

(tentative translation)

**Law for the Prevention of Spousal Violence  
and the Protection of Victims**

**Research Committee on Society of Cooperative Way of Life House of Councillors**

**Japan**

# Law for the Prevention of Spousal Violence and the Protection of Victims

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### Preamble

Considering respect for individuals and equality under the law expressly stipulated under 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 criminal act, efforts to relieve victims have not always been adequate in all instances. In addition, the urgency of victims of spousal violence are women. When women, who find it difficult to achieve economic self-reliance, are subject to violence and other physical or psychological harm in words or deeds from their spouses, it adversely affects dignity of individuals and impedes the realization of genuine equality between women and men.

In order to remedy 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 law 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 1 General Provisions

### Article 1 Definitions

1. The term 'spousal violence' as used in this law refers to illegal attacks from one spouse (including persons who are in a de facto state of marriage even if it has not been legally registered; same below) that threaten the spouse's life or physical conditions.

2. The term 'victim' as used in this law refers to a person (including a person who has been divorced from a spouse subsequent to spousal violence and continues to be ) threatened with harm to life or physical conditions from the former spouse in question) who has been subjected to spousal violence.

### Article 2 Responsibility of the State and local governments

The State and local governments have a responsibility to prevent spousal violence and protect victims.

## Chapter 2

Spousal Violence Counseling and Support Center, Etc.

### Article 3 Spousal Violence Counseling and Support Center

1. Prefectural Governments should ensure that Women's Consulting Office or other appropriate facilities established within their jurisdiction function as Spousal Violence Counseling and Support Center.

2. In order to prevent spousal violence and protect victims (including persons who have suffered from words and deeds resulting in physical or psychological harm that entitles them to be classed among victims; same throughout this chapter and in Article 7), Spousal Violence Counseling and Support Center should undertake the following activities:

(1) To provide counseling to victims regarding various problems affecting them or introduce them to Women's Consultants or organizations that provide such counseling.

(2) To provide medical, psychological, or other required guidance. in order to help victims recover their psychological and physical health.

(3) To provide temporary protection for victims (or in cases where the victim is accompanied by family members, the family members as well as the victim; same in Paragraphs 4 and 6 below and Article 5).

(4) To offer information and other forms of assistance, in order to promote self-reliance for victims.

(5) To offer information and other forms of assistance concerning use of the protection order system provided for in Chapter 4.

(6) To offer information and other forms of assistance concerning the use of facilities where victims can live and receive protection.

3. The temporary protection provided for in Article 3, Paragraph 2 (3) above, shall be provided directly by Women's Consulting Office or entrusted to parties meeting criteria established by the Minister of Health, Labour and Welfare.

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 3

Protection of Victims

Article 6 Notification, etc. by those who detect cases of spousal violence

1. Those who detect victims of spousal violence shall endeavor to notify them to a Spousal Violence Counseling and Support Center or the police.

2. If physicians or other medical personnel, in the course of their duties, detect individuals who they consider to have suffered injuries or medical conditions resulting from spousal violence, they may notify them to a Spousal Violence Counseling and Support Center or the police. In such cases, they should try to respect the intentions of the individual concerned.

3. Regarding stipulations of the Penal Code (1907, Law No. 45) making the divulgence of confidential matters a crime and stipulations of other laws related to professional secrecy, they shall not be construed to prevent notification as provided for in the preceding Paragraph 2.

4. Physicians or other medical personnel who, in the course of their duties, detect individuals who they consider to have suffered injuries or medical conditions resulting

from spousal violence shall endeavor to provide these patients with information at their disposal on the use of Spousal Violence Counseling and Support Center, etc.

Article 7 Explanations of protection provided by Spousal Violence Counseling and Support Center, etc.

When Spousal Violence Counseling and Support Center receive notifications about victims or counsel them as needed, they should, in addition to offering explanation and advice regarding their duties of Spousal Violence Counseling and Support Center as stipulated in Article 3, Paragraph 2, recommend to receive any protection that may be required.

Article 8 Police protection for victims

\_, through notification or other means, police consider that there are cases of spousal violence, they shall endeavor to take necessary measures in accordance with provisions of the Police Law (1954, Law No. 162), the Police Official Duties Execution Law (1948, Law No. 136), and other laws, in order to prevent the victim from suffering harm from spousal violence, especially by stopping the violence, providing protection to the victim, etc.

Article 9 Cooperation among concerned organizations to protect victims

Spousal Violence Counseling and Support Center, The Prefectural Police, and welfare offices established under the Social Welfare Law (1951, Law No. 45) and other concerned organizations should endeavor to work in collaboration in seeking to provide appropriate protection for victims.

## Chapter 4

### Protection Orders

Article 10 Protection orders

In cases where there is a possibility of renewed spousal violence against a victim constituting a significant harm to life or physical conditions, a court should, upon petition from a victim, order against the spouse measures as explained below in order to prevent harm to the victim's life or physical conditions. It should be noted, however, that the second measure (2) is only applied in cases when the victim and the spouse in question are still living together at the time of the petition.

(1) To prohibit the spouse for a six-month period from the day the order takes effect from approaching the victim at the victim's domicile (other than a place where the spouse and victim have been living together; same below) or other place where the victim is staying, or loitering in the vicinity of the domicile, workplace, or other

location normally frequented by the victim.

(2) To require the spouse to vacate for a two-week period from the day the order takes effect the domicile that the spouse shares as main home with the victim.

## Article 11 Court with jurisdiction

1. Cases concerning a petitioning orders (hereafter "protection order cases") as provided for in the preceding article (hereafter "protection orders") shall be within the jurisdiction of the district court which is located in the area where the defendant maintains an address (or place of residence in cases in which the defendant does not have an address in Japan or the address of the defendant is unknown).
  
2. A district court may grant a petition for a protection order if it has jurisdiction over the following places.
  - (1) The petitioner's domicile or place of residence.
  - (2) The place where the spousal violence described in the petition actually took place.

## Article 12 Petition for protection order

1. A petition for a protection order shall contain the following items in writing:
  - (1) The circumstances under which the spousal violence took place.
  - (2) Sufficient evidence to prove that a considerable threat of significant harm to life or physical conditions resulting from renewed spousal violence still exists.
  - (3) Whether or not a victim of spousal violence has sought counseling or asked for support or protection from Spousal Violence Counseling and Support Center employees or police officers. In the event of the answer being yes, the following information should be recorded.
    - (a) The name of the Spousal Violence Counseling and Support Center or the station to which the police personnel having been consulted or requested support or protection belong.
    - (b) The date, time, and location where the counseling or request for support or protection took place.
    - (c) The details of the counseling or request for support or protection.
    - (d) The details of the measures taken in response to the counseling or the request from the petitioner.

2. In the event that any of items (3)a-(3)d described above are not filled in on the paperwork submitted (hereafter "petition form"), the petition form shall be submitted with the petitioner's statements for items (1) and (2) above attested to in writing as called for in Article 58-2 Paragraph 1 of the Notary Law (1908, Law No. 53).

### Article 13 Expeditious Judicial action

The court in question should rule expeditiously on protection order cases.

### Article 14 Procedures for protection order cases

1. A protection order cannot be issued before a fixed date for oral proceedings or for a hearing with the defendant. However, this requirement can be waived should waiting of the date for oral proceedings or a hearing interfere with fulfillment of the intent of the petition for protection order.

2. Where the items described in Article 12, Paragraph 1(3)a)-(3)d) have been recorded on the petition form, the court should request that the head of the Spousal Violence Counseling and Support Center or the police in question submit written explanations of the circumstances at the time when the petitioner sought counseling or requested for support or protection, as well as the details of the specific measures taken in response to them. In such cases, head of the Spousal Violence Counseling and Support Center or the police station in question shall respond promptly.

3. When deemed necessary, the court may ask the head of the Spousal Violence Counseling and Support Center or the police, or the personnel with whom the petitioner has sought counseling or requested support or protection for further explanation regarding the items requested in accordance with the preceding paragraph.

### Article 15 Decision on a petition for a protection order, etc.

1. The decision on a petition for a protection order shall contain reasons adduced for it. However, in cases where it is made without oral proceedings, the reasons can be summarized.

2. A protection order shall take effect once the decision has been sent to the defendant or when the pronouncement has been made on the date of oral proceedings or a hearing in the presence of the defendant.

3. When a protection order is issued, the court clerk should 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 (or the chief of the Area Headquarters except the Area Headquarters where Do Police Headquarters is located) of its gist and contents.

4. A protection order in itself does not have enforcement power.

### Article 16 Immediate appeals

1. An immediate appeal may be lodged against a judgment related to a petition for a protection order.

2. Such an appeal will not prevent a protection order from taking effect.
3. In the case of an immediate appeal, only when there is prima facie proof of cause for revoking the protection order in question can an appellate court order, upon petition, suspension of validity of the protection order until the judgment on the appeal takes effect. The court that originally had jurisdiction over the case may also order such disposition if the case records are still in its possession.
4. Dissatisfaction may not be voiced with regard to a judgment described in the previous paragraph.
5. The stipulations described in Article 15, Paragraph 3 shall still apply in the case of the circumstances described in paragraph 3 above, or when an appellate court has revoked a protection order.

#### Article 17 Revocation of protection orders

1. The court that has issued a protection order shall revoke it if the person who petitioned for that protection order in accordance with Article 10 (1) so requests. In the event that three months have passed from the day a protection order issued in line with Article 10 (1) took effect, if the person subject to the protection order requests the court for its revocation and it has been confirmed that the person who petitioned for that protection order does not object, then it shall be revoked as well.

2. Article 15, Paragraph 3 shall apply in the above case.

#### Article 18 Repeated request for protection orders

1. Where a protection order has previously been issued, a repeated petition for a protection order based on the same fact of the spousal violence that made the cause for the previous petition may be admitted only when a protection order is requested in accordance with Article 10 (1).
2. When a repeated petition for a protection order is made, the petition form includes the statements made by the petitioner concerning circumstances described in Article 12, Paragraph 1(2) and attested in accordance with Article 58-2, Paragraph I of the Notary Law.

#### Article 19 Inspection of case records, etc.

In regard to procedures for the protection order, the parties may request the court clerk for the reading or copying of the case records, furnishing of the original records, an original copy of them or a partial copy of them, or of an attestation regarding matters relating to the case. This provision shall not apply however, to the defendant until the date for oral proceedings or a hearing related to the petition for a protection order is assigned or until the defendant has been sent a protection order.

#### Article 20 Attestation by Secretary in the Ministry of Justice

If a notary public is not available or is not in a position to practice within the area of jurisdiction of



the responsible Legal Affairs Bureau, Regional Legal Affairs Bureau, or branch office thereof, the Minister of Justice may authorize Secretaries in the Ministry of Justice assigned to the said Legal Affairs Bureau, Regional Legal Affairs Bureau, or branch office thereof to conduct the attestation in accordance with Article 12, Paragraph 2 and Article 15, Paragraph 2.

#### Article 21 Application of the Code of Civil Procedure

Except when expressly stated otherwise in this law, the procedures for protection orders shall follow the stipulations of the Code of Civil Procedure (1996, Law No. 109), unless they run counter to the character of this law.

#### Article 22 Rules of the Supreme Court

If items related to procedures for protection orders other than those prescribed by this law are required, they shall be stipulated in the Rules of the Supreme Court.

### Chapter 5

#### Miscellaneous Provisions

##### Article 23 Considerations on the part of official personnel, etc.

1. Individuals responsible for the protection of victims of spousal violence, or investigations into such cases, or who perform official duties for the court, etc. (hereafter "official personnel") shall in the performance of their duties give due consideration to the psychological and physical conditions of the victims, their environments, etc. and respect the human rights of these victims, taking due care to protect their safety and maintain their privacy.

2. The State and local governments shall undertake training and educational activities needed to deepen understanding of the human rights of victims, the distinctive characteristics of spousal violence, etc. among official personnel working in this field.

##### Article 24 Education and Enlightenment

The State and local governments shall encourage education and enlightenment measures so as to deepen understanding among the public of the need to prevent spousal violence. In doing so, they should seek to heighten awareness that words and deeds by spouses that are physically and psychologically harmful are as unforgivable as overt spousal violence.

##### Article 25 Promotion of study and research, etc.

In order to help prevent spousal violence and protect victims, the State and local governments shall endeavor to promote study and research, to develop methods, etc. for guidance about the rehabilitation of abusive spouses and the restoration of the physical and psychological health of victims, as well as seek to train personnel responsible for protecting victims and improve their professional quality.

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##### Article 26 Support to private Bodies

The State and local governments shall endeavor to provide necessary support to private bodies that

are engaged in activities designed to prevent spousal violence and protect victims.

Article 27 Financing by prefectural and municipal government, 1. Prefectural governments shall pay for the following expenses:

- (1) Expenses needed to operate the Women's Consulting Office performing the duties stipulated in Article 3J Paragraph 2 (with the exception of those listed in the following subparagraph).
- (2) Expenses needed for temporary protection at the Women's Consulting Office as stipulated in Article 3t Paragraph 2 (3) (including cases in which these duties are entrusted to other parties that have met the criteria established by the Minister of Health, Labour and Welfare as stipulated in Article 3t Paragraph 3).
- (3) Expenses for the performance of duties entrusted to Women's Consultants by prefectural governors as stipulated in Article 4.
- (4) Expenses for protection carried out by prefectures in accordance with Article 5 (including in cases where such protection is provided by local community social welfare corporations and other parties that prefectural governments deem it appropriate to trust with the operation) and expenses necessarily incurred in administrative activities

required to provide this protection.

2. Municipalities shall pay expenses incurred by Women's Consultants in performing duties entrusted to them by the mayor in accordance with Article 4.

#### Article 28 National government Share and subsidies

1. The national government should, in accordance with a Cabinet order, assume responsibility for five-tenths of the amount of expenses stipulated in Paragraph 1 (1)-(2) of the previous article that have been paid for by prefectures in accordance with Paragraph 1 of the preceding article.

2. The national government may, within budgetary limitations, provide subsidies for payment of up to five-tenths of the expenses for the following subparagraphs:

(1) Expenses paid for by prefectural governments in accordance with Paragraph 1 of the previous article, covering the expenses described in (3) and (4).

(2) Expenses paid for by municipalities as stipulated in Paragraph 2 of the previous article.

### Chapter 6

#### Penal Regulations

##### Article 29

Individuals who violate a protection order shall be subject to imprisonment with labor of up to one year or a fine of not more than 1 million (one million yen).

##### Article 30

A petitioner for a protection order whose petition contains knowingly false entries for the items stipulated in Article 12, Paragraph 1 shall be subject to a (correctional) fine of not more than 100,000 (one hundred thousand yen).

#### Supplementary Provisions

##### Article 1 Date of enforcement

This law shall take effect six months from the day of promulgation. However, the provisions of Chapter 2, Article 6 (only those portions having to do with Spousal Violence Counseling and Support Center), Article 7, Article 9 (only those portions having to do with Spousal Violence Counseling and Support Center), Article 27, and

Article 28 shall take effect on April, 2002.

#### Article 2 Transitional measures

In the application of the stipulations in Article 12, Paragraph 1 (3) and Article 14, Paragraphs 2 and 3 concerning protection order cases from petitions from victims who have counseled concerning spousal violence at Women's Consulting Office or asked for support or protection at such centers through March 31, 2002, under "Spousal Violence Counseling and Support Center" in the regulations should read "Women's Consulting Office."

#### Article 3 Review

Concerning the pr

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Article 1 of this Law, three years or 80 after the Law takes effect, conditions

concern its implementation, etc. shall be monitored and studied, and depending on the results, necessary measures shall be taken.

#### Article 4 Partial Amendment of Law concerning the Costs, etc. of Civil Procedure

Law concerning the Costs, etc. of Civil Procedure (1971, Law No. 40) shall be partially

revised as follows:

In (16) of Appendix Table 1, below "Petitions in Accordance with Provisions of the Non-Litigious Cases Procedures Law" "Petitions in Accordance with Provisions of Article 10 of the Law Relating to the Prevention of Spousal Violence and the Protection of

Victims [2001 Law No. 31]" shall be added, and in (17)-e of Appendix Table 1 below "Petitions in Accordance with Provisions of Article 27, Paragraph 8," "Petitions in Accordance with Provisions of Article 16, Paragraph 3 or Article 17, Paragraph 1 of the Law Relating to the Prevention of Spousal Violence and

the Protection of Victims" shall be added.

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