative or police official under the Criminal Procedure Code;

"Inquiry official" means the competent official entrusted by the Minister to be the inquiry official under the Criminal Procedure Code. In any locality that having no the competent official entrusted by the Minister, the inquiry official under the Criminal Procedure Code shall be the inquiry official under this Act;

"Minister" means the Minister having charge and control of the execution of this Act.

Section 4

Whoever conducts any act which is domestic violence is said to commit domestic violence conduct and shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding six thousand Baht or to both.

The offence under paragraph one shall be compoundable offence, but having no effect to the offence under the Penal Code or other laws. If the offence under paragraph one has also be the offence against bodily harm under Section 295 of the Penal Code, such offence shall be compoundable offence.

Section 5

A domestic violence victim or a person who has found or known of domestic violence conduct shall have the duty to notify a competent official for the execution of this Act.

The notification under paragraph one that made in good faith shall be protected and shall not be liable to any civil, criminal or administrative action.

Section 6

The notification under Section 5 may be made orally or in writing or by means of telephone, electronic or any other mean.

If a competent official has found domestic violence conduct or has been notified under Section 5, the competent official shall have the power to enter into the dwelling or place that such conduct has been made so as to interrogate the person who commits domestic violence conduct, domestic violence victim or any other person living in that place in concerning with the notified conduct and shall have the power to provide the domestic violence victim to have treatment from physician and to have consultation with psychiatrist, psychologist or social worker. In the case where the domestic violence victim intends to conduct litigation, that person shall be facilitated to file a complaint under the Criminal Procedure Code, except where that person is in a condition that he is unable to file a complaint upon his own or has no opportunity in so doing, the competent official may file a compliant on his behalf.

The rules and procedures for the execution under paragraph two shall be in accordance with the regulations as notified by the Minister.

Section 7

Within three months as from the date the domestic violence victim is in a condition that may, or has an opportunity to, make a notification or file a complaint, if the notification under Section 5 or the complaint under Section 6 has not been made or filed, the litigation shall be precluded by prescription, but it does not prejudice to the right of the domestic violence victim or an interested person to request for welfare protection under the law establishing the Juvenile and Family Court and Juvenile and Family Court Procedure.

Section 8

In the case where the complaint has been filed within the prescription period under Section 7, the inquiry official shall conduct inquiry thereon without delay and shall, within forty-eight hours after receiving the person who commits domestic violence conduct, send that person together with the inquiry file and his opinion thereon to the public prosecutor in order to file litigation to the Court. If it is unable to file litigation within that period upon a reasonable ground, a motion to extend that period for not exceeding six days shall be submitted to the Court, but not more than three times. In this case, the provisions of the law establishing the District Court and District Court Procedure shall apply *mutatis mutandis*.

In the case where the commission of the offence under Section 4 paragraph one being the offence under other laws, the litigation for the offence under Section 4 paragraph one and the offence under the other laws shall be proceeded altogether; provided that, the offence under the other laws having higher maximum punishment, the litigation shall be proceeded at the Court having jurisdiction over the offence under the other laws and, in this case, the provisions of this Act shall apply *mutatis mutandis*.

The inquiry official shall cause a psychiatrist, psychologist or social worker or a person required by the domestic violence victim to join the interrogation of a domestic violence victim in order to give advice.

In an emergency situation where there is a reasonable ground of not to have a psychiatrist, psychologist or social worker or a person required by the domestic violence victim in an interrogation, the inquiry official shall conduct the interrogation without the presence of such person, but the reasonable ground thereof shall be recorded in the inquiry file.

The rules and procedures for the execution of the inquiry official shall be in accordance with the regulations as notified by the Minister.

Section 9

If there is the notification under Section 5 or the complaint under Section 6, no person shall publish or make know to public in any manner whatsoever in relation to picture, story or any information which may cause damage to the person who commits the domestic violence conduct or the domestic violence victim under the litigation under this Act.

Whoever violates the provisions under paragraph one shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding sixty thousand Baht or to both.

Section 10

In the execution under Section 8, a competent official of not lower than the superior administrative or police official under the Criminal Procedure Code who is entrusted by the Minister shall have the power to impose provisional remedial measures or means in favor of the domestic violence victim, whether an application therefore is made by such person or not, by having any necessary and appropriate order, including the order requiring the person who commits domestic violence conduct to have diagnosis from the physician, to pay financial assistance in accordance with his station in life, not to enter into the place of living of the family or not to stay close with any person in the family as well as the order in concerning with the taking care of his child.

After imposing one or many provisional remedial measures or means under paragraph one, the competent official shall, within forty-eight hours as from the date of having the provisional remedial measures or means, submit that measures or means to the Court. If the Court agrees with the imposed provisional remedial measures or means, the order imposing that provisional remedial measures or means shall be continued.

In the case where the Court disagrees with the imposed provisional remedial measures or means wholly or partly or the relevant fact or circumstance has changed, the Court shall conduct an examination and shall have the order at once. If the fact or circumstance is sufficient to have the order, the Court may amend, change or revoke the imposed provisional remedial measures or means or may have any other order or impose additional conditions.

The interested person in relation to the order of the competent official or the Court under this Section may appeal, in writing, against such order to the Court within thirty days as from the date such order is known to him. The judgment or Court order shall be final.

Whoever violates or fails to comply with the order of the competent official or the Court shall be liable to imprisonment for a term of not exceeding three months or to a fine of not exceeding three thousand Baht or to both.

Section 11

During inquiry or trial, the Court shall have the power to impose provisional remedial measures or means under Section 10 or any order as appropriate.

If the situation or circumstance in relation to the person who commits domestic violence conduct or the domestic violence victim has changed, the Court may amend, change or revoke the imposed provisional remedial measures or means or may have any other order or impose additional conditions.

Whoever violates or fails to comply with the order of the Court shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding six thousand Baht or to both.

Section 12

In the case where the Court passes judgment that a person who commits domestic violence conduct is guilty under Section 4, the Court shall have the power to impose the measure for rehabilitation, treatment or probation to that person or to order that person to pay financial assistance, to conduct community service, to refrain from doing an act which may give rise to domestic violence or to be on parole in accordance with the procedure and period specified by the Court in lieu of sentencing.

If there is a settlement of the case or withdrawal of the complaint or litigation in the offence under Section 4, the inquiry official or the Court, as the case may be, shall arrange the preliminary arrangement prior to the settlement of action or withdrawal of the complaint or litigation and shall impose the measure under paragraph one as the condition for the compliance with that arrangement *mutatis mutandis*. In this case, the victim or family member may be heard. The settlement of action or withdrawal of the complaint or litigation in the offence under Section 4 shall be made upon the fulfillment of the requirement of the arrangement and the completion of the imposed condition. In the case where the alleged offender or the accused violates or fails to comply with such condition, the inquiry official or the Court shall have the power to continue the litigation.

The rules and procedure for the execution under paragraph one and paragraph two shall be in accordance with the regulations as notified by the Chief Judge of the Central Juvenile and Family Court in the Government Gazette or by the Minister, as the case may be.

Section 13

The Ministry of Social Development and Human Security shall, by Ministerial Regulations, prepare working system that supports the execution under, and the enforcement of, Section 10, Section 11 and Section 12.

Section 14

The procedure, submission and hearings shall be in accordance with the law establishing the Juvenile and Family Court and Juvenile and Family Court Procedure *mutatis mutandis*, provided that otherwise prescribed by this Act.

Section 15

The Court shall, irrespective of the stage of proceedings of domestic violence case, cause the parties to settle the case for peaceful cohabitation of the family. In so doing, regard shall be had to the following principles:

- (1) the protection of rights of the domestic violence victim;
- (2) the maintenance and protection of marital status as the center of man and woman who voluntarily cohabit as husband and wife. If it is unable to maintain marital status, divorce shall be made upon equal basis and cause minimal damage with due regard to welfare and future of a child;
- (3) the protection and assistance of the family, especially while the family is responsible for the provision of education to a family member who is a minor;
- (4) any measure for the provision of assistance to husband, wife and family member to cohabit in harmony and to improve the relationship between the spouse and among the spouse and their child.

Section 16

For the purpose of settlement of domestic violence case, the competent official or the Court, as the case may be, may appoint a mediator which is a person or a group of persons who are fathers, mothers, guardians or relatives of the parties or other persons whom the competent official or the Court thinks fit to give advice or to render facility to the parties with a view to settle the case or may entrust a social worker, a social welfare agency or any person to provide mediation to the parties in the settlement of the case.

The mediator or the entrusted person under paragraph one shall, after mediation, report the result thereof to the competent official or the Court, as the case may be. In the case

where the mediation is achieved, that person may prepare the case settlement arrangement or may have a proposal requesting the parties to conclude the case settlement arrangement before the competent official or the Court.

In the case where the competent official or the Court is of opinion that the case settlement arrangement is not in violation of laws and public order or good morals, the competent official or the Court shall proceed with that case settlement arrangement.

Section 17

The Ministry of Social Development and Human Security shall prepare a report stating the number of domestic violence cases, the number of the imposed provisional remedial measures or means, the number of violations against the provisional remedial measures or means imposed by the competent official or the Court and the number of cases settlement to the Council of Ministers and the National Assembly once a year.

Section 18

The Minister of Social Development and Human Security shall have charge and control of the execution of this Act and shall have the power to appoint competent officials and to issue the Ministerial Regulations and regulations for the execution of this Act.

Such Ministerial Regulations and regulations shall come into force upon their publication in the Government Gazette.

Countersigned by

General Surayud Chulanont

Prime Minister

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