

DOMESTIC VIOLENCE PREVENTION ACT

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CHAPTER I: GENERAL ARTICLES

Article 1

This Domestic Violence Prevention Act (the Act) has been incorporated to promote domestic harmony and control; to prevent domestic violence; and to protect the interest of the victim of domestic violence.

Article 2

Domestic violence, whenever appearing in the Act, refers to any act of exercising any infringement, mentally or physically, among family members.

Domestic violence offense, whenever appearing in the Act, refers to any purposeful exercise of domestic violence among family members that constitutes an offense defined in any law other than the Act.

Harassment, whenever appearing in the Act, refers to any interference, warning, mocking, abuse in words and/or action, or any act of fabrication of situations that causes fears and terrors among family members.

Article 3

Family members, referred to in the Act, shall include the following person and their minors:

1. Who is commented a spouse or ex-wife or ex-husband;
2. Who has or have had on-going marital, or de-facto marital, parental, or dependent relationship;
3. Who has or have been related as a lineal-blood or a lineal-blood-by-marriage; and

4. Who has or have been related as a lateral blood or a lateral-blood-by-marriage falling within the Relation Rank 4.

Article 4

Regulating authorities, whenever it appears in the Act, refers to the Domestic Violence Control & Prevention Committee, Ministry of the Interior (MOI) in the central administration level; provincial (municipal) government, province (municipality); and country, city or county governments.

Article 5

There shall be a Domestic Violence Prevention Committee (the Committee) to be created by the MIO charged with the following functional authorities:

1. To develop policies and regulations for the purposes of domestic violence control and prevention;
2. To coordinate, monitor and evaluate the performance of domestic violence control and prevention bylaws by agencies concerned;
3. To promote service efficiency and competence to be provided by agencies involved in the control and prevention of domestic violence;
4. To educate the general public on control and prevention of domestic violence;
5. To coordinate provisioning protection and treatment programs for the victim of domestic violence;
6. To support both public and private institutions in creating domestic violence management procedures and promoting domestic violence control and prevention education programs;
7. To sponsor the creation of an integrated data base of domestic violence offenders for mutual reference among judges, prosecutors, policemen, medical personnel and other governmental agencies and to keep strict confidentiality of the identity of the victim; and
8. To support local governments to promote domestic violence control and prevention operation by providing financial and technical assistance.

Provisions governing the creation, control and application of the database as referred to

in the preceding subparagraph 7 shall be separately set forth by the central administration.

Article 6

The Minister of the Interior shall be the chairman of the Committee and not less than half of the members shall be comprised of experts, scholars and those who represent civil groups.

Charters and practices of the Committee shall be specified by the central administration; and full time staff shall be assigned to each division in the Committee to handle the routine operation of the Committee.

Article 7

Any local government may create a Domestic Violence Prevention Committee with its functional authorities specified as follows:

1. To develop policies and regulations for the purposes of domestic violence control and prevention;
2. To coordinate, monitor and evaluate the performance of domestic violence control and prevention bylaws by agencies concerned;
3. To promote service efficiency and competence to be provided by agencies involved in the control and prevention of domestic violence;
4. To educate the general public on control and prevention of domestic violence;
5. To coordinate provisioning protection and treatment programs for the victims of domestic violence;
6. To support both public and private institutions in creating domestic violence management procedures and promoting domestic violence control and prevention education programs;
7. To sponsor the creation of an integrated data base of domestic violence offenders for mutual reference among judges, prosecutors, policemen, medical personnel and other governmental agencies and to keep strict confidentiality of the identity of the victim; and
8. To support local government to promote domestic violence control and prevention operation by providing financial and technical assistance.

The local government shall set forth charters and practices for the local Domestic Violence Prevention Committee.

Article 8

Each level of local government shall create and maintain a Domestic Violence Prevention center by incorporating efforts from police administration, education, health, social administration, household administration and judicial units concerned to engage in the following operations to protect the interest of domestic violence victims and prevent domestic violence from happening:

1. A 24-hour hot line;
2. Psychological support, employment, and housing guidance; emergency relocation and legal supports.
3. Emergency rescue, seeking medical care, and acquisition of a certificate of diagnosis for the victim of domestic violence;
4. Referral to follow-up guidance for the victim of domestic violence;
5. Referral to physical and mental treatment for both of the victim and the offender;
6. Promotion of training, education and propaganda; and
7. Any other action related to prevent domestic violence.

The Domestic Violence Prevention center may operate on its own or be incorporated into the Sexual Assault Prevention Center, and shall provide social workers, policemen, medical personnel and other related professionals with its charters and practices to be set forth by local regulating authorities.

CHAPTER II: CIVIL PROTECTIVE ORDER

Article 9

The protective order is available in two forms, respectively, ordinary and provisional protective orders.

An application for a protective order may be filed with the court by a victim, prosecutor, police department, or regulating authorities from municipal, or country (city) government.

In the event that the victim is a minor, disabled, mentally and/or physically, or is prevented from appointing an attorney for any cause whatsoever, his/her legal representative, any blood relative or relative-by-marriage falling within Relation Rank 3 may file the petition for a protective order from the court for, and on behalf of, the victim.

Article 10

The petition for a protective order shall be subject to the jurisdiction of the district court where the residence of the victim, the respondent or the place of the domestic violence is located.

Article 11

Any petition for a protective order shall be made in writing: Provided, however, that if the victim is exposed to immediate domestic violence, the prosecutor, police, or regulating authorities at the level of municipality, county (city) may file the petition by speech, facsimile, or any other electronic means at any time during the day, night or holiday.

Said petition shall not enter the residential address of the petitioner or the victim, and there shall be only the place of service to be entered.

The court for the purpose of determination of jurisdiction, may investigate into the residential address of the victim. When the petitioner or the victim requests the court to keep confidential the residential address of the victim, the interrogation shall be conducted in secrecy by the court. Resultant transcripts and related information shall be sealed to prevent their circulation.

Article 12

There shall be no open investigation and trial of any matter of petition for a protective order.

Any court may, by exercising its functional authorities, conduct investigation of the

evidences and may give separate interrogation if required.

Upon making a final decision, the court may hear comments delivered by the regulating authorities from municipal, or county (city) government or social welfare institute.

There shall be no intermediation or settlement permitted in the matter of protective orders.

The court shall cause any delay in the issuance of a protective order by any excuse of any other case pending investigation or legal action between the parties concerned.

Article 13

The court, upon receiving the petition for a protective order shall immediately enter into the trial procedure unless such petition is forthwith rejected on the ground of noncompliance with applicable law.

Upon concluding the trial and domestic violence is established, the Court shall, based on the facts and as required, issue one or more than one of the following ordinary protective orders either as petitioned or by its functional authorities:

1. To restrict the respondent from exercising domestic violence against the victim or any particular member in the family;
2. To restrict the respondent from causing any direct or indirect harassment, communication, correspondence or any other unnecessary contact;
3. To order the respondent to vacate the victim's residence; and, if required, to restrict the respondent from disposing of said property, i.e. the victim's residence or any other temporary disposition.
4. To order the respondent to clear away for a specified distance from the following places: the victim's residence, school, work place or any other places regularly accessible by the victim or any of specific family member of the victim;
5. To specify the right to use automobile, motorcycle, and any other daily life, occupational or educational necessities; and, if required, to deliver any and all of said necessities;
6. To specify either party separately or both parties of the concerned jointly what and how to temporarily exercise or bear the rights and duties of his/her or their minor(s) and

such provisional exercise or rights may be delivered to said minor(s) if required.

7. To specify the exercise of visitation by the Respondent and may restrict such visitation;
8. To order the Respondent to pay the rental or supports for the victim to the victim and his/her minor;
9. To order the Respondent to pay the costs incurred from the victim or any particular family member of the victim receiving medical care, consultation, sanctuary or any property damages;
10. To order the Respondent to complete the relocation program for the victim including but not limited to drug/alcohol addiction rehabilitation, mental therapy, psychological consultation or any other treatment and/or consultation;
11. To order the Respondent to bear corresponding attorney fees; and
12. To prescribe any other order(s) that is/are required for the protection of the victim and of any particular family member of the victim.

Article 14

Unless otherwise specified, the effective term of the protection order shall be for one year or shorter depending upon the type of order.

Unless otherwise specified, the party concerned and the victim may file with the court for an extension, change or reversal of the protection order. There shall be one year or shorter for the extended protection order and there shall be only one extension to be considered unless otherwise specified.

Any protection order shall become null and void before the expiry of said protection order when the court reaches its decision.

Article 15

To protect the victim, the court may approve issuing a provisional protection order according to the petition without trial or before the end of the trial.

In approving the issuance of a protection order, the court may prescribe any order as defined in Subparagraphs 1-6 and 12, Paragraph 2, Article 13 according to the petition of by the functional authorities of the court.

In receiving a petition for protection order as set forth in Paragraph 1, Article 11, unless provided with justified cause, the court shall approve in writing a provisional protection order and may transmit such order either by fax or any other electronic means to the police within four (4) hours when the court has sufficient reasons to believe, based on the facts of domestic violence delivered in court or on the phone by the police, that the victim of domestic violence is exposed to immediate danger.

Any petition for a provisional protection order filed and approved for issuance by the court before the same petitioner files an ordinary protection order shall constitute a petition for an ordinary protection order.

The provisional protection order shall become effective upon its issuance and expire on the approval of an issuance of an ordinary protection order at the end of the trial or the petition for such an ordinary protection order is rejected.

By its functional authorities or as petitioned by the victim, the court before the termination of a provisional protection order may change or reverse the provisional protection order.

Article 16

A protection order requiring the Respondent to vacate from the victim's residence or restricting the Respondent to approach the victim remains intact even if the victim has given consent to the Respondent to live or stay with the victim.

Article 17

Other than that set forth in Paragraph 3 of Article 15, any protection order shall be served to the party concerned, the victim, the police authorities, and regulating authorities in municipal, county/city government within twenty-four (24) hours upon its approval by the court.

Regulating authorities in municipal, county/city government shall document any protection order issued by the court and shall make such documentation available to the court, police authorities and any other government agency for review at any time.

Article 18

The court shall provide/arrange for a safe environment and take measures to protect the victim's presence in the court.

Article 19

Unless otherwise specified, any decision made in the protection order may be challenged.

Unless otherwise provided in this Chapter, provisions set forth in Non-litigation Law may be applicable to the procedure of protection order. Law of Civil Procedure may be applicable to any things and matters not specifically provided in Non-litigation Law.

Article 20

All protection orders shall be executed by the police authorities: Provided, however, that any protection order involving payment of moneys may be petitioned for an injunctive order with the court for the purpose of performance.

The police authorities shall escort the victim to his/her or the Respondent's residence to ensure the safe occupation by the victim of any residence, motorcycle, automobile or any other personal living, occupation or educational necessity according to the protection order.

Any objection to the contents of the protection order by the parties concerned or other interested party may be lodged with the court issuing the protection order before it becomes inoperative.

Injunction Procedural Law may be applied for filing the objection.

Article 21

Any protection order issued on a domestic violence matter by a foreign court may be enforceable when a request for recognition is approved by a court of the Republic of

China.

Any petition for the recognition of a protection order issued on a domestic violence matter by a foreign court shall be rejected if any of those events listed in Articles 402.1, 402.2 and 403.3 of Civil Law constitutes.

Should a petition for recognition by the court of the Republic of China of a protection order issued by a foreign court on domestic violence be originated from a country where does not recognize any protection order issued by the court of the Republic of China, such petition may be rejected.

CHAPTER III: CRIMINAL PROCEDURE

Article 22

The police shall forthwith make an arrest of any crime at the scene of domestic violence or offense against protection order and proceed the matter pursuant to Article 92 of Law of Criminal Procedural.

Even if the suspect of domestic violence is not caught on the scene of crime, but the police have sufficient reasons to think that the offender is a suspect of a domestic violence crime and/or imposing continuous danger to the life, body or freedom of his/her family member(s) as defined for custody requirements in Law of Criminal Procedure, the police shall forthwith take the suspect into custody and report the case to the prosecutor for issuance a warrant of arrest. The suspect shall be immediately released if the prosecutor refuses to sign a warrant of arrest.

Article 23

If any defendant of domestic violence offense or violation against protection order is forthwith ordered released on bail, an obligated care entrust, a restriction of residence, or a release after the interrogation by the prosecutor or the court shows that there is no necessity for taking the defendant into custody, one of more than one of the following

conditions may be prescribed to demand the compliance from the defendant:

1. Not to commit any act of domestic violence;
2. To vacate the victim's residence;
3. Not to directly or indirectly harass, contact, talk to or have any other communications with the victim; and/or
4. Any other things and matters which may be required in order to protect the victim.

The prosecutor or the court may reverse or change any conditions attached to the first paragraph of this Article either by functional authorities or according to the petition filed by the party concerned.

Article 24

The prosecutor or the court may have reserved its decision and made decisions otherwise in the event that the defendant has violated any conditions for release set forth in Article 23; and may confiscate any bond deposited by the defendant.

In the event described in the preceding paragraph, the prosecutor may request the court to take custody of the defendant in the course of investigation, and the court may order the same custody in the course of trial.

Article 25

Articles 23 and the first half of Article 24 may become applicable for any defendant who is released from custody according to a court order.

Any defendant released from custody may be taken into custody once again if he/she has violated any conditions for release set forth in the preceding paragraph of this Article.

Article 26

Any disposition or decision under the first paragraph of Article 23 and the first paragraph of Article 24 shall be made in writing by the prosecutor or court and shall be served to both the defendant and the victim.

Article 27

The police shall report to the prosecutor or the court any violation of the defendant against any condition prescribed by the prosecutor or the court under the first paragraph of Article 23, and/or the first paragraph of Article 25. In this case, Article 22 may become applicable.

Article 28

The complainant of a domestic violence offense or violation against protection order may be represented in the court by his/her attorney provided that his/her personal appearance in the court may be required when deemed as necessary by the court or the prosecutor.

Any interrogation or cross examination of any victim under age of 16 or any victim who is a mentally handicapped may be made at any place other than the court as petitioned or by functional authorities, or if provided in court, proper separation measures shall be taken. Any statement delivered by the victim under such circumstances may be used as evidence.

Article 29

Any writ of prosecution, written disposition of no prosecution, written decision or written judgment made on the matter of domestic violence offense or violation against protection order shall be served to the victim.

Article 30

Any offender of domestic violence offense or violation against protection order subject to probation shall be put under certain restriction during the probation. In awarding such probation, the court may demand the offender to comply with one or more than one of the following conditions during the probation:

1. Not to commit any act of domestic violence;
2. To vacate from the victim's residence;
3. Not to directly or indirectly harass, contact, talk or have any other communications with the victim;
4. To take participate in the relocation program including, but not limited to, drug/alcohol addiction rehabilitation, mental therapy, psychological consultation or any other

treatment and/or consultation; and/or

5. Any other things and matters which may be required to protect the safety of the victim or the victim's specific family member (s) or any corrective act.

The court shall immediately notify the victim and the police authorities where the victim's residence is located of the probation awarded according to the first paragraph of this Article.

Article 31

Article 30 may become applicable to any offender of domestic violence who is released from the imprisonment on probation under restriction.

Article 32

The prosecutor or the court may direct judicial police to enforce any conditions prescribed under the first paragraph of Article 23, the first paragraph of Article 25, the second paragraph of Article 30 or any condition specified under Article 31.

Article 33

The government agency concerned shall set forth relocation program for the convicted criminal in imprisonment of domestic violence offense or violation against protection order.

Personnel involved in the development and implementation of said relocation programs should be properly trained and educated in the control and prevention of domestic violence.

Article 34

Jail officials shall notify the victim of the date scheduled to release the prisoner of domestic violence offense or violation against protection order or any escape from the jail by said prisoner unless the present address of the victim is unknown.

CHAPTER IV: PARENT-CHILD & SETTLEMENT INTERMEDIATION PROCEDURE

Article 35

In the determination or change of any one to exercise or bear any right or duty for a minor as provided by law, the court may, based on the fact of domestic violence, construct that it is against the interest of the minor should the offender be appointed to exercise or bear any right or duty for the minor.

Article 36

If any domestic violence is reported after a decision on the determination or change of any one to exercise or bear any right or duty for a minor or on the visitation and communication with the minor, the court may modify such decision for the best interest of the minor taking the requests made by the victim, the minor, regulating authorities, social welfare institution or any other party of interest into consideration.

Article 37

The court, when duly allowing any visitation and/or communication between the offender of domestic violence and his/her minor shall take the safety of the minor and the victim into consideration and may additionally prescribe one or more than one of the following orders:

1. To order that such delivery of the minor shall happen at a safe and specific place;
2. To order that a third party or group or agency concerned shall be present to monitor the visitation and communication, and may specify any requirements to demand the compliance by the offender;
3. To order that such visitation and/or communication shall be allowed only if the offender has completed the relocation program or any other specified consultation sessions;
4. To order that the offender shall bear and pay any and all costs incurred from the visitation and/or communication;
5. To order that no over-night stay with the minor shall occur;
6. To order that the offender shall deposit a certain bond to warrant that he/she shall return his/her minor in sound condition at the time specified; and/or
7. To order any other conditions that may be required for the protection and safety of the minor, the victim or any other specific family member of the victim.

The court may, as petitioned or by its functional authorities terminate such visitation and/or communication if it is deemed by the court of any violation by the offender against any condition set forth under the preceding paragraph, or the safety of the victim or his/her minor is exposed to potential danger if such visitation and/or communication be granted.

If and when required, the court may order the agency concerned or any one involved to keep confidential the residence of the victim or his/her child.

Article 38

Each municipal and county (city) government shall provide and maintain or cause to provide and maintain certain place (s) for the visitation by an offender of domestic violence with his/her minor.

Personnel having been properly trained and educated on control and prevention of domestic violence shall be present at the place for visitation as specified in the preceding paragraph. Bylaws for the creation of such a place, and procedures of monitor of visitation and delivery of the minor shall be separately set forth by the regulating authorities from the municipal and county (city) government.

Article 39

The court may overrule any settlement or intermediation if it discovers any fact of domestic violence in the course of litigation or intermediation unless provided with any of the following events

1. That the person sponsoring the settlement or intermediation has been properly trained on the control and prevention of domestic violence and such settlement or intermediation has been provided in a way that the safety of the victim can be assured of;
2. That the victim is allowed to designate any, one to support him/her in the course of settlement or intermediation; or

3. That any other procedure to free the victim from being threatened by the offender as deemed necessary by the person sponsoring the settlement or intermediation.

CHAPTER V: PREVENTION & THERAPY

Article 40

In handling any report of domestic violence, the police shall, when required, take the following measures to protect the victim and prevent domestic violence:

1. To watch over the residence of the victim or take any other measures that may be required for the safety of the victim and his/her family members before the approval of issuing a protection order by the court under the third paragraph of Article 15;
2. To escort the victim and his/her child to the shelter or medical institution;
3. To escort the victim to the residence of the offender or the respondent to make sure that victim safely takes possession of personal belongings, occupation or education necessities as specified in the protection order; and
4. To inform the victim of his/her rights, how to seek remedies and services available to him/her.

The police shall document any case of domestic violence in a format to be specified by the police administration regulating authorities at the central level.

Article 41

While performing their duties, police and all personnel involved in the enforcement of control and prevention of domestic violence including those providing, medical, social welfare, psychology, education, conservation services shall report any suspicion of domestic violence to local regulating authorities.

The identity of the informant shall be kept confidential.

Upon being informed, the regulating authorities, when required, shall conduct or cause other agencies, institutions or groups involved in control and prevention of domestic violence to conduct visits and investigations.

In conducting such visit and investigation, the regulating authorities or the undertaking agency, group, or institution may request supports from the police, medical center, school or any other related agency or institution; and said agency or institution shall not deny such request for support.

Article 42

No hospital or clinic may refuse to provide medical help, diagnosis, and execute a certificate of diagnosis to any victim of domestic violence.

Article 43

Health regulating authorities shall develop and promote health education propaganda programs on the control and prevention of domestic violence.

Article 44

Municipal and county (city) governments shall produce written information on the interests of the victim, remedies and services available to the victim, and make them accessible to the victim upon request and for reference by the practicing medical doctor, medical institution and police department.

Any doctor who during his/her practice becomes aware of any of his/her patients is a victim of domestic violence shall deliver said information to the patient.

Said information shall not contain the address of any shelter.

Article 45

The central health regulating authorities shall develop specifications to govern the relocation program for the offender of domestic violence. Said specifications shall include but not be limited to the following particulars:

1. Assessment criteria for the relocation program;
2. Contact and assessment systems among judicial agencies, executive agencies/institutions of domestic violence victim protection, executive agency/institution of domestic violence offender relocation programs; and

3. Qualification requirements of the executive agency/institution.

Article 46

The executive agency/institution of relocation program for the offender of domestic violence may

1. Inform the victim and the victim's attorney of the fact that the offender is currently placed under a relocation program;
2. Investigate into the offenders relocation information in any other institute; and
3. Provide information about the offender to judicial agencies, jail audit committees, domestic violence control and prevention centers, and any other concerned institutions.

The executive agency/institution of the relocation program for the offender shall report any act of intimidation, use of violence and/or noncompliance with the relocation program by the offender to any authorities concerned.

Article 47

Municipal and county/city governments shall provide domestic violence control and prevention related materials to the medical institution and household administration authorities for them to relay the same to parents of new-born, parents of in-patient, newly-wedded filing marriage registration and parents filing certificate of birth for their baby.

Materials to be provided hereunder shall include description of the impact of domestic violence upon children and families, and specific domestic violence control and prevention services available.

Article 48

Social administration regulating authorities shall provide on-the-job education on the control and prevention of domestic violence for social workers and conservation workers.

Police administration regulating authorities shall provide on-the-job education on the control and prevention of domestic violence for the police force.

Judicial Yuan and Ministry of Justice shall provide on-the-job education for judicial agents directly involved in the control and prevention of domestic violence.

Health regulating authorities shall sponsor, or cause any involved medical group to sponsor, on-the-job education on control and prevention of domestic violence for medical and nursing personnel.

Education regulating authorities shall provided on-the-job education and school education for consultants, administration staff, teachers and students from educational institutions.

Article 49

There shall be a session exclusively given on control and prevention of domestic violence in each academic year for students of grades 1~12.

CHAPTER VI: PENALTY ARTICLES

Article 50

Any violator against Article13 and/or Article 15 of the Act and who is convicted for any of the following dispositions which constitutes a crime of violation against protection order as defined in the Act and shall be subject to an imprisonment of three years or less, hard labor or separately or jointly fined a penalty at an amount not greater than New Taiwan Dollars one hundred thousand (NT\$100,000.00):

1. Not to exercise any domestic violence;
2. Not to directly or indirectly harass, contact, talk to or have any other means of communication;
3. To vacate the residence;
4. To stay away from residence, work place, school or any other specific place; and/or
5. To complete a relocation program for the offender, including but not limited to, drug/alcohol addiction rehabilitation, mental therapy, psychological consultation or any other treatment and/or consultation.

Article 51

Any one violating the first paragraph of Article 41 of the Act shall be subject to a fine penalty at an amount not less than six thousand New Taiwan Dollars (NT\$6,000.00) and not greater than thirty thousand New Taiwan Dollars (NT\$30,000.00) with the exception that any medical personnel shall be exempted from this Article as a result of avoiding any immediate hazard to the physical condition of the victim.

Any one violating Article 42 of the Act shall be subject to a fine penalty at an amount not less than six thousand New Taiwan Dollars (NT\$6,000.00) and not greater than New Taiwan Dollars thirty thousand (NT\$30,000.00).

CHAPTER VII: BYLAWS**Article 52**

The central regulating authorities shall set forth the bylaws for the enforcement of protection order and handling of domestic violence case by the police authorities.

Article 53

The central regulating authorities shall set forth the bylaws for this Act.

Article 54

This Act shall be enacted on the same day of its publication with the exception that Chapter II, Chapter III, Chapter IV, Articles 40 and 41 of Chapter V and Chapter VI shall be enacted one year after the publication of this Act.

<http://law.moj.gov.tw/Eng/Fnews/FnewsContent.asp?msgid=437&msgType=en&keyword=undefined>